

SEP 27 2010

STATE OF ARIZONA  
DEPARTMENT OF INSURANCE

DEPT OF INSURANCE  
BY 

In the Matter of: )  
UNIGARD INSURANCE COMPANY, )  
NAIC # 25747, )  
Respondent. )

Docket No. 10A-131-INS

**CONSENT ORDER**

Examiners for the Department of Insurance (the "Department") conducted a target market conduct examination of Unigard Insurance Company ("UIC"). In the Report of Target Market Conduct Examination of the Market Conduct Affairs of Unigard Insurance Company, the examiners allege that UIC, violated A.R.S. §§20-400.01, 20-461, 20-466.03, 20-468, 20-1677, 20-2106 and A.A.C. R20-6-801.

Unigard Insurance Company wishes to resolve this matter without formal proceedings, admits that the following Findings of Fact are true, and consents to the entry of the following Conclusions of Law and Order.

**FINDINGS OF FACT**

1. Unigard Insurance Company is authorized to transact property and casualty insurance pursuant to a Certificate of Authority issued by the Director.

2. The Director authorized the examiners to conduct a target market conduct examination of Unigard Insurance Company. The examination covered the time period from July 1, 2008 through June 30, 2009 and concluded on May 18, 2010. Based on their findings, the examiners prepared the "Report of Target Market Conduct Examination of Unigard Insurance Company" dated June 30, 2009.

3. The examiners reviewed 15 of 84 commercial multi-peril renewal policies issued during the time frame of the examination and found that UIC failed to provide sixty days advanced notice, before the expiration date, of a premium increase, change

1 in deductible or other substantial change in coverage, to 3 Arizona based insureds.

2 4. The examiners reviewed 24 of 84 commercial multi-peril new and renewal  
3 policies issued during the time frame of the examination and found that UIC failed to  
4 adequately document scheduled rating modifications for 10 predominately Arizona  
5 based insureds.

6 5. The examiners found 5 claim authorization disclosure forms used during  
7 the time frame of the examination that failed to specify that the authorization remains  
8 valid for no longer than the duration of the claim and/or failed to advise the individual or  
9 a person authorized to act on behalf of the individual that they are entitled to receive a  
10 copy of the authorization form. (see Exhibit A)

11 6. The examiners found 2 claim forms (see Exhibit B) used by the Company  
12 during the time frame of the examination that failed to contain a compliant fraud  
13 warning notice.

14 7. The examiners reviewed 15 of 15 private passenger automobile total loss  
15 claim files processed by the Company during the time frame of the examination and  
16 found that UIC failed to correctly calculate and fully pay sales tax, title, registration, air  
17 quality and other fees payable in the settlement of 5 total losses, involving first and  
18 third party claimants.

19 8. The examiners found that Unigard Insurance Company's "Find a Body  
20 Shop" web page in use during the time frame of the examination, failed to inform  
21 claimants they have a right to choose any repair facility, not only those listed on the  
22 state specific drop-down box.

23 9. The examiners reviewed 20 of 20 private passenger automobile  
24 subrogation recovery claim files processed by the Company during the time frame of  
25 the examination and found that UIC failed promptly reimburse 2 insureds their

1 deductible after successful subrogation recovery.

2 10. UIC has made restitution payments to all first and third party personal  
3 automobile total loss claimants for the correct amount of taxes and fees, at the request  
4 of the Department, totaling \$264.30 in restitution plus \$48.12 in interest.

### 5 CONCLUSIONS OF LAW

6 1. Unigard Insurance Company violated A.R.S. §20-1677 by failing to  
7 provide sixty days advanced notice to commercial multi-peril policyholders, before the  
8 expiration date, of a premium increase, change in deductible or other substantial  
9 change in coverage.

10 2. UIC violated A.R.S. §20-400.01 by failing to adequately document  
11 scheduled rating modifications used to determine commercial multi-peril premiums.

12 3. UIC violated A.R.S. §20-2106(8)(b) and (9) by using authorization forms  
13 that failed to contain a compliant *Authorization for the Release of Information*.

14 4. UIC violated A.R.S. §20-466.03 by using claim forms that failed to contain  
15 a compliant fraud warning notice.

16 5. UIC violated A.R.S §20-461(A)(6) and A.A.C. R20-6-801(H)(1)(b) by  
17 failing to correctly calculate and fully pay sales tax, title registration, air quality and  
18 other fees payable in the settlement of total losses.

19 6. UIC violated A.R.S §20-468 by failing to inform claimants of their right to  
20 choose any repair facility for the repair of a motor vehicle at the same time as providing  
21 repair information.

22 7. UIC violated A.R.S §20-461(A)(6) and A.A.C. R20-6-801(H)(4) by failing  
23 to promptly reimburse 2 insureds their deductible after successful subrogation  
24 recovery.

25 8. Grounds exist for the entry of the following Order in accordance with

1 A.R.S. §§20-220 and 20-456 and 20-2117.

2 **ORDER**

3 **IT IS HEREBY ORDERED THAT:**

4 1. Unigard Insurance Company shall:

5 a. provide sixty days advance notice to commercial multi-peril  
6 policyholders, before the expiration date, of a premium increase, change in  
7 deductible or other substantial change in coverage.

