

STATE OF ARIZONA
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DEPT. OF INSURANCE

REPORT OF TARGET MARKET CONDUCT EXAMINATION

OF

PEAK PROPERTY & CASUALTY INSURANCE CORPORATION

NAIC #18139

AS OF

December 31, 2014

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Arizona Department of Insurance**

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**Douglas A. Ducey, Governor
Germaine L. Marks, Director**

Honorable Germaine L. Marks
Director of Insurance
State of Arizona
2910 North 44th Street
Suite 210, Second Floor
Phoenix, Arizona 85018-7269

Dear Director Marks:

Pursuant to your instructions and in conformity with the provisions of the Insurance Laws and Rules of the State of Arizona, a desk examination has been made of the market conduct affairs of the:

**Peak Property & Casualty Insurance Corporation
NAIC #18139**

The above examination was conducted by Helene I. Tomme, CPCU, CIE, Market Examinations Supervisor, Examiner-in Charge, and Christopher G. Hobert, CIE, MCM, Market Conduct Senior Examiner and Linda L. Hofman, AIE, MCM, Market Conduct Senior Examiner.

The examination covered the period of January 1, 2014 through December 31, 2014.

As a result of that examination, the following Report of Examination is respectfully submitted.

Sincerely yours,

Helene I. Tomme, CPCU, CIE
Market Examinations Supervisor
Market Oversight Division

AFFIDAVIT

STATE OF ARIZONA)
)
County of Maricopa) ss.

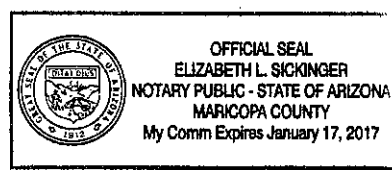
Helene I. Tomme, CPCU, CIE being first duly sworn, states that I am a duly appointed Market Examinations Examiner-in-Charge for the Arizona Department of Insurance. That under my direction and with my participation and the participation of Christopher G. Hobert, CIE, MCM, Market Conduct Senior Examiner and Linda L. Hofman, AIE, MCM, Market Conduct Senior Examiner on the Examination of Peak Property & Casualty Insurance Corporation, hereinafter referred to as the "Company" was performed at the office of the Arizona Department of Insurance. A teleconference meeting with appropriate Company officials in Stevens Point, Wisconsin was held to discuss this Report, but a copy was not provided to management as the Examination was incomplete and had not yet been finalized. The information contained in this Report, consists of the following pages, is true and correct to the best of my knowledge and belief and that any conclusions and recommendations contained in and made a part of this Report are such as may be reasonably warranted from the facts disclosed in the Examination Report.

Helene I. Tomme
Helene I. Tomme, CPCU, CIE
Market Examinations Supervisor
Market Oversight Division

Subscribed and sworn to before me this 1st day of June, 2015.

Elizabeth L. Sickinger
Notary Public

My Commission Expires January 17, 2017



FOREWORD

This targeted market conduct examination report of the Peak Property & Casualty Insurance Corporation (herein referred to as, "Peak", or the "Company"), was prepared by employees of the Arizona Department of Insurance (Department) as well as independent examiners contracting with the Department. A market conduct examination is conducted for the purpose of auditing certain business practices of insurers licensed to conduct the business of insurance in the state of Arizona. The Examiners conducted the examination of the Company in accordance with Arizona Revised Statutes (A.R.S.) §§ 20-142, 20-156, 20-157, 20-158 and 20-159. The findings in this report, including all work products developed in the production of this report, are the sole property of the Department.

The examination consisted of a review of the following Private Passenger Auto (PPA) business operations:

1. Complaint Handling
2. Marketing and Sales
3. Producer Compliance
4. Underwriting and Rating
5. Cancellations and Non-Renewals
6. Claims Processing

Certain unacceptable or non-complying practices may not have been discovered in the course of this examination. Additionally, findings may not be material to all areas that would serve to assist the Director.

Failure to identify or criticize specific Company practices does not constitute acceptance of those practices by the Department.

