

TERMS COMPLETE

**ORDER SUMMARY – Case Numbers: C-99-116
C-99-102**

Name(s): Arlington Escrow, Inc. and Julie Nelson

Order Numbers: C-99-116-14-CO01 and 99-102-C01

Effective Dates: May 20, 2014 and June 7, 2001

License Numbers: 18464 and 20878
Or NMLS Identifier [U/L] (Revoked, suspended, stayed, application denied or withdrawn)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: Escrow Agent and Escrow Officer licenses Revoked

Not Apply Until: June 7, 2021

Not Eligible Until: June 7, 2021

Prohibition/Ban Until: June 7, 2021

Investigation Costs	\$0	Due	Paid <input type="checkbox"/> Y <input type="checkbox"/> N	Date
Fine	\$5,000	Due	Paid <input checked="" type="checkbox"/> Y <input type="checkbox"/> N	Date 05/06/2014
Assessment(s)	\$	Due	Paid <input type="checkbox"/> Y <input type="checkbox"/> N	Date
Restitution	\$	Due	Paid <input type="checkbox"/> Y <input type="checkbox"/> N	Date
Judgment	\$	Due	Paid <input type="checkbox"/> Y <input type="checkbox"/> N	Date
Satisfaction of Judgment Filed?	<input type="checkbox"/> Y <input type="checkbox"/> N			
	No. of Victims:			

Comments:

1 STATE OF WASHINGTON
2 DEPARTMENT OF FINANCIAL INSTITUTIONS

3 IN RE:

4 ARLINGTON ESCROW, INC. and
5 JULIE A. NELSON,
6 Owner and Designated Escrow Officer,

Respondents.

No.: C-99-116-14-CO01
(Original Cause No.: 99-102-C01)

CONSENT AGREEMENT AS TO FINE

7 Procedural History. This matter has come before the Director of the Department of Financial
8 Institutions of the State of Washington ("Director"), pursuant to RCW 31.04.165 and RCW
9 34.05.060. On July 11, 2000, former director John L. Bley ("former director Bley"), by and through
10 his designee, former Assistant Director Mark Thomson, issued a Statement of Charges and Notice of
11 Intention to Revoke Licenses and Assess Monetary Fines ("Statement of Charges") against Arlington
12 Escrow, Inc. and Julie A. Nelson, Owner and Designated Escrow Officer ("Respondents"). On July
13 13, 2000, the Statement of Charges was served on Respondents by First-Class Mail and FedEx
14 overnight delivery; and on August 4, 2000, Respondents filed an Application for Administrative
15 Hearing. On March 19, 2001, a hearing was held, *in absentia*, at the Office of Administrative
16 Hearings in Olympia, Washington, and on April 2, 2001, Senior Administrative Law Judge Ernest A.
17 Heller ("ALJ Heller") issued an Initial Order finding that the factual allegations and violations set
18 forth in the Statement of Charges had been proved by a preponderance of the evidence and imposing
19 sanctions that included a fine of \$62,100. On June 7, 2001, former director Bley entered Findings of
20 Fact, Conclusions of Law, and Final Order ("Final Order 99-102-C01") adopting the Initial Order of
21 ALJ Heller. Thereafter, facts and circumstances have come to the Director's attention supporting a
22 reduction of the fine. Now, therefore, the Director and Respondents agree to the entry of the
23 following:

1 **AGREEMENT AND ORDER**

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

4 **B. Waiver.** It is AGREED that in consideration of the agreements set forth herein,
5 Respondents hereby waive their right to any and all defenses to and administrative and judicial review of
6 the issues raised in or otherwise related to this matter, or of the resolution reached herein.

7 **C. No Admission of Liability.** It is AGREED that by entry of this Consent Agreement
8 Respondents do not admit to any of the allegations set forth in the Statement of Charges and Final
9 Order entered in this matter under case number 99-102-C01. It is further AGREED that the entry of
10 this Consent Agreement shall not revive any statutes of limitations that may have expired prior to the
11 entry of this Consent Agreement.

12 **D. Service.** It is AGREED that Respondents were served with Final Order 99-102-C01 on or
13 about October 30, 2010, however, the effective date of the Final Order, and the sanctions set forth
14 therein, is June 7, 2001.

