

1 3. Title Guaranty Agency of Arizona, Inc. (TGA) issued 1,541 title policies
2 for the period January 1, 1999 through December 31, 2000. The Examiners reviewed
3 28 files consisting of 50 title policies with policy effective dates from January 8, 1999
4 through September 11, 2000, and found as follows:

5 a. TGA issued three title polices and attached an American Land
6 Title Association ("A.L.T.A.") No. 8.1 Environmental Protection Lien Endorsement and
7 charged \$50.00 each for these endorsements, when the correct filed rate is \$60.00
8 each. This resulted in a \$30.00 total undercharge on these three policies.

9 b. TGA issued five title polices and attached an A.L.T.A. No. 5
10 Planned Unit Development Endorsement and failed to charge the correct filed rate of
11 \$60.00 each for these five endorsements. This resulted in total undercharges of
12 \$300.00.
13

14 c. TGA issued one title policy and failed to charge \$60.00 for an Land
15 Title Association of Arizona ("LTAA") Form 111.9 Federal National Mortgage
16 Association ("FNMA") Balloon Mortgage Endorsement resulting in a \$60.00
17 undercharge.

18 d. TGA issued two title policies and failed to include a \$50.00 policy
19 charge for each policy, which is filed in addition to the Basic Insurance Rate, for Pima
20 County, when issuing a Plain Language Residential Owners Policy, pursuant to its filed
21 Rule 101. This resulted in total undercharges of \$100.00.
22

23 e. TGA issued two title policies and failed to include any
24 documentation in the policy files to support or justify the application of the 70%
25

1 Investors Rate, pursuant to its filed Rule 711. This resulted in total undercharges of
2 \$768.25.

3 f. TGA issued three title policies, which included mathematical
4 errors, or improper use of FNTIC's filed rules and/or rates. This resulted in one policy
5 being overcharged \$1,185.25 and two policies being undercharged a total of \$825.25.

6 **CONCLUSIONS OF LAW**

7 1. By deviating from the title insurance rates and rules filed by FNTIC, TGA
8 violated A.R.S §§ 20-376(A) and 20-379(A).

9 2. Grounds exist for the entry of the following Order in accordance with
10 A.R.S. §§ 20-220 and 20-379(B).

11 **ORDER**

12 **IT IS HEREBY ORDERED THAT:**

13 1. TGA shall cease and desist from charging title insurance premiums that
14 are not consistent with its filed rates and rules

15 2. Within 90 days of the filed date of this Order, TGA shall submit written
16 action plans to the Arizona Department of Insurance, for approval, evidence that
17 corrections have been implemented and communicated to the appropriate personnel,
18 regarding the issues outlined in Paragraph 1 of the Order section of this Consent
19 Order. Evidence of corrective action and communication thereof includes, but is not
20 limited to, memos, bulletins, E-mails, correspondence, procedures manuals, print
21 screens, and training materials.

22 3. Within 90 days of the filed date of this Order, TGA shall pay \$1,185.25 to
23 the policyholder insured under policy No. 1366-10574 as shown in Exhibit 11, page 2
24 of 2 of the Examination Report.
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1 4. Each payment made pursuant to paragraph 3 above shall include a letter
2 to the insured in a form previously approved by the Director. A list of payments, giving
3 the name and address of each party paid, the amount of refund paid, and the date of
4 payment, shall be provided to the Department within 90 days of the filed date of this
5 Order.

6 5. The Department shall be permitted, through authorized representatives,
7 to verify that TGA has complied with all provisions of this Order.

8 6. TGA shall pay a civil penalty of \$4,000.00 to the Director for remission to
9 the State Treasurer for deposit in the State General Fund in accordance with A.R.S. §
10 20-220(B). The civil penalty shall be provided to the Market Conduct Examination
11 Section of the Department prior to the filing of this Order.

12 7. The Report of Examination of the Market Conduct Affairs of Fidelity
13 National Title Insurance Company as of June 18, 2001 including the letter of objection
14 to the Report of Examination shall be filed with the Department after the Director has
15 signed this Order.

16 DATED at Phoenix, AZ this 5th day of April, 2002.

17
18 

19 Charles R. Cohen
20 Director of Insurance

CONSENT TO ORDER

1. Title Guaranty Agency of Arizona, Inc. has reviewed the foregoing Order.

2. Title Guaranty Agency of Arizona, Inc. admits the jurisdiction of the Director of Insurance, State of Arizona, admit the foregoing Findings of Fact, and consent to the entry of the Conclusions of Law and Order.

3. Title Guaranty Agency of Arizona, Inc. is aware of the right to a hearing, at which they may be represented by counsel, present evidence and cross-examine witnesses. Title Guaranty Agency of Arizona, Inc. irrevocably waives the right to such notice and hearing and to any court appeals related to this Order.


4. Title Guaranty Agency of Arizona, Inc. states that no promise of any kind or nature whatsoever was made to them to induce them to enter into this Consent Order and that they have entered into this Consent Order voluntarily.

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

6. REX CALDWELL, who holds the office of PRESIDENT of Title Guaranty Agency of Arizona, Inc., is authorized to enter into this Order for them and on their behalf.

TITLE GUARANTY AGENCY OF ARIZONA, INC.

3/19/02
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

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16 DEPARTMENT OF INSURANCE
17 2910 North 44th Street, Second Floor
18 Phoenix, AZ 85018

19 Rex S. Caldwell, President
20 Title Guaranty Agency of Arizona, Inc.
21 101 N. Wilmot, Ste. 100
22 Tucson, AZ 85711

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