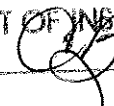


JUL 10 2013

DEPT OF INSURANCE
BY 

STATE OF ARIZONA
DEPARTMENT OF INSURANCE

In the Matter of:)	Docket No. 13A-077-INS
)	
OCCIDENTAL FIRE & CASUALTY COMPANY OF)	CONSENT ORDER
NORTH CAROLINA,)	
NAIC # 23248,)	
Respondent.)	

Examiners for the Department of Insurance (the "Department") conducted a target market conduct examination of Occidental Fire & Casualty Company of North Carolina ("OFC"). In the Report of Target Market Conduct Examination of the Market Conduct Affairs of Occidental Fire & Casualty Company of North Carolina, the examiners allege that OFC violated A.R.S. §§20-443, 20-461, 20-462, 20-1677, 20-2106, 20-2110 and A.A.C. R20-6-801.

Occidental Fire & Casualty Company of North Carolina 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. Occidental Fire & Casualty Company of North Carolina 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 Occidental Fire & Casualty Company of North Carolina. The examination covered the time period from January 1, 2011 through December 31, 2011 and concluded on February 26, 2013. Based on their findings, the examiners prepared the "Report of Target Market Conduct Examination of Occidental Fire & Casualty Company of North Carolina" dated December 31, 2011.

1 3. The examiners reviewed 89 of 694 private passenger automobile
2 renewals and surcharged policies issued during the time frame of the examination and
3 found that OFC failed to indicate that a policy fee was included in the policy premium
4 total on all 89 renewal certificates.

5 4. The examiners reviewed 26 of 823 commercial multi-peril policies
6 renewed during the time frame of the examination and found the OFC failed to provide
7 written notice 30 days prior to expiration of a renewal premium increase on 2 policies.

8 5. The examiners reviewed 6 of 6 homeowner non-renewals and 11 of 11
9 homeowner cancellations, either non-renewed or cancelled due to an adverse
10 underwriting decision during the time frame of the examination and found that OFC
11 failed to provide a compliant Summary of Rights to all 17 policyholders.

12 6. The examiners found one underwriting authorization disclosure form
13 included within the homeowner application, *H102SWAZ (04/2004)*, used during the
14 time frame of the examination that failed to specify that the authorization remains valid
15 for no longer than one year from the date the authorization is signed and advise the
16 individual or a person authorized to act on behalf of the individual that they are entitled
17 to receive a copy of the authorization form.

18 7. The examiners reviewed 50 of 100 homeowner policies cancelled for
19 non-payment of premium during the time frame of the examination and found that OFC
20 failed to provide at least 10 days notice prior to cancellation, as required by policy
21 provisions, to 35 policyholders.

22 8. The examiners reviewed 50 of 332 homeowners claims settled during the
23 time frame of the examination and found that OFC failed to correctly calculate and pay
24 the Transaction Privilege Tax on 18 first party, real property homeowner claim
25 settlements.

1 9. The examiners reviewed 40 of 40 private passenger automobile total loss
2 claims processed by the Company during the time frame of the examination and found
3 that OFC failed to correctly calculate and fully pay the appropriate sales taxes and fees
4 payable in the settlement of 29 total losses.

5 10. The examiners reviewed 31 of 31 homeowner claims closed without
6 payment during the time frame of the examination and found that OFC failed to provide
7 10 homeowner claimants a written claim denial within fifteen (15) working days after
8 receipt of proofs of loss.

9 11. During review of the Company's homeowner Transaction Privilege Tax
10 claim settlement practices, OFC resettled all 18 homeowner claims which resulted in
11 restitution payments of \$3,731.69, which included \$655.87 interest.

12 12. During review of the Company's private passenger automobile total loss
13 claim settlement practices, OFC made restitution payments to all 29 claimants of
14 \$7,850.86, which included \$1,539.44 in interest. OFC also paid restitution to one
15 private passenger automobile claimant for return of the insured's deductible after
16 subrogation recovery in the amount of \$188.62, which included \$67.62 interest.

17 CONCLUSIONS OF LAW

18 1. OFC violated A.R.S. §20-443(A) by failing to indicate on private
19 passenger automobile renewal certificates that a policy fee was included in the policy's
20 total premium.

21 2. OFC violated A.R.S. §20-1677 by failing to provide written notice 30 days
22 prior to expiration of a premium increase on commercial multi-peril renewal policies.

23 3. OFC violated A.R.S. §20-2110 by failing to send a compliant Summary of
24 Rights to policyholders cancelled or non-renewed due to an adverse underwriting
25 decision.

1 4. OFC violated A.R.S. §20-2106(7)(b) and (9) by using a claim
2 authorization form on the homeowner application that failed to contain a compliant
3 *Authorization for the Release of Information*.

