

STATE OF ARIZONA

APR 13 1994

DEPARTMENT OF INSURANCE

DEPARTMENT OF INSURANCE
By

In the Matter of

CLARENDON NATIONAL INSURANCE COMPANY

Respondent.

) Docket No. 8413

) CONSENT ORDER

_____)
A Market Conduct Examination of Respondent, Clarendon National Insurance Company ("Clarendon"), was conducted by Market Conduct Examiners ("the Examiners") for the Arizona Department of Insurance ("ADOI"). On the basis of the Report of Market Conduct Examination prepared by the Examiners, it is alleged that Respondent has violated provisions of the Arizona Revised Statutes, Title 20, including Sections 20-220, 20-385, 20-400.01, 20-443, 20-451, 20-461, 20-1631, 20-1677 and Arizona Administrative Code ("A.A.C.") R4-14-801. Respondent wishes to resolve this matter without formal adjudicative proceedings and hereby agrees to a Consent Order.

The Director of Insurance of the State of Arizona ("the Director") enters the following Findings of Fact and Conclusions of Law, which are neither admitted nor denied by Respondent, and the following Order.

FINDINGS OF FACT

1. Respondent is authorized to transact property and casualty insurance, pursuant to a Certificate of Authority issued by the Director.

2. The Examiners were authorized by the ADOI to conduct a market conduct examination of Respondent. The on-site examination was concluded as of July 16, 1993 and a Report of

1 Examination ("Report") was written. The Examiners reviewed open
2 and closed claim files from January 1, 1990 through April 30,
3 1993. Also, the Examiners reviewed underwriting, rating and
4 cancellation files from August 1, 1992 through June 1, 1993.

5 3. The on-site portion of a prior market conduct
6 examination of Respondent ("1990 examination") was completed as
7 of March 15, 1990, by Examiners for the ADOI. A related Consent
8 Order was filed by the Director on November 6, 1990. Respondent
9 was ordered, inter alia, to:

10 {C}ease and desist from failing to include the
11 taxes and fees necessary to purchase comparable
12 automobiles in its cash settlements of first party
13 automobile total loss claims...rate and issue
14 policies in accordance with filings made by it to the
15 ADOI....cancel and nonrenew automobile insurance
16 policies in accordance with A.R.S. §§ 20-1631 and
17 20-1632.

18 4. Respondent failed to file an annual list of its agents
19 specifying the kind of insurance transacted by each with the
20 Director by January 30, 1993.

21 5. Respondent applied incorrect territory codes on four
22 (4) personal automobile ("PA") policies.

23 6. Respondent applied an inconsistent policy term for
24 seventy-two (72) PA policies. Files reviewed by the Examiners
25 included policies that were issued for terms of from twenty-two
26 (22) to seventy-one (71) days. The term varied with the amount
27 of premium paid by the insured. Respondent's Arizona Rate Guide
28 under the heading "Policy Term" stated: "Coverage will be
written for a one (1) month policy period". The policy would be
sent to the insured without a warning that the policy term had
been changed from that which the insured had previously agreed
to.

1 7. Respondent charged policy set up fees other than
2 according to its filed rates and rules on thirty-three (33) PA
3 policies. On these policies an \$8.00 renewal fee was charged
4 rather than policy and set up fees in the amount of fifty
5 dollars (\$50.00) normally charged on new policies.

6 8. Respondent charged a \$10.00 set up fee rather than its
7 filed set up fee of \$20.00 on eighty-three (83) PA policies.

8 9. Respondent issued four (4) commercial auto and general
9 liability policies using unfiled rates.

10 10. Respondent failed to notify a commercial insured of
11 general liability file #00300908 of a premium increase sixty
12 (60) days before the expiration date of the policy.

13 11. Respondent cancelled ten (10) PA policies which had
14 been renewed for reasons other than those listed in A.R.S. §
15 20-1631(C).

