

STATE OF ARIZONA
Department of Insurance and Financial Institutions
FILED November 22, 2024 by MK

STATE OF ARIZONA

DEPARTMENT OF INSURANCE AND FINANCIAL INSTITUTIONS

In the Matter of:

Mutual of Enumclaw Insurance Company (NAIC # 14761)

1460 Wells St.
Enumclaw, WA 98022

Respondent.

No. 24A-107-INS

CONSENT ORDER

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

Respondent wishes to resolve this matter without the commencement of formal proceedings, and admits the following Findings of Fact are true, and consents to the entry of the following Conclusions of Law and Order.

FINDINGS OF FACT

1. Respondent is an Oregon domiciled company. Respondent is 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 Respondent.

2. The Department’s examination of Respondent commenced on September 29, 2023, and the examination fieldwork concluded on July 11, 2024. The examination covered the period from January 1, 2019, to December 31, 2022. The examination consisted of a review of Homeowners (“HO”) and

1 Private Passenger Automobile (“PPA”) business operations related to the use of consumers’
2 bankruptcies in Respondent’s rating practices.

3 3. On or about October 30, 2023, the Department sent to Respondent the Coordinator’s
4 Handbook (“CHB”) which required Respondent to provide the rating data for all HO & PPA policies
5 that indicated a consumer was rated for having one or more bankruptcies. The CHB also required
6 Respondent to conduct a self-audit of its rating algorithm for the HO & PPA policies to determine if
7 bankruptcies older than seven years were included as a rating factor in Respondent’s rate filings and/or
8 rating algorithm.

9 **PPA New Business Policies**

10 4. On or about December 6, 2023 Respondent identified 5,221 new business PPA policies active
11 during the examination period. However, Respondent was initially unable to provide the policyholder
12 bankruptcy date information to the Department for the examination period.

13 5. In January 2024, and after discussions with the Department, the Company instead provided
14 the Credit-Based Insurance Score (“CBIS”) reason codes as a means to identify the PPA policyholders
15 that may have been rated for having one or more bankruptcies by reviewing four specific CBIS reason
16 codes.

17 6. The CBIS code utilized in evaluating Respondent’s compliance with A.R.S. § 20-2110(F) is
18 titled “Reason Code 00131 – Account with a Reported Delinquency Status Including Bad Debt &
19 Bankruptcy” (“Reason Code 00131”).

20 7. The examiners then utilized Reason Code 00131 as a filter to determine the number of new
21 business PPA policyholders that may have been rated for one or more bankruptcies during the
22 examination period.

23 8. The examiners identified a total of 39 new business PPA policies identified with Reason Code
24 00131. The examiners directed Respondent to provide evidence that a bankruptcy aged to more than
25 seven years was not included in the CBIS calculation for these 39 policies.

1 9. On or about March 19, 2024, Respondent confirmed its review of the public records for the
2 39 identified policies, and that 30 policies did not have a confirmed bankruptcy record. Respondent
3 confirmed that the remaining 9 new business policies included a bankruptcy record.

4 10. The examiners then compared the bankruptcy date, the date the CBIS was calculated, and the
5 policy's inception date to identify whether the bankruptcy was aged to more than 84 months old. Of
6 these 9 policies, there were 3 policies that had a bankruptcy aged to more than 84 months old at the
7 inception date and were not considered as a rating factor in the Company's model, 4 policies had a
8 bankruptcy that was less than 84 months old at the inception date, and 2 policies had a bankruptcy dated
9 after the CBIS was ordered.

10 11. After review of the Company's response and supporting documentation, the examiners
11 concluded that none of the 9 identified new business PPA policies utilized a bankruptcy in violation of
12 A.R.S. § 20-2110(F) during the examination period. These 9 policies were withdrawn.

13 12. Accordingly, there were no substantiated violations of A.R.S. § 20-2110(F)(3) in connection
14 with Respondent's PPA new business policies during the examination period.

15 **PPA Renewal Business Policies**

16 13. On or about December 6, 2023 Respondent identified 30,868 renewal business PPA policies
17 active during the examination period. However, Respondent was initially unable to provide the
18 policyholder bankruptcy date information to the Department for the examination period, and instead
19 provided the CBIS Reason Codes to identify the total population of policyholders that may have been
20 rated for a bankruptcy.

21 14. As previously noted, the examiners utilized CBIS Reason Code 00131 as a filter to determine
22 the number of policyholders that may have been rated for one or more bankruptcies during the
23 examination period.