15 **E. Fine.** It is AGREED that the fine imposed in Final Order 99-102-C01 is reduced to
16 \$5,000; which Respondents shall pay to the Department in the form of a cashier's check made
17 payable to the "Washington State Treasurer" upon entry of this Consent Agreement.

18 **F. Effect of Final Order 99-102-C01.** It is AGREED that all other sanctions set forth in
19 Final Order 99-102-C01 shall remain in full effect.

20 **G. Dismissal of Superior Court Action.** It is AGREED that following the entry of this
21 Consent Agreement, the Department will have Cowlitz County Superior Court Cause No. 11-2-
22 00977-8 dismissed with prejudice.

1 H. **Authority to Execute Order.** It is AGREED that the undersigned have represented and
2 warranted that they have the full power and right to execute this Consent Agreement on behalf of the
3 parties represented.

4 I. **Voluntarily Entered.** It is AGREED that Respondents have voluntarily entered into this
5 Consent Agreement, which is effective when signed by the Director.

6 J. **Completely Read, Understood, and Agreed.** It is AGREED that Respondents have read
7 this Consent Agreement in its entirety and fully understand and agree to all of the same.

8 **RESPONDENTS:**

9 Arlington Escrow, Inc.
10 By:

11 

12 Julie A. Nelson
13 Owner

5-2-14
Date

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15 Julie A. Nelson
16 Individually

5-2-14
Date

17 Approved for Entry:

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19 Frank F. Randolph, WSBA No. 32572
20 Attorney at Law
21 Attorney for Respondents

4/30/2014
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DO NOT WRITE BELOW THIS LINE

THIS AGREEMENT AND ORDER ENTERED THIS 20th DAY OF May, 2014.



STATE OF WASHINGTON
DEPARTMENT OF FINANCIAL INSTITUTIONS



SCOTT JARVIS
Director

STATE OF WASHINGTON
DEPARTMENT OF FINANCIAL INSTITUTIONS
DIVISION OF CONSUMER SERVICES

In The Matter:)
)
ARLINGTON ESCROW, INC. AND) No. 99-102-C01
JULIE A. NELSON, OWNER AND)
DESIGNATED ESCROW OFFICER) STATEMENT OF CHARGES AND
) NOTICE OF INTENTION TO
Respondents) REVOKE LICENSES AND ASSESS
) MONETARY FINES
)

I. STATEMENT OF CHARGES

Pursuant to RCW 18.44.440, 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")¹. After having conducted an investigation, and based upon the facts available as of July 10, 2000, the Director institutes this proceeding and finds as follows:

II. FACTUAL FINDINGS

A. Arlington Escrow, Inc. ("Arlington") is known to have conducted business as an escrow agent at 425 N. Olympic Ave, Arlington, Washington 98223. Such business was licensed to conduct the business of an escrow agent in February 1995. Such license was surrendered on November 2, 1999.

B. Julie A. Nelson ("Nelson") was known by the Department of Financial Institutions ("Department") to be the owner and Designated Escrow Officer ("DEO") of Arlington. Nelson was licensed by number 540-DO-0055-00 on October 15, 1998, and was valid until September 7, 1999. Nelson was the DEO for all periods of time relevant to these charges.

¹ The Act was amended April 19, 1999, effective July 25, 1999.

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2 C. On October 11, 1999, the Department was informed by Persing, Dyckman &
3 Toynee, agent of the bonding company which bonded Arlington, that Arlington's bond had
4 been canceled on September 4, 1999, at the request of Arlington and Nelson. Pursuant to RCW
5 18.44.050(2)(c), such cancellation was not effective until November 10, 1999.

6 D. On October 26, 1999, an Arlington customer, [REDACTED]
7 informed the Department that a proceeds check in excess of \$26,000.00, drawn on Arlington's
8 trust bank account had been returned by her bank for non-sufficient funds. The Department
9 contacted Arlington's bank, First Heritage Bank ("First Heritage"), and was informed that
10 Arlington's trust bank account did not contain sufficient funds to cover the check.

11 E. On November 2, 1999, the Department entered Subpoena Duces Tecum No. 99-
12 102-S01, commanding Arlington and Nelson to produce any and all bank statements, deposit
13 records, canceled checks and any other information related to the escrow trust account of
14 Arlington.