SCOPE AND METHODOLOGY

The examination of the Company was conducted in accordance with the standards and procedures established by the National Association of Insurance Commissioners (NAIC) and the Department. The market conduct examination of the Company covered the period of January 1, 2014 through December 31, 2014 for business reviewed. The purpose of the examination was to determine the Company's compliance with Arizona's insurance laws, and whether the Company's operations and practices are consistent with the public interest. This examination was completed by applying tests to each examination standard to determine compliance with the standard. Each standard applied during the examination is stated in this report and the results are reported beginning on page 8.

In accordance with Department procedures, the Examiners completed a Preliminary Finding ("Finding") form on those policies, claims and complaints not in apparent compliance with Arizona law. The finding forms were submitted for review and comment to the Company representative designated by Company management to be knowledgeable about the files. For each finding the Company was requested to agree, disagree or otherwise justify the Company's noted action.

The Examiners utilized both examinations by test and examination by sample. Examination by test involves review of all records within the population, while examination by sample involves the review of a selected number of records from within the population. Due to the small size of some populations examined, examinations by test and by sample were completed without the need to utilize computer software.

File sampling was based on a review of underwriting and claim files that were systematically selected by using Audit Command Language (ACL) software and computer data files provided by the Company. Samples are tested for compliance with standards established by the NAIC and the Department. The tests applied to sample data will result in an exception ratio, which determines whether or not a standard is met. If the exception ratio found in the sample is, generally less than 5%, the standard will be considered as "met." The standard in the areas of procedures and forms use will not be met if any exception is identified.

HISTORY OF THE COMPANY

(Provided by the Company)

The Company was incorporated in North Carolina on August 16, 1985, General Electric Residential Mortgage Corporation and commenced business on August 29, 1985. The company's name was changed to Peak Property and Casualty Insurance Corporation (Peak) on July 10, 1991. On November 16, 1993, the company was acquired from GE Capital Mortgage Corporation, by Guaranty National Insurance Company (GNIC) and was redomiciled in the state of Colorado. On November 16, 1999, Royal & Sun Alliance Insurance Group (RSA) purchased Orion Auto, Inc, and all of its subsidiaries including GNIC and its subsidiaries. In March 2005, RSA transferred the direct ownership of Peak Property and Casualty Corporation from GNIC to Viking Insurance Company of Wisconsin.

On November 1, 2005, Sentry Insurance a Mutual Company acquired 100% indirect ownership of Peak Property and Casualty Insurance Corporation in connection with an acquisition of Viking Insurance Company of Wisconsin from Royal & Sun Alliance USA, Inc. On December 15, 2006 Peak redomesticated from the state of Colorado to the state of Wisconsin.

Under an administrative services agreement, Sentry furnishes the Company underwriting, policy issuance, financial reporting, tax compliance, customer service, agent support, marketing, legal, claims, actuarial and other services.

The Company writes non-standard private passenger auto insurance. It is licensed in 39 states and distributes its products through an independent agency force using standard contract forms and commission schedules. The Company's home office is located at 1800 North Point Drive, Stevens Point, Wisconsin.

PROCEDURES REVIEWED WITHOUT EXCEPTION

The Examiners review of the following Company departments¹ or functions indicates that they appear to be in compliance with Arizona statutes and rules:

Complaint Handling

Marketing and Sales

Producer Compliance

Underwriting and Rating

Claims Processing

EXAMINATION REPORT SUMMARY

The examination identified 1 compliance issue that resulted in 22 exceptions due to the Company's failure to comply with statutes and rules that govern all insurers operating in Arizona. This issue was found in one (1) of the six (6) sections of Company operations examined. The following is a summary of the Examiner's findings:

Cancellation and Non Renewals

In the area of Cancellations and Non Renewals, one (1) compliance issue is addressed in this Report as follows:

- The Company failed to provide a Summary of Rights, on 19 PPA non renewals and 3 NSPPA underwriting cancellations for a total of 22 notices.

¹ If a department name is listed there were no exceptions noted during the review.

