

JUL 10 1997

STATE OF ARIZONA
DEPARTMENT OF INSURANCE

DEPT. OF INSURANCE
BY

In the Matter of)	Docket No. 97A-120-INS
GREAT STATES INSURANCE COMPANY)	CONSENT ORDER
Respondent.)	

Examiners for the Arizona Department of Insurance (the "Department") conducted a market conduct examination of Great States Insurance Company ("Great States"), NAIC #33529. The Report of Examination of the Market Conduct Affairs of Great States (the "Report") alleges that Respondents have violated A.R.S. §§ 20-357, 20-409.01, 23-1041, 23-1061, and 23-1062.

Great States wishes to resolve this matter without formal proceedings, admits that the following Findings of Fact are true, and consents to the entry of the following Conclusions of Law and Order.

FINDINGS OF FACT

1. Great States is authorized to casualty insurance in Arizona, including workers' compensation, pursuant to a Certificate of Authority issued by the Director.

2. The Examiners were authorized by the Director to conduct a market conduct examination of Great States. The on-site portion of the examination was concluded on May 5, 1995.

3. Great States is a member of the National Council on Compensation Insurance, a duly licensed rating organization in Arizona, which files rates and rules with the Department on

1 behalf of its members. Workers' compensation ("WC") insurers
2 are required by statute to belong to a WC rating organization
3 and to adhere to its rates unless the insurer has filed
4 deviations from these rates. Great States has not filed a
5 deviation. Any reference in this Order to Great States' filings
6 or filed rates and rules includes rates and rules filed with the
7 Department by the NCCI on Great States' behalf.

8 4. The NCCI's Schedule Rating Plan ("Plan") was approved
9 for use in Arizona July 8, 1982 by the Director. Effective
10 October 1, 1988, the Plan was amended to require insurers to
11 include within each WC policy file a completed schedule rating
12 worksheet ("worksheet") and a loss prevention survey. Great
13 States adopted the Plan effective December 9, 1991.

14 5. The Examiners reviewed 77 WC policies with effective
15 dates from January 1, 1992 through January 1, 1995. Of these,
16 the Examiners issued a total of 118 criticisms on 41 policy
17 files (53% of those reviewed) because Great States:

18 a. failed to include the interstate/intrastate risk
19 identification number ("Risk ID #") on the policy information
20 page of four policies, as required by its filed rules.

21 b. failed to acquire and include the Federal
22 Employers' Identification Number ("FEIN") on the policy
23 information page of all 77 policies reviewed, as required by its
24 filed rules.

25 c. failed to send copies of the completed worksheets
26 for 14 policies to the NCCI.

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1 d. determined the premiums of two policies other
2 than on the basis of worksheets based on all evidence contained
3 in the policy files.

4 e. failed to include the anniversary rating date
5 ("ARD") endorsement, split rates, and split E-mods on three
6 policies which had ARD's other than the policy inception date.
7 As a result, the final audit premiums due were not the final
8 audit premiums which should have been charged by Great States.

9 f. applied an experience modification factor
10 ("E-mod") other than the final E-mod promulgated by the NCCI in
11 determining the premiums of nine policies. As a result, two
12 insureds were overcharged by a total of \$749.

13 g. failed to retroactively apply the E-Mod received
14 late in the policy term to seven policy files of one combinable
15 entity. As a result, the insureds were undercharged by a total
16 of \$3,093.

17 h. Applied "pro-rata" expense constants on two
18 policies of less than 12 months duration. As a result, these
19 insureds were undercharged by a total of \$90.

20 8. The Examiners reviewed 141 closed WC claim files,
21 including 62 "Time Lost" files, with loss dates from January 2,
22 1992 through October 23, 1994. The Examiners issued a total of
23 22 criticisms on 8 of the "Time Lost" files because Great States:

24 a. paid the first installment of compensation on six
25 claims more than 21 days after written notification of the claim
26 by the Industrial Commission of Arizona ("ICA").

27 b. failed to promptly determine the average monthly
28 wages of four claimants.

1 c. failed to pay compensation, retroactive to the
2 first dates of entitlement, to three claimants: Claim
3 #60001027, \$66.42; Claim #60000491, \$25.67; and Claim
4 #60000267; \$19.04.

5 d. failed to pay five claims immediately, which were
6 not denied within 21 days of notice from the ICA.

7 e. failed to pay compensation to four claimants
8 based on an average monthly wage of \$200 per month until their
9 average monthly wages were determined.

