

STATE OF ARIZONA

JUN 14 2012

DEPARTMENT OF INSURANCE

DEPT OF INSURANCE
BY *MS*

In the Matter of:

) Docket No. 12A-055-INS

LIBERTY MUTUAL FIRE INSURANCE COMPANY,

) **CONSENT ORDER**

NAIC # 23035,

) Respondent.

Examiners for the Department of Insurance (the "Department") conducted a target market conduct examination of Liberty Mutual Fire Insurance Company ("LMF").

In the Report of Target Market Conduct Examination of the Market Conduct Affairs of Liberty Mutual Fire Insurance Company, the examiners allege that LMF violated A.R.S. §§20-461, 20-462, 20-466.03, 20-2106, 20-2110 and A.A.C. R20-6-801.

Liberty Mutual Fire Insurance Company wishes to resolve this matter without formal proceedings, neither admits nor denies 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. Liberty Mutual Fire 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 Liberty Mutual Fire Insurance Company. The examination covered the time period from January 1, 2010 through December 31, 2010 and concluded on March 13, 2012. Based on their findings, the examiners prepared the "Report of Target Market Conduct Examination of Liberty Mutual Fire Insurance Company" dated December 31, 2010.

3. The examiners reviewed 41 of 41 homeowner non-renewals, 50 of 85 homeowner cancellations, 1 of 2 private passenger automobile non-renewals and 3 of

1 1,237 private passenger automobile cancellations, either non-renewed or cancelled
2 due to an adverse underwriting decision during the time frame of the examination and
3 found that LMF failed to provide a compliant Summary of Rights to all 95 policyholders.

4 4. The examiners found underwriting authorization disclosure forms
5 included within 3 policy applications, used during the time frame of the examination,
6 that failed to specify that the authorization remains valid for no longer than one year
7 from the date the authorization is signed and failed to advise the individual or a person
8 authorized to act on behalf of the individual that they are entitled to receive a copy of
9 the authorization form. (see Exhibit A)

10 5. The examiners found two claim authorization disclosure forms used
11 during the time frame of the examination that failed to specify the authorization remains
12 valid for no longer than the duration of the claim and advise the individual or a person
13 authorized to act on behalf of the individual that they are entitled to receive a copy of
14 the authorization form. (see Exhibit B)

15 6. The examiners found 4 claim forms used by the Company during the time
16 frame of the examination that failed to contain a compliant fraud warning notice. (see
17 Exhibit C)

18 7. The examiners reviewed 50 of 854 private passenger automobile total
19 loss claims processed by the Company during the time frame of the examination and
20 found that LMF failed to correctly calculate and fully pay sales tax, license registration
21 and/or air quality fees payable in the settlement of 6 total losses.

22 8. The examiners reviewed 150 of 7,848 private passenger automobile and
23 150 of 2,218 homeowner claim files settled during the time frame of the examination
24 and found 22 claims-related documents and/or correspondence in which the Company
25 failed to identify the appropriate insuring company.

1 **CONCLUSIONS OF LAW**

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

4 2. LMF violated A.R.S. §20-2106(7)(b) and (9) by using underwriting
5 authorization forms that failed to contain a compliant *Authorization for the Release of*
6 *Information*.

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

9 4. LMF violated A.R.S. §20-466.03 by using claim forms that failed to
10 contain a compliant fraud warning notice.

11 5. LMF violated A.R.S §§20-461(A)(6), 20-462(A) and A.A.C. R20-6-
12 801(H)(1)(b) by failing to correctly calculate and fully pay sales tax, license registration
13 and/or air quality fees payable in the 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
17 **ORDER**

18 **IT IS HEREBY ORDERED THAT:**

19 1. Liberty Mutual Fire Insurance Company shall:

20 a. provide insureds a compliant Summary of Rights in the event of an
21 adverse underwriting decision.

22 b. use applications that include underwriting authorization disclosure
23 forms that contain a compliant *Authorization for the Release of Information*.

24 c. use claim authorization disclosure forms that contain a compliant
25 *Authorization for the Release of Information*.

1 d. use claim forms that contain a compliant fraud warning notice.

2 e. correctly calculate and fully pay sales tax and other fees payable in
3 the settlement of total losses.

4 f. identify the correct insuring company on all claims-related documents
5 and/or correspondence.

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

13 3. The Department shall, through authorized representatives, verify that
14 LMF has complied with all provisions of this Order.

15 4. Liberty Mutual Fire Insurance Company shall pay a civil penalty of
16 \$20,000.00 to the Director for remission to the State Treasurer for deposit in the State
17 General Fund in accordance with A.R.S. §20-220(B). LMF shall submit the civil penalty
18 to the Market Oversight Division of the Department prior to the filing of this Order.

19

20

21

25

1 5. The Report of Target Market Examination of Liberty Mutual Fire
2 Insurance Company of December 31, 2010, including the letter with their objections to
3 the Report of Examination, shall be filed with the Department upon the filing of this
4 Order.

5 DATED at Arizona this 12th day of June, 2012.

7
8 
9 _____
Christina Urias
Director of Insurance

10
11
12

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

1 **CONSENT TO ORDER**

2 1. Liberty Mutual Fire Insurance Company has reviewed the foregoing
3 Order.

4 2. Liberty Mutual Fire Insurance Company admits the jurisdiction of the
5 Director of Insurance, State of Arizona, neither admits nor denies the foregoing
6 Findings of Fact, and consents to the entry of the Conclusions of Law and Order.

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

11 4. Liberty Mutual Fire Insurance Company 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. Liberty Mutual Fire Insurance Company 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. Robert Higgins, who holds the office of
20 Director, State Operations of Liberty Mutual Fire Insurance Company, is
21 authorized to enter into this Order for them and on their behalf.

22 **LIBERTY MUTUAL FIRE INSURANCE COMPANY**

23
24 6/4/12

25 Date

By 

1 COPY of the foregoing mailed/delivered
2 this 14th day of June , 2012, 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 Kurt Regner
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 DEPARTMENT OF INSURANCE
2910 North 44th Street, Suite 210
Phoenix, AZ 85018

Lucinda Woods, CPCU, ARM, ARC
Regional Director, Market Conduct Service
Office of Corporate Compliance
Liberty Mutual Group
175 Berkeley Street
Boston, MA 02116

Maidene Scheiner

EXHIBIT A

Underwriting Authorization Disclosure

These forms fail to comply with A.R.S. § 20-2106(7)(b) and (9).

The following table summarizes these application form findings.

	Form Description / Title	Form #	Statute Provision
1	Homeowners Application	PMKT 703 1209	7(b) and 9
2	Personal Automobile Policy Application	PMKT 465	7(b) and 9
3	Personal Automobile Policy Application	AUTO 4201 0810	7(b) and 9

EXHIBIT B

Claim Authorization Disclosure

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

The following table summarizes these authorization form findings.

	Form Description / Title	Form #	Statute Provision
1	Authorization for Release of Medical Information	ASC1329C	8(b) and 9
2	Authorization for Release Information	ASC1329D SIU	8(b) and 9

EXHIBIT C

Fraud Warning Statement – The Company failed to include the required fraud warning statement on four (4) claim forms in violation of A.R.S. § 20-466.03.

The following table summarizes the fraud warning statement findings.

	Form Description / Title	Form Number
1	Power of Attorney - Automobile	NA
2	Authorization for Payment	NA
3	Authorization for the Release of Medical Information	ASC1329C
4	Authorization for the Release of Information	ASC1329D_SIU