



State of Washington

DEPARTMENT OF FINANCIAL INSTITUTIONS  
DIVISION OF CONSUMER SERVICES

P.O. Box 41200 ● Olympia, Washington 98504-1200  
Telephone (360) 902-8700 ● TDD (360) 664-8126 ● <http://www.dfi.wa.gov>

June 18, 2010

Emmelyn Hart-Biberfeld  
Talmadge/Fitzpatrick  
18010 Southcenter Parkway  
Tukwila, WA 98188

RE: Revised No Action Letter for Bishop, White, Marshall & Weibel, P.S. under the Escrow Agent Registration Act

Dear Ms. Hart-Biberfeld,

This letter is revised in accordance with the June 10, 2010 draft of the Department of Financial Institution's interim guidance for attorneys who conduct escrow transactions, available at <http://dfi.wa.gov/cs/pdf/rulemaking/2010/eara-laws-2010-interim-guidance.pdf>.

The Department of Financial Institutions, Consumer Services Division ("the Division") received and reviewed your letter of June 8, 2010, requesting a no-action letter regarding your client, Bishop, White, Marshall & Weibel, P.S., and the recent changes to the Escrow Agent Registration Act, RCW 18.44 (the Act). As you know, Substitute House Bill 2564 (chapter 34, Laws of 2010) made significant changes to the attorney exception in the Act.

An escrow is a transaction where a person (the escrow agent) receives any written instrument, money, evidence of title to real or personal property, or other thing of value from a person or persons and transfers it to another person or persons, based on instructions from the principal parties to the transaction. This transaction must be for the purpose of effecting and closing the sale, purchase, exchange, transfer, encumbrance, or lease of real or personal property. Escrow does not include activities that require the exercise of legal discretion by an attorney. The Division considers an escrow transaction that involves exercise of legal discretion by an attorney as incidental to the practice of law and not subject to licensing under the Act.

In your request for a no action letter you state that your client's law practice is primarily creditor law, but that the firm also conducts some real estate closing transactions. Your client does not appear to be principally engaged in providing escrow services. You state that the firm advertises itself as a law practice, and does not receive compensation for escrow services through another business entity. You also state that attorneys oversee every file and closing the office conducts, and that no non-attorney employees independently conduct escrow transactions.

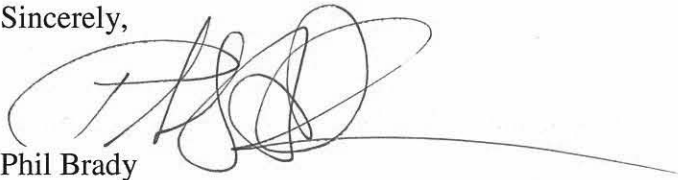
Based on the facts as you present them, the Division will not require your client to submit an application for an escrow license and will take no action against your client for unlicensed

escrow activity. Because this determination is based upon the representations set forth in your letter, it should be noted that any different facts or conditions might result in a different conclusion. The Division reserves the right to make a different determination in the future, should either your client's circumstances or the law change.

This is an individual determination based on your client's specific circumstances, and has no effect or precedential value for persons in similar situations. Attorney's exceptions from licensure are individual exceptions based on admission to practice law in Washington, and does not apply to any non-attorney employee that might conduct escrow transactions independent of an attorney's oversight.

Thank you for contacting DFI. If you have any questions, please let me know. I may be reached at (360) 902 – 8755 or [pbrady@dfi.wa.gov](mailto:pbrady@dfi.wa.gov).

Sincerely,



Phil Brady  
Staff Attorney