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STATE OF WASHINGTON
DEPARTMENT OF FINANCIAL INSTITUTIONS
DIVISION OF CONSUMER SERVICES

In The Matter Of:)
) No. C-02-177-03-TO01
)
DUNN and CAGE REAL ESTATE.) TEMPORARY ORDER TO
SERVICES, INC. dba ESCROW BY DELIA) CEASE AND DESIST
And Delia Dunn, Designated Escrow Officer,)
)
Respondents.)
_____)

THE STATE OF WASHINGTON TO: Dunn and Cage Real Estate Services, Inc.
Dba Escrow by Delia
1516 9th Street Suite A
Tacoma, Washington 98405

AND TO: Delia Dunn, Designated Escrow Officer
Dunn and Cage Real Estate Services, Inc.
1516 9th Street Suite A
Tacoma, Washington 98405

COMES NOW the Director, by and through her designee, and finding that the public is likely to be substantially injured by delay in issuing a cease and desist order, the Director, through her designee, enters this temporary cease and desist order pursuant to chapter 18.44 RCW and RCW 18.44.440, based on the following findings:

I. BACKGROUND AND FINDINGS

A. Dunn and Cage Real Estate Services, Inc. dba Escrow by Delia (Escrow by Delia) is licensed by the Washington Department of Financial Institutions (Department) as an escrow agent at 1516 9th Street Suite A, Tacoma, WA 98569. Escrow by Delia's license number is 540-EA-18542.

B. Delia Dunn is licensed with the Department as the designated escrow officer (DEO) for Escrow by Delia. Delia Dunn was initially licensed as the DEO for Escrow by Delia on August 8, 1999, license number 21178.

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3 C. Delia Dunn and Willie James Dunn are also known to own and operate a mortgage
4 broker company, Dunn and Cage Real Estate Services, Inc. located at 1516 9th Street Suite A,
5 Tacoma, WA 98569.

6 D. On January 9, 2003, the Department appeared at the offices of Escrow by Delia
7 to conduct an examination of the company's escrow trust account(s). The Department's staff
8 was refused admittance to examine the company's account(s). The Department's staff informed
9 Escrow by Delia that they would return for an on-site examination on January 30, 2003. On
10 January 30, 2003, the staff was again refused admittance to examine the account(s). On
11 February 11, 2003, the Department served Escrow by Delia with a subpoena to produce its
12 business records, including all records for its escrow trust account(s).

13 E. On February 14, 2003, the Department became aware of a check issued by
14 Escrow by Delia in the amount of \$81,202.53, which was dishonored and returned due to a stop
15 placement placed by Delia Dunn.

16 F. The Department has reason to believe, based upon its investigation findings, that
17 the escrow trust account upon which the check was drawn is missing funds and is not
18 reconciled. The Department also has reason to believe that the escrow trust account does not
19 contain sufficient funds to cover other outstanding checks. In particular,

20 1. On or about January 31, 2003, Respondents placed a stop payment on a
21 check due a party to an escrow transaction in the amount of \$81,202.53.

22 2. On or about January 31, 2003, Respondents converted \$83,000.00 from
23 the escrow trust account to another account under their name. Subsequently, between January
24 31, 2003 and February 5, 2003, Respondents disbursed about \$77,097.09 from this other
25 account to their own benefit.

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

A. RCW 18.44.021. Registration – Required – Exceptions.

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It shall be unlawful for any person to engage in business as an escrow agent by performing escrows or any of the functions of an escrow agent as described in RCW 18.44.011(4) within this state or with respect to transactions that involve personal property or real property located in this state unless such person possesses a valid license issued by the director pursuant to this chapter.

