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

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

NO. C-03-082-03-CO01

BURIEN ESCROW COMPANY, INC.,
CYNDI A. OHRT, Owner, President And
Individually,
CHAD K. OHRT, Owner, Secretary And
Individually,
RAYMOND W. HOLLIDAY,
TERRY A. HOLLIDAY, AND
DONA A. DVORAK

**CONSENT ORDER
BETWEEN THE DEPARTMENT
AND RAYMOND W. HOLLIDAY
AND TERRY A. HOLLIDAY**

Respondents.

COMES NOW the Director of Financial Institutions (Director), through her designee Chuck Cross, Acting Director and Enforcement Chief, Division of Consumer Services, and Raymond W. Holliday and Terry A. Holliday (hereinafter as "Hollidays"), 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:

I. AGREEMENT AND ORDER

The Department of Financial Institutions, Division of Consumer Services (Department) and Hollidays have agreed upon a basis for resolution of matters alleged in Statement of Charges and Notice of Intention to Enter an Order to Cease and Desist, to Deny Licenses, Prohibit from Participation in the Industry, Collect Examination Fees and Impose Monetary Fines (Statement of Charges) No. C-03-082-SC01 issued May 30, 2003 (copy attached hereto). Pursuant to chapter 18.44 RCW, the Escrow Agent Registration Act (Act) and

1 RCW 34.05.060 of the Administrative Procedure Act, Hollidays hereby agree to the Department's entry of
2 this Consent Order and further agree that the issues raised in the above captioned matter may be
3 economically and efficiently settled by entry of this Consent Order.

4 Based upon the foregoing:

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

7 B. It is AGREED that the parties shall be bound by the terms and conditions of this
8 Consent Order as set forth herein.

9 C. It is AGREED that Hollidays have been informed of their right to a hearing before an
10 administrative law judge, and that they have waived their right to a hearing and any and all
11 administrative and judicial review of the issues raised in this matter, or of the resolution reached herein.

12 D. It is AGREED that Hollidays understand that failure to abide by the terms and
13 conditions of this Consent Order may result in further legal action by the Director. In the event of such
14 legal action, Hollidays may be responsible to reimburse the Director for the cost incurred in pursuing
15 such action, including but not limited to, attorney fees.

16 E. It is AGREED that Hollidays cease and desist any and all escrow activity requiring a
17 license issued pursuant to chapter 18.44 RCW.

18 F. It is AGREED that Raymond W. Holliday's Designated Escrow Officer License #20972
19 be revoked as of the date of entry of this Consent Order.

20 G. It is AGREED that Hollidays shall be prohibited from participation in the conduct of the
21 affairs of any licensed escrow agent, in any manner, to include but not be limited to holding the
22 position of Designated Escrow Officer, escrow officer, officer, director, partner, manager, controlling
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24

1 person, stockholder, employee, or independent contractor of an escrow agent for a period of five (5)
2 years from the date of entry of this Consent Order.

3 H. It is AGREED that, should either or both Hollidays apply to the Department for any
4 license at any time after five (5) years from the date of entry of this Consent Order, Hollidays shall
5 jointly and severally pay a fine of \$15,000 to the Department.

6 I. It is AGREED that, should either or both Hollidays apply to the Department for any
7 license at any time after five (5) years from the date of entry of this Consent Order, each applying
8 Holliday shall be required to meet any and all application requirements in effect at that time, including
9 but not limited to any required examination.

10 J. It is AGREED that Hollidays shall cooperate fully, truthfully and completely with the
11 Department and provide any and all information known to them relating in any manner to Burien
12 Escrow Company, Inc. and any and all persons involved or in any way associated with Burien Escrow
13 Company, Inc., including but not limited to the named respondents in Statement of Charges No. C-03-
14 082-SC01, employees, businesses and persons with whom Burien Escrow Company, Inc. dealt,
15 communicated, or otherwise related. It is further AGREED that Hollidays provide any and all
16 documents, writings or materials, or objects or things of any kind in their possession or under their
17 care, custody or control relating directly or indirectly to all areas of inquiry and investigation. A failure
18 to cooperate fully, truthfully and completely is a breach of this Consent Order. It is further AGREED
19 that Hollidays testify fully, truthfully and completely at any proceeding related to the Department's
20 investigation and enforcement actions related to this matter, including, but not limited to Burien
21 Escrow Company, Inc. and the named respondents in Statement of Charges No. C-03-082-SC01.
22

23 K. It is AGREED that Hollidays have voluntarily entered into this Consent Order, which is
24 effective when signed by the Director's designee.
25

1 L. It is AGREED that Hollidays have read the Consent Order in its entirety and fully
2 understand and agree to all of the same.

3 **RESPONDENTS:**

4
5 /S/ _____ 8/12/03 _____
6 Raymond W. Holliday Date:

7
8 /S/ _____ 8/12/03 _____
9 Terry A. Holliday Date:

10
11 THIS ORDER ENTERED THIS 15th DAY OF August, 2003.

