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2 CALIFORNIA DEPARTMENT OF INSURANCE  
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3 Oakland, CA 94612  
Telephone: 415-538-4162  
4 *Attorneys for the California Department of Insurance*

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8 **BEFORE THE INSURANCE COMMISSIONER**  
9 **OF THE STATE OF CALIFORNIA**

10  
11 In the Matter of the Rates, Rating Plans, or  
Rating Systems of

12 UNITRIN AUTO AND HOME  
13 INSURANCE COMPANY,

14 Respondent.

File No. NC-2022-00002

NOTICE OF NONCOMPLIANCE  
[Ins. Code § 1858 et seq.]

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16 TO: UNITRIN AUTO AND HOME INSURANCE COMPANY

17 **NOTICE OF NONCOMPLIANCE**

18 **PURSUANT TO CALIFORNIA INSURANCE CODE SECTION 1858.1:**

19 THE CALIFORNIA DEPARTMENT OF INSURANCE (“Department”) NOTIFIES  
20 YOU that the Insurance Commissioner of the State of California (“Commissioner”) has good  
21 cause to believe that the rating plans, rating systems, rates and underwriting guidelines of the  
22 UNITRIN AUTO AND HOME INSURANCE COMPANY (hereafter “Respondent”), violate  
23 various provisions of California law, including but not limited to California Insurance Code  
24 sections 1861.01, subdivision (c), and 1861.05 and Title 10, California Code of Regulations  
25 (hereafter “CCR”) sections 2360.2, 2360.3 and 2360.4. Pursuant to Insurance Code section  
26 1858.1, this Notice sets forth the manner and extent of noncompliance. The Department is  
27 informed and believes, and thereon alleges, the following:  
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1 **BACKGROUND FACTS**

2 1. Respondent is, and was at all relevant times, an insurer licensed to transact the business  
3 of insurance in the State of California, including but not limited to homeowners classes of  
4 insurance discussed below.

5 2. Respondent transacts the business of insurance in California on risks or lines subject to  
6 the provisions of the California Insurance Code and the California Code of Regulations.

7 3. Respondent introduced a wildfire surcharge through its homeowners multi-peril program  
8 (CDI File No. 15-4072) submitted on April 29, 2015 for both new and renewal business. CDI  
9 approved this filing on September 1, 2015.

10 4. Respondent subsequently implemented an increased wildfire surcharge based on an  
11 unapproved re-mapping of FireLine score to wildfire risk category. As a result of this  
12 unapproved change, CDI believes that Respondent violated the Commissioner's prior approval  
13 authority, which may have resulted in Respondent charging policyholders a higher rate than the  
14 rate approved on September 1, 2015 in CDI File No. 15-4072.

15 5. The Department is currently reviewing Respondent's Application to ascertain the extent  
16 of premium overcharges.

17 **SPECIFIC ALLEGATIONS**

18 **ALLEGATION NO. 1: VIOLATION OF INSURANCE CODE SECTIONS 1861.01(c)**  
19 **AND 1861.05(b)**

20 1. Insurance Code sections 1861.01(c) and 1861.05(b) require that an insurer obtain prior  
21 approval of insurance rates before using them.

22 2. Respondent violated the Commissioner's prior approval authority by failing to obtain the  
23 Commissioner's prior approval before changing the rate previously approved by the  
24 Commissioner on September 1, 2015 in CDI File No. 15-4072.

25 3. Respondent's failure to obtain prior approval of insurance rates prior to implementing  
26 them violated CIC sections 1861.01(c) and 1861.05(b) and may have resulted in rates that were  
27 excessive, inadequate, and/or unfairly discriminatory  
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1 4. All of these noncompliant acts are subject to monetary and other penalties pursuant to  
2 Insurance Code sections 1858.07, 1858.3, and 1859.1. The Department does not currently know  
3 the number of noncompliant acts. That will be determined at hearing.

4 **ALLEGATION NO. 2: VIOLATION OF INSURANCE CODE SECTION 1861.05(a)**  
5 **AND CCR SECTIONS 2360.3 AND 2360.4**

6 5. Insurance Code section 1861.05(a) and CCR sections 2360.3 and 2360.4 require that an  
7 insurer determine and offer to each insured the lowest premium for which the insured qualifies.

8 6. By failing to obtain the Commissioner's prior approval before changing the rate  
9 previously approved by the Commissioner on September 1, 2015 in CDI File No. 15-4072,  
10 Respondent may have charged rates that were excessive or unfairly discriminatory, and may  
11 have failed to determine and/or offer to each insured the lowest premium for which the insured  
12 qualified.

