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AUG 30 2010

DEPT. OF FINANCIAL INSTITUTIONS
OLYMPIA, WASHINGTON

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-09-110-10-CO01

BUILDERS ESCROW INC,
GERALD E. SCHNEIDER, Owner, and
KAREN M. ADAMS,
Designated Escrow Officer,

CONSENT ORDER

Respondents.

COMES NOW the Director of the Department of Financial Institutions (Director), through his designee Deborah Bortner, Division Director, Division of Consumer Services, and Builders Escrow, Inc. (Respondent Builders Escrow), Gerald E. Schneider, Owner (Respondent Schneider), and Karen M. Adams, Designated Escrow Officer (Respondent Adams), 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 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-09-110-09-SC01 (Statement of Charges), entered December 7, 2009, (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 Order to fully resolve the Statement of Charges.

Based upon the foregoing:

CONSENT ORDER
C-09-110-10-CO01
Builders Escrow, Inc.
Gerald E. Schneider
Karen M. Adams

1

DEPARTMENT OF FINANCIAL INSTITUTIONS
Division of Consumer Services
150 Israel Rd SW
PO Box 41200
Olympia, WA 98504-1200
(360) 902-8703

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

3 B. **Waiver of Hearing.** It is AGREED that Respondents have been informed of the right to a hearing
4 before an administrative law judge, and that they hereby waive their right to a hearing and any and all
5 administrative and judicial review of the issues raised in this matter, or of the resolution reached herein.
6 Accordingly, Respondents, by their signatures below, hereby withdraw their appeals.

7 C. **No Admission of Liability.** It is AGREED that Respondents do not admit to any wrongdoing by entry
8 of this Consent Order.

9 D. **License Revocation.** It is AGREED that the Escrow Agent license of Respondent Builders Escrow
10 and Respondent Schneider is revoked effective September 17, 2010. It is further AGREED that the Escrow Officer
11 license of Respondent Adams is revoked effective September 17, 2010. It is further AGREED that Respondents'
12 escrow activities between the date of this Consent Order and September 17, 2010, shall be limited to 1) transferring
13 all pending escrow transactions to another licensed escrow agent or title company and 2) reconciling the trust
14 account of Respondent Builders Escrow in a manner consistent with the Act and other applicable statutes and rules.

15 E. **Prohibition from Industry.** It is AGREED that Respondents are prohibited from participating in the
16 conduct of the affairs of any escrow agent licensed by the Department or subject to licensure or regulation by the
17 Department for five years from the date of entry of this Consent Order in any capacity, including but not limited to:
18 (1) any financial capacity whether active or passive or (2) as an officer, director, principal, escrow agent, closer, or
19 employee of any kind or (3) any management, control, oversight or maintenance of any trust account(s) or (4)
20 receiving, disbursing, managing or controlling in any way, any trust funds.

21 F. **Examination Fee.** It is agreed that Respondents shall pay to the Department an examination fee of
22 \$12,312.50 in the form of a cashier's check made payable to the "Washington State Treasurer" upon entry of this
23 Consent Order.

24 G. **Investigation Fee.** It is AGREED that Respondents shall pay to the Department an investigation fee of
25 \$2,187.50 in the form of a cashier's check made payable to the "Washington State Treasurer" upon entry of this

1 Consent Order. Respondents may pay both the examination fee and the investigation fee in the form of a single
2 cashier's check in the amount of \$14,500 made payable to the "Washington State Treasurer" upon entry of this
3 Consent Order.

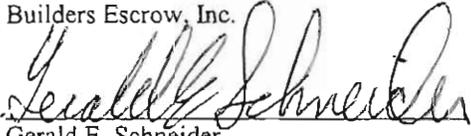
4 **H. Authority to Execute Order.** It is AGREED that the undersigned Respondent Schneider has
5 represented and warranted that he has the full power and right to execute this Consent Order on behalf of
6 Respondent Builders Escrow.

7 **I. Non-Compliance with Order.** It is AGREED that Respondents understand that failure to abide by
8 the terms and conditions of this Consent Order may result in further legal action by the Director. In the event of
9 such legal action, Respondents may be responsible to reimburse the Director for the cost incurred in pursuing
10 such action, including but not limited to, attorney fees.

