

OCT 1 2010

STATE OF ARIZONA
DEPARTMENT OF INSURANCE

DEPT OF INSURANCE
BY [Signature]

In the Matter of:)
)
 QBE INSURANCE CORPORATION,)
)
 NAIC # 39217,)
)
 Respondent.)

Docket No. 10A-133-INS

CONSENT ORDER

Examiners for the Department of Insurance (the "Department") conducted a target market conduct examination of QBE Insurance Corporation ("QBE"). In the Report of Target Market Conduct Examination of the Market Conduct Affairs of QBE Insurance Corporation, the examiners allege that QBE, violated A.R.S. §§20-259.01, 20-385, 20-400.01, 20-461, 20-462, 20-466.03, 20-1631, 20-1677, 20-2113 and A.A.C. R20-6-801.

QBE Insurance Corporation 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. QBE Insurance Corporation 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 QBE Insurance Corporation. The examination covered the time period from July 1, 2008 through June 30, 2009 and concluded on July 1, 2010. Based on their findings, the examiners prepared the "Report of Target Market Conduct Examination of QBE Insurance Corporation" dated June 30, 2009.

3. Following a market conduct examination of QBE Insurance Corporation as of June 30, 2004, the Director entered a Consent Order, Docket No. 05A-179-INS,

1 which was filed on December 14, 2005 (the "2005 Order"). In pertinent part, the 2005
2 Order required QBE Insurance Corporation to cease and desist from non-renewing
3 policies for reasons not allowed by statute, using claim forms that fail to contain a
4 compliant fraud warning notice and failing to pay the appropriate amount of ACV, tax
5 and license fees to claimants and insureds, in total loss automobile settlements.

6 4. The examiners reviewed 100 of 713 private passenger automobile and
7 motorcycle policies issued during the time frame of the examination and found that
8 QBE failed to accurately apply rating surcharges, per filed rating plans, to determine
9 the premium on 6 private passenger automobile and 3 motorcycle policies.

10 5. The examiners reviewed 100 of 2,475 private passenger automobile and
11 motorcycle new business policies issued during the time frame of the examination and
12 found that QBE failed to obtain signed and dated Uninsured and Underinsured Motorist
13 Selection forms from 10 private passenger automobile and 5 motorcycle new business
14 applicants.

15 6. The examiners reviewed 60 of 826 commercial multi-peril new and
16 renewal policies issued during the time frame of the examination and found that QBE
17 failed to provide sixty days advanced notice, before the expiration date, of a premium
18 increase, change in deductible or other substantial change in coverage, to 8 Arizona
19 based insureds.

20 7. The examiners reviewed 70 of 826 commercial multi-peril new and
21 renewal policies issued during the time frame of the examination and found that QBE
22 failed to adequately document scheduled rating modifications for 11 predominately
23 Arizona based insureds.

24 8. The examiners reviewed 100 of 2,475 private passenger automobile and
25 motorcycle new business policies issued during the time frame of the examination and

1 found that QBE failed to obtain signed and dated written authorization forms, to release
2 personal and privileged information, from 10 private passenger automobile and 5
3 motorcycle new business applicants.

4 9. The examiners reviewed 11 of 11 private passenger automobile non-
5 renewal notices issued during the time frame of the examination and found that QBE
6 issued non-renewal notices to 4 policyholders for reasons not allowed by statute.

7 10. The examiners found 2 claim forms (see Exhibit A) used by the Company
8 during the time frame of the examination that failed to contain a compliant fraud
9 warning notice.

10 11. The examiners found that the Company incorrectly cited the California
11 Department of Insurance and/or California statutes, instead of Arizona, in claims
12 correspondence to 4 claimants during the time frame of the examination.

13 12. The examiners reviewed 21 of 21 private passenger automobile and
14 motorcycle total loss claim files processed by the Company during the time frame of
15 the examination and found that QBE failed to correctly calculate and fully pay sales tax,
16 title, registration, air quality and other fees payable in the settlement of 14 total losses,
17 involving first and third party claimants.

18 13. QBE has made restitution payments to all first and third party private
19 passenger automobile and motorcycle total loss claimants for the correct amount of
20 taxes and fees, at the request of the Department, totaling \$99.09 in restitution plus
21 \$16.15 in interest, for a total reimbursement of \$115.24.

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CONCLUSIONS OF LAW

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2 1. QBE Insurance Corporation violated A.R.S. §20-385 by failing to
3 accurately apply rating surcharges, per filed rating plans, in the premium determination
4 of private passenger automobile and motorcycle policies.

5 2. QBE violated A.R.S. §20-259.01 by failing to obtain signed and dated
6 Uninsured and Underinsured Motorist Selection forms from private passenger
7 automobile and motorcycle new business applicants.

