STATE OF WASHINGTON

2	DEPARTMENT OF FINANCIAL INSTITUTIONS SECURITIES DIVISION			
3				
4	IN THE MATTER OF DETERMINING Whether there has been a violation of the	Order Number S-04-049-04-SC01		
5	Escrow Agent Registration Act of Washington) by:	STATEMENT OF CHARGES, NOTICE OF INTENT TO ENTER AN ORDER		
6 7	Fitts Escrow Company and Donald Emmett) Fitts	DECLINING TO RENEW AN ESCROW AGENT LICENSE AND ESCROW OFFICER LICENSE, TO PROHIBIT		
8	Respondents)	PARTICIPATION IN THE ESCROW INDUSTRY AND TO IMPOSE FINES		
9	THE STATE OF WASHINGTON TO:	Donald Emmett Fitts		
10				
11	STATEMENT OF CHARGES			
12	Please take notice that the Department of Financial Institutions of the State of			
13	Washington has reason to believe that Respondents, Fitts Escrow Company and Donald Emmett			
14	Fitts, have each violated the Escrow Agent Registration Act and that grounds exist under RCW			
15	18.44.430 to prohibit Donald Emmett Fitts from participating in the escrow industry and to			
16	impose fines against Fitts Escrow Company and Donald Emmett Fitts. The Department finds as			
17	follows:			
18	TENTATIVE FINDINGS OF FACT			
19	I. RESPONDENTS			
20				
21	1. Fitts Escrow Company ("Fitts Escrow") is a Washington corporation with its principa			
22	place of business at 879 Rainier Avenue in Renton, Washington. Fitts Escrow was a licensed			
23	escrow agent from 1987 until December 31, 2003, when its escrow agent license expired and			
24	was not renewed.			
25				
	GTATEMENT OF CHADGES	1 DEDADTMENT OF FINANCIAL INSTITUTION		

STATEMENT OF CHARGES

Securities Division PO Box 9033 Olympia, WA 98507-9033 360-902-8760 2. Donald Emmett Fitts ("Fitts") is the president and sole owner of Fitts Escrow Company. Fitts was Fitts Escrow's Designated Escrow Officer ("DEO") until December 31, 2003, when Fitts Escrow's escrow agent license expired and was not renewed.

II. FAILURE TO MAINTAIN ESCROW AGENT LICENSE AND PROVIDE PROOF OF FINANCIAL RESPONSIBILITY

During 2003, when submitting an application for the renewal of Fitts Escrow's escrow agent license and Fitts' escrow officer license, Fitts Escrow and Fitts each failed to provide the Department with satisfactory evidence that Fitts Escrow had a fidelity bond with a deductible of no more than \$10,000 and coverage of at least \$200,000 for all of its corporate officers, escrow officers and employees engaged in escrow transactions. On February 4, 2004, the Department sent Fitts a certified letter advising Fitts that Fitts Escrow was not currently registered as an escrow agent and that Fitts was not currently registered as an escrow officer due to the company's failure to provide proof of a fidelity bond and errors and omissions insurance.

On February 5, 2004, a Department examiner visited the Fitts Escrow office, which was still open for business at its Renton location, and talked to Fitts. Fitts gave the examiner a copy of a binder for errors and omissions insurance, but could not give the examiner any proof that Fitts Escrow had maintained the required fidelity bond. The last fidelity bond coverage for Fitts Escrow that was provided to the Department expired on February 12, 2003. Fitts also gave the examiner a balance sheet as of January 1, 2004 that appeared to show that Fitts Escrow had a negative net worth.

III. INADEQUATE RECORDKEEPING AND FAILURE TO MAINTAIN PROPER BOOKS AND ACCOUNTS

Records given to the Department examiner on February 5, 2004 show that Fitts Escrow has failed to post reconciling entries to its books on a monthly basis. A Fitts Escrow December STATEMENT OF CHARGES