13 7. Respondent's charging of excessive or unfairly discriminatory rates and failure to  
14 determine and/or offer to each insured the lowest premium for which the insured qualified  
15 violated Insurance Code section 1861.05(a) and CCR sections 2360.3 and 2360.4.

16 8. All of these noncompliant acts are subject to monetary penalties pursuant to Insurance  
17 Code sections 1858.07, 1858.3, and 1859.1. The Department does not currently know the  
18 number of noncompliant acts. That will be determined at hearing.

19 **ALLEGATION NO. 3: VIOLATION OF CIC § 1861.05(a) AND CCR § 2360.2**

20 9. CIC section 1861.05(a) and CCR section 2360.2 require that an insurer adhere to filed and  
21 approved eligibility guidelines to determine the appropriate rating plan for each insured.

22 10. Respondent failed to adhere to filed eligibility guidelines approved on September 1, 2015  
23 in CDI File No. 15-4072.

24 11. Respondent's failure to adhere to filed and approved eligibility guidelines violated CIC  
25 section 1861.05(a) and CCR section 2360.2 and created a presumption that Respondent applied  
26 rates that were excessive, inadequate, and/or unfairly discriminatory.

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1 12. All of these noncompliant acts are subject to monetary penalties pursuant to CIC  
2 sections 1858.07, 1858.3, and 1859.1. The Department does not currently know the number of  
3 noncompliant acts. That will be determined at hearing.

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5 **RELIEF REQUESTED**

6 THE DEPARTMENT NOTIFIES RESPONDENT that, to the extent Respondent's  
7 unlawful practices are ongoing at the time of delivery of this Notice, Respondent must correct  
8 its noncompliance within ten (10) days of receipt of this Notice. For each allegation listed  
9 above, Respondent must provide proof of system-wide correction, or other response permitted  
10 by Insurance Code section 1858.1, within ten (10) days of receipt of this notice.

11 THE DEPARTMENT FURTHER NOTIFIES RESPONDENT that if Respondent fails  
12 to make an adequate or timely response, the Department will set a public hearing pursuant to  
13 Insurance Code sections 1858.2 and 1858.3. If, at the conclusion of the hearing, the  
14 Commissioner finds that the facts are as alleged above and constitute violations of the Insurance  
15 Code and/or Code of Regulations, as set forth, he may issue an order for payment of money  
16 penalties and any other corrective action as he may deem appropriate.

17 THE DEPARTMENT FURTHER NOTIFIES RESPONDENT that if the noncompliance  
18 referred to above constitutes willful acts involving the use of rates, rating plans, and/or rating  
19 systems in violation of Chapter 9, Part 2, Division 1 of the Insurance Code, the Department will  
20 seek civil penalties pursuant to Insurance Code section 1858.07 in the amount of \$10,000.00 for  
21 each act.

22 The Department may amend this Notice to set forth additional willful noncompliant acts  
23 in violation of Chapter 9, Part 2, Division 1, of the Insurance Code and to seek additional  
24 penalties in the amount of \$10,000.00 for each act.

25 THE DEPARTMENT FURTHER NOTIFIES RESPONDENT that, in the alternative, if  
26 the Commissioner does not find those acts involving the use of rates, rating plans, and/or rating  
27 systems in violation of Chapter 9, Part 2, Division 1 of the Insurance Code to be willful  
28 violations of that chapter, the Department will seek civil penalties in the amount of \$5,000.00

1 for each act pursuant to Insurance Code section 1858.07.

2 The Department may amend this Notice to set forth additional non-willful noncompliant  
3 acts in violation of Chapter 9, Part 2, Division 1, of the Insurance Code and seek additional  
4 penalties in the amount of \$5,000.00 for each act.

5 THE DEPARTMENT FURTHER NOTIFIES RESPONDENT that if the noncompliance  
6 referred to above constitutes a willful failure to comply with a final order of the Commissioner  
7 under Chapter 9, Part 2, Division 1 of the Insurance Code, the Department will seek civil  
8 penalties pursuant to Insurance Code section 1859.1 in the amount of \$250,000.00 for each act.

9 The Department may amend this Notice to set forth additional willful noncompliant acts  
10 in violation of Chapter 9, Part 2, Division 1, of the Insurance Code and to seek additional  
11 penalties in the amount of \$250,000.00 for each act.

12 THE DEPARTMENT FURTHER NOTIFIES RESPONDENT that, in the alternative, if  
13 the Commissioner does not find the noncompliance referred to above to constitute a willful  
14 failure to comply with a final order of the Commissioner under Chapter 9, Part 2, Division 1 of  
15 the Insurance Code, the Department will seek civil penalties pursuant to Insurance Code section  
16 1859.1 in the amount of \$50,000.00 for each act.