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

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

13 5. QBE violated A.R.S. §20-2113 by failing to obtain signed and dated
14 written authorization forms for the release of personal and privileged information.

15 6. QBE violated A.R.S. §20-1631(D) by issuing non-renewal notices for
16 reasons not allowed by statute.

17 7. QBE violated A.R.S. §20-466.03 by using claim forms that failed to
18 contain a compliant fraud warning notice.

19 8. QBE violated A.R.S. §20-461(A)(1) by failing to identify the correct state
20 and/or state statutes on claims correspondence.

21 9. QBE violated A.R.S. §20-461(A)(6), 20-462(A) and A.A.C. R20-6-
22 801(H)(1)(b) by failing to correctly calculate and fully pay sales tax, title registration, air
23 quality and other fees payable in the settlement of total losses.

24 10. Grounds exist for the entry of the following Order in accordance with
25 A.R.S. §§20-220 and 20-456 and 20-2117.

1 ORDER

2 **IT IS HEREBY ORDERED THAT:**

3 1. QBE Insurance Corporation shall:

4 a. accurately apply filed rating plans to determine the correct surcharge
5 on private passenger automobile and motorcycle premiums.

6 b. obtain signed and dated Uninsured and Underinsured Motorist
7 Selection forms from private passenger automobile and motorcycle new
8 business applicants.

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

12 d. adequately document scheduled rating modifications used to
13 determine commercial multi-peril premiums.

14 e. obtain signed and dated written authorization forms for the release of
15 personal and privileged information.

16 f. use only reasons allowed by statute to non-renew private passenger
17 automobile policies.

18 g. use claim forms that contain a compliant fraud warning notice.

19 h. identify the correct state and/or state statutes on all claims
20 correspondence.

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

23 2. Within 90 days of the filed date of this Order, QBE Insurance Corporation
24 shall submit to the Arizona Department of Insurance, for approval, evidence that QBE
25 implemented corrections and communicated these corrections to the appropriate

1 personnel, regarding the issues outlined in Paragraph 1 of the Order section of this
2 Consent Order. Evidence of corrective action and communication thereof includes, but
3 is not limited to, memos, bulletins, E-mails, correspondence, procedures manuals, print
4 screens, and training materials.

5 3. The Department shall, through authorized representatives, verify that
6 QBE has complied with all provisions of this Order.

7 4. QBE Insurance Corporation shall pay a civil penalty of \$40,000.00 to the
8 Director for remission to the State Treasurer for deposit in the State General Fund in
9 accordance with A.R.S. §20-220(B). QBE shall submit the civil penalty to the Market
10 Oversight Division of the Department prior to the filing of this Order.

11 5. The Report of Target Market Examination of QBE Insurance Corporation
12 of June 30, 2009, including the letter with their objections to the Report of Examination,
13 shall be filed with the Department upon the filing of this Order.

14 DATED at Arizona this 1st day of October, 2010.

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17 _____
18 Christina Urias
19 Director of Insurance
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1 **CONSENT TO ORDER**

2 1. QBE Insurance Corporation has reviewed the foregoing Order.

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

10 4. QBE Insurance Corporation 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. QBE Insurance Corporation 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. Peter Maloney, who holds the office of
19 Corporate Secretary of QBE Insurance Corporation, is authorized to enter
20 into this Order for them and on their behalf.

21
22 **QBE INSURANCE CORPORATION**

23
24 9-16-10
25 Date

By 

1 COPY of the foregoing mailed/delivered
2 this 1st day of October, 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

Dean Ehler

8 Assistant Director

Property and Casualty Division

9 Steve Ferguson

Assistant Director

10 Financial Affairs Division

David Lee

11 Chief Financial Examiner

Alexandra Shafer

12 Assistant Director

13 Life and Health Division

Chuck Gregory

14 Special Agent Supervisor

Investigations Division

15
16 DEPARTMENT OF INSURANCE

2910 North 44th Street, Suite 210

17 Phoenix, AZ 85018

18
19 Chuck Bolton, VP Underwriting

20 QBE Insurance Corporation

Wall Street Plaza

21 88 Pine Street, 4th Floor

New York, NY 10005-1801

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EXHIBIT A

Preliminary Finding #1 – Fraud Warning Statement – The Company failed to include the required fraud warning statement on two (2) claim forms. These represent two (2) violations of A.R.S. § 20-466.03 and the prior Consent Order.

The following table summarizes the fraud warning statement findings:

	Specimen Form Description	Form #
1	Authorization to Pay-Off	N/A
2	Declaration of No Assets	5689611