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STATE OF ARIZONA  
FILED

JUN 14 2012

STATE OF ARIZONA  
DEPARTMENT OF INSURANCE

DEPT OF INSURANCE  
BY MS

In the Matter of:	)	Docket No. 12A-057-INS
	)	
<b>COLORADO CASUALTY INSURANCE COMPANY,</b>	)	<b>CONSENT ORDER</b>
NAIC # 41785,	)	
Respondent.	)	

Examiners for the Department of Insurance (the "Department") conducted a target market conduct examination of Colorado Casualty Insurance Company ("CCIC"). In the Report of Target Market Conduct Examination of the Market Conduct Affairs of Colorado Casualty Insurance Company, the examiners allege that CCIC violated A.R.S. §§20-461, 20-462, 20-466.03, 20-1631, 20-1632, 20-1652, 20-2106, 20-2110 and A.A.C. R20-6-801.

Colorado Casualty 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. Colorado Casualty 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 Colorado Casualty Insurance Company. The examination covered the time period from January 1, 2010 through December 31, 2010 and concluded on January 24, 2012. Based on their findings, the examiners prepared the "Report of Target Market Conduct Examination of Colorado Casualty Insurance Company" dated December 31, 2010.
3. The examiners reviewed 22 of 114 homeowner non-renewals, 26 of 36

1 homeowner cancellations, 33 of 171 private passenger automobile non-renewals and  
2 15 of 27 private passenger automobile cancellations, either non-renewed or cancelled  
3 due to an adverse underwriting decision during the time frame of the examination and  
4 found that CCIC failed to provide a compliant Summary of Rights to all 96  
5 policyholders.

6 4. The examiners found an underwriting authorization disclosure form  
7 included within an application, *Homeowners Application* (ACORD 80, 2003/02), used  
8 during the time frame of the examination, that failed to specify that the authorization  
9 remains valid for no longer than one year from the date the authorization is signed and  
10 failed to advise the individual or a person authorized to act on behalf of the individual  
11 that they are entitled to receive a copy of the authorization form.

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

17 6. The examiners reviewed 36 of 36 homeowner cancellations, cancelled for  
18 underwriting reasons during the time frame of the examination and found that CCIC  
19 failed to use a valid reason for cancellation of 7 policyholders.

20 7. The examiners reviewed 44 of 171 private passenger automobile non-  
21 renewals and 24 of 27 private passenger automobile cancellations, either non-renewed  
22 or cancelled due to an adverse underwriting decision during the time frame of the  
23 examination and found that CCIC failed to offer a named driver exclusion prior to non-  
24 renewal or cancellation to 9 non-renewed and 4 cancelled policyholders.

25 8. The examiners reviewed 44 of 171 private passenger automobile policies

1 non-renewed for underwriting reasons during the time frame of the examination and  
2 found that CCIC failed to provide a non-renewal notice at least 45-days before the  
3 effective date to 7 policyholders.

4 9. The examiners reviewed 68 of 198 private passenger automobile policies  
5 cancelled due to an adverse underwriting decision during the time frame of the  
6 examination and found that CCIC failed to mail cancellation notice at least 10 days  
7 before the effective date to 9 policyholders.

8 10. The examiners reviewed 44 of 171 private passenger automobile policies  
9 non-renewed for underwriting reasons during the time frame of the examination and  
10 found that CCIC failed to provide a notice of non-renewal that included the specific  
11 reason for the non-renewal to 5 policyholders.

12 11. The examiners reviewed 44 of 171 private passenger automobile policies  
13 non-renewed for underwriting reasons during the time frame of the examination and  
14 found that CCIC used 3 non-renewal notices that failed to inform policyholders of their  
15 right to complain to the Director and their possible eligibility for insurance through the  
16 automobile assigned risk plan.

