

ORDER SUMMARY – Case Number: C-13-1295

Names: Community Escrow, Inc.
Jacqueline H. Kimzey

Order Number: C-13-1295-15-CO01

Effective Date: August 27, 2015

License Number: DFI 18519 Community Escrow
DFI 21064 Kimzey

Or NMLS Identifier [U/L]

License Effect: Revoked

Not Apply Until: August 27, 2020

Not Eligible Until: August 27, 2020

Prohibition/Ban Until: August 27, 2020

Investigation Costs	\$3,312.50	Due: 3/27/2016	Paid <input type="checkbox"/> Y <input checked="" type="checkbox"/> N	Date
Fine	\$15,000.00	Due: 3/27/2016	Paid <input type="checkbox"/> Y <input checked="" type="checkbox"/> N	Date
Examination Fee	\$20,390.00	Due: 3/27/2016	Paid <input type="checkbox"/> Y <input checked="" type="checkbox"/> N	Date
Restitution	\$22,738.82	Due: (see order)	Paid <input type="checkbox"/> Y <input checked="" type="checkbox"/> N	Date
Judgment	\$	Due	Paid <input type="checkbox"/> Y <input type="checkbox"/> N	Date
Satisfaction of Judgment Filed?		<input type="checkbox"/> Y <input type="checkbox"/> N		
No. of Victims:				

Comments: Respondent has six months from date of entry to pay the fine, investigation fee, and examination fee. A

confession of judgment was signed, however the Department will wait six months before entering it.

**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-13-1295-15-CO01

CONSENT ORDER

COMMUNITY ESCROW, INC., and
JACQUELINE KIMZEY, President and
Designated Escrow Officer,

Respondents.

COMES NOW the Director of the Department of Financial Institutions (Director), through his designee Charles E. Clark, Division Director, Division of Consumer Services, and Jacqueline Kimzey (Respondent Kimzey) and Community Escrow, Inc. (Respondent Community Escrow) 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 the Revised Code of Washington (RCW), and RCW 34.05.060 of the Administrative Procedure Act, based on the following:

AGREEMENT AND ORDER

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-13-1295-13-SC01 (Statement of Charges), entered March 14, 2014, (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 settled by entry of this Consent Order. The parties intend this Consent

1 Order to fully resolve the Statement of Charges. Respondents are agreeing not to contest the
2 Statement of Charges in consideration of the terms of this Consent Order.

3 Based upon the foregoing:

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

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

11 **C. Escrow Agent License Revocation.** It is AGREED that Respondent Community
12 Escrow's Escrow Agent license is revoked.

13 **D. Escrow Officer License Revocation.** It is AGREED that Respondent Jacqueline
14 Kimzey's Escrow Officer license is revoked.

15 **E. Prohibition from Industry.** It is AGREED that, for a period of five years from the date
16 of entry of this Consent Order, Respondents are prohibited from participating, in any capacity, in the
17 conduct of the affairs of any escrow agent licensed by the Department or subject to licensure or
18 regulation by the Department.

19 **F. Restitution.** It is AGREED that Respondents shall pay restitution totaling \$22,738.82 to
20 the 30 individuals listed on Exhibits A and B, attached hereto and incorporated herein by this
21 reference, and provide the Department with evidence of payment upon entry of this Consent Order.
22 In the event that a borrower cannot be found or restitution checks are not cashed within 60 days of
23 issuance, Respondents will submit the relevant funds to the Department of Revenue as unclaimed

1 property within 120 days of entry of this Consent Order and provide the Department with evidence of
2 compliance.

3 **G. Rights of Non-Parties.** It is AGREED that the Department does not represent or have the
4 consent of any person or entity not a party to this Consent Order to take any action concerning their
5 personal legal rights. It is further AGREED that for any person or entity not a party to this Consent
6 Order, this Consent Order does not limit or create any private rights or remedies against Respondents,
7 limit or create liability of Respondents, or limit or create defenses of Respondents to any claims.

