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

IN THE MATTER OF DETERMINING) No. C-08-305-08-TD01
Whether there has been a violation of the Escrow)
Agent Registration Act of Washington by:) TEMPORARY ORDER TO
) CEASE AND DESIST
KIMMEL ESCROW, LLC, and)
KAREN A. KIMMEL, Owner and Designated)
Escrow Officer,)
)
Respondents.)

THE STATE OF WASHINGTON TO: KIMMEL ESCROW, LLC, and
KAREN A. KIMMEL

COMES NOW the Director of the Washington State Department of Financial Institutions (Director), by and through his designee Deborah Bortner, Division Director, Division of Consumer Services (designee), and finding that the public is likely to be irreparably harmed by delay in issuing an Order to Cease and Desist, enters this Temporary Order to Cease and Desist pursuant to chapter 18.44 RCW, the Escrow Agent Registration Act (Act), based on the following findings:

I. FINDINGS OF FACT

1.1 Respondent Kimmel Escrow, LLC (Respondent Kimmel Escrow), was licensed by the Department of Financial Institutions of the State of Washington (Department) to conduct business as an escrow agent on November 4, 2000, and continues to be licensed to date.

Respondent Kimmel Escrow is licensed to conduct business from one location at 1065 State Hwy. 3, Shelton, Washington.

1.2 Respondent Karen A. Kimmel (Respondent Kimmel) is the owner and Designated Escrow Officer for Respondent Kimmel Escrow. Respondent Kimmel has been owner and Designated Escrow Officer for Respondent Kimmel Escrow since November 4, 2000.

1 **1.3 Abandonment of Office.** On August 26, 2008, the Department received a phone call
2 from Respondent Kimmel stating that she was going to be closing her escrow office.
3 Respondent Kimmel also asked if a customer could make a claim against her bond, or if the
4 Department could do that on behalf of the customer. Respondent Kimmel stated that her
5 escrow account was short by about \$17,000, that it was too much to reimburse, and that her
6 clients would have to make a claim against her bond. Respondent Kimmel agreed to email or
7 fax to the Department that same day her closure papers accompanied by bank statements and
8 system reports detailing the accounts she used to conduct business, but Respondent Kimmel did
9 not follow through. On September 2, 2008, a representative for the Department went to the
10 Respondents' office and attempted to contact Respondent Kimmel. The Department's
11 representative found the office empty and abandoned. On September 23, 2008, a representative
12 for the Department spoke with Respondent Kimmel. Respondent Kimmel stated she would be
13 filing closure forms and financial records in the "next day or so." Respondent Kimmel also
14 confirmed that the escrow account for Respondent Kimmel Escrow has a negative balance, and
15 that Respondents had several escrow transactions which were not completed.

17 **1.4 Consumer Complaints.** Between August 27, 2008, and September 5, 2008, the
18 Department received four consumer complaints related to Respondents' abandonment of their
19 office.
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21 **A. 27941** – A representative for Kirkendoll Homes LLC reported that between August
22 15, 2008, and August 27, 2008, the Respondents performed escrow services for a transaction
23 involving the sale of a manufactured home. Respondents received \$101,677 from a lender to
24 disburse to Kirkendoll Homes, but only \$70,000 was paid. Kirkendoll Homes inquired with
25 Respondents about the remaining \$31,677 and was informed by Respondents that Respondent

1 Kimmel Escrow was closing and that Kirkendoll Homes would have to pursue Respondents'
2 bond to obtain the remaining \$31,677.

3 **B. 28055** – On September 5, 2008, a representative for Investment Realty, LLC,
4 reported to the Department that they had an ongoing escrow transaction pending with the
5 Respondents and had \$5,900 on deposit into Respondents' trust account. Investment Realty
6 attempted to contact Respondents to close the escrow transaction but was unable to contact
7 anyone at Respondents' office.

8 **C. 28093** – On September 5, 2008, a representative for Kittinger Associates reported
9 to the Department an ongoing escrow transaction pending with the Respondents in which the
10 buyers had deposited \$3,000 into Respondents' trust account on August 25, 2008. The
11 transaction had not been completed before Respondents' office was abandoned.

12
13 **1.5 Irreparable Harm.** Based upon the foregoing, the Director finds that the public interest
14 will be irreparably harmed by delay in issuing an order.

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

16 **2.1** Based on the Factual Allegations set forth in Section I above, Respondents are in
17 apparent violation of RCW 18.44.400(4) and RCW 18.44.301(2) for making disbursements
18 from their escrow account in excess of the amount deposited.

19 **2.2** Based on the Factual Allegations set forth in Section I above, Respondents are in
20 apparent violation of RCW 18.44.301(2) for abandoning ongoing escrow transactions without
21 sufficient notice to the parties involved in the transactions.

22 **III. AUTHORITY TO ISSUE TEMPORARY ORDER TO CEASE AND DESIST**

23 **3.1 Authority to Issue Temporary Order to Cease and Desist.** Pursuant to RCW
24 18.44.440, the Director is authorized to issue a temporary order to cease and desist whenever
25

1 the Director determines that the public interest will be irreparably harmed by a delay in issuing
2 an order. Based on the Factual Findings and Grounds for Entry of Order set forth above, the
3 Director enters this Temporary Order to Cease and Desist pursuant to RCW 18.44.440.

4 **IV. ORDER**

5 Based on the above Factual Findings, Grounds for Entry of Order, and Authority to Issue
6 Temporary Order to Cease and Desist, and pursuant to RCW 18.44.440, the Director ORDERS
7 that:

8 **4.1** Respondents Kimmel Escrow, LLC, and Karen A. Kimmel shall immediately cease and
9 desist from making any disbursements or transfers from any bank accounts holding funds
10 belonging to, or transferred from, any commercial, business, or escrow trust bank accounts
11 belonging to, related to, or controlled by Respondent Kimmel Escrow, LLC.

12 **4.2** Respondents Kimmel Escrow, LLC, and Karen A. Kimmel shall immediately cease and
13 desist from accepting any new escrow transaction, and shall cease and desist from completing
14 any escrow transaction requiring the receipt or disbursement of funds. This provision shall not
15 prohibit Respondents from completing currently pending escrow transactions requiring only the
16 filing or completion of documents.

17 **4.3** Respondents Kimmel Escrow, LLC, and Karen A. Kimmel shall not move or destroy any
18 escrow records without the written consent of the Director.


19 **4.4** Respondents Kimmel Escrow, LLC, and Karen A. Kimmel shall immediately cease and
20 desist from all other escrow activity in violation of RCW 18.44 RCW, the Escrow Agent
21 Registration Act.

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Entered and dated this 2nd ^{at} October day of September, 2008.



DEBORAH BORTNER
Director
Division of Consumer Services
Department of Financial Institutions

Presented by:


STEVEN C. SHERMAN
Financial Legal Examiner



Approved by:


JAMES R. BRUSSELBACK
Enforcement Chief