

# Terms Completed

## ORDER SUMMARY – Case Number: C-10-266

**Name(s):** Fidelity National Title Agency of Nevada, Inc.

**Order Number:** C-10-266-10-CO01

**Effective Date:** October 26, 2010

**License Number:** n/a  
**Or NMLS Identifier [U/L]** (Revoked, suspended, stayed, application denied or withdrawn)  
 If applicable, you must specifically note the ending dates of terms.

**License Effect:** n/a

**Not Apply Until:** n/a

**Not Eligible Until:** n/a

**Prohibition/Ban Until:** n/a

<b>Investigation Costs</b>	\$900	Due 0	Paid <input checked="" type="checkbox"/> Y <input type="checkbox"/> N	Date Oct 26, 2010
<b>Fine</b>	\$10,000	Due 0	Paid <input checked="" type="checkbox"/> Y <input type="checkbox"/> N	Date Oct 26, 2010
<b>Assessment(s)</b>	\$	Due	Paid <input type="checkbox"/> Y <input type="checkbox"/> N	Date
<b>Restitution</b>	\$	Due	Paid <input type="checkbox"/> Y <input type="checkbox"/> N	Date
<b>Judgment</b>	\$	Due	Paid <input type="checkbox"/> Y <input type="checkbox"/> N	Date
<b>Satisfaction of Judgment Filed?</b>		<input type="checkbox"/> Y <input type="checkbox"/> N		
No. of Victims:				

**Comments:** \_\_\_\_\_

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**STATE OF WASHINGTON  
DEPARTMENT OF FINANCIAL INSTITUTIONS  
DIVISION OF CONSUMER SERVICES**

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

NO. C-10-266-10-CO01

FIDELITY NATIONAL TITLE AGENCY OF  
NEVADA, INC.,

CONSENT ORDER

Respondent.

COMES NOW the Director of the Department of Financial Institutions (Director), through his designee Deborah Bortner, Division Director, Division of Consumer Services, and Fidelity National Title Agency of Nevada, Inc. (Respondent), 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 Respondent have agreed upon a basis for resolution of the matters alleged in Statement of Charges No. C-10-266-10-SC01 (Statement of Charges), entered August 23, 2010, (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, Respondent hereby agrees to the Department's entry of this Consent Order and further agrees 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:

A. **Jurisdiction.** It is AGREED that the Department has jurisdiction over the subject matter of the activities discussed herein. It is further AGREED that the appearance of Respondent and the execution of this

CONSENT ORDER  
C-10-266-10-CO01  
Fidelity National Title Agency of Nevada, Inc.

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

1 Consent Order is for the purposes of this Consent Order only and that this is not a consent to the general  
2 jurisdiction of the Department for any purpose other than as set forth herein.

3 **B. Waiver of Hearing.** It is AGREED that Respondent has been informed of the right to a hearing  
4 before an administrative law judge, and hereby waives its right to a hearing and any and all administrative and  
5 judicial review of the issues raised in this matter, or of the resolution reached herein. Accordingly, Respondent,  
6 by the signature of its representative below, withdraws its appeal to the Office of Administrative Hearings.

7 **C. No Admission of Liability and Consent to Order.** It is AGREED that Respondent does not admit  
8 any wrongdoing by the entry of this Consent Order. Respondent is agreeing not to contest the Statement of  
9 Charges in consideration of the terms of this Consent Order.

10 **D. Application for License.** It is AGREED that nothing in this Consent Order, or the facts giving rise  
11 to, or underlying the Statement of Charges, will be considered by the Department in the assessment of any future  
12 application by Respondent for an escrow agent license under the Act in the event Respondent pursues such an  
13 application. It is further AGREED that, should Respondent apply to the Department for a license to conduct  
14 business as an escrow agent at any time in the future, Respondent shall be required to meet any and all application  
15 requirements in effect at that time.

16 **E. Fine.** It is AGREED that Respondent shall pay to the Department a fine of \$10,000, in the form of a  
17 cashier's check made payable to the "Washington State Treasurer," upon entry of this Consent Order.

