

1 At the hearing approximately twenty-two of the
2 forty-five members of the public in attendance chose to make oral
3 comment and/or present written comment. Some of the attendees
4 represented associations including the American Agents Alliance
5 of Arizona, Independent Insurance Agents and Brokers of Arizona,
6 Surplus Lines Association of Arizona, National Association of
7 Independent Insurers, and United Farmers Agents Association.

8 After reviewing the testimony and the written comments
9 which he received, the Director makes the following findings of
10 fact:

11 1. Arizona law requires insurers to file with the
12 Department of Insurance ("DOI") all rates and rate supplementary
13 information. A.R.S. §20-385(A).

14 2. Supplementary rate information includes any manual
15 or plan of rates, statistical plan, classification, rating
16 schedule, minimum premium, policy fee, rating rule, rate related
17 underwriting rule, and any other information used by an insurer
18 in making rates. A.R.S. §20-381.

19 3. "Premium" is defined as consideration for
20 insurance by whatever name called. A.R.S. §20-1103.

21 4. Any payment made in connection with contracts of
22 insurance relating to solicitation and inducement, preliminary
23 negotiations, effectuation of a contract of insurance, or the
24 transaction of matters subsequent to the effectuation of an
25 insurance contract, and matters arising out of the contract
26 constitute the payment of premium in consideration for insurance.

27 5. A rate filing is composed of two specific
28 elements: losses and expenses. Every rate filing made with DOI

1 on personal auto has both of these elements. Rate filings
2 submitted to the DOI by insurers contain the insurer's expenses,
3 including the amount of the insurer's general expenses; its
4 acquisition, field supervision and collection expenses; and all
5 commission expenses, whether paid to agents, managing general
6 agents, independent agents or any other producer involved in the
7 marketing of automobile insurance.

8 6. The National Association of Insurance
9 Commissioners Handbook ("Handbook") establishes the rules to be
10 used by insurers in preparing annual statements, and prescribes
11 the expense data to justify expense element portions of the rate
12 filing.

13 7. Part 6, Subsection III of the Handbook
14 specifically provides that acquisition, field supervision and
15 collection expenses include:

- 16 a. Soliciting and procuring business and developing
17 the sales field.
- 18 b. Writing policy contracts and checking and directly
19 supervising the work of policy writers.
- 20 c. Receiving and paying premiums and commissions;
21 entering into or setting up records of premiums and commissions
22 receivable and payable for collection purposes; balancing and
23 maintaining these records; corresponding with and visiting
24 insureds for the purpose of collecting premiums or adjusting the
25 differences; checking current accounts from producers; auditing
26 records of delinquent agents and the services of collection
27 agencies.

1 d. Compiling and distributing expiration lists,
2 notices of premiums due, lists of premiums or premium balances
3 receivable and payable, contingent and other commission
4 statements, production statements for acquisition and field
5 supervision purposes, and any similar data.

6 e. Maintaining good will of insureds and producers;
7 activities of field personnel; contact work related to
8 acquisition; making contracts and agreements with producers; and
9 activities in connection with agency appointments and
10 replacements.

11 f. Rendering services to agents and other producers
12 such as providing office space, personnel, telephone, and
13 obtaining agents' licenses.

14 g. Advertising and publicity of every nature related
15 to acquisition, field supervision and collection.

16 h. Miscellaneous activities of agents, brokers and
17 producers other than employees when performed by them:
18 inspections; quoting premiums; signing policies; examining and
19 mailing policies, applications and daily reports; compiling
20 figures for current account; correspondence and sundry
21 bookkeeping and accounting all related to these miscellaneous
22 activities.

23 i. Other activities reasonably attributable to those
24 operations such as keeping general and detailed records; paying
25 and receiving, general clerical, secretarial, office maintenance,
26 supervisory and executive work; and handling personnel, supplies
27 and mail.

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1 8. The Handbook also prescribes the elements to be
2 included in the commission expense category that the insurer must
3 document in order to allocate to expense groups other than
4 acquisition, and the allocations must be justified by detailed
5 statements and data calculated and prepared in accordance with
6 Handbook rules. Further, the Handbook makes no distinction
7 between the "non-standard", "standard", or "preferred" automobile
8 insurance markets with respect to the expense elements to be
9 taken into account when making a statutorily prescribed rate
10 filing.

11 9. Rates must be adequate to cover expenses related
12 to the transaction of insurance, including commission expenses.
13 If commissions are inadequate to cover the costs of marketing
14 nonstandard, standard, or preferred private passenger automobile
15 policies, then the rate filing by the insurer is inadequate.

16 10. If a producer must impose additional charges for
17 the cost of services already encompassed in the premium, the
18 insurer's rates may not be adequate as required by law. The
19 appropriate response to such situations is for the insurer to
20 adjust premiums or commissions and not for producers to add
21 service charges.

22 11. Permitting producers to add charges in addition to
23 those encompassed in a rate filing may result in the collection
24 of an unfiled premium or in unfair discrimination in violation of
25 law, because the premiums for identical insurance coverages may
26 differ, depending only upon variations in the additional premium
27 in the form of fees charged by different producers selling the
28 identical coverage for the same insurer.

1 Based upon the foregoing facts, the Director finds that
2 the following services are customarily provided in the
3 transaction of automobile insurance in Arizona and for which a
4 fee or service charge in addition to the premium may not be
5 charged. The list is not intended to include all services which
6 may be customarily provided, but is provided as examples for
7 guidance.

- 8 1. Ordering an MVR.
- 9 2. Reinstating an insurance policy.
- 10 3. Cancelling an insurance policy.
- 11 4. Endorsing and amending an insurance policy.
- 12 5. Issuing and replacing an insurance identification
13 card.
- 14 6. Establishing, completing or amending a premium
15 finance agreement.
- 16 7. Providing quotations.
- 17 8. Completing an application.
- 18 9. Taking pictures of a vehicle.
- 19 10. Sending letters of explanation to policyholders.
- 20 11. Reviewing coverage with applicants and/or
21 policyholders.
- 22 12. Rewriting an insurance policy.
- 23 13. Maintaining records associated with insurance
24 policies.
- 25 14. Maintaining a toll-free telephone number for
26 policyholders.
- 27 15. Advising an insurer of a claim.
- 28 16. Completing claim forms.

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- 17. Paying and handling claims.
- 18. Following up with nonrenewing policyholders.
- 19. Collecting all monies associated with the insurance transaction.
- 20. Maintaining an office open for business beyond normal work hours and/or weekends.
- 21. Maintaining an office with bilingual-speaking personnel.
- 22. Maintaining current contact with policyholders.
- 23. Coordinating activities between insurers and premium finance companies.
- 24. Responding to the Arizona Department of Transportation Motor Vehicle Division, regarding verification of insurance coverage.
- 25. Typing, assembling and processing an insurance policy.
- 26. Delivering an insurance policy.
- 27. Issuing a binder.
- 28. Developing loss information.
- 29. Purchasing insurance publications.
- 30. Maintaining an expiration list.
- 31. Issuing a certificate of insurance.
- 32. Providing a list of auto repair shops.
- 33. Meeting professional agent educational goals.
- 34. Advertising.
- 35. