

1  
2  
3  
4  
5  
6  
7

**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:

COMMUNITY ESCROW, INC., and  
JACQUELINE KIMZEY, President and  
Designated Escrow Officer,

Respondents.

No.: C-13-1295-13-SC01

STATEMENT OF CHARGES and  
NOTICE OF INTENTION TO ENTER AN  
ORDER TO REVOKE LICENSES,  
PROHIBIT FROM INDUSTRY, IMPOSE  
FINE, ORDER RESTITUTION, COLLECT  
INVESTIGATION FEE, AND COLLECT  
EXAMINATION FEE

8  
9  
10  
11  
12  
13  
14

**INTRODUCTION**

Pursuant to RCW 18.44.410, the Director of the Department of Financial Institutions of the State of Washington (Director) is responsible for the administration of chapter 18.44 RCW, the Escrow Agent Registration Act (Act). After having conducted an investigation pursuant to RCW 18.44.420 and WAC 208-680-620, and based upon the facts available as of the date of this Statement of Charges, the Director, through his designee, Division of Consumer Services Director Deborah Bortner, institutes this proceeding and finds as follows:

15  
16  
17  
18  
19  
20  
21  
22  
23

**I. FACTUAL ALLEGATIONS**

**1.1 Respondents.**

**A. Community Escrow, Inc. (Respondent Community Escrow)** has its principal place of business at 430 91<sup>st</sup> Ave NE, Suite 5, Lake Stevens, Washington, 98258. Respondent Community Escrow was licensed by the Department of Financial Institutions of the State of Washington (Department) to conduct business as an escrow agent in the state of Washington during all times relevant to this Statement of Charges.

1           **B. Jacqueline Kimzey (Respondent Kimzey)** is the Designated Escrow Officer of  
2 Respondent Community Escrow. Respondent Kimzey was licensed as an escrow officer during all  
3 times relevant to this Statement of Charges.

4 **1.2 Examination.** An examination was begun on April 22, 2013, to review an open consumer  
5 complaint. The Department expanded the scope of the examination based on irregularities identified  
6 in trust account reconciliations. More than 40 escrow accounts were reviewed.

7 **1.3 Conversion of Trust Account Funds.** On at least thirteen separate occasions, Respondents  
8 converted funds from Respondent Community Escrow's trust account by clearing remaining balances  
9 from thirteen escrow accounts. The funds converted amounted to more than \$13,000. The specific  
10 escrow accounts and amounts converted are set forth in detail in Exhibit A, attached hereto and  
11 incorporated into this Statement of Charges by this reference.

12 **1.4 Charging Undisclosed Fees.** On at least eleven separate occasions, Respondents charged  
13 fees in excess of those disclosed to its clients. These charges amounted to more than \$9,000. The  
14 specific escrow accounts and amounts charged are set forth in detail in Exhibit B, attached hereto and  
15 incorporated into this Statement of Charges by this reference.

16 **1.5 Unlawful Fee Paid to Employee.** On or about April 22, 2013, Respondent paid \$500 to an  
17 employee, [REDACTED], for notary services from a single escrow account. This fee was not  
18 disclosed on the estimated settlement statement prepared by Respondent and signed by the client.  
19 This fee was also not listed on the final settlement statement prepared by Respondent and does not  
20 appear to be related to the escrow account.

21 **1.6 Failure to Expeditiously Perform Duties.** On at least seventeen occasions Respondents  
22 failed to expeditiously perform the duties of an escrow agent. Respondents failed to disburse all  
23 funds from these accounts in a timely fashion. The specific escrow accounts and the dates upon

1 which the transactions closed and the final disbursements were made are listed on Exhibit C, attached  
2 hereto and incorporated into this Statement of Charges by this reference.

3 **1.7 False Settlement Statements.** To facilitate the conversions and undisclosed fees listed in  
4 Paragraphs 1.3 and 1.4, Respondents prepared settlement statements which contained material  
5 misrepresentations of the amounts paid by Respondents out of trust account funds. Respondents  
6 provided these settlement statements to clients and failed to provide accurate settlement statements.

7 **1.8 On-Going Investigation.** The Department's investigation into the alleged violations of the  
8 Act by Respondents continues to date.

## 9 II. GROUNDS FOR ENTRY OF ORDER

10 **2.1 Engaging in a Scheme, Device, or Artifice to Defraud or Mislead.** Based on the Factual  
11 Allegations set forth in Section I above, Respondents are in apparent violation of RCW 18.44.301(1)  
12 by directly or indirectly employing any scheme, device, or artifice to defraud or mislead borrowers or  
13 lenders.

14 **2.2 Engaging in Unfair or Deceptive Acts or Practices.** Based on the Factual Allegations set  
15 forth in Section I above, Respondents are in apparent violation of RCW 18.44.301(2) by directly or  
16 indirectly engaging in unfair or deceptive practices toward any person.

17 **2.3 Directly or Indirectly Obtaining Property by Fraud or Misrepresentation.** Based on the  
18 Factual Allegations set forth in Section I above, Respondents are in apparent violation of RCW  
19 18.44.301(3) by directly or indirectly obtaining property by fraud or misrepresentation.

20 **2.4 Knowingly Making, Publishing, or Disseminating False, Deceptive, or Misleading**  
21 **Information.** Based on the Factual Allegations set forth in Section I above, Respondents are in  
22 apparent violation of RCW 18.44.301(4) by knowingly making, publishing, or disseminating any  
23

1 false, deceptive, or misleading information in the conduct of the business of escrow, or relative to the  
2 business of escrow or relative to any person engaged therein.

3 **2.5 Making False Entry in Books or Accounts.** Based on the Factual Allegations set forth in  
4 Section I above, Respondents are in apparent violation of RCW 18.44.301(6) by making or  
5 concurring in making any false entry, or omitting or concurring in omitting to make any material  
6 entry, in its books or accounts.

7 **2.6 Failure to Make Proper Entries.** Based on the Factual Allegations set forth in Section I  
8 above, Respondents are in apparent violation of RCW 18.44.301(8) by willfully failing to make any  
9 proper entry in the books of the escrow business as required by law.

10 **2.7 Failure to Comply with Escrow Instructions.** Based on the Factual Allegations set forth in  
11 Section I above, Respondents are in apparent violation of WAC 208-680-540(1) for failing to comply  
12 with the escrow instructions for completing the closing statement.

13 **2.8 Failure to Perform Duties Expeditiously.** Based on the Factual Allegations set forth in  
14 Section I above, Respondents are in apparent violation of WAC 208-680-550 for failing to perform  
15 the duties of an escrow agent as expeditiously as possible.

### 16 III. AUTHORITY TO IMPOSE SANCTIONS

17 **3.1 Authority to Revoke License.** Pursuant to RCW 18.44.430(1) and WAC 208-680-640(1)(a)  
18 the Director may revoke the license of any escrow agent or escrow officer if the director finds that  
19 any partner, officer, controlling person or employee has violated any of the provisions of the Act or  
20 any rules adopted under the Act.

21 **3.2 Authority to Prohibit from Industry.** Pursuant to RCW 18.44.430(3) and WAC 208-680-  
22 640(1)(b), the director may remove and/or prohibit from participation in the conduct of the affairs of  
23

1 any licensed escrow agent, any officer, controlling person, director, employee, or licensed escrow  
2 officer.

3 **3.3 Authority to Impose Fine.** Pursuant to RCW 18.44.430(3) and WAC 208-680-640(1)(d), the  
4 Director may impose a fine up to \$100 per day for each day's violation of the Act or rules adopted  
5 under the Act.

6 **3.4 Authority to Order Restitution.** Pursuant to RCW 18.44.430(4) and WAC 208-680-  
7 640(1)(c) the Director may order an escrow agent, officer, controlling person, director, employee, or  
8 licensed escrow officer violating the Act to make restitution to an injured consumer.

9 **3.5 Authority to Collect Investigation Fee.** Pursuant to RCW 18.44.410 and WAC 208-680-  
10 650, the expense of an investigation pursuant to WAC 208-680-620 shall be borne by the person  
11 which is the subject of the investigation.

12 **3.6 Authority to Collect Examination Fee.** Pursuant to RCW 18.44.121 and WAC 208-680-  
13 650, the expense of an examination pursuant to WAC 208-680-610 shall be borne by the person who  
14 is the subject of the examination.

