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DEPARTMENT OF INSURANCE
By

STATE OF ARIZONA
DEPARTMENT OF INSURANCE

In the Matter of

OHIO CASUALTY INSURANCE COMPANY
WEST AMERICAN INSURANCE COMPANY
AMERICAN FIRE INSURANCE COMPANY

Respondents.

Docket No. 8216
CONSENT ORDER

I. INTRODUCTION

A rate examination was made of the Ohio Casualty Group (collectively referred to as the "OHIO"): Ohio Casualty Insurance Company ("OC"), West American Insurance Company ("WA") and American Fire Insurance Company ("AF") by Rate Examiners for the Arizona Department of Insurance ("ADOI"). The ADOI concluded its on site examination of OHIO as of January 2, 1992.

On October 19, 1993, OHIO requested a hearing to challenge the ADOI's rate examination findings. The ADOI issued a hearing notice on October 21, 1993 in response to OHIO's request. On December 27, 1993, the ADOI issued an amended hearing notice. In the amended hearing notice, the ADOI alleged that OHIO violated the provisions of the Arizona Revised Statutes, Sections 20-357, 20-359, 20-383, 20-385, 20-400.01, 20-443, 20-448, 20-451, 20-1113, 20-1676, 20-1677, 20-2002, 23-906 and 23-961. OHIO now wishes to resolve this matter without further formal adjudicative proceedings.

The Arizona Director of Insurance (the "Director") enters the following Findings of Fact and Conclusions of Law, which are neither admitted nor denied by OHIO; and with OHIO's consent, the Director enters the following Consent Order.

II. FINDINGS OF FACT and CONCLUSIONS OF LAW

1. OHIO is authorized to transact property and casualty insurance, including Workers' Compensation ("WC"), in Arizona pursuant to Certificates of Authority issued by the Director.

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1 6. WA issued a WC policy and applied an experience modification different from the
2 NCCI modification, in violation of A.R.S. §§ 20-357(E) and 20-359(A).

3 7. WA issued four (4) WC policies and OC issued four (4) WC policies on which both
4 WA and OC violated A.R.S. §§ 20-357(E), 20-359(A), 20-400.01(A), and 20-400.01(B) by failing
5 to document consideration experience rating ("ER") to eligible risks.

6 8. WA issued five (5) WC policies and OC issued twenty-nine (29) WC policies without
7 obtaining the signed Employee's Notice to Reject Terms of the Arizona Workers' Compensation
8 Law Form for Officers and Directors, Form # ICA04-0113-78, in violation of A.R.S.
9 § 23-906(A).

10 9. OC issued two (2) WC policies where the filed rates were not used, in violation of
11 A.R.S. §§ 20-357(E), 20-359(A), 20-400.01(A) and 20-400.01(B).

12 10. OHIO issued a total of 43 policies in which the policy premium was financed with
13 Ocasco Budget, Inc., a finance company that was not registered with the Department, in violation
14 of A.R.S. §§ 20-220(A)(1) and 20-2002(A).

15 11. OHIO belongs to the Insurance Services Office ("ISO"), a property and casualty
16 (P&C) rating organization duly licensed by the Department to file rates on behalf of its members.
17 ISO files rates on behalf of OHIO, from which OHIO has filed various deviations. These rates
18 are included in references contained on this Notice to OHIO's "filings" and "filed rates and rules."

19 12. OHIO violated A.R.S. §§ 20-400.01(A) and 20-400.01(B) when:

20 a. WA issued twenty six (26) Commercial Package ("CP") policies, OC one (1)
21 automobile policy and AF issued two (2) General Liability ("GL") policies with undocumented
22 IRPM/schedule/experience credits/debits;

23 b. OHIO issued fifty-three (53) policies with inadequate documentation of IRPM
24 and schedule credits/debits and thus containing no documented link between the credit/debit to risk
25 characteristics; and

26

1 c. OC and WA failed to document changes in the application of IRPM and
2 schedule debits/credits to eight (8) policies.

3 13. WA issued nine (9) CP and three (3) CA policies with schedule credits/debits which
4 exceeded individual risk characteristic maximums, in violation of A.R.S. §§ 20-400.01(A) and
5 20-400.01(B).

6 14. WA and AF documented IRPM/Schedule/experience credits/debits on two (2) GL
7 policies and two (2) CP policies different from those credits/debits shown on the rating
8 worksheets. As a result, these insureds paid more than if WA and AF had adhered to their
9 filings, in violation of A.R.S. §§ 20-400.01(A) and 20-400.01(B).