12
13 /S/ _____
14
15 Chuck Cross
16 Acting Director and Enforcement Chief
17 Division of Consumer Services
18 Department of Financial Institutions
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**STATE OF WASHINGTON
DEPARTMENT OF FINANCIAL INSTITUTIONS
DIVISION OF CONSUMER SERVICES**

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

NO. C-03-082-03-SC01

BURIEN ESCROW COMPANY, INC.,
CYNDI A. OHRT, Owner, President And
Individually,
CHAD K. OHRT, Owner, Secretary, And
Individually,
RAYMOND W. HOLLIDAY,
TERRY A. HOLLIDAY, AND
DONA A. DVORAK,

STATEMENT OF CHARGES
and NOTICE OF INTENTION TO ENTER
AN ORDER TO CEASE AND DESIST,
TO DENY LICENSES, PROHIBIT FROM
PARTICIPATION IN THE INDUSTRY,
COLLECT EXAMINATION FEES, AND
IMPOSE MONETARY FINES

Respondents.

Pursuant to RCW 18.44.410, the Director of the Department of Financial Institutions of the State of Washington ("Director") is responsible for the administration of chapter 18.44 RCW, the Escrow Agent Registration Act ("Act"). The referenced statutes (RCW) and rules (WAC) are attached, in pertinent part. After having conducted an investigation, and based upon the facts available as of May 30, 2003, the Director institutes this proceeding and alleges as follows:

I. FACTUAL ALLEGATIONS

1.1 Burien Escrow Company, Inc. formerly conducted the business of an escrow agent at:

116 SW 153rd Street
Seattle, Washington 98166

1.2 Raymond W. Holliday formerly was a co-owner and Designated Escrow Officer (DEO) of Burien Escrow Company, Inc.

1.3 Terry A. Holliday formerly was a co-owner of Burien Escrow Company, Inc.

STATEMENT OF CHARGES
and NOTICE OF INTENTION TO ENTER AN ORDER
TO CEASE AND DESIST, TO DENY LICENSES,
PROHIBIT FROM PARTICIPATION IN THE
INDUSTRY, COLLECT EXAMINATION FEES, AND
IMPOSE MONETARY FINES

1

DEPARTMENT OF FINANCIAL INSTITUTIONS
Division of Consumer Services
PO Box 41200
Olympia, WA 98504-1200
(360) 902-8795

1 1.4 Cyndi Ann Ohrt is a current co-owner and President of Burien Escrow Company, Inc.

2 1.5 Chad K. Ohrt is a current co-owner and Secretary of Burien Escrow Company, Inc.

3 1.6 Dona M. Dvorak formerly was associated with Burien Escrow Company, Inc.

4 1.7 The Department of Financial Institutions (“Department”) issued a license to Burien
5 Escrow Company, Inc., owned by Raymond W. and Terry A. Holliday, on or about December 19,
6 1997, to conduct business as an escrow agent, license number 540-EA-18487. (The prior license
7 number was BU-RI-EE-*344BC.)

8 1.8 The Department issued an escrow officer license to Raymond A. Holliday on or about
9 March 11, 1996, license number HO-LL-IR-W5510Z. In or about October 1998, Raymond W.
10 Holliday became the Designated Escrow Officer for Burien Escrow Company, Inc.

11 1.9 On or about July 13, 2001, Cyndi A. Ohrt and Chad K. Ohrt purchased Burien Escrow
12 Company, Inc. from Raymond W. Holliday and Terry A. Holliday.

13 1.10 Burien Escrow Company, Inc. currently is not licensed to conduct business as an escrow
14 agent and under the ownership of Cyndi A. Ohrt and Chad K. Ohrt has not been licensed.

15 1.11 Burien Escrow Company, Inc. currently does not have a Designated Escrow Officer and
16 under the ownership of Cyndi A. Ohrt and Chad K. Ohrt has not had a Designated Escrow Officer.

17 1.12 From at least July 13, 2001, Burien Escrow Company, Inc. and owners Cyndi A. Ohrt
18 and Chad K. Ohrt have operated Burien Escrow Company, Inc. without an escrow agent license and
19 without a licensed Designated Escrow Officer.

20 1.13 On or about January 3, 2002, the Department received an Escrow Agent Renewal
21 Notice for Burien Escrow Company, Inc. The document lists Raymond A. Holliday as the Designated
22 Escrow Officer and the new address location as 241 SW 153rd Street, Seattle, 98166.

1 1.14 On or about January 8, 2002, the Department received an Escrow Agent Address
2 Change Amendment application indicating the effective date of the change as “immediately” to the new
3 address of 241 S.W. 153rd Street, Seattle 98166. The document indicates Raymond W. Holliday as the
4 “licensed escrow officer employed at this office.” The document is sworn and affirmed by Raymond W.
5 Holliday dated January 3, 2002 as DEO.” Part of the attestation includes the statement: “Any false
6 statement or omission of material information in connection with this application shall be punished as
7 provided by law and may subject the applicant to denial of a license or the revocation of any license
8 granted.”

9 1.15 On or about January 22, 2002, the Department received the Escrow Officer License
10 Renewal Notice dated January 16, 2002 for Raymond W. Holliday.

11 1.16 On or about January 25, 2002, the Department sent via telefacsimile to Burien Escrow
12 Company, Inc. and Cyndi A. Ohrt regarding the necessary steps to complete the requested address
13 change.

14 1.17 On or about May 14, 2002, the Department sent a letter to Burien Escrow Company,
15 Inc. and Raymond W. Holliday regarding their failure to respond to the Department’s requests and
16 outlined the outstanding steps.

17 1.18 On or about May 16, 2002, the Department received the Original Designated Escrow
18 Officer license of Raymond W. Holliday with a check for the address change fee dated May 15, 2002.

19 1.19 On or about May 16, 2002, the Department sent a letter to Burien Escrow Company,
20 Inc. and Raymond W. Holliday enclosing the licenses reflecting the new address.