24 15. The examiners identified a total of 1,454 renewal business PPA policies with Reason Code
25 00131.

1 16. On or about February 21, 2024, the examiners issued a Preliminary Finding that directed
2 Respondent to provide evidence that a bankruptcy aged to more than seven years was not included in the
3 CBIS calculation for these 1,454 policies.

4 17. On or about March 19, 2024 Respondent demonstrated that of the 1,454 identified policies,
5 785 had no bankruptcy record. There were 369 were identified by the Company as being inactive during
6 the identified policy term and were included in the initial CHB data set in error. These 1,154 items were
7 removed from the population, and 300 remained as the public records for these policies included a
8 bankruptcy.

9 18. For the remaining 300 items, Respondent agreed with 49 violations, and disagreed with the
10 remaining 251 policy renewals.

11 19. First, Respondent provided documentation to support withdrawing 100 of the remaining
12 policy renewals on the basis that the bankruptcy was greater than 84 months as of the policy inception
13 date and a demonstration of the model in use during the examination period properly excluded the
14 bankruptcy from the calculation of the CBIS, and thus did not utilize the bankruptcy as a rating factor.
15 These 100 policy renewals were withdrawn.

16 20. Second, for the remaining 151 policy renewals, the examiners compared the bankruptcy date,
17 the date the CBIS was calculated, the policy inception date, and subsequent renewal periods to identify
18 whether the bankruptcy aged to more than 84 months old during the examination period. Of these 151
19 renewals, 75 included a bankruptcy that was less than 84 months at each effective date, and the remaining
20 76 renewals had a bankruptcy occur after the CBIS was ordered and thus the subsequent renewals
21 examined here complied with A.R.S. § 20-2110(F). These 151 renewal periods were withdrawn.

22 21. Accordingly, there were 49 substantiated violations of A.R.S. § 20-2110(F)(3) in connection
23 with Respondent's PPA renewal business policies during the examination period.

HO New Business Policies

1
2 22. On or about December 6, 2023 Respondent identified 38,253 new and renewal business HO
3 policies active during the examination period. However, Respondent was initially unable to provide the
4 policyholder bankruptcy date information to the Department for the examination period, and instead
5 provided the CBIS Reason Codes to identify the total population of policyholders that may have been
6 rated for a bankruptcy.

7 23. As previously noted, the examiners utilized CBIS Reason Code 00131 as a filter to determine
8 the number of policyholders that may have been rated for one or more bankruptcies during the
9 examination period.

10 24. The examiners identified a total of 88 new business HO policies with Reason Code 00131.

11 25. On or about February 21, 2024, the examiners issued a Preliminary Finding for the 88 policies
12 that directed Respondent to provide evidence that a bankruptcy aged to more than seven years was not
13 included in the CBIS calculation for these 88 policies.

14 26. On or about March 19, 2024, Respondent demonstrated that of the 88 identified policies, 67
15 did not have a confirmed bankruptcy record. These 67 policies were removed from the population, and
16 21 remained as the public records for these policies included a bankruptcy.

17 27. For the remaining 21 policies, the examiners compared the bankruptcy date, the date the
18 CBIS was calculated, the policy inception date, and subsequent renewal periods to identify whether the
19 bankruptcy aged to more than 84 months old during the examination period. Of these 21 policies, 16 had
20 a bankruptcy aged to more than 84 months as of the policy inception date and, based on the demonstration
21 of Respondent's model in use during the examination period, were not considered as a rating factor.
22 Additionally, there were 4 policies in which the bankruptcy was less than 84 months as of the policy
23 inception date, and 1 policy had a bankruptcy dated after the CBIS was ordered. These 21 policies were
24 withdrawn.

1 28. Accordingly, there were no substantiated violations of A.R.S. § 20-2110(F) in connection
2 with Respondent's HO new business policies during the examination period.

3 **HO Renewal Business Policies**

4 29. On or about December 6, 2023 Respondent identified 38,253 new and renewal business HO
5 policies active during the examination period. However, Respondent was initially unable to provide the
6 policyholder bankruptcy date information to the Department for the examination period, and instead
7 provided the CBIS Reason Codes to identify the total population of policyholders that may have been
8 rated for a bankruptcy.

9 30. As previously noted, the examiners utilized CBIS Reason Code 00131 as a filter to determine
10 the number of policyholders that may have been rated for one or more bankruptcies during the
11 examination period.