8 **H. Fine.** It is AGREED that Respondents shall pay a fine to the Department in the amount of
9 \$15,000, in the form of a cashier's check made payable to the "Washington State Treasurer," within
10 six months after the entry of this Consent Order.

11 **I. Investigation Fee.** It is AGREED that Respondent shall pay to the Department an
12 investigation fee of \$3,312.50, in the form of a cashier's check made payable to the "Washington
13 State Treasurer," within six months after the entry of this Consent Order.

14 **J. Examination Fee.** It is AGREED that Respondents shall pay to the Department an
15 examination fee of \$20,390, in the form of a cashier's check made payable to the "Washington State
16 Treasurer," within six months after the entry of this Consent Order. The Fine, Investigation Fee, and
17 Examination Fee may be paid together in one \$38,702.50 cashier's check made payable to the
18 "Washington State Treasurer."

19 **K. Declaration of Financial Condition and Confession of Judgment.** It is AGREED that
20 Respondent Kimzey has provided the Department with a Declaration comprehensively describing her
21 current financial condition and representing her current inability to immediately pay the Fine,
22 Investigation Fee, and Examination Fee agreed to in Paragraphs H, I, and J of this Consent Order. It
23 is further AGREED that, based on this Declaration, the Department has accepted a Confession of

Judgment from Respondent Kimzey for the Fine, Investigation Fee, and Examination Fee agreed to in Paragraphs H, I, and J of this Consent Order. A copy of this Confession of Judgment is attached and incorporated into this Consent Order by this reference. Consistent with RCW 4.60, the Department may immediately seek entry of the judgment. Notwithstanding the foregoing, it is AGREED that the Department shall not seek entry of the judgment until six months after the entry of this Consent Order. Respondent AGREES, upon the Department's request, to fully and promptly cooperate with the Department in its efforts to get the judgment entered by the superior court.

L. Authority to Execute Order. It is AGREED that the undersigned have represented and warranted that they have the full power and right to execute this Consent Order on behalf of the parties represented.

M. 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, including but not limited to the immediate entry of the Confession of Judgment referred to in Paragraph K of this Consent Order. 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.

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

O. 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 **Community Escrow, Inc.**

3 By: [REDACTED]

4 Jacqueline Kimzey
5 President

6/15/2015
Date

6 Jacqueline Kimzey
7 Individually

6/15/2015
Date

8 Approved for Entry:

9 [REDACTED]
10 Dietrich Bicmiller, WSBA No. 32471
11 Galloway Law Group, PLLC
12 Attorney for Respondents
13 Bruce C. Galloway WSBA 15765

6/15/2015
Date

DO NOT WRITE BELOW THIS LINE

12 THIS ORDER ENTERED THIS 27th DAY OF August, 2015.



14 [REDACTED]
15 CHARLES E. CLARK
16 Director
17 Division of Consumer Services
18 Department of Financial Institutions

19 Presented by:

20 [REDACTED]
21 ROBERT E. JONES
22 Financial Legal Examiner

23 Approved by:

24 [REDACTED]
STEVEN C. SHERMAN
Enforcement Chief

APPENDIX A

Escrow Account Number	Borrower/Seller	Amount
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		\$3,857.00
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		\$1,712.29
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		\$1,194.82
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		\$348.00
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		\$376.08
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		\$641.33
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		\$323.01
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		\$677.28
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		\$250.00
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		\$1,164.84
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		\$386.96
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		\$1,768.03
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		\$1,015.54
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	TOTAL	\$13,715.18
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APPENDIX B

Escrow Account Number	Buyer/Seller	Amount
		\$1,276.25
		\$348.00
		\$377.08
		\$1,723.43
		\$285.65
		\$1,063.49
		\$298.40
		\$2,839.78
		\$273.00
		\$538.56
TOTAL		\$9,023.64

**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:

COMMUNITY ESCROW, INC., and
JACQUELINE KIMZEY, President and
Designated Escrow Officer,

Respondents.