18 **F. Investigation Fee.** It is AGREED that Respondent shall pay to the Department an investigation fee  
19 of \$900, in the form of a cashier's check made payable to the "Washington State Treasurer," upon entry of this  
20 Consent Order. The Fine and Investigation Fee may be paid together in one \$10,900 cashier's check made  
21 payable to the "Washington State Treasurer."

22 **G. Records Retention.** It is AGREED that Respondent, its officers, employees, and agents shall  
23 maintain all records involving Washington State escrow transactions for a minimum of six years from completion  
24 of the escrow transactions. It is further AGREED that Respondent shall provide the Department with the location

1 of such records and the name, address, and telephone number of the individual responsible for the maintenance of  
2 such records.

3 H. **Authority to Execute Order.** It is AGREED that the undersigned has represented and warranted that  
4 he has the full power and right to execute this Consent Order on behalf of the party represented.

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

9 J. **Voluntarily Entered.** It is AGREED that Respondent has voluntarily entered into this Consent  
10 Order, which is effective when signed by the Director's designee.

11 K. **Completely Read, Understood, and Agreed.** It is AGREED that Respondent has read this Consent  
12 Order in its entirety and fully understands and agrees to all of the same.

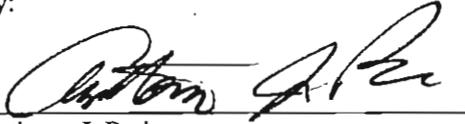
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**RESPONDENT:**

**Fidelity National Title Agency of Nevada, Inc.**

By:



Anthony J. Park  
EVP/CFO

10-19-10

Date

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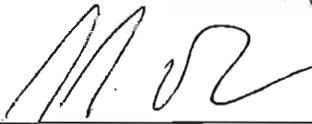
THIS ORDER ENTERED THIS 26<sup>th</sup> DAY OF October, 2010.





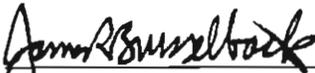
DEBORAH BORTNER  
Director  
Division of Consumer Services  
Department of Financial Institutions

Presented by:



MARK T. OLSON  
Financial Legal Examiner

Approved by:



JAMES R. BRUSSELBACK  
Enforcement Chief

1 STATE OF WASHINGTON  
2 DEPARTMENT OF FINANCIAL INSTITUTIONS  
3 DIVISION OF CONSUMER SERVICES

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

NO. C-10-266-10-SC01

7 FIDELITY NATIONAL TITLE AGENCY OF  
8 NEVADA, INC.,

STATEMENT OF CHARGES and  
NOTICE OF INTENTION TO ENTER  
AN ORDER TO IMPOSE FINE,  
COLLECT INVESTIGATION FEE,  
AND MAINTAIN RECORDS

Respondent.

9 INTRODUCTION

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

15 I. FACTUAL ALLEGATIONS

16 **1.1 Respondent Fidelity National Title Agency of Nevada, Inc. (Respondent)** is a Nevada Corporation  
17 headquartered at 500 N. Rainbow Boulevard, Suite 100, Las Vegas, Nevada. Respondent has never been  
18 licensed by the Department of Financial Institutions of the State of Washington (Department) to conduct  
19 business as an escrow agent in the State of Washington.

20 **1.2 Unlicensed Activity.** Between at least March 2009 and May 2010, Respondent performed escrow  
21 functions in at least 39 Washington mortgage loan transactions. Respondent received approximately \$21,000 as  
22 "fees" for those loans. On August 18, 2010, Respondent provided the Department with an Agreement to Cease and  
23 Desist from providing escrow services in the State of Washington until such time as Respondent obtains a license  
24 from the Department or meets an exclusion from licensing as delineated in the Act.

25 **1.3 On-Going Investigation.** The Department's investigation into the alleged violations of the Act by  
Respondent continues to date.

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

2 **2.1 Definition of Escrow.** Pursuant to RCW 18.44.011(4), "Escrow" means any transaction wherein any  
3 person or persons, for the purpose of effecting and closing the sale, purchase, exchange, transfer, encumbrance,  
4 or lease of real or personal property to another person or persons, delivers any written instrument, money,  
5 evidence of title to real or personal property, or other thing of value to a third person to be held by such third  
6 person until the happening of a specified event or the performance of a prescribed condition or conditions, when  
7 it is then to be delivered by such third person, in compliance with instructions under which he or she is to act, to  
8 a grantee, grantor, promisee, promisor, obligee, obligor, lessee, lessor, bailee, bailor, or any agent or employee  
9 thereof.