21 1.20 On or about May 23, 2002, the Department received an acknowledgment of receipt of
22 the licenses. Raymond W. Holliday signed the acknowledgment dated May 22, 2002.

23 1.21 On or about June 26, 2002, Cyndi A. Ohrt received a passing score on the Escrow
24 Officer Examination.

1 1.22 On or about July 22, 2002, the Department received an application dated July 18, 2002
2 to change Designated Escrow Officer for Cyndi A. Ohrt. The application named the outgoing
3 Designated Escrow Officer as Raymond W. Holliday and the incoming Designated Escrow Officer as
4 Cyndi A. Ohrt. In the blank for the license number for Cyndi A. Ohrt it is handwritten, “don’t have
5 yet.” Page 2 of the application specifies the instructions to the Escrow Agent, to the outgoing
6 Designated Escrow Officer, and to the incoming Designated Escrow Officer. With the application were
7 submitted a check to the Department for the Burien Escrow Company, Inc. Escrow Agent license
8 renewal fee and the original of each license – Burien Escrow Company, Inc.’s Escrow Agent license
9 and Raymond W. Holliday’s Designated Escrow Officer license. The signatory purportedly appointing
10 Cyndi A. Ohrt as an escrow officer to represent, act for and in behalf of Burien Escrow Company, Inc.
11 was Raymond W. Holliday. (Although unknown to the Department at this time, Raymond W. Holliday
12 did not hold a valid escrow agent license or a valid escrow officer license.)

13 1.23 On or about July 22, 2002, the Department received an application for an Escrow
14 Officer license dated July 5, 2002, from Cyndi A. Ohrt. The application included an appointment as
15 escrow officer “to represent, act for and in behalf of, the escrow agent named herein” (Burien Escrow
16 Company, Inc.). The signatory purportedly appointing Cyndi A. Ohrt to such capacity was Raymond
17 W. Holliday. (Although unknown to the Department at this time, Raymond W. Holliday did not hold a
18 valid escrow agent license or a valid escrow officer license.)

19 1.24 On or about August 27, 2002, in a conversation with Cyndi A. Ohrt, the Department
20 first learned Cyndi A. Ohrt owned Burien Escrow Company, Inc. Based on the information, the
21 Department informed Cyndi A. Ohrt to send in a closure form and to reapply for the necessary licenses.

22 1.25 On or about September 12, 2002, the Department sent a note by telefacsimile to Burien
23 Escrow Company, Inc. and Cyndi A. Ohrt detailing the steps needed to comply with the law and
24 confirming the date of a meeting.

1 1.26 On or about September 19, 2002, the Department met with Cyndi A. Ohrt. The
2 Department provided Cyndi A. Ohrt with three packets – the statutes and rules pertaining to escrow
3 agents, the escrow agent interpretive letters issued by the Department, and a trust account and record
4 keeping reference manual.

5 1.27 On or about September 19, 2002, Cyndi A. Ohrt filed an Escrow Agent License
6 Application replacing the application submitted in or around July 22, 2002. This application lists
7 Raymond W. Holliday as the Designated Escrow Officer.

8 1.28 On or about December 27, 2002, the Department received a data verification form from
9 Burien Escrow Company, Inc. indicating Raymond W. Holliday as the Designated Escrow Officer.

10 1.29 On or about January 7, 2003, the Department sent a letter to Cyndi A. Ohrt and Burien
11 Escrow Company, Inc. seeking clarification of the sequence of events for the purchase of Burien
12 Escrow Company, Inc.

13 1.30 On or about January 25, 2003, Cyndi A. Ohrt sent a letter to the Department stating, “I
14 was not licensed as DEO at time of purchase in July 2000. I assumed Holliday contacted DFI.”

15 1.31 On or about January 28, 2003, the Department sent a letter to Cyndi A. Ohrt and Burien
16 Escrow Company, Inc. (1) requesting clarification of the purchase date – July 2000 or 2001, (2)
17 indicating that notification of the sale was not timely, and (3) stating that no business can be conducted
18 without a properly licensed Designated Escrow Officer in place.

19 1.32 On or about February 10, 2003, Burien Escrow Company, Inc. and Cyndi A. Ohrt sent a
20 letter to the Department indicating (1) July 2001 is the correct date of the sale, (2) she believed
21 Raymond W. Holliday took care of the notification, and (3) “I do understand the guidelines for the
22 DEO.”

23 1.33 On or about February 27, 2003, the Department received a completed Escrow Officer
24 License Renewal Notice which had Raymond W. Holliday’s name and Designated Escrow Officer

1 license number printed on the form. A new address and telephone number were indicated. However,
2 the social security number (SSN) and date of birth of Cyndi A. Ohrt were written on the form as if they
3 applied to Raymond W. Holliday.

4 1.34 On or about March 5, 2003, Cyndi A. Ohrt sent a letter to the Department addressing
5 the question of whether Raymond A. Holliday remained at Burien Escrow Company, Inc. She
6 indicated, "And yes he is."

7 1.35 On or about March 21, 2003, the Department provided a letter to Burien Escrow
8 Company, Inc. and Cyndi A. Ohrt detailing the current status of licensure and instructing them not to
9 operate as an escrow agent. Also, on or about March 21, 2003, during an unscheduled in-person
10 meeting with the Department, Cyndi A. Ohrt stated that Raymond W. Holliday was still working at
11 Burien Escrow Company, Inc. and that that day (March 21, 2003) happened to be his last.

