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

6 In the Matter of:

Case No. INS-21-0031

7 ROOT INSURANCE COMPANY,

8 Respondent.

9 ORDER TO CEASE AND DESIST,  
10 FINAL ORDER SEEKING  
11 RESTITUTION, FINAL ORDER  
12 ASSESSING CIVIL PENALTY AND  
13 CONSENT TO ENTRY OF ORDER

14 THIS IS A FINAL ORDER

15 The Director of the Department of Consumer and Business Services for the State  
16 of Oregon (“Director”), acting in accordance with Oregon Revised Statutes (“ORS”)  
17 chapters 731, 732, 733, 734, 735, 737, 742, 743, 743A, 743B, 744, 746, 748 and 750  
18 (“Insurance Code”), has conducted an investigation into the insurance related activities of  
19 Root Insurance Company (“Respondent”).

20 Respondent submits to the Director’s jurisdiction and agrees to waive its rights to  
21 notice and an administrative hearing that arise under ORS 183.415 and wishes to resolve  
22 this matter by consenting to entry of this Final Order.

23 WHEREAS, Respondent has cooperated with the Division of Financial Regulation  
24 (the “Division”) by responding to inquiries, providing documentary evidence and other  
25 materials, and providing the Division with access to facts relating to the investigation; and

26 Respondent, without admitting or denying the Director’s Findings of Fact or  
Conclusions of Law, wishes to resolve and settle this matter with the Director.

NOW, THEREFORE, as evidenced by the authorized signatures subscribed on this  
document, Respondent hereby CONSENTS to entry of this order upon the Director’s  
Findings of Fact and Conclusions of Law as stated hereafter.

Division of Financial Regulation  
Labor and Industries Building  
350 Winter Street NE, Suite 410  
Salem, OR 97301-3881  
Telephone: (503) 378-4387



1 FINDINGS OF FACT

2 The Director FINDS that:

3 1. Respondent has been licensed as a foreign insurer since February 8, 2018 and  
4 provides property and casualty products in Oregon. Respondent's principle place of  
5 business is 80 E. Rich Street, Suite 500, Columbus, OH, 43215. Respondent's National  
6 Association of Insurance Commissioners company code is 10974.

7 2. On May 14, 2020, the Division received a consumer complaint from Oregon  
8 consumer hereinafter referred to as "S.M." The complaint alleged that Respondent took  
9 S.M.'s car for a total loss and valued the car at a lower trim level rather than the actual trim  
10 level, which caused a significant difference in the amount paid to S.M. for the vehicle.  
11 S.M.'s vehicle was a 2001 Toyota Camry LE valued at \$3,000. Respondent calculated the  
12 total loss amount based on a 2001 Toyota Camry CE valued at \$2,042.

13 3. In response to the consumer complaint, the Division conducted a market  
14 analysis review ("MA Review") of Respondent's Oregon total loss determinations. The  
15 MA Review found that, between November 2018 and December 2020, 1,069 claims were  
16 determined by Respondent to be a total loss ("Total Loss Claims").

17 4. Of the 1,069 Total Loss Claims, 671 insureds did not receive the required  
18 Oregon total loss notice.<sup>1</sup>

19 5. Of the 1,069 Total Loss Claims, 27 insureds ("Insureds") received an  
20 underpayment of their total loss value<sup>2</sup> because Respondent's claims adjusters used a lesser  
21 trim level when calculating the value of each vehicle.<sup>3</sup>

22  
23 <sup>1</sup> The written statement is the Vehicle Total Loss Notice found as Exhibit 1 at [https://dfr.oregon.gov/laws-rules/Documents/OAR/div80-0240\\_ex1.pdf](https://dfr.oregon.gov/laws-rules/Documents/OAR/div80-0240_ex1.pdf).

24 <sup>2</sup> The underpaid claims totaled \$22,952.91 for an average of \$850.11 per claim.

25 <sup>3</sup> Respondent's claims adjusters utilized a third party online based platform to determine the value of the  
26 vehicle for each Total Loss Claim. Online, the claims adjusters provided the zip code where the vehicle was  
garaged, vehicle identification number, mileage, trim level, as well as loss vehicle condition, which was used  
to assist in determining the value of the vehicle.



1 6. As of the date that Respondent’s signature is subscribed on this document,  
2 Respondent has provided restitution, including interest, to all affected Insureds. Of the 27  
3 Insureds, 24 have accepted restitution payment from Respondent. The remaining three  
4 Insureds have not accepted payment<sup>4</sup> and Respondent continues its outreach to the  
5 remaining three Insureds.

6  
7 CONCLUSIONS OF LAW

8 The Director CONCLUDES that:

9 7. Pursuant to ORS 731.252(1), whenever the Director has reason to believe that  
10 any person has been engaged or is engaging or is about to engage in any violation of the  
11 Insurance Code, the Director may issue an order, directed to such person, to discontinue or  
12 desist from such violation or threatened violation.

13 8. Pursuant to ORS 731.256(2)(a), the Director may seek restitution on a  
14 consumer’s behalf for actual damages the consumer suffers as a result of the insurer’s  
15 violation of a provision of the Insurance Code.

