

STATE OF ARIZONA

JUN 20 1996

DEPARTMENT OF INSURANCE

DEPT. OF INSURANCE  
BY KHL

In the Matter of:

TICOR TITLE INSURANCE COMPANY  
TICOR TITLE INSURANCE COMPANY OF  
CALIFORNIA,  
n/k/a CHICAGO TITLE INSURANCE COMPANY  
TICOR TITLE INSURANCE COMPANY  
SECURITY UNION TITLE INSURANCE COMPANY  
APACHE TITLE AGENCY, INC.  
ARIZONA ESCROW AND TITLE AGENCY, INC.  
FIRST SERVICE TITLE AGENCY, INC.,  
n/k/a NORTH AMERICAN TITLE AGENCY  
OF ARIZONA, INC.  
GRAND CANYON TITLE AGENCY, INC.  
NETWORK ESCROW AND TITLE AGENCY, INC.,  
n/k/a NATIONS TITLE INSURANCE OF ARIZ., INC.  
PIONEER TITLE AGENCY, INC.  
SECURITY TITLE AGENCY, INC.  
STATE TITLE AGENCY, INC.  
TITLE GUARANTY AGENCY OF ARIZONA, INC.  
UNITED TITLE AGENCY OF ARIZONA, INC.  
WESTITLE AGENCY, INC.

Docket No.96A-103

CONSENT ORDER\*

Respondents.

The Arizona Department of Insurance (the "Department")  
conducted a Market Conduct Examination (the "Examination") of  
Ticor Title Insurance Company of California, NAIC #50873 (n/k/a  
Chicago Title Insurance Company) and Ticor Title Insurance  
Company, NAIC #50067 (both referred to as "TICOR"), Security  
Union Title Insurance Company, NAIC #50857 ("SUTIC"), and the  
following entities which acted as agents of TICOR and SUTIC  
during the period examined:

Apache Title Agency, Inc. ("ATA")

Arizona Escrow and Title Agency, Inc. ("AETA")

First Service Title Agency, Inc. ("FST"),

n/k/a North American Title Agency of Arizona, Inc.

Grand Canyon Title Agency, Inc. ("GCTA")

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Network Escrow and Title Agency, Inc. ("NETA")  
n/k/a Nations Title Insurance of Arizona, Inc.  
Pioneer Title Agency, Inc. ("PTA")  
Security Title Agency, Inc. ("STA")  
State Title Agency, Inc. ("STAM")  
Title Guaranty Agency of Arizona, Inc. ("TGAA")  
United Title Agency of Arizona, Inc. ("UTAA")  
WesTitle Agency, Inc. ("WTA")

TICOR, SUTIC and their agents are also referred to collectively as "Respondents". TICOR's Maricopa County office is referred to as TICOR(M), and its Pima County office is referred to as TICOR(P).

The Report of Market Conduct Examination (the "Report"), prepared by Market Conduct Examiners for the Department (the "Examiners") alleges that Respondents have violated A.R.S. §§ 20-157, 20-376, 20-379 and 20-1581.

The Respondents wish to resolve this matter without formal adjudicative proceedings and agree to this Consent Order.

The Director of Insurance (the "Director") enters the following Findings of Fact and Conclusions of Law, which are neither admitted nor denied by Respondents, and the following Order:

FINDINGS OF FACT

1. During the time period covered by the Examination, TICOR and SUTIC were authorized to transact title insurance as insurers in the State of Arizona pursuant to Certificates of Authority issued by the Director.

1           2.    Ticor Title Insurance Company of California was merged  
2 into Chicago Title Insurance Company on or about September 30,  
3 1992.

4           3.    The Examiners were authorized by the Director to  
5 conduct a market conduct examination of Respondents and their  
6 agents.    The on-site examination covered policies issued and  
7 claims closed by TICOR from July 1, 1989 through June 30, 1993,  
8 and policies issued and claims closed by SUTIC from October 1,  
9 1990 through June 30, 1993.

10          4.    During the time period covered by the Examination, the  
11 title insurance agents named as Respondents were licensed as  
12 agents by the Department.

13          5.    The Department summarily suspended the title agency  
14 license of AETA, later known as Charter Title Agency, Inc., on  
15 October 26, 1993.    AETA's license expired on April 30, 1994.  
16 AETA's violations of Arizona insurance law are not included in  
17 this Order because there is no entity liable for refunds or  
18 penalties assessed to AETA.

