

STATE OF ARIZONA  
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DEPT. OF INSURANCE

**REPORT OF TARGET MARKET EXAMINATION  
OF  
BENCHMARK INSURANCE COMPANY**

**NAIC # 41394**

**AS OF**

**DECEMBER 31, 2005**

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**CHRISTINA URIAS**  
Director of Insurance

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Honorable Christina Urias  
Director of Insurance  
State of Arizona  
2910 North 44<sup>th</sup> Street, Suite 210  
Phoenix, Arizona 85108-7269

Dear Director Urias:

Pursuant to your instructions and in conformity with the provisions of the Insurance Laws and Rules of the State of Arizona, a targeted examination has been made of the market affairs of:

**BENCHMARK INSURANCE COMPANY**

**NAIC # 41394**

The above examination was conducted by William P. Hobert, Examiner-in-Charge, and Robert De Berge, Market Examiner.

The examination covered the period of July 1, 2004 through December 31, 2005.

As a result of that examination, the following Report of Examination is respectfully submitted.

Sincerely yours,

Paul J. Hogan, FLMI, ALHC, CI, CIE  
Market Oversight Administrator  
Market Oversight Division

**AFFIDAVIT**

STATE OF ARIZONA                    )  
  )    ss.  
County of Maricopa                    )

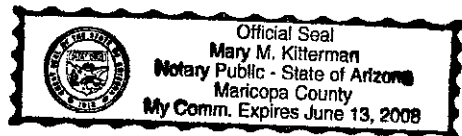
I, William P. Hobert, being first duly sworn state that I am a duly appointed Market Examinations Examiner-in-Charge for the Arizona Department of Insurance. That under my direction and with my participation and the participation of Robert De Berge, Market Examiner, the Examination of Benchmark Insurance Company, hereinafter referred to as the "Company" was performed at the offices of the Arizona Department of Insurance. A teleconference meeting with appropriate Company officials was held to discuss this Report, but a copy was not provided to management, as the Examination Report was not finalized. The information contained in this Report, consisting of the following pages, is true and correct to the best of my knowledge and belief and that any conclusions and recommendations contained in and made a part of this Report are such as may be reasonably warranted from the facts disclosed in the Examination Report.

*William P. Hobert*  
William P. Hobert, CPCU, CLU, CIE  
Market Examinations Examiner-in-Charge

Subscribed and sworn to before me this 15<sup>th</sup> day of February, 2007.

*Mary M. Kitterman*  
Notary Public

My Commission Expires June 13, 2008



## **FOREWORD**

This targeted market examination of Benchmark Insurance Company ("Company"), was prepared by employees of the Arizona Department of Insurance ("Department") as well as independent examiners contracting with the Department. A targeted market examination is conducted for the purpose of auditing certain business practices of insurers licensed to conduct the business of insurance in the State of Arizona. The Examiners conducted the examination of the Company in accordance with Arizona Revised Statutes (A.R.S.) §§ 20-142, 20-156, 20-157, 20-158, and 20-159. The findings in this Report, including all work products developed in the production of this Report, are the sole property of the Department.

This examination consisted of a review of the Company's use of comparative negligence in its Personal Automobile underwriting and claim settlement practices. Examiners reviewed Personal Automobile underwriting files to determine the impact of at-fault accidents on premium surcharges and in-term cancellations. The examination was conducted to determine if the Company was:

- (1) initiating underwriting actions related to at-fault accident experience fairly and consistently, and
- (2) using claim methods and practices for investigating and establishing the degree of fault that were nondiscriminatory, equitable, thorough and compliant with policy provisions, state statutes and rules.

Claim records associated with this underwriting action were examined to determine whether the means, documentation, timeliness and completeness of investigations, objectivity and consistency of Company staff and practices in establishing comparative negligence were reasonable and compliant.

Certain unacceptable or non-complying practices may not have been discovered in the course of this examination. Additionally, findings may not be material to all areas that would serve to assist the Director.

Failure to identify or criticize specific Company practices does not constitute acceptance of those practices by the Department.

## **SCOPE AND METHODOLOGY**

This examination of the Company was conducted in accordance with the standards and procedures established by the National Association of Insurance Commissioners (NAIC) and the Department. This target market examination of the Company covered the period from July 1, 2004 through December 31, 2005 for the business reviewed. The purpose of the examination

was to determine compliance with A.R.S. §§ 20-263, 20-381 through 20-385, 20-400.01(B), 20-448(C), 20-461, 20-462, 20-1631, 20-2101 through 2110, and A.A.C R20-6-801(C) and (F).

In accordance with Department procedures, the examiners completed a Preliminary Finding ("Finding") on those policies, claims and complaints not in apparent compliance with Arizona law. The Finding forms were submitted for review and comment to the Company representative designated by Company management to be knowledgeable about the files. For each finding the Company was requested to agree, disagree or otherwise justify the Company's noted action.

The examiners utilized both examination by test and examination by sample. Examination by test involves review of all records within the population, while examination by sample involves the review of a selected number of records from within the population. Due to the small size of some populations examined, examinations by test and by sample were completed without the need to utilize computer software.

