

STATE OF WASHINGTON
DEPARTMENT OF FINANCIAL INSTITUTIONS
DIVISION OF CONSUMER SERVICES

IN THE MATTER OF DETERMINING) No. C-07-190-07-TD01
whether there has been a violation)
of the Escrow Agent Registration Act of) TEMPORARY ORDER TO
Washington by:) CEASE AND DESIST
EXCEPTIONAL ESCROW CORP. and)
CATHERINE D. WISEMAN, President)
and Designated Escrow Officer,)
Respondents.)

THE STATE OF WASHINGTON TO:

Exceptional Escrow Corp.
1123 Maple Avenue SW, Suite 250
Renton, Washington 98055

Catherine D. Wiseman
32224 SE 266th Street
Ravensdale, Washington 98051

COMES NOW the Director of the Department of Financial Institutions of the State of Washington, by and through his designee, and finds that Respondents, Exceptional Escrow Corp. and Catherine D. Wiseman have each violated the Escrow Agent Registration Act, and finds that delay in ordering the Respondents to cease and desist from such violations will result in irreparable harm to the public interest, enters this Temporary Order to Cease and Desist pursuant to RCW 18.44.440.

I. PRELIMINARY FINDINGS OF FACT

1.1 Respondent Exceptional Escrow Corp. (Respondent Exceptional) is an active Washington for-profit corporation authorized to do business in Washington on July 19, 1994. The Department of Financial Institutions of the State of Washington (Department) licensed Respondent Exceptional as an Escrow Agent on or about August 18, 1994. Respondent

1 Exceptional currently holds Escrow Agent license #540-EA-18585. Respondent Exceptional's
2 main office is located at 1123 Maple Avenue SW, Suite 250, Renton, King County,
3 Washington. Respondent Exceptional presently has two licensed branch offices, one in
4 Bonney Lake, Pierce County (License #18585-28769) and one in North Bend, King County
5 (License #18585-26004).

6 **1.2 Catherine "Cathy" D. Wiseman** (Respondent Wiseman) is the President and owner of
7 Respondent Exceptional. The Department licensed Respondent Wiseman as a Designated
8 Escrow Officer (DEO) prior to 1995. Respondent Wiseman currently holds DEO license
9 #540-DO-21153, and is the DEO of the main office. Respondent Wiseman has supervisory
10 responsibility for the two active branch offices, each of which has a Branch DEO who reports
11 to Respondent Wiseman. Respondent Wiseman has been the President and DEO for
12 Respondent Exceptional since August 18, 1994. Respondent Wiseman is also a Limited
13 Practice Officer, license #1085, certified to select, prepare and complete documents for use in
14 closing loans.

15 **1.3 Examination.** On April 27, 2007, the Department sent a letter to Respondents Exceptional
16 and Wiseman advising them the Department would be conducting a routine examination
17 pursuant to WAC 208-680G-010. The Department requested that Respondents prepare certain
18 items for review during the examination, including trust account bank records, monthly trust
19 account reconciliations, and other books and records. The Department further requested that
20 Respondent Wiseman be available for an initial interview at the start of the examination.

21 **1.4** The examination commenced on May 29, 2007. During the initial interview, Respondent
22 Wiseman reported that until September 2006, Respondent Exceptional had used a Viking
23 Community Bank account, the last four numbers of which are 2480, as the general operating

1 account. In addition, Respondent Wiseman stated that until January 2007, Respondent
2 Exceptional had used a Viking Community Bank IOLTA Trust account, the last four numbers
3 of which are 2472, as the primary trust account for the main office in Renton. The funds from
4 individual escrow transactions are pooled within the IOLTA trust account, with the funds
5 segregated into individual sub-accounts in Respondent Exceptional's accounting system.

6 **1.5 Trust Accounts.** Upon review, the trust account reconciliation exception report for the
7 pooled trust accounts indicated that the accounts had a negative balance. Further examination
8 revealed a series of questionable transactions in one of the escrow files, #4339.

