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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:

NO. C-07-071-09-CO01

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

CONSENT ORDER

Respondents.

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COMES NOW the Director of the Department of Financial Institutions (Director), through his designee Deborah Bortner, Division Director, Division of Consumer Services, and Barrett Escrow, Inc. (hereinafter Respondent Barrett Escrow), Jenny A. Barrett, Designated Escrow Officer (hereinafter Respondent Barrett), and finding that the issues raised in the above-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:

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AGREEMENT AND ORDER

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The Department of Financial Institutions, Division of Consumer Services (Department) and Respondents have agreed upon a basis for resolution of the matters alleged in Statement of Charges No. C-07-071-08-SC01 (Statement of Charges), entered September 17, 2008, (copy attached hereto). Pursuant to chapter 18.44 RCW, the Escrow Agent Registration Act (Act), and RCW 34.05.060 of the Administrative Procedure Act, Respondents hereby agree to the Department's entry of this Consent Order and further agree that the issues raised in the above-captioned matter may be economically and efficiently

1 settled by entry of this Consent Order. The parties intend this Consent Order to fully resolve the
2 Statement of Charges. Respondents are agreeing not to contest the Statement of Charges in consideration
3 of the terms of this Consent Order.

4 Based upon the foregoing:

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

7 B. **Waiver of Hearing.** It is AGREED that Respondents have been informed of the right to a
8 hearing before an administrative law judge, and that they hereby waive their right to a hearing and any
9 and all administrative and judicial review of the issues raised in this matter, or of the resolution reached
10 herein. Accordingly, by their signatures below, Respondents hereby withdraw their appeal.

11 C. **No Admission of Liability.** It is AGREED that Respondents do not admit to any violations
12 of the Act by entry of this Consent Order.

13 D. **Suspended (Stayed) License Revocations.** It is AGREED that Respondents are subject to a
14 suspended (stayed) revocation of their Escrow Agent and Escrow Officer licenses. The license
15 revocations shall be suspended (stayed) for a period of two years from the date of entry of this Consent
16 Order. If upon expiration of said two-year period the stay has not been previously lifted and the
17 license revocations have not been previously imposed, and if a notification to lift the stay or
18 proceeding to lift the stay is not then pending by the Director to impose the license revocations, then,
19 in such events, this Consent Order shall be considered fully performed by Respondents and completed.
20 If on the expiration of two years from the date of entry of this Consent Order a notification to lift the
21 stay or proceeding to lift the stay is pending by the Director to impose the license revocations, then
22 those proceedings shall continue according to the terms of this Consent Order. Nothing in this
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1 provision changes the obligations of Respondents under paragraph H to address any issues identified
2 by the Department in the compliance examination to the satisfaction of the Department.

3 **E. Suspended (Stayed) Fine.** It is AGREED that Respondents shall jointly and severally pay to
4 the Department a fine of \$10,000, which shall be suspended (stayed) for a period of two years from the
5 date of entry of this Consent Order. If upon expiration of said two-year period the stay has not been
6 previously lifted, and the \$10,000 fine has not been previously imposed, and if a notification to lift the
7 stay or a proceeding to lift the stay is not then pending by the Director to impose the \$10,000 fine,
8 then, in such events, this Consent Order shall be considered fully performed by Respondents and
9 completed. If on the expiration of two years from the date of entry of this Consent Order a notification
10 to lift the stay or a proceeding to lift the stay is pending by the Director to impose the \$10,000 fine,
11 then those proceedings shall continue according to the terms of this Consent Order.
12

13 **F. Examination Fee.** It is AGREED that Respondents shall pay to the Department an
14 examination fee in the amount of \$10, 561.50 in the form of a cashier's check made payable to the
15 "Washington State Treasurer" upon entry of this Consent Order.

16 **G. Investigation Fee.** It is AGREED that Respondents shall pay to the Department an
17 investigation fee in the amount of \$1,230.50 in the form of a cashier's check made payable to the
18 "Washington State Treasurer" upon entry of this Consent Order. Respondents may pay both the
19 examination fee and investigation fee in the form of a single cashier's check made payable to the
20 "Washington State Treasurer" upon entry of this Consent Order.
21

22 **H. Compliance Examination.** It is AGREED that within five business days after the end of
23 each month, Respondents will provide month-end reconciliation records for both their escrow and
24 contract collections accounts for each of the six full months following the entry of this Consent Order.
25

1 It is further AGREED that Respondents are subject to a full scope examination to be conducted by the
2 Department at the Department's discretion approximately one year from the entry of this Consent
3 Order at Respondents' expense. Respondents AGREE to promptly respond and address all issues, if
4 any, identified in the compliance examination to the satisfaction of the Department. Respondents
5 understand and AGREE that the issues identified by the Department in the compliance examination
6 may result in the Department seeking to lift the stay and impose the license revocations and fine.