15 F. Pursuant to Subpoena Duces Tecum No. 99-102-S01, the Department took
16 possession of various bank and trust account records on November 2, 1999. However, Nelson
17 was unwilling or unable to produce the September 1999, bank statement and canceled checks.
18 Nelson was also unwilling or unable to produce the trust bank account reconciliations, client
19 ledger records and many of the individual escrow transaction files for the periods of January
20 through October 1999.

21 G. In a conversation with Financial Examiner Vivian Lee of the Department on
22 November 2, 1999, Nelson stated that she had not reconciled Arlington's trust bank account to
23 the client ledgers in "a couple of months." In its investigation, the Department found that
24 Nelson, as DEO for Arlington, had not completed the required monthly reconciliations of the
25 client ledgers to the trust account bank statements since October 1998.
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2 H. On November 10, 1999, an Arlington customer, [REDACTED]
3 informed the Department that she and her husband had closed a refinance transaction at
4 Arlington on September 13, 1999. As a part of the transaction, Arlington was to remit
5 \$10,170.30 from the funds provided from [REDACTED] lender to satisfy a VISA card debt owed by
6 the [REDACTED]. In telephone conversations with the Department and in a complaint filed by [REDACTED],
7 [REDACTED] informed the Department that Arlington had placed the wrong account number on the
8 check. [REDACTED] informed the Department that this debt had not been paid. A review of [REDACTED]'s
9 escrow file reveals that check number 24146, dated September 17, 1999, was drafted to First
10 USA Bank, NA, however, this check has not cleared Arlington's account to date.

11 I. On November 15, 1999, the Department issued Subpoena Duces Tecum No. 99-
12 102-S03², commanding Arlington and Nelson to produce any and all bank statements, deposit
13 records, canceled checks and any other information related to Arlington's general business
14 account for the periods of January 1998 through October 1999. This subpoena also commanded
15 that pursuant to the Department's subpoena of November 2, 1999, Arlington and Nelson were
16 to produce all escrow trust account records of Arlington including but not limited to the bank
17 statement, deposit records and canceled checks for the month of September 1999, and to
18 produce individual client escrow ledgers, trial balances and transaction files. Arlington and
19 Nelson have not complied with this subpoena.

20 J. On November 15, 1999, based on the Department's difficulty in communicating
21 with Nelson and Arlington, continued activity in Arlington's trust account and the significant
22 danger that remaining assets and trust account funds of Arlington may be lost or
23 misappropriated, the Department entered Temporary Order to Cease and Desist No. 99-102-
24 001 ("TCD"). The TCD ordered Arlington and Nelson to immediately comply with all
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26 ² Subpoena Duces Tecum No. 99-102-S02, was served upon First Heritage Bank on November 8, 1999,
commanding the production of records relating to Arlington's account(s) with First Heritage.

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information requests, directives, and subpoenas from the Department, immediately produce evidence of a fidelity bond and errors and omissions policy in compliance with the Act and provide the Department with a full reconciliation of all Arlington escrow trust accounts. Arlington and Nelson failed to comply with the TCD.

K. The Department was informed by First Heritage on November 15, 1999, that Arlington's trust bank account contained \$268.69; an insufficient sum to pay the claims of [REDACTED]. At the Department's request, First Heritage froze Arlington's trust account to protect the remaining funds from disbursement.

L. A review of the deposits to Arlington's general bank account reveals that during the period from September 17, 1999 through October 20, 1999, Arlington and Nelson apparently converted six checks totaling \$24,000.00 from Arlington's trust bank account by depositing said checks into Arlington's general bank account. Three of the converted checks fail to contain an identifying escrow file number and two of the checks contain escrow file numbers that reference escrow transactions that do not exist. The final check is identified to escrow file number [REDACTED], which closed on May 1, 1998. A review of this file shows that all checks and receipts were disbursed and receipted in accordance with the escrow instructions. When the escrow transaction closed, this account "zeroed" out, with no funds remaining in the account. Further, there is no indication that funds should have remained or been held back in this account for future disbursement.

M. A review of checks drawn on Arlington's trust bank account reveals that check number 24231, dated October 7, 1999, in the amount of \$6,662.96 was made payable to Arlington Escrow, Inc. This check contained an escrow file number that does not exist. Although this check was not deposited into Arlington's general bank account, this check was

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2 endorsed, "Arlington Escrow, Inc." The check cleared Arlington's trust bank account on
3 October 8, 1999.