12 1.36 On or about March 28, 2003 and April 1, 2003, the Department conducted an on-site
13 examination of Burien Escrow Company, Inc. From that review, the Department discovered, among
14 other items, the following:

15 a. In or around July 2002, Burien Escrow Company, Inc. through Dona M. Dvorak
16 converted funds held in trust for the benefit of Chon I. Chong. Funds in the amount of \$40,000 were
17 transferred without the written consent of all principal parties to another escrow account. The final
18 HUD1 settlement statement dated July 22, 2002, indicated these funds had been paid to AMEX
19 Business Finance for a debt owed by Chong. It was not until about February 3, 2003 and April 4,
20 2003, that AMEX Business Finance received \$29,000 and \$10,250 respectively from Burien Escrow
21 Company, Inc.

22 b. Thirty-two checks totaling over \$2600 have been outstanding for more than
23 ninety days.

1 c. Fourteen accounts have been closed for more than six months with a total
2 outstanding balance of over \$3000.

3 1.37 On or about April 1, 2003, Raymond W. Holliday sent a letter to the Department
4 explaining his situation with Burien Escrow Company, Inc.: "I felt that by August/September 2002 my
5 responsibilities to BE [Burien Escrow Company, Inc.] were over."
6

7 II. GROUNDS FOR ENTRY OF ORDER

8 2.1 Pursuant to RCW 18.44.021 it is unlawful to operate as an escrow agent without a valid
9 license to do so. Pursuant to RCW 18.44.071 every licensed escrow agent shall ensure that all escrow
10 transactions are supervised by a licensed escrow officer. Further, the Designated Escrow Officer must
11 be an officer of the corporation and must act on behalf of the corporation. In addition, RCW 18.44.041
12 prohibits a licensed escrow agent from operating an escrow business in a location other than the
13 location set forth on the agent's license. WAC 208-680B-015 provides that an escrow agent license
14 may not be transferred. Also, under RCW 18.44.101, when a licensed escrow officer ceases for any
15 reason to represent the agent, the license ceases to be in force.
16

17 Based on the Factual Allegations above, Burien Escrow Company, Inc., Cyndi A. Ohrt, and
18 Chad K. Ohrt violated RCW 18.44.021 and RCW 18.44.071.

19 Raymond W. Holliday, and Terry A. Holliday violated RCW 18.44.021, RCW 18.44.071, RCW
20 18.44.041, and RCW 18.44.101. Upon the sale of Burien Escrow Company, Inc., the Hollidays no
21 longer represented Burien Escrow Company, Inc. Further, Raymond W. Holliday was not an officer in
22 the corporation. Therefore, on or about July 13, 2001, the escrow officer license of Raymond W.
23 Holliday ceased to be in force.

1 2.2 Pursuant to RCW 18.44.081 an applicant for an escrow officer license must “make
2 application endorsed by a licensed escrow agent.” In addition, the applicant must furnish such proof as
3 the Director may require concerning his or her honesty, truthfulness, good reputation, and identity.

4 Based on the Factual Allegations above, Cyndi A. Ohrt failed to comply with RCW 18.44.081.

5 2.3 Pursuant to RCW 18.44.301(1), (2), and (3), it is a violation of chapter 18.44 RCW for
6 any escrow agent, controlling person, officer, designated escrow officer, independent contractor,
7 employee of an escrow business, or other person subject to this chapter to directly or indirectly employ
8 any scheme, device, or artifice to defraud or mislead borrowers or lenders or to defraud any person, to
9 directly or indirectly engage in any unfair or deceptive practice toward any person, or to directly or
10 indirectly obtain property by fraud or misrepresentation.
11

12 Based on the Factual Allegations above, Burien Escrow Company, Inc., Cyndi A. Ohrt, Chad K.
13 Ohrt, Raymond W. Holliday, and Terry A. Holliday violated RCW 18.44.301(1), (2), and (3).

14 2.4 Based on the Factual Allegations above, Burien Escrow Company, Inc., Cyndi A. Ohrt,
15 and Chad K. Ohrt violated RCW 18.44.430(1)(a) by obtaining a license by means of fraud,
16 misrepresentation, concealment, or through the mistake or inadvertence of the Director.

17 2.5 Based on the Factual Allegations above, Burien Escrow Company, Inc., Cyndi A. Ohrt,
18 Chad K. Ohrt, Raymond W. Holliday, and Dona M. Dvorak violated RCW 18.44.430(1)(i) by
19 committing acts or engaging in conduct that demonstrates them to be incompetent or untrustworthy, or
20 a source of injury and loss to the public. This conduct demonstrates that Burien Escrow Company,
21 Inc., Cyndi A. Ohrt, Chad K. Ohrt, and Raymond W. Holliday are not capable of complying with
22 chapter 18.44 RCW and chapter 208-680A-G WAC. Pursuant to WAC 208-680D-080(1), it is the
23

1 responsibility of every licensed escrow officer to be knowledgeable of and keep current with these
2 chapters.

3 2.6 Pursuant to WAC 208-680B-015(3) whenever a licensed escrow agent contemplates a
4 transfer involving all or substantially all of its assets, the licensee must provide written notice to the
5 Director at least thirty days prior to the effective date of the transfer.