19          6.    During the time period covered by the Examination,  
20 SUTIC had a title insurance underwriting agreement in effect  
21 with TGAA.    TICOR had title insurance underwriting agreements in  
22 effect with the remaining agents listed above.    These agreements  
23 authorized the agents to issue policies of title insurance on  
24 behalf of Respondents.

25          7.    During the time period covered by the Examination,  
26 TICOR also did direct title insurance business in Arizona.  
27 SUTIC did no direct title insurance business in Arizona.    TICOR  
28 and SUTIC have filed rates and rules for calculation of title

1 insurance premiums with the Department. TICOR, SUTIC, and the  
2 listed agents have each filed escrow fees with the Department.  
3 Any discussion of "rates and rules" refers to rates and rules in  
4 effect at the time discussed which were filed with the  
5 Department pursuant to A.R.S. § 20-376(A) and § 20-376(H)  
6 (repealed 1993).

7 8. The Examiners randomly selected and reviewed a total  
8 of 3028 title policies and 1632 escrow policies which were  
9 issued by TICOR and SUTIC during the period covered by the  
10 Examination.

11 9. The Examiners did not find any evidence that PTA or  
12 STAM had violated Arizona insurance laws.

13 10. Title Rule 108(A) filed by TICOR, "Owners Policy  
14 Following a Foreclosure, Trustee Sale or Deed in Lieu," provides  
15 for the calculation of premium charge of an Owners Policy issued  
16 after the Trustee's Sale Guarantee. The Examiners found that  
17 STA incorrectly calculated premium charges on owners' policies  
18 issued after the Trustee's Sale Guarantee, resulting in  
19 undercharges on 15 policies totalling \$291.90.

20 11. Title Rule 501A filed by TICOR, Trustee's Sale  
21 Guarantee, provides for a \$50 charge for each Continuation  
22 Endorsement to the Trustee's Sale Guarantee issued prior to the  
23 date of the sale. STA provided 30 Continuation Endorsements  
24 prior to sale dates without charging the rate required by Title  
25 Rule 501A, resulting in undercharges totalling \$1,950.00.

26 12. Title Rule 701 filed by TICOR provides that there is  
27 no charge when Variable Rate Mortgages Endorsements 6, 6.1, and  
28 6.2 is are attached to the policy when issued. GCTA charged \$50

1 each for two such endorsements, resulting in overcharges  
 2 totalling \$100.00.

3 13. Title Rule 701 filed by TICOR and SUTIC provides for  
 4 no charge when "Environmental Protection Lien" Endorsements 8.0  
 5 and 8.1 are attached to the policy when issued. TICOR's agents  
 6 charged for these endorsements when issued with policies, as  
 7 follows:

	Overcharges	
GCTA	4	200.00
NETA	2	100.00
STA	6	300.00

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 11 14. The Respondents listed below rated title policies  
 12 other than pursuant to their filed rates and rules, resulting in  
 13 undercharges and overcharges, as follows:

	Undercharges		Overcharges	
TICOR(M)	2	\$453.50	1	\$ 20.00
TICOR(P)	7	356.81	1	51.00
FSTA	1	20.00		
GCTA	2	29.13	1	10.50
NETA	6	441.43	4	207.75
STA	29	896.42	11	588.30
UTA	4	464.80	1	69.00
WTA			5	178.25
TGAA	12	792.72	11	806.44

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 20 15. The Escrow Rules filed by the Respondents imposed  
 21 charges for combined sale and loan escrows ranging from \$20 to  
 22 \$50. The Examiners found that the Respondents listed below had  
 23 combined sale and loan escrows without charging the rate  
 24 required by this Escrow Rule, resulting in undercharges, as  
 25 follows:

	Undercharges	
TICOR(M)	2	\$100.00
FSTA	1	25.00
GCTA	3	125.00
NETA	14	660.00

1	STA	5	140.00
	UTA	1	50.00
2	TGAA	6	150.00

3 16. Although it had not filed a fee for the filing of IRS  
 4 Form 1099B, GCTA charged escrow fees ranging from \$20 to \$60  
 5 for the filing of 30 of these forms, resulting in overcharges  
 6 totalling \$790.00.

7 17. NETA and WTA charged additional work charges without  
 8 explaining the reasons for the additional charges to the  
 9 payors, resulting in overcharges as follows:

	Overcharges	
10		
11	NETA	3 \$150.00
	WTA	1 50.00

12 18. The Respondents rated escrow files other than pursuant  
 13 to their filed rates and rules, resulting in undercharges and  
 14 overcharges, as follows:

	Undercharges		Overcharges	
15				
16	TICOR(M)	\$	1	\$392.00
	ATA		1	50.00
17	FSTA	1 45.00		
	GCTA	5 279.50	7	208.00
18	NETA	14 729.99	2	109.95
	STA	5 232.85	7	407.00
19	UTA	2 96.50	1	86.00
	WTA	4 330.24		
20	TGAA	2 75.65	2	56.00

21 19. NETA failed produce 7 files requested by the  
 22 Examiners, and TGAA failed to produce 35 files requested by the  
 23 Examiners.

