

STATE OF WASHINGTON
DEPARTMENT OF FINANCIAL INSTITUTIONS
SECURITIES DIVISION

Order No: C-03-182-03-SC01

IN THE MATTER OF DETERMINING
Whether there has been a violation of the
Escrow Agent Registration Act by:

City Escrow, Inc., and
Frances D. Buck, designated escrow officer,

Respondents.

TEMPORARY ORDER TO CEASE AND
DESIST, STATEMENT OF CHARGES,
AND NOTICE OF INTENT TO REVOKE
LICENSES, PROHIBIT PARTICIPATION
IN THE ESCROW INDUSTRY, AND
IMPOSE FINES

THE STATE OF WASHINGTON TO:

City Escrow, Inc.
Frances D. Buck, designated escrow officer

STATEMENT OF CHARGES

Please take notice that the Department of Financial Institutions of the State of Washington (“Department”) has reason to believe that Respondents City Escrow, Inc. and Frances D. Buck have each violated the Escrow Agent Registration Act and that their violations justify the Department in entering an order under RCW 18.44.440 against each to cease and desist from such violations. The Department finds that delay in ordering the Respondents to cease and desist from such violations would result in irreparable harm to the public interest and that a Temporary Order to Cease and Desist should be entered immediately. The Department also has reason to believe that grounds exist under RCW 18.44.410 and RCW 18.44.430 to revoke City Escrow’s license as an escrow agent, to revoke Frances D. Buck’s license as an escrow officer, to prohibit Frances D. Buck from

TEMPORARY ORDER TO CEASE AND
DESIST, STATEMENT OF CHARGES,
and NOTICE OF INTENT ENTER ORDER

DEPARTMENT OF FINANCIAL INSTITUTIONS
Securities Division
PO Box 9033
Olympia, WA 98507-9033
360-902-8760

1 participating in the escrow industry, and to impose fines against City Escrow and Frances D.
2 Buck. The Department finds as follows:

3 **TENTATIVE FINDINGS OF FACT**

4 **I. ESCROW AGENT**

5 Respondent City Escrow, Inc. ("City Escrow"), is a Washington corporation licensed
6 as an escrow agent by the Department at 4109 A Bridgeport Way West, University Place,
7 Washington 98466. City Escrow's agent license was last re-issued on November 22, 2002,
8 to expire December 31, 2003.

9 **II. DESIGNATED ESCROW OFFICER**

10 Respondent Frances D. Buck ("Buck") is the sole owner of City Escrow and its
11 Designated Escrow Officer ("DEO"). The Department approved Buck to act as City
12 Escrow's DEO effective February 15, 2002. Buck's license expired on February 17, 2003
13 and she has not renewed it.

14 **III. PREVIOUS EXAMINATIONS AND WARNINGS**

15 In three preceding examinations, the Department warned Buck and City Escrow about
16 multiple violations, including (1) disbursing unearned small trust account balances to
17 themselves to close out the accounts; (2) disbursing client trust funds in amounts exceeding
18 those on deposit; (3) failing to reconcile trust accounts; (4) failing to cancel and reissue overdue
19 checks; and (5) failing to expeditiously refund money on closed accounts.

20 **IV. CURRENT EXAMINATION**

21 On February 20, 2003, the Department conducted an on-site examination of City
22 Escrow's books, records, and accounts. The examination included a reconciliation of

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26 **TEMPORARY ORDER TO CEASE AND
27 DESIST, STATEMENT OF CHARGES,
28 and NOTICE OF INTENT ENTER ORDER**

**DEPARTMENT OF FINANCIAL INSTITUTIONS
Securities Division
PO Box 9033
Olympia, WA 98507-9033
360-902-8760**

1 outstanding client ledger balances to trial balance reports and trust bank accounts, an analysis
2 of disbursements, and an analysis of overdue checks and closed trust accounts.