9 **1.6** When requested to produce escrow file #4339, Respondent Wiseman indicated that the file
10 was not available and that the escrow had never closed. A summary ledger of the escrow
11 account for that file revealed three questionable transfers. The summary showed the sub-
12 account balance was zero on March 8, 2006. That same day, two checks were issued in the
13 name of Cathy Wiseman, #43099 and #43100, both in the amount of \$28,350. The resulting
14 sub-account balance was negative \$56,700. Both checks were voided that same day, again
15 leaving the sub-account balance at zero.

16 **1.7** The summary showed that on April 25, 2007, one of the voided checks, #43100, was then
17 "unvoided" (or re-issued). The sub-account balance was again negative \$28,350. The check
18 was deposited to Respondent Exceptional's general operating account at Viking Community
19 Bank, account #2480.

20 **1.8** On that same day, April 25, 2007, Respondent Wiseman made a deposit to the sub-account
21 in the amount of \$48,650, using check #2975 from an IOLTA trust account at Key Bank in
22 Renton that had not been disclosed at the initial interview. After the deposit, the balance in the
23 sub-account was \$20,300. Respondent Wiseman then issued and voided a check, #731, made

1 payable to a creditor of Respondent Exceptional who was demanding payment. The final entry
2 on the sub-account ledger is for check #732, issued to the same creditor for exactly \$20,344.90.
3 After deducting that amount, the sub-account had a zero balance.¹

4 **1.9 Admissions.** On June 6, 2007, Respondent Wiseman admitted that Respondent
5 Exceptional had an unused IOLTA trust account at Key Bank in Renton, the last four numbers
6 of which are 2097. Respondent Wiseman further admitted that in 2006 she had converted to
7 her personal use more than \$65,000 of the escrow trust funds in that account. Respondent
8 Wiseman explained her actions as follows:

9 A. On or about April 12, 2006, Wiseman purchased a cashier's check in the
10 amount of \$48,650 from trust account #2097. She deposited the check into trust
11 account #2472. On or about March 8, 2006, Wiseman wrote check #43100 for
12 \$28,350, payable to Catherine Wiseman, from trust account #2472. Wiseman
deposited the check that same day into Exceptional's general operating account
#2480. Wiseman subsequently used the funds for, among other things, the general
operating expenses of Exceptional.

13 B. On or about May 12, 2006, Wiseman transferred \$16,839.40 from trust
14 account #2097 to Exceptional's general operating account #2480. Wiseman
15 subsequently used the funds for, among other things, the general operating
expenses of Exceptional.

16 C. On or about January 9, 2007, Wiseman transferred \$22,345 from trust account
17 #2472 to Exceptional's general operating account #2480. Wiseman subsequently
purchased and delivered to one of Exceptional's creditors a cashier's check made
payable to the creditor.

18 Respondent Wiseman expressed deep remorse for her actions, acknowledged that she knew the
19 conduct involved theft of trust funds, and that the true owners of the converted funds were the
20 escrow principals and third parties.

21 **1.10 Failure to Reconcile.** The Department has reason to believe, based upon its examination,
22 that Respondent Exceptional's primary escrow trust account is missing funds and is not

23 ¹ In order to pay the creditor the exact amount due and end up with a zero balance in the sub-account, Respondents
24 deposited \$44.90 to the account prior to issuing check #732 to the creditor.

1 reconciled. The Department also has reason to believe that the account does not contain
2 sufficient funds to cover outstanding obligations.

3 **1.11 Books and Records.** On or about May 30, 2007, the Department requested escrow files
4 #4339 and #4113. Respondent Wiseman indicated that she could not find the files. The
5 Department requested the files again on June 1 and June 6, 2007. As of the date of this Order,
6 neither Respondent Exceptional nor Wiseman have provided the files to the Department.