24 CONCLUSIONS OF LAW

25 1. By charging premiums on owners' policies issued after  
 26 the Trustee's Sale Guarantee other than pursuant to TICOR's  
 27 filed Title Rule 108(A), STA violated A.R.S. §§ 20-376(H)  
 28 (repealed 1993) and 20-379(A) (effective 1992).

1           2. By failing to charge for Continuation Endorsements to  
2 Trustee's Sale Guarantees issued prior to the sale date, STA  
3 violated A.R.S. §§ 20-376(H) (repealed 1993) and 20-379(A)  
4 (effective 1992).

5           3. By charging for Variable Rate Mortgages Endorsements  
6 6, 6.1, and 6.2, GCTA violated A.R.S. §§ 20-376(H) (repealed  
7 1993) and 20-379(A) (effective 1992).

8           4. By charging for Environmental Protection Lien  
9 Endorsements 8.0 and 8.1, GCTA, NETA, and STA violated A.R.S. §§  
10 20-376(H) (repealed 1993) and 20-379(A) (effective 1992).

11           5. By deviating from the title insurance rates filed by  
12 TICOR and SUTIC, TICOR, FSTA, GCTA, NETA, STA, UTA, WTA, and  
13 TGAA violated A.R.S. §§ 20-376(H)(repealed 1993) and  
14 20-379(A)(effective 1992).

15           6. By failing to charge fees for combined sale and loan  
16 escrows as required by the Escrow Rules filed by TICOR and  
17 SUTIC, TICOR, FSTA, GCTA, NETA, STA, UTA, and TGAA violated  
18 A.R.S. §§ 20-376(H) (repealed 1993).

19           7. By charging an unfiled fee for the filing of IRS Form  
20 1099B, GCTA violated A.R.S. §§ 20-376(H) (repealed 1993).

21           8. By requiring additional work charges without  
22 explaining the reasons therefor to the payors, NETA and WTA  
23 violated A.R.S. §§ 20-376(H) (repealed 1993).

24           9. NETA and WTA had entered into a Consent Order, In the  
25 Matter of Tigor Title Insurance Company of California, et al.,  
26 Docket No. 7586, in which they had agreed to cease and desist  
27 from charging additional work charges without explaining to the  
28 payors the reasons for the additional charges. By continuing to

1 charge additional work charges without explaining their reasons  
2 to the payors, NETA and WTA have also violated an Order of the  
3 Director.

4 10. By deviating from their filed escrow rates and rules,  
5 TICOR, ATA, ESTA, GCTA, NETA, STA, UTA, WTA, and TGAA violated  
6 A.R.S. §§ 20-376(H)(repealed 1993).

7 11. By failing to produce records for the period covered  
8 by the Examination requested by the Examiners, NETA and TGAA  
9 violated A.R.S. §§ 20-157(A) and 20-1581(A).

10 12. Grounds exist for the entry of all other provisions of  
11 the following Order.

12 ORDER

13 Respondents, having admitted the jurisdiction of the  
14 Director to enter this Order, having waived the Notice of  
15 Hearing and the hearing, having waived any and all rights to  
16 appeal this Order, and having consented to the entry of this  
17 Order, and there being no just reason for delay:

18 IT IS HEREBY ORDERED THAT:

19 1. STA shall cease and desist from charging premiums on  
20 owners' policies issued after the Trustee's Sale Guarantee other  
21 than pursuant to filed rates and rules.

22 2. STA shall cease and desist from failing to charge for  
23 each Continuation Endorsement to Trustee's Sale Guarantees  
24 issued prior to sale dates, except as permitted by filed rates  
25 and rules.

26 3. GCTA shall cease and desist from charging for Variable  
27 Rate Mortgages endorsements 6, 6.1, and 6.2 except as permitted  
28 by filed rates and rules.



1 4. GCTA, NETA, and STA shall cease and desist from  
2 charging for Environmental Protection Lien endorsements 8.0 and  
3 8.1 issued with and attached to policies, except as permitted by  
4 filed rates and rules.

5 5. TICOR, FSTA, GCTA, NETA, STA, UTA, WTA, and TGAA shall  
6 cease and desist from deviating from filed title insurance rates  
7 except as permitted by their own filed rates and rules.

