

MAY 31 2012

DEPT OF INSURANCE
BY 

STATE OF ARIZONA
DEPARTMENT OF INSURANCE

In the Matter of:

INFINITY SELECT INSURANCE COMPANY,
NAIC # 20260,
Respondent.

) Docket No. 12A-051-INS

) **CONSENT ORDER**

Examiners for the Department of Insurance (the "Department") conducted a target market conduct examination of Infinity Select Insurance Company ("ISIC"). In the Report of Target Market Conduct Examination of the Market Conduct Affairs of Infinity Select Insurance Company, the examiners allege that ISIC violated A.R.S. §§20-461, 20-1631, 20-1632, 20-2106, 20-2110 and A.A.C. R20-6-801.

Infinity Select 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. Infinity Select 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 Infinity Select Insurance Company. The examination covered the time period from January 1, 2010 through December 31, 2010 and concluded on February 10, 2012. Based on their findings, the examiners prepared the "Report of Target Market Conduct Examination of Infinity Select Insurance Company" dated December 31, 2010.

3. The examiners found an underwriting authorization disclosure form,

1 included in one private passenger automobile application, *Applicant Statement* (form#
2 4235 R0304), used during the time frame of the examination that failed to specify the
3 authorization remains valid for no longer than one year from the date the authorization
4 is signed and to advise the individual or a person authorized to act on behalf of the
5 individual that they are entitled to receive a copy of the authorization form.

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

11 5. The examiners reviewed 50 of 163 private passenger automobile policies
12 non-renewed due to an adverse underwriting decision during the time frame of the
13 examination and found that ISIC failed to provide a Summary of Rights at all on 36
14 non-renewals and failed to provide a compliant Summary of Rights to all others.

15 6. The examiners reviewed 78 of 191 private passenger automobile policies
16 cancelled or non-renewed for underwriting reasons during the time frame of the
17 examination and found that ISIC non-renewed 34 and cancelled 4 policies, that had
18 been in effect sixty (60) days, for reasons not allowed by statute.

19 7. The examiners reviewed 50 of 163 private passenger automobile policies
20 non-renewed for underwriting reasons during the time frame of the examination and
21 found that ISIC failed to provide a non-renewal notice at least 45-days before the
22 effective date to 8 policyholders.

23 8. The examiners reviewed 50 of 163 private passenger automobile policies
24 non-renewed for underwriting reasons during the time frame of the examination and
25 found that ISIC used 38 non-renewal notices that failed to inform policyholders of their

1 right to complain to the Director and their possible eligibility for insurance through the
2 automobile assigned risk plan.

3 9. The examiners reviewed 78 of 191 private passenger automobile policies
4 cancelled or non-renewed for underwriting reasons during the time frame of the
5 examination and found that ISIC failed to provide proof of mailing on 17 cancellations
6 and 1 non-renewal.

7 10. The examiners reviewed 50 of 330 private passenger automobile total
8 loss claims processed by the Company during the time frame of the examination and
9 found that ISIC failed to correctly calculate and fully pay sales tax, license registration
10 and/or air quality fees payable in the settlement of 18 total losses.

11 11. The examiners reviewed 50 of 116 private passenger automobile
12 subrogation recovery claims processed by the Company during the time frame of the
13 examination and found that ISIC failed to promptly reimburse the proportionate amount
14 of the deductible after subrogation recovery to 3 insured claimants.

15 12. The examiners reviewed 50 of 2,128 private passenger automobile
16 claims closed without payment during the time frame of the examination and found that
17 the Company failed to provide 5 claimants with a claim denial in writing.

18 13. The examiners found that the Company incorrectly cited the California
19 Department of Insurance and/or California statutes, instead of Arizona, in claims
20 correspondence to 21 claimants during the time frame of the examination.

21 14. During the review of the Company's private passenger automobile claim
22 settlement practices, ISIC reimbursed the 3 claimants owed subrogation recovery
23 restitution of \$623.60, which included \$98.10 interest.

24

25

1 **CONCLUSIONS OF LAW**

2 1. ISIC violated A.R.S. §20-2106(7)(b) and (9) by using an underwriting
3 authorization form that failed to contain a compliant *Authorization for the Release of*
4 *Information*.

5 2. ISIC violated A.R.S. §20-2106(8)(b) and (9) by using claim authorization
6 forms that failed to contain a compliant *Authorization for the Release of Information*.

7 3. ISIC violated A.R.S. §20-2110 by failing to provide policyholders a
8 compliant Summary of Rights in the event of an adverse underwriting decision.

9 4. ISIC violated A.R.S. §20-1631(D) by issuing private passenger
10 automobile cancellations and non-renewals for reasons not allowed by statute.

11 5. ISIC violated A.R.S. §20-1632(A) by failing to mail nonrenewal notices at
12 least 45-days before the effective date of the non-renewal.

13 6. ISIC violated A.R.S. §20-1632(A)(1) & (2) by failing to provide a non
14 renewal notice that informs policyholders of their right to complain to the Director and
15 their possible eligibility for insurance through the automobile assigned risk plan.

16 7. ISIC violated A.R.S. §20-1632(A) by failing to provide proof of mailing on
17 private passenger automobile cancellations and non-renewals.

