

JAN 13 2011

DEPT OF INSURANCE
BY CB

STATE OF ARIZONA
DEPARTMENT OF INSURANCE

In the Matter of:

PERMANENT GENERAL ASSURANCE CORPORATION,

NAIC # 37648,

Respondent.

) Docket No. 11A-004-INS

) **CONSENT ORDER**

Examiners for the Department of Insurance (the "Department") conducted a target market conduct examination of Permanent General Assurance Corporation ("PGAC"). In the Report of Target Market Conduct Examination of the Market Conduct Affairs of Permanent General Assurance Corporation, the examiners allege that PGAC violated A.R.S. §§20-385, 20-461, 20-466.03, 20-1631, 20-2106, 20-2110 and A.A.C. R20-6-801.

Permanent General Assurance Corporation 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. Permanent General Assurance Corporation 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 Permanent General Assurance Corporation. The examination covered the time period from January 1, 2009 through December 31, 2009 and concluded on September 30, 2010. Based on their findings, the examiners prepared the "Report of Target Market Conduct Examination of Permanent General Assurance Corporation" dated December 31, 2009.

1 3. The examiners reviewed 100 of 18,470 private passenger automobile
2 new business and/or renewal policies issued during the time frame of the examination
3 and found that PGAC failed to file with the Department the \$15.00 Reinstatement Fee
4 applied to all reinstated policies until July 29, 2010.

5 4. The examiners reviewed 50 of 339 private passenger automobile
6 cancellations, 20 of 20 private passenger automobile non-renewals and 9 surcharged
7 private passenger automobile policies, cancelled, non-renewed or surcharged due to
8 an adverse underwriting decision during the time frame of the examination and found
9 that PGAC failed to provide a compliant Summary of Rights for 50 cancellations, 20
10 non-renewals and 9 surcharged policies

11 5. The examiners reviewed 50 of 339 private passenger automobile
12 cancellations and 20 of 20 private passenger automobile non-renewals issued during
13 the time frame of the examination and found that PGAC non-renewed 4 and cancelled
14 3 policies, that had been in effect sixty (60) days, for reasons not allowed by statute.

15 6. The examiners found one underwriting authorization disclosure form, the
16 *Applicant Statement and Certification*, used during the time frame of the examination
17 that failed to specify that the authorization remains valid for no longer than one year
18 from the date the authorization is signed and failed to advise the individual or a person
19 authorized to act on behalf of the individual that they are entitled to receive a copy of
20 the authorization form.

21 7. The examiners found three claim authorization disclosure forms used
22 during the time frame of the examination that failed to: specify the types of persons
23 authorized to disclose information about the individual, specify the purposes for which
24 the information is collected, specify the authorization remains valid for no longer than
25 the duration of the claim and advise the individual or a person authorized to act on

1 behalf of the individual that they are entitled to receive a copy of the authorization form.
2 (see Exhibit A)

3 8. The examiners found 21 claim forms used by the Company during the
4 time frame of the examination that failed to contain a compliant fraud warning notice.
5 (see Exhibit B)

6 9. The examiners found that the Company incorrectly cited the California
7 Department of Insurance and/or California statutes, instead of Arizona, in claims
8 correspondence to 17 claimants during the time frame of the examination.

9 10. The examiners reviewed 92 of 92 private passenger automobile total loss
10 claims and 50 of 674 partial loss paid claims processed by the Company during the
11 time frame of the examination and found that PGAC failed to correctly calculate and
12 fully pay sales tax and fees payable in the settlement of 92 total losses and failed to
13 correctly calculate final settlement amounts owed one partial loss and two total loss
14 claimants, involving first and third party claims.

15 16 CONCLUSIONS OF LAW

17 1. Permanent General Assurance Corporation violated A.R.S. §20-385 by
18 failing to file the \$15.00 Reinstatement Fee applied to all reinstated policies until July
19 29, 2010.

20 2. PGAC violated A.R.S. §20-2110 by failing to send policyholders a
21 compliant Summary of Rights in the event of an adverse underwriting decision.

22 3. PGAC violated A.R.S. §20-1631(D) by issuing private passenger
23 automobile cancellations and non-renewals for reasons not allowed by statute.

24 4. PGAC violated A.R.S. §20-2106(7)(b) and (9) by using an underwriting
25 authorization form that failed to contain a compliant *Authorization for the Release of*

1 *Information.*

2 5. PGAC violated A.R.S. §20-2106(3),(6),(8)(b) and (9) by using claim
3 authorization forms that failed to contain a compliant *Authorization for the Release of*
4 *Information.*

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

7 7. PGAC violated A.R.S. §20-461(A)(1) by failing to identify the correct state
8 and/or state statutes on claims correspondence.

9 8. PGAC violated A.R.S §20-461(A)(6) and A.A.C. R20-6-801(H)(1)(b) and
10 (c) by failing to correctly calculate and fully pay any betterment adjustments, sales tax
11 and other fees, including towing and storage fees, payable in the settlement of partial
12 and/or total losses.

13 9. Grounds exist for the entry of the following Order in accordance with
14 A.R.S. §§20-220 and 20-456 and 20-2117.