10 15. OC and WA issued four (4) policies with IRPM and schedule credits/debits when the
11 account did not qualify for IRPM/schedule rating ("SR"), in violation of A.R.S. §§ 20-385(A) and
12 20-400.01(A). As a result, the insureds paid less than if OC and WA had adhered to their filings.

13 16. OC, WA and AF failed to document the consideration of SR to sixty-four (64) policies
14 eligible for SR, in violation of A.R.S. §§ 20-385(A) and 20-400.01(A).

15 17. OC, WA and AF issued eight (8) GL policies and WA issued seven (7) CP policies
16 in which schedule credits or debits were added together rather than applied consecutively as
17 required by their filings, in violation of A.R.S. §§ 20-385(A) and 20-400.01(A).

18 18. OHIO violated A.R.S. §§ 20-385(A) and 20-400.01(A) by applying rates not filed with
19 the Department by:

20 a. OHIO's issuance of eight (8) GL policies using unfiled (a) rates;

21 b. WA and AF's issuance of five (5) GL policies with "A" rates different than the
22 filed rates;

23 c. OC's issuance of seven (7) GL policies and AF's issuance of two (2) GL
24 policies using unfiled "A" rates;

25 d. WA and OC's issuance of nine (9) CP policies where unfiled "A" or (a) rates
26

1 were used. These policyholders paid less than they would have paid had OHIO adhered to their
2 filings;

3 e. Issuing seven (7) policies using unfiled rates for the Additional Insured
4 Endorsement; and

5 f. AF's issuance of one (1) GL policy and WA's issuance of two (2) GL policies
6 in which OHIO used a rate which had not been filed with the Department.

7 19. OC and WA failed to document the consideration of the applicability of ER
8 credits/debits to twenty-five (25) eligible policies, in violation of A.R.S. §§ 20-385(A) and
9 20-400.01(A).

10 20. AF applied ER to one (1) policy although the insured was not eligible for ER, in
11 violation of A.R.S. §§ 20-385(A) and 20-400.01(A).

12 21. WA issued two (2) CA policies without using actual manual premiums in the ER
13 calculations, in violation of A.R.S. §§ 20-385(A), 20-400.01(A) and 20-400.01(B).

14 22. OHIO issued nine (9) policies in which the policy files contain no documents to
15 support or explain reductions in premiums other than notations suggesting that premiums had been
16 reduced to meet the premium quotation an agent wanted or to meet a competing insurer's price,
17 in violation of A.R.S. §§ 20-383(A), 20-448(C) and 20-451. On this basis, OHIO issued: (a) one
18 (1) GL policies; (b) Five (5) CP policies; and (c) Three (3) CA policies.

19 23. OC and WA violated OC §§ 20-383(A) and 20-400.01(A) by:

20 a. OC failing to apply the correct filed Experience Rating Table on one (1) policy;

21 b. WA and OC did not apply the correct experience credit or debit from the ER
22 tables on eleven (11) CA policies; and.

23 c. WA issued one (1) GL policy with an experience credit different than the credit
24 calculated.

25 24. OC and WA violated OC §§ 20-385(A) and 20-400.01(A) when:
26

1 a. WA failed to use known or correct losses in the ER calculations on one (1) GL
2 policy; and

3 b. OC failed to apply the maximum loss table in experience rating calculations on
4 one (1) policy.

5 **25.** WA and OC failed to attach the filed Arizona Cancellation Endorsement to three (3)
6 GL policies and ninety-four (94) CA policies, in violation of A.R.S. §§ 20-443(1) and 20-1113(B).

7 **26.** AF issued one (1) GL policy and WA issued one (1) GL policy using pre-simplified
8 ISO forms, rating basis and rates after AF and WA adopted the Simplified Program, in violation
9 of A.R.S. §§ 20-385(A) and 20-400.01(A).

10 **27.** OC, WA and AF violated § 20-1677(A) when:

11 a. WA, AF and OC did not send the required sixty (60) day notice of policy
12 change or premium increase to the insureds on forty-six (46) GL policies; and

13 b. WA and OC failed to send notice of premium increase or policy change sixty
14 (60) days before to the policy expiration date on one hundred and six (106) CP policies.

