

STATE OF ARIZONA  
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DEPT. OF INSURANCE

**REPORT OF TARGET MARKET CONDUCT EXAMINATION**

**OF**

**MENDOTA INSURANCE COMPANY**

**NAIC #33650**

**AS OF**

**December 31, 2009**

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**CHRISTINA URIAS**  
Director of Insurance

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Honorable Christina Urias  
Director of Insurance  
State of Arizona  
2910 North 44<sup>th</sup> Street  
Suite 210, Second Floor  
Phoenix, Arizona 85108-7256

Dear Director Urias:

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:

**Mendota Insurance Company**  
**NAIC #33650**

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

The examination covered the period of January 1, 2009 through December 31, 2009.

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



## FOREWORD

This targeted market conduct examination report of the Mendota Insurance Company (herein referred to as, "MIC", 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 Automobile (PPA) lines of 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 examination of the Company covered the period of January 1, 2009 through December 31, 2009 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, examination 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 form use will not be met if any exception is identified.

## HISTORY OF THE COMPANY

(Provided by the Company)

Mendota was formed as a new entity in 1989 by The Northland Company under the laws of the state of Minnesota to provide personal lines insurance through independent agents. In 1994, The Northland Company acquired Celfor Insurance Company, incorporated in Illinois, and changed its name to Mendakota Insurance Company. Mendakota was acquired by Mendota and redomiciled to Minnesota in 1998. Associates First Capital acquired Northland in 1998, and Associates in turn was acquired by Citigroup in 2000. In 2001, Travelers Indemnity Company acquired Northland from Citigroup prior to Traveler's spin-off from Citigroup in 2001.

In April 2007, Mendota Insurance Company and Mendakota Insurance Company were sold by The Travelers Corporation to Kingsway Financial Services, Inc.

The Company currently writes automobile insurance under two wholly owned subsidiaries, Mendota Insurance Company and Mendakota Insurance Company ("Mendota").

Mendota is licensed in 41 states and the District of Columbia. The Company is headquartered in Eagan, Minnesota.

Mendota currently writes auto insurance through a network of independent producers in twenty states. Major markets include California, Colorado, Florida and Texas.

## **PROCEDURES REVIEWED WITHOUT EXCEPTION**

The Examiner's review of the following Company departments<sup>1</sup> 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

## **EXAMINATION REPORT SUMMARY**

The examination identified four (4) compliance issues that resulted in 83 exceptions due to the Company's failure to comply with statutes and rules that govern all insurers operating in Arizona. These issues were found in two (2) of the six (6) sections of Company operations examined. The following is a summary of the Examiners' findings:

### **Cancellation and Non Renewals**

In the area of Cancellations and Non Renewals, two (2) compliance issues are addressed in this Report as follows:

- The Company failed to include the 7-day grace period on a total of 10 renewals that were cancelled for non-payment of premium.
- The Company failed to provide a compliant Summary of Rights on 57 PPA cancellations for underwriting reasons for policyholders/insureds cancelled for an adverse underwriting decision.

### **Claims Processing**

In the area of Claims Processing, two (2) compliance issues are addressed in this Report as follows:

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



- The Company failed to pay the appropriate tax, license registration and/or air quality fees on 13 first/third party PPA total loss claims, which resulted in a \$17.04 refund which includes interest.
- The Company failed to include a fraud warning statement, in at least 12-point type, on three (3) claim forms.

FACTUAL FINDINGS

RESULTS OF PREVIOUS MARKET CONDUCT EXAMINATIONS

During the past three (3) years, there were one (1) Market Conduct Examinations completed by the states of Missouri. There were no significant patterns of non-compliance noted.

**CANCELLATIONS AND NON-RENEWALS**

Private Passenger Automobile (PPA):

The Examiners reviewed 107 PPA cancellation files (including 2 sample files) for non-payment of premium out of a population of 5,010; 57 PPA cancellation files (including 2 sample files) for underwriting reasons out of a population of 356 and 2 PPA non renewals out of a population of 2. This cancellation/non renewal review included a total sample size of 166 PPA files from a total population of 5,368.

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

**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
2	Cancellation 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 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

**Cancellation and Nonrenewal, Standard #1 - failed**

**Preliminary Finding 002 – Summary of Rights** – The Examiners identified 57 PPA cancellations for underwriting reasons that were cancelled for an adverse underwriting decision and the notices failed to provide a compliant Summary of Rights, an apparent violation of A.R.S. §§ 20-2108, 20-2109 and 20-2110.

**PRIVATE PASSENGER AUTOMOBILE CANCELLATIONS**

Failed to provide a compliant Summary of Rights in the event of an adverse underwriting decision

A.R.S. §§ 20-2108, 20-2109 and 20-2110

Population	Sample	# of Exceptions	% to Sample
356	57	57	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 compliant Summary of Rights is sent with all cancellation, non renewal or declination notices that involve an adverse underwriting decision by the Company.

*Subsequent Events: During the course of the Phase I Examination, the Company agreed with the Examiner's finding that compliant Summary of Rights language was not included. The Examiners provided the Company with the ADOI approved language and was advise d the changes will be implemented effective November 13, 2010. The Company provided a copy of the corrected form [Summary of Rights, MO683 (10/10)] prior to the completion of the examination.*

**Cancellation and Nonrenewal, Standard #2 - failed**

**Preliminary Finding 001 – Personal Automobile 7-Day Grace Period** – The Examiners identified 10 PPA Cancellations for non-payment of premium where the Company failed to give the required 7-day grace period, an apparent violation of A.R.S. § 20-1632.01(A).