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16 **ORDER**

17 **IT IS HEREBY ORDERED THAT:**

- 18 1. Permanent General Assurance Corporation shall:
- 19 a. file all private passenger automobile rates and fees, as required by
20 statute, used in the determination of private passenger automobile premiums.
- 21 b. provide insureds a compliant Summary of Rights in the event of an
22 adverse underwriting decision.
- 23 c. use only reasons allowed by statute to cancel or non-renew private
24 passenger automobile policies.
- 25 d. use underwriting authorization disclosure forms that contain a

1 compliant *Authorization for the Release of Information*.

2 e. use claim authorization disclosure forms that contain a compliant
3 *Authorization for the Release of Information*.

4 f. use claim forms that contain a compliant fraud warning notice.

5 g. identify the correct state and/or state statutes on all claims
6 correspondence.

7 h. correctly calculate and fully pay any betterment adjustments, sales tax
8 and other fees, including towing and storage fees, payable in the settlement of
9 partial and/or total losses.

10 2. Within 90 days of the filed date of this Order, Permanent General
11 Assurance Corporation shall submit to the Arizona Department of Insurance, for
12 approval, evidence that PGAC implemented corrections and communicated these
13 corrections to the appropriate personnel, regarding the issues outlined in Paragraph 1
14 of the Order section of this Consent Order. Evidence of corrective action and
15 communication thereof includes, but is not limited to, memos, bulletins, E-mails,
16 correspondence, procedures manuals, print screens, and training materials.

17 3. The Department shall, through authorized representatives, verify that
18 PGAC has complied with all provisions of this Order.

19 4. Permanent General Assurance Corporation shall pay a civil penalty of
20 \$70,000.00 to the Director for remission to the State Treasurer for deposit in the State
21 General Fund in accordance with A.R.S. §20-220(B). PGAC shall submit the civil
22 penalty to the Market Oversight Division of the Department prior to the filing of this
23 Order.

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1 5. The Report of Target Market Examination of Permanent General
2 Assurance Corporation of December 31, 2009, including the letter with their objections
3 to the Report of Examination, shall be filed with the Department upon the filing of this
4 Order.

5 DATED at Arizona this 13th day of January, 2011.

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9 Christina Urias
Director of Insurance

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CONSENT TO ORDER

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2 1. Permanent General Assurance Corporation has reviewed the foregoing
3 Order.

4 2. Permanent General Assurance Corporation 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. Permanent General Assurance Corporation is aware of the right to a
8 hearing, at which it may be represented by counsel, present evidence and cross-
9 examine witnesses. Permanent General Assurance Corporation irrevocably waives
10 the right to such notice and hearing and to any court appeals related to this Order.

11 4. Permanent General Assurance Corporation 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. Permanent General Assurance Corporation 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 L. Hettinger, who holds the office of
20 S.V.P. + Chief Admin. Off. of Permanent General Assurance Corporation, is
21 authorized to enter into this Order for them and on their behalf.

PERMANENT GENERAL ASSURANCE CORPORATION

22
23
24
25 1-7-2011
Date

By David L. Hettinger

1 COPY of the foregoing mailed/delivered
2 this 13th day of January, 2011, 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

12 Alexandra Shafer

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

19 David L. Hettinger, SVP & Chief Admin Officer

20 Permanent General Assurance Corporation

PGC Companies, Inc.

21 P. O. Box 305054

22 Nashville, TN 37230-5054

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EXHIBIT A

Authorization Disclosure

These forms fail to comply with A.R.S. § 20-2106(3), (6), (8)(b) and (9).

The following table summarizes these authorization form findings.

	Form Description / Title	Form #	Statute Provision
1	Authorization for Release of Information	None	9
2	Authorization and Consent Disclosure	RL-Auth.&Cons. To Dis	6, 8(b) and 9
3	Employment / Wage Authorization Letter	None	3, 8(b) and 9

EXHIBIT B

Fraud Warning Statement – The Company failed to include the required fraud warning statement on twenty-one (21) claim forms in violation of A.R.S. § 20-466.03.

The following table summarizes the fraud warning statement findings.

Form Description / Title		Form Description / Title	
1	Affidavit of No Other Assets	2	Affidavit of Claimant Driver
3	Affidavit of Claimant Owner	4	Affidavit of Insured Driver
5	Affidavit of Insured Owner	6	RL-Authorization & Consent to Disclosure
7	Unlisted Driver Questionnaire	8	Unlisted Vehicle Questionnaire
9	Claimant Insurance Information Request	10	Claimant's Report of Auto Accident
11	Insured's Report of Auto Accident	12	Partial Assignment
13	Statement of Contract Repairs	14	Voluntary Claim Withdrawal
15	Proof of Loss	16	Employment/Wage Authorization Letter
17	Affidavit of Forged Signature Improper Endorsement		
18	Lienholder Repossession Power of Attorney, Bill of Sale & Odometer Mileage Statement		
19	Owner Retain Power of Attorney & Odometer Mileage Statement		
20	Power of Attorney, Bill of Sale & Odometer Mileage Statement		
21	Collection of Medicare Health Insurance Claims Numbers, Social Security Numbers & Employer Identification Numbers		