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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:

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8

BARRETT ESCROW, INC., and
JENNY A. BARRET, Owner and Designated
Escrow Officer,

9

Respondents.

NO. C-07-071-08-SC01

STATEMENT OF CHARGES and
NOTICE OF INTENT TO REVOKE
LICENSES, PROHIBIT FROM INDUSTRY,
IMPOSE FINE, COLLECT EXAMINATION
FEE, AND COLLECT INVESTIGATION FEE

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INTRODUCTION

12 Pursuant to RCW 18.44.410, the Director of the Department of Financial Institutions (Director) is
13 responsible for the administration of chapter 18.44 RCW, the Escrow Agent Registration Act (the Act).
14 After having conducted an investigation pursuant to RCW 18.44.420 and WAC 208-680G-020, and
15 based upon the facts available as of the date of this document, the Director, through his designee, Deborah
16 Bortner, Division Director, Division of Consumer Services, institutes this proceeding and finds as
17 follows:

18

I. FACTUAL ALLEGATIONS

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1.1 Respondents.

20 **A. Barrett Escrow, Inc., (Barrett Escrow)** was licensed by the Department to conduct
21 the business of an escrow agent on February 1, 1996, and has continued to be licensed to date. Barrett
22 Escrow is license to conduct business from one location at 1614 E. Main St., Freeland, Washington.

23 **B. Jenny A. Barrett (Barrett)** is the owner and Designated Escrow Officer (DEO) of
24 Respondent Barrett Escrow. Respondent Barrett was appointed DEO for Respondent Barrett Escrow
25 on February 1, 1996, and has continued to be licensed to date.

1 **1.2 Examination.** Between February 13, 2007, and March 9, 2008, the Department conducted an
2 examination of the Respondents' business practices from March 22, 2003, through December 31, 2006.
3 During the course of the examination referenced in section 1.2, the Department was unable to locate in
4 Respondents' records enough of Respondents' escrow account bank statements to complete the
5 examination. As a result, the Department had to obtain the records by subpoena; substantially delaying
6 the examination process.

7 **1.3 Failure to Maintain Records.** As set forth in section 1.2, during the course of the examination,
8 the Department was unable to locate in Respondents' records enough of Respondents' escrow account
9 bank statements to complete the examination.
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11 **1.4 Transferring Funds into Escrow Account without Proper Documentation.** On or about
12 September 29, 2005, Respondents transferred \$55,859.88 from Respondents' contract collections
13 account to Respondents' escrow account for the claimed purpose of funding hard money loans. At the
14 time of the transfer, however, Respondents did not have any documentary evidence to support the
15 transfer of the funds.

16 **1.5 Disbursing Funds from an Escrow Account before the Correlating Funds are Deposited.**
17 On or about September 27, 2005, Respondents issued six checks for escrow ledger account 12925-JB
18 totaling \$40,000.00 from Respondents' escrow account prior to depositing the funds to cover those
19 checks. The funds to cover those checks were not deposited into the escrow account until September
20 29, 2005. On or about March 2nd or 3rd, 2006, Respondents issued two checks for escrow ledger
21 account 12844-JB totaling \$1,643.83 from Respondents' escrow account prior to depositing funds to
22 cover those checks. The funds to cover those checks were not deposited into the escrow account until
23 February 27, 2007.
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1 **1.6 Disbursing Funds from an Escrow Account Exceeding Funds Received.** On or about
2 September 27, 2005, Respondents receipted \$55,867.38 in their escrow account to escrow ledger
3 account 12926-JB. Thereafter, between September 27, 2005, and December 2, 2005, Respondents
4 made the following disbursements from escrow ledger account 12926-JB:

5 09/27/05: \$40,000.00 transferred to escrow ledger account 12925-JB

6 balance remaining: \$15,867.55

7 09/27/05: \$859.83 check issued

8 balance remaining: \$15,007.66

9 10/14/05: \$7,000.00 check issued

10 balance remaining: \$8,007.55

11 10/22/05: \$8,000.00 check issued

12 balance remaining: \$7.55

13 10/31/05: \$15,000.00 transferred to escrow ledger account 12954-JB

14 balance remaining: -\$14,992.45

15 12/02/05: \$15,000.00 check issued

16 balance remaining: -\$29,992.45

17
18 As a result, funds were disbursed from the escrow account which exceeded the amount deposited for the
19 transaction.

20 **1.7 Failure to Designate Escrow Account as a Trust Account.** Respondents maintain an escrow
21 account at Whidbey Island Bank but have failed to designate the escrow account as a trust account.
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23 **1.8 On-Going Investigation.** The Department's investigation into the alleged violations of the Act
24 by Respondents continues to date.
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1 **II. GROUNDS FOR ENTRY OF ORDER**

2 **2.1 Requirement to Maintain Records.** Based upon the factual allegations set forth in Section I
3 above, Respondents are in apparent violation of RCW 18.44.400 and WAC 208-680D-020 for failing to
4 maintain the bank statements for Respondents' escrow account.

5 **2.2 Requirement to Document Deposits into an Escrow Account.** Based on the factual allegations
6 set forth in Section I above, Respondents are in apparent violation of RCW 18.44.430(1)(e) and WAC
7 208-680D-060 for transferring funds from Respondents' contract collections account into Respondents'
8 escrow account without documentation of a transaction supporting the deposit.

