

JAN 24 2012

DEPT OF INSURANCE  
BY *[Signature]*

STATE OF ARIZONA  
DEPARTMENT OF INSURANCE

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In the Matter of:	)	
<b>ACCIDENT FUND INSURANCE</b>	)	<b>No. 12A-011-INS</b>
<b>COMPANY OF AMERICA</b>	)	
<b>(NAIC NO. 10166)</b>	)	
	)	<b>CONSENT ORDER</b>
	)	
	)	
Respondent.	)	

The State of Arizona Department of Insurance ("Department") received evidence that **Accident Fund Insurance Company of America** violated provisions of Title 20, Arizona Revised Statutes. Respondent wishes to resolve this matter without the commencement of formal proceedings, and admits the following Findings of Fact are true and consents to entry of the following Conclusions of Law and Order.

**FINDINGS OF FACT**

1. Accident Fund Insurance Company of America ("Respondent") is a casualty insurer. Respondent presently holds an Arizona certificate of authority to transact casualty insurance with workers' compensation insurance.
2. Every insurer writing workers' compensation insurance in Arizona must be a member of a rating organization. A.R.S. §20-363(D). Respondent is a member of the National Council on Compensation Insurance ("NCCI"), a licensed rating organization in Arizona. The NCCI files with the Director, on behalf of Respondent and its other member insurers a workers' compensation rating system the insurers use to determine workers' compensation premiums. Insurers must adhere to the rating organization's filed rating system. The exception to this is that an insurer may file with the Director a uniform positive

1 or negative deviation the insurer will apply to premiums produced by the rating  
2 organization's filed rating system. A.R.S. §20-359(A).

3 3. Deviations must be on file with the Director for 30 days before they become  
4 effective and are effective for a period of only one year from their effective date unless  
5 terminated sooner on the order of or with the approval of the Director.

6 4. In 2010, Respondent filed with the Director a uniform deviation of -30%  
7 pursuant to A.R.S. §20-359(A) (1). The deviation expired at midnight on December 31,  
8 2010, and Respondent did not make a filing with the Director to use a workers'  
9 compensation deviation prior to the expiration of the previous filing.

10 4. Respondent voluntarily disclosed that from January 1, 2011 through  
11 November 1, 2011, it wrote 108 policies with a -30% deviation that was not filed with the  
12 Director. A list of the 108 referenced policies is attached as Exhibit A. Those 108 policies  
13 account for a total of \$618,644 in final premium and an undercharge to each insured.

#### 14 CONCLUSIONS OF LAW

15 1. The Director has jurisdiction over this matter.

16 2. Respondent's conduct, as alleged above, constitutes making or issuing a  
17 contract or policy except in accordance with the ratings filed on its behalf by the rating  
18 NCCI after Respondent's -30% deviation expired December 31, 2010 within the meaning of  
19 A.R.S. §20-357(E)

20 3. Grounds exist for the Director to suspend or revoke Respondent's certificate of  
21 authority and, in addition to or instead of any suspension or revocation, the Director may  
22 impose a civil penalty of not more than \$1000.00 for each unintentional failure or violation,  
23 up to an aggregate civil penalty of \$10,000.00, or a civil penalty of not more than \$5,000.00  
24 for each intentional failure or violation, up to an aggregate penalty of \$50,000.00, within the  
25 meaning of A.R.S. §§ 20-220(A) and (B).  
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1 ORDER

2 IT IS HEREBY ORDERED THAT

3 1. Respondent shall cease and desist from applying a deviation to premiums  
4 produced by the NCCI's filed workers' compensation rating system without an effective  
5 deviation on file with the Director.

6 2. Upon renewal of the 108 policies listed in Exhibit A, Respondent shall develop  
7 the premiums of these policies in accordance with the deviation filing then on file with the  
8 Director or adhere without deviation to the NCCI rating system.

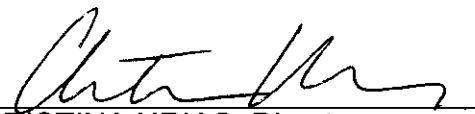
9 3. Respondent shall take all necessary steps to ensure that a procedure is in  
10 place to:

11 a) notify its personnel responsible for issuing workers' compensation policies in  
12 Arizona of the deviation expiration date to prevent policies from being rated at an expired  
13 deviation's premium levels; and

14 b) submit the required filing to the Director prior to the deviation expiration date  
15 if Respondent wishes to continue the deviation without interruption.

16 4. Respondent shall immediately pay to the Department a civil money penalty in  
17 the amount of \$5000.00 for deposit in the general fund.

18 DATED AND EFFECTIVE this 23<sup>rd</sup> day of January, 2012.

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20 CHRISTINA URIAS, Director  
21 Arizona Department of Insurance  
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## CONSENT TO ORDER

1. Respondent has reviewed the foregoing Findings of Fact, Conclusions of Law and Order.

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

3. Respondent is aware of its right to notice and a hearing at which it may be represented by counsel, present evidence and examine witnesses. Respondent irrevocably waives its right to such notice and hearing and to any court appeals relating to this Consent Order.

4. Respondent states that no promise of any kind or nature whatsoever, except as expressly contained in this Consent Order, was made to it to induce it to enter into this Consent Order and that it has entered into this Consent Order voluntarily.

5. Respondent acknowledges that the acceptance of this Consent Order by the Director is solely to settle this matter against it and does not preclude any other agency, officer, or subdivision of this state including the Department from instituting civil or criminal proceedings as may be appropriate now or in the future not related to this matter.

6. Respondent acknowledges that this Consent Order is an administrative action that the Department will report to the National Association of Insurance Commissioners (NAIC). Respondent further acknowledges that it must report this administrative action to any and all states in which it holds an insurance license and must disclose this administrative action on any license application.

