

MAR 16 2015

DEPT OF INSURANCE
BY MS

STATE OF ARIZONA
DEPARTMENT OF INSURANCE

In the Matter of:

**FOREMOST PROPERTY & CASUALTY INSURANCE
COMPANY,**

NAIC # 11800,

Respondent.

) Docket No. 15A-023-INS

) **CONSENT ORDER**

Examiners for the Department of Insurance (the "Department") conducted a target market conduct examination of Foremost Property & Casualty Insurance Company ("FPC"). In the Report of Target Market Conduct Examination of the Market Conduct Affairs of Foremost Property & Casualty Insurance Company, the examiners allege that FPC violated A.R.S. §§20-385, 20-461, 20-462, 20-466.03, 20-1632.01, and A.A.C. R20-6-801.

Foremost Property & Casualty Insurance 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. Foremost Property & 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 Foremost Property & Casualty Insurance Company. The examination covered the time period from January 1, 2013 through December 31, 2013 and concluded on November 4, 2014. Based on their findings, the examiners prepared the "Report of Target Market Conduct Examination of Foremost Property & Casualty

1 Insurance Company" dated December 31, 2013.

2 3. The examiners reviewed 12 of 939 motorcycle new and/or renewal policies
3 issued during the time frame of the examination and found that FPC failed to correctly
4 apply filed rates on 3 policies.

5 4. The examiners reviewed 51 of 103 motorcycle policies cancelled for non-
6 payment of premium during the time frame of the examination and found that FPC
7 failed to provide the required 7-day grace period to 43 cancelled policyholders.

8 5. The examiners reviewed 51 of 103 motorcycle policies cancelled for non-
9 payment of premium during the timeframe of the examination and found that 51
10 cancellation notices failed to include within its notice of the right to complain, the
11 specific words, "to the Director".

12 6. The examiners found one (1) claim form used by the Company during the
13 time frame of the examination, the *Power of Attorney* (C10068 1/2004), that failed to
14 contain a compliant fraud warning notice.

15 7. The examiners reviewed 3 of 3 motorcycle total loss claims processed by
16 the Company during the time frame of the examination and found that FPC failed to
17 correctly calculate and fully pay the appropriate sales tax, license registration and/or air
18 quality fees on one (1) total loss settlement.

19 8. During the review of the Company's motorcycle total loss claim
20 settlement practices, FPC made restitution payments to the claimant owed a refund of
21 \$538.54, which included \$56.99 in interest.

22 9. During the examiner review of the Company's homeowner Transaction
23 Privilege Tax claim settlement practices, FPC resettled all outstanding claims which
24 resulted in restitution payments to 21 first party claimants of \$1,116.98, which included
25 \$125.79 in interest.

1 CONCLUSIONS OF LAW

2 1. FPC violated A.R.S. §20-385 by failing to correctly apply filed rates.

3 2. FPC violated A.R.S. §20-1632.01(A) by failing to provide the required 7-
4 day grace period for policies cancelled for non-payment of premium.

5 3. FPC violated A.R.S. §20-1632.01(B) by using cancellation notices sent
6 for non-payment that failed to include in its notice of the right to complain the words "to
7 the Director".

8 4. FPC violated A.R.S. §20-466.03 by using a claim form that failed to
9 contain a compliant fraud warning notice.

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

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

15
16 ORDER

17 **IT IS HEREBY ORDERED THAT:**

18 1. Foremost Property & Casualty Insurance Company ("FPC") shall upon
19 the filed date of this order:

20 a. correctly apply filed motorcycle rates.

21 b. provide the required 7-day grace period for policies cancelled for non-
22 payment of premium.

23 c. use cancellation notices that include in the right to complain the words
24 "to the Director".

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

1 e. correctly calculate and fully pay any sales tax and fees, payable in the
2 settlement of total losses.

3 2. Within 90 days of the filed date of this Order, FPC shall submit to the
4 Department, for approval, evidence that FPC implemented corrections and
5 communicated these corrections to the appropriate Department personnel, regarding
6 the issues outlined in Paragraph 1 of the Order. Evidence of corrective action and
7 communication thereof includes, but is not limited to, memos, bulletins, E-mails,
8 correspondence, procedures manuals, print screens, and training materials.

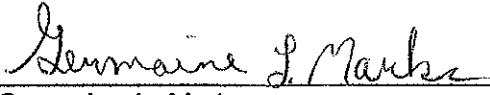
9 3. The Department may, through authorized representatives, verify that FPC
10 has complied with all provisions of this Order.

11 4. FPC shall pay a civil penalty of \$21,000.00 to the Director for remission to
12 the State Treasurer for deposit in the State General Fund in accordance with A.R.S.
13 §20-220(B). FPC shall submit the civil penalty to the Market Oversight Division of the
14 Department prior to the filing of this Order.

15 5. When filing this Order, the Department will also file the Report of Target
16 Market Examination of Foremost Property & Casualty Insurance Company of
17 December 31, 2013, including the FPC letter with its objections to the report.

18 DATED at Arizona this 13th day of March, 2015.

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Germaine L. Marks
Director of Insurance

1 CONSENT TO ORDER

2 1. Foremost Property & Casualty Insurance Company has reviewed the
3 foregoing Order.

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

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

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

20 6. Stephen J. Boshoven, who holds the office of
21 President - Foremost Brand of Foremost Property & Casualty Insurance Company
22 is authorized to enter into this Order for them and on their behalf.

23 **FOREMOST PROPERTY & CASUALTY INSURANCE COMPANY**

24 3/6/2015
25 Date

By

Stephen J. Boshoven

1 COPY of the foregoing mailed/delivered
2 this 16th day of March , 2015, to:

- 3 Germaine L. Marks
4 Director of Insurance
5 Darren Ellingson
6 Deputy Director
7 Director's Office
8 Yvonne R. Hunter
9 Assistant Director
10 Consumer Affairs Division
11 Kurt Regner
12 Assistant Director
13 Financial Affairs Division
14 David Lee
15 Chief Financial Examiner
16 Erin Klug
17 Assistant Director
18 Rate & Form Division
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
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19 Erin Rae Smith, MBA, MCM
20 Compliance Specialist
21 Foremost Property & Casualty Insurance Company
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24 *Maiden Schinin*
25