6 Based on the above Factual Allegations, Raymond W. Holliday and Terry A. Holliday violated
7 WAC 208-680B-015(3).

8 2.7 Based on the above Factual Allegations, Raymond A. Holliday violated WAC 208-
9 680B-070 by permitting the use of his license, whether for compensation or not, to enable any person
10 to in fact establish and carry on an escrow agency wherein the escrow officer does not have full
11 management and supervisory responsibilities.

12 2.8 Based on the above Factual Allegations, Burien Escrow Company, Inc., Cyndi A. Ohrt,
13 and Chad K. Ohrt violated WAC 208-680D-050 and WAC 208-680D-060 by failing to perform all acts
14 as expeditiously as possible and within the time periods identified in the escrow instructions and by
15 failing to disburse funds as set forth in the escrow instructions.

16 2.9 Based on the above Factual Allegations, Burien Escrow Company, Inc., Cyndi A. Ohrt,
17 Chad K. Ohrt, and Dona M. Dvorak violated RCW 18.44.430(1)(e) by converting money to their own
18 use or to the use of their principal or of any other person. Burien Escrow Company, Inc., Cyndi A.
19 Ohrt, Chad K. Ohrt, and Dona M. Dvorak failed to return the money within thirty days after the owner
20 thereof was entitled. Burien Escrow Company, Inc., Cyndi A. Ohrt, Chad K. Ohrt, and Dona M.
21 Dvorak also violated WAC 208-680D-060 by failing to disburse funds in accordance with the
22 instructions and without the written consent of all principal parties.

1 **III. AUTHORITY FOR THE DEPARTMENT’S INTENDED ACTIONS**

2 **A. Authority to Require Persons to Cease and Desist:** Under conditions specified therein,
3 pursuant to RCW 18.44.440, the Director may issue an order requiring a person to cease and desist
4 from unlawful practices and to take such affirmative action as in the judgment of the Director will carry
5 out the purposes of chapter 18.44 RCW.

6 **B. Authority to Deny License Applications:** Pursuant to RCW 18.44.430(1) and WAC 208-
7 680G-040(1), the Director may deny an application for a license to operate as an escrow agent or
8 escrow officer for obtaining a license by means of fraud, misrepresentation, concealment, or through the
9 mistake or inadvertence of the director, for violating any of the provisions of chapter 18.44 RCW or
10 any lawful rules promulgated pursuant thereto, and for committing acts or engaging in conduct that
11 demonstrates the applicant to be incompetent or untrustworthy, or a source of injury and loss to the
12 public.

13 **C. Authority to Impose Fines:** Pursuant to RCW 18.44.430(3) and WAC 208-680G-040(3), the
14 Director may impose fines in addition to or in lieu of denial.

15 **D. Authority to Prohibit from the Industry:** Pursuant to RCW 18.44.430(3) and WAC 208-
16 680G-040(2), the Director may remove and/or prohibit from participation in the conduct of the affairs
17 of a licensed escrow agent, any officer, controlling person, director, employee, or licensed escrow
18 officer in addition to or in lieu of denial.

19 **E. Authority to Charge Examination Fee:** Pursuant to RCW 18.44.121(5) and WAC 208-680G-
20 050, the person subject to examination shall bear the costs of the examination.
21

1 **IV. NOTICE OF INTENT TO ENTER ORDER**

2 Respondents' violations of the provisions of chapter 18.44 RCW and chapter 208-680 WAC, as set
3 forth in the above Factual Allegations and Grounds for Entry of Order constitute a basis for the entry of an
4 Order under RCW 18.44.410, RCW 18.44.430, and WAC 208-680G-030, which authorize the Director to
5 enter an Order against a person subject to the Act. Therefore, it is the Director's intention to ORDER that:

- 6 1. Burien Escrow Company, Inc., Cyndi A. Ohrt, Chad K. Ohrt, Raymond W. Holliday, Terry A.
7 Holliday, and Dona M. Dvorak cease and desist from any and all escrow activity requiring a
8 license issued pursuant to chapter 18.44 RCW.
- 9 2. Burien Escrow Company, Inc.'s application for a license to conduct the business of an escrow
10 agent be denied;
- 11 3. Cyndi A. Ohrt's application for a license to act as an Escrow Officer be denied;
- 12 4. Cyndi A. Ohrt be prohibited from participation in the conduct of the affairs of any licensed
13 escrow agent, in any manner, to include but not be limited to holding the position of
14 Designated Escrow Officer, escrow officer, officer, director, partner, manager, controlling
15 person, stockholder, employee, or independent contractor of an escrow agent for a period of
16 five (5) years;
- 17 5. Chad K. Ohrt be prohibited from participation in the conduct of the affairs of any licensed
18 escrow agent, in any manner, to include but not be limited to holding the position of
19 Designated Escrow Officer, escrow officer, officer, director, partner, manager, controlling
20 person, stockholder, employee, or independent contractor of an escrow agent for a period of
21 five (5) years;
- 22 6. Raymond W. Holliday be prohibited from participation in the conduct of the affairs of any
23 licensed escrow agent, in any manner, to include but not be limited to holding the position of
24 Designated Escrow Officer, escrow officer, officer, director, partner, manager, controlling
25 person, stockholder, employee, or independent contractor of an escrow agent for a period of
five (5) years;
7. Terry A. Holliday be prohibited from participation in the conduct of the affairs of any
licensed escrow agent, in any manner, to include but not be limited to holding the position of
Designated Escrow Officer, escrow officer, officer, director, partner, manager, controlling
person, stockholder, employee, or independent contractor of an escrow agent for a period of
five (5) years;

