

1 ARIZONA DEPARTMENT OF FINANCIAL INSTITUTIONS

2 In the Matter of the Removal and the Prohibition of:

3 **NANCY WILSON**
4 1265 N. Woodburne Dr.
5 Chandler, AZ 85224

6 Respondent.

No. 07F-BD055-BNK

**SUPERINTENDENT'S FINAL
DECISION AND ORDER**

7 The Superintendent of Financial Institutions (the "Superintendent") having reviewed the record
8 in this matter, including the transcript of the April 13, 2007 administrative hearing, and the,
9 Administrative Law Judge Decision attached and incorporated herein by this reference, adopts the
10 Administrative Law Judge's Findings of Fact, Conclusions of Law and Recommended Decision.

11 ORDER

12 IT IS ORDERED that Respondent is removed from further participation in any manner in the
13 affairs of any financial institution or enterprise in the State of Arizona.

14 NOTICE

15 The parties are advised that, pursuant to A.R.S. § 41-1092.09, this Order shall be final unless
16 Respondent submits a written motion for rehearing no later than thirty (30) days after service of this
17 decision. The motion for rehearing or review must specify the particular grounds upon which it is
18 based as set forth in A.A.C. R20-4-1219. A copy shall be served upon all other parties to the hearing,
19 including the Attorney General, if the Attorney General is not the party filing the claim of error. In the
20 alternative, the parties may seek judicial review of this decision pursuant to A.R.S. § 41-1092.08(H).

21 DATED this 4th day of June, 2007.

22 
23 _____
24 Felecia Rotellini
25 Superintendent of Financial Institutions

1 ORIGINAL filed this 5th day of
2 June, 2007, in the office of:

3 Felecia Rotellini
4 Superintendent of Financial Institutions
5 Arizona Department of Financial Institutions
6 ATTN: June Beckwith
7 2910 North 44th Street, Suite 310
8 Phoenix, Arizona 85018

9 COPY of the foregoing mailed/hand delivered
10 This same date to:

11 Lewis D. Kowal, Administrative Law Judge
12 Office of Administrative Hearings
13 1400 West Washington, Suite 101
14 Phoenix, AZ 85007

15 Craig Raby, Assistant Attorney General
16 Office of the Attorney General
17 1275 West Washington
18 Phoenix, AZ 85007

19 Robert D. Charlton, Assistant Superintendent
20 Arizona Department of Financial Institutions
21 2910 N. 44th Street, Suite 310
22 Phoenix, AZ 85018

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

25 Nancy Wilson
26 1265 N. Woodburne Dr.
27 Chandler, AZ 85224

28 BY: June Beckwith

by LandAmerica with respect to escrow accounts handled by Ms. Wilson.

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b. Up until the time Ms. Wilson's defalcation became known, Ms. Wilson was considered a trusted and good employee who had worked at LandAmerica for over ten years.

c. Ms. Wilson was placed in a position of trust and acted as an escrow officer, which required her to deal with escrow accounts containing stale checks and dormant balances.

d. Stale checks are checks that were written on escrow accounts that were not cashed by the payee, who was usually the buyer or seller named in the escrow account file. After a period of time, an escrow officer, such as Ms. Wilson, would investigate the stale checks and if the payee could be located, the stale check would be voided and the escrow officer would cause the check to be reissued. In the case of a dormant balance, the escrow officer would cause a check to be issued to the person named in the escrow account who was owed the funds.

e. In this particularly case, the internal auditors noticed that checks Ms. Wilson caused to be issued that were made payable to certain financial institutions, the checks were being applied to the same accounts within each financial institution, which is very uncommon. Routinely, the checks are made payable to the person or entity entitled to the funds from the escrow account or made payable to a financial institution to be deposited or credited towards the payee's accounts.

f. With respect to the Capital One Bank and Merrick Banks, records obtained through subpoenas with respect to the account numbers that showed up during the internal audit revealed that checks were issued made payable to the banks and credited to Ms. Wilson's credit card account that she had with each bank.

g. LandAmerica terminated Ms. Wilson because of her dishonesty and misappropriation of funds.