17 12. The examiners found 6 claim forms used by the Company during the time  
18 frame of the examination that failed to contain a compliant fraud warning notice. (see  
19 Exhibit B)

20 13. The examiners reviewed 50 of 318 homeowner and 50 of 218 commercial  
21 multi-peril claims settled during the time frame of the examination and found that CCIC  
22 failed to correctly calculate and pay the Transaction Privilege Tax on 4 homeowner and  
23 2 commercial multi-peril claim settlements.

24 14. The examiners reviewed 50 of 268 private passenger automobile total  
25 loss claims processed by the Company during the time frame of the examination and

1 found that CCIC failed to correctly calculate and fully pay sales tax, license registration  
2 and/or air quality fees payable in the settlement of 4 total losses.

3 15. The examiners reviewed 150 of 1,852 private passenger automobile and  
4 100 of 453 homeowner claim files settled during the time frame of the examination and  
5 found 12 private passenger automobile and 24 homeowner claims-related documents  
6 and/or correspondence in which the Company failed to identify the appropriate insuring  
7 company.

### 8 CONCLUSIONS OF LAW

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

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

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

16 4. CCIC violated A.R.S. §20-1652 by failing to use a valid cancellation  
17 reason when cancelling homeowner policies for underwriting reasons.

18 5. CCIC violated A.R.S. §20-1631(F) by failing to offer policyholders a  
19 named driver exclusion prior to non-renewal or cancellation.

20 6. CCIC violated A.R.S. §§20-1631(E) and 20-1632(A) by failing to mail  
21 nonrenewal notices at least 45-days before the effective date of the non-renewal.

22 7. CCIC violated A.R.S. § 20-1632(A) by failing to mail cancellation notices  
23 at least 10 days before the effective date of the cancellation.

24 8. CCIC violated A.R.S. § 20-1632(A) by failing to provide a non-renewal  
25 notice that includes the specific reason for the non-renewal.

1 9. CCIC violated A.R.S. § 20-1632(A)(1) & (2) by failing to provide a non  
2 renewal notice that informs policyholders of their right to complain to the Director and  
3 their possible eligibility for insurance through the automobile assigned risk plan.

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

6 11. CCIC violated A.R.S. §§20-461 and 20-462(A) by failing to correctly  
7 calculate and pay the Transaction Privilege Tax on homeowner and commercial multi-  
8 peril claim settlements.

9 12. CCIC violated A.R.S §§20-461, 20-462(A) and A.A.C. R20-6-801(H)(1)(b)  
10 by failing to correctly calculate and fully pay sales tax, license registration and/or air  
11 quality fees payable in the settlement of total losses.

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

14  
15 **ORDER**

16 **IT IS HEREBY ORDERED THAT:**

- 17 1. Colorado Casualty Insurance Company shall:
- 18 a. provide insureds a compliant Summary of Rights in the event of an  
19 adverse underwriting decision.
- 20 b. use applications that include underwriting authorization disclosure  
21 forms that contain a compliant *Authorization for the Release of Information*.
- 22 c. use claim authorization disclosure forms that contain a compliant  
23 *Authorization for the Release of Information*.
- 24 d. use valid reasons for cancelling homeowner policies.
- 25 e. offer policyholders a named driver exclusion prior to non-renewal or

1 cancellation.

2 f. mail nonrenewal notices at least 45 days before the effective date of  
3 the non-renewal.

4 g. mail cancellation notices at least 10 days before the effective date of  
5 the cancellation.

6 h. provide a notice of non-renewal that includes the specific reason for  
7 the non-renewal.

8 i. use non-renewal notices that inform policyholders of their right to  
9 complain to the Director and their possible eligibility for insurance through the  
10 automobile assigned risk plan.

11 j. use claim forms that contain a compliant fraud warning notice.

12 k. correctly calculate and pay the Transaction Privilege Tax on  
13 homeowner and commercial multi-peril claim settlements.

14 l. correctly calculate and fully pay sales tax and other fees payable in  
15 the settlement of total losses.

