

DEC 7 2012

DEPT OF INSURANCE
BY 

STATE OF ARIZONA
DEPARTMENT OF INSURANCE

<p>In the Matter of:</p> <p>SAFE AUTO INSURANCE COMPANY,</p> <p>NAIC # 25405,</p> <p style="padding-left: 40px;">Respondent.</p>	<p>)</p> <p>)</p> <p>)</p> <p>)</p>	<p>Docket No. 12A-167-INS</p> <p>CONSENT ORDER</p>
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Examiners for the Department of Insurance (the "Department") conducted a target market conduct examination of Safe Auto Insurance Company ("SAIC"). In the Report of Target Market Conduct Examination of the Market Conduct Affairs of Safe Auto Insurance Company, the examiners allege that SAIC violated A.R.S. §§20-259.01, 20-263, 20-385, 20-461, 20-1631, 20-1632, 20-2106, 20-2110 and A.A.C. R20-6-801.

Safe Auto Insurance Company wishes to resolve this matter without formal proceedings, neither admits nor denies the following Findings of Fact, and consents to the entry of the following Conclusions of Law and Order.

FINDINGS OF FACT

1. Safe Auto 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 Safe Auto Insurance Company. The examination covered the time period from January 1, 2011 through December 31, 2011 and concluded on June 18, 2012. Based on their findings, the examiners prepared the "Report of Target Market Conduct Examination of Safe Auto Insurance Company" dated December 31, 2011.

3. The examiners reviewed 134 of 13,294 surcharged policies issued during

1 the time frame of the examination and found that SAIC failed to accurately document
2 and apply filed surcharges to determine premium for 14 surcharged policies.

3 4. The examiners reviewed 21 of 13,294 policies surcharged for an at-fault
4 accident during the time frame of the examination and found that SAIC failed to provide
5 the specific reason for the at-fault accident surcharge to 21 policyholders.

6 5. The examiners reviewed 141 of 31,082 new business and/or renewal
7 policies issued during the time frame of the examination and found that SAIC added
8 uninsured motorist and underinsured motorist coverage to 20 new business policies
9 without consent of the applicant.

10 6. The examiners found the underwriting authorization disclosure included
11 within the Company's private passenger automobile application (AZ1000/1008) used
12 during the time frame of the examination, failed to specify the types of persons
13 authorized to disclose information about the individual, the nature of the information
14 authorized to be disclosed, the purposes for which the information is gathered, that the
15 authorization remains valid for no longer than one year from the date the authorization
16 is signed and failed to advise the individual or a person authorized to act on behalf of
17 the individual that they are entitled to receive a copy of the authorization form.

18 7. The examiners reviewed 29 of 29 private passenger automobile policies
19 cancelled for underwriting reasons during the timeframe of the examination and found
20 that SAIC failed to provide a Summary of Rights to 29 policyholders.

21 8. The examiners reviewed 3 of 3 private passenger automobile policies
22 non-renewed for underwriting reasons during the time frame of the examination and
23 found that SAIC failed provide 2 policyholders with at least forty-five (45) days notice
24 before the effective date of non-renewal.

25 9. The examiners reviewed 3 of 3 private passenger automobile policies

1 non-renewed for underwriting reasons during the time frame of the examination and
2 found that SAIC non-renewed 3 policies for reasons not allowed by statute.

3 10. The examiners reviewed 17 of 17 private passenger automobile policies
4 cancelled and owed unearned premium refunds during the time frame of the
5 examination and found that SAIC failed to include the unearned premium refund with
6 the policy cancellation notice to all 17 policyholders.

7 11. The examiners found four claim authorization disclosure forms used
8 during the time frame of the examination that failed to specify the purposes for which
9 the information is collected, that the authorization remains valid for no longer than the
10 duration of the claim and advise the individual or a person authorized to act on behalf
11 of the individual that they are entitled to receive a copy of the authorization form. (see
12 Exhibit A)

13 12. The examiners reviewed 50 of 188 private passenger automobile total
14 loss claims processed by the Company during the time frame of the examination and
15 found that SAIC failed to correctly calculate and fully pay the sales tax payable in the
16 settlement of 8 total losses.

17 13. The examiner reviewed 15 of 15 private passenger automobile claims
18 involving subrogation recovery settled during the time frame of the examination and
19 found that SAIC failed to reimburse the full deductible to 2 insureds after subrogation
20 recovery from the at-fault party.

21 14. During review of the Company's private passenger automobile claim
22 settlement practices, SAIC reimbursed 8 total loss claimants the correct sales tax of
23 \$1,251.04, which included \$120.89 interest. SAIC also made additional payments to
24 one first-party total loss claimant of \$125.40, which included \$6.36 interest and to 2
25 claimants for subrogation recovery of \$418.38, which included \$43.38 interest.

1 **CONCLUSIONS OF LAW**

2 1. SAIC violated A.R.S. §20-385 by failing to accurately document and apply
3 filed surcharges to determine policy premium.

4 2. SAIC violated A.R.S. §20-263(A) by failing to provide insureds with the
5 specific reason for an at-fault accident surcharge.

