



1 consisting of 120 title policies with policy effective dates from January 8, 1999 through  
2 December 19, 2000, and found as follows:

3 a. FNTIC issued ten title policies, which included mathematical errors  
4 or improper use of FNTIC's filed rules and/or rates. This resulted in four policies being  
5 overcharged a total of \$141.13 and six policies being undercharged a total of \$1,410.86.

6 b. FNTIC issued two title policies and attached an American Land  
7 Title Association ("A.L.T.A") No. 8.1 Environmental Protection Lien Endorsement and  
8 failed to charge for this endorsement. This resulted in a total undercharge of \$105.00.

9 c. FNTIC issued one title policy and attached an A.L.T.A. No. 6  
10 Variable Rate Mortgage Endorsement and failed to charge the correct amount. This  
11 resulted in a \$35.00 undercharge.

12 d. FNTIC issued one policy and incorrectly applied a Combo Rate to a  
13 Lenders Policy, however, no Owners Policy was issued in conjunction with this lenders  
14 policy and therefore, the applicable premium, which is lower for a combination rate, was  
15 incorrect. This resulted in a total undercharge of \$442.40.

16 e. FNTIC issued two title policies and improperly charged for a Land  
17 Title Association of Arizona ("LTAA") No. 10 Bring Down Endorsement. This resulted in  
18 total undercharges of \$262.85.

19 4. The Examiners FNTIC in Pima County issued 29,677 title policies for the  
20 period January 1, 1999 through December 31, 2000. The Examiners reviewed 63 files  
21 consisting of 105 title policies with policy effective dates from January 15, 1999 through  
22 December 12, 2000, and found as follows:

23 a. FNTIC issued four title policies, which included mathematical  
24 errors, or improper use of FNTIC's filed rules and/or rates. This resulted in one policy  
25



1 being overcharged a total of \$105.50 and three policies being undercharged a total of  
2 \$1,257.51.

3           b. FNTIC issued one title policy and attached an A.L.T.A. No. 8.1  
4 Environmental Protection Lien Endorsement and failed to charge for this endorsement.  
5 This resulted in a total undercharge of \$60.00.

6           5. FNTIC operating through its wholly-owned agent in Pinal County, Fidelity  
7 National Title Agency of Pinal County, Inc. (FNTAP), issued 7,955 title policies for the  
8 period January 1, 1999 through December 31, 2000. The Examiners reviewed 98 files  
9 consisting of 154 title policies with policy effective dates from January 5, 1999 through  
10 December 28, 2000, and found as follows:

11           a. FNTAP issued seven title policies, which included mathematical  
12 errors, or improper use of FNTIC's filed rules and/or rates. This resulted in three  
13 policies being overcharged a total of \$137.00 and four policies being undercharged a  
14 total of \$667.21.

15           b. FNTAP issued one Lenders Policy. but failed to charge any  
16 premium. This resulted in a total undercharge of \$101.00.

17           c. FNTAP issued one policy in violation of FNTIC's filed General Rule  
18 C called the "Fair Value Rule" because FNTAP issued an Owners Policy for a lesser  
19 amount than the Lenders Policy. The amount of an Owners Policy should never be less  
20 than the full value of property including encumbrances. This resulted in a total  
21 undercharge of \$9.21, which was previously included as a mathematical error, or  
22 improper use of FNTIC's filed rules and/or rates in (a) above.

23           6. FNTIC operating through its wholly-owned agent in Cochise County,  
24 Fidelity National Title Agency, Inc. (FNTAC), issued 6,888 title policies for the period  
25 January 1, 1999 through December 31, 2000. The Examiners reviewed 63 files

1 consisting of 107 title policies with policy effective dates from June 30, 1999 through  
2 December 28, 2000, and found as follows:

3 a. FNTAC issued ten title policies, which included mathematical errors  
4 or improper use of FNTIC's filed rules and/or rates. This resulted in three policies being  
5 overcharged a total of \$475.20 and seven policies being undercharged a total of  
6 \$780.00.

