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**STATE OF WASHINGTON
DEPARTMENT OF FINANCIAL INSTITUTIONS
DIVISION OF CONSUMER SERVICES**

IN THE MATTER OF DETERMINING
Whether there has been a violation of the
Escrow Agent Registration Act of Washington by:

NO. C-08-160-08-CO01

NORTH AMERICAN TITLE COMPANY, *INC.*
Respondent.

CONSENT ORDER

COMES NOW the Director of the Department of Financial Institutions (Director), through his designee Deborah Bortner, Division Director, Division of Consumer Services, and North American Title Company, *INC.* (hereinafter Respondent), by and through its attorney Robert W. Sargeant, and finding that the issues raised in the captioned matter may be economically and efficiently settled, agree to the entry of this Consent Order. This Consent Order is entered pursuant to chapter 18.44 of Revised Code of Washington (RCW), and RCW 34.05.060 of the Administrative Procedure Act, based on the following:

AGREEMENT AND ORDER

The Department of Financial Institutions, Division of Consumer Services (Department) and Respondent have agreed upon a basis for resolution of the matters alleged in Statement of Charges No. C-08-160-08-SC01 (Statement of Charges), entered June 3, 2008, (copy attached hereto). Pursuant to chapter 18.44 RCW, the Escrow Agent Registration Act (Act) and RCW 34.05.060 of the Administrative Procedure Act, Respondent hereby agrees to the Department's entry of this Consent Order and further agrees that the issues raised in the above captioned matter may be economically and efficiently settled by entry of this Consent Order. The parties intend this Consent Order to fully resolve the Statement of Charges.

Based upon the foregoing:

A. **Jurisdiction.** It is AGREED that the Department has jurisdiction over the subject matter of the activities discussed herein.

CONSENT ORDER
C-08-160-08-CO01
NORTH AMERICAN TITLE COMPANY

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DEPARTMENT OF FINANCIAL INSTITUTIONS
Division of Consumer Services
150 Israel Rd SW
PO Box 41200
Olympia, WA 98504-1200
(360) 902-8703

1 **B. Waiver of Hearing.** It is AGREED that Respondent has been informed of the right to a hearing
2 before an administrative law judge, and that Respondent has waived this right to a hearing and any and all
3 administrative and judicial review of the issues raised in this matter, or of the resolution reached herein.

4 **C. Agreement to Cease and Desist.** It is AGREED that Respondent has provided the Department with
5 a Declaration and Agreement to Cease and Desist (copy attached hereto) in which Respondent has agreed to
6 permanently cease and desist from providing escrow services in the State of Washington until such time as
7 Respondent and its employees obtain the appropriate license(s) from the Department or Respondent and its
8 employees meet an exclusion to the licensing requirements as delineated in the Act.

9 **D. Application for License.** It is AGREED that Respondent shall not apply to the Department for any
10 license issued pursuant to the Act under any name for a period of three (3) years from the date of entry of this
11 Consent Order. It is further AGREED that, should Respondent apply to the Department for any license issued
12 pursuant to the Act at any time later than three (3) years from the date of the entry of this Consent Order,
13 Respondent shall be required to meet any and all application requirements in effect at the time of such application.

14 **E. Fine.** It is AGREED that Respondent shall pay to the Department a fine of \$20,000, in the form of a
15 cashier's check made payable to the "Washington State Treasurer," upon entry of this Consent Order.

16 **F. Investigation Fee.** It is AGREED that Respondent shall pay to the Department an investigation fee
17 of \$2,500, in the form of a cashier's check made payable to the "Washington State Treasurer," upon entry of this
18 Consent Order.

19 **G. Records.** It is AGREED that Respondent shall maintain all records related to all escrow transactions
20 involving property located in the State of Washington for a period of six (6) years following the completion of
21 such escrow transactions. It is further AGREED that Respondent shall provide the Department with the location
22 of such records and the name, address, and telephone number of the individual responsible for the maintenance of
23 such records.

1 **H. Authority to Execute Order.** It is AGREED that the undersigned have represented and warranted
2 that they have the full power and right to execute this Consent Order on behalf of the party represented.

3 **I. Non-Compliance with Order.** It is AGREED that Respondent understands that failure to abide
4 by the terms and conditions of this Consent Order may result in further legal action by the Director. In the
5 event of such legal action, Respondent may be responsible to reimburse the Director for the cost incurred in
6 pursuing such action, including but not limited to, attorney fees.

7 **J. Voluntarily Entered.** It is AGREED that the undersigned Respondent has voluntarily entered into
8 this Consent Order, which is effective when signed by the Director's designee.

