

STATE OF ARIZONA
Department of Insurance and Financial Institutions
FILED February 6, 2025 by AS

STATE OF ARIZONA

DEPARTMENT OF INSURANCE AND FINANCIAL INSTITUTIONS

In the Matter of:

Mercury Casualty Company (NAIC # 11908)

No. 25A-021-INS

CONSENT ORDER

555 Imperial Highway
Brea, CA 92812

Respondent.

The Arizona Department of Insurance and Financial Institutions (“Department”) conducted a targeted market conduct examination of the Mercury Casualty 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 a California 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 October 3, 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 16,781 new business PPA policies
11 active during the examination period. Of these new business policies, there were 599 policies where
12 Respondent indicated “Yes” that “the consumer was rated for having one or more bankruptcies.” The
13 examiners then compared the date of bankruptcy and the policy’s inception date to determine whether
14 the date of bankruptcy was aged more than 7 years old (84 months) as of the inception date.

15 5. The examiners identified 188 different insureds from the 599 policies, with an error rate of
16 31 percent, in which the bankruptcy date was aged more than 7 years old as of the inception date of the
17 policy.

18 6. Respondent agreed that bankruptcies older than 7 years were used, but disagreed that a
19 violation of A.R.S. § 20-2110(F) occurred. The examiners then issued a preliminary finding directing
20 Respondent to “provide evidence to support the argument, including rate comparisons indicating the
21 premium amount with the utilization of bankruptcy as an element of the rate development.” In its
22 response, Respondent failed to provide the rate comparisons to support the argument that “bankruptcies
23 were not used to calculate the insurance scores utilized ... in rating those policies.” Accordingly, the
24 examiners issued a finding that determined there were 188 violations of A.R.S § 20-2110(F).

1 noted that these 93 different insureds had a bankruptcy within 7 years of the inception date for the policy.
2 Accordingly, the premium utilized bankruptcy as an element of the rate development at that time.

3 14. In response to the Target Market Conduct Coordinator's Handbook, Section B.3.b,
4 Respondent stated it does not re-order credit—except at the request of the customer—before calculating
5 the renewal premium. Therefore, for any renewal period in which the bankruptcy was aged over 7 years
6 old as of the renewal date, the calculation of the renewal premium violated A.R.S. § 20-2110(F).

7 15. The examiners issued a preliminary finding directing Respondent to “provide evidence to
8 support the argument (that A.R.S. § 20-2110(F) had not been violated), including rate comparisons
9 indicating the premium amount with the utilization of bankruptcy as an element of the rate development.”
10 Respondent failed to provide the rate comparisons to support the argument that “bankruptcies were not
11 used to calculate the insurance scores utilized ... in rating those policies.” Accordingly, the examiners
12 issued a finding that determined there were 165 violations of A.R.S § 20-2110(F).

13 16. As previously noted, after the finding was issued, the Department received a demonstration
14 of the model in use during the examination period. For purposes of calculating a credit-based insurance
15 score (CBIS) at policy inception, it was determined that the model did not utilize bankruptcies that were
16 aged to more than 80 months. The Department directed the examiners to review the findings in light of
17 this demonstration.

18 17. After this review, the examiners concluded that in 157 of the 165 instances, the bankruptcy
19 was aged to more than 84 months as of the policy inception date. Because the model demonstration
20 properly excluded bankruptcies aged to more than 84 months from the CBIS calculation, these 157
21 violations were withdrawn.

22 18. The examiners concluded that for the remaining 8 renewal periods the bankruptcy date was
23 aged less than 84 months at the inception date; however, the bankruptcy subsequently aged to more than
24 84 months as of subsequent renewal date(s). There were 6 insureds, affected by 8 renewal periods, with
25 an error rate of 6 percent, in which the bankruptcy date was aged to more than 7 years (84 months) old.

1 Because Respondent did not demonstrate that the bankruptcy was not utilized in the rate development
2 of the identified policies, the 8 violations of A.R.S. § 20-2110(F) remain.

3 19. Accordingly, there were 8 substantiated violations of A.R.S. § 20-2110(F) in connection with
4 Respondent's PPA renewal business policies during the examination period.

5 **HO New Business Policies**

6 20. On or about December 6, 2023 Respondent identified 13,653 new business homeowner
7 policies active during the examination period. Of these new business homeowner policies, there were 60
8 where Respondent indicated "Yes" that "the consumer was rated for having one or more bankruptcies."
9 The examiners compared the date of bankruptcy and the policy's inception date to identify whether the
10 date of bankruptcy was aged more than 7 years old (84 months) as of the inception date.

11 21. The examiners identified 23 different insureds from the 60 policies, with an error rate of 38
12 percent, in which the bankruptcy date was aged to more than 7 years old as of the policy's inception
13 date.

14 22. The examiners issued a preliminary finding directed the Company to "provide evidence to
15 support the argument (that A.R.S. § 20-2110(F) had not been violated), including rate comparisons
16 indicating the premium amount with the utilization of bankruptcy as an element of the rate development."
17 The Company failed to provide the rate comparisons to support the argument that "bankruptcies were
18 not used to calculate the insurance scores utilized ... in rating those policies." Because Respondent did
19 not demonstrate that the bankruptcy was not utilized in the rate development of the identified policies,
20 the examiners identified 23 violations of A.R.S. § 20-2110(F).

21 23. As previously noted, after the finding was issued, the Department received a demonstration
22 of the model in use during the examination period. For purposes of calculating a credit-based insurance
23 score (CBIS) at policy inception, it was determined that the model did not utilize bankruptcies that were
24 aged to more than 80 months. The Department directed the examiners to review the findings in light of
25 this demonstration.