15 **28.** WA and OC issued two (2) policies changing coverage between a non-deviated and
16 a deviated Company for premium increase or reduction purposes without documenting the
17 applicable policy file with the rationale for the change, in violation of A.R.S. §§ 20-385(A),
18 20-400.01(A) and 20-448(C):

19 a. One (1) GL Policy was changed from WA (a deviated Company) to OC (a
20 non-deviated Company); and

21 b. WA issued one (1) CP policy in changed companies for no apparent reason
22 except for policy pricing.

23 **29.** WA failed to use the correct increased limit factors on two (2) policies in violation
24 of A.R.S. §§ 20-385(A) and 20-400.01(A).

25 **30.** OHIO applied rates other than their filed rates in violation of A.R.S. §§ 20-385(A)

- 1 **37.** WA failed to apply its filed automobile classifications on thirteen (13) CA policies,
2 in violation of A.R.S. §§ 20-385(A), 20-400.01(A) and 20-400.01(C).
- 3 **38.** WA issued one (1) CA policy and OC issued two (2) CA policies which did not have
4 worksheet documentation in the file, in violation of A.R.S. §§ 20-385(A), 20-400.01(A) and
5 20-400.01(B). Two (2) of these policies did not have worksheets showing the Accident Record
6 Program (ARP) credits applied. The remaining policy did not have an experience or schedule
7 rating worksheet in the file.
- 8 **39.** OC issued one (1) CA policy and WA issued two (2) CA policies without applying
9 the filed deviation, in violation of A.R.S. §§ 20-385(A) and 20-400.01(A).
- 10 **40.** WA failed to apply fleet unit credits to thirty-five (35) CA policies, in violation of
11 A.R.S. §§ 20-385(A) and 20-400.01(A). According to WA's filing with the Department, the fleet
12 unit credit plan is mandatory.
- 13 **41.** WA issued three (3) CA policies and OC issued three (3) CA policies without applying
14 the filed non-fleet ARP credits, in violation of A.R.S. §§ 20-385(A) and 20-400.01(A).
- 15 **42.** WA issued five (5) CA policies in a deviated Company at non-deviated rates, in
16 violation of A.R.S. §§ 20-385(A) and 20-400.01(A).
- 17 **43.** OHIO selectively applied schedule rating to lines of coverage on two (2) policies in
18 violation of A.R.S. §§ 20-400.01(A) and 20-448(C).
- 19 **44.** WA issued one (1) policy for private passenger use but wrote the policy on
20 commercial policy forms, in violation of A.R.S. §§ 20-443(A) and 20-1113(B).
- 21 **45.** Grounds exist for the Director to impose a civil penalty upon OHIO pursuant to
22 A.R.S. §§ 20-220, 20-397 and 20-400.03; and for the Director to order OHIO to reimburse
23 insureds as set forth in the schedule attached as Exhibit "A"
- 24 **46.** Grounds exist for the entry of all other provisions of the following Consent Order.
25 . . .

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1 **III. ORDER**

2 OHIO having admitted the jurisdiction of the Director to enter this Consent Order, having
3 waived the conduct of a Hearing, and having consented to the entry of this Consent Order, and
4 there being no just reason for delay:

5 **IT IS HEREBY ORDERED THAT:**

6 1. OHIO shall cease and desist from:

7 a. using rating procedures which result in of certain insureds paying different
8 premiums than others having substantially like insuring, risk and exposure factors or expense
9 factors, in violation of A.R.S. § 20-448;

10 b. offering any reduction, rebate, discount, abatement, credit of premium as
11 an inducement to insurance, in violation of A.R.S. § 20-451;

12 c. classifying risks other than pursuant to filed rates and rules;

13 d. charging rates other than those filed with the ADOI;

14 e. failing to file rates and rules with the ADOI;

15 f. failing to develop and document premiums in accordance with experience
16 rating and schedule rating plans;

17 g. failing to attach filed endorsements to policies as required by their filings;

18 h. failing to send notices of general liability or commercial package premium
19 increase, policy change or policy nonrenewal at least sixty (60) days before the expiration date of
20 the coverage;

21 i. failing to file all forms referenced above in the Findings of Fact and
22 Conclusions of Law;

23 j. failing to use filed forms referenced above in the Findings of Fact and
24 Conclusions of Law;

25 k. failing to send notices of Workers' Compensation policy nonrenewal and
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1 cancellation to the insureds;

2 l. failing to notify the Arizona Industrial Commission of Workers'
3 Compensation policy cancellation or nonrenewal;

4 m. financing premiums in Arizona through companies owned, managed, or
5 controlled by OHIO but not authorized to do business in Arizona; and

6 n. failing to obtain "Employee Notice to Reject Terms of the Arizona Workers'
7 Compensation Law".

