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STATE OF WASHINGTON
DEPARTMENT OF FINANCIAL INSTITUTIONS

In the Matter of:)
)
OCEAN SHORES ESCROW, INC.,) No. C-02-243-O1
CORNERSTONE ESCROW, INC., AND) TEMPORARY ORDER TO
CATHERINE JENNIFER CUTLER-TYLER,) CEASE AND DESIST
OWNER AND DESIGNATED ESCROW OFFICER)
Respondents)
_____)

COMES NOW the Director, and finding that the public is likely to be substantially injured by delay in issuing a cease and desist order, the Director enters this temporary cease and desist order pursuant to chapter 18.44 RCW and RCW 18.44.440, based on the following findings:

I. BACKGROUND AND FINDINGS

A. Ocean Shores Escrow, Inc. (Ocean Shores) is licensed by the Washington Department of Financial Institutions (Department) as an escrow agent at 668 Ocean Shores Blvd. NW, Suite A, Ocean Shores, WA 98569. Ocean Shores' license number is 540-EA1897-00.

B. Catherine Jennifer Cutler-Tyler (Cutler-Tyler) is licensed with the Department as the designated escrow officer (DEO) for Ocean Shores. Cutler-Tyler was initially licensed as the DEO for Ocean Shores on March 2, 2000, license number 540-DO-0397-00. Her current DEO license was issued on January 7, 2002, license number 540-DO-21190.

C. Cutler-Tyler is also known to own and operate an unlicensed escrow agent, Cornerstone Escrow, Inc. (Cornerstone) located at 4405 7th Ave SE #103, Lacey, WA 98503.

D. On April 25, 2002, the Department determined that at least \$174,000 in consumer trust funds had been illegally converted from Ocean Shores' escrow trust bank account by Cutler-Tyler, and were subsequently transferred into other bank accounts held by or under the control of Cutler-Tyler.

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E. The Department has reason to believe, based upon its investigation findings, that the accounts receiving the illegally converted funds discussed in D. above are accounts under direct control of Cutler-Tyler. These accounts include, but may not be limited to:

1. Cutler-Tyler’s personal bank account, believed to be held with Key Bank at the Aberdeen, WA branch.
2. Ocean Shores’ general bank account, believed to be held with Key Bank at the Aberdeen, WA branch.
3. Cornerstone’s general bank account and escrow trust account, believed to be held with Key Bank at the Aberdeen, WA branch.

F. On April 11, 2002, the Department was informed by Puget Sound Underwriters, Inc. that Ocean Shores Escrow Agents Errors and Omissions insurance coverage was cancelled, effective March 19, 2002. Puget Sound Underwriters, Inc. further notified the Department that Ocean Shores Employee Dishonesty and Surety Coverage was soon to be cancelled and stated, “For all intents and purposes there is no coverage as the cancellation is in process.”

G. During its investigation of Ocean Shores and Cornerstone on April 25, 2002, the Department was informed that Cutler-Tyler had transferred much of the accounting records for the two companies outside of the State of Washington.

II. GROUNDS FOR ENTRY OF ORDER

A. RCW 18.44.021. Registration – Required – Exceptions. It shall be unlawful for any person to engage in business as an escrow agent by performing escrows or any of the functions of an escrow agent as described in RCW 18.44.011(4) within this state or with respect to transactions that involve personal property or real property located in this state unless such person possesses a valid license issued by the director pursuant to this chapter.

B. RCW 18.44.211. Cancellation of fidelity bond or surety bond, or both – New bond required. In the event of cancellation of either the fidelity bond, the surety bond, or both, the director

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shall require the filing of a new bond or bonds. Failure to provide the director with satisfactory evidence of a new bond after receipt by the director of notification that one is required or by the effective date of the cancellation notice, whichever is later, shall be sufficient grounds for the suspension or revocation of the escrow agent's license.

C. RCW 18.44.400. Records and accounts – Segregation and disbursements of funds – Violation of section, penalties.

(1) Every licensed escrow agent shall keep adequate records, as determined by rule by the director, of all transactions handled by or through the agent including itemization of all receipts and disbursements of each transaction. These records shall be maintained in this state, unless otherwise approved by the director, for a period of six years from completion of the transaction. These records shall be open to inspection by the director or the director's authorized representatives.

(2) Every licensed escrow agent shall keep separate escrow fund accounts as determined by rule by the director in recognized Washington state depositories authorized to receive funds, in which shall be kept separate and apart and segregated from the agent's own funds, all funds or moneys of clients which are being held by the agent pending the closing of a transaction and such funds shall be deposited not later than the first banking day following receipt thereof.