3 V. MISAPPROPRIATING TRUST FUNDS

4 The examination resulted in a finding that, on or about August 8, 2002, Buck closed
5 Key Bank trust account number 471471003122, then containing \$1,195.25 in trust funds.
6 City Escrow's books, accounts, and trust records did not explain this transaction, and Buck
7 informed the Department's examiner that she could not recall how these funds were
8 disbursed. However, subpoenaed bank records indicate that Buck signed an "Account
9 Closeout" document and withdrew the funds by: (1) signing Key Bank cashier's check
10 number 572036330 for \$672.21, payable to City Escrow; and (2) signing a "substitute
11 payment coupon" for City Escrow's Key Bank line of credit, account number
12 471471003205. There were no settlement instructions authorizing these disbursements.
13
14

15 VI. DISBURSEMENTS EXCEEDING DEPOSITS

16 According to trial balances for December 31, 2001, June 30, 2002, and September
17 30, 2002, Buck disbursed trust funds exceeding the amount on deposit for the escrow
18 accounts listed by number below. Because Buck did not assure that these accounts contained
19 funds sufficient to pay their settlement charges, other trust principals' funds were used to
20 cover these disbursements. There were no written instructions from the other trust
21 principals authorizing these disbursements.
22

<u>Escrow Account</u>	<u>Transaction</u>	<u>Amount Disbursed</u>
<u>Number</u>	<u>Date</u>	<u>In Excess</u>
94010	04/30/02	\$ 2.97
94073	04/30/02	158.25
94100	12/31/01	70.00
94117	04/30/02	597.73

26 TEMPORARY ORDER TO CEASE AND
27 DESIST, STATEMENT OF CHARGES,
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DEPARTMENT OF FINANCIAL INSTITUTIONS
Securities Division
PO Box 9033
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1	94137	04/30/02	92.00
	94158	12/31/01	2,000.00
2	94172	04/30/02	75.00
	94191	05/14/02	1,000.00
3	94242	09/27/02	1,272.83
4	94251	09/27/02	<u>2,921.00</u>

5 **Total Funds Disbursed in Excess** **\$8,189.78**

6 VII. FAILURE TO RECONCILE ACCOUNTS

7 The examination also showed that Buck had not reconciled the trust account balance
8 against the client ledger of receipts and disbursements since at least June 2002, when the trust
9 account was short \$9,705.73. Buck also had not timely posted system and bank adjustments
10 indicated on the monthly reconciliation reports.
11

12 VIII. OVERDUE CHECKS

13 According to the January 31, 2003 outstanding check report, Buck had three checks
14 outstanding for more than 90 days, totaling \$148.75.

15 IX. OUTSTANDING CLOSED ACCOUNTS

16 According to the January 31, 2003 trial balance, Buck had one account that had been
17 closed for more than six months, with an outstanding balance of \$2,500.00.

18 X. IRREPARABLE HARM

19 The Department finds that continuation of the conduct described in Tentative
20 Findings of Fact V through IX would result in irreparable harm to the public interest.
21

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23 Based upon the Tentative Findings of Fact, the following Conclusions of Law are
24 made:

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26 TEMPORARY ORDER TO CEASE AND
27 DESIST, STATEMENT OF CHARGES,
28 and NOTICE OF INTENT ENTER ORDER

DEPARTMENT OF FINANCIAL INSTITUTIONS
Securities Division
PO Box 9033
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1 **CONCLUSIONS OF LAW**

2 I.

3 The conduct described in Tentative Findings of Fact V is in violation of RCW
4 18.44.301(5) because Buck and City Escrow each knowingly received or took unauthorized
5 possession of property entrusted to City Escrow and, with intent to defraud, omitted to make a
6 full and true entry of this in City Escrow’s books and accounts.
7

8 II.

9 The conduct described in Tentative Findings of Fact V is in violation of RCW
10 18.44.400(1) and WAC 208-680D-020(1) because Buck and City Escrow each failed to
11 keep adequate trust account records.
12

13 III.

14 The conduct described in Tentative Findings of Fact V is in violation of RCW
15 18.44.430(1)(e) because Buck and City Escrow each converted money, delivered in trust, to
16 their own use or the use of another person, in violation of the trust.
17

18 IV.

19 The conduct described in Tentative Findings of Fact V is in violation of WAC 208-
20 680D-060, which requires a written instruction for all trust disbursements.
21