6 3. SAIC violated A.R.S. §20-259.01 (A) and (B) by adding uninsured and
7 underinsured motorist coverage to new business policies without the applicant's
8 consent.

9 4. SAIC violated A.R.S. §20-2106(3), (4), (6), (7)(b) and (9) by using
10 underwriting authorization forms, contained in SAIC's automobile application that failed
11 to contain a compliant *Authorization for the Release of Information*.

12 5. SAIC violated A.R.S. §20-2110 and a prior Consent Order (2007) by
13 failing to send a compliant Summary of Rights to policyholders cancelled for
14 underwriting reasons.

15 6. SAIC violated A.R.S. §20-1632(A) by failing to provide notice of non-
16 renewal at least forty-five (45) days prior to the effective date.

17 7. SAIC violated A.R.S. §20-1631(E) by non-renewing private passenger
18 automobile policies for reasons not permitted by statute.

19 8. SAIC violated A.R.S. §20-1632(A)(3) by failing include the unearned
20 premium refund with the policy cancellation notice.

21 9. SAIC violated A.R.S. §20-2106(6), (8)(b) and (9) by using claim
22 authorization forms that failed to contain a compliant *Authorization for the Release of*
23 *Information*.

24 10. SAIC violated A.R.S. §20-461(A)(6) and A.A.C. R20-6-801(H)(1)(b) by
25 failing to correctly calculate and fully pay sales tax payable in the settlement of total

1 losses.

2 11. SAIC violated A.R.S §20-461(A)(6) and A.A.C. R20-6-801(H)(4) by failing
3 to reimburse the full deductible after subrogation recovery.

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

6
7 **ORDER**

8 **IT IS HEREBY ORDERED THAT:**

- 9 1. Safe Auto Insurance Company shall:
- 10 a. accurately document and apply filed surcharges to determine policy
11 premium.
- 12 b. provide insureds with the specific reason for an at-fault accident
13 surcharge.
- 14 c. obtain the applicant's consent before adding uninsured and
15 underinsured motorist coverage to new business policies.
- 16 d. use applications that include underwriting authorization disclosure
17 forms that contain a compliant *Authorization for the Release of Information*.
- 18 e. provide policyholders a compliant Summary of Rights if their policy is
19 cancelled due to an adverse underwriting decision.
- 20 f. provide notice of non-renewal at least 45 days notice prior to the
21 effective date.
- 22 g. use only reasons allowed by statute to non-renew private passenger
23 automobile policies.
- 24 h. include the unearned premium refund with the policy cancellation
25 notice.

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

3 j. correctly calculate and fully pay sales tax payable in the settlement of
4 total losses.

5 k. reimburse the insureds full deductible after subrogation recovery.

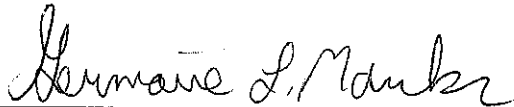
6 2. Within 90 days of the filed date of this Order, Safe Auto Insurance
7 Company shall submit to the Arizona Department of Insurance, for approval, evidence
8 that SAIC implemented corrections and communicated these corrections to the
9 appropriate personnel, regarding the issues outlined in Paragraph 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 SAIC has complied with all provisions of this Order.

15 4. Safe Auto Insurance Company shall pay a civil penalty of \$40,000.00 to
16 the Director for remission to the State Treasurer for deposit in the State General Fund
17 in accordance with A.R.S. §20-220(B). SAIC shall submit the civil penalty to the
18 Market Oversight Division of the Department prior to the filing of this Order.

19 5. The Report of Target Market Examination of Safe Auto Insurance
20 Company of December 31, 2011, including the letter with their objections to the Report
21 of Examination, shall be filed with the Department upon the filing of this Order.

22 DATED at Arizona this 6th day of December, 2012.

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25 Germaine L. Marks
Director of Insurance

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CONSENT TO ORDER

1. Safe Auto Insurance Company has reviewed the foregoing Order.

2. Safe Auto Insurance Company admits the jurisdiction of the Director of Insurance, State of Arizona, neither admits nor denies the foregoing Findings of Fact, and consents to the entry of the Conclusions of Law and Order.

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

4. Safe Auto 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. Safe Auto Insurance Company acknowledges that the acceptance of this Order by the Director of the Arizona Department of Insurance is solely for the purpose of settling this matter and does not preclude any other agency or officer of this state or its subdivisions or any other person from instituting proceedings, whether civil, criminal, or administrative, as may be appropriate now or in the future.

6. Mark D. LeMaster, who holds the office of Secretary & General Counsel of Safe Auto Insurance Company, is authorized to enter into this Order for them and on their behalf.

SAFE AUTO INSURANCE COMPANY

12-4-12
Date

By MAL

1 COPY of the foregoing mailed/delivered
2 this 7th day of December, 2012, to:

3 Germaine L. Marks
4 Director of Insurance

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

Jeffrey A. Little, Managing Counsel
Safe Auto Insurance Company
4 Easton Oval
Columbus, Ohio 43219-6010