7
8 **I. Lifting of Stay and Imposing License Revocations and Fine.** It is AGREED that:

- 9 1. If the Department determines that Respondents are in violation of the Act or
10 any of the terms and conditions of this Consent Order, and the Department
11 accordingly seeks to lift the stay and impose the license revocations and fine,
12 the Department first will notify Respondents in writing of its determination.
- 13 2. Respondents will be afforded ten business days from the date of receipt of the
14 Department's notification to request in writing an administrative hearing to be
15 held before an Administrative Law Judge (ALJ) from the Office of
16 Administrative Hearings (OAH).
- 17 3. Respondents' request for hearing must be sent to the Department and received
18 by the Department within ten business days of the date of the receipt of the
19 Department's notice.
- 20 4. Respondents, in addition to their request for hearing, may provide a written
21 response to include any information pertaining to the alleged noncompliance.
- 22 5. The administrative hearing shall be expedited and follow the timing and
23 processes described in this Consent Order.
- 24 6. If Respondents do not request the hearing within the stated time, the
25 Department immediately will impose the license revocations and fine.
7. If requested, the hearing will be held within 15 business days (or as soon as
the schedule of the ALJ permits) from the due date for Respondents' request
for hearing or from the date of receipt of Respondents' timely request for
hearing, whichever is sooner. The parties will accommodate the prompt
scheduling of the hearing.

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8. The scope and issues of the hearing are limited solely to whether or not Respondents are in violation of the Act or any of the terms and conditions of this Consent Order.

9. At the conclusion of the hearing, the ALJ will issue an initial decision. Either party may file a Petition for Review with the Director of the Department.

10. The Department's notification will include:

- a) A description of the alleged noncompliance;
- b) A statement that because of the noncompliance, the Department seeks to lift the stay and impose the license revocations and fine;
- c) The opportunity for Respondents to contest the Department's determination of noncompliance in an administrative hearing before an ALJ of OAH; and
- d) A copy of this Consent Order. The notification and hearing process provided in this Consent Order applies only to this Consent Order. It is solely provided in the event Respondents choose to contest the Department's determination of noncompliance.

J. Non-Compliance with Order. It is AGREED that Respondents understand that failure to abide by the terms and conditions of this Consent Order may result in further legal action by the Director. In the event of such legal action, Respondents may be responsible to reimburse the Director for the cost incurred in pursuing such action, including but not limited to, attorney fees.

K. Voluntarily Entered. It is AGREED that the undersigned Respondents have voluntarily entered into this Consent Order, which is effective when signed by the Director's designee.

L. Completely Read, Understood, and Agreed. It is AGREED that Respondents have read this Consent Order in its entirety and fully understand and agree to all of the same.

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1 **RESPONDENTS:**

2 **Barrett Escrow, Inc.**

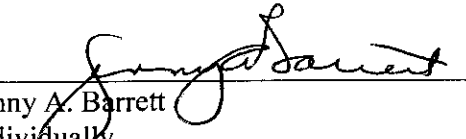
3 By:

4 
5 Jenny A. Barrett
6 Owner

10-6-09
Date

7 
8 Jenny A. Barrett
9 Designated Escrow Officer

10-6-09
Date

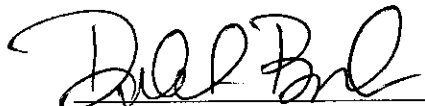
10 
11 Jenny A. Barrett
12 Individually

10-6-09
Date


13 **DO NOT WRITE BELOW THIS LINE**

14 THIS ORDER ENTERED THIS 20th DAY OF October, 2009.



15 
16 DEBORAH BORTNER
17 Director
18 Division of Consumer Services
19 Department of Financial Institutions

20 Presented by:

21 
22 STEVEN C. SHERMAN
23 Financial Legal Examiner

24 Approved by:

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26 JAMES R. BRUSSELBACK
27 Enforcement Chief

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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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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:

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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.
10

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.

22 **1.8 On-Going Investigation.** The Department's investigation into the alleged violations of the Act
23 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 **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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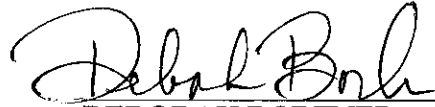
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V. AUTHORITY AND PROCEDURE

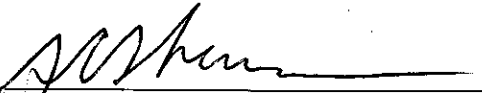
This Statement of Charges and Notice of Intent to Revoke Licenses, Prohibit from Industry, Impose Fine, Collect Examination Fee, and Collect Investigation Fee (Statement of Charges) is entered pursuant to the provisions of RCW 18.44.410 and RCW 18.44.430, and is subject to the provisions of chapter 34.05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