4 N. As of July 10, 2000, the Department has identified eight parties who claim that
5 they should have funds totaling \$48,993.55 held in trust with Arlington. In addition, the
6 Department has found that many of the seized escrow transaction files contain checks issued
7 on Arlington's trust account that have not been forwarded to the payees and that another
8 significant number of the customer files should have funds still in escrow pending
9 disbursement.

10 O. As a result of the apparent conversion of funds outlined in L. and M. above,
11 Arlington's trust bank account does not contain sufficient funds to satisfy its obligations as
12 described in D., H., and N. The Department believes the shortfall to be in excess of \$50,000.

13 P. The Department's investigation began on November 2, 1999, and continues to
14 date.

15 III. GROUNDS FOR ENTRY OF ORDER

16 A. Pursuant to RCW 18.44.201:

17 (I) At the time of filing an application for an escrow agent license, or any
18 renewal or reinstatement of an escrow agent license, the applicant shall provide satisfactory
19 evidence to the Director of having obtained the following as evidence of financial responsibility:

20 (a) A fidelity bond providing coverage in the aggregate amount of two
21 hundred thousand dollars with a deductible no greater than ten thousand dollars covering each
22 corporate officer, partner, escrow officer, and employee of the applicant engaged in escrow
23 transactions;

24 (b) An errors and omissions policy issued to the escrow agent
25 providing coverage in the minimum aggregate amount of fifty thousand dollars or, alternatively,
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2 cash or securities in the principal amount of fifty thousand dollars deposited in an approved
3 depository on condition that they be available for payment of any claim payable under an
4 equivalent errors and omissions policy in that amount and pursuant to rules and regulations
5 adopted by the Department for that purpose; and

6 (c) A surety bond in the amount of ten thousand dollars executed by
7 the applicant as obligor and by a surety company authorized to do a surety business in this state as
8 surety, unless the fidelity bond obtained by the licensee to satisfy the requirement in (a) of this
9 subsection does not have a deductible. The bond shall run to the state of Washington as obligee,
10 and shall run to the benefit of the state and any person or persons who suffer loss by reason of the
11 applicant's or its employee's violation of this chapter. The bond shall be conditioned that the
12 obligor as licensee will faithfully conform to and abide by this chapter and all rules adopted under
13 this chapter, and shall reimburse all persons who suffer loss by reason of a violation of this
14 chapter or rules adopted under this chapter. The bond shall be continuous and may be canceled by
15 the surety upon the surety giving written notice to the Director of its intent to cancel the bond. The
16 cancellation shall be effective thirty days after the notice is received by the Director. Whether or
17 not the bond is renewed, continued, reinstated, reissued, or otherwise extended, replaced, or
18 modified, including increases or decreases in the penal sum, it shall be considered one continuous
19 obligation, and the surety upon the bond shall not be liable in an aggregate amount exceeding the
20 penal sum set forth on the face of the bond. In no event shall the penal sum, or any portion thereof,
21 at two or more points in time be added together in determining the surety's liability. The bond
22 shall not be liable for any penalties imposed on the licensee, including but not limited to, any
23 increased damages or attorney's fees, or both, awarded under RCW 19.86.090.

24 (4) Except as provided in RCW 18.44.221, the fidelity bond, surety bond,
25 and the errors and omissions policy required by this section shall be kept in full force and effect
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as a condition precedent to the escrow agent's authority to transact escrow business in this state, and the escrow agent shall supply the Director with satisfactory evidence thereof upon request.

Arlington and Nelson are in apparent violation of this section when they canceled the bond and errors and omissions policy on September 4, 1999, and failed to re-instate the coverage as required by the Act and ordered in the Department's TCD of November 15, 1999.

B. Pursuant to RCW 18.44.420, the Director may:

(1) Make necessary public or private investigations within or outside of this state to determine whether any person has violated or is about to violate this chapter or any rule or order under this chapter, or to aid in the enforcement of this chapter or in the prescribing of rules and forms under this chapter; or

(2) Require or permit any person to file a statement in writing, under oath or otherwise as the Director determines, as to all facts and circumstances concerning the matter to be investigated.