- 1 h. According to the internal audit, Ms. Wilson misappropriated funds by
2 causing approximately 37 checks to be issued and credited to her Capital
3 One credit card account in an amount of approximately \$55,112.95
4 i. According to the internal audit, Ms. Wilson misappropriated funds by
5 causing 5 checks to be issued and credited to her Merrick credit card
6 account totaling \$2,272.61.
7 j. Ms. Wilson also caused approximately 42 checks to be issued by
8 LandAmerica from escrow accounts payable to financial institutions with
9 the funds being credited to the same account within each financial
10 institution in the approximate sum of \$129,000.00. The checks were not
11 made payable to the individuals/entities entitled to the funds as reflected
12 in each escrow account.

13 6. The documentary evidence submitted by the Department corroborates the
14 testimony of Ms. Fisher. Consequently, the Administrative Law Judge concludes that
15 the testimony of Ms. Fisher, as set forth above, to be credible.

16 7. LandAmerica brought Ms. Wilson's defalcation to the attention the Department.
17 Based on the information presented by LandAmerica, the Department decided to
18 institute disciplinary action against Ms. Wilson. This resulted in the instant hearing
19 being brought before the Office of Administrative Hearing

20 8. Robert Charlton ("Mr. Charlton"), Assistant Director of the Department, testified:

- 21 a. The Department proceeds against a person under A.R.S. § 6-161 when
22 the public and industry licensed by the Department are at risk.
23 b. In this particular case, there is a risk that Ms. Wilson could be employed
24 by companies licensed by the Department and Ms. Wilson could be
25 placed in a position of trust that would afford her an opportunity to
26 misappropriate additional funds, which would negatively impact the
27 licensed industry and the public.
28 c. It is the exposure to such harm and Ms. Wilson's personal dishonesty that
29 is the reason why it is necessary to ensure that Ms. Wilson is not able to
30 be employed within the licensed industry.

9. The testimony of Mr. Charlton, as set forth above, is determined to be credible.

10. Ms. Wilson did not appear at the hearing and offered no evidence to refute or rebut the evidence presented by the Department.

11. The evidence of record established that funds from LandAmerica escrow accounts were misappropriated by Ms. Wilson.

CONCLUSIONS OF LAW

1. Pursuant to A.R.S. Title 6, Chapter 7, the Superintendent of the Department is authorized and has the duty to regulate all persons engaged in the escrow agent business and is to enforce the statutes, rules and regulations applicable to escrow agents.

2. The weight of the evidence of record established that Ms. Wilson violated the provisions of A.R.S. § 6-834(A) by failing to maintain monies deposited in escrow to be delivered on the close of escrow or on any other contingency in a bank, savings and loan association doing business in the State of Arizona and by failing to keep escrow monies separate, distinct and apart from monies belonging to the escrow agent.

3. The weight of the evidence of record established that Ms. Wilson, as an employee of an escrow agent, violated the provisions of A.R.S. § 6-841.01(A) by breaching a fiduciary duty as a trustee to the owner of monies received or collected and held in escrow and by knowingly and negligently commingling trust monies with the escrow agent's monies or with monies held in any capacity.

4. The weight of the evidence of record established that Ms. Wilson's conduct, as set forth above, constitutes acts, omissions, and practices which demonstrate personal dishonesty and unfitness to continue in office or to participate in the conduct of the affairs of any financial institution or enterprise within the meaning of A.R.S. § 6-161(A)(1). Such conduct constitutes grounds for removal and the prohibition of Ms. Wilson from participating in any manner in the conduct of the affairs of any financial institution or enterprise within the meaning of A.R.S. § 6-161(A)(1).

5. Ms. Wilson's violation of the above-mentioned statutes constitute grounds for the removal and prohibition of Ms. Wilson from participating in any manner in the conduct of the affairs of any financial institution or enterprise pursuant to A.R.S. § 6-161(A)(6).

6. The Superintendent of the Department has the authority to order the removal and prohibition of Ms. Wilson 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
2 institution or enterprise pursuant to A.R.S. § 6-161.

3 **ORDER**

4 On the effective date of the Order entered in this matter, Ms. Wilson shall be
5 removed and prohibited from further participation in any manner as a director, officer,
6 employee, agent or other person in the conduct of the affairs of any financial institution
7 or enterprise pursuant to A.R.S. § 6-161.

8 Done this day, May 2, 2007.

9 
10 _____
11 Lewis D. Kowal
12 Administrative Law Judge

13 Original transmitted by mail this
14 3 day of May, 2007, to:

15 Arizona Department of Financial Institutions
16 Felecia Rotellini, Superintendent
17 ATTN: June Beckwith
18 2910 North 44th Street, Suite 310
19 Phoenix, AZ 85018

20
21 By 
22 _____