16 9. Pursuant to ORS 742.554(2)(a), when an insurer declares a motor vehicle a total  
17 loss and offers to make a cash settlement to an insured or third-party owner of the motor  
18 vehicle, the insurer shall provide the insured or third-party owner a written statement in a  
19 form provided by the Director that includes information about total loss, vehicle valuation  
20 and the duties of the insurer.

21 10. Pursuant to Oregon Administrative Rule (“OAR”) 836-080-0240(4), when an  
22 insurer elects to make a cash settlement, the insurer shall provide the insured or third-party  
23 claimant with the written statement set forth in Exhibit 1 of this rule.

24 11. Respondent violated ORS 742.554(2)(a) and OAR 836-080-0240(4) on 671

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25  
26 <sup>4</sup> Respondent sent a check to each Insured as restitution payment. Three of the 27 checks have not been  
cashed.



1 occasions as described in Paragraph four above.

2 12. Pursuant to ORS 746.230(1)(a), an insurer may not misrepresent facts or policy  
3 provisions in settling claims.

4 13. Respondent violated ORS 746.230(1)(a) on 27 occasions by misrepresenting  
5 the trim level when settling Total Loss Claims as described in Paragraph five above.

6 14. Pursuant to ORS 746.230(1)(h), an insurer may not attempt to settle claims for  
7 less than the amount to which a reasonable person would believe a reasonable person was  
8 entitled after referring to written or printed advertising material accompanying or made  
9 part of an application.

10 15. Respondent violated ORS 746.230(1)(h) on 27 occasions by settling Total Loss  
11 Claims for less than the value of the vehicle.

12 16. Pursuant to ORS 731.988(1), the Director may assess CIVIL PENALTIES in  
13 an amount not to exceed \$10,000 per violation against a person who violates any provision  
14 of the Insurance Code or any lawful rule of the Director.

15  
16 **ORDERS**

17 Now therefore, the Director issues the following Orders:

18 17. As authorized by ORS 731.252(1), the Director ORDERS Respondent to  
19 CEASE AND DESIST from violating ORS 742.554(2)(a), OAR 836-080-0240(4), ORS  
20 746.230(1)(a) and ORS 746.230(1)(h).

21 18. Based upon the foregoing and as authorized by ORS 731.256(2)(a), the Director  
22 ORDERS that Respondent make restitution to the Insureds described in Paragraph five  
23 above, as follows:

24 A. Respondent shall continue to make every reasonable effort to contact the three  
25 Insureds who, to date, have not accepted the offer of restitution. Respondent's efforts shall  
26 include contact by letter, phone call, email, and/or text message.

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1 B. After making contact with the Insured, Respondent shall inform the Insured that  
2 they are entitled to additional payment towards the value of their vehicle.

3 C. Within 90 days after the effective date of this Order, for each of the Insureds,  
4 Respondent will notify the Division of the result of the Total Loss Claim, including but  
5 not limited to the amount of additional payment to the Insured.

6 19. Based upon the foregoing and as authorized by ORS 731.988(1), the Director  
7 ORDERS that Respondent pay a total CIVIL PENALTY of \$70,000 as follows:

8 A. A CIVIL PENALTY of \$20,000 for 671 violations of ORS 742.554(2)(a) and  
9 OAR 836-080-0240(4).

10 B. A CIVIL PENALTY of \$50,000 for 27 violations of ORS 746.230(1)(a) and  
11 ORS 746.230(1)(h).

12 20. The Director hereby suspends payment of \$30,000 of the CIVIL PENALTY for  
13 a period of two years. If, during the two year period following the effective date of this  
14 Order, Respondent complies with the terms of this Order and the Director has not initiated  
15 an enforcement action for new violations of the same provisions of the Insurance Code  
16 identified in this Order, the Director WAIVES the collection of the suspended CIVIL  
17 PENALTY assessed herein. The Director reserves the right to immediately assess and  
18 collect the suspended civil penalty upon a determination that Respondent has violated any  
19 term of this Order.

20 21. The non-suspended CIVIL PENALTY (\$40,000) is due and payable at the time  
21 this Order is returned to the Division.

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1 22. This Order is a “Final Order” under ORS 183.310(6)(b). Subject to that  
2 provision, entry of this Order in no way limits or prevents further remedies, sanctions, or  
3 actions which may be available to the Director under Oregon law to enforce this Order, for  
4 violations of this Order, for conduct or actions of Respondent that are not covered by this  
5 Order, or against any party not covered by this Order.

6  
7 SO ORDERED this 5<sup>th</sup> day of August, 2021.

8 ANDREW R. STOLFI, Director  
9 Department of Consumer and Business Services

10  
11 /s/ Dorothy Bean  
12 Dorothy Bean, Chief of Enforcement  
13 Division of Financial Regulation

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CONSENT TO ENTRY OF ORDER

I, Jodi Baker, state that I am an officer of Root 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. Root 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. Root 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 Insurance Code. Root Insurance Company will fully comply with the terms and conditions stated herein.

Root Insurance Company understands that this Order is a public document.

/s/ Jodi Baker 7/30/2021  
Signature Dated

Jodi Baker  
Printed name

Secretary  
Office held

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