

NOV 20 2012

DEPT OF INSURANCE  
BY 

STATE OF ARIZONA  
DEPARTMENT OF INSURANCE

In the Matter of: ) Docket No. 12A-163-INS  
21<sup>st</sup> CENTURY ADVANTAGE INSURANCE COMPANY, )  
NAIC # 25232, ) **CONSENT ORDER**  
Respondent. )

Examiners for the Department of Insurance (the "Department") conducted a target market conduct examination of 21<sup>st</sup> Century Advantage Insurance Company ("ADV"). In the Report of Target Market Conduct Examination of the Market Conduct Affairs of 21<sup>st</sup> Century Advantage Insurance Company, the examiners allege that ADV violated A.R.S. §§20-461, 20-462, 20-1632, 20-2106, 20-2110 and A.A.C. R20-6-801.

21<sup>st</sup> Century Advantage Insurance Company wishes to resolve this matter without formal proceedings, neither admits nor denies the following Findings of Fact, and consents to the entry of the following Conclusions of Law and Order.

**FINDINGS OF FACT**

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

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

3. The examiners reviewed 28 of 52 private passenger automobile

1 cancellations and 46 of 53 private passenger automobile non-renewals, either  
2 cancelled or non-renewed due to an adverse underwriting decision during the time  
3 frame of the examination and found that ADV failed to provide a compliant Summary of  
4 Rights to all 74 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 one claim authorization disclosure form, the  
12 *Authorization to Obtain Financial and Other Factual Information*, used during the time  
13 frame of the examination that failed to advise the individual or a person authorized to  
14 act on behalf of the individual that they are entitled to receive a copy of the  
15 authorization form.

16 6. The examiners reviewed 8 of 52 private passenger automobile policies  
17 cancelled for underwriting reasons during the time frame of the examination and found  
18 that ADV failed to include the unearned premium refund with the policy cancellation  
19 notice to 5 policyholders.

20 7. The examiners reviewed 52 of 52 private passenger automobile  
21 cancellations and 53 of 53 private passenger non-renewals, either cancelled or non-  
22 renewed due to an adverse underwriting decision during the time frame of the  
23 examination and found that ADV failed to provide notices for 4 cancellations and 3 non-  
24 renewals.

25 8. The examiners reviewed 100 of 529 private passenger automobile total

1 loss claims processed by the Company during the time frame of the examination and  
2 found that ADV failed to correctly calculate and fully pay appropriate sales tax, license  
3 registration and/or air quality fees in the settlement of 9 total losses.

4 9. During the review of the Company's private passenger automobile claim  
5 settlement practices, ADV resettled all 9 total loss claims which resulted in restitution  
6 payments to claimants of \$1,360.18, plus \$189.75 interest, for a total of \$1,549.93.

7 **CONCLUSIONS OF LAW**

8 1. ADV violated A.R.S. §20-2110 by failing to send a compliant Summary of  
9 Rights to policyholders cancelled or non-renewed due to an adverse underwriting  
10 decision.

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

14 3. ADV violated A.R.S. §20-2106(9) by using a claim authorization form that  
15 failed to contain a compliant *Authorization for the Release of Information*.

16 4. ADV violated A.R.S. §20-1632(A)(3) by failing to include the unearned  
17 premium refund with the policy cancellation notice.

18 5. ADV violated A.R.S. §20-1632(A) by failing to provide policyholders with  
19 cancellation and non-renewal notices.

20 6. ADV violated A.R.S §§20-461(A)(6), 20-462(A) and A.A.C. R20-6-  
21 801(H)(1)(b) by failing to correctly calculate and fully pay sales tax, license registration  
22 and/or air quality fees payable in the settlement of total losses.

23 7. Grounds exist for the entry of the following Order in accordance with  
24 A.R.S. §§20-220 and 20-456 and 20-2117.

25 . . . . .

1 **ORDER**

2 **IT IS HEREBY ORDERED THAT:**

3 1. 21<sup>st</sup> Century Advantage Insurance Company shall:

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

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

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

10 d. include the unearned premium refund with the policy cancellation  
11 notice.

12 e. mail cancellation and non-renewal notices as required by statute and  
13 retain documentation.

14 f. correctly calculate and fully pay sales tax, license registration and/or  
15 other fees payable in the settlement of total losses.

16 2. Within 90 days of the filed date of this Order, 21<sup>st</sup> Century Advantage  
17 Insurance Company shall submit to the Arizona Department of Insurance, for approval,  
18 evidence that ADV implemented corrections and communicated these corrections to  
19 the appropriate personnel, regarding the issues outlined in Paragraph 1 of the Order  
20 section of this Consent Order. Evidence of corrective action and communication  
21 thereof includes, but is not limited to, memos, bulletins, E-mails, correspondence,  
22 procedures manuals, print screens, and training materials.

23 3. The Department shall, through authorized representatives, verify that  
24 ADV has complied with all provisions of this Order.

25 4. 21<sup>st</sup> Century Advantage Insurance Company shall pay a civil penalty of

1 \$28,000.00 to the Director for remission to the State Treasurer for deposit in the State  
2 General Fund in accordance with A.R.S. §20-220(B). ADV shall submit the civil  
3 penalty to the Market Oversight Division of the Department prior to the filing of this  
4 Order.

5 5. The Report of Target Market Examination of 21<sup>st</sup> Century Advantage  
6 Insurance Company of December 31, 2011, including the letter with their objections to  
7 the Report of Examination, shall be filed with the Department upon the filing of this  
8 Order.

9 DATED at Arizona this 20<sup>th</sup> day of November, 2012.

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Germaine L. Marks  
Germaine L. Marks  
Acting Director of Insurance

1 **CONSENT TO ORDER**

2 1. 21<sup>st</sup> Century Advantage Insurance Company has reviewed the foregoing  
3 Order.

4 2. 21<sup>st</sup> Century Advantage Insurance Company admits the jurisdiction of the  
5 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. 21<sup>st</sup> Century Advantage 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. 21<sup>st</sup> Century Advantage Insurance Company irrevocably waives  
10 the right to such notice and hearing and to any court appeals related to this Order.

11 4. 21<sup>st</sup> Century Advantage Insurance Company states that no promise of  
12 any kind or nature whatsoever was made to it to induce it to enter into this Consent  
13 Order and that it has entered into this Consent Order voluntarily.

14 5. 21<sup>st</sup> Century Advantage Insurance Company acknowledges that the  
15 acceptance of this Order by the Director of the Arizona Department of Insurance is  
16 solely for the purpose of settling this matter and does not preclude any other agency or  
17 officer of this state or its subdivisions or any other person from instituting proceedings,  
18 whether civil, criminal, or administrative, as may be appropriate now or in the future.

19 6. George G. O'Brien, who holds the office of  
20 General Counsel of 21<sup>st</sup> Century Advantage Insurance Company, is  
21 authorized to enter into this Order for them and on their behalf.

22 **21<sup>st</sup> CENTURY ADVANTAGE INSURANCE COMPANY**

23  
24 11/16/12  
25 Date

By George G. O'Brien

1 COPY of the foregoing mailed/delivered  
2 this 20<sup>th</sup> 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

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Phoenix, AZ 85018

26 Maura C. Popp

27 Deputy General Counsel and Assistant VP

28 21st Century Insurance

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30 Wilmington, DE 19803

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