File sampling was based on a review of underwriting and claim files that were systematically selected by using Audit Command Language (ACL) software and computer data files provided by the Company's Representative, John V. Spain, Assistant Secretary and Director, Affinity Programs and Regulatory Relations. Samples are tested for compliance with standards established by the NAIC and the Department. The tests applied to sample data will result in an exception ratio, which determines whether or not a standard is met. If the exception ratio found in the sample is, generally less than 5%, the standard will be considered as "met." The standard in the areas of procedures, forms and policy forms use will not be met if any exception is identified.

### **EXECUTIVE SUMMARY**

This examination was completed by applying tests to each examination standard to determine compliance with the standard. Each standard applied during this examination is stated in this Report and the results are reported below.

The Company failed Underwriting Standard No.1 because the Company failed to provide 19 insureds with a Summary of Rights when their policies were cancelled for underwriting reasons.

The Company failed Underwriting Standard No. 4 because the Company cancelled 19 policies for reasons not covered by the statute.

The Company passed all other Underwriting and Claim Processing Standards.

**FACTUAL FINDINGS**

**UNDERWRITING STANDARD 1**

**The following Underwriting Standard Failed:**

#	STANDARD	Regulatory Authority
1	Disclosures to insureds concerning rates and coverage are accurate and timely.	A.R.S. § 20-2110

**Procedures Performed**

The examiners reviewed the information provided by the Company in response to the Coordinator's Handbook, Attachments A and B, and follow-up requests that related to underwriting procedures. These documents and materials were reviewed without comment.

Phase I Examination – The Company provided electronic data in response to the Coordinator's Handbook, Attachment C. Attachment C requested at-fault accident records that resulted in policy surcharges, in-term cancellations, non-renewals, retiering within the same company and transfers to affiliated insurers. The Company had at-fault accidents associated only with policy surcharges and in-term cancellations.

During the Phase I Examination, the examiners reviewed a sample of 25 surcharged policies out of a population of 1,260 and found no exceptions.

During the Phase I Examination, the examiners reviewed a sample of 19 in-term cancellations out of a population of 62 and found 19 exceptions.

**IN-TERM CANCELED POLICIES**

Failed to provide all 19 insureds a Summary of Rights in violation of A.R.S. § 20-2110.

Population	Sample	# of Exceptions	Error Ratio
62	19	19	100%

**A 100% error ratio does not meet standards; therefore, a recommendation is warranted.**

**Finding No. 1**

The Company failed Underwriting Standard No. 1 because the Company failed to provide 19 insureds with a Summary of Rights for their policy cancellation. [PF 5]

**Recommendation No. 1**

Within 90 days of the filed date of this Report, provide documentation that procedures and controls are in place to ensure the Company provides insureds with a Summary of Rights when canceling policies for underwriting reason as required by state statutes.



## UNDERWRITING STANDARD 4

### The following Underwriting Standard Failed:

#	STANDARD	Regulatory Authority
4	Cancellations, non-renewals and transfers comply with policy provisions, state statutes and rules and are not unfairly discriminatory.	A.R.S. § 20-1631(D)

### Procedures Performed

During the Phase I Examination, the examiners reviewed a sample of 19 in-term cancellations out of a population of 62 and found 19 exceptions.

### IN-TERM CANCELED POLICIES

Cancelled 19 policies for reasons not allowed by statute in violation of A.R.S. § 20-1631(D).

Population	Sample	# of Exceptions	Error Ratio
62	19	19	100%

**A 100% error ratio does not meet standards; therefore, a recommendation is warranted.**

### Finding No. 2

The Company failed Underwriting Standard No. 4 because the Company cancelled 19 policies for other than valid reasons as required by the statute. [PF 3, 4]

### Recommendation No. 2

Within 90 days of the filed date of this Report, provide documentation that procedures and controls are in place to ensure the Company uses only valid reasons and follows proper procedures for policy cancellations as required by state statutes.

## SUMMARY OF STANDARDS

### Underwriting

#	STANDARD	PASS	FAIL
1	Disclosures to insureds concerning rates and coverage are accurate and timely. A.R.S. §§ 20-2101 through 20-2110		X
2	Credits and deviations are consistently applied on a non-discriminatory basis. A.R.S. §§ 20-263, 20-381 through 20-385	X	
3	File documentation adequately supports decisions made. A.R.S. § 20-400.01(B)	X	
4	Cancellations, non-renewals and transfers comply with policy provisions, state statutes, and rules and are not unfairly discriminatory. A.R.S. §§ 20-448(C), 20-1631		X

### Claim Processing

##	STANDARD	PASS	FAIL
1	Timely investigations are conducted A.R.S. § 20-461 and A.A.C. R20-6-801(F)	X	
2	Claim files are adequately documented. A.R.S. § 20-461 and A.A.C. R20-6-801(C)	X	
3	Claims are properly handled in accordance with policy provisions and applicable statutes and rules. A.R.S. §§ 20-461, 20-462 and A.A.C. R20-6-801(C)	X	
4	Claim handling practices do not compel claimants to institute litigation, in cases of clear liability and coverage, to recover amounts due under policies by offering substantially less than is due under the policy. A.R.S. § 20-461	X	