8 2. Pursuant to the written plan submitted by OHIO, a copy of which is attached and
9 incorporated into this Consent Order as Exhibit B, OHIO shall:

10 a. comply with the provisions of Exhibit B; and

11 b. provide ongoing training for all commercial underwriting personnel in all
12 provisions of the statutes cited in this Consent Order.

13 3. Within ninety (90) days of the filed date of this Consent Order, OHIO shall file with
14 the ADOI any rates, rules, deviations and forms used or intended to be used in Arizona which
15 have not been filed with the ADOI.

16 4. OHIO shall ensure that all Premium Finance Companies directly or indirectly
17 owned, managed, or controlled by OHIO which finance policies issued by OHIO to insureds in
18 Arizona are authorized to do business in Arizona.

19 5. OHIO shall reimburse the sum of \$14,314.00 to policyholders for premium
20 overcharges, plus interest at the rate of ten percent (10%) per annum calculated from the date paid
21 by the insured to the date of repayment to the insured as shown on the schedule attached as
22 Exhibit "A". All reimbursements shall be accompanied by a letter acceptable to the Director,
23 indicating why the refund is being sent. A list of reimbursements, giving the name of each
24 policyholder reimbursed, the amount of the overcharge, the amount of interest paid, and the date
25 of payment shall be filed with the ADOI within sixty (60) days of the filed date of this Consent
26

1 Order.

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

5 7. OHIO shall pay a civil penalty of Forty Thousand Dollars (\$40,000.00) to the
6 Director for remission to the State Treasurer for deposit in the State General Fund in accordance
7 with A.R.S. § 20-220(B), which shall be provided to the Hearing Division of the ADOI by April
8 22, 1994.

9 8. The January 2, 1992 Report of Examination, to include any objections to the Report
10 by Respondents, shall be filed with the ADOI.

11 DATED at Phoenix, Arizona this 26th day of April, 1994.

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Chris Herstam
Director of Insurance

16 **IV. CONSENT TO ORDER**

17 1. OHIO (Ohio Casualty Insurance Company, West American Insurance Company and
18 American Fire Insurance Company) has reviewed this Consent Order.

19 2. OHIO is aware that OHIO has the right to a hearing at which hearing OHIO may
20 be represented by counsel, present evidence and cross-examine witnesses. OHIO irrevocably
21 waives the right to a public hearing and to any appeals relating to this matter.

22 3. OHIO admits the jurisdiction of the Director of Insurance, State of Arizona, and
23 consents to the entry of this Consent Order.

24 4. OHIO states that this Consent Order has been entered into voluntarily, and that no
25 promise of any kind or nature whatsoever has been made to induce OHIO to enter into this
26


1 Consent Order.

2 5. OHIO acknowledges that the acceptance of this Consent Order by the Director of
3 Insurance, State of Arizona, is solely for the purpose of settling this matter against OHIO and does
4 not preclude any other agency or officer of this state or subdivision thereof from instituting other
5 civil or criminal proceedings as may be appropriate now or in the future.

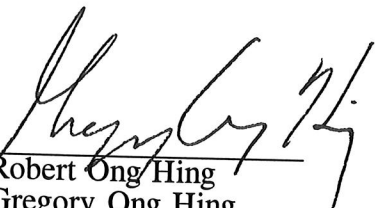
6 6. Lauren N. Patch represents that as President & CEO he is an officer of
7 Company, Ohio Casualty Insurance Company, West America Insurance Company and American
8 Fire Insurance Company and that, as such, he is authorized by them to enter into this Consent
9 Order on behalf of OHIO.

