

AUG 14 2014

STATE OF ARIZONA
DEPARTMENT OF INSURANCE

DEPT OF INSURANCE
BY [Signature]

In the Matter of:)	Docket No. 14A-087-INS
)	
AMERICAN ACCESS CASUALTY COMPANY,)	
)	CONSENT ORDER
NAIC # 10730,)	
)	
Respondent.)	

Examiners for the Department of Insurance (the "Department") conducted a target market conduct examination of American Access Casualty Company ("AAC"). In the Report of Target Market Conduct Examination of the Market Conduct Affairs of American Access Casualty Company, the examiners allege that AAC violated A.R.S. §§20-259.01, 20-297, 20-298, 20-385, 20-461, 20-466.03, 20-1631, 20-2106, 20-2110, and A.A.C. R20-6-801.

American Access Casualty 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. American Access Casualty 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 American Access Casualty Company. The examination covered the time period from July 1, 2012 through June 30, 2013 and concluded on May 12, 2014. Based on their findings, the examiners prepared the "Report of Target Market Conduct Examination of American Access Casualty Company" dated June 30, 2013.

1 3. The examiners found that the Company paid commissions to two (2)
2 entities not properly licensed with the Arizona Department of Insurance and failed to
3 require that BCH Marketing, Inc. and Budget Insurance Associates use “doing business
4 as” (dba) designations that were properly registered with the Department.

5 4. The examiners reviewed 131 of 6,402 surcharged private passenger
6 automobile policies issued during the time frame of the examination and found that
7 AAC failed to correctly apply filed rates on 23 surcharged policies.

8 5. The examiners reviewed 200 of 19,233 private passenger automobile new
9 and/or renewal policies issued during the time frame of the examination and found that
10 AAC failed to properly document and retain signed Uninsured Motorist and
11 Underinsured Motorist (“UM/UIM”) selection forms for 14 applicants that selected
12 coverage limits less than the limits for bodily injury or death contained in their policy.

13 6. The examiners found that one underwriting authorization disclosure, the
14 *Physician’s Report*, used during the time frame of the examination, failed to specify that
15 the authorization remains valid for no longer than one year from the date the
16 authorization is signed and failed to advise the individual or a person authorized to act
17 on behalf of the individual that they are entitled to receive a copy of the authorization
18 form.

19 7. The examiners reviewed 9 of 9 private passenger automobile policies
20 non-renewed for underwriting reasons, during the time frame of the examination and
21 found that AAC failed to provide a compliant Summary of Rights on all 9 non-renewals.

22 8. The examiners reviewed 9 of 9 private passenger automobile policies non-
23 renewed for underwriting reasons, during the time frame of the examination and found
24 that AAC non-renewed all 9 policies for reasons not allowed by statute.

25 9. The examiners reviewed 156 of 1,336 closed without payment and paid

1 claims settled during the time frame of the examination and found that AAC failed to
2 promptly investigate 23 claims within thirty (30) days after notification.

3 10. The examiners found 10 claim forms used by the Company during the
4 time frame of the examination that failed to contain a compliant fraud warning notice.
5 (Exhibit A)

6 11. The examiners found two claim authorization disclosure forms, the *HIPPA*
7 *Release & Request for Health Records and Medical Authorization*, used during the time
8 frame of the examination that failed to: specify the purposes for which the information is
9 collected, that the authorization remains valid for no longer than the duration of the
10 claim and 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 12. The examiners reviewed 63 of 63 private passenger automobile total loss
13 claims processed by the Company during the time frame of the examination and found
14 that AAC failed to correctly calculate and fully pay the appropriate sales tax, license
15 registration and/or air quality fees in the settlement of 58 total losses.

16 13. The examiners reviewed 63 of 63 private passenger automobile total loss
17 claims processed by the Company during the time frame of the examination and found
18 that AAC failed to correctly calculate and fully pay 4 first-party total loss settlements.

19 14. The examiners reviewed 13 of 13 private passenger automobile
20 subrogated claims settled during the time frame of the examination and found that AAC
21 failed to reimburse the full deductible or failed to promptly return the proportionate
22 share of the deductible after subrogation recovery in 3 claims settlements.

23 15. During the review of the Company's private passenger automobile total
24 loss claim settlement practices, AAC made restitution payments to all claimants owed
25 refunds of \$5,670.77, which included \$676.16 in interest. AAC also paid an additional

1 \$172.77, which included \$44.77 in interest, to fully refund deductibles owed after
2 subrogation recovery.

3 16. During the review of the Company's rating practices, AAC paid restitution
4 payments to applicants overcharged due to incorrectly applied surcharges of \$113.00.

5
6 **CONCLUSIONS OF LAW**

7 1. AAC violated A.R.S. §§20-297 and 20-298 by paying commissions to
8 entities not properly licensed and failing to require that those entities maintain lawfully
9 registered trade names with the Department.

10 2. AAC violated A.R.S. §20-385 by failing to accurately apply filed private
11 passenger automobile rates to surcharged policies.

12 3. AAC violated A.R.S. §20-259.01(A) and (B) by failing to properly
13 document and retain signed UM/UIM selection forms.

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

17 5. AAC violated A.R.S. §20-2110 by failing to send policyholders a
18 compliant Summary of Rights in the event of an adverse underwriting decision.

19 6. AAC violated A.R.S. §20-1631(D) by non-renewing private passenger
20 automobile policies for reasons not allowed by statute.

21 7. AAC violated A.R.S §20-461(A)(6) and A.A.C. R20-6-801(F) by failing to
22 promptly investigate claims within thirty (30) days after notification.