- 1 8. Dona M. Dvorak be prohibited from participation in the conduct of the affairs of any licensed
2 escrow agent, in any manner, to include but not be limited to holding the position of
3 Designated Escrow Officer, escrow officer, officer, director, partner, manager, controlling
4 person, stockholder, employee, or independent contractor of an escrow agent for a period of
5 five (5) years;
- 6 9. Burien Escrow Company, Inc., Cyndi A. Ohrt, and Chad K. Ohrt provide the Department with
7 the location of the books, records and other information relating to Burien Escrow Company,
8 Inc.'s escrow business, and the name, address and telephone number of the individual responsible
9 for the maintenance of such records in compliance with the Act;
- 10 10. Burien Escrow Company, Inc., Cyndi A. Ohrt, Chad K. Ohrt, Raymond W. Holliday, Terry A.
11 Holliday, and Dona M. Dvorak jointly and severally pay an examination fee in the amount of \$
12 3,933.57 calculated at \$69.01 per staff hour for 57 staff hours devoted to the investigation;
- 13 11. Burien Escrow Company, Inc., Cyndi A. Ohrt, and Chad K. Ohrt jointly and severally pay a fine
14 of \$25,000;
- 15 12. Raymond W. Holliday and Terry A. Holliday jointly and severally pay a fine of \$15,000; and
- 16 13. Burien Escrow Company, Inc., Cyndi A. Ohrt, Chad K. Ohrt, Raymond W. Holliday, Terry A.
17 Holliday, and Dona M. Dvorak jointly and severally pay a fine of \$12,500 for their violation of
18 RCW 18.44.430(1)(e).

14 **V. AUTHORITY AND PROCEDURE**

15 This Statement of Charges and Notice is entered pursuant to the provisions of RCW 18.44.410,
16 RCW 18.44.430, and WAC 208-680G-030, and is subject to the provisions of chapter 34.05 RCW (the
17 Administrative Procedure Act). Respondents may make a written request for a hearing as set forth in
18 the NOTICE OF OPPORTUNITY TO DEFEND AND OPPORTUNITY FOR HEARING
19 accompanying this order.

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1 Dated this 30th day of May, 2003.

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MARK THOMSON, DIRECTOR
DIVISION OF CONSUMER SERVICES

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STATEMENT OF CHARGES
and NOTICE OF INTENTION TO ENTER AN ORDER
TO CEASE AND DESIST, TO DENY LICENSES,
PROHIBIT FROM PARTICIPATION IN THE
INDUSTRY, COLLECT EXAMINATION FEES, AND
IMPOSE MONETARY FINES

25

1 **RCW 18.44.021**

License required -- Exceptions.

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

4 ...
5 **RCW 18.44.041**

Branch offices -- Application to establish -- Requirements.

6 (1) A licensed escrow agent shall not operate an escrow business in a location other than the location set forth on the
7 agent's license or branch office license issued by the director. The licensed escrow agent may apply to the director for
authority to establish one or more branch offices under the same name as the main office.

8 **RCW 18.44.071**

Escrow officer required for handling transactions -- Responsibility of supervising escrow agent.

9 Every licensed escrow agent shall ensure that all escrow transactions are supervised by a licensed escrow officer. In the
10 case of a partnership, the designated escrow officer shall be a partner in the partnership and shall act on behalf of the
11 partnership. In the case of a corporation, the designated escrow officer shall be an officer of the corporation and shall act
12 on behalf of the corporation. The designated escrow officer shall be responsible for that agent's handling of escrow
13 transactions, management of the agent's trust account, and supervision of all other licensed escrow officers employed by
the agent. Responsibility for the conduct of any licensed escrow officer covered by this chapter shall rest with the
designated escrow officer or designated branch escrow officer having direct supervision of such person's escrow activities.
The branch designated escrow officer shall bear responsibility for supervision of all other licensed escrow officers or other
persons performing escrow transactions at a branch escrow office.

13 **RCW 18.44.081**

Escrow officer's license -- Application -- Form -- Timely filing -- Proof of moral character, etc.

14 Any person desiring to be a licensed escrow officer shall meet the requirements of RCW 18.44.195 as provided in this
15 chapter. The applicant shall make application endorsed by a licensed escrow agent to the director on a form to be
prescribed and furnished by the director. Such application must be received by the director within one year of passing the
escrow officer examination. With this application the applicant shall:

- 16 (1) Pay a license fee as set forth by rule; and
- 17 (2) Furnish such proof as the director may require concerning his or her honesty, truthfulness, good reputation, and
18 identity, including but not limited to fingerprints, residential address and telephone number, qualifications and
employment history, a personal credit report, and any other information required under RCW 18.44.031.

18 **RCW 18.44.101**

License -- Retention and display by agent -- Termination -- Inactive licenses.

19 The license of a licensed escrow officer shall be retained and displayed at all times by the licensed escrow agent. When
20 the officer ceases for any reason to represent the agent, the license shall cease to be in force. Within three business days of
21 termination of the licensed escrow officer's employment, the licensed escrow agent shall notify the director that the
terminated escrow officer no longer represents the escrow agent. Within ten business days of termination of the licensed
22 escrow officer's employment, the licensed escrow agent shall deliver the surrendered escrow officer license to the director.
Failure to notify the director within three business days or deliver the surrendered license to the director within ten
business days shall, at the discretion of the director, subject the escrow agent to penalties under RCW 18.44.430.