22 V.

23 The conduct described in Tentative Findings of Fact VI is in violation of RCW
24 18.44.400(3) and WAC 208-680E-011(14)(c) because City Escrow and Buck each made
25 disbursements on escrow accounts without first having received deposits for those accounts
26 in amounts at least equal to the disbursements.
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28 **TEMPORARY ORDER TO CEASE AND
DESIST, STATEMENT OF CHARGES,
and NOTICE OF INTENT ENTER ORDER**

**DEPARTMENT OF FINANCIAL INSTITUTIONS
Securities Division
PO Box 9033
Olympia, WA 98507-9033
360-902-8760**

1 VI.

2 The conduct described in Tentative Findings of Fact VI is in violation of RCW
3 18.44.430(1)(e) because City Escrow and Buck each converted money, delivered in trust, to
4 their own use or the use of another person, in violation of the trust.

5 VII.

6 The conduct described in Tentative Findings of Fact VI is in violation of WAC 208-
7 680D-060, which requires a written instruction for all trust disbursements.

8 VIII.

9 The conduct described in Tentative Findings of Fact VII is in violation of RCW
10 18.44.400(1) and WAC 208-680E-011(9) because City Escrow and Buck each failed to keep
11 adequate trust account records, including reconciliations of trust account bank statements,
12 the monthly trial balances of the client ledgers, and the trust account receipts and
13 the monthly trial balances of the client ledgers, and the trust account receipts and
14 disbursement records.

15 IX.

16 The conduct described in Tentative Findings of Fact VIII and IX is in violation of
17 WAC 208-680D-050 and RCW 18.44.430(1)(i) because City Escrow and Buck each did not
18 perform required acts as expeditiously as possible or has negligently delayed performance.

19 X.

20 The conduct described in Tentative Findings of Fact I through IX is in violation of
21 RCW 18.44.430(1)(i) because the acts and conduct of both City Escrow and Buck have
22 demonstrated incompetence, untrustworthiness, and/or a source of injury and loss to the
23 public.
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26 TEMPORARY ORDER TO CEASE AND
27 DESIST, STATEMENT OF CHARGES,
28 and NOTICE OF INTENT ENTER ORDER

DEPARTMENT OF FINANCIAL INSTITUTIONS
Securities Division
PO Box 9033
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XI.

The Department finds and concludes that the violations described above of the Escrow Agent Registration Act and rules adopted thereunder, if continued, will result in irreparable harm to the public interest such that the issuance of a temporary cease and desist order is warranted under RCW 18.44.440.

XII.

The Department finds and concludes that the violations of the Escrow Agent Registration Act described above constitute grounds, under RCW 18.44.400(5), RCW 18.44.410, RCW 18.44.430, and RCW 18.44.440(3), for (1) revoking City Escrow’s license as an escrow agent; (2) revoking Frances D. Buck’s escrow officer agent; (3) prohibiting Frances D. Buck from participating in the escrow industry; and (4) imposing fines against City Escrow and Frances D. Buck.

TEMPORARY ORDER TO CEASE AND DESIST

Based on the foregoing, NOW, THEREFORE, IT IS HEREBY ORDERED that City Escrow, Frances D. Buck, and their agents and employees each cease and desist from violation of RCW 18.44.400(1), WAC 208-680D-020(1), and WAC 208-680E-011(9), which require adequate records, including records of trust account activities and trust account reconciliations.

It is further ORDERED that City Escrow, Frances D. Buck, and their agents and employees each cease and desist from violation of RCW 18.44.400(3) and WAC 208-680E-

TEMPORARY ORDER TO CEASE AND
DESIST, STATEMENT OF CHARGES,
and NOTICE OF INTENT ENTER ORDER

DEPARTMENT OF FINANCIAL INSTITUTIONS
Securities Division
PO Box 9033
Olympia, WA 98507-9033
360-902-8760

1 011(14), which prohibit disbursements of funds from individual escrow accounts in excess
2 of deposits made to those accounts.