12 31. The examiners identified a total of 1,036 renewal business HO policies with Reason Code
13 00131.

14 32. On or about February 21, 2024, the examiners issued a Preliminary Finding that directed
15 Respondent to provide evidence that a bankruptcy aged to more than seven years was not included in the
16 CBIS calculation for these 1,036 renewal policies.

17 33. On or about March 19, 2024 Respondent demonstrated that of the 1,036 identified policies,
18 601 had no bankruptcy record. There were 191 were identified by the Company as being inactive during
19 the identified policy term and were included in the initial CHB data set in error. These 792 policies were
20 removed from the population, and 244 remained as the public records for these policies included a
21 bankruptcy.

22 34. For the remaining 244 policies, Respondent agreed with 53 violations, and disagreed with the
23 remaining 191 policy renewals.

24 35. First, Respondent provided documentation to support withdrawing 74 of the remaining policy
25 renewals on the basis that the bankruptcy was greater than 84 months as of the policy inception date.

1 Additionally, a demonstration of the model in use during the examination period properly excluded the
2 bankruptcy from the calculation of the CBIS, and thus did not utilize the bankruptcy as a rating factor.
3 These 74 policy renewals were withdrawn.

4 36. Second, for the remaining 117 policy renewals, the examiners then compared the bankruptcy
5 date, the date the CBIS was calculated, the policy inception date, and subsequent renewal periods to
6 identify whether the bankruptcy aged to more than 84 months old during the examination period. Of
7 these 117 policy renewals, 58 included a bankruptcy that was less than 84 months at each effective date,
8 and the remaining 59 policies had a bankruptcy occur after the CBIS was ordered and thus the subsequent
9 renewals examined here complied with A.R.S. § 20-2110(F). These 117 policy renewals were
10 withdrawn.

11 37. Accordingly, there were 53 substantiated violations of A.R.S. § 20-2110(F)(3) in connection
12 with Respondent's HO renewal business policies during the examination period.

13 **CONCLUSIONS OF LAW**

14 38. The Director has jurisdiction over this matter.

15 39. The Director has the authority to conduct examinations and investigations of insurance
16 matters and to request the accounts, records, documents, files, assets and matters in the person's
17 possession or control pursuant to A.R.S. §§ 20-142(C), and 20-157(A).

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

21 41. Grounds exist for the Director to impose a civil penalty of not more than one thousand
22 dollars for each act or violation and not to exceed an aggregate of ten thousand dollars within any six-
23 month period with respect to unintentional violations. A.R.S. § 20-220(B)(1).

ORDER

IT IS ORDERED:

1. Respondent shall immediately pay a civil money penalty in the amount of **two thousand and five hundred dollars (\$2,500.00)**.
2. Respondent shall implement all recommendations as listed in the Corrective Action Plan (“CAP”).
3. Respondent shall provide a timely and complete response to any future inquiries by the Department on the CAP.

CORRECTIVE ACTION PLAN

This Corrective Action Plan defines the corrective action requirements applicable to Respondent resulting from the market conduct examination conducted by the Department.

Area of Concern: Bankruptcy Factor Rating of Policies

Corrective Actions

1. As of March 30, 2024, and prior to the conclusion of this examination, the Company began ordering a credit-based insurance score for PPA and HO policies at every renewal term.
 - a. No later than sixty days after the filing of this report, the Company will file in SERFF all applicable changes to its rate/rule filings to reflect the change that the re-ordering of credit-based insurance scores will occur at every renewal term. If this change has already been filed in SERFF, please provide the SERFF filing number to the Department.
2. No later than sixty days after the filing of this Report, the Company will remediate the **3¹ active HO renewal business** policyholders whose premium was adversely impacted by the inclusion of an aged-out bankruptcy as follows:

¹ These policyholders are identified in Final Finding 04.

