

1 ARIZONA DEPARTMENT OF FINANCIAL INSTITUTIONS

2 In the Matter of the Removal and Prohibition of: No. 10F-BD033-BNK

3 **GRISELDA "GRACIE" CARDENAS aka**
4 **GRISELDA CARDENAS-PENA**
5 No. 241801
6 ASPC – Perryville
2014 N. Citrus Road
Goodyear, AZ 85295

CONSENT ORDER

7 Respondent.

8 On February 23, 2010, the Arizona Department of Financial Institutions ("Department")
9 issued a Notice of Hearing alleging that Respondent had violated Arizona law. Wishing to resolve
10 this matter in lieu of an administrative hearing, Respondent does not contest the following Findings
11 of Fact and Conclusions of Law, and consents to entry of the following Order.

12 **FINDINGS OF FACT**

13 1. Respondent Griselda "Gracie" Cardenas aka Griselda Cardenas-Pena ("Ms.
14 Cardenas") was employed as an escrow officer for the Talon Group ("Talon") from approximately
15 October 20, 2003 to October 25, 2007.

16 2. Talon is a division of First American Title Insurance Company ("First American"),
17 licensed by the Department as an escrow agent, license number EA-0014663.

18 3. Prior to her employment with Talon, on or about May 1, 2001, in *State of Arizona v.*
19 *Griselda Cardenas*, Yuma County Superior Court of Arizona, No. S1400CR200100072, a Sentence
20 of Probation was filed against Ms. Cardenas for crimes she committed from July through October of
21 1999. The Judge found Ms. Cardenas guilty of Theft, a Class 5 Felony, in violation of A.R.S. §§ 13-
22 1802(a)(4), 13-1802, 13-1801, 13-701, 13-801, and 13-901. The Judge placed Ms. Cardenas on
23 supervised probation for 48 months commencing May 1, 2001. Ms. Cardenas was ordered to pay
24 restitution of \$10,232.60; pay a probation fee of \$40.00 per month; a time payment fee of \$20.00;
25 and a Superior Court Enhancement Fee of \$10.00.

26 4. On or around October 26, 2007, Talon initiated an internal audit involving Ms.

1 Cardenas' escrow files.

2 5. Talon discovered a defalcation when a customer called regarding the status of a debt
3 payoff that had not been made. Upon further inquiry, it was determined that Ms. Cardenas took
4 money from escrow files for her own benefit via direct payment to her bank account or to family
5 members and third parties. Ms. Cardenas wrongfully diverted escrow funds.

6 6. On November 28, 2008, a Direct Complaint was filed against Ms. Cardenas in *State*
7 *of Arizona v. Griselda Cardenas-Pena aka Griselda P. Cardenas, et al.*, Maricopa County Superior
8 Court No. CR2008-173446-002SE, charging Ms. Cardenas with one count of Theft, a Class 2
9 Felony, in violation of A.R.S. §§ 13-1801, 13-1802, 13-701, 13-702, 13-702.01 and 13-801. The
10 Complaint charged that between April 6, 2007 and October 25, 2007, Ms. Cardenas knowingly
11 controlled funds from First American of a value of \$25,000.00 or more but less than \$100,000.00
12 with the intent with the intent to deprive First American of such property.

13 7. On or about March 6, 2009, Ms. Cardenas pled guilty to one amended count of Theft,
14 a Class 5 Felony, in violation of A.R.S. §§ 13-1802, 13-1802(A)(1), 13-1801, 13-610, 13-701, 13-
15 702, 13-702.01 and 13-801.

16 8. On or about April 24, 2009, the Court adjudged Ms. Cardenas guilty of Theft, a Class
17 5 Felony, and sentenced Ms. Cardenas to a term of imprisonment and committed her to the Arizona
18 Department of Corrections for 1.5 years beginning on April 24, 2009, followed by community
19 supervision. Ms. Cardenas was also ordered to pay restitution of \$35,454.90 and submit to DNA
20 testing and to pay applicable testing fees.

21 9. Ms. Cardenas is presently incarcerated at the Arizona State Prison Complex --
22 Perryville in Goodyear, Arizona. She is scheduled for supervised release on August 6, 2010 with the
23 supervised release ending on October 6, 2010.

24 **CONCLUSIONS OF LAW**

25 1. Pursuant to Title 6, Chapters 7 of the Arizona Revised Statutes, the Superintendent
26 has the authority and duty to regulate all persons engaged in the escrow agent business and with the

1 enforcement of statutes, rules, and regulations relating to escrow agents.

2 2. By the conduct set forth above in the Complaint, Ms. Cardenas has violated statutes
3 governing escrow agents as follows:

4 a. A.R.S. § 6-834(A), by failing to deposit and maintain all monies deposited in escrow
5 to be delivered on the close of the escrow or on any other contingency in a bank,
6 savings bank or savings and loan association doing business in this state and failing to
7 keep all escrow monies separate, distinct, and apart from monies belonging to the
8 escrow agent; and

9 b. A.R.S. § 6-841.01(A), by breaching a fiduciary duty as a trustee to the owner of all
10 monies received or collected and held in escrow and by knowingly and negligently
11 commingling trust monies with the escrow agent's own monies or with monies held
12 in any other capacity.

