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**STATE OF WASHINGTON  
DEPARTMENT OF FINANCIAL INSTITUTIONS  
SECURITIES DIVISION**

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

City Escrow Inc.,  
Frances D. Buck, designated escrow officer,

Respondents.

Order Number S-03-182-04-CO01

CONSENT ORDER AND ORDER VACATING  
ORDER NO. C-03-182-03-SC01

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**INTRODUCTION**

On October 29, 2003, the Department of Financial Institutions of the State of Washington issued Temporary Order to Cease and Desist, Statement of Charges, and Notice of Intent to Revoke Licenses, Prohibit Participation in the Escrow Industry, and Impose Fines, Order Number C-03-182-03-SC01, against Respondents City Escrow Inc and Frances D. Buck. The Securities Division and the Respondents do hereby agree to this Consent Order in settlement of the above captioned matter. The Respondents admit the Findings of Fact and Conclusions of Law set forth below.

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**FINDINGS OF FACT**

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RESPONDENTS

1. City Escrow Inc. ("City Escrow") is a Washington corporation licensed as an escrow agent by the Department at 4109 A Bridgeport Way West, University Place, Washington 98466. City Escrow's agent license was last re-issued on November 22, 2002, and expired December 31, 2003.

2. Frances D. Buck ("Buck") is the sole owner of City Escrow and is its Designated Escrow Officer ("DEO"). The Department approved Buck to act as City Escrow's DEO effective February 15, 2002. Buck's license expired in February 2004.

1 ON-SITE EXAMINATIONS

2 3. On February 20, 2003, the Department conducted an on-site examination of City Escrow's  
3 books, records, and accounts. The examination included a reconciliation of outstanding client ledger  
4 balances to trial balance reports and trust bank accounts, an analysis of disbursements, and an analysis of  
5 overdue checks and closed trust accounts.

6 4. In three preceding examinations, the Department had warned Buck and City Escrow about  
7 multiple violations, including (1) disbursing unearned small trust account balances to themselves to close  
8 out the accounts; (2) disbursing client trust funds in amounts exceeding those on deposit; (3) failing to  
9 reconcile trust accounts; (4) failing to cancel and reissue overdue checks; and (5) failing to expeditiously  
10 refund money on closed accounts.

11 COMMINGLING TRUST FUNDS

12 5. On May 2, 2002, the day Buck was scheduled to receive a \$52,827.96 trust deposit for an escrow  
13 client, Buck disbursed approximately that amount from trust for the client. However, the incoming  
14 deposit was \$1,000 short. On May 21, 2002, Buck deposited into trust a check drawn on her personal  
15 account that covered this shortfall. Buck did not retain a copy of this check in her account records or in  
16 the transaction file for the specific escrow client.

17 6. On or about August 8, 2002, Buck closed the trust bank account into which she had deposited her  
18 personal check. The account then contained \$1,195.25 in trust funds. City Escrow's books, accounts, and  
19 trust records did not explain the account closure, and Buck informed the Department's examiner that she  
20 could not recall how these funds were disbursed. However, Buck had signed an "Account Closeout"  
21 document and withdrew the funds by: (1) paying City Escrow \$672.21, and (2) attributing the remainder  
22 to City Escrow's bank line of credit.

1 DISBURSEMENTS EXCEEDING DEPOSITS

2 7. According to trial balances for December 31, 2001, June 30, 2002, and September 30, 2002,  
3 Buck disbursed trust funds exceeding the amount on deposit for at least 10 escrow accounts. When Buck  
4 did not ensure that these accounts contained funds sufficient to pay their settlement charges, Buck used  
5 other trust principals' funds to cover these disbursements. There were no written instructions from the  
6 other trust principals authorizing these disbursements.

7 FAILURE TO RECONCILE ACCOUNTS

8 8. Buck had not reconciled the trust account balance against the client ledger of receipts and  
9 disbursements since at least June 2002, when the trust account was short \$9,705.73. Buck also had not  
10 timely posted system and bank adjustments indicated on the monthly reconciliation reports. Buck has  
11 subsequently presented evidence of reconciliation to the Department.

12 UNTIMELY PERFORMANCE

13 9. According to the January 31, 2003 outstanding check report, Buck had three checks outstanding  
14 for more than 90 days, totaling \$148.75. According to the January 31, 2003 trial balance, Buck had one  
15 account that had been closed for more than six months, with an outstanding balance of \$2,500.00.

16 Based upon the Findings of Fact, the following Conclusions of Law are made:

17 **CONCLUSIONS OF LAW**

18 1. The conduct described in Findings of Fact 5 and 6 is in violation of RCW 18.44.400(2) because  
19 City Escrow and Frances Buck each failed to keep separate escrow trust accounts for each client and/or  
20 to keep the trust accounts separate, apart, and segregated from City Escrow's own funds.