2 DEPARTMENT OF FINANCIAL INSTITUTIONS

1 31, 2003 bank reconciliation has seven pages of exceptions with transactions dating back to 2 1998. Fitts Escrow is also missing receipts for escrow deposits. The December 31, 2003 bank 3 reconciliation shows that from 2001 through 2003, Fitts Escrow is missing receipts for at least 17 4 deposits totaling more than \$280,000. 5 IV. IMPROPER DISBURSEMENTS OR HOLDBACKS 6 From the records given to the Department examiner on February 5, 2004, it appears that 7 some escrow funds have not been properly disbursed by Fitts Escrow. The Fitts Escrow 8 December 31, 2003 monthly trial balance shows a negative balance for three escrow transactions 9 totaling more than \$1,000,000. The December 31, 2003 monthly trial balance also shows that 10 there were three escrow transactions that were last active during 2001 or 2002 that still had 11 12 outstanding account balances of more than \$100,000 each. 13 Based upon the above Tentative Findings of Fact, the following Conclusions of Law are 14 made: 15 CONCLUSIONS OF LAW 16 I. 17 As described in Tentative Findings of Fact II, Fitts Escrow has violated RCW 18.44.201 18 by filing an application for the renewal of an escrow agent license without providing 19 satisfactory evidence to the Department of having obtained a fidelity bond as required by law 20 and as a condition precedent to transacting escrow business. 21 II. 22 As described in Tentative Findings of Fact III, Fitts Escrow and Fitts have each violated 23 RCW 18.44.301(6) and (8) by omitting to make material entries in Fitts Escrow's books and 24 25 accounts and by willfully failing to make proper entries in the books of the escrow business. DEPARTMENT OF FINANCIAL INSTITUTIONS STATEMENT OF CHARGES 3

INANCIAL INSTITUTIONS Securities Division PO Box 9033 Olympia, WA 98507-9033 360-902-8760

1	III.

As described in Tentative Findings of Fact III, Fitts Escrow has violated RCW 18.44.400(1) by failing to keep adequate records. Under RCW 18.44.071, Fitts, as the DEO of Fitts Escrow, is responsible for Fitts Escrow's failure to keep adequate records.

IV.

As described in Tentative Findings of Fact IV, Fitts Escrow has violated RCW 18.44.400(3) by making disbursements without first receiving deposits directly relating to the escrow account in amounts at least equal to the disbursements. Under RCW 18.44.071, Fitts, as the DEO of Fitts Escrow, is responsible for Fitts Escrow's improper disbursements of escrow funds.

V.

The Department finds and concludes that the aforementioned violations of the Escrow Agent Registration Act constitute grounds under RCW 18.44.410 and RCW 18.44.430 for prohibiting Donald Emmett Fitts from participating in the escrow industry and for imposing fines against Fitts Escrow Company and Donald Emmett Fitts.

NOTICE OF INTENT TO PROHIBIT PARTICIPATION IN THE ESCROW INDUSTRY AND TO IMPOSE FINES

Pursuant to RCW 18.44.410 and RCW 18.44.430, and based on the Department's findings and conclusions that Fitts Escrow Company and Donald Emmett Fitts have each violated the Escrow Agent Registration Act, the Department intends to order that Donald Emmett Fitts shall be prohibited from any further participation in the escrow industry and that Fitts Escrow Company and Donald Emmett Fitts shall each pay a fine of \$1,500.

360-902-8760

1 2	NOTICE OF INTENT TO ENTER AN ORDER DECLINING TO RENEW ESCROW AGENT AND ESCROW OFFICER LICENSE				
3	Pursuant to RCW 18.44.430, the Department intends to enter an order declining to renew				
4	the escrow agent license for Fitts Escrow Company and the escrow officer license for Donald				
5	Emmett Fitts.				
6	AUTHORITY AND PROCEDURE				
7	This Statement of Charges, Notice of Intent to Enter an Order Declining to Renew an				
8	Escrow Agent License and Escrow Officer License, to Prohibit Participation in the Escrow				
9	Industry and to Impose Fines is entered pursuant to the provisions of RCW 18.44.410 and RCW				
10	18.44.430 and is subject to the provisions of chapter 34.05 RCW. The respondents, Fitts Escrow				
11	Company and Donald Emmett Fitts, may each make a written request for a hearing as set forth in				
12	the Notice of Opportunity to Defend and Opportunity for Hearing accompanying this order. If either respondent fails to make a timely hearing request, the Department intends to				
13					
14	adopt the above Tentative Findings of Fact and Conclusions of Law as final and to enter an order				
15 16	imposing fines. In addition, if Donald Emmett Fitts fails to make a timely hearing request, the				
17	Department intends to prohibit Mr. Fitts from any further participation in the escrow industry.				
18	DATED this 11 day of May, 2004				
19					
20	midsel E, Stevenson				
21	Michael E. Stevenson Director, Securities Division				
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	STATEMENT OF CHARGES 5 DEPARTMENT OF FINANCIAL INSTITUTIONS				

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5	Approved by:	Presented by:	
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7	Suzanne E. Sarason	Joseph La La Joseph So	
8	Chief of Enforcement	Financial Legal Examiner	
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