For the purpose of any investigation or proceeding under this chapter, the Director or any officer designated by the Director may administer oaths or affirmations, and upon his or her own motion or upon request of any party, may subpoena witnesses, compel their attendance, take evidence, and require the production of any matter which is relevant to the investigation, including the existence, description, nature, custody, condition, and location of any books, documents, or other tangible things and the identity and location of persons having knowledge or relevant facts, or any other matter reasonably calculated to lead to the discovery of material evidence.

Arlington and Nelson are in apparent violation of this section when they failed to fully comply with two subpoenas and the TCD.

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C. Pursuant to RCW 18.44.301, it is a violation of this chapter for any escrow agent, controlling person, officer, designated escrow officer, independent contractor, employee of an escrow business, or other person subject to this chapter to:

(1) Directly or indirectly employ any scheme, device, or artifice to defraud or mislead borrowers or lenders or to defraud any person;

(2) Directly or indirectly engage in any unfair or deceptive practice toward any person;

(3) Directly or indirectly obtain property by fraud or misrepresentation;

(4) Knowingly make, publish, or disseminate any false, deceptive, or misleading information in the conduct of the business of escrow, or relative to the business of escrow or relative to any person engaged therein;

(5) Knowingly receive or take possession for personal use of any property of any escrow business, other than in payment authorized by this chapter, and with intent to defraud, omit to make, or cause or direct to be made, a full and true entry thereof in the books and accounts of the business;

(6) Make or concur in making any false entry, or omit or concur in omitting to make any material entry, in its books or accounts;

(8) Willfully fail to make any proper entry in the books of the escrow business as required by law.

Arlington and Nelson are in apparent violation of these sections when they apparently converted funds, committed the acts, or caused the results as described in II.L. through II.N. of this order.

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D. Pursuant to RCW 18.44.400(1), every licensed escrow agent shall keep adequate records, as determined by rule by the Director, of all transactions handled by or through the agent including itemization of all receipts and disbursements of each transaction. These records shall be maintained in this state, unless otherwise approved by the director, for a period of six years from completion of the transaction. These records shall be open to inspection by the director or the director's authorized representatives.

(2) Every licensed escrow agent shall keep separate escrow fund accounts as determined by rule by the Director in recognized Washington state depositories authorized to receive funds, in which shall be kept separate and apart and segregated from the agent's own funds, all funds or moneys of clients which are being held by the agent pending the closing of a transaction and such funds shall be deposited not later than the first banking day following receipt thereof.

(3) An escrow agent, unless exempted by RCW 18.44.021(2), shall not make disbursements on an escrow account without first receiving deposits directly relating to the account in amounts at least equal to the disbursements.

(5) Violation of this section shall subject an escrow agent to penalties as prescribed in Title 9A RCW and remedies as provided in chapter 19.86 RCW and shall constitute grounds for suspension or revocation of the license of any licensed escrow agent or licensed escrow officer. In addition, an escrow agent who is required to be licensed under this chapter and who violates this section or an individual who is required to be licensed as an escrow officer under this chapter and who violates this section, may be subject to penalties as prescribed in RCW 18.44.430.

Arlington and Nelson are in apparent violation of these sections when they apparently converted funds as described in I.L. and I.M. of this order, failed to keep records as required,

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disbursed funds prior to having sufficient funds on deposit, caused shortages in the trust account and failed to fully comply with two subpoenas and the TCD.

E. Pursuant to WAC 208-680D-030(1), all records shall be accurate, posted and kept up to date.

Arlington and Nelson are in apparent violation of this section when they disbursed checks from escrows without identifying the escrow number, used escrow numbers for non-existent escrow files, disbursed checks referencing an escrow file, number [REDACTED], that had already closed and no longer contained funds and disbursed checks without having sufficient funds in the individual escrow account or escrow trust bank account. Arlington and Nelson are also in apparent violation of this section when they failed to reconcile the escrow trust account against the client ledgers from October 1998 forward.

F. Pursuant to WAC 208-680D-040, the escrow agent shall be responsible for the effecting and closing of escrow agreements between the principal parties. The agent shall as a minimum:

(1) Prepare or accept an instrument of escrow instructions among each principal and the agent based upon a written agreement signed by the principals. The escrow instructions shall not be modified except by written agreement signed by the principals and accepted by the agent. The agent shall disclose in writing to the parties to the transaction when a profit, or the potential for a profit on fees and services provided may be realized by the escrow agent. Justifiable costs for fees and services related to the transaction may include, but not be limited to courier fees, credit reports, postage, fax services, and copying of documents. A copy of the disclosure shall be maintained in the transaction file.

