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2
3 STATE OF OREGON
4 DEPARTMENT OF CONSUMER AND BUSINESS SERVICES
5 DIVISION OF FINANCIAL REGULATION

6 In the Matter of:

Case No. INS-17-0021

7 PROGRESSIVE UNIVERSAL
8 INSURANCE COMPANY, PROGRESSIVE
9 CLASSIC INSURANCE COMPANY AND
10 NATIONAL CONTINENTAL
11 INSURANCE COMPANY

ORDER TO CEASE AND DESIST,
FINAL ORDER ASSESSING CIVIL
PENALTY AND CONSENT TO
ENTRY OF ORDER

12 Respondent.

13 The Director of the Department of Consumer and Business Services for the State
14 of Oregon (“Director”) conducted an investigation of PROGRESSIVE UNIVERSAL
15 INSURANCE COMPANY, PROGRESSIVE CLASSIC INSURANCE COMPANY
16 AND NATIONAL CONTINENTAL INSURANCE COMPANY (“Respondent”) and
17 determined that Respondent engaged in activities in violation of Oregon Revised Statutes
18 (“ORS”) 742.554 (2) for failing to provide documentation to verify that a vehicle total
19 loss written statement was sent to the claimant in five files. Also, Respondent failed to
20 provide the required vehicle total loss written statement within a reasonable amount of
21 time in one case.

22 Respondent wishes to resolve and settle this matter with the Director.

23 Now, therefore, as evidenced by the signature(s) subscribed on this Order,
24 Respondent hereby CONSENTS to entry of this Order.

25 FINDINGS OF FACT

26 The Director FINDS that:

1. Respondent has been licensed in Oregon as a foreign insurer since October 11,

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350 Winter Street, NE, Suite 410
Salem, OR 97301-3881
Telephone: (503) 378-4387



1 2004. Respondent's principal place of business is 6300 Wilson Mills Rd, W33,
2 Cleveland, OH 44143-2182.

3 2. On May 10, 2016, the Division received a complaint from S.F. stating that he
4 did not receive an evaluation report from Respondent after being offered a settlement for
5 S.F.'s car that was a total loss after an accident. A review of the file indicated that
6 Respondent presented S.F. with a total loss value on April 8, 2016 to settle the claim.
7 S.F. was not sent an evaluation report or a total loss written statement until May 10, 2016.

8 3. In response to the S.F.'s complaint, the Division requested that Respondent
9 audit 32¹ randomly selected Oregon total loss claims received between January 1, 2014
10 and June 13, 2016.

11 4. Respondent reported that there were five files in which Respondent could not
12 provide documentation to verify that a total loss written statement was sent to the
13 claimant.

15 CONCLUSIONS OF LAW

16 The Director CONCLUDES that:

17 5. Under ORS 731.252(1), whenever the Director has reason to believe that any
18 person has been engaged or is engaging or is about to engage in any violation of the
19 Insurance Code, the Director may issue an order to discontinue or desist from such
20 violation or threatened violation.

21 6. Under ORS 742.554(2) when an insurer declares a motor vehicle a total loss
22 and offers to make a cash settlement to an insured or third-party owner of the motor
23 vehicle, the insurer shall provide the insured or third party owner a written statement in a
24 form provided by the Director that includes information about total loss, vehicle
25 valuation, duties of the insurer and the manner in which and under what circumstances

26 ¹ Respondent had over 15,000 Oregon total loss claims between January 1, 2014 and June 13, 2016.



1 the insured may contact the Division.

2 7. Under ORS 731.988(1) the Director may impose a civil penalty of up to
3 \$10,000 *per violation* upon any person who violates a provision of the Insurance Code.

4
5 **ORDERS**

6 Now therefore, the Director issues the following Orders:

7 8. As authorized by ORS 731.252(1), the Director Orders Respondent to CEASE
8 AND DESIST from violating any provision of the Oregon Insurance Code or the
9 administrative rules promulgated thereunder.