13 3. Ms. Cardenas's conduct, as set forth above, constitutes acts, omissions, and practices
14 which demonstrate personal dishonesty and unfitness to continue in office or to participate in the
15 conduct of the affairs of any financial institution or enterprise and is grounds for removal and the
16 prohibition of Ms. Cardenas from participating in any manner in the conduct of the affairs of any
17 financial institution or enterprise within the meaning of A.R.S. § 6-161(A)(1).

18 4. Ms. Cardenas's May 1, 2001, conviction of one (1) count of Theft, a Class 5 Felony,
19 and her April 24, 2009 conviction of one (1) count of Theft, a Class 5 Felony, constitute grounds for
20 the removal and the prohibition of Ms. Cardenas from participating in any manner in the conduct of
21 the affairs of any financial institution or enterprise, pursuant to A.R.S. § 6-161(A)(4).

22 5. Ms. Cardenas' violations of A.R.S. §§ 6-834(A) and 6-841.01(A) constitute grounds
23 for the removal and the prohibition of Ms. Cardenas from participating in any manner in the conduct
24 of the affairs of any financial institution or enterprise, pursuant to A.R.S. § 6-161(A)(6)

25 6. The violations, set forth above, constitute grounds for the Superintendent to order the
26 removal and the prohibition of Ms. Cardenas from further participation in any manner as a director,

1 officer, employee, agent, or other person in the conduct of the affairs of any financial institution or
2 enterprise pursuant to A.R.S. § 6-161(E).


3 **ORDER**

4 1. Ms. Cardenas shall be prohibited from further participation in any manner in the
5 conduct of the affairs of any financial institution or enterprise, pursuant to A.R.S. § 6-161.

6 2. This Order shall become effective upon service, and shall remain effective and
7 enforceable until such time as, and except to the extent that, it shall be stayed, modified, terminated,
8 or set aside.

9 SO ORDERED this 2 day of August, 2010.

10 Lauren W. Kingry
11 Acting Superintendent of Financial Institutions

12 By 
13 Robert D. Charlton
14 Assistant Superintendent

15 **CONSENT TO ENTRY OF ORDER**

16 1. Respondent acknowledges that she has been served with a copy of the foregoing
17 Findings of Fact, Conclusions of Law and Order in the above-referenced matter, has read the same,
18 is aware of her right to an administrative hearing in this matter, and has waived the same.

19 2. Respondent admits the jurisdiction of the Superintendent and consents to the entry of
20 the Foregoing Findings of Fact, Conclusions of Law and Order.

21 3. Respondent states that no promise of any kind or nature has been made to induce her
22 to consent to the entry of this Order, and that she has done so voluntarily.

23 4. Respondent agrees to refrain from seeking any future employment with any financial
24 institution or enterprise.

25 5. Respondent acknowledges that the acceptance of this Agreement by the
26 Superintendent is solely to settle this matter and does not preclude the Department, any other agency

1 or officer of this state or subdivision thereof from instituting other proceedings as may be
2 appropriate now or in the future.

3 6. Respondent waives all rights to seek judicial review or otherwise to challenge or
4 contest the validity of this Consent Order.

5 DATED this 2nd day of August, 2010.

6
7 By: Griselda Cardenas
8 Griselda Cardenas
9 Respondent

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13 ORIGINAL of the foregoing filed this 2nd
14 day of August, 2010, in the office of:

15 Lauren W. Kingry
16 Acting Superintendent of Financial Institutions
17 Arizona Department of Financial Institutions
18 ATTN: Susan Longo
19 2910 N. 44th Street, Suite 310
20 Phoenix, AZ 85018

21 COPY mailed/delivered same date to:

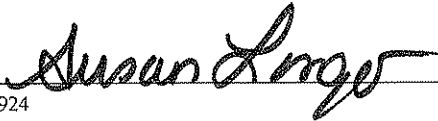
22 Lewis Kowal, Administrative Law Judge
23 Office of Administrative Hearings
24 1400 West Washington, Suite 101
25 Phoenix, AZ 85007

26 Erin O. Gallagher, Assistant Attorney General
Office of the Attorney General
1275 West Washington
Phoenix, AZ 85007

Robert D. Charlton, Assistant Superintendent
Arizona Department of Financial Institutions
2910 N. 44th Street, Suite 310
Phoenix, AZ 85018

1 AND COPY MAILED SAME DATE by
2 Certified Mail, Return Receipt Requested, to:

3 Griselda "Gracie" Cardenas aka Griselda Cardenas-Pena
4 4270 W. 18th Street
5 Yuma, AZ 85364
6 Respondent

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9 #733924

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