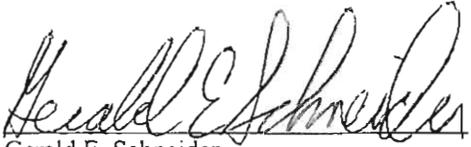
11 **J. Voluntarily Entered.** It is AGREED that the undersigned Respondents have voluntarily entered into
12 this Consent Order, which is effective when signed by the Director's designee.

13 **K. Completely Read, Understood, and Agreed.** It is AGREED that Respondents have read this Consent
14 Order in its entirety and fully understand and agree to all of the same.

15 **RESPONDENTS:**

16 Builders Escrow, Inc.
17 
18 Gerald E. Schneider
19 Owner

8-30-10
Date

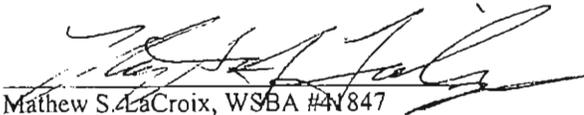
20 
21 Gerald E. Schneider
22 Individually

8-30-10
Date

23 
24 Karen M. Adams
25 Designated Escrow Officer

8-30-10
Date

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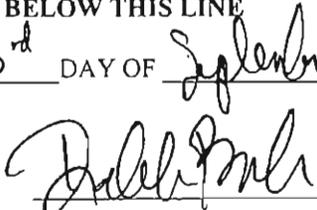

Mathew S. LaCroix, WSBA #41847
Attorney for Respondents

8/30/10
Date

DO NOT WRITE BELOW THIS LINE

THIS ORDER ENTERED THIS 3rd DAY OF September, 2010.




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

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**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:

BUILDERS ESCROW INC,
GERALD E. SCHNEIDER, Owner, and
KAREN M. ADAMS,
Designated Escrow Officer,

Respondents.

NO. C-09-110-09-SC01

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

INTRODUCTION

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

I. FACTUAL ALLEGATIONS

1.1 Respondents.

A. Builders Escrow, Inc., (Respondent Builders Escrow) has been licensed to conduct business as an escrow agent since on or about June 24, 1983, and continues to be licensed by the Department of Financial Institutions of the State of Washington (Department) to date. Respondent

1 Builders Escrow is licensed to conduct business from one location at 6510 South Center Blvd. #3,
2 Tukwila, Washington.

3 **B. Gerald E. Schneider (Respondent Schneider)** is known to be the sole owner of
4 Respondent Builders Escrow.

5 **C. Karen M. Adams (Respondent Adams)** is known to be the Designated Escrow
6 Officer (DEO) for Respondent Builders Escrow. Respondent Adams has been licensed as the DEO
7 since about 1986.

8 **1.2 Examination.** Between August 6, 2008, and September 11, 2008, the Department conducted an
9 examination of the Respondents' business practices from January 1, 2005, through July 1, 2008.

10 **1.3 Failure to Maintain Sufficient Funds in Trust.** In 11 escrow transactions, Respondents issued
11 trust account checks that exceeded the amount of money in the individual escrow account, resulting in a
12 negative balance in the escrow accounts. This is a repeat finding from the Department's 2005
13 examination report, a copy of which was previously provided to Respondents.

14 **1.4 Failure to Completely and Accurately Maintain all Required Records.**

15 **A.** The Department's examiners requested several escrow files for review. Respondents were
16 unable to provide escrow file 5951.

17 **B.** During the 2008 examination, the Department's examiners reviewed escrow file 5785 and
18 took a copy of the final HUD-1 Settlement Statement. On or about June 22, 2009, the Department
19 obtained a copy of the entire escrow file. Upon review, an examiner for the Department determined that
20 the final HUD-1 Settlement Statement in the subpoenaed file did not match the final HUD-1 Settlement
21 Statement taken during the examination. When questioned, Respondent Adams said she had discovered
22 an error on the original final HUD-1 Settlement Statement after the examination and had corrected it, and
23 had then destroyed the original HUD-1 Settlement Statement.
24
25

1 C. The Department obtained a copy of the lender's file for escrow transaction 5785 and noted
2 that the HUD-1 Settlement Statement in the lender's file did not match either of the final HUD-1
3 Settlement Statements the Department had found in Respondents' escrow file (see B above). When
4 questioned, Respondent Adams said the HUD-1 in the lender's file was an "estimated" HUD-1
5 Settlement Statement, not the final HUD-1 Settlement Statement. When asked why there was not a copy
6 of this estimated HUD-1 in the Respondents' escrow file, Respondent Adams said she routinely does not
7 retain "estimated" HUD-1 Settlement Statements in her files.

