

1 STATE OF OREGON
2 DEPARTMENT OF CONSUMER AND BUSINESS SERVICES
3 DIVISION OF FINANCE AND CORPORATE SECURITIES
4 BEFORE THE DIRECTOR OF THE
5 DEPARTMENT OF CONSUMER AND BUSINESS SERVICES

4 In the Matter of:) No. T-09-0006
5)
6 BONNIE A. BURMAN and) ORDER TO CEASE AND DESIST,
7 BURMAN ESTATE SERVICES, INC.) ORDER ASSESSING CIVIL PENALTY,
8 dba BURMAN ESTATE SERVICES,) AND CONSENT TO ENTRY OF ORDER
9 Respondents.)
10)
11)
12)
13)
14)

9 WHEREAS the Director of the Department of Consumer and Business Services (“the
10 Director”) has conducted an investigation of certain business activities conducted by Bonnie A.
11 Burman and Burman Estate Services, Inc. dba Burman Estate Services (hereinafter referred to
12 collectively as “Respondents”), and the Director has determined provisions of the Oregon Bank
13 Act, specifically, ORS 709.005(1), ORS 709.030(1), and ORS 707.005, were violated; and

14 WHEREAS the Respondents, without admitting or denying the Findings of Fact and
15 Conclusions of Law stated hereinafter, wish to resolve and settle this matter with the Director.

16 NOW THEREFORE, as evidenced by the authorized signatures subscribed on this
17 Order, the Respondents hereby CONSENT to entry of this Order to Cease and Desist, Order
18 Assessing Civil Penalty, and Consent to Entry of Order (“Order”) upon the Director’s Findings
19 of Fact and Conclusions of Law as stated hereinafter.

20 **FINDINGS OF FACT**

21 The Director FINDS that:

22 1. BURMAN ESTATE SERVICES, INC. is an Oregon corporation, with its principal
23 place of business located at 243 Scalehouse Loop, Suite 4, Bend, Oregon 97702. The business
24 incorporated in Oregon on or about April 8, 2003.

25 2. BURMAN ESTATE SERVICES is registered with the Oregon Secretary of State,
26 Corporation Division, as an assumed business name of Burman Estate Services, Inc.





1 3. **BONNIE A. BURMAN** is the president, secretary and registered agent of Burman
2 Estate Services, Inc. Ms. Burman is also the authorized representative of Burman Estate
3 Services.

4 4. At times material to this Order, Ms. Burman also was a licensed real estate broker.

5 5. Beginning no later than 2005, Ms. Burman advertised and held herself out to the
6 public as a “professional fiduciary.” The Respondents offered to provide the following services
7 in exchange for fees: trust administration, power of attorney, probate and estate administration,
8 and personal representative. The Respondents marketed those services to the public, using
9 means that included but were not limited to a website burmanestateservices.com and advertising
10 brochures.

11 6. In exchange for providing those services, Respondents charged their clients fees,
12 depending upon the size of the trust, ranging from one to two percent of the trust’s holdings
13 (cash, securities, real estate), and \$135 per hour for consultation and trust administration. Those
14 fees did not include a “one time account/file set up fee” of \$250 or the fees for “extraordinary
15 services” identified on the fee schedule as “litigation, real estate sales and transfers, recovering
16 of missing or stolen assets, excessive discord amongst beneficiaries.”

17 7. On or about November 21, 2005, Respondents entered into an agreement with
18 Decedent A, who was then a resident of Bend, Oregon, to provide services for the client which
19 “may include...Trust Administration, Estate Administration & Settlement, Probate
20 Administration, management of distribution/sale of real and personal property, accounting of
21 assets and living expenses, Guardian and/or Conservator services, or consulting with regard to
22 these services.” The agreement incorporated by reference a fee schedule for services.

23 8. In April 2007, Decedent A died testate in Bend, Oregon.

24 9. In August 2007, Respondents billed and charged Decedent A’s survivor trust an
25 “annual trust administration fee” of \$16, 378.34, calculated at 2% of assets, based on the total
26 survivor trust asset value as of June 1, 2007, of \$818,917.00. The total survivor trust asset



1 value, as of June 1, 2007, included the value of Decedent A’s personal residence, checking
2 account, personal property, and Merrill Lynch investment accounts.

3 10. Disbursement records produced by Respondents concerning Decedent A’s trust
4 reflect that on or about June 15, 2007, Respondents paid \$650 from the trust to Bratton
5 Appraisal Group in Bend, Ore. for a home appraisal. Decedent A’s trust included a home in
6 Bend, Oregon with an appraised value of \$565,300.

7 11. In October 2007, Ms. Burman signed an “Affidavit of Claiming Successor of
8 Small Testate Estate” concerning Decedent A. The affidavit was filed in probate court in
9 Deschutes County, Oregon in October 2007. In the affidavit, Ms. Burman represented that she is
10 “successor trustee” of Decedent A’s survivor’s trust and, as such, a claiming successor to a
11 portion of Decedent A’s estate. The affidavit states that Decedent A’s property subject to
12 administration in Oregon consists of stock in Intel and two other companies.