10 **2.2 Definition of Escrow Agent.** Pursuant to RCW 18.44.011(6) "Escrow Agent" means any person engaged  
11 in the business of performing for compensation the duties of the third person referred to in RCW 18.44.011(4).

12 **2.3 Requirement to Obtain and Maintain License.** Based on the Factual Allegations set forth in Section I  
13 above, Respondent is in apparent violation of RCW 18.44.021 for engaging in business as an escrow agent by  
14 performing escrows or any of the functions of an escrow agent within the State of Washington or with respect to  
15 transactions that involve personal property or real property located in the State of Washington without first  
16 obtaining a license.

17 **2.4 Requirement to Maintain Records in the State of Washington.** Based on the Factual Allegations set  
18 forth in Section 1 above, Respondent is in apparent violation of RCW 18.44.400 and WAC 208-680D-030 for  
19 failing to maintain transaction records in the State of Washington for a period of six years from completion of the  
20 transaction.

21 **III. AUTHORITY TO IMPOSE SANCTIONS**

22 **3.1 Authority to Issue Order to Take Affirmative Action.** Pursuant to RCW 18.44.440 and WAC 208-  
23 680G-030, if the director determines after notice and hearing that a person has: violated any provision of the  
24 Act; or engaged in any false, unfair and deceptive, or misleading advertising or promotional activity or business  
25

1 practices; the director may issue an order requiring the person to take such affirmative action as in the judgment  
2 of the director will carry out the purposes of the Act.

3 **3.2 Authority to Impose Fines.** Pursuant to RCW 18.44.430(3) and WAC 208-680G-040(3), in addition to  
4 or in lieu of license denial the Director may impose a fine of up to \$100 per day for each day's violation of the Act.

5 **3.3 Authority to Collect Investigation Fee.** Pursuant to RCW 18.44.410 and WAC 208-680G-050, the  
6 expense of an investigation pursuant to WAC 208-680G-020 shall be borne by the entity which is the subject of the  
7 investigation.

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

9 Respondent's violations of the provisions of chapter 18.44 RCW as set forth in the above Factual  
10 Allegations and Grounds For Entry Of Order constitute a basis for the entry of an Order under RCW 18.44.400,  
11 RCW 18.44.410, RCW 18.44.430, RCW 18.44.440, and WAC 208-680G-030, which authorize the Director to  
12 enforce all laws, rules, and regulations related to the registration of escrow agents and licensing of escrow officers.  
13 Therefore, it is the Director's intention to ORDER that:

14 **4.1** Respondent Fidelity National Title Agency of Nevada, Inc. pay a fine. As of the date of this Statement  
15 of Charges, the fine totals \$20,000.

16 **4.2** Respondent Fidelity National Title Agency of Nevada, Inc. pay an investigation fee. As of the date of  
17 this Statement of Charges, the investigation fee totals \$625.

18 **4.3** Respondent Fidelity National Title Agency of Nevada, Inc., its officers, employees, and agents maintain  
19 all records involving Washington State escrow transactions within the State of Washington for a period of  
20 six years from completion of the escrow transactions.

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V. AUTHORITY AND PROCEDURE

This Statement of Charges and Notice of Intention to Enter an Order to Impose Fine, Collect Investigation Fee, and Maintain Records (Statement of Charges) is entered pursuant to the provisions of RCW 18.44.410, RCW 18.44.430, and RCW 18.44.440, and is subject to the provisions of chapter 34.05 RCW. Respondent 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 23<sup>rd</sup> day of August, 2010.



  
DEBORAH BORTNER  
Director  
Division of Consumer Services  
Department of Financial Institutions

Presented by:

  
MARK T. OLSON  
Financial Legal Examiner

Approved by:

  
JAMES R. BRUSSELBACK  
Enforcement Chief