

MAY 17 2011

DEPT OF INSURANCE  
BY 

STATE OF ARIZONA

DEPARTMENT OF INSURANCE

In the Matter of:

**WESTERN GENERAL INSURANCE COMPANY,**

NAIC # 27502,

Respondent.

) Docket No. 11A-044-INS

) **CONSENT ORDER**

Examiners for the Department of Insurance (the "Department") conducted a target market conduct examination of Western General Insurance Company ("WGIC"). In the Report of Target Market Conduct Examination of the Market Conduct Affairs of Western General Insurance Company, the examiners allege that WGIC violated A.R.S. §§20-311.01, 20-385, 20-461, 20-1632, 20-2110 and A.A.C. R20-6-801.

Western General 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. Western General 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 Western General Insurance Company. The examination covered the time period from January 1, 2009 through December 31, 2009 and concluded on December 8, 2010. Based on their findings, the examiners prepared the "Report of Target Market Conduct Examination of Western General Insurance Company" dated December 31, 2009.

3. The examiners found that the Company failed to require its producer,

1 Freedom National Insurance Services, Inc. (Freedom), to be properly licensed as a  
2 managing general agent in Arizona during the time frame of the examination.

3 4. The examiners reviewed 150 of 8,100 private passenger automobile  
4 surcharged policies quoted and/or issued during the time frame of the examination and  
5 found that WGIC failed to accurately apply rating surcharges used to determine  
6 premium in accordance with filed rating plans on 20 surcharged policies.

7 5. The examiners reviewed 100 of 1,259 private passenger automobile  
8 policies charged policy fees during the time frame of the examination and found that  
9 WGIC failed to accurately apply filed policy fees used to determine premium on 10  
10 policies.

11 6. The examiners reviewed 49 of 8,653 private passenger automobile  
12 policies charged a premium increase due to an adverse underwriting decision and 10  
13 of 401 private passenger policies cancelled due to an adverse underwriting decision  
14 during the time frame of the examination and found that WGIC failed to provide a  
15 compliant Summary of Rights for 49 policies charged a premium increase and 10  
16 cancellations.

17 7. The examiners reviewed 60 of 401 private passenger automobile policies  
18 cancelled during the time frame of the examination and found that WGIC failed to  
19 refund unearned premium within ten (10) days after policy cancellation to 13  
20 policyholders.

21 8. The examiners reviewed 28 of 28 private passenger automobile total loss  
22 claim files processed by the Company during the time frame of the examination and  
23 found that WGIC failed to correctly calculate and fully pay sales tax and fees payable in  
24 the settlement of 28 total losses.

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1 **CONCLUSIONS OF LAW**

2 1. Western General Insurance Company violated A.R.S. §20-311.01 by  
3 failing to require its producer to be properly licensed as a managing general agent.

4 2. WGIC violated A.R.S. §20-385 by failing to accurately apply rating  
5 surcharges and policy fees used to determine policy premium, in accordance with the  
6 Company's filed rating plans.

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

9 4. WGIC violated A.R.S. §20-1632(A)(3) by failing to refund unearned  
10 premium within ten (10) days after policy cancellation.

11 5. WGIC violated A.R.S §20-461(A)(6) and A.A.C. R20-6-801(H)(1)(b) by  
12 failing to correctly calculate and fully pay any sales tax and fees payable in the  
13 settlement of total losses.

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

16 **ORDER**

17 **IT IS HEREBY ORDERED THAT:**

- 18 1. Western General Insurance Company shall:
- 19 a. require all managing agents to be properly licensed.
  - 20 b. accurately apply rating surcharges and policy fees used to determine  
21 policy premium in accordance with the Company's filed rating plans.
  - 22 c. provide insureds a compliant Summary of Rights in the event of an  
23 adverse underwriting decision.
  - 24 d. refund unearned private passenger automobile premium within 10  
25 days after policy cancellation.

1 e. correctly calculate and fully pay any sales tax and fees, payable in the  
2 settlement of total losses.

3 2. Within 90 days of the filed date of this Order, Western General Insurance  
4 Company shall submit to the Arizona Department of Insurance, for approval, evidence  
5 that WGIC implemented corrections and communicated these corrections to the  
6 appropriate personnel, regarding the issues outlined in Paragraph 1 of the Order  
7 section of this Consent Order. Evidence of corrective action and communication  
8 thereof includes, but is not limited to, memos, bulletins, E-mails, correspondence,  
9 procedures manuals, print screens, and training materials.

10 3. Within 90 days of the filed date of this Order, Western General Insurance  
11 Company shall correctly calculate and fully pay any sales tax and title, registration or  
12 other fees owed any claimant, plus interest owed, in the settlement of the 28 private  
13 passenger total loss claims processed during the time frame of this examination.

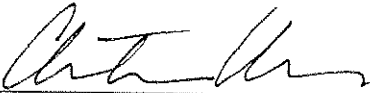
14 4. Each payment made pursuant to paragraph 3 above shall include a letter  
15 to the insured in a form previously approved by the Director. A list of payments, giving  
16 the name and address of each party paid, the amount of refund paid and the amount of  
17 interest paid, and the date of payment, shall be provided to the Department within 90  
18 days of the filed date of this Order.

19 5. The Department shall, through authorized representatives, verify that  
20 WGIC has complied with all provisions of this Order.

21 6. Western General Insurance Company shall pay a civil penalty of  
22 \$30,000.00 to the Director for remission to the State Treasurer for deposit in the State  
23 General Fund in accordance with A.R.S. §20-220(B). WGIC shall submit the civil  
24 penalty to the Market Oversight Division of the Department prior to the filing of this  
25 Order.

1           7. The Report of Target Market Examination of Western General Insurance  
2 Company of December 31, 2009, including the letter with their objections to the Report  
3 of Examination, shall be filed with the Department upon the filing of this Order.

4 DATED at Arizona this 17<sup>th</sup> day of May, 2011.

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

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

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

10 4. Western General 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. Western General 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. Daniel Mallut, who holds the office of  
19 Exec. VP-General Counsel of Western General Insurance Company, is authorized  
20 to enter into this Order for them and on their behalf.

21  
22 **WESTERN GENERAL INSURANCE COMPANY**

23  
24 May 4, 2011  
25 Date

By 

1 COPY of the foregoing mailed/delivered  
2 this 17<sup>th</sup> day of May, 2011, 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 Marc S. O'Connell  
20 Vice President - Regulatory Affairs  
21 Western General Insurance Company  
22 5230 Las Virgenes Road  
23 Calabasas, CA 91302

24   
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