8
9 D. The final HUD-1 Settlement Statement for escrow transaction 5958 contained an entry on
10 line 1303 for "Addition (sic) fees" of \$1,181.16 paid to Respondents with no explanation of what the fees
11 were for. The Department's examiners, however, found a calculator tape in the file which listed four
12 prior transactions Respondents had done for the same customer in which the customer owed fees totaling
13 \$1,181.16 to Respondents. As a result, the final HUD-1 Settlement Statement does not accurately reflect
14 the fees related only to escrow transaction 5958.

15 E. In escrow file 6033, Respondents made several errors in calculating and paying the
16 commissions to the selling and listing agents, resulting in a shortage in the trust account. As a result,
17 Respondents transferred \$14,721.44 from their general bank account to their trust account to cover the
18 shortage. Respondents did not, however, prepare an amended final HUD-1 Settlement Statement
19 reflecting the actual fees related to the transaction.

20
21 Failure to maintain required records is a repeat violation from Respondents' 2005 examination
22 report, a copy of which was previously provided to Respondents.

23 **1.5 Failure to Properly Display Licenses.** During the course of the examination, the examiners
24 observed Respondent Builders Escrow's Escrow Agent license and Respondent Adams' Escrow Officer
25 license were posted in a location which was not readily viewable by the public.

1 **1.6 Failure to Properly Reconcile Trust Bank Account.** Respondents' July 31, 2008, escrow trial
2 balance contained an unidentified account containing \$3,007.24. This is a repeat violation from
3 Respondents' 2005 examination report, a copy of which was previously provided to Respondents.

4 **1.7 Collecting Unrelated Fees from an Escrow Transaction.** The final HUD-1 Settlement
5 Statement for escrow transaction 5958 contained an entry on line 1303 for "Addition (sic) fees" of
6 \$1,181.16 paid to Respondents with no explanation of what the fees were for. The Department's
7 examiners found a calculator tape in the file which listed four prior transactions Respondents had done for
8 the same customer in which the customer owed fees totaling \$1,181.16 to Respondents.

9 **1.8 On-Going Investigation.** The Department's investigation into the alleged violations of the Act
10 by Respondents continues to date.

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

12 **2.1 Prohibition against Disbursing Funds from an Escrow Account Exceeding the Deposits for**
13 **the Transaction.** Based on the factual allegations set forth in Section I above, Respondents are in
14 apparent violation of RCW 18.44.400(3) and WAC 208-680E-011(14)(c) for disbursing funds from
15 escrow accounts in excess of the amount deposited for the transactions.
16

17 **2.2 Requirement to keep Accurate Books and Records.** Based on the factual allegations set forth
18 in Section I above, Respondents are in apparent violation of RCW 18.44.400(1) and WAC 208-680D-
19 030(2) for failing to keep adequate records of escrow transactions and for failing to maintain all records
20 available for inspection by the Department.
21

22 **2.3 Requirement to Properly Display Licenses.** Based on the factual allegations set forth in Section
23 I above, Respondents are in apparent violation of RCW 18.44.141 and WAC 208-680C-030 for failing to
24 conspicuously post their Escrow Agent license and prominently display Respondent Adams' Escrow
25 Officer license in Respondents' place of business.

1 **2.4 Requirement to Properly Reconcile Accounts.** Based on the factual allegations set forth in
2 Section I above, Respondents are in apparent violation of RCW 18.44.400(1) and WAC 208-680E-011(7)
3 and (9) for failing to properly prepare a monthly reconciliation of the ledger with the trust account bank
4 statement and the trust account receipts and disbursement records.