10 CONCLUSIONS OF LAW

11 1. By making adjustments to full manual premiums
12 developed for workers' compensation policies without adequate
13 justification for the adjustments, Great States violated A.R.S.
14 § 20-400.01(B). By calculating workers' compensation policy
15 premiums on the basis of these adjustments, Great States
16 violated A.R.S. § 20-400.01(A).

17 2. By failing to include Risk ID #'s on policy
18 information pages, by failing to acquire and include FEIN's on
19 policy information pages, and by failing to send copies of
20 completed worksheets to the NCCI, Great States violated A.R.S. §
21 20-357(E).

22 3. By calculating workers' compensation policy premiums
23 other than on the basis of its rates and rules filed pursuant to
24 A.R.S. § 20-357(A), Great States violated A.R.S. § 20-400.01(A).

25 4. By failing to maintain records of the development of
26 rates on all policies to enable the Examiners to determine
27 whether filed rates were used in determining policy premiums,
28 Great States violated A.R.S. § 20-400.01(D).

1 c. issuing WC policies at premiums other than those
2 based upon filed rates and rules.

3 d. failing to pay the first installment of
4 compensation on claims within 21 days after written notification
5 of the claim by the ICA.

6 e. failing to pay compensation to claimants in the
7 amount of the "average monthly wage" at time of injury,
8 retroactive to the first date of entitlement.

9 f. failing to pay claims immediately, which were not
10 denied within 21 days of notice from the ICA.

11 g. failing to pay compensation based upon an average
12 monthly wage of \$200 per month until average monthly wages were
13 determined.

14 2. Within 60 days of the filed date of this Order, Great
15 States shall submit a written action plan to the Director to
16 monitor Arizona issued policies and provide ongoing training to
17 its employees to ensure that its personnel transact the business
18 of insurance and adjust and pay claims in accordance with all
19 NCCI rules and filings, including its Schedule Rating Plan, and
20 Arizona laws and regulations. The Action Plans shall address,
21 but not limited to, the following:

22 a. that all risks are considered for application of
23 the Plan;

24 b. that a schedule rating worksheet is completed for
25 each eligible risk, for each policy term, and that a copy of
26 each is submitted to the NCCI.

27 c. that the Risk ID# and the FEIN be included on
28 each policy information page.

1 d. that final E-Mods be obtained from the NCCI and
2 applied to all eligible risks.

3 e. that correct rates (including expense constants)
4 be applied to determine final audited premiums.

5 f. that claimants' compensation be determined, and
6 claims paid, within the time limits provided by law.

7 3. Within 60 days of the filed date of this Order, Great
8 States shall prepare schedule rating worksheets for the policies
9 listed in Exhibit A of this Order and shall send copies of the
10 worksheet to the NCCI and to the Market Conduct Examinations
11 Division of the Department.

12 a. re-calculate the final audit premium of Policy
13 #GWG600114 (1994/1994) to include the ARD of September 1, apply
14 split rates and E-mods accordingly, and determine the amount of
15 premium which should have been paid. If the amounts of premium
16 determined are less than the amounts paid by the insureds, Great
17 States shall refund the amounts of overcharge to the insureds
18 with interest at the rate of ten percent per annum from the date
19 the amount overcharged was paid.

20 b. endorse the ARD of October 1 to Policies
21 #GWG600401 and CWG600402, apply split rates and E-Mods
22 accordingly, and determine the amount of premium which should
23 have been due. If the amounts of premium determined are less
24 than the amounts paid by the insureds, Great States shall refund
25 the amounts of overcharge to the insureds with interest at the
26 rate of ten percent per annum from the date the amount
27 overcharged was paid.

1 c. obtain from the NCCI copies of final E-mods for
2 the policies listed in Exhibit B of this Order, apply correct
3 rates (including expense constant), revise final audits and bill
4 premiums accordingly. If the amounts of premium determined are
5 less than the amounts paid by the insureds, Great States shall
6 refund the amounts of overcharge to the insureds with interest
7 at the rate of ten percent per annum from the date the amount
8 overcharged was paid.

9 d. send copies of the revised final audit billings
10 for these policies and revised statistical reports to the NCCI
11 and the Department.

12 e. each of the above payments shall be accompanied
13 by a letter acceptable to the Director. A list of payments, and
14 a detailed report of the re-calculations, giving the name and
15 address of each party, the amount of each payment, the amount
16 that should have been charged, the amount of overcharge or
17 undercharge, the amount of interest paid, and the date of
18 payment, shall be furnished to the Market Conduct Examination
19 Division of the Department within 75 days of the filed date of
20 this Order.

