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3 **STATE OF WASHINGTON**
4 **DEPARTMENT OF FINANCIAL INSTITUTIONS**
5 **DIVISION OF CONSUMER SERVICES**

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

10 HIGA ESCROW SERVICE, INC., and
11 CAROLEANN HIGA, Owner and Designated
12 Escrow Officer,

13 Respondents.

NO. C-08-308-08-SC01

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

14 **INTRODUCTION**

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

21 **I. FACTUAL ALLEGATIONS**

22 **1.1 Respondents.**

23 **A. Higa Escrow Services, Inc., (Respondent Higa Escrow)** was licensed by the
24 Department to conduct the business of an escrow agent on November 28, 2000, and has continued to
25 be licensed to date. Respondent Higa Escrow is licensed to conduct business from one location at
1810 116th Ave NE, Bellevue, Washington.

1 **B. Caroleann Higa (Respondent Higa)** is the owner and Designated Escrow Officer
2 (DEO) of Respondent Higa Escrow. Respondent Higa was appointed DEO for Respondent Higa
3 Escrow on November 28, 2000, and has continued to be DEO to date.

4 **1.2 Examination.** From July 8, 2008, through July 22, 2008, the Department conducted an
5 examination of the Respondents' business practices for the period of March 11, 2003, through June 30,
6 2008. On September 4, 2008, the Department sent Respondents an invoice for payment of the
7 examination fee in the amount of \$8,718.75, with a due date of October 4, 2008. As of the date of these
8 charges, the examination fee has not been paid.

9 **1.3 Failure to Reconcile Trust Account.** Respondents failed to prepare a monthly reconciliation
10 of their trust accounts from early 2007 through the date of the examination. This is a repeat violation
11 from Respondents' 2003 examination, a copy of which was previously provided to Respondents.

12 **1.4 Failure to Timely File Quarterly Reports.** Respondents failed to submit quarterly reports for all
13 four quarters of 2007 and the first quarter of 2008 within 30 days of the last day of the quarter. The
14 reports were subsequently provided to the Department on July 23, 2008.

15 **1.5 Disbursing Funds from an Escrow Account Exceeding Funds Received.** In the following
16 three escrow transactions, Respondents disbursed funds from an escrow account in excess of the funds
17 received for the transaction. This is a repeat violation from Respondent's 2003 examination, a copy of
18 which was previously provided to Respondents.

19 **A.** In escrow 06-1098-CMH, the customer's refinance transaction required the payoff of his
20 previous mortgage with Washington Mutual Bank (WAMU). Respondents received \$792,887.91 for
21 this purpose and remitted a check in that amount to WAMU. The check was returned to Respondents,
22 however, because it was short of the total amount required to payoff the loan. Respondents then wired
23 WAMU the correct amount, \$794,063.24, but did not collect the additional funds from the customer.
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1 As a result, the escrow account was overdrawn by \$1,100.20 and remained overdrawn as of the date of
2 the examination referenced in section 1.2, above.

3 **B.** In escrow 05-1481-CMH, Respondents gave a seller a \$300 reduction in the escrow fee
4 based upon repeat business from the seller, but did not deduct the discount in the escrow register. As a
5 result, the escrow account was overdrawn in the amount of \$300, and remained overdrawn as of the
6 date of the examination referenced in section 1.2, above.

7 **C.** In escrow 05-1199-CMH, the escrow file contains a receipt dated April 20, 2005,
8 acknowledging that a check for \$27,963.06 was received from a buyer. The Department's examiners,
9 however, were unable to find a corresponding deposit in Respondents' trust account bank statements,
10 but found a handwritten note on the receipt stating, "OK to process per Carole. She received CK but
11 we couldn't find check." The Department's examiners did find, however, a corresponding disbursement of
12 \$27,963.06 from Respondents' trust account. As a result, the trust account was overdrawn in that
13 amount and remained overdrawn as of the date of the examination referenced in section 1.2, above.

14 **1.6 On-Going Investigation.** The Department's investigation into the alleged violations of the Act
15 by Respondents continues to date.
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17 **II. GROUNDS FOR ENTRY OF ORDER**

18 **2.1 Requirement to Reconcile Accounts.** Based on the factual allegations set forth in Section I
19 above, Respondents are in apparent violation of RCW 18.44.400(1) and WAC 208-680E-011(9) for
20 failing to prepare a monthly reconciliation of the ledger with the trust account bank statement and the trust
21 account receipts and disbursement records.

