

1 ARIZONA DEPARTMENT OF FINANCIAL INSTITUTIONS

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

3 **No. 08F-BD020-BNK**

4 **CINE JOHNSON**  
5 5621 E. Desert Vista Trail  
6 Cave Creek, AZ 85331

**SUPERINTENDENT'S FINAL  
DECISION AND ORDER**

7 Respondent.

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

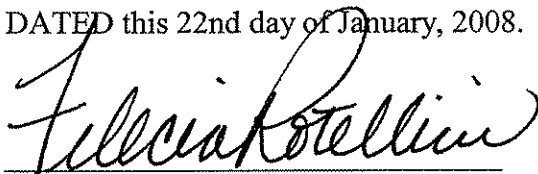
12 **ORDER**

13 IT IS ORDERED that Respondent is removed and prohibited from further participation in any  
14 manner as a director, officer, employee, agent or other person in the conduct of the affairs of any  
15 financial institution or enterprise in the State of Arizona pursuant to A.R.S. §6-161.

16 **NOTICE**

17 The parties are advised that this Order becomes effective immediately and the provisions of this  
18 Order shall remain effective and enforceable except to the extent that, and until such time as, any  
19 provision of this Order shall have been modified, terminated, suspended, or set aside by the  
20 Superintendent or a court of competent jurisdiction.

21 DATED this 22nd day of January, 2008.

22 

23 Felecia Rotellini  
24 Superintendent of Financial Institutions  
25  
26  
27 ...  
28

...

1 ORIGINAL filed this 23<sup>rd</sup> day of  
2 January, 2008, 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 Cine Johnson  
26 5621 E. Desert Vista Trail  
27 Cave Creek, AZ 85331  
28 Respondent.

BY: June Beckwith



1 stop payment order had been issued, Ms. Johnson had caused checks to be issued  
2 from LandAmerica payable to Desert Schools, and have escrow funds applied as  
3 credits to her account at Desert Schools.

4 6. Ms. Tang confirmed that seven checks issued by LandAmerica between January  
5 17, 2006 and August 16, 2006, were co-signed by Ms. Johnson and the funds were  
6 applied to Ms. Johnson's account with Desert Schools. Of the seven checks, four of  
7 them appeared to have been presented to Desert Schools by Ms. Johnson.

8 7. Bill Rose ("Mr. Rose"), Branch Manger of American General Financial Services,  
9 testified that certain checks issued by LandAmerica between December 30, 2005 and  
10 August 31, 2006, were co-signed by Ms. Johnson, and the funds were applied to Ms.  
11 Johnson's account with American General Financial Services.

12 8. The Department presented evidence obtained from documents subpoenaed  
13 from American General Financial Services and documents received from LandAmerica  
14 that showed that certain escrow accounts with LandAmerica contained stale checks or  
15 checks for which a stop payment order had been issued. Ms. Johnson caused checks  
16 to be issued from LandAmerica's escrow payable to American General Financial  
17 Services. The funds from those escrow accounts were applied as a credit to Ms.  
18 Johnson's account with American General Financial Services.

19 9. Jack Golab ("Mr. Golab"), LandAmerica's County Manager for Maricopa and  
20 Pima Counties in Arizona, testified:

21 a. Ms. Johnson was placed in a position of trust and acted as an  
22 escrow officer, which required her to deal with escrow accounts containing  
23 stale checks.

24 b. Stale checks are checks that were written on escrow accounts that  
25 were not cashed by the payee, who was usually the buyer or seller named  
26 in the escrow account file. After a period of time, an escrow officer, such  
27 as Ms. Johnson, should investigate the stale checks and, if the payee  
28 could be located, the stale check would be voided or a stop payment  
29 order issued and the escrow officer would cause the check to be reissued.

30 c. In this particular case, the internal audit revealed that checks Ms.  
Johnson caused to be issued that were made payable to certain entities

1 such as Desert Schools and American General Financial Services, were  
2 being applied to Ms. Johnson's accounts with the entities.