7 **1.12** The sub-account ledger for escrow file #4339 identifies a number of transactions that have
8 no relation to the escrow account.

9 **II. GROUNDS FOR ENTRY OF ORDER**

10 **2.1** Respondents Exceptional Escrow Corp. and Catherine D. Wiseman have each violated
11 RCW 18.44.301(5), (6), (7), and (8) of the Escrow Agent Registration Act (the Act).

12 **2.2** Respondents Exceptional Escrow Corp. and Catherine D. Wiseman have each violated
13 RCW 18.44.430(1)(b), (d), (e), (f), (g), and (i) of the Act.

14 **2.3** Respondents Exceptional Escrow Corp. and Catherine D. Wiseman have each violated
15 RCW 18.44.400(1), (2), and (3) of the Act.

16 **2.4** Pursuant RCW 18.44.400(5) and RCW 18.44.430(3), the violations of the Act enumerated
17 above provide grounds, pursuant to RCW 18.44.440, for the entry of a Temporary Order to
18 Cease and Desist against Respondents Exceptional Escrow Corp. and Catherine D. Wiseman.

19 **III. IRREPARABLE HARM**

20 **3.1** Based on the Preliminary Findings and Grounds for Entry of Order, and the significant
21 danger that Respondents Exceptional Escrow Corp. and Catherine D. Wiseman will continue to
22 disburse funds, the Director of the Department of Financial Institutions finds that the public
23

1 interest will be irreparably harmed by delay in issuing an order, and therefore enters this
2 Temporary Order to Cease and Desist pursuant to RCW 18.44.440.

3 **IV. TEMPORARY ORDER TO CEASE AND DESIST**

4 Based on the foregoing, NOW, THEREFORE, IT IS HEREBY ORDERED that

5 **4.1** Respondents Exceptional Escrow Corp. and Catherine D. Wiseman, their agents and
6 employees shall each immediately cease and desist from making any deposits into or
7 disbursements from any accounts holding funds belonging to, or transferred from, any accounts
8 belonging to, related to, or controlled by Exceptional Escrow Corp. This order includes but is
9 not limited to the following accounts:

10

Key Bank	Viking Bank	Charter Bank
*****6338	*****2480	****1157
*****6346	*****2472	****1108
*****6320	*****2977	
*****6312	*****2878	
*****2097		
*****2014		

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15 **4.2** Respondents Exceptional Escrow Corp. and Catherine D. Wiseman, their agents and
16 employees shall each immediately cease and desist from all escrow activity as defined in
17 RCW 18.44 RCW, the Escrow Agent Registration Act, from all locations, including but not
18 limited to the Renton, Bonney Lake, and North Bend locations.

19 **4.3** Respondents Exceptional Escrow Corp. and Catherine D. Wiseman, their agents and
20 employees shall each immediately make available to the Department for inspection all accounts
21 under their control, including but not limited to the accounts listed in 4.1 above.

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1 4.4 Respondents Exceptional Escrow Corp. and Catherine D. Wiseman, their agents and
2 employees shall each immediately make available to the Department for inspection all records
3 required to be maintained pursuant to WAC 208-680D-020.

4 4.5 This order shall take effect immediately, and shall remain in effect unless otherwise
5 directed by the Department in writing.

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7 **NOTICE**

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

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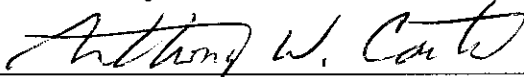
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1 Entered and Dated this 8th day of June, 2007.

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3 DEBORAH BORTNER
4 Director
5 Division of Consumer Services
6 Department of Financial Institutions

6 Presented by:

7 

8 ANTHONY W. CARTER
9 Enforcement Attorney



10 Approved by:

11 

12 JAMES R. BRUSSELBACK
13 Enforcement Chief

24 TEMPORARY ORDER TO CEASE AND DESIST
No. C-07-190-07-TD01
Exceptional Escrow Corp. & Catherine D. Wiseman

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