8 b. adequately document scheduled rating modifications used to  
9 determine commercial multi-peril premiums.

10 c. use authorization disclosure forms that contain a compliant  
11 *Authorization for the Release of Information*.

12 d. use claim forms that contain a compliant fraud warning notice.

13 e. correctly calculate and fully pay sales tax, title, registration, air quality  
14 and other fees payable in the settlement of first and third party total losses.

15 f. inform claimants of their right to choose any repair facility for the  
16 repair of a motor vehicle on their "Find a Body Shop" web page.

17 g. reimburse the insureds deductible on a timely basis after subrogation  
18 recovery.

19 2. Within 90 days of the filed date of this Order, Unigard Insurance  
20 Company shall submit to the Arizona Department of Insurance, for approval, evidence  
21 that UIC implemented corrections and communicated these corrections to the  
22 appropriate personnel, regarding the issues outlined in Paragraph 1 of the Order  
23 section of this Consent Order. Evidence of corrective action and communication  
24 thereof includes, but is not limited to, memos, bulletins, E-mails, correspondence,  
25 procedures manuals, print screens, and training materials.

1           3.     The Department shall, through authorized representatives, verify that UIC  
2 has complied with all provisions of this Order.

3           4.     Unigard Insurance Company shall pay a civil penalty of \$16,000.00 to the  
4 Director for remission to the State Treasurer for deposit in the State General Fund in  
5 accordance with A.R.S. §20-220(B). UIC shall submit the civil penalty to the Market  
6 Oversight Division of the Department prior to the filing of this Order.

7           5.     The Report of Target Market Examination of Unigard Insurance Company  
8 of June 30, 2009, including the letter with their objections to the Report of Examination,  
9 shall be filed with the Department upon the filing of this Order.

10 DATED at Arizona this 24<sup>th</sup> day of September, 2010.

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14 Christina Urias  
15 Director of Insurance  
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1 **CONSENT TO ORDER**

2 1. Unigard Insurance Company has reviewed the foregoing Order.

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

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

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

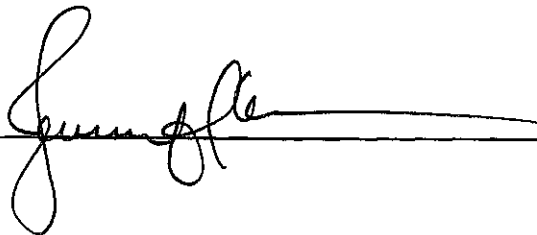
13 5. Unigard Insurance Company acknowledges that the acceptance of this  
14 Order by the Director of the Arizona Department of Insurance is solely for the purpose  
15 of settling this matter and does not preclude any other agency or officer of this state or  
16 its subdivisions or any other person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

18 6. Jennifer J. Vernon, who holds the office of  
19 General Counsel/Corporate Secretary  
20 of Unigard Insurance Company, is authorized to enter  
21 into this Order for them and on their behalf.

22 **UNIGARD INSURANCE COMPANY**

23  
24 9-3-10  
25 Date

By



1 COPY of the foregoing mailed/delivered  
2 this 27th day of September , 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

9 Property and Casualty Division

10 Steve Ferguson

Assistant Director

11 Financial Affairs Division

12 David Lee

Chief Financial Examiner

13 Alexandra Shafer

Assistant Director

14 Life and Health Division

15 Chuck Gregory

Special Agent Supervisor

Investigations Division

16 DEPARTMENT OF INSURANCE

2910 North 44th Street, Suite 210

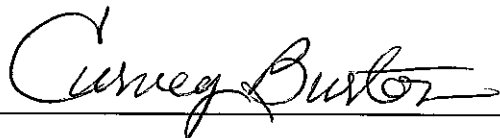
17 Phoenix, AZ 85018

18  
19  
20 Kristofer Larson, Staff Counsel  
Corporate Legal

21 Unigard Insurance Company

15805 NE 24th Street

22 Bellevue, WA 98009-2409

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## EXHIBIT A

### Authorization Disclosure

These forms fail to comply with A.R.S. § 20-2106(8)(b) and (9).

The following table summarizes these authorization form findings.

	<b>Form Description / Title</b>	<b>Form #</b>	<b>Statute Provision</b>
1	Authorization for Medical Information	153794 ED 12/2007	8(b) and 9
2	Authorization for Medical Information	119111 ED 12/2007	8(b) and 9
3	Authorization for Medical Information	152125 12/2007	8(b) and 9
4	Authorization for Medical Information	#3 minor med auth.doc	8(b) and 9
5	Employment Information Authorization	119111 ED 12/2007	9



## **EXHIBIT B**

**Fraud Warning Statement** – The Company failed to include the required fraud warning statement on 2 claim forms in violation of A.R.S. § 20-466.03.

**Forms without a Fraud Warning Statement:**

	<b>Form Title / Description</b>	<b>Form #</b>
1	Statement of Error - Odometer	149472D ED 12/2007
2	Medical Provider Information	#3 minor med auth.doc