3 It is further ORDERED that City Escrow, Frances D. Buck, and their agents and
4 employees each cease and desist from violation of RCW 18.44.301(5), which prohibits taking
5 possession of trust funds for personal use without authorization.

6 It is further ORDERED that City Escrow, Frances D. Buck, and their agents and
7 employees each cease and desist from violation of RCW 18.44.430(1)(e), which prohibits
8 converting money delivered in trust to personal use in violation of the trust.

9 It is further ORDERED that City Escrow, Frances D. Buck, and their agents and
10 employees each cease and desist from violation of WAC 208-680D-060, which requires a
11 written instruction for all trust disbursements.

12 It is further ORDERED that City Escrow, Frances D. Buck, and their agents and
13 employees each cease and desist from violation of WAC 208-680D-050 and RCW
14 18.44.430(1)(i), which requires that escrow duties be performed expeditiously.
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18 **NOTICE OF INTENT TO REVOKE LICENSES, PROHIBIT PARTICIPATION IN**
19 **ESCROW INDUSTRY, AND IMPOSE FINES**

20 Pursuant to RCW 18.44.400(5), RCW 18.44.410, RCW 18.44.430, and RCW
21 18.44.440(3), and based on the Department's findings and conclusions that City Escrow and
22 Frances D. Buck have each violated the Escrow Agent Registration Act, the Department
23 intends to ORDER:

- 24 I. That the license of City Escrow, Inc., to do business as an escrow agent be revoked;
25 II. That the license of Frances D. Buck to do business as an escrow officer be revoked;

26 TEMPORARY ORDER TO CEASE AND
27 DESIST, STATEMENT OF CHARGES,
28 and NOTICE OF INTENT ENTER ORDER

DEPARTMENT OF FINANCIAL INSTITUTIONS
Securities Division
PO Box 9033
Olympia, WA 98507-9033
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- III. That Frances D. Buck be prohibited for ten (10) years from participating in the conduct of the affairs of any licensed escrow agent, including but not limited to being an escrow officer, principal, director, partner, manager, controlling person, stockholder, employee, or independent contractor of any escrow agent or other person subject to licensing under the Act; and
 - IV. That Frances D. Buck and City Escrow shall jointly and severally pay a fine in the amount of \$12,000.00, calculated at \$100.00 per day for thirty (30) days for:
 - Two (2) violations of RCW 18.44.430(1); and
 - One (1) violation of RCW 18.44.301(5); and
 - One (1) violation of RCW 18.44.400.

9
AUTHORITY AND PROCEDURE

10 This Temporary Order to Cease and Desist, Statement of Charges, and Notice of
11 Intent to Revoke Licenses, Prohibit Participation in the Escrow Industry, and Impose Fines is
12 entered pursuant to the provisions of RCW 18.44.400(5), RCW 18.44.410, RCW 18.44.430,
13 and RCW 18.44.440(3) and is subject to the provisions of chapter 34.05 RCW. The
14 respondents, City Escrow and Frances D. Buck, may each make a written request for a
15 hearing as set forth in the NOTICE OF OPPORTUNITY TO DEFEND AND
16 OPPORTUNITY FOR HEARING accompanying this order.

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18 If neither respondent timely requests a hearing, the Department intends to adopt the
19 above Tentative Findings of Fact and Conclusions of Law as final and to enter an order
20 revoking City Escrow's agent license, revoking Frances D. Buck's escrow officer license,
21 prohibiting Frances D. Buck from participation in the escrow industry for ten (10) years, and
22 imposing a fine against City Escrow and Frances D. Buck for \$12,000.
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25 DATED this 29th day of October, 2003.

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28
TEMPORARY ORDER TO CEASE AND
DESIST, STATEMENT OF CHARGES,
and NOTICE OF INTENT ENTER ORDER

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Securities Division
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Deborah R. Bortner
Assistant Director
Department of Financial Institutions

Approved by:



Michael E. Stevenson
Chief of Enforcement

Presented by:



Andrew Ledbetter
Financial Legal Examiner

TEMPORARY ORDER TO CEASE AND
DESIST, STATEMENT OF CHARGES,
and NOTICE OF INTENT ENTER ORDER

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