9 **K. Completely Read, Understood, and Agreed.** It is AGREED that Respondent has read this Consent
10 Order in its entirety and fully understand and agree to all of the same.

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1 **RESPONDENTS:**

2 **North American Title Company**

3 By:

[Handwritten signature of Donald LaBarre]

8/28/08
Date

4 Individual Name Donald LaBarre
5 Title(s) President, Northern California
6 Senior Vice President Region

[Handwritten signature of Douglas Murphy]

8/28/08
Date

7 Individual Name Douglas Murphy
8 Title(s) President, Southern California
9 Senior Vice President Region
WILLIAMS, KASTNER & GIBBS PLLC

[Handwritten signature of Robert W. Sargeant]

9/12/08
Date

10 Robert W. Sargeant, WSBA No. 12816
11 Attorney for Respondent

12 *Approved as to form*

13 **DO NOT WRITE BELOW THIS LINE**

14 THIS ORDER ENTERED THIS 16th DAY OF September, 2008.

[Handwritten signature of Deborah Bortner]

15 DEBORAH BORTNER
16 Director
17 Division of Consumer Services
18 Department of Financial Institutions

19 Presented by:

[Handwritten signature of Mark T. Olson]

20 MARK T. OLSON
21 Financial Examiner

22 Approved by:

[Handwritten signature of James R. Bruselback]

23 JAMES R. BRUSSELBACK
24 Enforcement Chief



25 CONSENT ORDER
C-08-160-08-CO01
NORTH AMERICAN TITLE COMPANY

DEPARTMENT OF FINANCIAL INSTITUTIONS
Division of Consumer Services
150 Israel Rd SW
PO Box 41200
Olympia, WA 98504-1200
(360) 902-8703

1 **B.** On or about October 15, 2007, the Department sent a packet of documents to Respondent. This
2 packet included, among other things:

- 3 • a cover letter dated October 15, 2007;
- 4 • a Washington Escrow Agent License Application;
- 5 • a copy of the Act and related rules;
- 6 • a Declaration of Respondent and Agreement to Cease and Desist; and
- 7 • subpoena No. 24385-07-SD01 issued October 15, 2007.

8 The cover letter explained that, if no exclusion or exemption from the Act applied to Respondent, then Respondent
9 was to file the following items with the Department within 15 days of the date of the letter:

- 10 • a completed application with the necessary fees;
- 11 • a written statement signed under penalty of perjury of the laws of the State of
12 Washington that Respondent would no longer operate as an Escrow Agent for any
13 consumers in the State of Washington and that Respondent agreed to permanently
14 cease and desist any operations without first obtaining a license from the
15 Department; and
- 16 • the materials responsive to the subpoena.

17 The subpoena commanded Respondent to produce, within 15 days of the date of the subpoena, a list of all escrow
18 customers during the period from January 2006, to the present including the name, address and telephone number
19 of each customer, the nature of the transaction, and the amount of fees Respondent charged for each transaction.

20 **C.** On or about October 26, 2007, the Department received a letter from Respondent, dated October
21 22, 2007, acknowledging receipt of the Department's correspondence dated October 15, 2007, including the
22 subpoena. The letter also stated that Respondent was investigating the allegations contained in the correspondence
23 and anticipated replying to the subpoena within the time frames outlined in the Department's correspondence and
24 subpoena.

25 **D.** On or about March 24, 2008, Respondent's attorney made an oral representation to the Department
that Respondent was not currently conducting any escrow business in the State of Washington.

1 **E.** On or about April 4, 2008, Respondent stated through written correspondence from its attorney
2 that:

- 3 • during the period from January 3, 2007, and March 4, 2008, Respondent performed
4 escrow services in 24 transactions which closed and which involved real property
5 located in the State of Washington, and Respondent collected fees ranging from
6 \$200 to \$1,100 on those transactions;
- 7 • Respondent understood the licensing requirements of the Act;
- 8 • no exception to the licensing requirement applied to Respondent;
- 9 • during the period from January 3, 2007, through March 4, 2008, Respondent did not
10 have an escrow agent license; and
- 11 • Respondent had cautioned its employees not to close any further transactions unless
12 Respondent was fully in compliance with the Act.

13 **F.** On or about April 25, 2008, Respondent certified through written correspondence from its attorney
14 that Respondent performed escrow services in 24 transactions which closed between January 3, 2007, and April 25,
15 2008, and which involved real property located in the State of Washington and collected fees ranging from \$200 to
16 \$1,100 on those transactions.