10 9. Based upon the foregoing and in accordance with ORS 731.988(1), the
11 Director ORDERS a CIVIL PENALTY of \$20,000 for failing to provide documentation
12 to verify that a total loss written statement was sent to the claimant and for failing to
13 provide the required vehicle total loss written statement within a reasonable amount of
14 time in one case.

15 10. The Director agrees to SUSPEND the collection of \$10,000 of the \$20,000
16 CIVIL PENALTY assessed herein upon the condition that Respondent commits no new
17 violations of the Oregon Insurance Code or any administrative rules adopted thereunder
18 in general during the three year period from the date of issuance of this Order, that would
19 result in an additional administrative action and conduct self-audits to ensure future
20 compliance as detailed below:

21 A. Four weeks after the execution of this order by the Director, Respondent will
22 conduct an audit of 25 randomly selected files involving total vehicle loss claims to
23 determine that each file has documentation proving that the total loss written statement
24 was sent to the claimant in compliance with ORS 742.554(2).

25 B. Four months after the execution of this order by the Director, Respondent will
26 conduct an audit of 35 randomly selected files involving total vehicle loss claims to

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1 determine that each file has documentation proving that the total loss written statement
2 was sent to the claimant in compliance with ORS 742.554(2).

3 C. Nine months after the execution of this order by the Director, Respondent will
4 conduct an audit of 35 randomly selected files involving total vehicle loss claims to
5 determine that each file has documentation proving that the total loss written statement
6 was sent to the claimant in compliance with ORS 742.554(2).

7 D. One year after the execution of this order by the Director, Respondent will
8 conduct another audit of 50 randomly selected files involving total vehicle loss claims to
9 determine that each file has documentation proving that the total loss written statement
10 was sent to the claimant in compliance with ORS 742.554(2).

11 E. Two years after the execution of this order by the Director, Respondent will
12 conduct another audit of 50 randomly selected files involving total vehicle loss claims to
13 determine that each file has documentation proving that the total loss written statement
14 was sent to the claimant in compliance with ORS 742.554(2).

15 F. If, after the audit set forth in paragraph 10D has been completed, Respondent
16 has not demonstrated it is working towards substantial compliance² with ORS 742.554
17 (2), and at the discretion of the Director, audits will be continued on a quarterly, semi-
18 annually or annual basis.

19 G. All results of the audits will be provided to the Director through the Division's
20 secure Biscom account within one month of the start of each audit.

21 H. Respondent will provide to the Director through the Biscom account all
22 written communications that it sends out to employees regarding total loss claim policies
23 and procedures as related to ORS 742.554(2).

24 11. If Respondent complies with all of the terms and conditions set out in this
25 Order, including working towards substantial compliance as related to ORS 742.554(2)

26 ² Substantial compliance means that Respondent will have a 3% or less failure rate.

1 as required per this Order, and commits no other violations of the Oregon Insurance Code
2 during the three year period from the date of issuance of this Order, the Director hereby
3 agrees to WAIVE the \$10,000 suspended amount.

4 12. The Director reserves the right to immediately assess and collect the \$10,000
5 suspended amount upon a determination that Respondent has violated any term of this
6 Order or Respondent does not demonstrate it is working towards substantial compliance
7 of ORS 742.554(2) through the audit process and reach a 3% or less failure rate by the
8 end of the first annual audit. Respondent is expected to maintain a 3% or less failure rate.

9 13. The CIVIL PENALTY assessed herein is due and payable at the time this
10 Order is returned to the Division.

11 14. This ORDER is a Final Order under ORS 183.310(6)(b). Subject to that
12 provision, the entry of this Order does not limit other remedies that may be available to
13 the Director under Oregon law.

14
15 SO ORDERED this 19th day of July, 2017.