8 6. NETA and TGAA shall cease and desist from failing to  
9 keep and maintain books of account, records and vouchers for  
10 production and free accessibility to the Director or his  
11 Examiners as required by A.R.S. §§ 20-157(A) and 20-1581(A).

12 7. Within 60 days of the filed date of this Order,  
13 Respondents shall implement and submit to the Department written  
14 action plans, in a form acceptable to the Director, designed to  
15 eliminate future violations in rate-related matters.

16 8. Within 60 days of the filed dated of this Order,  
17 Respondents shall refund overcharges totalling \$4,930.19, as  
18 listed in Exhibits 6, 7, 8, 9 and 11 of the Report (attached to  
19 this Order as Exhibit A), as follows:

20	ATA	\$ 50.00
	GCTA	1,308.50
21	NETA	567.70
	STA	1,295.30
22	TGAA	862.44
	TICOR	463.00
23	UTA	155.00
	WTA	228.25

24 Respondents shall pay interest on the above amounts at the  
25 rate of 10% per annum calculated from the date each payment was  
26 received by the agent to the date of the refund. Each refund  
27 shall be accompanied by a letter to the insured previously  
28 approved by the Director. A list of refunds, giving the name

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and address of each insured to whom a refund was made, the base amount of each refund, the amount of interest paid, and the date of the refund, shall be provided to the Department when all refunds have been made. This list shall be furnished to the Department within 70 days of the filed date of this Order.

9. The Department shall be permitted, through authorized representatives, to verify that Respondents have complied with all provisions of this Order.

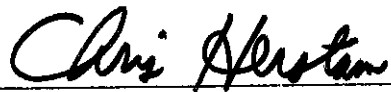
10. Respondents shall pay civil penalties totalling \$11,886.44 to the Director to be forwarded to the State Treasurer for deposit in the State General Fund, as follows:

FSTA	\$	90.00
GCTA		433.63
NETA		2,356.42
STA		3,511.17
TGAA		3,643.37
TICOR		910.31
UTA		611.30
WTA		330.24

These amounts shall be paid to the Market Conduct Examinations Division of the Department on or before <sup>June 17, 1996</sup> ~~December 15, 1995~~.

11. The Report of Examination of the Market Conduct Affairs of TICOR and SUTIC as of January 4, 1994, including the objections filed by TICOR and SUTIC, shall be filed with the Department when this Order has been filed.

DATED at Phoenix, Arizona this 28th day of June, 1996.

  
Chris Herstam  
Director of Insurance

CONSENT TO ORDER

1  
2       1. Respondent Chicago Title Insurance Company, f/k/a  
3 Ticor Title Insurance Company of California, has reviewed the  
4 attached Order.

5       2. Respondent is aware of its right to a hearing, at  
6 which hearing Respondent may be represented by counsel, present  
7 evidence and cross-examine witnesses. Respondent irrevocably  
8 waives its right both to demand a public hearing and to seek  
9 judicial review of this Consent Order.

10       3. Respondent admits the jurisdiction of the Director of  
11 Insurance, State of Arizona, and consents to the entry of this  
12 Order.

13       4. Respondent states that no promise of any kind or  
14 nature whatsoever has been made to induce it to enter into this  
15 Order and that it has entered into this Order voluntarily.

16       5. Respondent acknowledges that the acceptance of this  
17 Order by the Director of Insurance, State of Arizona, is solely  
18 to settle this matter against it and does not preclude any other  
19 agency or officer of the state or subdivision thereof from  
20 instituting other civil or criminal proceedings as may be  
21 appropriate now or in the future.

22       6. \_\_\_\_\_, who holds the  
23 office of \_\_\_\_\_ of Chicago Title  
24 Insurance Company, is authorized to enter into this Order for  
25 and on its behalf.

CHICAGO TITLE INSURANCE COMPANY

26  
27       6-13-96  
28       Date

By \_\_\_\_\_

Patrick N. Whitney, Vice President

CONSENT TO ORDER

1  
2 1. Respondent Ticor Title Insurance Company has reviewed  
3 the attached Order.

4 2. Respondent is aware of its right to a hearing, at  
5 which hearing Respondent may be represented by counsel, present  
6 evidence and cross-examine witnesses. Respondent irrevocably  
7 waives its right both to demand a public hearing and to seek  
8 judicial review of this Consent Order.


9 3. Respondent admits the jurisdiction of the Director of  
10 Insurance, State of Arizona, and consents to the entry of this  
11 Order.