17 **G.** In or around April 2008 and May 2008, Respondent provided the Department with four schedules
18 of escrow transactions and stated through written correspondence from its attorney that with the submission of these
19 schedules Respondent “has produced all requested information concerning all transactions closed from 2006 to
20 2008 that concern property located in the State of Washington.” Per these schedules, between January 1, 2006, and
21 April 30, 2008, Respondent performed escrow services in at least 194 transactions which closed and which
22 involved real property located in the State of Washington, and Respondent collected at least \$105,000 in escrow
23 fees on those transactions. These schedules also indicated that:

- 24 • between January 3, 2007, and March 4, 2008, Respondent performed escrow
25 services in at least 52 transactions which closed and which involved real property
 located in the State of Washington, and Respondent collected fees of up to \$5,500
 on these transactions;
- between March 5, 2008, and April 30, 2008, Respondent performed escrow services
 in at least 2 transactions which closed and which involved real property located in
 the State of Washington, and Respondent collected at least \$600 in escrow fees on
 these transactions; and

1 performing escrows or any of the functions of an escrow agent within this state or with respect to transactions that
2 involve personal property or real property located in this state without first obtaining a license.

3 **2.4 Requirement to Maintain Records.** Based on the factual allegations set forth in Section I above,
4 Respondent is in apparent violation of RCW 18.44.400 and WAC 208-680D-030 for failing to maintain adequate
5 records of all transactions handled by or through Respondent in the State of Washington for a period of six (6) years
6 from completion of the transaction.

7 III. AUTHORITY TO IMPOSE SANCTIONS

8 **3.1 Authority to Issue Order to Cease and Desist.** Pursuant to RCW 18.44.440 and WAC 208-680G-030, if
9 the Director determines after notice and hearing that a person has violated any provisions of the Act or rules
10 adopted under the Act, or engaged in any false, unfair and deceptive, or misleading business practices, the Director
11 may issue an order requiring the person to cease and desist from the unlawful practice and to take such affirmative
12 action as in the judgment of the Director will carry out the purposes of the Act.

13 **3.2 Authority to Impose Fines.** Pursuant to RCW 18.44.430(3) and WAC 208-680G-040(3), the Director
14 may impose a fine of up to \$100 per day for each day's violation of the Act or rules adopted under the Act.

15 **3.3 Authority to Collect Investigation Fee.** Pursuant to RCW 18.44.121 and WAC 208-680G-050, the
16 expense of an investigation pursuant to WAC 208-680G-020 inside or outside this state shall be borne by the
17 person investigated.

18 IV. NOTICE OF INTENTION TO ENTER ORDER

19 Respondent's violations of the provisions of chapter 18.44 RCW as set forth in the above Factual
20 Allegations, Grounds For Entry Of Order, and Authority to Impose Sanctions, constitute a basis for the entry of an
21 Order under RCW 18.44.400, RCW 18.44.410, RCW 18.44.430, RCW 18.44.440, and WAC 208-680G-030.

22 Therefore, it is the Director's intention to ORDER that:

23 **4.1** Respondent North American Title Company cease and desist from providing escrow services in the
24 State of Washington until such time as Respondent North American Title Company obtains the
appropriate license from the Department or meets an exclusion delineated in RCW 18.44.021;

25 **4.2** Respondent North American Title Company pay a fine which as of the date of this document totals
\$40,000;

1 4.3 Respondent North American Title Company pay an investigation fee which as of the date of this
document totals \$2,500; and

2 4.4 Respondent North American Title Company, it officers, employees, and agents maintain all records
3 involving Washington State escrow transactions within the State of Washington for a minimum of six
4 (6) years following the completion of the escrow transactions.

5 **V. AUTHORITY AND PROCEDURE**

6 This Statement of Charges and Notice of Intention to Enter an Order to Cease and Desist, Impose Fine,
7 Collect Investigation Fee, and Maintain Records (Statement of Charges) is entered pursuant to the provisions of
8 RCW 18.44.410, RCW 18.44.430, and RCW 18.44.440, and is subject to the provisions of chapter 34.05 RCW.
9 Respondent may make a written request for a hearing as set forth in the NOTICE OF OPPORTUNITY TO
10 DEFEND AND OPPORTUNITY FOR HEARING accompanying this Statement of Charges.

11 DATED this 3rd day of June, 2008.

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13 

14 DEBORAH BORTNER
15 Director
16 Division of Consumer Services
17 Department of Financial Institutions

18 Presented by:

19 

20 MARK T. OLSON
21 Financial Examiner



22 Approved by:

23 

24 JAMES R. BRUSSELBACK
25 Enforcement Chief