

NOV 19 2004

STATE OF ARIZONA
DEPARTMENT OF INSURANCE

DEPT OF INSURANCE
BY 

<p>1 In the Matter of:</p> <p>2</p> <p>3</p> <p>4 TOPA INSURANCE COMPANY, NAIC # 18031,</p> <p>5 Respondent.</p> <p>6</p>	<p>) Docket No. 04A-182-INS</p> <p>)</p> <p>)</p> <p>) CONSENT ORDER</p> <p>)</p>
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7 Examiners for the Department of Insurance (the "Department") conducted a
8 market conduct examination of Topa Insurance Company ("Topa"). In the Report of
9 Examination of the Market Conduct Affairs of Topa, the Examiners allege that Topa
10 violated A.R.S. §§20-385, 20-466.03, and 20-1632.01.

11 Topa wishes to resolve this matter without formal proceedings, admits that the
12 following Findings of Fact are true, and consents to the entry of the following
13 Conclusions of Law and Order.

14 **FINDINGS OF FACT**

15 1. Topa is authorized to transact property and casualty insurance pursuant
16 to a Certificate of Authority issued by the Director.

17 2. The Director authorized the Examiners to conduct a target market
18 examination of Topa. The examination covered the time period from October 1, 2001
19 to September 30, 2003 and was concluded on August 4, 2004. Based on their
20 findings, the Examiners prepared the "Report of Target Market Examination of Topa
21 Insurance Company" dated August 4, 2004.

22 3. The Examiners reviewed 100 of 12,124 personal automobile new
23 business files issued during the time frame of the examination and found that Topa
24 failed to apply its filed rates and rules in the premium determination of nine files.

25 4. The Examiners reviewed 50 of 3,722 personal automobile non-renewals

1 and 100 of 8,555 personal automobile cancellation files processed by the Company
2 during the time frame of the examination and found that Topa failed to provide a
3 seven-day grace period to 97 policyholders.

4 5. The Examiners reviewed all claim forms used by the Company during the
5 time frame of the examination and found that Topa used 68 forms that failed to contain
6 a fraud warning notice that was printed in at least 12-point type.

7 **CONCLUSIONS OF LAW.**

8 1. Topa violated A.R.S §20-385(A) by using unfiled rates and rules in the
9 premium determination of personal automobile policies.

10 2. Topa violated A.R.S §20-1632.01(A) by failing to provide policyholders
11 with a seven-day grace period.

12 3. Topa violated A.R.S §20-466.03 by using claim forms that do not contain
13 the required fraud warning notice in at least 12-point type.

14 4. Grounds exist for the entry of the following Order in accordance with
15 A.R.S. §20-220.

16 **ORDER**

17 **IT IS HEREBY ORDERED THAT:**

18 1. Topa Insurance Company shall cease and desist from:

19 a. Failing to use its filed rates and rules to determine premiums for its
20 personal automobile insurance policies.

21 b. Failing to provide personal automobile policyholders with a seven-
22 day grace period.

23 c. Using claim forms that fail to contain a compliant fraud warning
24 notice in at least 12-point type.

25 2. Within 90 days of the filed date of this Order, Topa shall submit to the

1 Arizona Department of Insurance, for approval, evidence that corrections have been
2 implemented and communicated to the appropriate personnel, regarding the issues
3 outlined in Paragraph 1 of the Order section of this Consent Order. Evidence of
4 corrective action and communication thereof includes, but is not limited to, memos,
5 bulletins, E-mails, correspondence, procedures manuals, print screens, and training
6 materials.

7 3. The Department shall be permitted, through authorized representatives,
8 to verify that Topa has complied with all provisions of this Order.

9 4. Topa shall pay a civil penalty of \$37,000.00 to the Director for remission
10 to the State Treasurer for deposit in the State General Fund in accordance with A.R.S.
11 §§20-220(B) and 20-456. The civil penalty shall be provided to the Market Oversight
12 Division of the Department prior to the filing of this Order.

13 5. The Report of Target Market Examination of Topa Insurance Company as
14 of August 4, 2004, including the letter accepting the Report of Examination, shall be
15 filed with the Department upon the filing of this Order.

16
17 DATED at Phoenix, AZ this 19th day of November, 2004.

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20 _____
21 Christina Urias
22 Director of Insurance
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1 **CONSENT TO ORDER**

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

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

10 4. Topa 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. Topa 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. H. Edward Good, who holds the office of
19 vice president of Topa Insurance Company, is authorized to enter into
20 this Order for them and on their behalf.

21 **TOPA INSURANCE COMPANY**

22 11/03/2004

23 Date

24 By 

1 COPY of the foregoing mailed/delivered
2 this 19th day of November , 2004, to:

3 Gerrie Marks

Deputy Director

4 Mary Butterfield

Assistant Director

5 Consumer Affairs Division

6 Paul J. Hogan

Market Oversight Administrator

7 Market Oversight Division

8 Deloris E. Williamson

Assistant Director

9 Rates & Regulations Division

10 Steve Ferguson

Assistant Director

11 Financial Affairs Division

12 Alan Griffieth

Chief Financial Examiner

13 Alexandra Schafer

Assistant Director

14 Life and Health Division

15 Terry L. Cooper

Fraud Unit Chief

16 DEPARTMENT OF INSURANCE

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19
20 H. Edward Good, Vice President

Topa Insurance Company

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