

AUG 8 2006

STATE OF ARIZONA  
DEPARTMENT OF INSURANCE

DEPT OF INSURANCE  
BY 

In the Matter of:	)	Docket No. 06A-162-INS
	)	
<b>MERCURY CASUALTY COMPANY, NAIC #</b>	)	
11908,	)	
Respondent.	)	<b>CONSENT ORDER</b>

Examiners for the Department of Insurance (the "Department") conducted a targeted examination of Mercury Casualty Company ("MCC"). In the Report of Target Market Examination of the Market Conduct Affairs of MCC, the Examiners allege that MCC violated A.R.S. §§20-461, 20-462, 20-466.03, 20-2110, and A.A.C. R20-6-801.

MCC 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. MCC 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 examination of MCC. The examination covered the time period from April 1, 2004 to March 31, 2005 and was concluded on April 14, 2006. Based on their findings, the Examiners prepared the "Report of Target Market Examination of Mercury Casualty Company" dated March 31, 2005.

3. The Examiners reviewed 60 of 4,362 personal automobile surcharged files, and 62 of 645 personal automobile cancellations for underwriting reason files processed by the Company during the time frame of the examination and found that MCC failed to provide a Summary of Rights and the specific reason for the surcharge

1 or cancellation to 32 surcharged policyholders and 62 cancelled policyholders.

2 4. The Examiners reviewed 44 the claim forms used by the Company during  
3 the time frame of the examination and found that MCC used five forms that failed to  
4 contain a fraud warning notice.

5 5. The Examiners reviewed 89 of 89 personal automobile total loss paid  
6 claims processed by the Company during the time frame of the examination and found  
7 that:

8 a. MCC failed to pay the correct ACV, taxes, license and/or air quality  
9 fees on 42 first party total loss settlements and 10 third party total loss settlements.

10 b. MCC has paid all 52 personal automobile claimants the appropriate  
11 amount of ACV, taxes, and license fees, at the request of the Department, which total  
12 \$38,295.19 plus \$3,576.59 interest.

13 **CONCLUSIONS OF LAW.**

14 1. MCC violated A.R.S §20-2110(A) by failing to provide policyholders with a  
15 compliant Summary of Rights and the specific reason for the surcharge or cancellation.

16 2. MCC violated A.R.S §20-466.03 by using claim forms that do not contain  
17 the required fraud warning notice.

18 3. MCC violated A.R.S. § 20-461(A)(6) and R20-6-801(H)(1)(b) by failing to  
19 pay total loss personal automobile claimants the appropriate amount of ACV, taxes,  
20 and license fees.

21 4. MCC violated A.R.S. § 20-462(A) by failing to pay total loss personal  
22 automobile insureds/claimants the correct amount of interest due on first party claims  
23 not paid within thirty days of receipt of an acceptable proof of loss.

24 5. Grounds exist for the entry of the following Order in accordance with  
25 A.R.S. §§ 20-220, 20-456, and 20-2117.

1 **ORDER**

2 **IT IS HEREBY ORDERED THAT:**

- 3 1. Mercury Casualty Company shall cease and desist from:
- 4 a. Failing to provide a compliant Summary of Rights and the specific
- 5 reason at surcharge or cancellation.
- 6 b. Using claim forms that fail to contain a compliant fraud warning
- 7 notice.
- 8 c. Failing to pay the appropriate amount of ACV, tax and license fees
- 9 to claimants and insureds, in total loss automobile settlements.
- 10 d. Failing to pay interest on all claims that are not paid within 30 days
- 11 of receipt of an acceptable proof of loss.
- 12 2. Within 90 days of the filed date of this Order, MCC shall submit to the
- 13 Arizona Department of Insurance, for approval, evidence that corrections have been
- 14 implemented and communicated to the appropriate personnel, regarding the issues
- 15 outlined in Paragraph 1 of the Order section of this Consent Order. Evidence of
- 16 corrective action and communication thereof includes, but is not limited to, memos,
- 17 bulletins, E-mails, correspondence, procedures manuals, print screens, and training
- 18 materials.
- 19 3. The Department shall be permitted, through authorized representatives,
- 20 to verify that MCC has complied with all provisions of this Order.
- 21 4. MCC shall pay a civil penalty of \$35,000.00 to the Director for remission
- 22 to the State Treasurer for deposit in the State General Fund in accordance with A.R.S.
- 23 §§20-220(B), 20-456 and 20-2117. The civil penalty shall be provided to the Market
- 24 Oversight Division of the Department prior to the filing of this Order.
- 25 5. The Report of Target Market Examination of Mercury Casualty Company

1 as of March 31, 2005, including the letter accepting the Report of Target Market  
2 Examination, shall be filed with the Department upon the filing of this Order.

3  
4 DATED at Phoenix, AZ this 4<sup>th</sup> day of August, 2006.

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8 Christina Urias  
9 Director of Insurance  
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1 **CONSENT TO ORDER**

2 1. Mercury Casualty Company has reviewed the foregoing Order.

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

10 4. Mercury Casualty 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. Mercury Casualty 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. Gabriel Tirador, who holds the office of President of Mercury Casualty  
19 Company, is authorized to enter into this Order for them and on their behalf.

20  
21 **MERCURY CASUALTY COMPANY**

22  
23 7/27/06  
Date

23 By   
Gabriel Tirador

1 COPY of the foregoing mailed/delivered  
this 8th day of August , 2006, to:

2  
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  
Dean Ehler  
8 Assistant Director  
Property and Casualty Division  
9 Steve Ferguson  
Assistant Director  
10 Financial Affairs Division  
Alan Griffieth  
11 Chief Financial Examiner  
12 Alexandra Schafer  
Assistant Director  
13 Life and Health Division  
Terry L. Cooper  
14 Fraud Unit Chief

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

18  
19  
20 Patricia A. Mullendore, Vice President,  
Corporate Secretary and General Counsel  
21 Mercury Casualty Company  
7301 Northwest Expressway  
22 Oklahoma City, OK 73172

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