5 **2.5 Prohibition against Collecting Unrelated Fees from an Escrow Transaction.** Based on the
6 factual allegations set forth in Section I above, Respondents are in apparent violation of RCW
7 18.44.301(4), RCW 18.44.400(1), WAC 208-680D-030(1), WAC 208-680D-090(4), and WAC 208-
8 680E-011(9) for collecting unrelated fees from an escrow transaction.

10 III. AUTHORITY TO IMPOSE SANCTIONS

11 **3.1 Authority to Revoke License.** Pursuant to RCW 18.44.430(1)(b), the Director may revoke
12 the license of any escrow agent or escrow officer for violating any of the provisions of the Act or any
13 lawful rules made by the Director pursuant to the Act.

14 **3.2 Authority to Prohibit from the Industry.** Pursuant to RCW 18.44.430(3), in addition to or in
15 lieu of license denial the Director may remove and/or prohibit from participation in the conduct of the
16 affairs of a licensed escrow agent, any officer, controlling person, director, employee, or licensed
17 escrow officer.

18 **3.3 Authority to Impose Fines.** Pursuant to RCW 18.44.430(3) and WAC 208-680G-040(3), in
19 addition to or in lieu of license revocation or suspension, the Director may impose a fine of up to \$100 per
20 day for each day's violation of the Act or rules adopted thereunder.

21 **3.4 Authority to Collect Examination and Investigation Fee.** Pursuant to RCW 18.44.410 and
22 WAC 208-680G-050, the expense of an examination pursuant to WAC 208-680G-010 or an investigation
23 pursuant to WAC 208-680G-020 shall be borne by the entity which is the subject of the investigation.
24
25

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

2 Respondents' violations of the provisions of chapter 18.44 RCW as set forth in the above Factual
3 Allegations and Grounds For Entry Of Order constitute a basis for the entry of an Order under RCW
4 18.44.410, RCW 18.44.430, RCW 18.44.301, and WAC 208-680G-030 which authorize the Director to
5 enforce all laws, rules, and regulations related to the registration of escrow agents and licensing of escrow
6 officers. Therefore, it is the Director's intention to ORDER that:

7 **4.1** Respondents Builders Escrow, Inc., and Gerald E. Schneider's license to conduct the business of
8 an escrow agent be revoked;

9 **4.2** Respondent Karen M. Adams' license to conduct the business of a designated escrow officer and
10 escrow officer be revoked;

11 **4.3** Respondents Builders Escrow, Inc., and Gerald E. Schneider be prohibited from participating in
12 the conduct of the affairs of any licensed escrow agent, as officer, controlling person, director, employee,
13 or licensed escrow officer for a period of five years;

14 **4.4** Respondent Karen M. Adams be prohibited from participating in the conduct of the affairs of any
15 licensed escrow agent, as officer, controlling person, director, employee, or licensed escrow officer for a
16 period of five years;

17 **4.5** Respondents Builders Escrow, Inc., Gerald E. Schneider, and Karen M. Adams jointly and
18 severally pay a fine which as of the date of these charges totals \$50,000;

19 **4.6** Respondents Builders Escrow, Inc., Gerald E. Schneider, and Karen M. Adams jointly and
20 severally pay costs of examination which as of the date of these charges totals \$12,312.50, calculated
21 at \$62.50 per hour for 197 staff hours devoted to the examination;

22 **4.7** Respondents Builders Escrow, Inc., Gerald E. Schneider, and Karen M. Adams jointly and
23 severally pay an investigation fee which as of the date of these charges totals \$2,187.50, calculated at
24 \$62.50 per hour for 35 staff hours devoted to the investigation; and

25 **4.8** Respondents Builders Escrow, Inc., and Gerald E. Schneider maintain all records involving
Washington escrow transactions for a minimum of six years following the closing or termination of the
escrow transaction.

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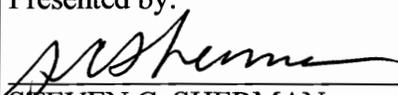
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V. AUTHORITY AND PROCEDURE

This Statement of Charges and Notice of Intent to Revoke Licenses, 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 9th day of December, 2009.


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