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Docket No. 11A-118-INS In the Matter of: PACIFIC SPECIALTY INSURANCE COMPANY, CONSENT ORDER NAIC # 37850,

Respondent.

Examiners for the Department of Insurance (the "Department") conducted a target market conduct examination of Pacific Specialty Insurance Company ("PSIC"). In the Report of Target Market Conduct Examination of the Market Conduct Affairs of Pacific Specialty Insurance Company, the examiners allege that PSIC, violated A.R.S. §§20-461, 20-462, 20-1632, 20-1632.01, 20-2110 and A.A.C. R20-6-801.

Pacific Specialty 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. Pacific Specialty Insurance Company is authorized to transact property and casualty insurance pursuant to a Certificate of Authority issued by the Director.
- The Director authorized the examiners to conduct a target market 2. conduct examination of Pacific Specialty Insurance Company. The examination covered the time period from January 1, 2010 through December 31, 2010 and concluded on July 12, 2011. Based on their findings, the examiners prepared the "Report of Target Market Conduct Examination of Pacific Specialty Insurance Company" dated December 31, 2010.
- The examiners reviewed 44 of 44 homeowner and manufactured home 3. non-renewals, 64 of 144 homeowner and manufactured home cancellations, 29 of 29

private passenger auto and motorcycle non-renewals and 28 of 76 private passenger auto and motorcycle cancellations, non-renewed or cancelled for underwriting reasons during the time frame of the examination and found that PSIC failed to provide a compliant Summary of Rights for all homeowner, manufactured home, private passenger auto and motorcycle non-renewals and cancellations.

- 4. The examiners reviewed 29 of 29 private passenger auto and motorcycle policies non-renewed and 28 of 76 private passenger auto and motorcycle policies cancelled for underwriting reasons during the time frame of the examination and found that all non-renewal and cancellation notices sent for underwriting reasons failed to include the insured's right to complain to the Director and information regarding the insured's eligibility for the assigned risk plan.
- 5. The examiners reviewed 75 of 421 private passenger auto and motorcycle policies cancelled for non-payment of premium during the time frame of the examination and found that all cancellation notices sent for non-payment of premium failed to include the insured's right to complain to the Director.
- 6. The examiners reviewed 22 of 22 private passenger auto and motorcycle total loss claims processed by the Company during the time frame of the examination and found that PSIC failed to correctly calculate and fully pay sales tax, license registration and/or air quality fees in the settlement of 12 total losses.
- 7. The examiners reviewed 52 of 1,090 homeowner and 22 of 22 manufactured home claims settled during the time frame of the examination and found that PSIC failed to correctly calculate and pay the Transaction Privilege Tax on 5 homeowner and 10 manufactured home settlements.
- 8. During the review of the Company's private passenger auto and motorcycle total loss claim settlement practices, PSIC resettled all 12 claims resulting

in total restitution to claimants of \$1,655.33, plus \$166.66 interest.

9. During the examiner review of the Company's homeowner and manufactured home Transaction Privilege Tax claim settlement practices, PSIC resettled all 15 claims which resulted in restitution payments to insureds of \$1,914.02, plus \$205.89 interest. Following the review the Company also completed a self-audit of the remaining homeowner and manufactured home claims settled during the timeframe of the examination, which resulted in additional restitution payments for the correct Transaction Privilege Tax of \$9,907.27, plus \$724.86 interest to 76 claimants.

CONCLUSIONS OF LAW

- 1. Pacific Specialty Insurance Company violated A.R.S. §20-2110 by failing to send policyholders a compliant Summary of Rights in the event of an adverse underwriting decision.
- 2. PSIC violated A.R.S. §20-1632(A)(1) and (2) by using non-renewal and cancellation notices, sent for underwriting reasons, that failed to include the right to complain to the Director and information regarding the insured's eligibility for the assigned risk plan.
- 3. PSIC violated A.R.S. §20-1632.01(B) by using non-payment cancellation notices that failed to include the right to complain to the Director.
- 4. PSIC violated A.R.S §§20-461(A)(6), 20-462(A) and A.A.C. R20-6-801(H)(1)(b) by failing to correctly calculate and fully pay sales tax, license registration and/or air quality fees in the settlement of total losses.
- 5. PSIC violated A.R.S. §§20-461 and 20-462(A) by failing to correctly calculate and pay the Transaction Privilege Tax on homeowner and manufactured home claim settlements.