**PRIVATE PASSENGER AUTOMOBILE 7-DAY GRACE PERIOD**

Failed to provide the required 7-day grace period for policies non-renewed due to non-payment of the renewal premium  
A.R.S. § 20-1632.01(A)

Population	Sample	# of Exceptions	% to Sample
5,010	107	10	9%

**A 9% error ratio does not meet the Standard; therefore, a recommendation is warranted.**

**Recommendation #2**

Within 90 days of the filed date of this report provide the Department with documentation that Company procedures are in place to provide policyholders with the required 7-day grace period on PPA cancellations for nonpayment.

*Subsequent Events: During the course of the Phase I Examination, the Company agreed with the Examiner's finding that the required 7-day grace period was not included. The Examiners were advised the changes will be revised effective November 01, 2010. A copy of Mendota's Underwriting Quality Assurance Process was provided prior to the completion of the examination.*

**CLAIMS PROCESSING**

Private Passenger Automobile (PPA):

The Examiners reviewed 52 PPA claims closed without payment (including 2 sample files) from a population of 587; 52 PPA paid claims (including 2 sample files) from a population of 705; 52 total loss PPA claims from a population of 212 and 51 PPA subrogation claims (including 1 sample file) out of a population of 184. This claims review included a total sample size of 207 PPA claim files from a total population of 1,688.

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

**The Following Claim Standards were met:**

#	STANDARD	Regulatory Authority
1	The initial contact by the Company with the claimant is within the required time frame.	A.R.S. § 20-461, A.A.C. R20-6-801
2	Timely investigations are conducted.	A.R.S. § 20-461, A.A.C. R20-6-801
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, A.A.C. R20-6-801
6	The company uses reservation of rights and excess of loss letters, when appropriate.	A.R.S. § 20-461, A.A.C. R20-6-801
7	Deductible reimbursement to insureds upon subrogation recovery is made in a timely and accurate manner.	A.R.S. §§ 20-461, 20-462, A.A.C. R20-6-801
8	The company responds to claim correspondence in a timely manner.	A.R.S. § 20-461, 20-462, A.A.C. R20-6-801
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, A.A.C. R20-6-801
10	No insurer shall fail to fully disclose to first party claimants 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
11	Adjusters used in the settlement of claims are properly licensed	A.R.S. §§ 20-321 through 20-321.02

**The following Claim Standards failed:**

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, A.A.C. R20-6-801
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, A.A.C. R20-6-801

**Claims Processing Standard #3 - failed**

**Preliminary Finding 006 – Fraud Warning Statement.** The Company failed to include the Fraud Warning statement, in at least twelve-point type, on three (3) claim forms, an apparent violation of A.R.S. § 20-466.03.

**Forms without a Fraud Warning Statement**

- Property Damage Release
- Release
- General Release – Husband and Wife

**Recommendation #3**

Within 90 days of the filed date of this report provide the Department with documentation that Company procedures are in place to include the Fraud Warning statement, in at least twelve-point type, on the three (3) claim forms identified above.

*Subsequent Events: During the course of the Phase I Examination, the Company agreed with the finding and provided corrected forms to the Department prior to completion of the Examination. These forms were put into production on October 25, 2010.*

**Claims Processing Standard #5 – failed**

**Preliminary Finding 004 –Total Loss Taxes and Fees -** The Examiners identified 13 first/third party total loss settlements, in which the Company failed to pay appropriate tax, license registration and/or air quality fees. This is an apparent violation of A. R. S. § 20-461(A)(6) and A.A.C. R20-6-801 (H)(1)(b).



**PRIVATE PASSENGER TOTAL LOSS AUTOMOBILE CLAIMS**

Failed to pay appropriate license and/or air quality fees  
A.R.S. § 20-461(A)(6) and A.A.C. R20-6-801 (H)(1)(b)

<b>Population</b>	<b>Sample</b>	<b># of Exceptions</b>	<b>% to Sample</b>
212	52	13	25%

**A 25% error ratio does not meet the standards; therefore, a recommendation is warranted**

**Recommendation #4**

Within 90 days of the filed date of this report submit documentation to the Department to show that the Company's procedures have been corrected to comply with Arizona Statutes and Rules when processing total loss settlements for First and Third Parties.

*Subsequent Events: During the course of Phase I Examination, the Company agreed and made restitution payments to the parties affected in the amount of \$17.04 which includes interest. A copy of letters of explanation and payments were sent to the Department prior to completion of the Examination.*

**SUMMARY OF FAILED STANDARDS**

<b>EXCEPTIONS</b>	<b>Rec. No.</b>	<b>Page No.</b>
<b>CANCELLATIONS AND NON RENEWALS</b>		
<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	13
<u>Standard #2</u> Cancellation 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 and shall not be unfairly discriminatory.	2	13
<b>CLAIM PROCESSING</b>		
<u>Standard #3</u> The Company claim forms are appropriate for the type of product and comply with statutes, rules and regulations.ms are properly handled in accordance with policy provisions and applicable statutes, rules and regulations.	3	16
<u>Standard #5</u> Claims are properly handled in accordance with policy provisions and applicable statutes, rules and regulations.	4	17

**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, 20-2110)	8	X	
3	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	
4	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	
5	Policies and endorsements are issued or renewed accurately, timely and completely. (A.R.S. §§ 20-1120, 20-1121, 20-1654)	8	X	
6	Rescissions are not made for non-material misrepresentations. (A.R.S. §§ 20-463, 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)	12		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 and 20-1632.01).	12		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)	15	X	
2	Timely investigations are conducted. (A.R.S. § 20-461, and A.A.C. R20-6-801)	15	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)	16		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)	15	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 and A.A.C. R20-6-801)	16		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)	15	X	
7	Deductible reimbursement to insureds 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)	15	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)	15	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)	15	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)	15	X	
11	Adjusters used in the settlement of claims are properly licensed (A.R.S. §§ 20-321 through 20-321.02)	15	X	