No.: C-13-1295-13-SC01

STATEMENT OF CHARGES and
NOTICE OF INTENTION TO ENTER AN
ORDER TO REVOKE LICENSES,
PROHIBIT FROM INDUSTRY, IMPOSE
FINE, ORDER RESTITUTION, COLLECT
INVESTIGATION FEE, AND COLLECT
EXAMINATION FEE

INTRODUCTION

Pursuant to RCW 18.44.410, the Director of the Department of Financial Institutions of the State of Washington (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 WAC 208-680-620, and based upon the facts available as of the date of this Statement of Charges, the Director, through his designee, Division of Consumer Services Director Deborah Bortner, institutes this proceeding and finds as follows:

I. FACTUAL ALLEGATIONS

1.1 Respondents.

A. Community Escrow, Inc. (Respondent Community Escrow) has its principal place of business at 430 91st Ave NE, Suite 5, Lake Stevens, Washington, 98258. Respondent Community Escrow was licensed by the Department of Financial Institutions of the State of Washington (Department) to conduct business as an escrow agent in the state of Washington during all times relevant to this Statement of Charges.

1 **B. Jacqueline Kimzey (Respondent Kimzey)** is the Designated Escrow Officer of
2 Respondent Community Escrow. Respondent Kimzey was licensed as an escrow officer during all
3 times relevant to this Statement of Charges.

4 **1.2 Examination.** An examination was begun on April 22, 2013, to review an open consumer
5 complaint. The Department expanded the scope of the examination based on irregularities identified
6 in trust account reconciliations. More than 40 escrow accounts were reviewed.

7 **1.3 Conversion of Trust Account Funds.** On at least thirteen separate occasions, Respondents
8 converted funds from Respondent Community Escrow's trust account by clearing remaining balances
9 from thirteen escrow accounts. The funds converted amounted to more than \$13,000. The specific
10 escrow accounts and amounts converted are set forth in detail in Exhibit A, attached hereto and
11 incorporated into this Statement of Charges by this reference.

12 **1.4 Charging Undisclosed Fees.** On at least eleven separate occasions, Respondents charged
13 fees in excess of those disclosed to its clients. These charges amounted to more than \$9,000. The
14 specific escrow accounts and amounts charged are set forth in detail in Exhibit B, attached hereto and
15 incorporated into this Statement of Charges by this reference.

16 **1.5 Unlawful Fee Paid to Employee.** On or about April 22, 2013, Respondent paid \$500 to an
17 employee, Gary W. Fredrickson, for notary services from a single escrow account. This fee was not
18 disclosed on the estimated settlement statement prepared by Respondent and signed by the client.
19 This fee was also not listed on the final settlement statement prepared by Respondent and does not
20 appear to be related to the escrow account.

21 **1.6 Failure to Expeditiously Perform Duties.** On at least seventeen occasions Respondents
22 failed to expeditiously perform the duties of an escrow agent. Respondents failed to disburse all
23 funds from these accounts in a timely fashion. The specific escrow accounts and the dates upon

1 which the transactions closed and the final disbursements were made are listed on Exhibit C, attached
2 hereto and incorporated into this Statement of Charges by this reference.

3 **1.7 False Settlement Statements.** To facilitate the conversions and undisclosed fees listed in
4 Paragraphs 1.3 and 1.4, Respondents prepared settlement statements which contained material
5 misrepresentations of the amounts paid by Respondents out of trust account funds. Respondents
6 provided these settlement statements to clients and failed to provide accurate settlement statements.

7 **1.8 On-Going Investigation.** The Department's investigation into the alleged violations of the
8 Act by Respondents continues to date.