1 24. After this review, the examiners concluded that in each of the 23 identified instances, the
2 bankruptcy was aged to more than 84 months as of the policy inception date. These 23 findings were
3 withdrawn.

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

6 **HO Renewal Business Policies**

7 26. On or about December 6, 2023 Respondent identified 21,777 renewed homeowner policies
8 active during the examination period. Of the renewal policies, there were 13 renewal policies where
9 Respondent indicated "Yes" that "the consumer was rated for having one or more bankruptcies." The
10 date of bankruptcy and the policy's renewal date were compared to identify whether the date of
11 bankruptcy was aged more than 7 years old (84 months) as of the renewal date.

12 27. The examiners identified 3 different insureds affecting 3 renewal periods, with an error rate
13 of 23 percent, in which the bankruptcy date was more than 7 years old.

14 28. The examiners then issued a preliminary finding directing Respondent to "provide evidence
15 to support the argument, including rate comparisons indicating the premium amount with the utilization
16 of bankruptcy as an element of the rate development." In its response, Respondent failed to provide the
17 rate comparisons to support the argument that "bankruptcies were not used to calculate the insurance
18 scores utilized ... in rating those policies." Accordingly, the examiners issued a finding that determined
19 there were 3 violations of A.R.S § 20-2110.

20 29. As previously noted, after the finding was issued, the Department received a demonstration
21 of the model in use during the examination period. For purposes of calculating a credit-based insurance
22 score (CBIS) at policy inception, it was determined that the model did not utilize bankruptcies that were
23 aged to more than 80 months. The Department directed the examiners to review the findings in light of
24 this demonstration.

1 **CORRECTIVE ACTION PLAN**

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

4 **Area of Concern: Bankruptcy Factor Rating of Policies**

5 **Corrective Actions**

6 1. Prior to the conclusion of this examination, the Respondent informed the Department that it
7 intends to implement a 3-year CBIS re-order interval, and limit the age of bankruptcies and/or
8 liens (including those bankruptcies or liens identified or included as part of the “tradeline” model
9 factor) used to calculate CBIS’s to 4 years.

10 a. No later than sixty (60) days after the filing of this Report, the Company will file in
11 SERFF all applicable revisions to the Company’s rate and rule filings based on the
12 Company’s chosen re-order interval noted in paragraph 1 above, related to future
13 compliance with A.R.S. § 20-2110(F). (See A.R.S. § 20-385 which requires the Company
14 to file in SERFF within 30 days of a change to the impacted rate/rule). If this change has
15 already been filed in SERFF, please provide the SERFF filing number(s) to the
16 Department.

17 2. No later than sixty (60) days after the filing of this Report, the Company will remediate the 7
18 **inactive new and renewal business policyholders¹** for Private Passenger Automobile that were
19 identified as having been rated for a bankruptcy aged more than 7 years as follows:

- 20 a. Policyholders rated improperly at new business only – \$50
21 b. Policyholders rated improperly at 1 renewal – \$50;
22 c. Policyholders rated improperly at 2 renewals – \$75; and
23 d. Policyholders rated improperly at 3 renewals – \$100.

24
25 ¹ These policyholders are identified in Final Finding 01 and Final Finding 02.

1 3. No later than sixty (60) days after the filing of this Report, the Company will remediate the 1
2 **active renewal business policyholder**² Private Passenger Automobile that was identified as
3 having been rated for a bankruptcy aged more than 7 years as follows:

4 a. Policyholder rated improperly at 1 renewal – \$50.

5 4. No later than ninety (90) days after the filing of this Report, the Company will provide a data set
6 to the Department that at minimum will include:

7 a. The date the refund was issued, the refund amount, and total interest (if applicable) for
8 each policyholder identified in items 2 and 3 above;

9 b. Whether the policyholder is active or inactive; and

10 c. The Department will provide the format of the data set during the compliance monitoring
11 phase.

12 5. The Respondent will provide the Department with a specific timeline for the implementation of
13 the above process.

14 6. The Respondent will provide status updates to the Department every thirty (30) days, on an as
15 needed basis, or at the Department’s request during the implementation and compliance
16 monitoring period.

17 7. During the course of the implementation and compliance period, the Department may request
18 additional documentation and/or supporting materials not specifically listed herein that
19 demonstrate the Respondent’s progress with the CAP requirements above.

20 DATED AND EFFECTIVE this 6th day February, 2025.

21
22 *Barbara D. Richardson*

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

25 ² This policyholder is identified in Final Finding 02.

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.

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6. Victor Joseph represents that he is President and Chief Operating Officer of the Mercury Casualty Company, and, as such, is authorized to enter this Consent Order on its behalf.

Mercury Casualty Company



1/23/25
Date

Victor Joseph, President & Chief Operating Officer,
Mercury Casualty Company

1 **ORIGINAL** of the foregoing filed
this 6th day of February, 2025 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

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

10 Deian Ousunov, Chief Financial Deputy Director
11 Alena Caravetta, Regulatory Legal Affairs Officer
12 Kurt Regner, Deputy Assistant Director
13 Maria Ailor, Assistant Director
14 Ana Starcevic, Paralegal
15 Arizona Department of Insurance and Financial Institutions
16 100 North 15th Avenue, Suite 261
17 Phoenix, AZ 85007

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

19 Mercury Casualty Company
20 Attn: Mike Burk, Regulatory Compliance Manager
21 555 W. Imperial Highway
22 Brea, CA 92812
23 mburk@mercuryinsurance.com
24 Respondent

25 *Ana Starcevic*