A.R.S.

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

ORDER

IT IS HEREBY ORDERED THAT:

- 1. Pacific Specialty Insurance Company shall:
- a. provide insureds with a compliant Summary of Rights in the event of an adverse underwriting decision.
- b. use non-renewal and cancellation notices, sent for underwriting reasons, to private passenger auto and motorcycle policyholders which include the right to complain to the Director and information regarding insured's eligibility for the assigned risk plan.
- c. use non-payment cancellation notices sent to private passenger auto and motorcycle policyholders that include the right to complain to the Director.
- d. correctly calculate and fully pay sales tax, license registration and/or air quality fees in the settlement of total losses.
- e. correctly calculate and pay the Transaction Privilege Tax on homeowner and manufactured home claim settlements.
- 2. Within 90 days of the filed date of this Order, Pacific Specialty Insurance Company shall submit to the Arizona Department of Insurance, for approval, evidence that PSIC implemented corrections and communicated these corrections to the appropriate personnel, regarding the issues outlined in Paragraph 1 of the Order section of this Consent Order. Evidence of corrective action and communication thereof includes, but is not limited to, memos, bulletins, E-mails, correspondence, procedures manuals, print screens, and training materials.

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- 3. The Department shall, through authorized representatives, verify that Pacific Specialty Insurance Company has complied with all provisions of this Order.
- 4. Pacific Specialty Insurance Company shall pay a civil penalty of \$15,000.00 to the Director for remission to the State Treasurer for deposit in the State General Fund in accordance with A.R.S. §20-220(B). Pacific Specialty Insurance Company shall submit the civil penalty to the Market Oversight Division of the Department prior to the filing of this Order.
- 5. The Report of Target Market Conduct Examination of Pacific Specialty Insurance Company of December 31, 2010, including the letter with their objections to the Report of Examination, shall be filed with the Department upon the filing of this Order.

DATED at Arizona this and day of September,

Christina Urias

Director of Insurance

CONSENT TO ORDER

- 1. Pacific Specialty Insurance Company has reviewed the foregoing Order.
- 2. Pacific Specialty Insurance Company admits the jurisdiction of the Director of Insurance, State of Arizona, admits the foregoing Findings of Fact, and consents to the entry of the Conclusions of Law and Order.
- 3. Pacific Specialty Insurance Company is aware of the right to a hearing, at which it may be represented by counsel, present evidence and cross-examine witnesses. Pacific Specialty Insurance Company irrevocably waives the right to such notice and hearing and to any court appeals related to this Order.
- 4. Pacific Specialty Insurance Company states that no promise of any kind or nature whatsoever was made to it to induce it to enter into this Consent Order and that it has entered into this Consent Order voluntarily
- 5. Pacific Specialty Insurance Company of this Order by the Director of the Arizona Depart purpose of settling this matter and does not precludstate or its subdivisions or any other person from in criminal, or administrative, as may be appropriate no

Cle # 28044 PIS,000 Bon PSIC

Robert K. Large 6. Vice President of Pacific Specialty

to enter into this Order for them and on their behalf.

PACIFIC SPECIALTY INSURANCE COMPANY

August 31, 2011

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| 1 | COPY of the foregoing mailed/delivered this 6th day of September , 2011, to: |
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| 2 | tine to the day of the percentage, 2011, to. |
| 3 | Gerrie Marks |
| 4 | Deputy Director Mary Butterfield |
| 5 | Assistant Director Consumer Affairs Division |
| 6 | Helene I. Tomme |
| 7 | Market Examinations Supervisor Market Oversight Division |
| 8 | Dean Ehler Assistant Director |
| | Property and Casualty Division |
| 9 | Steve Ferguson Assistant Director |
| 10 | Financial Affairs Division |
| 11 | David Lee Chief Financial Examiner |
| 12 | Alexandra Shafer Assistant Director |
| 13 | Life and Health Division |
| 14 | Chuck Gregory Special Agent Supervisor |
| 15 | Investigations Division |
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| 20 | Robert Large Vice President, Product Development |
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