12 4. Respondent states that no promise of any kind or  
13 nature whatsoever has been made to induce it to enter into this  
14 Order and that it has entered into this Order voluntarily.

15 5. Respondent acknowledges that the acceptance of this  
16 Order by the Director of Insurance, State of Arizona, is solely  
17 to settle this matter against it and does not preclude any other  
18 agency or officer of the state or subdivision thereof from  
19 instituting other civil or criminal proceedings as may be  
20 appropriate now or in the future.

21 6. \_\_\_\_\_, who holds the  
22 office of \_\_\_\_\_ of Ticor Title Insurance  
23 Company, is authorized to enter into this Order for and on its  
24 behalf.

TICOR TITLE INSURANCE COMPANY

By   
Robert C. Weiss, Vice President

25  
26 6/6/96  
Date

CONSENT TO ORDER

1  
2       1.    Respondent Security Union Title Insurance Company has  
3 reviewed the attached Order.

4       2.    Respondent is aware of its right to a hearing, at  
5 which hearing Respondent may be represented by counsel, present  
6 evidence and cross-examine witnesses.    Respondent irrevocably  
7 waives its right both to demand a public hearing and to seek  
8 judicial review of this Consent Order.

9       3.    Respondent admits the jurisdiction of the Director of  
10 Insurance, State of Arizona, and consents to the entry of this  
11 Order.

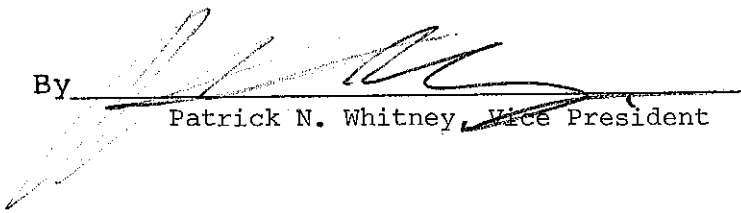
12       4.    Respondent states that no promise of any kind or  
13 nature whatsoever has been made to induce it to enter into this  
14 Order and that it has entered into this Order voluntarily.

15       5.    Respondent acknowledges that the acceptance of this  
16 Order by the Director of Insurance, State of Arizona, is solely  
17 to settle this matter against it and does not preclude any other  
18 agency or officer of the state or subdivision thereof from  
19 instituting other civil or criminal proceedings as may be  
20 appropriate now or in the future.

21       6.    \_\_\_\_\_, who holds the  
22 office of \_\_\_\_\_ of Security Union Title  
23 Insurance Company is authorized to enter into this Order for and  
24 on its behalf.

SECURITY UNION TITLE INSURANCE COMPANY

25  
26    6-13-90  
27       Date

26    By   
27       Patrick N. Whitney, Vice President

1 COPY of the foregoing mailed/delivered  
this 28<sup>th</sup> day of June, 1996, to:

2 Charles R. Cohen  
3 Deputy Director  
4 Gregory Y. Harris  
5 Executive Assistant Director  
6 Erin H. Klug  
7 Chief Market Conduct Examiner  
8 Market Conduct Examinations Division  
9 Saul R. Saulson  
10 Examinations Supervisor  
11 Mary Butterfield  
12 Assistant Director  
13 Life & Health Division  
14 Deloris E. Williamson  
15 Assistant Director  
16 Rates & Regulations Division  
17 Gary Torticill  
18 Assistant Director and Chief Financial Examiner  
19 Corporate & Financial Affairs Division  
20 Cathy O'Neil  
21 Assistant Director  
22 Consumer Services Division  
23 Dean Ehler  
24 Supervisor  
25 Property & Casualty Section  
26 Lynda Aguila  
27 Assistant Examiner (P&C Orders only)  
28 Claudia Acosta  
Assistant Examiner (L&D Orders only)

DEPARTMENT OF INSURANCE  
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Henry A. Knebel  
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North American Title Agency of Arizona, Inc.  
3033 North Central Avenue  
Phoenix, Arizona 85012

Grand Canyon Title Agency, Inc.  
4742 North 24th Street  
Phoenix, Arizona 85016

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Nations Title Insurance of Arizona, Inc.  
3225 North Central Avenue, Suite 100  
Phoenix, Arizona 85012

Security Title Agency, Inc.  
3620 North Third Avenue  
Phoenix, Arizona 85013

Title Guaranty Agency of Arizona, Inc.  
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Tucson, Arizona 85711

United Title Agency of Arizona, Inc.  
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WestTitle Agency, Inc.  
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Kathy Linden