B. RCW 18.44.400. Records and accounts – Segregation and disbursements of funds – Violation of section, penalties.

(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 any escrow account without first receiving deposits directly relating to the account in amounts at least equal to the disbursements. An escrow agent shall not make disbursements until the next business day after the business day on which the funds are deposited unless the deposit is made in cash, by interbank electronic transfer, or in a form that permits conversion of the deposit to cash on the same day the deposit is made. The deposits shall be in one of the following forms:

- (a) Cash;
- (b) Interbank electronic transfers such that the funds are unconditionally received by the escrow agent or the agent's depository;
- (c) Checks, negotiable orders of withdrawal, money orders, cashier's checks, and certified checks that are payable in Washington state and drawn on financial institutions located in Washington state;

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- (d) Checks, negotiable orders of withdrawal, money orders, and any other item that has been finally paid as described in RCW 62A.4-213 before any disbursement; or
- (e) Any depository check, including any cashier's check, certified check, or teller's check, which is governed by the provisions of the federal expedited funds availability act, 12 U.S.C. Sec. 4001 et seq.

(4) For purposes of this section, the word "item" means any instrument for the payment of money even though it is not negotiable, but does not include money.

(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.

D. RCW 18.44.440. Violations – Cease and desist orders.

If the director determines after notice and hearing that a person has:

- (1) Violated any provision of this chapter; or
- (2) Directly, or through an agent or employee, engaged in any false, unfair and deceptive, or misleading:
 - (a) Advertising or promotional activity; or
 - (b) 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. If the director makes a finding of fact in writing that the public interest will be irreparably harmed by delay in issuing an order, the director may issue a temporary cease and desist order. Every temporary cease and desist order shall include in its terms a provision that upon request a hearing will be held to determine whether or not the order becomes permanent.

III. ORDER

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A. Respondents are to immediately cease and desist from any deposits into or disbursements from any bank accounts holding any funds belonging to, or transferred from, the Dunn and Cage Real Estate Services, Inc. escrow trust account(s) or any accounts controlled by, connected to, or handled by Dunn and Cage Real Estate Services, Inc. dba Escrow by Delia or any company owned by, controlled by, related to, or connected to Dunn and Cage Real Estate Services, Inc. dba Escrow by Delia. This order includes, but is not limited to the Dunn and Cage Real Estate Services, Inc. dba Escrow by Delia escrow trust account as well as the accounts identified above, and covers all periods of time in which any disbursements have been made from such escrow trust account(s). This order to cease and desist from any deposits or disbursements shall remain in effect unless otherwise directed by the Department in writing.

B. Respondents are to immediately cease and desist from all escrow activity as defined in chapter 18.44 RCW, the Escrow Agent Registration Act, from all locations. This order to cease and desist from escrow activity shall remain in effect unless otherwise directed by the Department in writing.

C. Respondents are to immediately return all records for Dunn and Cage Real Estate Services, Inc. dba Escrow by Delia to the State of Washington and make these records available for the Department’s inspection. Respondent Delia Cage is to immediately make available to the Department for inspection all accounts under her control, including, but not limited to the accounts discussed within this order.

D. Based on the findings as related above, and the significant danger that Delia Cage will continue to disburse funds, the Director finds that the public interest will be irreparably harmed by delay in issuing an order and therefore enters this temporary cease and desist order as authorized pursuant to RCW 18.44.440.

E. This order shall take effect immediately.

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TO COMPLETE AND RETURN THE APPLICATION FOR ADJUDICATIVE HEARING
FORM SO THAT IT IS RECEIVED BY THE DEPARTMENT OF FINANCIAL
INSTITUTIONS WITHIN TWENTY (20) DAYS OF THE DATE THAT THIS ORDER WAS
SERVED ON YOU WILL CONSTITUTE A DEFAULT AND WILL RESULT IN THE LOSS
OF YOUR RIGHT TO A HEARING. SERVICE ON YOU IS DEFINED AS POSTING IN THE
U.S. MAIL, POSTAGE PREPAID, TO YOUR LAST KNOWN ADDRESS OR PERSONAL
SERVICE. BE ADVISED THAT DEFAULT WILL RESULT IN THIS ORDER TO CEASE
AND DESIST BECOMING PERMANENT ON THE TWENTY-FIRST (21ST) DAY
FOLLOWING SERVICE OF THIS ORDER UPON YOU.

DATED this 14th day of February, 2003.

MARK THOMSON
Assistant Director
Consumer Services Division
Department of Financial Institutions