

1 ARIZONA DEPARTMENT OF FINANCIAL INSTITUTIONS

2 In the Matter of the Removal and Prohibition of:

No. 07F-BD045-BNK

3 **ANNETTE MARIE DAMICO**
4 18232 North 29th Avenue
5 Phoenix, Arizona 85053-1139

CONSENT ORDER

6 Respondent.

7
8 On January 2, 2006, the Arizona Department of Financial Institutions (“Department”)
9 issued a Notice of Hearing alleging that Respondent had violated Arizona law. Wishing to
10 resolve this matter in lieu of an administrative hearing, Respondent does not contest the
11 following Findings of Fact and Conclusions of Law, and consents to entry of the following
12 Order.

13 FINDINGS OF FACT

- 14 1. Respondent Annette Marie Damico (“Ms. Damico”) was employed by Security
15 Title Agency as a payment processor from approximately 1981 to 1999.
- 16 2. Security Title Agency is licensed by the Department as an escrow agent,
17 license number EA-0000878.
- 18 3. In 1999, Security Title Agency personnel conducted a financial records audit
19 and discovered that employee Annette Damico had embezzled \$142,456.72. Ms. Damico
20 had been responsible for collecting, depositing, and recording the mortgage payments of
21 account holders. From January of 1994 to April of 1997, she stole a total of \$61,456.72 in
22 cash (dismissed Count I) by issuing company checks to pay for mortgage accounts. After
23 the company changed its payment policy and would only accept mailed checks, Damico
24 transferred money from a “fees” account into former accounts that were still in the computer
25 system but had a zero-balance. Between June of 1997 and February of 1999, she issued a
26

1 total of 133 checks that were deposited in her personal bank account, totaling \$81,000.00.

2 4. On February 16, 2005, an Indictment was issued by the State Grand Jury
3 against Ms. Damico in *State of Arizona v. Annette Marie Damico (001)*, Superior Court of
4 the State of Arizona, Maricopa County, Case No. CR2005-006599-001 DT, for **Count 1:**
5 Theft, a Class 2 Felony, in violation of A.R.S. §§ 13-1801, 13-1802, 13-701, 13-702, 13-
6 702.01, 12-801; and **Count 2:** Theft, a Class 2 Felony, in violation of A.R.S. §§ 13-1801,
7 13-1802, 13-701, 13-702, 13-702.01, and 13-801. It was alleged that between the dates of
8 January 17, 1994 and April 14, 1997, Ms. Damico knowingly controlled Security Title
9 Agency's U.S. currency, of a value of \$25,000 or more, but less than \$100,000, with intent to
10 deprive Security Title Agency of such property. It was also alleged that between the dates of
11 June 27, 1997 and February 23, 1999, Ms. Damico knowingly controlled Security Title
12 Agency's U.S. currency, of a value of \$25,000 or more, but less than \$100,000, with intent to
13 deprive Security Title Agency of such property.

14 5. On June 17, 2005, the Court accepted a Plea Agreement entered into by Ms.
15 Damico in *State of Arizona v. Annette Marie Damico*, No. CR2005-006599-001 DT,
16 whereby Ms. Damico plead guilty to Count 2: Theft, a Class 2 Felony, in violation of A.R.S.
17 §§ 13-1801, 13-1802, 13-701, 13-702, 13-702.01, and 13-801 committed between June 27,
18 1997 and February 23, 1999.

19 6. On or about July 19, 2005, the Court found Ms. Damico guilty of one count of
20 Theft, a Class 2 Felony, and sentenced her to six (6) months in jail; seven (7) years of
21 probation; restitution in the amount of \$136,109.12; and fees of \$25.

22 LAW

23 1. Pursuant to Title 6, Chapter 7, of the Arizona Revised Statutes, the
24 Superintendent has the authority and duty to regulate all persons engaged in the escrow agent
25 business and with the enforcement of statutes, rules, and regulations relating to escrow
26 agents.

1 2. By the conduct, set forth above, Ms. Damico violated statutes governing
2 escrow agents as follows:

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

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

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

17 4. Ms. Damico's July 19, 2005 conviction of one count of Theft, a Class 2
18 Felony, constitutes grounds for the removal and the prohibition of Ms. Damico from
19 participating in any manner in the conduct of the affairs of any financial institution or
20 enterprise pursuant to A.R.S. §§ 6-161(A)(4).

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

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

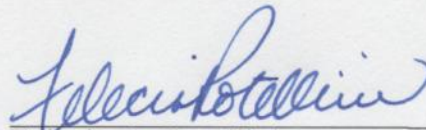
1 manner as a director, officer, employee, agent, or other person in the conduct of the affairs of
2 any financial institution or enterprise pursuant to A.R.S. § 6-161.

3 **ORDER**

4 1. Ms. Damico shall be prohibited from further participation in any manner in the
5 conduct of the affairs of any financial institution or enterprise, without prior written approval
6 of the Superintendent, pursuant to A.R.S. §6-161.

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

10 SO ORDERED this 8th day of February, 2007.

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12
13 Felecia A. Rotellini
Superintendent of Financial Institutions

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15 **CONSENT TO ENTRY OF ORDER**

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

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

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

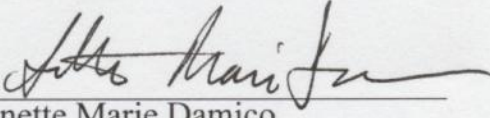
24 4. Respondent agrees to refrain from seeking any future employment with any
25 financial institution or enterprise.

26 5. Respondent acknowledges that the acceptance of this Agreement by the

1 Superintendent is solely to settle this matter and does not preclude the Department, any other
2 agency or officer of this state or subdivision thereof from instituting other proceedings as
3 may be appropriate now or in the future.

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

6 DATED this 7th day of February, 2007.

7
8 By: 
9 Annette Marie Damico
10 Respondent

11 ORIGINAL of the foregoing filed this 8th
12 day of February, 2007, in the office of:

13 Felecia A. Rotellini
14 Superintendent of Financial Institutions
15 Arizona Department of Financial Institutions
16 ATTN: June Beckwith
17 2910 N. 44th Street, Suite 310
18 Phoenix, AZ 85018

19 COPY mailed/delivered same date to:

20 Allen Reed, Administrative Law Judge
21 Office of the Administrative Hearings
22 1400 West Washington, Suite 101
23 Phoenix, AZ 85007

24 Alyse C. Meislik, Assistant Attorney General
25 Office of the Attorney General
26 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

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

1 Annette Marie Damico
18232 North 29th Avenue
2 Phoenix, Arizona 85053-1139
3 Petitioner

Marilyn Leistman

4 998970; CPA06-272

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