21 4. Within 60 days of the filed date of this Order, Great
22 States shall pay \$66.42 to the claimant of Claim #60001027,
23 \$25.67 to the claimant of Claim #60000491, and \$19.04 to the
24 claimant of Claim #60000267, representing additional amounts
25 which would have been paid these claimants had the claims been
26 paid retroactive to the claimants' first dates of entitlement.
27 All payments shall be accompanied by a letter acceptable to the
28 Director. A list of payments, and a report giving the name and

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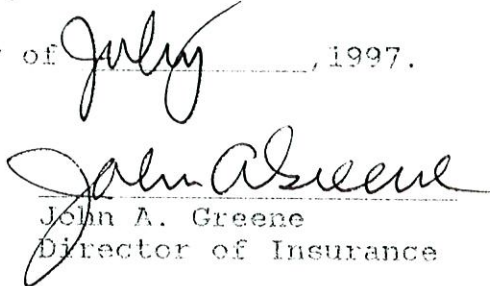
address of each party, the amount of each payment, and the date of payment, shall be furnished to the Market Conduct Examination Division of the Department within 75 days of the filed date of this Order.

5. The Department shall be permitted, through authorized representatives, to verify that Great States has fully complied with all requirements of this Order.

6. Great States shall pay a civil penalty of \$6,000 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 \$6,000 shall be provided to the Market Conduct Examination Division of the Department before this Order is filed with the Director.

7. The May 5, 1995 Report of Examination, and the letter of response filed by Great States, shall be filed with the Department after issuance of this Order.

DATED at Phoenix, Arizona this 9 day of July, 1997.


John A. Greene
Director of Insurance

CONSENT TO ORDER

1
2 1. Respondent, Great States Insurance Company, has
3 reviewed the attached Consent Order.

4 2. Respondent admits the jurisdiction of the Director of
5 Insurance, State of Arizona, admits the foregoing Findings of
6 Fact, and consents to the entry of the Conclusions of Law and
7 Order.

8 3. Respondent is aware of its right to a hearing, at
9 which it may be represented by counsel, present evidence and
10 cross-examine witnesses. Respondent irrevocably waives its
11 right to such notice and hearing and to any court appeals
12 related to this Order.

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

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

22 6. James Edward Copeland, Jr. _____, who holds the office
23 of Vice President _____ of Great States Insurance
24 Company, is authorized to enter into this Order for it and on
25 its behalf.

26 June 26, 1997

27 _____
28 (Date)

GREAT STATES INSURANCE COMPANY

By _____



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SCHEDULE RATING WORKSHEETS NEEDED

POLICY NUMBER

- GWG600179
- GWG600210
- GWG600377
- GWG600378
- GWG600389
- GWG600401
- GWG600402
- GWP600409
- GWG600410
- GWG600462
- GWG600485
- GWG600486
- GWG600487
- GWG600488

EXHIBIT A

POLICIES TO BE RE-RATED USING NCCI FINAL E-MODES

POLICY NUMBER

- GWP600011
- GWP600037
- GWP600038
- GWP600039
- GWP600040
- GWP600041
- GWP600042
- GWP600062
- CWR600048
- GWG600377
- GWG600378

EXHIBIT B

1 COPY of the foregoing mailed/delivered
2 this 10th day of July , 1997, to:

3 Charles R. Cohen
4 Deputy Director
5 Gregory Y. Harris
6 Executive Assistant Director
7 Erin H. Klug
8 Chief Market Conduct Examiner
9 Mary Butterfield
10 Assistant Director
11 Life & Health Division
12 Deloris E. Williamson
13 Assistant Director
14 Rates & Regulations Division
15 Gary Torticill
16 Assistant Director and Chief Financial Examiner
17 Corporate & Financial Affairs Division
18 Cathy O'Neil
19 Assistant Director
20 Consumer Services Division
21 John Gagne
22 Assistant Director
23 Investigations Division
24 Terry L. Cooper
25 Fraud Unit Chief

26 DEPARTMENT OF INSURANCE
27 2910 North 44th Street, Suite 210
28 Phoenix, AZ 85018

James E. Copeland, Jr.
Vice President, Southwest Region
P.O. Box 61330
Phoenix, Arizona 85082-1330

Curry Burton