

1 STATE OF WASHINGTON
2 DEPARTMENT OF FINANCIAL INSTITUTIONS
3 SECURITIES DIVISION

4 IN THE MATTER OF DETERMINING) Order Number S-04-049-04-SC01
5 Whether there has been a violation of the)
6 Escrow Agent Registration Act of Washington) STATEMENT OF CHARGES, NOTICE OF
7 by:) INTENT TO ENTER AN ORDER
8 Fitts Escrow Company and Donald Emmett) DECLINING TO RENEW AN ESCROW
9 Fitts) AGENT LICENSE AND ESCROW
10 Respondents) OFFICER LICENSE, TO PROHIBIT
11) PARTICIPATION IN THE ESCROW
12) INDUSTRY AND TO IMPOSE FINES

13 THE STATE OF WASHINGTON TO: Donald Emmett Fitts

14 **STATEMENT OF CHARGES**

15 Please take notice that the Department of Financial Institutions of the State of
16 Washington has reason to believe that Respondents, Fitts Escrow Company and Donald Emmett
17 Fitts, have each violated the Escrow Agent Registration Act and that grounds exist under RCW
18 18.44.430 to prohibit Donald Emmett Fitts from participating in the escrow industry and to
19 impose fines against Fitts Escrow Company and Donald Emmett Fitts. The Department finds as
20 follows:

21 **TENTATIVE FINDINGS OF FACT**

22 **I. RESPONDENTS**

23 1. Fitts Escrow Company (“Fitts Escrow”) is a Washington corporation with its principal
24 place of business at 879 Rainier Avenue in Renton, Washington. Fitts Escrow was a licensed
25 escrow agent from 1987 until December 31, 2003, when its escrow agent license expired and
was not renewed.

1 31, 2003 bank reconciliation has seven pages of exceptions with transactions dating back to
2 1998. Fitts Escrow is also missing receipts for escrow deposits. The December 31, 2003 bank
3 reconciliation shows that from 2001 through 2003, Fitts Escrow is missing receipts for at least 17
4 deposits totaling more than \$280,000.

5 IV. IMPROPER DISBURSEMENTS OR HOLDBACKS

6 From the records given to the Department examiner on February 5, 2004, it appears that
7 some escrow funds have not been properly disbursed by Fitts Escrow. The Fitts Escrow
8 December 31, 2003 monthly trial balance shows a negative balance for three escrow transactions
9 totaling more than \$1,000,000. The December 31, 2003 monthly trial balance also shows that
10 there were three escrow transactions that were last active during 2001 or 2002 that still had
11 outstanding account balances of more than \$100,000 each.
12

13 Based upon the above Tentative Findings of Fact, the following Conclusions of Law are
14 made:

15 CONCLUSIONS OF LAW

16 I.

17 As described in Tentative Findings of Fact II, Fitts Escrow has violated RCW 18.44.201
18 by filing an application for the renewal of an escrow agent license without providing
19 satisfactory evidence to the Department of having obtained a fidelity bond as required by law
20 and as a condition precedent to transacting escrow business.
21

22 II.

23 As described in Tentative Findings of Fact III, Fitts Escrow and Fitts have each violated
24 RCW 18.44.301(6) and (8) by omitting to make material entries in Fitts Escrow's books and
25 accounts and by willfully failing to make proper entries in the books of the escrow business.

1 III.

2 As described in Tentative Findings of Fact III, Fitts Escrow has violated RCW
3 18.44.400(1) by failing to keep adequate records. Under RCW 18.44.071, Fitts, as the DEO of
4 Fitts Escrow, is responsible for Fitts Escrow's failure to keep adequate records.

5 IV.

6 As described in Tentative Findings of Fact IV, Fitts Escrow has violated RCW
7 18.44.400(3) by making disbursements without first receiving deposits directly relating to the
8 escrow account in amounts at least equal to the disbursements. Under RCW 18.44.071, Fitts, as
9 the DEO of Fitts Escrow, is responsible for Fitts Escrow's improper disbursements of escrow
10 funds.
11

12 V.

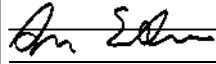
13 The Department finds and concludes that the aforementioned violations of the Escrow
14 Agent Registration Act constitute grounds under RCW 18.44.410 and RCW 18.44.430 for
15 prohibiting Donald Emmett Fitts from participating in the escrow industry and for imposing fines
16 against Fitts Escrow Company and Donald Emmett Fitts.

17 **NOTICE OF INTENT TO PROHIBIT PARTICIPATION IN THE ESCROW INDUSTRY**
18 **AND TO IMPOSE FINES**

19 Pursuant to RCW 18.44.410 and RCW 18.44.430, and based on the Department's
20 findings and conclusions that Fitts Escrow Company and Donald Emmett Fitts have each
21 violated the Escrow Agent Registration Act, the Department intends to order that Donald
22 Emmett Fitts shall be prohibited from any further participation in the escrow industry and that
23 Fitts Escrow Company and Donald Emmett Fitts shall each pay a fine of \$1,500.
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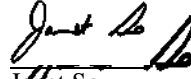
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Approved by:



Suzanne E. Sarason
Chief of Enforcement

Presented by:



Janet So
Financial Legal Examiner