(3) Provide the services and perform all acts pursuant to the escrow instructions.

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(4) Provide a complete detailed closing statement as it applies to each principal at the time the transaction is closed. The agent shall retain a copy of all closing statements, even though funds are not handled by the agent, in the transaction file. The closing statement shall show:

- (a) The date of closing.
- (b) The total purchase price.
- (c) An itemization of all adjustments, monies or things of value received or paid.
- (d) To whom each item is debited and/or credited.
- (e) Date each adjustment was made.
- (f) Names of payees, makers and assignees of all notes paid, made or assumed.
- (g) Pay the net proceeds of sale directly to the seller unless otherwise provided in writing by the seller or a court of competent jurisdiction.
- (h) Obtain original signatures of the principals on either the preliminary or final closing statement and maintain a copy of the signed closing statement in the transaction file.

Arlington and Nelson are in apparent violation of this section when they failed to disburse funds in accordance with escrow instructions and disbursed funds in violation of the escrow instructions and contrary to that as disclosed on the closing statement.

G. Pursuant to WAC 208-680D-060, disbursement of any money or other items in violation of the trust or before the happening of the conditions of the escrow agreement or escrow instructions is a violation of RCW 18.44.260(5)³.

³ This section has been recodified as RCW 18.44.430(1)(e), effective 7/25/99, and remains materially the same.

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Arlington and Nelson are in apparent violation of this section when funds were apparently converted and disbursements were made causing shortages in the escrow trust account.

H. Pursuant to WAC 208-680E-011, the designated escrow officer or branch designated escrow officer on behalf of the escrow agent shall be responsible for all funds received from any principal or any party to an escrow transaction or escrow collection account and shall hold the funds in trust for the purpose of the transaction or agreement and shall not utilize such funds for the benefit of the agent or any person not entitled to such benefit. The escrow agent shall establish a trust bank account(s) in a recognized Washington State depository. The escrow agent is responsible for depositing, holding, disbursing, and accounting for funds in trust as provided herein.

(8) The reconciled trust bank account(s) must equal at all times the outstanding trust liability to clients. The outstanding trust liability to clients must equal the trial balance of all escrows with undisbursed balances.

(9) The agent shall be responsible for preparation of a monthly trail balance of the client's ledger, reconciling the ledger with both the trust account bank statement and the trust account receipts and disbursement records. The reconciliation will be signed by the designated escrow officer or branch designated escrow officer. Such reconciliations are to be retained as permanent records.

(10) All disbursement of trust funds shall be made by check, drawn on the trust bank account, and identified on the check pertaining to a specific escrow transaction or collection account except as provided in (a) through (e) of this subsection. The number of each check, amount, date, payee, and the specific client's ledger sheet debited must be shown in the cash register or cash disbursement journal and all data must agree exactly with the check as written.

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(12)(a) A separate check shall be drawn on the trust bank account payable to the escrow agent for escrow and service fees for which the escrow agent is authorized payment therefor as provided in the escrow instructions. All such fees relating to the transaction may be withdrawn by a single check provided such check is supported by an itemization of the charges on the closing or settlement statement. Each check shall bear the escrow or transaction number.

(14) No disbursement from the trust bank account shall be made:

(a) For items not pertaining to a specific escrow transaction or escrow collection account;

(b) In advance of the closing of an escrow transaction, or before the happening of a condition set forth in the escrow instructions, to any person or for any reason without a written release from all principals of the escrow transaction or collection account, except that if the earnest money agreement terminates according to its own terms prior to closing, disbursement of earnest money funds shall be made as provided by the earnest money agreement without a written release unless funds are handled as provided in WAC 208-680D-060;

(c) Pertaining to a specific escrow transaction or collection account in excess of the actual amount held in the trust bank account in connection with such account;

Arlington and Nelson are in apparent violation of these sections when they failed to maintain records as required, when they failed to reconcile the trust account, when checks that failed to contain accurate escrow numbers were disbursed and when disbursements were made causing shortages in the escrow trust account.

