

STATE OF ARIZONA

DEPARTMENT OF INSURANCE AND FINANCIAL INSTITUTIONS

In the Matter of:

**State Farm Mutual Automobile Insurance Company
(NAIC # 25178), and State Farm Fire and Casualty
Company (NAIC # 25143),**

No. 22A- 073 -INS

CONSENT ORDER

One State Farm Plaza
Bloomington, IL 61710

Respondents.

The Arizona Department of Insurance and Financial Institutions (“Department”) conducted a targeted market conduct examination of State Farm Mutual Automobile Insurance Company, and State Farm Fire and Casualty Company (collectively “Respondents”) to determine Respondents’ compliance with provisions of Title 20, Arizona Revised Statutes (“A.R.S.”). In the Report of Market Conduct Examination of Respondents (“Report”), the Department alleges that Respondents violated A.R.S. § 20-2110(F)(3).

Respondents wish to resolve this matter without the commencement of formal proceedings, and admit the following Findings of Fact are true, and consents to the entry of the following Conclusions of Law and Order.

FINDINGS OF FACT

1. Respondents are Illinois domiciled companies. Respondents are authorized to transact property and casualty insurance in Arizona pursuant to the certificates of authority issued by the Director. The Director authorized examiners, consisting of Department employees and independent examiners contracting with the Department, to conduct a target market conduct examination of Respondents.

1 2. The Department's examination of Respondents commenced on December 1, 2021, and
2 concluded on November 18, 2022. The examination covered the period from January 1, 2015, to July
3 31, 2021. The examination consisted of a review of the Private Passenger Automobile ("PPA") and
4 Homeowners ("HO") business operations related to the use of consumers' bankruptcies in Respondents'
5 rating practices.

6 3. On or about January 19, 2022, the Department sent to Respondents the Coordinator's
7 Handbook ("CHB") which required Respondents to provide the rating data for all PPA and HO policies
8 that indicated a consumer was rated for having one or more bankruptcies. The CHB also required
9 Respondents to conduct a self-audit of their rating algorithm for both PPA and HO policies to determine
10 if bankruptcies older than seven years were included as a rating factor in Respondents' rate filings and/or
11 rating algorithm.

12 4. On or about May 6, 2022, Respondents identified 2,344,238 HO policies and 12,802,699
13 PPA policies that fell within the scope of the examination period.

14 5. Respondents' May 6, 2022 response did not identify specific policies in which the consumer
15 was rated for having one or more bankruptcies at the policy's inception date or subsequent renewal. In
16 their response, Respondents included an attestation from their vendor, Lexis Nexis, which stated that
17 Lexis Nexis was unable to provide the date of bankruptcy for any of the identified HO and PPA policies.
18 This is due to the way Respondents' vendor compiles its credit information in which bankruptcies are
19 grouped together with other adverse public records. Lexis Nexis further stated that it only considers
20 bankruptcies that occurred within seven years prior to the date a consumer's credit-based insurance score
21 was generated.

22 6. On or about June 28, 2022, the Department sent a second request for records and information
23 to Respondent. The examiners requested justification for Respondents' assertion that bankruptcies older
24 than seven years are not considered in generating a credit-based insurance score when Respondents do
25 not know the date of a bankruptcy.

1 14. Respondents' conduct, as alleged above, constitutes a violation of the prohibition that
2 insurers cannot use bankruptcies or lien satisfactions older than seven years when calculating an
3 insurance score. A.R.S. § 20-2110(F)(3).

4 15. Grounds exist for the Director to impose a civil penalty of not more than one thousand
5 dollars (\$1,000.00) for each act or violation and not to exceed an aggregate of ten thousand dollars within
6 any six-month period with respect to unintentional violations. A.R.S. § 20-220(B)(1).

7 **ORDER**

8 IT IS ORDERED:

9 16. Respondents shall immediately pay a civil money penalty in the amount of **one hundred**
10 **thousand dollars (\$100,000.00)**. Respondents are jointly and severally liable for payment of the civil
11 money penalty.

12 17. Respondents shall implement the following as listed in the Corrective Action Plan ("CAP"):

13 A. No later than April 1, 2023, the Companies will cease using bankruptcy information
14 in the calculation of the credit factor for PPA and HO business.