7 b. FNTAC issued two title policies and applied an 80% Corporate  
8 Employees Transfer Rate Rule 707, but failed to document the file to support this rate.  
9 This resulted in total undercharges of \$320.35.

10 c. FNTAC issued one Owners title policy for \$3,650.00 less than the  
11 amount of the Lenders policy. FNTAC correctly charged for the additional amount  
12 resulting in no overcharge or undercharge.

13 d. FNTAC issued one title policy in violation of General Rule C, the  
14 "Fair Value Rule" and the total undercharge of \$375.00 is included in the mathematical  
15 error or improper use of FNTIC's filed rules and/or rates in (a) above.

16 7. FNTIC operating through its wholly-owned agent in Coconino County,  
17 Fidelity National Title Agency of Coconino, Inc. (FNTACO), issued 2,032 title policies for  
18 the period January 1, 1999 through December 31, 2000. The Examiners reviewed 41  
19 files consisting of 66 title policies with policy effective dates from January 29, 1999  
20 through December 29, 2000, and found as follows:

21 a. FNTACO issued six title policies and attached an A.L.T.A. No. 8.1  
22 Environmental Protection Lien Endorsement and charged \$25.00 for each endorsement  
23 instead of the filed rate of \$60.00. This resulted in a total undercharges of \$210.00.



1           b.     FNTACO issued one title policy and attached an A.L.T.A. No. 6  
2 Variable Rate Mortgage Endorsement, but failed to charge for this endorsement. This  
3 resulted in total undercharges of \$60.00

4           c.     FNTACO issued two title policies and attached an A.L.T.A. No. 6  
5 Variable Rate Mortgage Endorsement and charged \$25.00 for each endorsement  
6 instead of the filed rate of \$60.00. This resulted in total undercharges of \$70.00.

7           d.     FNTACO issued one title policy and charged for an A.L.T.A. No. 5  
8 Planned Unit Development Endorsement, but failed to attach the endorsement to the  
9 Lenders Policy. This resulted in a total overcharge of \$60.00. FNTACO subsequently  
10 issued the endorsement and sent it to the lender.

11          e.     FNTACO issued one title policy and failed to make a charge for this  
12 second lenders policy. This resulted in a total undercharge of \$216.00.

13          f.     FNTACO issued three title policies and applied an incorrect  
14 percentage, when Revamping or Replacing the Lenders Policies. This resulted in one  
15 policy being overcharged \$216.90 and two policies being undercharged a total of  
16 \$149.25.

17          g.     FNTACO issued eight title policies, which included mathematical  
18 errors, or improper use of FNTIC's filed rules and/or rates. This resulted in eight  
19 policies being undercharge a total of \$628.72.

20          8.     During the review of FNTIC's claim files, the Examiners did not find  
21 evidence that FNTIC included any warning statement on claim forms, acknowledgement  
22 letters and substantive response letters. FNTIC advised the Examiners that beginning  
23 July 1, 2001, the statutory language would be incorporated into the acknowledgement  
24 letters.





1 memos, bulletins, E-mails, correspondence, procedures manuals, print screens, and  
2 training materials.

3 3. Within 90 days of the filed date of this Order, FNTIC shall pay the 11  
4 insureds listed in Exhibit A of this order, overcharges of \$858.83.

5 4. Within 90 days of the filed date of this Order, FNTIC shall pay \$216.90 to  
6 the policyholder insured by Policy Number 27-041-92-435878.

7 5. Each payment made pursuant to paragraphs 3 and 4 above, shall include  
8 a letter to the insured in a form previously approved by the Director. A list of payments,  
9 giving the name and address of each party paid, the amount of refund paid, and the  
10 date of payment, shall be provided to the Department within 90 days of the filed date of  
11 this Order.

12 6. The Department shall be permitted, through authorized representatives, to  
13 verify that FNTIC has complied with all provisions of this Order.

14 7. FNTIC shall pay a civil penalty of \$7,276.15 to the Director for remission to  
15 the State Treasurer for deposit in the State General Fund in accordance with A.R.S. §§  
16 20-220(B). The civil penalty shall be provided to the Market Conduct Examination  
17 Section of the Department prior to the filing of this Order.