18 8. ISIC violated A.R.S §20-461(A)(6) and A.A.C. R20-6-801(H)(1)(b) by
19 failing to correctly calculate and fully pay sales tax, license registration and/or air
20 quality fees payable in the settlement of total losses.

21 9. ISIC violated A.R.S §20-461(A)(6) and A.A.C. R20-6-801(H)(4) by failing
22 to reimburse the deductible on a timely basis after subrogation recovery.

23 10. ISIC violated A.R.S §20-461(A)(5) and A.A.C. R20-6-801(G)(1)(a) by
24 failing to provide claimants with a written claim denial.

25

1 11. Grounds exist for the entry of the following Order in accordance with
2 A.R.S. §§20-220 and 20-456 and 20-2117.

3
4 **ORDER**

5 **IT IS HEREBY ORDERED THAT:**

- 6 1. Infinity Select Insurance Company shall:
- 7 a. use applications that include underwriting authorization disclosure
8 forms that contain a compliant *Authorization for the Release of Information*.
- 9 b. use claim authorization disclosure forms that contain a compliant
10 *Authorization for the Release of Information*.
- 11 c. provide insureds a compliant Summary of Rights in the event of an
12 adverse underwriting decision.
- 13 d. use only reasons allowed by statute to cancel or non-renew private
14 passenger automobile policies.
- 15 e. mail nonrenewal notices at least 45 days before the effective date of
16 the non-renewal.
- 17 f. use non-renewal notices that inform policyholders of their right to
18 complain to the Director and their possible eligibility for insurance through the
19 automobile assigned risk plan.
- 20 g. retain proof of mailing on all private passenger automobile
21 cancellations and non-renewals.
- 22 h. correctly calculate and fully pay sales tax and other fees payable in
23 the settlement of total losses.
- 24 i. promptly reimburse the proportionate amount of the deductible after
25 subrogation recovery.

1 j. provide claimants with a written claim denial.

2 k. identify the correct state and/or state statutes on all claims-related
3 documents and/or correspondence.

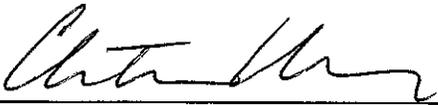
4 2. Within 90 days of the filed date of this Order, Infinity Select Insurance
5 Company shall submit to the Arizona Department of Insurance, for approval, evidence
6 that ISIC implemented corrections and communicated these corrections to the
7 appropriate personnel, regarding the issues outlined in Paragraph 1 of the Order
8 section of this Consent Order. Evidence of corrective action and communication
9 thereof includes, but is not limited to, memos, bulletins, E-mails, correspondence,
10 procedures manuals, print screens, and training materials.

11 3. The Department shall, through authorized representatives, verify that
12 ISIC has complied with all provisions of this Order.

13 4. Infinity Select Insurance Company shall pay a civil penalty of \$41,000.00
14 to the Director for remission to the State Treasurer for deposit in the State General
15 Fund in accordance with A.R.S. §20-220(B). ISIC shall submit the civil penalty to the
16 Market Oversight Division of the Department prior to the filing of this Order.

17 5. The Report of Target Market Examination of Infinity Select Insurance
18 Company of December 31, 2010, including the letter with their objections to the Report
19 of Examination, shall be filed with the Department upon the filing of this Order.

20 DATED at Arizona this 30th day of May, 2012.

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22 
23 _____
24 Christina Urias
25 Director of Insurance

1 **CONSENT TO ORDER**

2 1. Infinity Select Insurance Company has reviewed the foregoing Order.

3 2. Infinity Select 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. Infinity Select 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. Infinity Select Insurance Company irrevocably waives the right to such
9 notice and hearing and to any court appeals related to this Order.

10 4. Infinity Select 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. Infinity Select Insurance Company acknowledges that the acceptance of
14 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. MITCHELL SILVERMAN, who holds the office of
19 ASSISTANT SECRETARY of Infinity Select Insurance Company, is authorized to
20 enter into this Order for them and on their behalf.

21
22 **INFINITY SELECT INSURANCE COMPANY**

23
24 May 10, 2012
25 Date

By Mitchell Silverman

1 COPY of the foregoing mailed/delivered
2 this 31st day of May, 2012, to:

3 Gerrie Marks
4 Deputy Director
5 Mary Butterfield
6 Assistant Director
7 Consumer Affairs Division
8 Helene I. Tomme
9 Market Examinations Supervisor
10 Market Oversight Division
11 Dean Ehler
12 Assistant Director
13 Property and Casualty Division
14 Kurt Regner
15 Assistant Director
16 Financial Affairs Division
17 David Lee
18 Chief Financial Examiner
19 Alexandra Shafer
20 Assistant Director
21 Life and Health Division
22 Chuck Gregory
23 Special Agent Supervisor
24 Investigations Division

16 DEPARTMENT OF INSURANCE
17 2910 North 44th Street, Suite 210
18 Phoenix, AZ 85018

19 Frances H. Hayes
20 Sr. Regulatory Compliance Analyst
21 Legal Compliance Department
22 Infinity Insurance Companies
23 3700 Colonnade Parkway
24 Birmingham, Alabama 35243

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EXHIBIT A

Claim Authorization Disclosure

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

The following table summarizes these application form findings.

Form Description / Title	Form #	Statute Provision
Authorization to Disclose Health Information Form	None	8(b) and 9
Consent to Disclose and Release Form	None	8(b) and 9