(15) The provisions of this section are applicable to manual or computerized accounting systems. For clarity, the following is addressed for computer systems:

(a) The system must provide for a capability to back-up all data files;

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(b) Receipt and check registers will be printed at least once monthly and retained as permanent record. Reconciliation and trial balance will be accomplished at least once monthly, printed and retained as a permanent record;

(c) The escrow agent will maintain a printed, dated source document file to support any changes to existing accounting records;

(d) If the program has the ability to write checks, the check number must be preprinted on the check or retained voucher copy by the supplier (printer). The program may assign suffixes or subaccount codes before or after the check number for identification purposes;

(e) The check number must appear in the magnetic coding which also identifies the account number for readability by the financial institution's computer.

(f) All checks written must be included within the computer accounting system.

I. Pursuant to RCW 18.44.071, every licensed escrow agent shall ensure that all escrow transactions are supervised by a licensed escrow officer. The designated escrow officer shall be responsible for the agent's handling of escrow transactions, management of the agent's trust account, and supervision of all other licensed escrow officers employed by the agent. Responsibility for the conduct of any licensed escrow officer covered by this chapter shall rest with the designated escrow officer or designated branch escrow officer having direct supervision of such person's escrow activities.

J. Pursuant to RCW 18.44.410(1), the director has the power and broad administrative discretion to administer and interpret this chapter to facilitate the delivery of services to citizens of this state by escrow agents and others subject to this chapter.

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(2) The Director may issue rules and regulations to govern the activities of licensed escrow agents and escrow officers. The director shall enforce all laws and rules relating to the licensing of escrow agents and of escrow officers and fix the time and places for holding examinations of applicants for licenses and prescribe the method of conducting the examinations. The Director may hold hearings and suspend or revoke the licenses of violators and may deny, suspend, or revoke the authority of an escrow officer to act as the designated escrow officer of a person who commits violations of this chapter or of the rules under this chapter.

Except as specifically provided in this chapter, the rules adopted and the hearings conducted shall be in accordance with the provisions of chapter 34.05 RCW, the administrative procedures act.

K. Pursuant to RCW 18.44.430(1), the Director may, upon notice to the escrow agent and to the insurer providing coverage under RCW 18.44.201, deny, suspend, decline to renew, or revoke the license of any escrow agent or escrow officer if the Director finds that the applicant or any partner, officer, director, controlling person, or employee has committed any of the following acts or engaged in any of the following conduct:

(b) Violating any of the provisions of this chapter or any lawful rules made by the Director pursuant thereto.

(c) The commission of a crime against the laws of this or any other state or government, involving moral turpitude or dishonest dealings.

(d) Knowingly committing or being a party to, any material fraud, misrepresentation, concealment, conspiracy, collusion, trick, scheme, or device whereby any other person lawfully relying upon the word, representation, or conduct of the licensee or agent or any partner, officer, director, controlling person, or employee acts to his or her injury or damage.

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(e) Conversion of any money, contract, deed, note, mortgage, or abstract or other evidence of title to his or her own use or to the use of his or her principal or of any other person, when delivered to him or her in trust or on condition, in violation of the trust or before the happening of the condition; and failure to return any money or contract, deed, note, mortgage, abstract or other evidence of title within thirty days after the owner thereof is entitled thereto, and makes demand therefor, shall be prima facie evidence of such conversion.

(f) Failing, upon demand, to disclose any information within his or her knowledge to, or to produce any document, book, or record in his or her possession for inspection of, the director or his or her authorized representatives.

(g) Committing any act of fraudulent or dishonest dealing, and a certified copy of the final holding of any court of competent jurisdiction in such matter shall be conclusive evidence in any hearing under this chapter.

(h) Accepting, taking, or charging any undisclosed commission, rebate, or direct profit on expenditures made for the principal.

(i) Committing acts or engaging in conduct that demonstrates the applicant or licensee to be incompetent or untrustworthy, or a source of injury and loss to the public.

(2) Any conduct of an applicant or licensee that constitutes grounds for enforcement action under this chapter is sufficient regardless of whether the conduct took place within or outside of the state of Washington.

