

1 non-renewed for underwriting reasons, 52 of 242 private passenger automobile policies
2 cancelled for underwriting reasons and 6 of 6 homeowners policies non-renewed for
3 underwriting reasons during the time frame of the examination and found that WUIC
4 failed to provide a compliant Summary of Rights for 15 private passenger automobile
5 non-renewals, 40 private passenger automobile cancellations and 5 homeowner non-
6 renewals.

7 4. The examiners reviewed 35 of 35 private passenger automobile policies
8 non-renewed during the time frame of the examination and found that WUIC failed to
9 provide a non-renewal notice at least 45-days before the effective date of the non-
10 renewal to 7 insureds.

11 5. The examiners reviewed 52 of 2,987 private passenger automobile
12 policies cancelled for non-payment during the time frame of the examination and found
13 that WUIC failed to send written notice of non-payment cancellation giving the required
14 seven (7) day grace period to four policyholders.

15 6. The examiners reviewed 35 of 35 private passenger automobile policies
16 non-renewed during the time frame of the examination and found that WUIC failed to
17 provide the specific reason for the non-renewal to 8 insureds.

18 7. The examiners reviewed 5 claim forms and/or claim notices (see Exhibit
19 A) used by the Company during the time frame of the examination that failed to contain
20 a compliant fraud warning notice. The fraud warning was not in at least twelve point
21 type. The Company submitted revised forms demonstrating compliant fraud warning
22 notices.

23 8. The examiners reviewed 201 of 7,590 private passenger automobile
24 claim files and 114 of 383 homeowner claim files settled during the time frame of the
25 examination and found 23 private passenger automobile and 25 homeowner claims

1 related documents or correspondence in which the Company failed to identify the
2 appropriate insuring company. The Company voluntarily implemented procedures to
3 ensure that the proper insurer is identified on all correspondence with Arizona
4 consumers.

5 9. The examiners reviewed 50 of 382 private passenger automobile total
6 loss claim files processed by the Company during the time frame of the examination
7 and found that WUIC failed to correctly calculate and fully pay sales tax, license
8 registration, air quality and other fees payable in the settlement of 6 total losses. The
9 Company unilaterally remedied this issue during the examination.

10 10. During the examination, WUIC resettled 6 claims resulting in total
11 restitution to claimants of \$1,337.58, plus \$154.21 interest. The Company also
12 voluntarily completed a self-audit of the remaining 332 private passenger automobile
13 total loss files during the examination period and made additional restitution for correct
14 taxes and fees owed of \$2,770.33, plus interest of \$385.05, to 35 claimants.

15 CONCLUSIONS OF LAW

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

18 2. WUIC violated A.R.S. §§20-1631(E) and 20-1632(A) by failing to provide
19 a non-renewal notice at least 45-days before the effective date of the non-renewal.

20 3. WUIC violated A.R.S. §20-1632.01 by failing to provide written notice of
21 cancellation for non-payment of premium giving the required seven (7) day grace
22 period.

23 4. WUIC violated A.R.S. §20-1632(A)(1) by failing to provide the specific
24 reason for private passenger automobile non-renewals.

25 5. WUIC violated A.R.S. §20-466.03 by using claim forms that failed to

1 contain a compliant fraud warning notice.

2 6. WUIC violated A.R.S §§20-461(A)(6), 20-462(A) and A.A.C. R20-6-
3 801(H)(1)(b) by failing to correctly calculate and fully pay sales tax, license registration,
4 air quality and other fees payable in the settlement of total losses.

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

7 **ORDER**

8 **IT IS HEREBY ORDERED THAT:**

9 1. WUIC Insurance Company shall:

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

12 b. provide non-renewal notices at least 45-days before the effective date
13 of private passenger automobile non-renewals.

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

16 d. provide the specific reason for private passenger automobile non-
17 renewals.

18 e. use claim forms that contain a compliant fraud warning notice in at
19 least twelve point type.

20 f. correctly identify the appropriate insuring company on claims related
21 documents and correspondence.

22 g. correctly calculate and fully pay sales tax, license registration, air
23 quality and other fees payable in the settlement of total losses.

24 2. The Department shall, through authorized representatives, verify that
25 WUIC has complied with all provisions of this Order.

1 **CONSENT TO ORDER**

2 1. Western United Insurance Company has reviewed the foregoing Order.

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

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

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

13 5. Western United 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. John J. Richmond, who holds the office of
19 Assistant Secretary of Western United Insurance Company, is authorized
20 to enter into this Order for them and on their behalf.

21
22 **WESTERN UNITED INSURANCE COMPANY**

23
24
25 May 18, 2010

Date

By 

1 COPY of the foregoing mailed/delivered
2 this 27th day of May, 2010, to:

3 Gerrie Marks
4 Deputy Director
5 Mary Butterfield
6 Assistant Director
7 Consumer Affairs Division
8 Helene I. Tomme
9 Market Examinations Supervisor
10 Market Oversight Division
11 Dean Ehler
12 Assistant Director
13 Property and Casualty Division
14 Steve Ferguson
15 Assistant Director
16 Financial Affairs Division
17 David Lee
18 Chief Financial Examiner
19 Alexandra Shafer
20 Assistant Director
21 Life and Health Division
22 Chuck Gregory
23 Special Agent Supervisor
24 Investigations Division
25

16 DEPARTMENT OF INSURANCE
17 2910 North 44th Street, Suite 210
18 Phoenix, AZ 85018
19

20 Douglas A. Lutgen, CPCU
21 Manager, Regulatory Affairs
22 Western United Insurance Company
23 3055 Oak Road, M/S W280
24 Walnut Creek, CA 94597
25

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EXHIBIT A

The Company failed to include the Fraud Warning statement in at least twelve-point type on five (5) forms/letters, an apparent violation of A.R.S. § 20-466.03.

Forms with Fraud Warning but require "12 point type"

PA Acknowledgement
PA Proof of Loss Receipt and Release
HO Sworn Statement In Proof of Loss
HO Property Loss Inventory
HO Acknowledgment