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DEPT. OF FINANCIAL  
INSTITUTIONS

**ARIZONA DEPARTMENT OF FINANCIAL INSTITUTIONS**

In the Matter of the Removal and Prohibition of: No. 11F-BD014-BNK

**PAUL D. ASHER**  
ADC#249856  
ASPC-Douglas  
Gila Unit  
P.O. Box 5003  
Douglas, AZ 85608

**CONSENT ORDER**

Respondent.

On January 18, 2011, the Arizona Department of Financial Institutions ("Department") issued a Notice of Hearing, alleging that Respondent had violated Arizona law. Wishing to resolve this matter in lieu of an administrative hearing, Respondent does not contest the following Findings of Fact and Conclusions of Law, and consents to the entry of the following Order.

**FINDINGS OF FACT**

1. In 2002, Respondent Paul D. Asher ("Mr. Asher") was employed as an administrative assistant by ACM U.L. Monitoring ("ACM"), an alarm monitoring company. While acting in this capacity, Mr. Asher collected payments for the company in cash and checks, but failed to give the money to the company. Specifically, Mr. Asher changed the payee line of checks from the company to himself. The total amount of money Mr. Asher obtained fraudulently was \$19,494.04.

2. Subsequently, Mr. Asher admitted to embezzling money from ACM. On November 4, 2002, he signed a promissory note with the Travelers Insurance Company, an ACM insurer, agreeing to pay \$300.00 per month beginning December 1, 2002 to Travelers Insurance Company.

3. On February 2, 2004, a Direct Complaint was filed against Mr. Asher in *State of Arizona v. Paul David Asher*, the Superior Court of the State of Arizona, County of Maricopa, case number CR2004-007192-001, charging Mr. Asher with one (1) count of theft, a class 3 felony and stating that Mr. Asher "on or about the 12th day of March, 2002, without lawful authority, knowingly controlled ACM's U.S. Currency, of value of \$3,000 or more, but less than \$25,000, with

1 the intent to deprive ACM of such property, A.R.S. §§ 13-1801, 13-1802, 13-701, 13-702, 13-  
2 702.01, and 13-801.” The grand jury returned the indictment on February 9, 2004.

3 4. On March 23, 2004, Mr. Asher entered a plea of guilty to Count One of Amended  
4 Theft, a class 6 felony, in violation of A.R.S. §§ 13-1801, 13-1802, 13-701, 13-702, 13-702.01, and  
5 13-801 committed on March 12, 2002.

6 5. On May 17, 2004, in the matter of *State of Arizona v. Paul David Asher*, the Superior  
7 Court of the State of Arizona, County of Maricopa, case number CR2004-007192-001, the Court  
8 found Mr. Asher guilty of one (1) Count of Theft in violation of A.R.S. §§ 13-1801, 13-1802, 13-  
9 1802(A)(1), 13-610, 13-701, 13-702, 13-702.01, and 13-801. The Court suspended imposition of  
10 Mr. Asher’s sentence and placed him on probation for a term of three (3) years, beginning May 17,  
11 2004. As a condition of his probation, Mr. Asher was ordered to be incarcerated for sixty (60) days  
12 in the Maricopa County Jail and to be placed in the work furlough program. The Court further  
13 ordered Mr. Asher to pay restitution in the amount of \$19,494.04 to Travelers Insurance Company,  
14 payable \$300.00 per month beginning September 1, 2004.

15 6. On May 7, 2007, the term of Mr. Asher’s probation was extended for a period of 3  
16 years from May 17, 2007 due to the fact that Mr. Asher continued to owe restitution.

17 THEFT FROM FIRST AMERICAN TITLE INSURANCE COMPANY

18 7. Subsequent to his employment by ACM, in or around June 2002, First American Title  
19 Insurance Company (“First American”) hired Mr. Asher, initially as an escrow assistant and by 2004  
20 promoted him to a position of senior escrow officer and assistant manager for a branch that handled  
21 escrow transactions for properties in twenty-two states.

22 8. First American is licensed by the Department as an escrow agent pursuant to A.R.S. §  
23 6-801, *et seq*, home office license number 001463.

24 9. At some point, Mr. Asher informed First American of his prior criminal activity, and  
25 during Mr. Asher’s sentencing for the 2004 felony conviction, First American stood behind Mr.  
26 Asher.

1           10.     Prior to Mr. Asher's sentencing in *State of Arizona v. Paul David Asher*, the Superior  
2 Court of the State of Arizona, County of Maricopa, case number CR2004-007192-001, several  
3 employees of First American provided letters of support for Mr. Asher, stating that Mr. Asher took  
4 steps to rectify the wrong he committed and expressing a concern that if Mr. Asher was convicted of  
5 a felony, he would no longer be able to repay his debt on the promissory note.

6           11.     While on probation and employed by First American, between December 12, 2005  
7 and September 18, 2008, Mr. Asher stole \$164,150.59 from his employer, First American.