3 d. The audit also revealed that checks were issued from escrow  
4 accounts made payable to persons not associated with the escrow  
5 accounts. Routinely, checks are made payable to the person or entity  
6 entitled to the funds from the escrow account.

7 e. When Mr. Golab approached Ms. Johnson about the results of the  
8 audit, she stated that "she did not know what to say" and she was aware  
9 of what it looked like.

10 f. Ms. Johnson was terminated because of her misappropriation of  
11 funds from LandAmerica's escrow accounts. Ms. Johnson did not contest  
12 the termination.

13 g. LandAmerica terminated Ms. Johnson because of her dishonesty  
14 and misappropriation of funds.

15 10. Wade Herman, an auditor with LandAmerica, testified that LandAmerica's  
16 records show that during Ms. Johnson's employment with LandAmerica, she stole  
17 \$30,000.00 from escrow accounts and either had the funds applied to her accounts at  
18 various entities or had checks issued from escrow accounts to persons who were not  
19 named on or associated with the accounts.

20 11. The documentary evidence submitted by the Department corroborates the  
21 testimony of the Department's witnesses. Consequently, the Administrative Law Judge  
22 concludes that the testimony of those witnesses, as set forth above, is found to be  
23 credible.

24 12. LandAmerica brought Ms. Johnson's defalcation to the attention the  
25 Department. Based on the information presented by LandAmerica, the Department  
26 decided to institute disciplinary action against Ms. Johnson. This resulted in the instant  
27 hearing being brought before the Office of Administrative Hearings.

28 13. Robert Charlton ("Mr. Charlton"), Assistant Director of the Department, testified:

29 a. The Department proceeds against a person under A.R.S. § 6-161 when  
30 the public or the industry licensed by the Department are at risk.

- 1           b. In this particular case, there is a risk that Ms. Johnson could be employed  
2 by companies licensed by the Department and Ms. Johnson could be  
3 placed in a position of trust that would afford her an opportunity to  
4 misappropriate additional funds, which would negatively impact the  
5 licensed industry and the public.
- 6           c. The exposure to such harm and Ms. Johnson's personal dishonesty make  
7 it is necessary to ensure that Ms. Johnson is not able to be employed  
8 within the licensed industry.

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

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

12 16. The evidence of record established that funds from LandAmerica escrow  
13 accounts were misappropriated by Ms. Johnson.

#### 14 **CONCLUSIONS OF LAW**

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

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

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

29 4. The weight of the evidence of record established that Ms. Johnson's conduct, as  
30 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

1 affairs of any financial institution or enterprise within the meaning of A.R.S. § 6-  
2 161(A)(1) . Such conduct constitutes grounds for removal and the prohibition of Ms.  
3 Johnson from participating in any manner in the conduct of the affairs of any financial  
4 institution or enterprise within the meaning of A.R.S. § 6-161(A)(1).

5 5. Ms. Johnson's violation of the above-mentioned statutes constitute grounds for  
6 the removal and prohibition of Ms. Johnson from participating in any manner in the  
7 conduct of the affairs of any financial institution or enterprise pursuant to A.R.S. § 6-  
8 161(A)(6).

9 6. The Superintendent of the Department has the authority to order the removal  
10 and prohibition of Ms. Johnson from further participation in any manner as a director,  
11 officer, employee, agent or other person in the conduct of the affairs of any financial  
12 institution or enterprise pursuant to A.R.S. § 6-161.

13 **ORDER**

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

18 Done this day, December 28, 2007.

19 

20 Lewis D. Kowal  
21 Administrative Law Judge

22  
23 Original transmitted by mail this  
24 31 day of Dec., 2007, to:

25 Arizona Department of Financial Institutions  
26 Felecia Rotellini, Superintendent  
27 ATTN: Susan L. Ross  
28 2910 North 44th Street, Suite 310  
29 Phoenix, AZ 85018

30 By 