(3) An escrow agent, unless exempted by RCW 18.44.021(2), shall not make disbursements on any escrow account without first receiving deposits directly relating to the account in amounts at least equal to the disbursements. An escrow agent shall not make disbursements until the next business day after the business day on which the funds are deposited unless the deposit is made in cash, by interbank electronic transfer, or in a form that permits conversion of the deposit to cash on the same day the deposit is made. The deposits shall be in one of the following forms:

- (a) Cash;
- (b) Interbank electronic transfers such that the funds are unconditionally received by the escrow agent or the agent's depository;
- (c) Checks, negotiable orders of withdrawal, money orders, cashier's checks, and certified checks that are payable in Washington state and drawn on financial institutions located in Washington state;
- (d) Checks, negotiable orders of withdrawal, money orders, and any other item that has been finally paid as described in RCW 62A.4-213 before any disbursement; or
- (e) Any depository check, including any cashier's check, certified

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check, or teller's check, which is governed by the provisions of the federal expedited funds availability act, 12 U.S.C. Sec. 4001 et seq.

(4) For purposes of this section, the word "item" means any instrument for the payment of money even though it is not negotiable, but does not include money.

(5) Violation of this section shall subject an escrow agent to penalties as prescribed in Title 9A RCW and remedies as provided in chapter 19.86 RCW and shall constitute grounds for suspension or revocation of the license of any licensed escrow agent or licensed escrow officer. In addition, an escrow agent who is required to be licensed under this chapter and who violates this section or an individual who is required to be licensed as an escrow officer under this chapter and who violates this section, may be subject to penalties as prescribed in RCW 18.44.430.

D. RCW 18.44.440. Violations – Cease and desist orders. If the director determines after notice and hearing that a person has:

(1) Violated any provision of this chapter; or

(2) Directly, or through an agent or employee, engaged in any false, unfair and deceptive, or misleading:

(a) Advertising or promotional activity; or

(b) Business practices; or

(3) Violated any lawful order or rule of the director; the director may issue an order requiring the person to cease and desist from the unlawful practice and to take such affirmative action as in the judgment of the director will carry out the purposes of this chapter. If the director makes a finding of fact in writing that the public interest will be irreparably harmed by delay in issuing an order, the director may issue a temporary cease and desist order. Every temporary cease and desist order shall include in

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its terms a provision that upon request a hearing will be held to determine whether or not the order becomes permanent.

III. ORDER

A. Respondents are to immediately cease and desist from any deposits into or disbursements from any bank accounts holding any funds belonging to, or transferred from, the Ocean Shores escrow trust account. This order includes, but is not limited to the Ocean Shores escrow trust account as well as the accounts identified in I.D. above, and covers all periods of time in which any disbursements have been made from Ocean Shores’ escrow trust account. This order to cease and desist from any deposits or disbursements shall remain in effect unless otherwise directed by the Department in writing.

B. Respondents are to immediately cease and desist from all escrow activity as defined in chapter 18.44 RCW, the Escrow Agent Registration Act, from all locations, including the Ocean Shores office in Ocean Shores and the Cornerstone office in Lacey. This order to cease and desist from escrow activity shall remain in effect unless otherwise directed by the Department in writing.

C. Respondents are to immediately return all records for both Ocean Shores and Cornerstone to the State of Washington and make these records available for the Department’s inspection. Respondent Cutler-Tyler is to immediately make available to the Department for inspection all accounts under her control, including, but not limited to the accounts discussed within this order.

D. Based on the findings as related above, and the significant danger that Cutler-Tyler will continue to disburse funds, the Director finds that the public interest will be irreparably harmed by delay in issuing an order and therefore enters this temporary cease and desist order as authorized pursuant to RCW 18.44.440.

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E. This order shall take effect immediately.

NOTICE

YOU ARE ENTITLED TO A HEARING PURSUANT TO CHAPTER 18.44 RCW TO DETERMINE WHETHER THIS ORDER SHALL BECOME PERMANENT. IF YOU DESIRE A HEARING, THEN YOU MUST RETURN THE ATTACHED APPLICATION FOR ADJUDICATIVE HEARING INCORPORATED HEREIN BY THIS REFERENCE. FAILURE TO COMPLETE AND RETURN THE APPLICATION FOR ADJUDICATIVE HEARING FORM SO THAT IT IS RECEIVED BY THE DEPARTMENT OF FINANCIAL INSTITUTIONS WITHIN TWENTY (20) DAYS OF THE DATE THAT THIS ORDER WAS SERVED ON YOU WILL CONSTITUTE A DEFAULT AND WILL RESULT IN THE LOSS OF YOUR RIGHT TO A HEARING. SERVICE ON YOU IS DEFINED AS POSTING IN THE U.S. MAIL, POSTAGE PREPAID, TO YOUR LAST KNOWN ADDRESS OR PERSONAL SERVICE. BE ADVISED THAT DEFAULT WILL RESULT IN THIS ORDER TO CEASE AND DESIST BECOMING PERMANENT ON THE TWENTY-FIRST (21ST) DAY FOLLOWING SERVICE OF THIS ORDER UPON YOU.

DATED this 25th day of April, 2002.

/S/
MARK THOMSON
Acting Director
Department of Financial Institutions