

APR 5 2002

STATE OF ARIZONA

DEPT. OF INSURANCE
BY CB

DEPARTMENT OF INSURANCE

In the Matter of:

EQUITY TITLE AGENCY, INC.,

Respondent.

) Docket No. 02A-069-INS

) **CONSENT ORDER**

8 Examiners for the Department of Insurance (the "Department") conducted a
9 market conduct examination of Fidelity National Title Insurance Company ("FNTIC").
10 The Report of Examination of the Market Conduct Affairs of FNTIC including its agent
11 Equity Title Agency, Inc. dated June 18, 2001 alleges that Equity Title Agency, Inc.
12 ("ETA") has violated A.R.S. §§ 20-376 and 20-379.

13 ETA wishes to resolve this matter without formal proceedings, admits that the
14 following Findings of Fact are true, and consents to the entry of the following
15 Conclusions of Law and Order.

16 **FINDINGS OF FACT**

17 1. ETA is authorized to transact title insurance pursuant to a License
18 issued by the Director.

19 2. The Examiners were authorized by the Director to conduct a market
20 conduct examination of FNTIC and its agents. The on-site examination covered the
21 time period from January 1, 1999 through December 31, 2000, and was concluded on
22 June 18, 2001. Based on the findings, the Examiners prepared the "Report of
23 Examination of the Market Conduct Affairs of Fidelity National Title Insurance
24 Company" dated June 18, 2001.

1 3. Equity Title Agency, Inc. (ETA) issued 6,114 title policies for the period
2 January 1, 1999 through December 31, 2000. The Examiners reviewed 75 files
3 consisting of 135 title policies with policy effective dates from January 7, 1999 through
4 December 1, 2000, and found as follows:

5 a. ETA issued 17 title polices, which included an American Land
6 Title Association ("A.L.T.A.") No. 5 Planned Unit Development Endorsement, but failed
7 to charge for this endorsement. This resulted in total undercharges of \$1,020.00 on
8 these 17 title policies.

9 b. ETA issued 24 title policies which included mathematical errors, or
10 improper use of FNTIC's filed rules and/or rates. This resulted in 12 policies being
11 overcharged a total of \$1,887.70 and 12 policies being undercharged a total of
12 \$2,173.03.

13 c. ETA issued seven title policies and rated the Owners Policy at
14 the standard, but issued an Extended Owners Policy, resulting in total undercharges of
15 \$3,708.54.

16 d. ETA issued two title policies and used an incorrect charge for an
17 Employee Rate. This resulted in total undercharge of \$102.00.

18 e. ETA issued three title policies and applied the Relocation Rate,
19 with no documentation in the file to support this rate. This resulted in total
20 undercharges of \$412.84.

21 f. ETA issued ten title policies and charged for an Enhanced Owners
22 Policy, but issued a Standard Owners Policy. This resulted in total overcharges of
23 \$1,079.20.

24 g. ETA issued one title policy and included a California Land Title
25 Association ("CLTA") No. 100.12 Endorsement Loss by Reason of Attempted

1 Enforcement of Reverted, Right of Re-entry or Power of Termination, which is
2 Unenforceable, but failed to charge for this endorsement. This resulted in an
3 undercharge of \$60.00.

4 h. ETA issued three title policies and attached an American Land
5 Title Association ("A.L.T.A") No. 8.1 Environmental Protection Lien Endorsement and
6 failed to charge for this Endorsement. This resulted in total undercharges of \$155.00.

7 i. ETA issued four title policies and attached an A.L.T.A. No. 6
8 Variable Rate Mortgage Endorsement and failed to charge for this endorsement. This
9 resulted in total undercharges of \$240.00.

10 j. ETA issued two title policies and attached a CLTA No. 103.5
11 Damage to Existing Improvements Resulting from Exercise of Specified Right to
12 Extract Water Endorsement, but failed to charge for this endorsement. This resulted in
13 total undercharges of \$300.00.

14 k. ETA issued one title policy and failed to document the use of the
15 Builders rate. This resulted in an undercharge of \$753.92.

16 l. ETA issued two title policies and applied an incorrect percentage
17 when Revamping or Replacing a Lenders Policy. This resulted in total overcharges of
18 \$361.00.

19 m. ETA issued one title policy and attached an A.L.T.A. No. 4
20 Condominium Endorsement, but failed to charge for this endorsement. This resulted in
21 an undercharge of \$60.00.

22 **CONCLUSIONS OF LAW**

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

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

3 **ORDER**

4 **IT IS HEREBY ORDERED THAT:**

5 1. ETA shall cease and desist from charging title insurance premiums that
6 are not consistent with its filed rates and rules

7 2. Within 90 days of the filed date of this Order, ETA shall submit written
8 action plans to the Arizona Department of Insurance, for approval, evidence that
9 corrections have been implemented and communicated to the appropriate personnel,
10 regarding the issues outlined in Paragraph 1 of the Order section of this Consent
11 Order. Evidence of corrective action and communication thereof includes, but is not
12 limited to, memos, bulletins, E-mails, correspondence, procedures manuals, print
13 screens, and training materials.

14 3. Within 90 days of the filed date of this Order, ETA shall pay the 22
15 insureds listed in Exhibit A of this order, overcharges of \$2,984.90.

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

21 5. The Department shall be permitted, through authorized representatives,
22 to verify that ETA has complied with all provisions of this Order.

23 6. ETA shall pay a civil penalty of \$15,000.00 to the Director for remission
24 to the State Treasurer for deposit in the State General Fund in accordance with A.R.S.

25

1 § 20-379(B). The civil penalty shall be provided to the Market Conduct Examination
2 Section of the Department prior to the filing of this Order.

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

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

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10 Charles R. Cohen
11 Director of Insurance
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EXHIBIT A

PREMIUM OVERCHARGES

File Number / Policy Number	Amount Due Insured
1800069/1357-40763	\$4.00
1400894/1412-248302	\$12.00
1102005/1412-392484	\$60.00
1700247/1412-248312	\$446.50
1400801/1412-232041	\$348.00
1700235/1412-248234	\$15.00
1400784/1412-232011	\$151.00
1400931/1412-248335	\$238.00
1602556/1412-388278	\$255.20
1101415/1412-248225	\$15.00
1602309/1357-40805	\$108.24
1602633/1377-2673	\$56.10
1602229/1357-40157	\$195.25
1700879/1366-14001	\$49.30
1602450/1377-2494	\$92.98
1102126/1377-2580	\$96.66
1101823/1357-37837	\$69.00
1102128/1377-2460	\$191.72
1700859/1377-2636	\$81.15
1102068/1377-2425	138.80
1700638/1412-37629	\$57.60
1101583/1366-11002	\$303.40
Total	\$2,984.90

CONSENT TO ORDER

1
2 1. Equity Title Agency, Inc. has reviewed the foregoing Order.

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

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

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

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

18 6. Douglas A. BERGER, who holds the office of
19 V.P. Compliance Officer of Equity Title Agency, Inc., is authorized to enter into
20 this Order for them and on their behalf.

21
22
23 3/18/02
24 Date

EQUITY TITLE AGENCY, INC.

25 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

Douglas A. Bergner, Vice President
Equity Title Agency, Inc.
340 East Palm Lane, Suite 315
Phoenix, AZ 85004