21 2. The conduct described in Findings of Fact 5 through 8 is in violation of RCW 18.44.400(1)  
22 because City Escrow and Buck each failed to keep adequate records, including copies of trust checks or  
23 other receipts and disbursements, written instructions for trust disbursements, trust reconciliations, and  
24

1 trial balances of client subsidiary ledgers, as specifically required by WAC 460-208D-020, WAC 460-  
2 208D-060, and WAC 208-680E-011(9).

3 3. The conduct described in Findings of Fact 5 and 7 is in violation of RCW 18.44.400(3) because  
4 City Escrow and Buck each made disbursements on escrow accounts without first having received  
5 deposits for those accounts in amounts at least equal to the disbursements.

6 4. The conduct described in Findings of Fact 5 through 7 is in violation of RCW 18.44.430(1)(e)  
7 because City Escrow and Buck each converted money, delivered in trust, to the use of City Escrow,  
8 Buck, or other persons, in violation of the trust.

9 5. The conduct described in Findings of Fact 8 and 9 is in violation of RCW 18.44.430(1)(i) and  
10 WAC 208-680D-050 because City Escrow and Buck each did not perform required acts as expeditiously  
11 as possible and/or have been negligent in their delayed performance.

### 12 **CONSENT ORDER**

13 Based upon the foregoing:

14 IT IS HEREBY AGREED AND ORDERED that City Escrow Inc. and Frances D. Buck each  
15 cease and desist from violating RCW 18.44.400(2), which prohibits commingling of trust funds.

16 IT IS FURTHER AGREED AND ORDERED that City Escrow Inc. and Frances D. Buck each  
17 cease and desist from violating RCW 18.44.400(1), which requires keeping adequate records, including  
18 complete accounting records as required in WAC 460-208D-020, written instructions for disbursements  
19 as required in WAC 460-208D-060, and complete monthly trust reconciliations as required in WAC 208-  
20 680E-011(9).

21 IT IS FURTHER AGREED AND ORDERED that City Escrow Inc. and Frances D. Buck each  
22 cease and desist from violating RCW 18.44.400(3), which prohibits trust disbursements exceeding funds  
23 on deposit.

1 IT IS FURTHER AGREED AND ORDERED that City Escrow Inc. and Frances D. Buck each  
2 cease and desist from violating RCW 18.44.430(1)(e), which prohibits converting trust funds to the use  
3 of anyone other than the party for whom the funds have been deposited.

4 IT IS FURTHER AGREED AND ORDERED that City Escrow Inc. and Frances D. Buck each  
5 cease and desist from violating RCW 18.44.430(1)(i) and WAC 208-680D-050, which require  
6 expeditious performance of required acts.

7 IT IS FURTHER AGREED AND ORDERED that City Escrow Inc.'s escrow agent license and  
8 Frances Buck's designated escrow officer license are suspended from Oct 29, 2003, when Buck ceased  
9 operations to address her compliance issues, to the date of entry of this Consent Order.

10 IT IS FURTHER AGREED that in keeping and maintaining records City Escrow Inc. and Frances  
11 D. Buck will (1) obtain advance confirmation from lenders of the amount of each future loan; (2) retain  
12 an independent and competent bookkeeper to complete monthly reconciliations; and (3) complete and  
13 submit a Monthly Report, certified by both the DEO and the independent bookkeeper, the form of which  
14 is attached to this Order. These requirements will remain in effect for a period of three years from the  
15 date of this order.

16 IT IS FURTHER AGREED that City Escrow Inc. and Frances D. Buck shall be jointly and  
17 severally liable for and shall pay a fine in the amount of \$12,000, half of which is suspended based on  
18 future compliance with this Order. The remaining \$6,000 payment is to be made to the Division prior to  
19 the entry of this Consent Order.

20 IT IS FURTHER AGREED that City Escrow Inc. and Frances D. Buck shall reimburse the  
21 Securities Division \$6,000 for its costs incurred in its investigation of this matter. This payment is to be  
22 made to the Division prior to the entry of this Consent Order.

1 IT IS FURTHER AGREED that the Securities Division has jurisdiction to enter this Consent  
2 Order.

3 In consideration of the foregoing, City Escrow Inc. and Frances D. Buck each withdraw their  
4 requests for hearing and waive their right to a hearing on this matter, and the Securities Division hereby  
5 vacates prior order C-03-182-03-SC01 against the Respondents.

6  
7 DATED this 20<sup>th</sup> day of October, 2004.


8 Signed by:


9  
10 /s/ Frances D. Buck  
11 Frances D. Buck, for City Escrow Inc.

/s/ Frances D. Buck  
Frances D. Buck, individually

12 THIS ORDER ENTERED THIS 26th DAY OF October, 2004 BY:

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16 Michael E. Stevenson  
17 Assistant Director  
18 Department of Financial Institutions

19 Approved by:  
20   
21 Martin Cordell  
22 Chief of Enforcement

Presented by:  
23   
24 Andrew Ledbetter  
25 Financial Legal Examiner