22 ...

1 **RCW 18.44.121**

Fees.

2 The director shall charge and collect the following fees as established by rule by the director:

3 . . .

(5) An hourly audit fee. In setting this fee, the director shall ensure that every examination and audit, or any part of the examination or audit, of any person licensed or subject to licensing in this state requiring travel and services outside this state by the director or by employees designated by the director, shall be at the expense of the person examined or audited at the hourly rate established by the director, plus the per diem compensation and actual travel expenses incurred by the director or his or her employees conducting the examination or audit. When making any examination or audit under this chapter, the director may retain attorneys, appraisers, independent certified public accountants, or other professionals and specialists as examiners or auditors, the cost of which shall be borne by the person who is the subject of the examination or audit.

In establishing these fees, the director shall set the fees at a sufficient level to defray the costs of administering this chapter.

All fees received by the director under this chapter shall be paid into the state treasury to the credit of the financial services regulation fund.

9 **RCW 18.44.301**

Prohibited practices.

10 It is a violation of this chapter for any escrow agent, controlling person, officer, designated escrow officer, independent contractor, employee of an escrow business, or other person subject to this chapter to:

- 11 (1) Directly or indirectly employ any scheme, device, or artifice to defraud or mislead borrowers or lenders or to defraud any person;
- 12 (2) Directly or indirectly engage in any unfair or deceptive practice toward any person;
- (3) Directly or indirectly obtain property by fraud or misrepresentation;

13 . . .

13 **RCW 18.44.410**

Powers of director.

14 (1) The director has the power and broad administrative discretion to administer and interpret this chapter to facilitate the delivery of services to citizens of this state by escrow agents and others subject to this chapter.

15 (2) The director may issue rules and regulations to govern the activities of licensed escrow agents and escrow officers. The director shall enforce all laws and rules relating to the licensing of escrow agents and escrow officers and fix the time and places for holding examinations of applicants for licenses and prescribe the method of conducting the examinations. The director may hold hearings and suspend or revoke the licenses of violators and may deny, suspend, or revoke the authority of an escrow officer to act as the designated escrow officer of a person who commits violations of this chapter or of the rules under this chapter.

18 . . .

19 **RCW 18.44.430**

Actions against license -- Grounds.

20 (1) The director may, upon notice to the escrow agent and to the insurer providing coverage under RCW 18.44.201, deny, suspend, decline to renew, or revoke the license of any escrow agent or escrow officer if the director finds that the applicant or any partner, officer, director, controlling person, or employee has committed any of the following acts or engaged in any of the following conduct:

- 21 (a) Obtaining a license by means of fraud, misrepresentation, concealment, or through the mistake or inadvertence of the director.
- 22 (b) Violating any of the provisions of this chapter or any lawful rules made by the director pursuant thereto.
- 23 (c) The commission of a crime against the laws of this or any other state or government, involving moral turpitude or dishonest dealings.

1 (d) Knowingly committing or being a party to, any material fraud, misrepresentation, concealment, conspiracy,
2 collusion, trick, scheme, or device whereby any other person lawfully relying upon the word, representation, or conduct of
the licensee or agent or any partner, officer, director, controlling person, or employee acts to his or her injury or damage.

3 (e) Conversion of any money, contract, deed, note, mortgage, or abstract or other evidence of title to his or her own use
4 or to the use of his or her principal or of any other person, when delivered to him or her in trust or on condition, in
violation of the trust or before the happening of the condition; and failure to return any money or contract, deed, note,
mortgage, abstract, or other evidence of title within thirty days after the owner thereof is entitled thereto, and makes
demand therefor, shall be prima facie evidence of such conversion.

5 (f) Failing, upon demand, to disclose any information within his or her knowledge to, or to produce any document,
book, or record in his or her possession for inspection of, the director or his or her authorized representatives.

6 (g) Committing any act of fraudulent or dishonest dealing, and a certified copy of the final holding of any court of
competent jurisdiction in such matter shall be conclusive evidence in any hearing under this chapter.

7 (h) Accepting, taking, or charging any undisclosed commission, rebate, or direct profit on expenditures made for the
principal.

8 (i) Committing acts or engaging in conduct that demonstrates the applicant or licensee to be incompetent or
untrustworthy, or a source of injury and loss to the public.

9 (2) Any conduct of an applicant or licensee that constitutes grounds for enforcement action under this chapter is
sufficient regardless of whether the conduct took place within or outside of the state of Washington.

10 (3) In addition to or in lieu of a license suspension, revocation, or denial, the director may assess a fine of up to one
hundred dollars per day for each day's violation of this chapter or rules adopted under this chapter and may remove
and/or prohibit from participation in the conduct of the affairs of any licensed escrow agent, any officer, controlling
person, director, employee, or licensed escrow officer.

11 **RCW 18.44.440**

12 **Violations -- Cease and desist orders.**

If the director determines after notice and hearing that a person has:

13 (1) Violated any provision of this chapter; or

14 (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

15 (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.

16 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
17 in its terms a provision that upon request a hearing will be held to determine whether or not the order becomes
permanent.

18 **WAC 208-680B-015**

19 **License not transferable -- Notice of change in principal officer or controlling person.**

20 (1) An escrow agent license may not be transferred.

(2) An escrow officer's license may not be transferred.