9 **2.3 Prohibition Against Disbursing Funds from an Escrow Account before Receiving Deposits**
10 **in Amounts at Least Equal to the Distributions.** Based on the factual allegations set forth in Section I
11 above, Respondents are in apparent violation of RCW 18.44.400(3) for disbursing funds from
12 Respondents' escrow account before receiving deposits directly relating to the account in amounts at least
13 equal to the disbursements.

14 **2.4 Prohibition Against Disbursing Funds from an Escrow Account Exceeding the Deposits for**
15 **the Transaction.** Based on the factual allegations set forth in Section I above, Respondents are in
16 apparent violation of RCW 18.44.400(3) and WAC 208-680E-011(14)(c) for disbursing funds from an
17 escrow account in excess of the amount deposited for the transaction.

18 **2.5 Requirement to Designate Escrow Bank Accounts as Trust Accounts.** Based on the factual
19 allegations set forth in Section I above, Respondents are in apparent violation of WAC 208-680E-011(1)
20 for failing to designates Respondents' escrow bank account as a trust account.
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1 **III. AUTHORITY TO IMPOSE SANCTIONS**

2 **3.1 Authority to Revoke License.** Pursuant to RCW 18.44.430(1)(b), the Director may revoke
3 the license of any escrow agent or escrow officer for violating any of the provisions of the Act or any
4 lawful rules made by the Director pursuant to the Act.

5 **3.2 Authority to Prohibit from the Industry.** Pursuant to RCW 18.44.430(3), in addition to or in
6 lieu of license revocation the Director may remove and/or prohibit from participation in the conduct of
7 the affairs of a licensed escrow agent, any officer, controlling person, director, employee, or licensed
8 escrow officer.

9 **3.3 Authority to Impose Fines.** Pursuant to RCW 18.44.430(3) and WAC 208-680G-040(3), in
10 addition to or in lieu of license revocation the Director may impose a fine of up to \$100 per day for each
11 day's violation of the Act or rules adopted thereunder.

12 **3.4 Authority to Collect Examination and Investigation Fee.** Pursuant to RCW 18.44.410 and
13 WAC 208-680G-050, the expense of an examination pursuant to WAC 208-680G-010 or an investigation
14 pursuant to WAC 208-680G-020 shall be borne by the entity which is the subject of the investigation.
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16 **IV. NOTICE OF INTENTION TO ENTER ORDER**

17 Respondents' violations of the provisions of chapter 18.44 RCW as set forth in the above Factual
18 Allegations and Grounds for Entry of Order constitute a basis for the entry of an Order under RCW
19 18.44.410, RCW 18.44.430, RCW 18.44.301, and WAC 208-680G-030 which authorize the Director to
20 enforce all laws, rules, and regulations related to the registration of escrow agents and licensing of escrow
21 officers. Therefore, it is the Director's intention to ORDER that:

22 **4.1** Respondent Barrett Escrow, Inc.'s license to conduct the business of an escrow agent be revoked;
23 and

24 **4.2** Respondent Jenny A. Barrett's license to conduct the business of a Designated Escrow Officer be
25 revoked; and

1 **4.3** Respondent Jenny A. Barrett be prohibited from participating in the conduct of the affairs of any
2 licensed escrow agent, as officer, controlling person, director, employee, or licensed escrow officer for a
period of five years; and

3 **4.4** Respondents Barrett Escrow, Inc., and Jenny A. Barrett jointly and severally pay a fine which
4 as of the date of these charges totals \$10,000; and

5 **4.5** Respondents Barrett Escrow, Inc., and Jenny A. Barrett jointly and severally pay costs of
6 examination which as of the date of these charges totals \$10,562.50, calculated at \$62.50 per hour for
169 staff hours devoted to the examination; and

7 **4.6** Respondents Barrett Escrow, Inc., and Jenny A. Barrett jointly and severally pay an
8 investigation fee which as of the date of these charges totals \$1,230, calculated at \$62.50 per hour for
twenty staff hours devoted to the investigation; and

9 **4.7** Respondents Barrett Escrow, Inc., and Jenny A. Barrett maintain all records involving
10 Washington escrow transactions for a minimum of six years following the closing or termination of the
escrow transaction.

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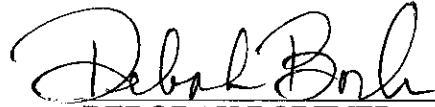
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V. AUTHORITY AND PROCEDURE

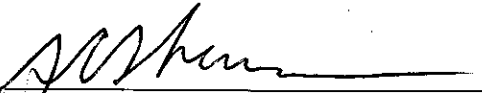
This Statement of Charges and Notice of Intent to Revoke Licenses, Prohibit from Industry, Impose Fine, Collect Examination Fee, and Collect Investigation Fee (Statement of Charges) is entered pursuant to the provisions of RCW 18.44.410 and RCW 18.44.430, and is subject to the provisions of chapter 34.05 RCW. Respondents 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 17th 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 BRUSSELBACK
Enforcement Chief