(3) In addition to or in lieu of a license suspension, revocation, or denial, the director may assess a fine of up to one hundred dollars per day for each day's violation of this chapter or rules adopted under this chapter and may remove and/or prohibit from participation in

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the conduct of the affairs of any licensed escrow agent, any officer, controlling person, director, employee, or licensed escrow officer.

L. Pursuant to RCW 18.44.440, if the Director determines after notice and hearing that a person has:

- (1) Violated any provision of this chapter; or
- (2)(b) Directly, or through an agent or employee, engaged in any false, deceptive, or misleading business practices; or

(3) Violated any lawful order or rule of the Director; the Director may issue an order requiring the person to cease and desist from the unlawful practice and to take such affirmative action as in the judgment of the Director will carry out the purposes of this chapter.

IV. NOTICE OF INTENTION TO ENTER AN ORDER

Arlington Escrow, Inc.'s and Julie A. Nelson's ("Respondents") violations of the provisions of chapter 18.44 RCW as set forth in the above Factual Findings and Grounds For Entry Of Order constitute a basis for the entry of an Order under RCW 18.44.410, which authorizes the Director to enforce all laws, rules and regulations relative to the registration of escrow agents and licensing of escrow officers. Therefore, it is the Director's intention to
ORDER:

A. That Arlington Escrow, Inc.'s license to conduct business as an escrow agent is revoked, and

B. That Julie A. Nelson is prohibited from conducting the business of an escrow agent or escrow officer in the State of Washington for a period of 20 years, and her license to act as an escrow officer in any capacity in the State of Washington is revoked for a period of 20 years, and that Julie A. Nelson is prohibited from participation in the conduct of the affairs of any licensed escrow agent, in any manner, for a period of 20 years.

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C. That Arlington Escrow, Inc. is prohibited from engaging in business as an escrow agent within this state unless and until the Director has issued a valid license pursuant to the Act, and

D. That Arlington Escrow, Inc. and Julie A. Nelson shall pay the amount of \$3,000.00 in fines calculated at \$100.00/day for 30 days, from October 12, 1999, through November 10, 1999, for failing to maintain and re-instate the fidelity bond and errors and omissions policy as required by RCW 18.44.201, and as order in the Department's TCD.

E. That Arlington Escrow, Inc. and Julie A. Nelson shall pay the amount of \$19,900 in fines calculated at \$100.00/day for 199 days, from November 2, 1999, through May 18, 2000, for failing to produce documents and records subpoenaed and ordered in the Department's two subpoenas and TCD, and in apparent violation of RCW 18.44.420.

F. That Arlington Escrow, Inc. and Julie A. Nelson shall pay the amount of \$29,800.00 in fines calculated at \$100.00/day for 298 days for the apparent conversion of funds and the committing of acts in apparent violation of RCW 18.44.301.

G. That Arlington Escrow, Inc. and Julie A. Nelson shall pay the amount of \$37,400 in fines calculated at \$100.00/day for 374.00 days, from August 1, 1999⁴, through November 2, 1999, the date Nelson surrendered Arlington's agent license to the Department, for failing to keep adequate records by among other things, not reconciling the escrow trust account, making it impossible to identify client and trust account balances in apparent violation of RCW 18.44.400.

H. That Julie A. Nelson immediately fulfill the requirements of an escrow agent set forth in the Act and chapter 208-680 WAC pertaining to funds owed to consumers. Specifically, that Julie A. Nelson reimburse consumers any funds taken in violation of the Act and chapter 208-680 WAC.

⁴ Because the Act was amended effective July 25, 1999, and fining authority was granted effective that date, fines have been calculated from the first month following July 25, 1999.

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V. AUTHORITY AND PROCEDURE

This Statement of Charges and Notice of Intention to Enter an Order to Cease and Desist is entered pursuant to the provisions of RCW 18.44.430 and RCW 18.44.410 and is subject to the provisions of chapter 34.05 RCW. Arlington Escrow, Inc. and Julie A. Nelson 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 and Notice of Intent to Enter an Order.

DATED this 11th day of July, 2000.

[Redacted Signature]

Mark Thomson
Assistant Director
Division of Consumer Services
Department of Financial Institutions

Presented by:

[Redacted Signature]

Vivian M. Lee, Examiner
Investigation/Enforcement

Reviewed by:

[Redacted Signature]

Chuck Cross
Chuck Cross, Supervisor
Investigation/Enforcement