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

10 **2.1 Engaging in a Scheme, Device, or Artifice to Defraud or Mislead.** Based on the Factual
11 Allegations set forth in Section I above, Respondents are in apparent violation of RCW 18.44.301(1)
12 by directly or indirectly employing any scheme, device, or artifice to defraud or mislead borrowers or
13 lenders.

14 **2.2 Engaging in Unfair or Deceptive Acts or Practices.** Based on the Factual Allegations set
15 forth in Section I above, Respondents are in apparent violation of RCW 18.44.301(2) by directly or
16 indirectly engaging in unfair or deceptive practices toward any person.

17 **2.3 Directly or Indirectly Obtaining Property by Fraud or Misrepresentation.** Based on the
18 Factual Allegations set forth in Section I above, Respondents are in apparent violation of RCW
19 18.44.301(3) by directly or indirectly obtaining property by fraud or misrepresentation.

20 **2.4 Knowingly Making, Publishing, or Disseminating False, Deceptive, or Misleading**
21 **Information.** Based on the Factual Allegations set forth in Section I above, Respondents are in
22 apparent violation of RCW 18.44.301(4) by knowingly making, publishing, or disseminating any
23

1 false, deceptive, or misleading information in the conduct of the business of escrow, or relative to the
2 business of escrow or relative to any person engaged therein.

3 **2.5 Making False Entry in Books or Accounts.** Based on the Factual Allegations set forth in
4 Section I above, Respondents are in apparent violation of RCW 18.44.301(6) by making or
5 concurring in making any false entry, or omitting or concurring in omitting to make any material
6 entry, in its books or accounts.

7 **2.6 Failure to Make Proper Entries.** Based on the Factual Allegations set forth in Section I
8 above, Respondents are in apparent violation of RCW 18.44.301(8) by willfully failing to make any
9 proper entry in the books of the escrow business as required by law.

10 **2.7 Failure to Comply with Escrow Instructions.** Based on the Factual Allegations set forth in
11 Section I above, Respondents are in apparent violation of WAC 208-680-540(1) for failing to comply
12 with the escrow instructions for completing the closing statement.

13 **2.8 Failure to Perform Duties Expeditiously.** Based on the Factual Allegations set forth in
14 Section I above, Respondents are in apparent violation of WAC 208-680-550 for failing to perform
15 the duties of an escrow agent as expeditiously as possible.

16 **III. AUTHORITY TO IMPOSE SANCTIONS**

17 **3.1 Authority to Revoke License.** Pursuant to RCW 18.44.430(1) and WAC 208-680-640(1)(a)
18 the Director may revoke the license of any escrow agent or escrow officer if the director finds that
19 any partner, officer, controlling person or employee has violated any of the provisions of the Act or
20 any rules adopted under the Act.

21 **3.2 Authority to Prohibit from Industry.** Pursuant to RCW 18.44.430(3) and WAC 208-680-
22 640(1)(b), the director may remove and/or prohibit from participation in the conduct of the affairs of
23

any licensed escrow agent, any officer, controlling person, director, employee, or licensed escrow officer.

3.3 Authority to Impose Fine. Pursuant to RCW 18.44.430(3) and WAC 208-680-640(1)(d), the Director may impose a fine up to \$100 per day for each day's violation of the Act or rules adopted under the Act.

3.4 Authority to Order Restitution. Pursuant to RCW 18.44.430(4) and WAC 208-680-640(1)(c) the Director may order an escrow agent, officer, controlling person, director, employee, or licensed escrow officer violating the Act to make restitution to an injured consumer.

3.5 Authority to Collect Investigation Fee. Pursuant to RCW 18.44.410 and WAC 208-680-650, the expense of an investigation pursuant to WAC 208-680-620 shall be borne by the person which is the subject of the investigation.

3.6 Authority to Collect Examination Fee. Pursuant to RCW 18.44.121 and WAC 208-680-650, the expense of an examination pursuant to WAC 208-680-610 shall be borne by the person who is the subject of the examination.