16 12. Respondent failed to advise the insureds of their
17 right to complain to the Director on two (2) PA policy
18 cancellations, #2D151800 and #62D155785, as required by A.R.S.
19 § 20-1632(A)(1).

20 13. Respondent did not disclose to insureds that liens
21 would be paid and failed to pay partial loss settlements to four
22 (4) lienholders. The Examiners questioned why payment was not
23 made when there was a partial loss involving a vehicle with a
24 lien and were advised that payment would have been made if the
25 lienholders had presented the claims rather than the insureds,
26 whose claims had been denied due to unauthorized drivers.

27 14. Respondent failed to pay the full amount of sales tax
28 due on one (1) first-party automobile total loss claim,

1 #46-0229-25. An additional amount of \$149.25 was due this
2 claimant but was not paid.

3 CONCLUSIONS OF LAW

4 1. By failing to file a list of its agents specifying the
5 kind of insurance transacted by each by January 30 of each year,
6 Respondent violated A.R.S. § 20-297.

7 2. Respondent violated A.R.S. § 20-385(A) by applying
8 territory codes for PA policies and using unfiled rates on
9 commercial policies which were inconsistent with its filings,
10 thus issuing the policies using rates and rules other than those
11 filed with the ADOI. By so doing Respondent violated the Consent
12 Order of November 6, 1990 and A.R.S. § 20-220(A)(2).

13 3. Respondent violated A.R.S. § 20-400.01(A) by
14 developing premiums for commercial risks in a manner not
15 consistent with filings made by Respondent pursuant to A.R.S.
16 § 20-385(A).

17 4. By quoting premiums for PA policies at a price for a
18 specific term and issuing the policies at that price for a
19 shorter or longer term, where all necessary information for
20 determining rates was available to Respondent at the time the
21 quotations were made, Respondent violated A.R.S. § 20-385(A) and
22 misrepresented the policies to the insureds in violation of
23 A.R.S. § 20-443(1).

24 5. By not charging the exact filed policy set up fees to
25 all PA insureds, Respondent violated A.R.S. § 20-385(A) and
26 provided an inducement to 106 policyholders to purchase
27 insurance in violation of A.R.S. § 20-451.

28

1 6. By failing to send notice of premium increase at least
2 sixty (60) days before the expiration of a commercial policy,
3 Respondent violated A.R.S. § 20-1677(A).

4 7. Respondent violated A.R.S. § 20-1631(B) by cancelling
5 renewal policies for reasons other than those listed in A.R.S.
6 § 20-1631(B). By so doing Respondent violated the Consent Order
7 of November 6, 1990 and A.R.S. § 20-220(A)(2).

8 8. By failing to include notice of the insureds' right to
9 complain to the Director in the notices of cancellation sent to
10 the insureds, Respondent violated A.R.S. § 20-1632(A)(1). By so
11 doing Respondent violated the Consent Order of November 6, 1990
12 and A.R.S. § 20-220(A)(2).

13 9. By failing to disclose to first party claimants all
14 pertinent benefits, coverages or other provision of an insurance
15 policy or insurance contract under which a claim is presented
16 including the payment of lienholders, Respondent violated A.A.C.
17 R4-14-801(D)(1) and A.R.S. § 20-461(A)(1).

18 10. By failing to pay the full amount of sales taxes
19 required for the purchase of a comparable automobile to a first
20 party claimant in settlement of a first party automobile total
21 loss claim, Respondent violated A.C.C. Rule 4-14-801(H)(1)(b).
22 By so doing Respondent violated the Consent Order of November 6,
23 1990 and A.R.S. § 20-220(A)(2).

24 11. Grounds exist for the Director to suspend the
25 Certificate of Authority of the Respondent pursuant to A.R.S. §
26 20-220(A)(1).

27 12. Grounds exist for the entry of all other provisions of
28 the following Order.