15 B. Prior to each upcoming policy renewal following the completion of Action A, for
16 each policyholder affected by an adverse public record as defined in the Companies'
17 credit factor calculation:

18 i. Identify which policyholders have reached at least 84 months of age or will
19 reach 84 months of age prior to the next scheduled refresh of information;

20 ii. Refresh the credit score information for the identified existing policyholder's
21 insurance score; and

22 iii. Adjust their renewal rates and premiums accordingly.

23 C. Upon credit recalculation at renewal (i.e. Action B) and, where it is identified that a
24 policy was previously renewed and included an adverse public record as defined in
25 the Companies' credit factor calculation which was more than 84 months of age at

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the time of use as a rating factor, issue a flat \$100 refund or premium credit to each applicable policyholder.

18. Respondent shall provide a timely and complete response to any future inquiries by the Department on the CAP.

DATED AND EFFECTIVE this 29th day of December, 2022.



Evan G. Daniels, Director
Arizona Department of Insurance and Financial Institutions

1 **CONSENT TO ORDER**

2 1. Respondents acknowledge that they have been served with a copy of the foregoing
3 Consent Order in the above-referenced matter, have read it, are aware of their right to an administrative
4 hearing in this matter and have knowingly and voluntarily waived that right.

5 2. Respondents accept the personal and subject matter jurisdiction of the Department over
6 them in this matter.

7 3. Respondents acknowledge that no promise of any kind or nature has been made to induce
8 them to sign the Consent to Order and they have done so knowingly and voluntarily.

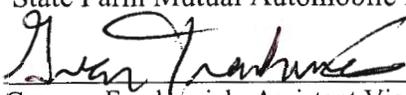
9 4. Respondents acknowledge and agree that the acceptance of this Consent to Order by the
10 Director is solely to settle this matter and does not preclude the Department from instituting other
11 proceedings as may be appropriate now or in the future. Furthermore, and notwithstanding any language
12 in this Consent Order, this Consent Order does not preclude in any way any other state agency or officer
13 or political subdivision of this state from instituting proceedings, investigating claims, or taking legal
14 action as may be appropriate now or in the future relating to this matter or other matters concerning
15 Respondent, including but not limited to violations of Arizona's Consumer Fraud Act. Respondent
16 acknowledges that, other than with respect to the Department, this Consent Order makes no
17 representations, implied or otherwise, about the views or intended actions of any other state agency or
18 officer or political subdivision of the state relating to this matter or other matters concerning Respondent.

19 5. Respondents acknowledge and agree that failure to correct the violations set forth above
20 in this Consent Order, or any repeat findings of the above violations in the future, can result in
21 disciplinary action which may include a greater civil money penalty and suspension or revocation of
22 their certificates of authority.

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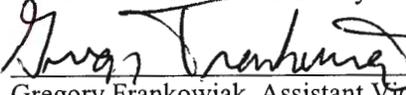
6. Gregory Frankowiak represents that he is Assistant Vice President and Actuary for State Farm Mutual Automobile Insurance Company, and State Farm Fire and Casualty Company, and, as such, is authorized to enter this Consent Order on its behalf.

12/27/22
Date

State Farm Mutual Automobile Insurance Company


Gregory Frankowiak, Assistant Vice President and Actuary

12/27/22
Date

State Farm Fire and Casualty Company


Gregory Frankowiak, Assistant Vice President and Actuary

1 **ORIGINAL** of the foregoing filed
this 30th day of December, 2022 in the office of:

2
3 Evan G. Daniels, Director
4 Arizona Department of Insurance and Financial Institutions
5 Attn: Ana Starcevic, Paralegal
6 100 North 15th Avenue, Suite 261
7 Phoenix, Arizona 85007
8 Ana.Starcevic@difi.az.gov

9 **COPY** of the foregoing delivered and/or emailed same date to:

10 Deian Ousounov, Assistant Director
11 Gio Espinosa, Regulatory Legal Affairs Officer
12 Kurt Regner, Assistant Director
13 Maria Ailor, Assistant Director
14 Erin Klug, Assistant Director
15 Ana Starcevic, Paralegal
16 Arizona Department of Insurance and Financial Institutions
17 100 North 15th Avenue, Suite 261
18 Phoenix, AZ 85007

19 **COPY** of the foregoing transmitted electronically the same date to:

20 State Farm Mutual Automobile Insurance Company
21 State Farm Fire and Casualty Company
22 Attn: Roland Spies, Legal Counsel Corporate Law Dept. - Legislative/Regulatory Section
23 One State Farm Plaza, A-3
24 Bloomington, IL 61710
25 roland.spies.gqt9@statefarm.com
Respondents

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Ana Starcevic
