

JUN 14 2007

STATE OF ARIZONA
DEPARTMENT OF INSURANCE

DEPT OF INSURANCE
BY 

In the Matter of:)
) Docket No. 07A-115-INS
)
LIBERTY MUTUAL FIRE INSURANCE COMPANY,)
)
NAIC # 23035,)
)
Respondent.)
)

CONSENT ORDER

Examiners for the Department of Insurance (the "Department") conducted a targeted examination of Liberty Mutual Fire Insurance Company ("LMF"). In the Report of Target Market Examination of the Market Conduct Affairs of LMF, the Examiners allege that LMF violated A.R.S. §§20-263, 20-385(A) and 20-1631(E) and (L).

LMF 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. LMF 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 LMF. The examination covered the time period from July 1, 2004 to December 31, 2005 and was concluded on December 28, 2006. Based on their findings, the Examiners prepared the "Report of Target Market Examination of Liberty Mutual Fire Insurance Company" dated December 31, 2005.
3. The Examiners reviewed 25 of 2,746 personal automobile surcharged policies, 25 of 2,958 retired policies, and 17 of 17 transferred policies issued during the time frame of the examination and found that LMF failed to apply its filed rates and rules in the premium determination of one surcharged policy, 25 retired policies and 2

1 transferred policies.

2 During the course of the examination, LMF corrected all 18 policies
3 incorrectly placed in higher rated tiers, resulting in restitution of \$7,845.00, with no
4 interest due and returned \$341.00 with no interest due, for the one policy incorrectly
5 surcharged on renewal.

6 4. The Examiners reviewed 25 of 2,746 personal automobile surcharged
7 policies and 25 of 2,958 retired policies issued during the time frame of the
8 examination and found that LMF incorrectly surcharged two policies and failed to notify
9 34 insureds that an at-fault accident surcharge was the reason for a premium increase.

10 During the course of the examination LMF returned \$325.00 with no
11 interest due, for the renewal policy incorrectly charged for an accident in which the
12 insured was not more than 50% at-fault.

13 5. The Examiners reviewed 17 of 17 personal automobile policies
14 transferred or non-renewed during the time frame of the examination and found that
15 LMF incorrectly non-renewed 3 policies with fewer than three at-fault accidents and
16 incorrectly transferred one to an affiliate insurer with fewer than two at-fault accidents
17 within the preceding thirty-six months.

18 **CONCLUSIONS OF LAW.**

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

21 2. LMF violated A.R.S §20-263(A) by failing to apply the correct surcharge
22 for at-fault accidents and failing to notify personal automobile policyholders that an at-
23 fault accident was the reason for a premium increase.

24 3. LMF violated A.R.S §20-1631(E) by non-renewing policies with fewer
25 than three at-fault accidents within the preceding thirty-six months.

1 4. LMF violated A.R.S §20-1631(L) by transferring to an affiliated insurer a
2 policy that had less than two at-fault accidents within the preceding thirty-six months.

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

5 **ORDER**

6 **IT IS HEREBY ORDERED THAT:**

7 1. Liberty Mutual Fire Insurance Company shall cease and desist from:

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

10 b. Failing to apply the correct surcharge for at-fault accidents and
11 failing to provide insureds with at-fault accidents the reason for a premium increase.

12 c. Non-renewing personal automobile policies with fewer than three
13 at-fault accidents or transferring policies to affiliated insurers with fewer than two at-
14 fault accidents within the preceding thirty-six months.

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

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

24 4. LMF shall pay a civil penalty of \$26,400.00 to the Director for remission to
25 the State Treasurer for deposit in the State General Fund in accordance with A.R.S.

1 §20-220(B). The civil penalty shall be provided to the Market Oversight Division of the
2 Department prior to the filing of this Order.

3 5. The Report of Target Market Examination of Liberty Mutual Fire
4 Insurance Company as of December 31, 2005, including the letter accepting the Report
5 of Examination, shall be filed with the Department upon the filing of this Order.

6 . . .

7 . . .

8 DATED at Phoenix, AZ this 13th day of June, 2007.

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11 Christina Urias
12 Director of Insurance
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CONSENT TO ORDER

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2 1. Liberty Mutual Fire Insurance Company has reviewed the foregoing
3 Order.

4 2. Liberty Mutual Fire Insurance Company admits the jurisdiction of the
5 Director of Insurance, State of Arizona, admits the foregoing Findings of Fact, and
6 consents to the entry of the Conclusions of Law and Order.

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

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

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

19 6. David G. Kenepf, who holds the office of
20 Assistant Vice President of Liberty Mutual Fire Insurance Company, is
21 authorized to enter into this Order for them and on their behalf.

LIBERTY MUTUAL FIRE INSURANCE COMPANY

22
23 6-7-2007
24 Date

By David G. Kenepf

1 COPY of the foregoing mailed/delivered
2 this 14th day of June, 2007, 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 Dean Ehler

Assistant Director

9 Property and Casualty 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

Terry L. Cooper

Fraud Unit Chief

15 DEPARTMENT OF INSURANCE

16 2910 North 44th Street, Suite 210

17 Phoenix, AZ 85018

18
19 Mark Plesha, Regional Director

20 Market Conduct Services

Liberty Mutual Fire Insurance Company

21 175 Berkeley Street

22 Boston, MA 02117-0140

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