23 8. AAC violated A.R.S. §20-466.03 by using claim forms that failed to
24 contain a compliant fraud warning notice.

25 9. AAC violated A.R.S. §20-2106(6), (8)(b) and (9) by using claim

1 authorization forms that failed to contain a compliant *Authorization for the Release of*
2 *Information*.

3 10. AAC violated A.R.S §20-461(A)(6) and A.A.C. R20-6-801(H)(1)(b) by
4 failing to correctly calculate and fully pay the sales tax, license registration and/or fees
5 payable in the settlement of total losses.

6 11. AAC violated A.R.S §20-461(A)(6) by failing to accurately calculate and
7 fully pay total loss claim settlements.

8 12. AAC violated A.R.S §20-461(A)(6) and A.A.C. R20-6-801(H)(4) by failing
9 to fully or promptly return the insured's deductible after recovery.

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

12
13 **ORDER**

14 **IT IS HEREBY ORDERED THAT:**

- 15 1. American Access Casualty Company shall:
- 16 a. pay commissions only to entities properly licensed and require that
17 those entities maintain lawfully registered trade names with the Department.
- 18 b. accurately apply filed private passenger automobile rates to
19 surcharged policies.
- 20 c. properly document and retain signed UM/UIM selection forms.
- 21 d. use underwriting authorization forms that include a compliant
22 *Authorization for the Release of Information*.
- 23 e. provide insureds a compliant Summary of Rights in the event of an
24 adverse underwriting decision.
- 25 f. use only reasons allowed by statute to non-renew private passenger

1 automobile policies.

2 g. promptly investigate claims within thirty (30) days after notification.

3 h. use claim forms that contain a compliant fraud warning notice.

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

6 j. correctly calculate and fully pay any sales tax and fees, payable in the
7 settlement of total losses.

8 k. accurately calculate and fully pay total loss claim settlements.

9 l. fully and promptly return the insured's deductible after recovery.

10 2. Within 90 days of the filed date of this Order, American Access Casualty
11 Company shall submit to the Arizona Department of Insurance, for approval, evidence
12 that AAC implemented corrections and communicated these corrections to the
13 appropriate personnel, regarding the issues outlined in Paragraph 1 of the Order
14 section of this Consent Order. Evidence of corrective action and communication
15 thereof includes, but is not limited to, memos, bulletins, E-mails, correspondence,
16 procedures manuals, print screens, and training materials.

17 3. The Department shall, through authorized representatives, verify that AAC
18 has complied with all provisions of this Order.

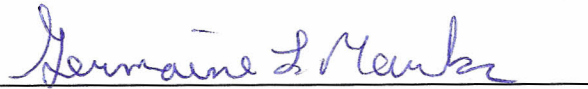
19 4. American Access Casualty Company shall pay a civil penalty of
20 \$38,000.00 to the Director for remission to the State Treasurer for deposit in the State
21 General Fund in accordance with A.R.S. §20-220(B). AAC shall submit the civil
22 penalty to the Market Oversight Division of the Department prior to the filing of this
23 Order.

24

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1 5. The Report of Target Market Examination of American Access Casualty
2 Company of June 30, 2013, including the letter with their objections to the Report of
3 Examination, shall be filed with the Department upon the filing of this Order.

4 DATED at Arizona this 14th day of August, 2014.

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7 Germaine L. Marks
8 Director of Insurance
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CONSENT TO ORDER

1. American Access Casualty Company has reviewed the foregoing Order.

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

4. American Access Casualty 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. American Access Casualty 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. CHARLES A. LAMANTIA, who holds the office of CHIEF OPERATING OFFICER of American Access Casualty Company, is authorized to enter into this Order for them and on their behalf.

AMERICAN ACCESS CASUALTY COMPANY

7/31/2014
Date

By 

1 COPY of the foregoing mailed/delivered
2 this 14th day of August, 2014, to:

3 Germaine L. Marks
4 Director of Insurance
5 Darren Ellingson
6 Deputy Director
7 Director's Office
8 Maria Ailor
9 Acting Assistant Director
10 Consumer Affairs 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 Chuck Gregory
20 Special Agent Supervisor
21 Investigations Division
22 Helene I. Tomme
23 Market Examinations Supervisor
24 Market Oversight Division
25

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

19 Sandra Blum
20 Vice President – Operations
21 American Access Casualty Company
22 1S450 Summit Avenue, Suite 230
23 Oakbrook Terrace, Illinois 60181

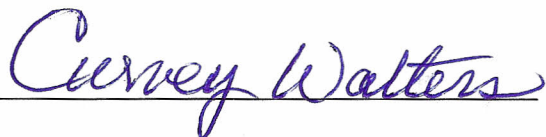
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EXHIBIT A

Preliminary Findings #6, #7 and #8 – Fraud Warning Statement – The Company failed to include a compliant fraud warning statement on the following ten (10) claim forms. These represent ten (10) violations of A.R.S. § 20-466.03.

The following table summarizes the fraud warning statement findings:

The Company claims forms shown in the tables below failed to:

- a) use a fraud warning statement consistent with the statute wording;
- b) use a fraud warning statement in at least twelve (12) point type as required by the statute;

Form Description / Title	Form #
Accident Report Form	None
Accident Report Form Spanish	None
Claimant Report Form	None
Claimant Report Form Spanish	None
Affidavit of Vehicle Fire Form	None
Medical Payment Proof of Loss Form	None
Affidavit of Vehicle Theft Form	None

- c) include the required fraud warning statement on the following claim forms:

Form Description / Title	Form #
HIPPA Release & Request for Health Records	None
Medical Authorization	None
Affidavit of Non-Permissive Use	None