17 THE DEPARTMENT FURTHER NOTIFIES RESPONDENT that, in addition to  
18 penalties, the Commissioner shall pursuant to Insurance Code section 1858.4 suspend or revoke,  
19 in whole or in part, the license of any rating organization or the certificate of authority of any  
20 insurer with respect to the class or classes of insurance specified in that order, which fails to  
21 comply within the time limited by that order or any extension thereof which the commissioner  
22 may grant, with an order of the commissioner lawfully made by him or her pursuant to Section  
23 1858.3 and effective pursuant to Section 1858.6.

24 The Department may amend this Notice to set forth additional willful noncompliant acts  
25 in violation of Chapter 9, Part 2, Division 1, of the Insurance Code and to seek additional  
26 penalties in the amount of \$50,000.00 for each act.

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1 Dated: March 21, 2023

CALIFORNIA DEPARTMENT OF INSURANCE

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By *Nikki McKennedy*  
Nikki McKennedy  
*Attorneys for the California Department of Insurance*

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**PROOF OF SERVICE**  
**In the Matter of the Rates, Rating Plans or Rating Systems of**  
**Unitrin Auto and Home Insurance Company, Respondent.**  
**CDI File No. NC-2022-00002**

I am over the age of eighteen years and am not a party to the within action. I am an employee of the Department of Insurance, State of California, employed at 1901 Harrison Street, 4<sup>th</sup> Floor, Oakland, CA 94612. On March 21, 2023, I served the following document(s):

**NOTICE OF NONCOMPLIANCE**

on all persons named on the attached Service List, by the method of service indicated, as follows:

If **U.S. MAIL** is indicated, by placing on this date, true copies in sealed envelopes, addressed to each person indicated, in this office's facility for collection of outgoing items to be sent by mail, pursuant to Code of Civil Procedure Section 1013. I am familiar with this office's practice of collecting and processing documents placed for mailing by U.S. Mail. Under that practice, outgoing items are deposited, in the ordinary course of business, with the U.S. Postal Service on that same day, with postage fully prepaid, in the city and county of San Francisco, California.

If **OVERNIGHT SERVICE** is indicated, by placing on this date, true copies in sealed envelopes, addressed to each person indicated, in this office's facility for collection of outgoing items for overnight delivery, pursuant to Code of Civil Procedure Section 1013. I am familiar with this office's practice of collecting and processing documents placed for overnight delivery. Under that practice, outgoing items are deposited, in the ordinary course of business, with an authorized courier or a facility regularly maintained by one of the following overnight services in the city and county of San Francisco, California: Express Mail, UPS, Federal Express, or Golden State overnight service, with an active account number shown for payment.

If **FAX SERVICE** is indicated, by facsimile transmission this date to fax number stated for the person(s) so marked.

If **PERSONAL SERVICE** is indicated, by hand delivery this date.

If **INTRA-AGENCY MAIL** is indicated, by placing this date in a place designated for collection for delivery by Department of Insurance intra-agency mail.

If **EMAIL** is indicated, by electronic mail transmission this date to the email address(es) listed.

Executed this date at San Francisco, California. I declare under penalty of perjury under the laws of the State of California that the above is true and correct.

*Cecilia Padua*  

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Cecilia Padua

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**SERVICE LIST**  
**In the Matter of the Rates, Rating Plans or Rating Systems of**  
**Unitrin Auto and Home Insurance Company, Respondent.**  
**CDI File No. NC-2022-00002**

<u>Name/Address</u>	<u>Phone/Fax Numbers</u>	<u>Method of Service</u>
Chris Longeway, Esq. Vice President & General Counsel, P&C Kemper Corporate Services Megan Mulvihill, Esq. Attorney(s) for Respondent <b>UNITRIN AUTO AND HOME</b> <b>INSURANCE COMPANY</b> 200 E. Randolph St., Suite 3300 Chicago, IL 60601 <a href="mailto:clongeway@kemper.com">clongeway@kemper.com</a> <a href="mailto:mmulvihill@kemper.com">mmulvihill@kemper.com</a>	Tel: (312) 589-3298 C#: (773) 551-6825	Via EMAIL

**NON PARTY**

Kenneth Allen Deputy Commissioner Rate Regulation Branch <b>CALIFORNIA DEPARTMENT OF</b> <b>INSURANCE</b> 300 South Spring Street, 14 <sup>th</sup> Floor Los Angeles, CA 90013 <a href="mailto:Ken.allen@insurance.ca.gov">Ken.allen@insurance.ca.gov</a>	Tel: (213) 346-6783 Fax: (213) 897-9051	Via EMAIL
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