13 12. In addition to the other fees Respondents charged Decedent A’s estate,
14 Respondents charged Decedent A’s trust \$570.96 in May 2008 for “trustee fees” for “Adjustment
15 1st year.” That amount is two percent of the difference between the total survivor trust value as
16 of January 23, 2008, which Respondents listed at \$847,465.00, and the total survivor trust value
17 as of June 1, 2007, which Respondents listed at \$818,917.00. The January 23, 2008 total
18 survivor trust value includes the values of probate and non-probate assets, including Decedent
19 A’s personal residence, checking account, personal property, Merrill Lynch investment accounts,
20 AIG insurance policy, Intel stock, and other investments.

21 13. In addition to the other fees Respondents charged Decedent A’s estate, described
22 above, Respondents billed and charged Decedent A’s trust \$290.25 between May and July 2008,
23 for “trustee fees” for services. Examples of those services, which were billed at an hourly rate of
24 \$135 per hour, include document review and communication with a certified public accountant
25 regarding Decedent A’s personal tax return and payment of tax liability. Other services included
26 document review concerning the transfer of certain oil rights and communication with legal

1 counsel regarding the transfer of those oil rights.

2 14. At no time material to this Order were any of the Respondents court-appointed as
3 a Fiduciary, Personal Representative, or Special Administrator for Decedent A, the estate of
4 Decedent A, or Decedent A's trust.

5 15. At no time material to this Order were any of the Respondents approved by the
6 Director to transact trust business in Oregon.

7 16. At no time material to this Order did any of the Respondents deposit with the
8 Director, as security and pledge for the faithful conduct of trust business, any cash, interest-
9 bearing securities, surety bond, or letter of credit.

10 17. At no time material to this Order did any Respondent obtain a certificate of
11 authority from the Director authorizing a Respondent to transact trust business in Oregon.

12 **CONCLUSIONS OF LAW**

13 The Director **CONCLUDES** that:

- 14 1. The Oregon Uniform Trust code, ORS 130.001 *et seq.* defines "trustee" to include
15 "an original trustee, an additional trustee, a successor trustee or a cotrustee." ORS 130.010(21).
- 16 2. Respondents have acted as successor trustee for Decedent A's trust.
- 17 3. By contracting with and acting as trustee for Decedent A's trust, Respondents
18 transacted "trust business" in Oregon, as defined by ORS 706.005(29)(a) (2007).
- 19 4. Respondents, by transacting trust business in Oregon, are subject to the requirements
20 of the Oregon Bank Act, ORS 706 to 716.
- 21 5. The services advertised, contracted, and performed by Respondents, such as those
22 described in Findings of Fact #5, 6, 7, and 13, above, extended well beyond the services
23 customarily performed by a real estate broker or a principal real estate broker.
- 24 6. Respondents transacted trust business in Oregon without the required certificate of
25 authority from the Director to transact trust business in Oregon, in violation of ORS 709.005(1).
- 26 7. Respondents transacted trust business in Oregon without the prior approval of the



1 Director and without depositing with the Director the required security and pledge for the faithful
2 conduct of trust business, in the form of cash, interest-bearing securities, surety bond, or letter of
3 credit, in violation of ORS 709.030(1).

4 8. Respondents engaged in or transacted a trust business in Oregon without the
5 requirement of an entity duly organized for the purpose, in violation of ORS 707.005.

6 9. By charging fees for trust business totaling at least \$17,239.55 in connection with
7 Decedent A's estate, Respondents profited from transactions, in violation of ORS 707.005, ORS
8 709.005(1) and ORS 709.030(1).

9 **ORDER**

10 Therefore, the Director **ORDERS** that:

11 1. Pursuant to the authority contained in ORS 706.580 (2) (a) (A), Respondents, and
12 any successor business or corporation, must **CEASE AND DESIST** from:

13 (a) transacting trust business in Oregon without the required certificate of authority from
14 the Director, in violation of ORS 709.005(1);

15 (b) transacting trust business in Oregon without the prior approval of the Director and
16 without depositing with the Director the required security and pledge for the faithful conduct of
17 trust business, in the form of cash, interest-bearing securities, surety bond, or letter of credit, in
18 violation of ORS 709.030(1);

19 (c) engaging in or transacting a trust business in Oregon outside an entity duly organized
20 for the purpose, in violation of ORS 707.005 and

21 (d) violating any provision of the Oregon Bank Act, ORS 706.005 *et seq.*

22 2. Pursuant to the authority contained in ORS 706.980 (1), the Director **ASSESES** a
23 **CIVIL PENALTY** of \$6,000 (six thousand dollars) against the Respondents, jointly and
24 severally, for the violations of the Oregon Bank Act, specifically, ORS 709.005(1), ORS
25 709.030(1), and ORS 707.005. The Director hereby **SUSPENDS** \$1,000 (one thousand dollars)
26 of the civil penalty, so long as the Respondents comply with all the terms of this Order;

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350 Winter Street NE, Suite 410
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1 **PROVIDED HOWEVER**, that the suspended portion of the civil penalty will become
2 immediately due and owing in its entirety upon a determination by the Director that any
3 Respondent has violated any term of this Order or any provision of the Oregon Bank Act.
4 Respondents must pay \$5,000 (five thousand dollars) of the civil penalty to the Department of
5 Consumer and Business Services at the time of entry of this Order.