IV. NOTICE OF INTENTION TO ENTER ORDER

Respondents' violations of the provisions of chapter 18.44 RCW as set forth in the above Factual Allegations and Grounds for Entry of Order constitute a basis for the entry of an Order under RCW 18.44.400, RCW 18.44.410, RCW 18.44.430, RCW 18.44.440 and WAC 208-680-630, which authorize the Director to enforce all laws, rules, and regulations related to the registration of escrow agents and licensing of escrow officers. Therefore, it is the Director's intention to ORDER that:

4.1 Respondent Community Escrow, Inc.'s escrow agent license be revoked.

4.2 Respondent Jacqueline Kimzey's escrow officer license be revoked.

- 1 **4.3** Respondents Community Escrow, Inc. and Jacqueline Kimzey be prohibited from
2 participation in the affairs of an escrow agent required to be licensed by the director
 for a period of five years.
- 3 **4.4** Respondents Community Escrow, Inc. and Jacqueline Kimzey jointly and severally
4 pay a fine. As of the date of this Statement of Charges, the fine totals \$24,000.
- 5 **4.5** Respondents Community Escrow, Inc. and Jacqueline Kimzey jointly and severally
6 pay restitution in the amount of \$22,738.82 to the 30 victims listed on Exhibits A and
 B.
- 7 **4.6** Respondents Community Escrow, Inc. and Jacqueline Kimzey jointly and severally
8 pay an investigation fee. As of the date of this Statement of Charges, the investigation
 fee totals \$3,312.50.
- 9 **4.7** Respondents Community Escrow, Inc. and Jacqueline Kimzey jointly and severally
10 pay an examination fee and travel expenses. As of the date of this Statement of
 Charges, the examination fee totals \$27,811.00. As of the date of this Statement of
 Charges the expenses total \$3,640.00.

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1 **V. AUTHORITY AND PROCEDURE**

2 This Statement of Charges and Notice of Intention to Enter an Order to Revoke Licenses,
3 Prohibit from Industry, Impose Fine, Order Restitution, Collect Investigation Fee, and Collect
4 Examination Fee (Statement of Charges) is entered pursuant to the provisions of RCW 18.44.410,
5 RCW 18.44.430, and RCW 18.44.440, and is subject to the provisions of chapter 34.05 RCW (The
6 Administrative Procedure Act). Respondents may make a written request for a hearing as set forth in
7 the NOTICE OF OPPORTUNITY TO DEFEND AND OPPORTUNITY FOR HEARING
8 accompanying this Statement of Charges.

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10 Dated this 14th day of March, 2014



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[Redacted Signature]

DEBORAH BORTNER
Director
Division of Consumer Services
Department of Financial Institutions

Presented by:

[Redacted Signature]

ROBERT E. JONES
Financial Legal Examiner

Approved by:

[Redacted Signature]

CHARLES CLARK
Enforcement Chief

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APPENDIX B

Escrow Account Number	Buyer/Seller	Amount
		\$1,276.25
		\$348.00
		\$377.08
		\$1,723.43
		\$285.65
		\$1,063.49
		\$298.40
		\$2,839.78
		\$273.00
		\$538.56
TOTAL		\$9,023.64

APPENDIX C

Escrow Account Number	Settlement Date	Date of Last Disbursement
	8/20/2007	12/18/2012
	10/31/2008	2/15/2013
	11/26/2008	11/21/2012
	9/2/2009	2/15/2013
	3/24/2010	2/21/2013
	9/30/2011	2/25/2013
	8/31/2011	2/25/2013
	11/15/2011	2/21/2013
	6/18/2012	2/15/2013
	10/17/2008	1/31/2013
	6/3/2009	8/3/2012
	5/4/2010	2/21/2013
	8/10/2010	2/26/2013
	11/15/2011	2/21/2013
	12/31/2011	2/15/2013
	3/30/2012	1/17/2013
	7/24/2012	2/19/2013