10 OHIO CASUALTY INSURANCE COMPANY
11 WEST AMERICAN INSURANCE COMPANY
12 AMERICAN FIRE INSURANCE COMPANY

13 April 19, 1994
14 (Date)

15 By 
16 Lauren N. Patch

17 Approved as to form:

18 

19 Robert Ong Hing
20 Gregory Ong Hing
21 Stockton & Hing
22 Attorneys for Ohio Casualty Insurance
23 Company, West American Insurance
24 Company, American Fire Insurance Company

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OHIO CASUALTY GROUP-OVERCHARGES TO BE REIMBURSED

<u>POLICY #</u>	<u>EFF. DATE</u>	<u>COMPANY</u>	<u>OVERCHARGE</u>
BNW31-8890	10/7/90	WA	\$ 17.00
BNW(92)5005-1304	5/1/91	WA	\$ 73.00
BZW(90)50051516	8/11/89	WA	\$172.00
BZW(91)50051516	8/11/90	WA	\$193.00
BZW(92)50051516	8/11/91	WA	\$193.00
BZW(88)304504	1/1/87	WA	\$ 15.00
BZW(89)304504	1/1/88	WA	\$ 16.00
XAW0031-2806	3/29/88	WA	\$154.00
BKW(91)50047149	5/10/90	WA	\$286.00
BLW(88)5006-4623	11/6/87	WA	\$424.00
BLW(90)5002-1717	4/25/89	WA	\$340.00
BLW(88)30-4627	2/28/87	WA	\$106.00
BLW(92)5006-4623	11/6/91	WA	\$422.00
BAW5037-4160	4/11/90	WA	\$171.00
BAW5023-0133	7/31/90	WA	\$1,223.00
BKW(89)50088426	11/20/88	WA	\$703.00
BKW(90)5005-1435	8/1/89	WA	\$293.00
	8/1/90	WA	(TOTAL 3
	8/1/91	WA	YEARS)
BKW(90)5004-7149	5/10/90	WA	\$381.00
	5/10/91	WA	(TOTAL 2 YEARS)
BKW(88)304504	11/1/87	WA	\$ 15.00
XLW(88)34-1901	5/12/87	WA	\$1,010.00
BHA(89)5002-1618	2/25/88	AF	\$ 75.00
BLA(89)0035-1328	11/17/89	AF	\$ 90.00
BHA(90)5009-9105	10/31/89	AF	\$208.00
BKO(88)50033133	7/18/87	OC	\$ 28.00
BA00034-2026	6/14/89	OC	\$100.00
ACO0961-0507	11/28/87	OC	\$ 76.00
XNO33-5608	1/7/88	OC	\$ 84.00
BLO(91)5008-8319	9/14/90	OC	\$117.00
BLO(92)5046-7910	6/8/91	OC	\$1,011.00
BKO(90)50029134	3/23/89	OC	\$ 99.00
BKO(90)50051423	8/4/89	OC	\$6,021.00
	8/4/90	OC	(TOTAL 3
	8/4/91	OC	YEARS)
BHO(89)35-1332	9/15/88	OC	\$198.00
TOTAL			\$14,314.00

OHIO CASUALTY GROUP

PROPOSED ACTION PLAN

A. An internal audit team within the Phoenix Branch Office consisting of the Branch Office Manager, one Underwriting Supervisor and one Senior Rater will be established to review both new business and renewal business to ensure that:

1. Only rates, rating plans and rating rules filed with the ADOI have been used.
2. That the facts to support the use of any credits/debits are documented in detail.
3. The NCCI worksheet is completed and dated for Work Comp policies and includes documentation of risk characteristics supporting the use of any credits/debits.
4. Filed rates and experience rating plans are applied consistently according to filed plans between insureds having like insuring risk, exposure and expense factors.

From the Company's monthly Premium Statements a random sample of both new and renewal business will be chosen for review.

Written results will be kept of audit findings.

B. A regularly scheduled Branch Office meeting will be devoted to a review of the Arizona Statutes cited in this Order, including adherence to Experience Rating and Schedule Rating plans and application of Experience Rating and Schedule Rating to all eligible insureds. This training shall include training in the documentation of policy files with information sufficient for the Examiners to verify how premiums were determined.

This will be reinforced by periodic (6 months) review of various Arizona Statutes cited. Further, the Branch Office Underwriting Staff has been furnished with an up to date version of the Arizona Insurance Laws for their daily reference.

1 Copy of the foregoing mailed/delivered
2 this 26th day of April, 1994, to:

3 Gay Ann Williams, Deputy Director
4 Charles R. Cohen, Executive Assistant Director
5 Deloris E. Williamson, Assistant Director
6 Saul Saulson, Examination Supervisor
7 Lyn Sloan, Examiner
8 Department of Insurance
9 2910 N. 44th Street, Suite 210
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20 
21 Chris Crawford