FACTUAL FINDINGS

RESULTS OF PREVIOUS MARKET CONDUCT EXAMINATIONS

During the past five (5) years, there was two (2) Market Conduct Examinations completed by the states of Delaware and North Carolina. No significant patterns of non-compliance were noted.

CANCELLATIONS AND NON-RENEWALS

Private Passenger Automobile (PPA):

The Examiners reviewed 102 PPA cancellation files for non-payment of premium out of a population of 10,102, 3 PPA cancellation files for underwriting reasons out of a population of 3, 19 PPA non renewals out of a population of 19 and 50 PPA cancellations for insured request/other insurance out of a population of 1,355. This cancellation and non renewal review included a total sample size of 174 PPA files from a total population of 11,479.

All cancellation files reviewed were to ensure compliance with Arizona Statutes and Rules.

The Following Claim Standard was met:

#	STANDARD	Regulatory Authority
2	Cancellations and Non-Renewal notices comply with state laws, company guidelines and policy provisions, including the amount of advance notice required and grace period provisions to the policyholder, nonrenewal based on condition of premises, and shall not be unfairly discriminatory.	A.R.S. §§ 20-191, 20-443, 20-448, 20-1631, 20-1632, 20-1632.01, 20-1651 through 20-1656

The following Cancellation and Non Renewal Standard failed:

#	STANDARD	Regulatory Authority
1	Declinations, Cancellations and Non-Renewals shall comply with state laws and company guidelines including the Summary of Rights to be given to the policyholder and shall not be unfairly discriminatory.	A.R.S. §§ 20-448, 20-2108, 20-2109, 20-2110

Cancellation and Nonrenewal, Standard #1 - failed

Preliminary Finding 002 – Summary of Rights – The Examiners identified 19 PPA non renewals and 3 PPA underwriting cancellations files for a total of 22 notices. These notices failed to provide a Summary of Rights language to its policyholders, an apparent violation of A.R.S. §§ 20-2108, 20-2109 and 20-2110.

PRIVATE PASSENGER AUTOMOBILE
Summary of Findings – Standard 1 File Review
 Failed to Provide Summary of Rights
 A.R.S. §§ 20-2108, 20-2109 and 20-2110

Files Reviewed	Population	Reviewed	Exceptions	Request #
PPA Non Renewals	19	19	19	009
PPA UW Cancels	3	3	3	011
Totals	22	22	22	
			Error Ratio	100%

A 100% error ratio does not meet the Standard; therefore, a recommendation is warranted.

Recommendation #1

Within 90 days of the filed date of this Report provide the Department with documentation that Company procedures are in place so that a Summary of Rights is sent with all cancellation, non renewal or declination notices that involve an adverse underwriting decision by the Company.

SUMMARY OF FAILED STANDARDS

EXCEPTIONS	Rec. No.	Page No.
CANCELLATIONS AND NON RENEWALS		
<u>Standard #1</u> Declinations, Cancellations and Non-Renewals shall comply with state laws and company guidelines including the Summary of Rights to be given to the policyholder and shall not be unfairly discriminatory.	1	12

SUMMARY OF PROPERTY AND CASUALTY STANDARDS

Complaint Handling

#	STANDARD	PAGE	PASS	FAIL
1	The Company takes adequate steps to finalize and dispose of the complaints in accordance with applicable statutes, rules, regulations and contract language. (A.R.S. § 20-461 and A.A.C. R20-6-801)	8	X	
2	The time frame within which the Company responds to complaints is in accordance with applicable statutes, rules and regulations. (A.R.S. § 20-461 and A.A.C. R20-6-801)	8	X	

Marketing and Sales

#	STANDARD	PAGE	PASS	FAIL
1	All advertising and sales materials are in compliance with applicable statutes, rules and regulations. (A.R.S. §§ 20-442 and 20-443)	8	X	

Producer Compliance

#	STANDARD	PAGE	PASS	FAIL
1	The producers are properly licensed in the jurisdiction where the application was taken. (A.R.S. §§ 20-282, 20-286, 20-287 and 20-311 through 311.03)	8	X	
2	An insurer shall not pay any commission, fee, or other valuable consideration to unlicensed producers. (A.R.S. § 20-298)	8	X	