22 **2.2 Requirement to Timely File Quarterly Reports.** Based on the factual allegations set forth in
23 Section I above, Respondents are in apparent violation of RCW 18.44.430(1)(b) and WAC 208-680E-
24 025(1) for failing to timely file quarterly reports.
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1 **2.3 Prohibition against Disbursing Funds from an Escrow Account Exceeding the Deposits for**
2 **the Transaction.** Based on the factual allegations set forth in Section I above, Respondents are in
3 apparent violation of RCW 18.44.400(3) and WAC 208-680E-011(14)(c) for disbursing funds from an
4 escrow account in excess of the amount deposited for the transaction.

5 **III. AUTHORITY TO IMPOSE SANCTIONS**

6 **3.1 Authority to Revoke License.** Pursuant to RCW 18.44.430(1)(b), the Director may revoke
7 the license of any escrow agent or escrow officer for violating any of the provisions of the Act or any
8 lawful rules made by the Director pursuant to the Act.

9 **3.2 Authority to Prohibit from the Industry.** Pursuant to RCW 18.44.430(3), in addition to or in
10 lieu of license denial the Director may remove and/or prohibit from participation in the conduct of the
11 affairs of a licensed escrow agent, any officer, controlling person, director, employee, or licensed
12 escrow officer.

13 **3.3 Authority to Impose Fines.** Pursuant to RCW 18.44.430(3) and WAC 208-680G-040(3), in
14 addition to or in lieu of license denial the Director may impose a fine of up to \$100 per day for each day's
15 violation of the Act or rules adopted thereunder.

16 **3.4 Authority to Collect Examination and Investigation Fee.** Pursuant to RCW 18.44.410 and
17 WAC 208-680G-050, the expense of an examination pursuant to WAC 208-680G-010 or an investigation
18 pursuant to WAC 208-680G-020 shall be borne by the entity which is the subject of the investigation.

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

20 Respondents' violations of the provisions of chapter 18.44 RCW as set forth in the above Factual
21 Allegations and Grounds For Entry Of Order constitute a basis for the entry of an Order under RCW
22 18.44.410, RCW 18.44.430, RCW 18.44.301, and WAC 208-680G-030, which authorize the Director to
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1 enforce all laws, rules, and regulations related to the registration of escrow agents and licensing of escrow
2 officers. Therefore, it is the Director's intention to ORDER that:

3 **4.1** Respondent Higa Escrow Services, Inc.'s license to conduct the business of an escrow agent be
4 revoked; and

5 **4.2** Respondent Caroleann Higa's license to conduct the business of a designated escrow officer be
6 revoked; and

7 **4.3** Respondent Caroleann Higa be prohibited from participating in the conduct of the affairs of any
8 licensed escrow agent, as officer, controlling person, director, employee, or licensed escrow officer for a
9 period of five years; and

10 **4.4** Respondents Higa Escrow Services, Inc., and Caroleann Higa jointly and severally pay a fine
11 which as of the date of these charges totals \$25,000; and

12 **4.5** Respondents Higa Escrow Services, Inc., and Caroleann Higa jointly and severally pay the
13 costs of examination which as of the date of these charges totals \$8,718.75, calculated at \$62.50 per
14 hour for 139.5 staff hours devoted to the examination; and

15 **4.6** Respondents Higa Escrow Services, Inc., and Caroleann Higa jointly and severally pay an
16 investigation fee which as of the date of these charges totals \$500.00, calculated at \$62.50 per hour for
17 eight staff hours devoted to the investigation; and

18 **4.7** Respondents Higa Escrow Services, Inc., and Caroleann Higa maintain all records involving
19 Washington escrow transactions for a minimum of six years following the closing or termination of the
20 escrow transaction.

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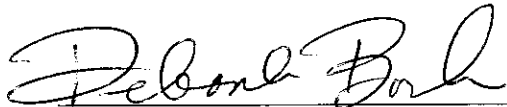
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V. AUTHORITY AND PROCEDURE

This Statement of Charges and Notice of Intent to Revoke License, 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 21st day of November, 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