

JUL 24 2009

DEPT OF INSURANCE
BY CB

STATE OF ARIZONA
DEPARTMENT OF INSURANCE

1	In the Matter of:)	
2)	
3)	No. 09A- 079- INS
4	GUARANTY TITLE AGENCY of ARIZONA,)	
5	INC.,)	CONSENT ORDER
6	Respondent.)	
)	
)	

7 The State of Arizona Department of Insurance ("Department") has received evidence
 8 that **Guaranty Title Agency of Arizona, Inc. ("Respondent")** violated provisions of Title 20,
 9 Arizona Revised Statutes. Respondent wishes to resolve this matter without the
 10 commencement of formal proceedings, and admits the following Findings of Fact are true and
 11 consents to entry of the following Conclusions of Law and Order.

FINDINGS OF FACT

- 14 1. Respondent is, and was at all material times, licensed as an Arizona resident title
 15 agent, Arizona license number 789238, which expires August 31, 2010.
- 16 2. On or about August 14, 2001, Respondent entered into an underwriting agreement
 17 with First American Title Insurance Company (First American) to transact insurance and
 18 collect insurance premium on its behalf.
- 19 3. For each month from March, 2007 to September, 2007, Respondent intentionally
 20 failed to remit the premium it collected on behalf of First American, instead converting it to its
 21 own use.
- 22 4. On or about March 4, 2009, First American filed a civil suit against Respondent for
 23 the non-remitted premium in case No. CV2009-007318, in the Superior Court of Arizona,

1 Maricopa County. First American is seeking payment of the withheld premium from
2 Respondent.

3 **CONCLUSIONS OF LAW**

4 1. The Director has jurisdiction over this matter.

5 2. Respondent's conduct as described above constitutes improperly withholding,
6 misappropriating or converting any monies or properties received in the course of doing
7 insurance business within the meaning of A.R.S. §20-295(A)(4).

8 3. Grounds exist for the Director to suspend, revoke, or refuse to renew
9 Respondents' insurance licenses, pursuant to A.R.S. §§ 20-295(A) and (B).

10 4. Grounds exist for the Director to impose, in addition to or instead of any
11 suspension, revocation or refusal to renew, a civil penalty of not more than \$250.00 for each
12 unintentional failure or violation, up to an aggregate civil penalty of \$2,500.00, or a civil
13 penalty of not more than \$2,500.00 for each intentional failure or violation, up to an
14 aggregate penalty of \$15,000.00, within the meaning of A.R.S. § 20-295(F).

15 **ORDER**

16 **IT IS HEREBY ORDERED THAT:**

17 1. Respondent shall pay a civil penalty of Ten Thousand Dollars (\$10,000) to the
18 Director payable upon the entry of this Order for remission to the State Treasurer for deposit in
19 the State General Fund.

20 2. Failure to pay any restitution ordered in case No. CV2009-007318 shall result in
21 further administrative action including revocation of Respondent's license.
22
23

1 DATED AND EFFECTIVE THIS 24th day of July, 2009.

2
3 

4 CHRISTINA URIAS
Director of Insurance

5 **CONSENT TO ORDER**

6 1. Respondent has reviewed the foregoing Findings of Fact, Conclusions of Law and
7 Order.

8 2. Respondent admits the jurisdiction of the Director of Insurance, State of Arizona,
9 and admits the foregoing Findings of Fact and consents to the entry of the foregoing
10 Conclusions of Law and Order.

11 3. Respondent is aware of its right to notice and a hearing at which it may be
12 represented by counsel, present evidence and examine witnesses. Respondent irrevocably
13 waives its right to such notice and hearing and to any court appeals relating to this Consent
14 Order.

15 4. Respondent states that no promise of any kind or nature whatsoever, except as
16 expressly contained in this Consent Order, was made to it to induce it to enter into this
17 Consent Order and that it has entered into this Consent Order voluntarily.

18 5. Respondent acknowledges that the acceptance of this Consent Order by the
19 Director settles this matter against it but does not preclude any other agency, officer, or
20 subdivision of this state, including the Department, from instituting civil or criminal
21 proceedings as may be appropriate in the future.

22 6. Respondent acknowledges that this Consent Order is an administrative action that
23 the Department will report to the National Association of Insurance Commissioners (NAIC).

1 Respondent further acknowledges that it must report this administrative action to any and all
2 states in which it holds hold an insurance license and must disclose this administrative action
3 on any license application.

4 7. Rex Stephen Caldwell represents that he is the President of Guaranty Title Agency
5 of Arizona, Inc., and as such is authorized to enter this Consent Order on its behalf.

6 Guaranty Title Agency of Arizona, Inc., License No. 789238

7
8 7.21.09

Date



Rex Stephen Caldwell, President

9
10 COPY of the foregoing mailed/delivered
11 this 24th day of July, 2009, to:

12 Guaranty Title Agency of Arizona, Inc.
13 Rex Stephen Caldwell, President
14 8700 E. Vista Bonita Dr., Suite 188
15 Scottsdale, AZ 85255
16 (Respondent)

17 Robert P. Lindfors
18 Carson Messinger Elliot Laughlin & Ragan, P.L.L.C.
19 3300 N. Central Ave., 19th Floor
20 Phoenix, AZ 85012
21 (Attorney for Respondent)

22 Mary Kosinski, Executive Assistant for Regulatory Affairs
23 Catherine M. O'Neil, Consumer Legal Affairs Officer
Steven Fromholtz, Licensing Supervisor
Arnold Sniegowski, Investigator
Arizona Department of Insurance
2910 North 44th Street, Suite 210
Phoenix, AZ 85018


Curvey Walters Burton