#### 15 **IV. NOTICE OF INTENTION TO ENTER ORDER**

16 Respondents' violations of the provisions of chapter 18.44 RCW as set forth in the above  
17 Factual Allegations and Grounds for Entry of Order constitute a basis for the entry of an Order under  
18 RCW 18.44.400, RCW 18.44.410, RCW 18.44.430, RCW 18.44.440 and WAC 208-680-630, which  
19 authorize the Director to enforce all laws, rules, and regulations related to the registration of escrow  
20 agents and licensing of escrow officers. Therefore, it is the Director's intention to ORDER that:

21 **4.1** Respondent Community Escrow, Inc.'s escrow agent license be revoked.

22 **4.2** Respondent Jacqueline Kimzey's escrow officer license be revoked.



1 **V. AUTHORITY AND PROCEDURE**

2 This Statement of Charges and Notice of Intention to Enter an Order to Revoke Licenses,  
3 Prohibit from Industry, Impose Fine, Order Restitution, Collect Investigation Fee, and Collect  
4 Examination Fee (Statement of Charges) is entered pursuant to the provisions of RCW 18.44.410,  
5 RCW 18.44.430, and RCW 18.44.440, and is subject to the provisions of chapter 34.05 RCW (The  
6 Administrative Procedure Act). Respondents may make a written request for a hearing as set forth in  
7 the NOTICE OF OPPORTUNITY TO DEFEND AND OPPORTUNITY FOR HEARING  
8 accompanying this Statement of Charges.

9  
10 Dated this 14<sup>th</sup> day of March, 2014



11  
12 **DEBORAH BORTNER**  
13 Director  
14 Division of Consumer Services  
15 Department of Financial Institutions

16 Presented by:



17 **ROBERT E. JONES**  
18 Financial Legal Examiner

19 Approved by:



20 **CHARLES CLARK**  
21 Enforcement Chief

APPENDIX A

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

**Escrow Account Number      Borrower/Seller      Amount**

[REDACTED]	[REDACTED]	\$3,857.00
[REDACTED]	[REDACTED]	\$1,712.29
[REDACTED]	[REDACTED]	\$1,194.82
[REDACTED]	[REDACTED]	\$348.00
[REDACTED]	[REDACTED]	\$376.08
[REDACTED]	[REDACTED]	\$641.33
[REDACTED]	[REDACTED]	\$323.01
[REDACTED]	[REDACTED]	\$677.28
[REDACTED]	[REDACTED]	\$250.00
[REDACTED]	[REDACTED]	\$1,164.84
[REDACTED]	[REDACTED]	\$386.96
[REDACTED]	[REDACTED]	\$1,768.03
[REDACTED]	[REDACTED]	\$1,015.54

**TOTAL      \$13,715.18**

APPENDIX B

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

Escrow Account Number	Buyer/Seller	Amount
[REDACTED]	[REDACTED]	\$1,276.25
[REDACTED]	[REDACTED]	\$348.00
[REDACTED]	[REDACTED]	\$377.08
[REDACTED]	[REDACTED]	\$1,723.43
[REDACTED]	[REDACTED]	\$285.65
[REDACTED]	[REDACTED]	\$1,063.49
[REDACTED]	[REDACTED]	\$298.40
[REDACTED]	[REDACTED]	\$2,839.78
[REDACTED]	[REDACTED]	\$273.00
[REDACTED]	[REDACTED]	\$538.56
	TOTAL	\$9,023.64

APPENDIX C

Escrow Account Number	Settlement Date	Date of Last Disbursement
[REDACTED]	8/20/2007	12/18/2012
[REDACTED]	10/31/2008	2/15/2013
[REDACTED]	11/26/2008	11/21/2012
[REDACTED]	9/2/2009	2/15/2013
[REDACTED]	3/24/2010	2/21/2013
[REDACTED]	9/30/2011	2/25/2013
[REDACTED]	8/31/2011	2/25/2013
[REDACTED]	11/15/2011	2/21/2013
[REDACTED]	6/18/2012	2/15/2013
[REDACTED]	10/17/2008	1/31/2013
[REDACTED]	6/3/2009	8/3/2012
[REDACTED]	5/4/2010	2/21/2013
[REDACTED]	8/10/2010	2/26/2013
[REDACTED]	11/15/2011	2/21/2013
[REDACTED]	12/31/2011	2/15/2013
[REDACTED]	3/30/2012	1/17/2013
[REDACTED]	7/24/2012	2/19/2013