

NOV 20 2012

STATE OF ARIZONA
DEPARTMENT OF INSURANCE

DEPT OF INSURANCE
BY

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4 In the Matter of:

5 **21st CENTURY NORTH AMERICA INSURANCE**

6 **COMPANY, NAIC # 32220,**

7 Respondent.

) Docket No. 12A-162-INS

) **CONSENT ORDER**

8 Examiners for the Department of Insurance (the "Department") conducted a
9 target market conduct examination of 21st Century North America Insurance Company
10 ("NAIC"). In the Report of Target Market Conduct Examination of the Market Conduct
11 Affairs of 21st Century North America Insurance Company, the examiners allege that
12 NAIC violated A.R.S. §§20-461, 20-462, 20-2106, 20-2110 and A.A.C. R20-6-801.

13 21st Century North America Insurance Company wishes to resolve this matter
14 without formal proceedings, neither admits nor denies the following Findings of Fact,
15 and consents to the entry of the following Conclusions of Law and Order.

16 **FINDINGS OF FACT**

17 1. 21st Century North America Insurance Company is authorized to transact
18 property and casualty insurance pursuant to a Certificate of Authority issued by the
19 Director.

20 2. The Director authorized the examiners to conduct a target market
21 conduct examination of 21st Century North America Insurance Company. The
22 examination covered the time period from January 1, 2010 through December 31, 2011
23 and concluded on July 24, 2012. Based on their findings, the examiners prepared the
24 "Report of Target Market Conduct Examination of 21st Century North America
Insurance Company" dated December 31, 2011.

25 3. The examiners reviewed 23 of 53 private passenger automobile non-

1 renewals and 1 of 2 private passenger automobile cancellations, either non-renewed or
2 cancelled due to an adverse underwriting decision during the time frame of the
3 examination and found that NAIC failed to provide a compliant Summary of Rights to all
4 24 policyholders.

5 4. The examiners found the underwriting authorization disclosure included
6 within the Company's private passenger automobile application (APP-AZ-10/06R-QB)
7 used during the time frame of the examination, failed to specify that the authorization
8 remains valid for no longer than one year from the date the authorization is signed and
9 failed to advise the individual or a person authorized to act on behalf of the individual
10 that they are entitled to receive a copy of the authorization form.

11 5. The examiners found four (4) claim authorization disclosure forms used
12 during the time frame of the examination that failed to specify the authorization remains
13 valid for no longer than the duration of the claim and failed to advise the individual or a
14 person authorized to act on behalf of the individual that they are entitled to receive a
15 copy of the authorization form. (Exhibit A)

16 6. The examiners reviewed 100 of 308 private passenger automobile total
17 loss claims processed by the Company during the time frame of the examination and
18 found that NAIC failed to correctly calculate and fully pay appropriate sales tax, license
19 registration and/or air quality fees in the settlement of 7 total losses.

20 7. During the review of the Company's private passenger automobile claim
21 settlement practices, NAIC resettled all 7 total loss claims which resulted in restitution
22 payments to claimants of \$100.44, plus \$21.87 interest, for a total of \$122.31.

23 CONCLUSIONS OF LAW

24 1. NAIC violated A.R.S. §20-2110 by failing to send a compliant Summary of
25 Rights to policyholders non-renewed or cancelled due to an adverse underwriting

1 decision.

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

5 3. NAIC violated A.R.S. §20-2106(8)(b) and (9) by using claim authorization
6 forms that failed to contain a compliant *Authorization for the Release of Information*.

7 4. NAIC violated A.R.S §§20-461(A)(6), 20-462(A) and A.A.C. R20-6-
8 801(H)(1)(b) by failing to correctly calculate and fully pay sales tax, license registration
9 and/or air quality fees payable in the settlement of total losses.

10 5. 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 **ORDER**

13 **IT IS HEREBY ORDERED THAT:**

14 1. 21st Century North America Insurance Company shall:

15 a. provide policyholders a compliant Summary of Rights if their policy is
16 cancelled or non-renewed as the result of an adverse underwriting decision.

17 b. use applications that include underwriting authorization disclosure
18 forms that contain a compliant *Authorization for the Release of Information*.

19 c. use claim authorization disclosure forms that contain a compliant
20 *Authorization for the Release of Information*.

21 d. correctly calculate and fully pay sales tax, license registration and/or
22 other fees payable in the settlement of total losses.

