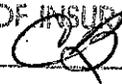


MAY 31 2012

STATE OF ARIZONA
DEPARTMENT OF INSURANCE

DEPT OF INSURANCE
BY 

In the Matter of:

INFINITY INSURANCE COMPANY,

NAIC # 22268,

Respondent.

) Docket No. 12A-052-INS

) **CONSENT ORDER**

Examiners for the Department of Insurance (the "Department") conducted a target market conduct examination of Infinity Insurance Company ("IIC"). In the Report of Target Market Conduct Examination of the Market Conduct Affairs of Infinity Insurance Company, the examiners allege that IIC violated A.R.S. §§20-259.01, 20-385, 20-461, 20-1631, 20-1632, 20-2106, 20-2110 and A.A.C. R20-6-801.

Infinity 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 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 Insurance Company. The examination covered the time period from January 1, 2010 through December 31, 2010 and concluded on February 13, 2012. Based on their findings, the examiners prepared the "Report of Target Market Conduct Examination of Infinity Insurance Company" dated December 31, 2010.

3. The examiners reviewed 100 of 23,934 new and/or renewal private

1 passenger automobile policies and 100 of 17,136 surcharged private passenger
2 automobile policies issued during the time frame of the examination and found that IIC
3 failed to accurately document and apply the Company's filed credit score methodology
4 to determine the premium for 9 new business and 14 surcharged private passenger
5 automobile policies.

6 4. The examiners reviewed 200 of 23,934 new and/or renewal private
7 passenger automobile policies issued during the time frame of the examination and
8 found that IIC failed to properly document and retain signed uninsured and
9 underinsured selection forms for 17 new business applicants.

10 5. The examiners found underwriting authorization disclosure forms,
11 included in four private passenger automobile applications, used during the time frame
12 of the examination that failed to specify the authorization remains valid for no longer
13 than one year from the date the authorization is signed and to advise the individual or a
14 person authorized to act on behalf of the individual that they are entitled to receive a
15 copy of the authorization form. (see Exhibit A)

16 6. The examiners found one claim authorization disclosure form, the
17 *Authorization to Disclose Health Information Form*, used during the time frame of the
18 examination that failed to specify the authorization remains valid for no longer than the
19 duration of the claim and advise the individual or a person authorized to act on behalf
20 of the individual that they are entitled to receive a copy of the authorization form.

21 7. The examiners reviewed 50 of 109 private passenger automobile policies
22 non-renewed due to an adverse underwriting decision during the time frame of the
23 examination and found that IIC failed to provide a Summary of Rights at all on 4 non-
24 renewals and failed to provide a compliant Summary of Rights to all others.

25 8. The examiners reviewed 69 of 128 private passenger automobile policies

1 cancelled or non-renewed for underwriting reasons during the time frame of the
2 examination and found that IIC non-renewed 25 and cancelled 2 policies, that had
3 been in effect sixty (60) days, for reasons not allowed by statute.

4 9. The examiners reviewed 50 of 109 private passenger automobile policies
5 non-renewed for underwriting reasons during the time frame of the examination and
6 found that IIC failed to provide a non-renewal notice at least 45-days before the
7 effective date to 3 policyholders.

8 10. The examiners reviewed 50 of 109 private passenger automobile policies
9 non-renewed for underwriting reasons during the time frame of the examination and
10 found that IIC used 7 non-renewal notices that failed to inform policyholders of their
11 right to complain to the Director and their possible eligibility for insurance through the
12 automobile assigned risk plan.

13 11. The examiners reviewed 40 of 40 private passenger automobile total loss
14 claims processed by the Company during the time frame of the examination and found
15 that IIC failed to correctly calculate and fully pay sales tax, license registration and/or
16 air quality fees payable in the settlement of 8 total losses.

17 12. The examiners reviewed 33 of 33 private passenger automobile
18 subrogation recovery claims processed by the Company during the time frame of the
19 examination and found that IIC failed to promptly reimburse the proportionate amount
20 of the deductible after subrogation recovery to 4 insured claimants.

21 13. The examiners reviewed 50 of 278 private passenger automobile claims
22 closed without payment during the time frame of the examination and found that the
23 Company failed to provide 3 claimants with a claim denial in writing.

24 14. The examiners found that the Company incorrectly cited the California
25 Department of Insurance and/or California statutes, instead of Arizona, in claims

1 correspondence to 7 claimants during the time frame of the examination.