18 8. The Report of Examination of the Market Conduct Affairs of Fidelity  
19 National Title Insurance Company as of June 18, 2001 including the letter of objection  
20 to the Report of Examination shall be filed with the Department after the Director has  
21 signed this Order.

22 DATED at Phoenix, AZ this 5<sup>th</sup> day of April, 2002.

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Charles R. Cohen  
Director of Insurance

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**EXHIBIT A**

**PREMIUM OVERCHARGES**

File Number / Policy Number	Amount Due Insured
88001412/27-041-92 339849	\$80.00
66002382/27-041-92 407663	\$30.00
88003201/27-041-92 396267	\$28.50
80000299/27-041-92 303714	\$2.63
50011150/27-041-92 426250	\$105.50
959582/27-31-92 149888	\$42.50
959413/27-31-92 149745	\$75.00
958068/27-31-92 150089	\$19.50
301024/27-041- 92 363501	\$236.20
201254/27-31-92 118600	\$20.00
102385/27-041-92 440961	\$219.00
<b>Total</b>	<b>\$858.93</b>



**CONSENT TO ORDER**

1  
2       1. Fidelity National Title Insurance Company has reviewed the foregoing  
3 Order.

4       2. Fidelity National Title Insurance Company admits the jurisdiction of the  
5 Director of Insurance, State of Arizona, admit the foregoing Findings of Fact, and  
6 consent to the entry of the Conclusions of Law and Order.

7       3. Fidelity National Title Insurance Company is aware of the right to a  
8 hearing, at which they may be represented by counsel, present evidence and cross-  
9 examine witnesses. Fidelity National Title Insurance Company irrevocably waives the  
10 right to such notice and hearing and to any court appeals related to this Order.

11       4. Fidelity National Title Insurance Company states that no promise of any  
12 kind or nature whatsoever was made to them to induce them to enter into this Consent  
13 Order and that they have entered into this Consent Order voluntarily.

14       5. Fidelity National Title Insurance Company acknowledges that the  
15 acceptance of this Order by the Director of the Arizona Department of Insurance is  
16 solely for the purpose of settling this matter and does not preclude any other agency or  
17 officer of this state or its subdivisions or any other person from instituting proceedings,  
18 whether civil, criminal, or administrative, as may be appropriate now or in the future.

19       6. KEVIN R. CHIARELLO, who holds the office of  
20 Senior Vice President of Fidelity National Title Insurance Company, is  
21 authorized to enter into this Order for them and on their behalf.

**FIDELITY NATIONAL TITLE INSURANCE COMPANY**

22  
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24       3/28/02  
25       Date

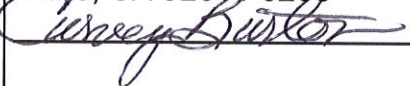
By 

1 COPY of the foregoing mailed/delivered  
2 This 5th day of April 2002, to:

- 3 Sara Begley
- 4 Deputy Director
- 5 Mary Butterfield
- 6 Assistant Director
- 7 Consumer Affairs Division
- 8 Paul J. Hogan
- 9 Chief Market Conduct Examiner
- 10 Market Conduct Examinations Section
- 11 Deloris E. Williamson
- 12 Assistant Director
- 13 Rates & Regulations Division
- 14 Steve Ferguson
- 15 Assistant Director
- 16 Financial Affairs Division
- 17 Alexandra Shafer
- 18 Assistant Director
- 19 Life & Health Division
- 20 Nancy Howse
- 21 Chief Financial Examiner
- 22 Terry L Cooper
- 23 Fraud Unit Chief

24 DEPARTMENT OF INSURANCE  
25 2910 North 44th Street, Second Floor  
Phoenix, AZ 85018

26 Kevin R. Chiarello, Senior Vice President  
27 Fidelity National Title Insurance Company  
28 17911 Von Karman Avenue, Suite 300  
29 Irvine, CA 92614-6253

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