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

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

GUARDIAN TITLE SERVICES,

Respondent.

NO. C-06-134-07-SC01

STATEMENT OF CHARGES and
NOTICE OF INTENT TO ENTER AN
ORDER TO PROHIBIT FROM INDUSTRY,
CEASE AND DESIST, IMPOSE FINE,
COLLECT INVESTIGATION FEE, AND
MAINTAIN RECORDS

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INTRODUCTION

Pursuant to RCW 18.44.410 and RCW 18.44.430, the Director of the Department of Financial Institutions (Director) is responsible for the administration of chapter 18.44 RCW, the Escrow Agent Registration Act (Act). After having conducted an investigation pursuant to RCW 18.44.420, and based upon the facts available as of the date of this Statement of Charges, the Director, through his designee, Deborah Bortner, Division Director, Division of Consumer Services, institutes this proceeding and finds as follows:

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I. FACTUAL ALLEGATIONS

1.1 Respondent Guardian Title Services (Respondent Guardian), a Nebraska corporation, is not and has never been licensed by the State of Washington to operate as an escrow agent.

1.2 Unlicensed location. Respondent is known to have conducted business as an Escrow Agent in the State of Washington from 15675 Spaulding Street, Omaha, Nebraska 68116. To date, the Respondent has not applied for and the Department has not issued a license to Respondent to conduct the business of an escrow agent in the State of Washington from any location.

1.3 Unlicensed Activity. Between at least January 27, 2005, and December 15, 2005, Respondent performed escrow agent functions for over 120 properties located in Washington State. The total fees collected by the Respondent for these loans was at least \$78,000.

1 **1.4 On-Going Investigation:** The Department's investigation into the alleged violations of the Act by
2 Respondent continues to date.

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

4 **2.1 Definition of Escrow.** Pursuant to RCW 18.44.011(4), "Escrow" means any transaction wherein any
5 person or persons, for the purpose of effecting and closing the sale, purchase, exchange, transfer, encumbrance,
6 or lease of real or personal property to another person or persons, delivers any written instrument, money,
7 evidence of title to real or personal property, or other thing of value to a third person to be held by such third
8 person until the happening of a specified event or the performance of a prescribed condition or conditions, when
9 it is then to be delivered by such third person, in compliance with instructions under which he or she is to act, to
10 a grantee, grantor, promisee, promisor, obligee, obligor, lessee, lessor, bailee, bailor, or any agent or employee
11 thereof.

12 **2.2 Definition of Escrow Agent.** Pursuant to RCW 18.44.011(6) "Escrow Agent" means any person engaged
13 in the business of performing for compensation the duties of the third person referred to in RCW 18.44.011(4).

14 **2.3 Requirement to Obtain and Maintain License.** Based on the factual allegations set forth in Section I
15 above, Respondent is in apparent violation of RCW 18.44.021 for engaging in business as an escrow agent by
16 performing escrows or any of the functions of an escrow agent within this state or with respect to transactions
17 that involve personal property or real property located in this state without first obtaining a license.

18 **2.4 Requirement to Maintain Records.** Respondent is required, pursuant to RCW 18.44.400 and WAC 208-
19 680D-030 to maintain adequate records of all transactions handled by or through Respondent in the State of
20 Washington for a period of six (6) years from completion of the transaction.

21 **III. AUTHORITY TO IMPOSE SANCTIONS**

22 **3.1 Authority to Prohibit from Industry.** Pursuant to RCW 18.44.430(3), the Director may prohibit from
23 participation in the conduct of the affairs of any licensed escrow agent, any officer, controlling person, director,
24 employee, or licensed escrow officer for any violation of the Act or the lawful rules made by the director
25 pursuant thereto.

1 **3.2 Authority to Issue Order to Cease and Desist.** Pursuant to RCW 18.44.440 and WAC 208-680G-030, if
2 the Director determines after notice and hearing that a person has violated any provisions of the Act or rules
3 adopted under the Act, or engaged in any false, unfair and deceptive, or misleading business practices, the Director
4 may issue an order requiring the person to cease and desist from the unlawful practice and to take such affirmative
5 action as in the judgment of the Director will carry out the purposes of the Act.

6 **3.3 Authority to Impose Fines.** Pursuant to RCW 18.44.430(3) and WAC 208-680G-040(3), the Director
7 may impose a fine of up to \$100 per day for each day's violation of the Act or rules adopted under the Act.

8 **3.4 Authority to Collect Investigation Fee.** Pursuant to RCW 18.44.121 and WAC 208-680G-050, the
9 expense of an investigation pursuant to WAC 208-680G-020 inside or outside this state shall be borne by the
10 person investigated.

11 **IV. NOTICE OF INTENTION TO ENTER ORDER**

12 Respondent's violations of the provisions of chapter 18.44 RCW as set forth in the above Factual
13 Allegations, Grounds For Entry of Order, and Authority to Impose Sanctions constitute a basis for the entry of an
14 Order under RCW 18.44.410, RCW 18.44.430, RCW 18.44.301, and WAC 208-680G-030 which authorize the
15 Director to enforce all laws, rules, and regulations related to the registration of escrow agents and licensing of
16 escrow officers. Therefore, it is the Director's intention to ORDER that:


- 17 4.1 Respondent Guardian Title Services be prohibited from participation in the conduct of any
18 licensed escrow agent for consumers or property in the state of Washington for five years;
- 19 4.2 Respondent Guardian Title Services cease and desist from providing escrow services in the
20 State of Washington until such time as Respondent Guardian Title Services obtains the
21 appropriate license from the Department or meets an exclusion delineated in RCW 18.44.021;
- 22 4.3 Respondent Guardian Title Services pay a fine which as of the date of this document totals
23 \$30,000.
- 24 4.4 Respondent Guardian Title Services pay an investigation fee which as of the date of this
25 document totals \$812.50;
- 4.5 Respondent Guardian Title Services, its officers, employees, and agents maintain all records
involving Washington State escrow transactions within the State of Washington for a minimum
of six (6) years following the completion of the escrow transactions.

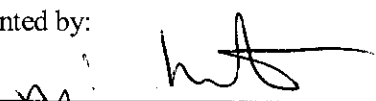
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V. AUTHORITY AND PROCEDURE


This Statement of Charges and Notice of Intention to Enter an Order to Prohibit from Industry, Cease and Desist, Impose Fine, Collect Investigation Fee, and Maintain Records (Statement of Charges) is entered pursuant to the provisions of RCW 18.44.410, RCW 18.44.430, and RCW 18.44.440, and is subject to the provisions of chapter 34.05 RCW. Respondent may make a written request for a hearing as set forth in the NOTICE OF OPPORTUNITY TO DEFEND AND OPPORTUNITY FOR HEARING accompanying this Statement of Charges.

DATED this 2nd day of October, 2008.


DEBORAH BORTNER
Director
Division of Consumer Services
Department of Financial Institutions

Presented by:

WILLIAM J. HALSTEAD
Financial Legal Examiner



Approved by:

JAMES R. BRUSSELBACK
Enforcement Chief