16 m. identify the correct insuring company on all claims-related documents  
17 and/or correspondence.

18 2. Within 90 days of the filed date of this Order, Colorado Casualty  
19 Insurance Company shall submit to the Arizona Department of Insurance, for approval,  
20 evidence that CCIC implemented corrections and communicated these corrections to  
21 the appropriate personnel, regarding the issues outlined in Paragraph 1 of the Order  
22 section of this Consent Order. Evidence of corrective action and communication  
23 thereof includes, but is not limited to, memos, bulletins, E-mails, correspondence,  
24 procedures manuals, print screens, and training materials.

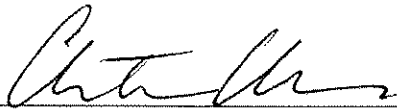
25 3. The Department shall, through authorized representatives, verify that

1 CCIC has complied with all provisions of this Order.

2 4. Colorado Casualty Insurance Company shall pay a civil penalty of  
3 \$29,000.00 to the Director for remission to the State Treasurer for deposit in the State  
4 General Fund in accordance with A.R.S. §20-220(B). CCIC shall submit the civil  
5 penalty to the Market Oversight Division of the Department prior to the filing of this  
6 Order.

7 5. The Report of Target Market Examination of Colorado Casualty  
8 Insurance Company of December 31, 2010, including the letter with their objections to  
9 the Report of Examination, shall be filed with the Department upon the filing of this  
10 Order.

11 DATED at Arizona this 12<sup>th</sup> day of June, 2012.

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14 \_\_\_\_\_  
15 Christina Urias  
16 Director of Insurance  
17  
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25

1 **CONSENT TO ORDER**

2 1. Colorado Casualty Insurance Company has reviewed the foregoing  
3 Order.

4 2. Colorado Casualty 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. Colorado Casualty 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. Colorado Casualty Insurance Company irrevocably waives the right to such  
10 notice and hearing and to any court appeals related to this Order.

11 4. Colorado Casualty 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. Colorado Casualty 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. JAMES SWEGLER, who holds the office of  
20 VICE PRESIDENT of Colorado Casualty Insurance Company, is  
21 authorized to enter into this Order for them and on their behalf.

22 **COLORADO CASUALTY INSURANCE COMPANY**

23  
24 5/24/2012 By James Sweigle  
25 Date

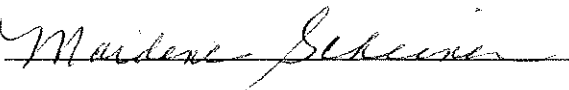


1 COPY of the foregoing mailed/delivered  
2 this 14th day of June , 2012, to:

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

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

19 Lucinda Woods, CPCU, ARM, ARC  
20 Regional Director, Market Conduct Service  
21 Office of Corporate Compliance  
22 Liberty Mutual Group  
23 175 Berkeley Street  
24 Boston, MA 02116

25 

## EXHIBIT A

### 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.

	<b>Form Description / Title</b>	<b>Form #</b>	<b>Statute Provision</b>
1	Authorization to Disclose Protected Health Information	Unknown	8(b) and 9
2	Authorization to Release Health Information	Unknown	8(b) and 9
3	Authorization to Disclose Health Information and Other Records	Unknown	9

## **EXHIBIT B**

**Fraud Warning Statement** – The Company failed to include the required fraud warning statement on six (6) claim forms in violation of A.R.S. § 20-466.03.

The following table summarizes the fraud warning statement findings.

	<b>Form Description / Title</b>	<b>Form Number</b>
1	Release of Property Damage Claims (Comml/PPA)	NA
2	Authorization to Disclose Protected Health Information (Comml/PPA)	NA
3	Release Property Damage Claims Only (Comml)	NA
4	Authorization to Release Health Information (PPA)	NA
5	Minors Release and Parental Release and Indemnity Agreement (PPA)	NA
6	Uninsured/Underinsured Motorist Release (PPA)	NA