23 2. Within 90 days of the filed date of this Order, 21st Century North America
24 Insurance Company shall submit to the Arizona Department of Insurance, for approval,
25 evidence that NAIC implemented corrections and communicated these corrections to

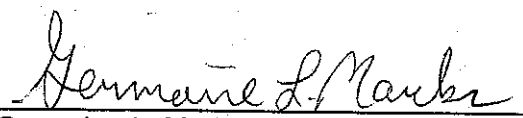
1 the appropriate personnel, regarding the issues outlined in Paragraph 1 of the Order
2 section of this Consent Order. Evidence of corrective action and communication
3 thereof includes, but is not limited to, memos, bulletins, E-mails, correspondence,
4 procedures manuals, print screens, and training materials.

5 3. The Department shall, through authorized representatives, verify that
6 NAIC has complied with all provisions of this Order.

7 4. 21st Century North America Insurance Company shall pay a civil penalty
8 of \$14,500.00 to the Director for remission to the State Treasurer for deposit in the
9 State General Fund in accordance with A.R.S. §20-220(B). NAIC shall submit the civil
10 penalty to the Market Oversight Division of the Department prior to the filing of this
11 Order.

12 5. The Report of Target Market Examination of 21st Century North America
13 Insurance Company of December 31, 2011, including the letter with their objections to
14 the Report of Examination, shall be filed with the Department upon the filing of this
15 Order.

16 DATED at Arizona this 20th day of November, 2012.

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19 _____
20 Germaine L. Marks
21 Acting Director of Insurance

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1 CONSENT TO ORDER

2 1. 21st Century North America Insurance Company has reviewed the
3 foregoing Order.

4 2. 21st Century North America Insurance Company admits the jurisdiction of
5 the Director of Insurance, State of Arizona, neither admits nor denies the foregoing
6 Findings of Fact, and consents to the entry of the Conclusions of Law and Order.

7 3. 21st Century North America Insurance Company is aware of the right to a
8 hearing, at which it may be represented by counsel, present evidence and cross-
9 examine witnesses. 21st Century North America Insurance Company irrevocably
10 waives the right to such notice and hearing and to any court appeals related to this
11 Order.

12 4. 21st Century North America Insurance Company states that no promise of
13 any kind or nature whatsoever was made to it to induce it to enter into this Consent
14 Order and that it has entered into this Consent Order voluntarily.

15 5. 21st Century North America Insurance Company acknowledges that the
16 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.

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6. George G. O'Brien, who holds the office of
General Counsel of 21st Century North America Insurance Company, is
authorized to enter into this Order for them and on their behalf.

21st CENTURY NORTH AMERICA INSURANCE COMPANY

11/16/12 By George G. O'Brien
Date

1 COPY of the foregoing mailed/delivered
2 this 20th day of November, 2012, to:

3 Germaine L. Marks
4 Acting Director

5 Mary Butterfield
6 Assistant Director

7 Consumer Affairs Division

8 Helene I. Tomme

9 Market Examinations Supervisor

10 Market Oversight 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 Alexandra Shafer

20 Assistant Director

21 Life and Health Division

22 Chuck Gregory

23 Special Agent Supervisor

24 Investigations Division

25 DEPARTMENT OF INSURANCE
2910 North 44th Street, Suite 210
Phoenix, AZ 85018

19 Maura C. Popp
20 Deputy General Counsel and Assistant VP
21 21st Century Insurance
22 3 Beaver Valley Road, 5th Floor
23 Wilmington, DE 19803

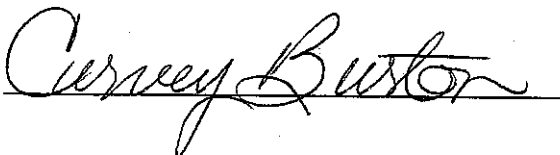
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EXHIBIT A

Claim Authorization Disclosure

These forms fail to comply with A.R.S. § 20-2106(3), (8)(b) and (9).

The following table summarizes these application form findings.

Form Description / Title	Form #	Statute Provision
Authorization to Obtain Information	Unknown	9
Authorization For Release of Information	Unknown	8(b) and 9
Authorization For Release of Health Information (CWP-75)	Unknown	8(b) and 9
Authorization For Release of Health Information (CWP-99)	Unknown	8(b) and 9