



1 non-renewed for underwriting reasons, 52 of 242 private passenger automobile policies  
2 cancelled for underwriting reasons and 6 of 6 homeowners policies non-renewed for  
3 underwriting reasons during the time frame of the examination and found that WUIC  
4 failed to provide a compliant Summary of Rights for 15 private passenger automobile  
5 non-renewals, 40 private passenger automobile cancellations and 5 homeowner non-  
6 renewals.

7 4. The examiners reviewed 35 of 35 private passenger automobile policies  
8 non-renewed during the time frame of the examination and found that WUIC failed to  
9 provide a non-renewal notice at least 45-days before the effective date of the non-  
10 renewal to 7 insureds.

11 5. The examiners reviewed 52 of 2,987 private passenger automobile  
12 policies cancelled for non-payment during the time frame of the examination and found  
13 that WUIC failed to send written notice of non-payment cancellation giving the required  
14 seven (7) day grace period to four policyholders.

15 6. The examiners reviewed 35 of 35 private passenger automobile policies  
16 non-renewed during the time frame of the examination and found that WUIC failed to  
17 provide the specific reason for the non-renewal to 8 insureds.

18 7. The examiners reviewed 5 claim forms and/or claim notices (see Exhibit  
19 A) used by the Company during the time frame of the examination that failed to contain  
20 a compliant fraud warning notice. The fraud warning was not in at least twelve point  
21 type. The Company submitted revised forms demonstrating compliant fraud warning  
22 notices.

23 8. The examiners reviewed 201 of 7,590 private passenger automobile  
24 claim files and 114 of 383 homeowner claim files settled during the time frame of the  
25 examination and found 23 private passenger automobile and 25 homeowner claims

1 related documents or correspondence in which the Company failed to identify the  
2 appropriate insuring company. The Company voluntarily implemented procedures to  
3 ensure that the proper insurer is identified on all correspondence with Arizona  
4 consumers.

5 9. The examiners reviewed 50 of 382 private passenger automobile total  
6 loss claim files processed by the Company during the time frame of the examination  
7 and found that WUIC failed to correctly calculate and fully pay sales tax, license  
8 registration, air quality and other fees payable in the settlement of 6 total losses. The  
9 Company unilaterally remedied this issue during the examination.

10 10. During the examination, WUIC resettled 6 claims resulting in total  
11 restitution to claimants of \$1,337.58, plus \$154.21 interest. The Company also  
12 voluntarily completed a self-audit of the remaining 332 private passenger automobile  
13 total loss files during the examination period and made additional restitution for correct  
14 taxes and fees owed of \$2,770.33, plus interest of \$385.05, to 35 claimants.

#### 15 CONCLUSIONS OF LAW

16 1. WUIC violated A.R.S. §20-2110 by failing to send policyholders a  
17 compliant Summary of Rights in the event of an adverse underwriting decision.

18 2. WUIC violated A.R.S. §§20-1631(E) and 20-1632(A) by failing to provide  
19 a non-renewal notice at least 45-days before the effective date of the non-renewal.

20 3. WUIC violated A.R.S. §20-1632.01 by failing to provide written notice of  
21 cancellation for non-payment of premium giving the required seven (7) day grace  
22 period.

23 4. WUIC violated A.R.S. §20-1632(A)(1) by failing to provide the specific  
24 reason for private passenger automobile non-renewals.

25 5. WUIC violated A.R.S. §20-466.03 by using claim forms that failed to

1 contain a compliant fraud warning notice.

2 6. WUIC violated A.R.S §§20-461(A)(6), 20-462(A) and A.A.C. R20-6-  
3 801(H)(1)(b) by failing to correctly calculate and fully pay sales tax, license registration,  
4 air quality and other fees payable in the settlement of total losses.

5 7. Grounds exist for the entry of the following Order in accordance with  
6 A.R.S. §§20-220, 20-456 and 20-2117.

7 **ORDER**

8 **IT IS HEREBY ORDERED THAT:**

9 1. WUIC Insurance Company shall:

10 a. provide insureds with a compliant Summary of Rights in the event of  
11 an adverse underwriting decision.

12 b. provide non-renewal notices at least 45-days before the effective date  
13 of private passenger automobile non-renewals.

14 c. provide written notice of cancellation for non-payment of premium  
15 giving the required seven (7) day grace period.

16 d. provide the specific reason for private passenger automobile non-  
17 renewals.

18 e. use claim forms that contain a compliant fraud warning notice in at  
19 least twelve point type.

20 f. correctly identify the appropriate insuring company on claims related  
21 documents and correspondence.

22 g. correctly calculate and fully pay sales tax, license registration, air  
23 quality and other fees payable in the settlement of total losses.

24 2. The Department shall, through authorized representatives, verify that  
25 WUIC has complied with all provisions of this Order.



1 **CONSENT TO ORDER**

2 1. Western United Insurance Company has reviewed the foregoing Order.

3 2. Western United Insurance Company admits the jurisdiction of the Director  
4 of Insurance, State of Arizona, admits the foregoing Findings of Fact, and consents to  
5 the entry of the Conclusions of Law and Order.

6 3. Western United Insurance Company is aware of the right to a hearing, at  
7 which it may be represented by counsel, present evidence and cross-examine  
8 witnesses. Western United Insurance Company irrevocably waives the right to such  
9 notice and hearing and to any court appeals related to this Order.

10 4. Western United Insurance Company states that no promise of any kind or  
11 nature whatsoever was made to it to induce it to enter into this Consent Order and that  
12 it has entered into this Consent Order voluntarily.

13 5. Western United Insurance Company acknowledges that the acceptance  
14 of this Order by the Director of the Arizona Department of Insurance is solely for the  
15 purpose of settling this matter and does not preclude any other agency or officer of this  
16 state or its subdivisions or any other person from instituting proceedings, whether civil,  
17 criminal, or administrative, as may be appropriate now or in the future.

18 6. John J. Richmond, who holds the office of  
19 Assistant Secretary of Western United Insurance Company, is authorized  
20 to enter into this Order for them and on their behalf.

21  
22 **WESTERN UNITED INSURANCE COMPANY**

23  
24  
25 May 18, 2010

Date

By 

1 COPY of the foregoing mailed/delivered  
2 this 27th day of May, 2010, to:

3 Gerrie Marks

Deputy Director

4 Mary Butterfield

Assistant Director

5 Consumer Affairs Division

6 Helene I. Tomme

Market Examinations Supervisor

7 Market Oversight Division

8 Dean Ehler

Assistant Director

Property and Casualty Division

9 Steve Ferguson

Assistant Director

10 Financial Affairs Division

11 David Lee

Chief Financial Examiner

12 Alexandra Shafer

Assistant Director

13 Life and Health Division

14 Chuck Gregory

Special Agent Supervisor

Investigations Division

15  
16 DEPARTMENT OF INSURANCE

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18  
19  
20 Douglas A. Lutgen, CPCU

Manager, Regulatory Affairs

21 Western United Insurance Company

3055 Oak Road, M/S W280

22 Walnut Creek, CA 94597

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24   
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## **EXHIBIT A**

The Company failed to include the Fraud Warning statement in at least twelve-point type on five (5) forms/letters, an apparent violation of A.R.S. § 20-466.03.

### **Forms with Fraud Warning but require "12 point type"**

- PA Acknowledgement
- PA Proof of Loss Receipt and Release
- HO Sworn Statement In Proof of Loss
- HO Property Loss Inventory
- HO Acknowledgment