6 3. The entry of this Order in no way limits remedies which may be available to the
7 Director under the Oregon Bank Act to enforce this Order, for violations of this Order, or for any
8 conduct and actions which are not covered by this Order.

9 Dated this 8th day of March, 2012 at Salem, Oregon.

10 **PATRICK ALLEN**, Director
11 Department of Consumer and Business Services

12
13 /s/ David Tatman
14 **DAVID C. TATMAN**, Administrator
15 Division of Finance and Corporate Securities

16 **CONSENT TO ENTRY OF ORDER BY BONNIE A. BURMAN**

17 I, Bonnie A. Burman, state that I am a resident of the State of Oregon; that I have read the
18 foregoing Order and that I know and fully understand the contents thereof; that I neither admit
19 nor deny the factual allegations stated herein; that I have been advised of my right to a hearing
20 and have been represented by counsel in this matter; that I voluntarily consent to the entry of this
21 Order without any force or duress, expressly waiving any right to a hearing in this matter; that I
22 understand that the Director reserves the right to take further actions to enforce this Order
23 or to take appropriate action upon discovery of other violations of the Oregon Bank Act; and that
24 I will fully comply with the terms and conditions stated herein.

25 I assure the Director that I will not engage in or transact trust business in Oregon without
26 a court appointment as a fiduciary, personal representative, or special administrator, or the prior

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1 approval of the Director and the required certificate of authority issued by the Director to
2 transact trust business in Oregon. I further assure the Director that I will not engage in or
3 transact trust business in Oregon unless such activities are in full compliance with the Oregon
4 Bank Act.

5 I understand that this Order is a public document.

6
7 /s/ Bonnie A Burman
8 **BONNIE A. BURMAN**

9 SUBSCRIBED TO BEFORE ME this 29 day of February, 2012.

10 /s/ Ann E Mowery
11 Notary Public

12 **CONSENT TO ENTRY OF ORDER FOR BURMAN ESTATE SERVICES, INC.**

13 **DBA BURMAN ESTATE SERVICES**

14 I, Bonnie A. Burman, state that I am the president of Burman Estate Services, Inc. dba
15 Burman Estate Services (“BES”); that I am authorized to act on its behalf; that I have read the
16 foregoing Order and that I know and fully understand the contents thereof; that BES neither
17 admits nor denies the factual allegations stated herein; that BES and I have been advised of the
18 right to a hearing and have been represented by counsel in this matter; that BES voluntarily
19 consents to the entry of this Order without any force or duress, expressly waiving any right to a
20 hearing in this matter; that BES understands that the Director reserves the right to take further
21 actions to enforce this Order or to take appropriate action upon discovery of other violations of
22 the Oregon Bank Act; and that BES will fully comply with the terms and conditions stated
23 herein.

24 BES assures the Director that neither BES, nor its officers, directors, employees or agents
25 will engage in or transact trust business in Oregon without court appointment as a fiduciary,
26 personal representative, or special administrator, or the prior approval of the Director and a

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1 certificate of authority issued by the Director to transact trust business in Oregon. BES further
2 assures the Director that that neither BES, nor its officers, directors, employees or agents will
3 engage in or transact trust business in Oregon unless such activities are in full compliance with
4 the Oregon Bank Act.

5 BES understands that this Order is a public document.

Burman Estate Services, Inc.
dba Burman Estates Services

By: /s/ Bonnie A Burman
BONNIE A. BURMAN, President

10 State of Oregon
11 County of: Deschutes

12 **ACKNOWLEDGEMENT**

13 There appeared before me this 29th day of February, 2012, Bonnie A.
14 Burman, who was first duly sworn on oath, and stated that she is the president of Burman Estate
15 Services, Inc. dba Burman Estate Services (“BES”) and she is authorized and empowered to sign
16 this Consent to Entry of Order on behalf of BES and to bind BES to the terms hereof.

/s/ Ann E Mowery
Notary Public

19 State of Oregon
20 County of: Deschutes

21 Approved as to form:

22 /s/ Kristen S. Edwards
23 **KRISTEN S. EDWARDS**, OSB# 093397
24 Attorney for Respondents

Date: 2/29/12

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