8           12.     While employed as an assistant manager/supervisor and escrow officer by First  
9 American, Mr. Asher was regularly made aware of old or returned checks issued to escrow  
10 customers' creditors, which had not been cashed and were nearing expiration or expired. Mr. Asher  
11 was responsible for investigating these funds and reissuing the checks. Mr. Asher used these funds  
12 for his own personal use.

13           13.     Mr. Asher reissued 98 checks totaling \$164,150.59, to unauthorized creditors, without  
14 notifying the proper escrow customers or anyone at First American. Mr. Asher admitted to stealing  
15 the funds and reallocating them to pay off his personal debts and to pay off restitution from his  
16 conviction for stolen funds from ACM.

17           14.     In September 2008, First American closed the branch where Mr. Asher was employed  
18 which resulted in termination of Mr. Asher's employment. Subsequent to his termination, First  
19 American discovered that Mr. Asher had stolen funds from them.

20           15.     On November 16, 2009, a Direct Complaint was filed against Mr. Asher in *State of*  
21 *Arizona v. Paul David Asher*, the Superior Court of the State of Arizona, County of Maricopa, case  
22 number CR2009-171585-001, charging Mr. Asher with one (1) count of theft, a class 2 felony and  
23 stating that Mr. Asher "on or between the 12th day of December, 2005 and the 18th day of  
24 September, 2008, without lawful authority, knowingly controlled FIRST AMERICAN TITLE CO.'S  
25 CASH AND/OR CASH EQUIVALENT, of a value of \$100,000 or more, with the intent to deprive  
26

1 FIRST AMERICAN TITLE CO. of such property, in violation of A.R.S. §§ 13-1801, 13-1802, 13-  
2 701, 13-702, 13-702.01, and 13-801.”

3 16. On December 14, 2009, Mr. Asher entered a plea of guilty to Count One of Theft, a  
4 class 2 felony, in violation of A.R.S. §§ 13-1801, 13-1802, 13-1802(A)(1), 13-610, 13-701, 13-702,  
5 13-702.01, and 13-801, committed on March 12, 2002. First American requested restitution in the  
6 amount of \$164,150.59.

7 17. On January 11, 2010, in the matter of *State of Arizona v. Paul David Asher*, the  
8 Superior Court of the State of Arizona, County of Maricopa, case number CR2009-171585-001, the  
9 Court found Mr. Asher guilty of one (1) Count of Theft in violation of A.R.S. §§ 13-1801, 13-1802,  
10 13-1802(A)(1), 13-610, 13-701, 13-702, 13-702.01, and 13-801 and 12-114.01. For his sentence,  
11 Mr. Asher was committed to the custody of the Arizona Department of Corrections for a term of five  
12 (5) years, beginning January 11, 2010. The Court also ordered Mr. Asher to pay through the Clerk  
13 of the Superior Court \$164,150.59 to First American with monthly payments in an amount to be  
14 determined by the Arizona Department of Corrections.

15 18. Mr. Asher is presently incarcerated in the Arizona State Prison Complex – Douglas,  
16 with an expected supervised release date of December 9, 2013, with subsequent supervised  
17 probation ending on November 8, 2014.

### 18 CONCLUSIONS OF LAW

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

22 2. Mr. Asher’s conduct, as set forth above, constitutes acts, omissions, and practices that  
23 demonstrate personal dishonesty and unfitness to continue in office or to participate in the conduct  
24 of the affairs of any financial institution or enterprise and is grounds for the removal and the  
25 prohibition of Mr. Asher from participating in any manner in the conduct of the affairs of any  
26 financial institution or enterprise within the meaning of A.R.S. § 6-161(A)(1).



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

3 5. Respondent acknowledges that the acceptance of this Agreement by the Superintendent is  
4 solely to settle this matter and does not preclude the Department, any other agency or officer of this  
5 state or subdivision thereof from instituting other proceedings as may be appropriate now or in the  
6 future.

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

9 DATED this 27<sup>th</sup> day of January, 2011.

10  
11 By Paul D. Asher  
12 Paul D. Asher  
Respondent

13 ORIGINAL of the foregoing filed this 8<sup>th</sup>  
14 day of February, 2011, in the office of:

15 Lauren W. Kingry  
16 Superintendent of Financial Institutions  
17 Arizona Department of Financial Institutions  
ATTN: Sabrina Hampton  
2910 N. 44th Street, Suite 310  
Phoenix, AZ 85018

18 COPY mailed same date to:

19 Lewis D. Kowal, Administrative Law Judge  
20 Office of the Administrative Hearings  
1400 West Washington, Suite 101  
21 Phoenix, AZ 85007

22 Natalia A. Garrett, Assistant Attorney General  
23 Office of the Attorney General  
1275 West Washington  
Phoenix, AZ 85007

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

1 Paul D. Asher  
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2 ASPC-Douglas  
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Douglas, AZ 85608  
4 Respondent

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