21 (3) Whenever a licensed escrow agent contemplates a transfer involving all or substantially all of its assets, the
licensee shall provide written notice to the director at least thirty days prior to the effective date of the transfer. This
notice must include a copy of the signed agreement between the parties, which provides in part:

(a) A stipulation that the transferee is responsible for obtaining a license prior to completion of the transfer;

22 (b) A stipulation that the transferee shall obtain and submit to the director evidence of financial responsibility in the
form of the required bond or bonds and errors and omission insurance in compliance with RCW 18.44.201 prior to
completion of the transfer;

23 (c) A stipulation indicating which of the parties shall:

24 (i) Make all payments due to principal parties on or before the effective date of the transfer;

1 (ii) Maintain and preserve the accounting and other records as required by RCW 18.44.400 and WAC 208-680D-020
and 208-680D-030;

2 (iii) Provide notice of the transfer to all principal parties who have pending escrows, or who have deposited funds with
the escrow agent, or who have executed some other form of written agreement with the escrow agent; and

3 (d) A stipulation that the transferee is either restricted from using or authorized to use, the escrow agent's business
name, unless waived by the director.

4 (4) At least thirty days prior to a change in a principal officer or controlling person of a licensed escrow agent, the
licensee shall provide the director with all information required of a principal officer or controlling person when an
application is made for a license. The director shall make a determination prior to completion of the change, whether the
5 proposed new principal officer or controlling person meets the requirements for licensing.

6 **WAC 208-680B-070**

Misuse of escrow officer license prohibited.

7 An escrow officer shall not permit the use of his or her license, whether for compensation or not, to enable any person to
in fact establish and carry on an escrow agency wherein the escrow officer does not have full management and
8 supervisory responsibilities as required by RCW 18.44.071 and these regulations. Failure to adequately supervise any
individual conducting escrow or assisting in escrow shall be a violation of this section and may constitute grounds for
9 revocation of the escrow officer's license.

10 **WAC 208-680D-050**

Expeditious performance.

11 An escrow agent shall perform all acts required of the escrow agent as expeditiously as possible and within any time
period identified in the escrow instructions. Intentional or negligent delay in such performance shall be considered in
12 violation of RCW 18.44.430 (1)(i).

13 **WAC 208-680D-060**

Disbursement of funds.

14 The escrow agent shall disburse funds as set forth in the escrow instructions. Disbursement of any money or other items
in violation of the trust or before the happening of the conditions of the escrow agreement or escrow instructions is a
violation of RCW 18.44.430 (1)(e). Funds and other items or documents must be paid and/or disbursed immediately upon
15 closing of the transaction or as specifically agreed to in writing by all of the principal parties: Provided, That funds are
disbursed in compliance with RCW 18.44.400(3).

16 Upon written notice from any principal party that the ownership of the funds is in dispute or is unclear based on the
written agreement of the parties, the escrow agent must hold such funds until receiving written notice from all principal
parties that the dispute has been resolved. In lieu of holding such funds the escrow agent may interplead the funds into a
17 court of competent jurisdiction pursuant to chapter 4.08 RCW. Upon notification of a bona fide dispute between the
principal parties, the director may, at his/her discretion, order the escrow agent to interplead the funds into a court of
18 competent jurisdiction.

19 At no time may an escrow agent disburse or delay the disbursement of funds without the written consent of all principal
parties.

20 **WAC 208-680D-080**

Licensed escrow officers' responsibilities.

21 (1) It is the responsibility of every licensed escrow officer to be knowledgeable of and keep current with chapter 18.44
RCW and the rules implementing chapter 18.44 RCW.

22 (2) It is the responsibility of every licensed escrow officer to keep the department informed of his or her current home
address.

23 (3) It is the licensed escrow officer's responsibility to ensure accessibility of their offices and records to representatives of
the department.

1 **WAC 208-680G-030**

2 **Enforcement.**

The director, or designated person, may conduct the following types of enforcement activity:

- 3 (1) Enter orders, including temporary orders to cease and desist, compelling any 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;
- 4 (2) Enter charges for violations of chapter 18.44 RCW and chapter 208-680 WAC;
- 5 (3) Bring an action, with or without prior administrative proceedings, in the superior court to enjoin the acts or
practices and to enforce compliance with chapter 18.44 RCW, or any rule, regulation, or order of the director;
- 6 (4) Appoint a receiver or conservator to take over, operate, or liquidate any escrow office;
- (5) Hold hearings; or
- (6) Make referrals to other regulatory or law enforcement agencies.

7

8 **WAC 208-680G-040**

Sanctions.

The director may impose the following sanctions:

- 9 (1) Denial, suspension, or revocation of license for any violation of RCW 18.44.260;
- 10 (2) Remove or prohibit from participation in the conduct of the affairs of any licensed escrow agent, any officer,
controlling person, director, employee, or licensed escrow officer for any violation of RCW 18.44.260;
- 11 (3) Assess a fine of up to one hundred dollars per day for each day's violation of chapter 18.44 RCW, or these rules.

12 **WAC 208-680G-050**

Examination and investigation fees and expense--Authority to retain specialists.

- 13 (1) The director may retain attorneys, appraisers, independent certified public accountants, or other professionals and
specialists as examiners, auditors, or investigators, the cost of which shall be borne by the person who is the subject of the
examination, audit, or investigation.
- 14 (2) The expense of required travel and services related to an examination or investigation outside this state shall be borne
by the person examined or investigated. Such expense includes, but is not limited to, travel, lodging, and per diem
expense.