4 5. OFC violated A.R.S. §§20-461(A)(6) and 20-462(A) by failing to correctly
5 calculate and pay the Transaction Privilege Tax on homeowners claim settlements.

6 6. OFC violated A.R.S §20-461(A)(6), A.R.S §20-462 and A.A.C. R20-6-
7 801(H)(1)(b) by failing to correctly calculate and fully pay sales taxes and fees payable
8 in the settlement of private passenger automobile total losses.

9 7. OFC violated A.R.S §20-461(A)(5) and A.A.C. R20-6-801(G)(1)(a) by
10 failing to provide first party claimants a written claim denial within fifteen (15) days after
11 receipt of proof of loss.

12 8. 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. Occidental Fire & Casualty Company of North Carolina shall:
18 a. indicate that the policy premium shown on the renewal certificate
19 includes the policy fee charged.
20 b. provide 30 days prior written notice of a premium increase on
21 commercial multi-peril renewals.
22 c. provide policyholders a compliant Summary of Rights if their policy is
23 cancelled or non-renewed as the result of an adverse underwriting decision.
24 d. use claim authorization disclosure forms that contain a compliant
25 *Authorization for the Release of Information*.

1 e. provide 10 days notice of cancellation to policyholders cancelled for
2 non-payment of premium, as stated in policy provisions.

3 f. correctly calculate and pay the Transaction Privilege Tax on
4 homeowner claim settlements.

5 g. correctly calculate and fully pay sales taxes and fees payable in the
6 settlement of private passenger automobile total losses.

7 h. provide claimants a written claim denial within fifteen (15) days after
8 receipt of proof of loss.

9 2. Within 90 days of filed date of this Order, the Company shall complete a
10 self-audit of the remaining homeowner claims settled during the time frame of the
11 examination and make additional restitution payments, with interest due, on all claims
12 where the Company failed to correctly calculate and fully pay the Transaction Privilege
13 Tax on claim settlements.

14 3. Within 90 days of the filed date of this Order, Occidental Fire & Casualty
15 Company of North Carolina shall submit to the Arizona Department of Insurance, for
16 approval, evidence that OFC implemented corrections and communicated these
17 corrections to the appropriate personnel, regarding the issues outlined in Paragraph 1
18 of the Order section of this Consent Order. Evidence of corrective action and
19 communication thereof includes, but is not limited to, memos, bulletins, E-mails,
20 correspondence, procedures manuals, print screens, and training materials.

21 4. The Department shall, through authorized representatives, verify that
22 OFC has complied with all provisions of this Order.

23 5. Occidental Fire & Casualty Company of North Carolina shall pay a civil
24 penalty of \$25,000.00 to the Director for remission to the State Treasurer for deposit in
25 the State General Fund in accordance with A.R.S. §20-220(B). OFC shall submit the

1 civil penalty to the Market Oversight Division of the Department prior to the filing of this
2 Order.

3 6. The Report of Target Market Conduct Examination of Occidental Fire &
4 Casualty Company of North Carolina as of December 31, 2011, including the letter with
5 their objections to the Report of Examination, shall be filed with the Department upon
6 the filing of this Order.

7 DATED at Arizona this 9th day of July, 2013.

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10 Germaine L. Marks
11 Germaine L. Marks
12 Director of Insurance
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CONSENT TO ORDER

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2 1. Occidental Fire & Casualty Company of North Carolina has reviewed the
3 foregoing Order.

4 2. Occidental Fire & Casualty Company of North Carolina admits the
5 jurisdiction of the Director of Insurance, State of Arizona, admits the foregoing Findings
6 of Fact, and consents to the entry of the Conclusions of Law and Order.

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

12 4. Occidental Fire & Casualty Company of North Carolina states that no
13 promise of any kind or nature whatsoever was made to it to induce it to enter into this
14 Consent Order and that it has entered into this Consent Order voluntarily.

15 5. Occidental Fire & Casualty Company of North Carolina acknowledges
16 that the acceptance of this Order by the Director of the Arizona Department of
17 Insurance is solely for the purpose of settling this matter and does not preclude any
18 other agency or officer of this state or its subdivisions or any other person from
19 instituting proceedings, whether civil, criminal, or administrative, as may be appropriate
20 now or in the future.

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1 6. Michael D. Blinson, who holds the office of
2 Senior VP/Corporate Secretary of Occidental Fire & Casualty Company of North
3 Carolina, is authorized to enter into this Order for them and on their behalf.

4 **OCCIDENTAL FIRE & CASUALTY COMPANY OF NORTH CAROLINA**

5
6
7 7-2-13

Date

By

Michael D. Blinson

1 COPY of the foregoing mailed/delivered
2 this 10th day of July, 2013, 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

Michael D. Blinson
Senior Vice President/Corporate Secretary
Occidental Fire & Casualty Company of North Carolina
702 Oberlin Road
Raleigh, North Carolina 27605

