

JAN 28 2005

STATE OF ARIZONA
DEPARTMENT OF INSURANCE

DEPT OF INSURANCE
BY CB

In the Matter of:)	Docket No. 05A-013-INS
)	
BENCHMARK INSURANCE COMPANY,)	
NAIC # 41394,)	
Respondent.)	CONSENT ORDER

Examiners for the Department of Insurance (the "Department") conducted a target market examination of Benchmark Insurance Company ("Benchmark"). In the Report of Examination of the Market Conduct Affairs of Benchmark, the Examiners allege that Benchmark violated A.R.S. §§20-461, 20-466.03, 20-1632, and A.A.C. R20-6-801.

Benchmark 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. Benchmark is authorized to transact property and casualty with disability insurance pursuant to a Certificate of Authority issued by the Director.
2. The Director authorized the Examiners to conduct a target market examination of Benchmark. The examination covered the time period from October 1, 2001 to September 30, 2003 for its personal automobile line of business and from October 1, 2002 to September 30, 2003 for its small group disability line of business and was concluded on November 8, 2004. Based on their findings, the Examiners prepared the "Report of Target Market Examination of Benchmark Insurance Company" dated September 30, 2003.
3. The Examiners reviewed 11 of 11 consumer complaints received by the

1 Company during the time frame of the examination and found that Benchmark failed to
2 respond to three insureds within ten working days.

3 4. The Examiners reviewed 50 of 2,580 personal automobile cancellation
4 and non-renewal files processed by the Company during the time frame of the
5 examination and found that Benchmark failed to return unearned premium to four
6 policyholders within ten days after the policy cancellation.

7 5. The Examiners reviewed 77 of 945 personal automobile paid claim files
8 and 50 of 474 personal automobile closed without payment files processed by the
9 Company during the time frame of the examination and found that Benchmark failed to
10 complete the investigation of the claim within 30 days after notification of the claim in
11 23 files.

12 6. The Examiners reviewed all of the claim forms used by the Company
13 during the time frame of the examination and found that Benchmark used 8 claim forms
14 that failed to contain a fraud warning notice.

15 7. The Examiners reviewed 35 out-of-network emergency room and/or
16 ambulance claims paid by the Company during the time frame of the examination and
17 found that Benchmark failed to pay the full benefit amount as stated in the Company's
18 advertising and policy form on 16 claims.

19 8. During the review of the Company's business procedures, the following
20 premium overcharges and claim underpayments were made by Benchmark:

21 a. Two personal auto policyholders were paid a total of \$248.00 in
22 unearned premium refunds.

23 b. Five first-party insureds and one third-party claimant were paid a
24 total of \$657.41, plus \$180.03 interest for personal automobile total loss settlements.
25

1 **CONCLUSIONS OF LAW**

2 1. Benchmark violated A.R.S §20-461(A)(2) and A.A.C. R20-6-801(E)(3) by
3 failing to respond to a complaint within ten working days of receipt.

4 2. Benchmark violated A.R.S §20-1632(A)(3) by failing to refund unearned
5 premium within ten days of cancellation of a personal automobile policy.

6 3. Benchmark violated A.R.S §20-461(A)(3) and A.A.C. R20-6-801(F) by
7 failing to complete the investigation of a personal automobile claim within 30 days.

8 4. Benchmark violated A.R.S §20-466.03 by using claim forms that failed to
9 contain the required fraud warning notice.

10 5. Benchmark violated A.R.S §20-461(A)(6) and (9) and A.A.C. R20-6-
11 801(D)(1) by failing to pay health claims at the benefit level as stated in its advertising
12 and policy forms.

13 6. Grounds exist for the entry of the following Order in accordance with
14 A.R.S. §§ 20-220 and 20-456.

15
16 **ORDER**

17 **IT IS HEREBY ORDERED THAT:**

- 18 1. Benchmark Insurance Company shall cease and desist from:
19 a. Failing to respond to complaints within ten working days of receipt.
20 b. Failing to return unearned premium within ten days of the
21 cancellation of a personal automobile policy.
22 c. Failing to complete the investigation of a personal automobile
23 claim within 30 days of notification of the claim.
24 d. Using claim forms that fail to contain a compliant fraud warning
25 notice.

1 e. Paying health claims in a manner that is inconsistent with its
2 advertising and policy language.

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

10 3. The Department shall be permitted, through authorized representatives,
11 to verify that Benchmark has complied with all provisions of this Order.

12 4. Benchmark shall pay a civil penalty of \$24,000.00 to the Director for
13 remission to the State Treasurer for deposit in the State General Fund in accordance
14 with A.R.S. §§20-220(B) and 20-456. The civil penalty shall be provided to the Market
15 Oversight Division of the Department prior to the filing of this Order.

16 5. The Report of Target Market Examination of Benchmark Insurance
17 Company as of September 30, 2003, including the letter accepting the Report of
18 Examination, shall be filed with the Department upon the filing of this Order.

19
20 DATED at Phoenix, AZ this 27th day of January, 2005.

21
22 
23 _____
24 Christina Urias
25 Director of Insurance

CONSENT TO ORDER

1. Benchmark Insurance Company has reviewed the foregoing Order.

2. Benchmark Insurance Company admits the jurisdiction of the Director of Insurance, State of Arizona, admits the foregoing Findings of Fact, and consents to the entry of the Conclusions of Law and Order.


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

4. Benchmark Insurance Company states that no promise of any kind or nature whatsoever was made to it to induce it to enter into this Consent Order and that it has entered into this Consent Order voluntarily.

5. Benchmark Insurance Company acknowledges that the acceptance of this Order by the Director of the Arizona Department of Insurance is solely for the purpose of settling this matter and does not preclude any other agency or officer of this state or its subdivisions or any other person from instituting proceedings, whether civil, criminal, or administrative, as may be appropriate now or in the future.

6. John V. Spain, who holds the office of Asst. Secretary of Benchmark Insurance Company, is authorized to enter into this Order for them and on their behalf.

1/21/05
Date

By 
BENCHMARK INSURANCE COMPANY

1 COPY of the foregoing mailed/delivered
2 this 28th day of January, 2005, 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

Rates & Regulations Division

9 Steve Ferguson

Assistant Director

10 Financial Affairs Division

11 Alan Griffieth

Chief Financial Examiner

12 Alexandra Schafer

Assistant Director

13 Life and Health Division

14 Terry L. Cooper

Fraud Unit Chief

15 DEPARTMENT OF INSURANCE

16 2910 North 44th Street, Suite 210

17 Phoenix, AZ 85018

18
19
20 John V. Spain, Assistant Secretary

Benchmark Insurance Company

21 6701 West 64th Street, Suite 125

22 Shawnee Mission, Kansas 66202

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24 Curvey Burton