16 PATRICK M. ALLEN, Director
17 Department of Consumer and Business Services

18
19 /s/ David Tatman
20 David C. Tatman, Chief of Enforcement
21 Division of Financial Regulation

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ENTITY CONSENT TO ENTRY OF ORDER

I, Karen A. Kosuda, state that I am an officer of Progressive Universal Insurance Company and I am authorized to act on its behalf. I have read the foregoing order, and I know and fully understand the contents hereof. I have been advised of the right to a hearing and of the right to be represented by counsel in this matter. Progressive Universal Insurance Company voluntarily and without any force or duress consents to the entry of this order expressly waiving any right to a hearing in this matter Progressive Universal Insurance Company understands that the Director reserves the right to take further actions to enforce this order or to take appropriate action upon discovery of other violations of the Oregon Insurance Code. Progressive Universal Insurance Company will fully comply with the terms and conditions stated herein.

Progressive Universal Insurance Company understands that this order is a public document.

PROGRESSIVE UNIVERSAL INSURANCE COMPANY

/s/ Karen A. Kosuda
Signature

State of Ohio
County of Cuyahoga

There appeared before me on this 13th day of July, 2017,

Karen A. Kosuda who was first duly sworn on oath, and stated that he/she was and is an officer of Progressive Universal Insurance Company and that he/she is authorized and empowered to sign this Consent to Entry of Order on behalf of Progressive Universal Insurance Company and to bind Progressive Universal Insurance Company to the terms hereof.

/s/ Kristina Crews
Notary Public

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ENTITY CONSENT TO ENTRY OF ORDER

I, Christina L. Crews, state that I am an officer of Progressive Classic Insurance Company and I am authorized to act on its behalf. I have read the foregoing order, and I know and fully understand the contents hereof. I have been advised of the right to a hearing and of the right to be represented by counsel in this matter. Progressive Classic Insurance Company voluntarily and without any force or duress consents to the entry of this order expressly waiving any right to a hearing in this matter Progressive Classic Insurance Company understands that the Director reserves the right to take further actions to enforce this order or to take appropriate action upon discovery of other violations of the Oregon Insurance Code. Progressive Classic Insurance Company will fully comply with the terms and conditions stated herein.

Progressive Classic Insurance Company understands that this order is a public document.

PROGRESSIVE CLASSIC INSURANCE COMPANY

/s/ Christina L. Crews
Signature

State of Ohio
County of Cuyahoga

There appeared before me on this 12th day of July, 2017,

Christina L. Crews who was first duly sworn on oath, and stated that he/she was and is an officer of Progressive Classic Insurance Company and that he/she is authorized and empowered to sign this Consent to Entry of Order on behalf of Progressive Classic Insurance Company and to bind Progressive Classic Insurance Company to the terms hereof.

/s/ Margaret A. Rose
Notary Public

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1 ENTITY CONSENT TO ENTRY OF ORDER

2 I, Margaret A. Rose, state that I am an officer of National
3 Continental Insurance Company and I am authorized to act on its behalf. I have read the
4 foregoing order, and I know and fully understand the contents hereof. I have been
5 advised of the right to a hearing and of the right to be represented by counsel in this
6 matter. National Continental Insurance Company voluntarily and without any force or
7 duress consents to the entry of this order expressly waiving any right to a hearing in this
8 matter National Continental Insurance Company understands that the Director reserves
9 the right to take further actions to enforce this order or to take appropriate action upon
10 discovery of other violations of the Oregon Insurance Code. National Continental
11 Insurance Company will fully comply with the terms and conditions stated herein.

12 National Continental Insurance Company understands that this order is a public
13 document.

14 NATIONAL CONTINENTAL INSURANCE COMPANY

15
16 /s/ Margaret A. Rose
Signature

17 State of Ohio

18 County of Cuyahoga

19
20 There appeared before me on this 12th day of July, 2017,

21 Margaret A. Rose who was first duly sworn on oath,
22 and stated that he/she was and is an officer of National Continental Insurance Company
23 and that he/she is authorized and empowered to sign this Consent to Entry of Order on
24 behalf of National Continental Insurance Company and to bind National Continental
Insurance Company to the terms hereof.

25 /s/ Kristina Crews
Notary Public

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