Underwriting and Rating

#	STANDARD	PAGE	PASS	FAIL
1	The rates charged for the policy coverage are in accordance with filed rates (if applicable) or the Company Rating Plan. (A.R.S. §§ 20-341 through 20-385)	8	X	

#	STANDARD	PAGE	PASS	FAIL
2	Disclosures to insureds concerning rates and coverage are accurate and timely. (A.R.S. §§ 20-259.01, 20-262, 20-263, 20-264, 20-266, 20-267 and 20-2110)	8	X	
3	All forms and endorsements forming a part of the contract should be filed with the director (if applicable). (A.R.S. § 20-398)	8	X	
4	All mandated disclosures are documented and in accordance with applicable statutes, rules and regulations, including, but not limited to, the Notice of Insurance Information Practices and the Authorization for Release of Information. (A.R.S. §§ 20-2104, 20-2106, 20-2110 and 20-2113)	8	X	
5	Policies and endorsements are issued or renewed accurately, timely and completely. (A.R.S. §§ 20-1118, 20-1120, 20-1121, 20-1632 and 20-1654)	8	X	
6	Rescissions are not made for non-material misrepresentations. (A.R.S. §§ 20-463 and 20-1109)	8	X	

Declinations, Cancellation and Non-Renewals

#	STANDARD	PAGE	PASS	FAIL
1	Declinations, Cancellations and Non-Renewals shall comply with state laws and company guidelines including the Summary of Rights to be given to the policyholder and shall not be unfairly discriminatory. (A.R.S. §§ 20-448, 20-2108, 20-2109 and 20-2110)	11		X
2	Cancellations and Non-Renewal notices comply with state laws, company guidelines and policy provisions, including the amount of advance notice required and grace period provisions to the policyholder, nonrenewal based on condition of premises, and shall not be unfairly discriminatory. (A.R.S. §§ 20-191, 20-443, 20-448, 20-1631, 20-1632, 20-1632.01, 20-1651 through 20-1656)	11	X	

Claims Processing

#	STANDARD	PAGE	PASS	FAIL
1	The initial contact by the Company with the claimant is within the required time frame. (A.R.S. § 20-461 and A.A.C. R20-6-801)	8	X	
2	Timely investigations are conducted. (A.R.S. § 20-461, and A.A.C. R20-6-801)	8	X	
3	The Company claim forms are appropriate for the type of product and comply with statutes, rules and regulations. (A.R.S. §§ 20-461, 20-466.03, 20-2106, and A.A.C. R20-6-801)	8	X	
4	Claim files are adequately documented in order to be able to reconstruct the claim. (A.R.S. §§ 20-461, 20-463, 20-466.03 and A.A.C. R20-6-801)	8	X	
5	Claims are properly handled in accordance with policy provisions and applicable statutes, rules and regulations. (A.R.S. §§ 20-268, 20-461, 20-462, 20-468, 20-469 and A.A.C. R20-6-801)	8	X	
6	The Company uses reservation of rights and excess of loss letters, when appropriate. (A.R.S. § 20-461 and A.A.C. R20-6-801)	8	X	
7	Deductible reimbursement to insured upon subrogation recovery is made in a timely and accurate manner. (A.R.S. §§ 20-461, 20-462 and A.A.C. R20-6-801)	8	X	
8	The Company responds to claim correspondence in a timely manner. (A.R.S. § 20-461, 20-462 and A.A.C. R20-6-801)	8	X	
9	Denied and closed without payment claims are handled in accordance with policy provisions and state law. (A.R.S. §§ 20-461, 20-462, 20-463, 20-466, 20-2110 and A.A.C. R20-6-801)	8	X	
10	No insurer shall fail to fully disclose to first party insureds all pertinent benefits, coverages, or other provisions of an insurance policy or insurance contract under which a claim is presented. (A.A.C. R20-6-801)	8	X	
11	Adjusters used in the settlement of claims are properly licensed (A.R.S. §§ 20-321 through 20-321.02)	8	X	