- 1 a. Rated improperly at 1 renewal – \$50;
 - 2 b. Rated improperly at 2 renewals – \$75;
 - 3 c. Rated improperly at 3 renewals – \$100; and
 - 4 d. Rated improperly at 4 or more renewals – \$125.
- 5 3. No later than sixty days after the filing of this Report, the Company will remediate the **23²**
- 6 **inactive HO renewal business** policyholders whose premium was adversely impacted by the
- 7 inclusion of an aged-out bankruptcy as follows:
- 8 a. Rated improperly at 1 renewal – \$50;
 - 9 b. Rated improperly at 2 renewals – \$75;
 - 10 c. Rated improperly at 3 renewals – \$100; and
 - 11 d. Rated improperly at 4 or more renewals – \$125.
- 12 4. No later than sixty days after the filing of this Report, the Company will remediate the **24³**
- 13 **inactive PPA renewal business** policyholders whose premium was adversely impacted by the
- 14 inclusion of an aged-out bankruptcy as follows:
- 15 a. Rated improperly at 1 renewal – \$50;
 - 16 b. Rated improperly at 2 renewals – \$75;
 - 17 c. Rated improperly at 3 renewals – \$100; and
 - 18 d. Rated improperly at 4 or more renewals – \$125.
- 19 5. No later than ninety days after the filing of this Report, the Company will provide a data set to
- 20 the Department that at minimum will include:
- 21 a. The date and refund amount for each policyholder identified in items 2 through 4 above;
 - 22 b. Whether the policyholder is active or inactive;
 - 23 c. The type of refund issued (i.e. check, premium credit, etc.); and
- 24

25 ~~These policyholders are identified in Final Finding 04.~~

³ These policyholders are identified in Final Finding 02.

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- d. The Department will provide the format of the data set during the compliance monitoring phase.
- 6. The Company will provide the Department with a specific timeline for the implementation of the above process.
- 7. The Company will provide status updates to the Department every thirty (30) days, on an as needed basis, or at the Department’s request, during the implementation and compliance monitoring period.
 - a. During the course of the implementation and compliance period, the Department may request additional documentation and/or supporting materials not specifically listed herein that demonstrate the Company’s progress with the CAP requirements above.

DATED AND EFFECTIVE this 22nd day November, 2024.

Barbara D. Richardson

Barbara D. Richardson, Director
Arizona Department of Insurance and Financial Institutions

CONSENT TO ORDER

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

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

7 3. Respondent acknowledges that no promise of any kind or nature has been made to induce
8 it to sign the Consent to Order and that it has done so knowingly and voluntarily.

9 4. Respondent acknowledges and agrees 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. Respondent acknowledges and agrees 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 its
22 certificates of authority.

1 6. Eric Nelson represents that he is President of the Mutual of Enumclaw Insurance
2 Company, and, as such, is authorized to enter this Consent Order on its behalf.

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11/13/2024
Date

Mutual of Enumclaw Insurance Company

Eric Nelson
Eric Nelson (Nov 13, 2024 14:15 PST)
Eric Nelson,
President of Mutual of Enumclaw Insurance Company

1 **ORIGINAL** of the foregoing filed
this 22nd day of November, 2024 in the office of:

2
3 Barbara D. Richardson, 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

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

7 Deian Ousounov, Chief Financial Deputy Director
8 Alena Caravetta, Regulatory Legal Affairs Officer
9 Kurt Regner, Deputy Assistant Director
10 Maria Ailor, Assistant Director
11 Ana Starcevic, Paralegal
12 Arizona Department of Insurance and Financial Institutions
13 100 North 15th Avenue, Suite 261
14 Phoenix, AZ 85007

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

12 Enumclaw Insurance Company
13 Attn: Keri Olson, Compliance Manager
14 1460 Wells St.
15 Enumclaw, WA 98022
16 KOlson@mutualofenumclaw.com
17 Respondent

16 *Mayra Kariem*
17 _____






Enumclaw_CO_Final_11132024

Final Audit Report

2024-11-13

Created:	2024-11-13
By:	Alex Ross (anross@mutualofenumclaw.com)
Status:	Signed
Transaction ID:	CBJCHBCAABAACWXvG79ewIEQoG8rG1c4s4HbjAmC2gJ0

"Enumclaw_CO_Final_11132024" History

-  Document created by Alex Ross (anross@mutualofenumclaw.com)
2024-11-13 - 9:58:54 PM GMT
-  Document emailed to Eric Nelson (enelson@mutualofenumclaw.com) for signature
2024-11-13 - 9:59:00 PM GMT
-  Email viewed by Eric Nelson (enelson@mutualofenumclaw.com)
2024-11-13 - 10:14:55 PM GMT
-  Document e-signed by Eric Nelson (enelson@mutualofenumclaw.com)
Signature Date: 2024-11-13 - 10:15:23 PM GMT - Time Source: server
-  Agreement completed.
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