

NOV 18 2010

STATE OF ARIZONA
DEPARTMENT OF INSURANCE

DEPT OF INSURANCE
BY [Signature]

In the Matter of:
FIDELITY NATIONAL INSURANCE COMPANY,
NAIC # 25180,
Respondent.

) Docket No. 10A-169-INS

) **CONSENT ORDER**

Examiners for the Department of Insurance (the "Department") conducted a target market conduct examination of Fidelity National Insurance Company ("FNIC"). In the Report of Target Market Conduct Examination of the Market Conduct Affairs of Fidelity National Insurance Company, the examiners allege that Fidelity National Insurance Company violated A.R.S. §§20-461, 20-462, 20-466.03, 20-1632.01 and 20-2110, and A.A.C. R20-6-801.

Fidelity National Insurance Company 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. Fidelity National Insurance Company 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 conduct examination of Fidelity National Insurance Company. The examination covered the time period from January 1, 2009 through December 31, 2009 and concluded on August 6, 2010. Based on their findings, the examiners prepared the "Report of Target Market Conduct Examination of Fidelity National Insurance Company" dated December 31, 2009.
3. The examiners reviewed 20 of 20 private passenger automobile

1 cancellations, 4 of 4 private passenger automobile non-renewals, 52 of 1,296
2 homeowners cancellations and 54 of 490 homeowner non-renewals, cancelled or non-
3 renewed for underwriting reasons during the time frame of the examination and found
4 that FNIC failed to provide a compliant Summary of Rights for 18 private passenger
5 automobile cancellations and 4 non-renewals and 50 homeowners cancellations and
6 53 non-renewals.

7 4. The examiners reviewed 52 of 96 private passenger automobile policies
8 cancelled for non-payment during the time frame of the examination and found that
9 FNIC failed to send written notice of non-payment cancellation giving the required
10 seven (7) day grace period to three policyholders.

11 5. The examiners reviewed 51 of 61 private passenger automobile claims
12 closed without payment during the time frame of the examination and found that FNIC
13 failed to complete a timely investigation within 30 days after notification of the claim on
14 5 claims.

15 6. The examiners found that the Company incorrectly cited the California
16 Department of Insurance or California statutes, instead of Arizona, in claims
17 correspondence in 4 private passenger automobile closed without payment and 4
18 private passenger automobile paid claim files.

19 7. The examiner found 3 claim forms (Exhibit A) used by the Company
20 during the time frame of the examination that failed to contain a compliant fraud
21 warning notice.

22 8. The examiners reviewed 32 of 32 private passenger automobile total loss
23 claim files processed by the Company during the time frame of the examination and
24 found that FNIC failed to pay the correct sales tax and air quality fees payable in the
25 settlement of 21 total losses.

1 9. During the review of the Company's private passenger automobile claim
2 settlement practices, FNIC resettled all 21 claims resulting in total restitution to
3 claimants of \$218.89, plus \$26.44 interest.
4

5 **CONCLUSIONS OF LAW**

6 1. FNIC violated A.R.S. §20-2110 by failing to send policyholders a
7 compliant Summary of Rights in the event of an adverse underwriting decision.

8 2. FNIC violated A.R.S §20-1632.01 by failing to provide written notice of
9 cancellation for non-payment of premium giving the required seven (7) day grace
10 period.

11 3. FNIC violated A.R.S §20-461(A)(3) and A.A.C. R20-6-801(F) by failing to
12 conduct timely claims investigations.

13 4. FNIC violated A.R.S §20-461(A)(1) by failing to identify the correct state
14 and/or state statutes on claims correspondence.

15 5. FNIC violated A.R.S §20-466.03 by using claim forms that failed to
16 contain a compliant fraud warning notice.

17 6. FNIC violated A.R.S §§20-461(A)(6), 20-462(A) and A.A.C. R20-6-
18 801(H)(1)(b) by failing to pay the correct sales tax and air quality fees and interest
19 payable in the settlement of total losses.

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

22

23

24

1 ORDER

2 **IT IS HEREBY ORDERED THAT:**

3 1. Fidelity National Insurance Company shall:

4 a. provide insureds with a compliant Summary of Rights in the event of
5 an adverse underwriting decision.

6 b. provide written notice of cancellation for non-payment of premium
7 giving the required seven (7) day grace period.

8 c. conduct a timely investigation of all claims.

9 d. identify the correct state and/or state statutes on all claims
10 correspondence.

11 e. use claim forms that contain a compliant fraud warning notice.

12 f. correctly calculate and fully pay sales tax and air quality fees payable
13 in the settlement of total losses.

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

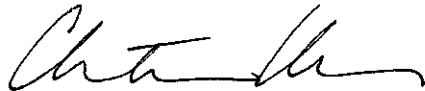
21 3. The Department shall through authorized representatives, verify that
22 FNIC has complied with all provisions of this Order.

23 4. FNIC shall pay a civil penalty of \$25,000.00 to the Director for remission
24 to the State Treasurer for deposit in the State General Fund in accordance with A.R.S.
25 §20-220(B). FNIC shall submit the civil penalty to the Market Oversight Division of the

1 Department prior to the filing of this Order.

2 5. The Report of Target Market Examination of Fidelity National Insurance
3 Company of December 31, 2009, including the letter with their objections to the Report
4 of Examination, shall be filed with the Department upon the filing of this Order.

5 DATED at Arizona this 18th day of November, 2010.

6
7 

8 _____
Christina Urias
9 Director of Insurance

10
11
12
13

1 CONSENT TO ORDER

2 1. Fidelity National Insurance Company has reviewed the foregoing Order.

3 2. Fidelity National Insurance Company admits the jurisdiction of the
4 Director of Insurance, State of Arizona, admits the foregoing Findings of Fact, and
5 consents to the entry of the Conclusions of Law and Order.

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

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

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

18 6. DEBORAH S. PRICE, who holds the office of
19 VICE PRESIDENT of Fidelity National Insurance Company is authorized
20 to enter into this Order for them and on their behalf.

21
22 **FIDELITY NATIONAL INSURANCE COMPANY**

23
24
25 11/1/10

Date

By

Deborah S. Price

1 COPY of the foregoing mailed/delivered
2 this 18th day of November , 2010, to:

3 Gerrie Marks

Deputy Director

4 Mary Butterfield

Assistant Director

5 Consumer Affairs Division

6 Helene I. Tomme

Market Examinations Supervisor

7 Market Oversight Division

Dean Ehler

8 Assistant Director

Property and Casualty Division

9 Steve Ferguson

Assistant Director

10 Financial Affairs Division

David Lee

11 Chief Financial Examiner

Alexandra Shafer

12 Assistant Director

13 Life and Health Division

Chuck Gregory

14 Special Agent Supervisor

Investigations Division

16 DEPARTMENT OF INSURANCE

2910 North 44th Street, Suite 210

17 Phoenix, AZ 85018

20 Paul Davey, VP Underwriting

21 Fidelity National P&C Insurance Group

5385 Hollister Avenue, Bldg. 8

22 Goleta, CA 93111

24 
25 _____

EXHIBIT A

Fraud Warning Statement. The Company failed to include the Fraud Warning statement, in at least twelve-point type, on 3 claim forms/letters, an apparent violation of A.R.S. § 20-466.03.

Forms without a Fraud Warning Statement

- Certificate of No Insurance (PPA)
- Power of Attorney (PPA)
- Non-Waiver Agreement (HO)