2 15. During the review of the Company's private passenger automobile claim
3 settlement practices, IIC reimbursed the 4 claimants owed subrogation recovery
4 restitution of \$863.20, which included \$77.20 interest.

5
6 **CONCLUSIONS OF LAW**

7 1. IIC violated A.R.S. §20-385 by failing to accurately document and apply
8 the Company's filed credit scoring model to determine the premium for new business
9 and surcharged private passenger automobile policies.

10 2. IIC violated A.R.S. §20-259.01(A) and (B) by failing to properly document
11 and retain signed uninsured and underinsured selection forms for new business
12 applicants.

13 3. IIC violated A.R.S. §20-2106(7)(b) and (9) by using underwriting
14 authorization forms that failed to contain a compliant *Authorization for the Release of*
15 *Information*.

16 4. IIC violated A.R.S. §20-2106(8)(b) and (9) by using a claim authorization
17 form that failed to contain a compliant *Authorization for the Release of Information*.

18 5. IIC violated A.R.S. §20-2110 by failing to provide policyholders a
19 compliant Summary of Rights in the event of an adverse underwriting decision.

20 6. IIC violated A.R.S. §20-1631(D) by issuing private passenger automobile
21 cancellations and non-renewals for reasons not allowed by statute.

22 7. IIC violated A.R.S. §20-1632(A) by failing to mail nonrenewal notices at
23 least 45-days before the effective date of the non-renewal.

24 8. IIC violated A.R.S. §20-1632(A)(1) & (2) by failing to provide a non
25 renewal notice that informs policyholders of their right to complain to the Director and

1 their possible eligibility for insurance through the automobile assigned risk plan.

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

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

7 11. IIC violated A.R.S §20-461(A)(5) and A.A.C. R20-6-801(G)(1)(a) by failing
8 to provide claimants with a written claim denial.

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

11
12 **ORDER**

13 **IT IS HEREBY ORDERED THAT:**

14 1. Infinity Insurance Company shall:

15 a. accurately document and apply its filed credit scoring model to
16 determine the premium for new business and surcharged private passenger
17 automobile policies.

18 b. document and retain signed uninsured and underinsured selection
19 forms for new business applicants.

20 c. use applications that include underwriting authorization disclosure
21 forms that contain a compliant *Authorization for the Release of Information*.

22 d. use claim authorization disclosure forms that contain a compliant
23 *Authorization for the Release of Information*.

24 e. provide insureds a compliant Summary of Rights in the event of an
25 adverse underwriting decision.

1 f. use only reasons allowed by statute to cancel or non-renew private
2 passenger automobile policies.

3 g. mail nonrenewal notices at least 45 days before the effective date of
4 the non-renewal.

5 h. use non-renewal notices that inform policyholders of their right to
6 complain to the Director and their possible eligibility for insurance through the
7 automobile assigned risk plan.

8 i. correctly calculate and fully pay sales tax and other fees payable in
9 the settlement of total losses.

10 j. promptly reimburse the proportionate amount of the deductible after
11 subrogation recovery.

12 k. provide claimants with a written claim denial.

13 l. identify the correct state and/or state statutes on all claims-related
14 documents and/or correspondence.

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

22 3. The Department shall, through authorized representatives, verify that IIC
23 has complied with all provisions of this Order.

24 4. Infinity Insurance Company shall pay a civil penalty of \$38,000.00 to the
25 Director for remission to the State Treasurer for deposit in the State General Fund in

1 accordance with A.R.S. §20-220(B). IIC shall submit the civil penalty to the Market
2 Oversight Division of the Department prior to the filing of this Order.

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

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

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10 Christina Urias
11 Director of Insurance

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1 **CONSENT TO ORDER**

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

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

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

21
22 **INFINITY INSURANCE COMPANY**

23
24 MAY 10, 2012
25 Date

By 

1 COPY of the foregoing mailed/delivered
this 31st day of May, 2012, 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 Kurt Regner
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
- 16 Investigations Division

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

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

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25 _____

EXHIBIT A

Underwriting Authorization Disclosure

These forms fail to comply with A.R.S. § 20-2106(7)(b) and (9).

The following table summarizes these application form findings.

Application Type	Form #	Statute Provision
Infinity Insurance Co Auto Application	4235 R0304	7(b) and 9
Classic Auto Insurance	04280 R0705	7(b) and 9
Infinity Value Added Auto Application	10260APP01	7(b) and 9
Classic Collectors Insurance Program	05101 R0905	7(b) and 9