1 i.cancelling PA policies, which have been in effect
2 for sixty (60) days or are renewal policies, for reasons other
3 than those allowed under A.R.S. § 20-1631(B);

4 j.failing to inform insureds of their right to
5 complain to the Director after cancellation;

6 k.failing to disclose all policy benefits to insureds
7 including payment of lienholders;

8 l.failing to pay the total amount of sales taxes and
9 license fees in settlements of automobile total loss claims.

10 2. Respondent shall develop and submit to ADOI, within
11 sixty (60) days of the filed date of this Order, written action
12 plans to:

13 a.ensure that all producers quote accurate premiums to
14 be in compliance with A.R.S. §§ 20-385 and 20-443.

15 b.ensure that personnel cancelling PA policies comply
16 with the provisions of A.R.S. § 20-1631.

17 3. Respondent shall file all rates for commercial
18 programs with the Director within sixty (60) days of the filed
19 date of this Order.

20 4. Respondent shall file within thirty (30) days of the
21 filed date of this Order all amendments to PA policy application
22 forms regarding "policy term".

23 5. Respondent shall send a letter of explanation,
24 acceptable to the ADOI, to the insured of Claim #46-0229-25 and
25 pay \$149.25 to the insured for unpaid sales taxes, plus interest
26 at the rate of ten (10%) percent per annum from the date of
27 claim payment until the date of payment. Respondent shall
28 provide to the ADOI the name and address of the party to whom

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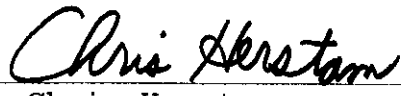
the payment was made, the base amount of the payment, the amount of interest paid and the date of payment within sixty (60) days of the filed date of this Order.

6. The ADOI shall be permitted, through authorized representatives, to verify Respondent has fully complied with all requirements of this Order, and the Director may separately order Respondent to comply.

6. Respondent shall pay a civil penalty of Fifteen Thousand (\$15,000.00) to the Director for remission to the State Treasurer for deposit in the State General Fund in accordance with A.R.S. §20-220(B). Said \$15,000.00 shall be provided to the Hearing Division of the ADOI on or before April 8, 1994.

7. The July 16, 1993 Report of Examination, to include any objections to the Report by Respondents, shall be filed with the ADOI.

DATED at Phoenix, Arizona this 13th day of April, 1994.



Chris Herstam
Director of Insurance

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CONSENT TO ORDER

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2 1. Respondent, Clarendon National Insurance Company has
3 reviewed the foregoing Consent Order.

4 2. Respondent is aware of its right to a hearing at which
5 hearing Respondent may be represented by counsel, present
6 evidence and cross-examine witnesses. Respondent has irrevocably
7 waived its right to such public hearing and to any court appeals
8 relating thereto.

9 3. Respondent admits the jurisdiction of the Director of
10 Insurance, State of Arizona, and consents to the entry of this
11 Consent Order.

12 4. Respondent states that no promise of any kind or
13 nature whatsoever was made to it to induce it to enter into this
14 Consent Order and that it has entered into this Consent Order
15 voluntarily.

16 5. Respondent acknowledges that the acceptance of this
17 Order by the Director of Insurance, State of Arizona, is
18 solely for the purpose of settling this matter against it and
19 does not preclude any other agency or officer of this state or
20 subdivision thereof from instituting other civil or criminal
21 proceedings as may be appropriate now or in the future.

22 6. Carl J. Hildner represents that as
23 Treasurer he is an officer of Respondent and that, as such,
24 he is authorized by it to enter into this Consent Order on its
25 behalf.

CLARENDON NATIONAL INSURANCE COMPANY

26 March 28, 1994

27 (Date)

28 By 

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COPY of the foregoing mailed/delivered
this 13th day of April , 1994, to:

Katrina Rogers
Chief Hearing Officer
*Saul R. Saulson
Supervisor
Examinations Section
Bernie Hill
Supervisor
Property and Casualty Section
Deloris E. Williamson
Assistant Director
Rates & Regulations Division
Jay Rubin
Assistant Director
Investigations Division
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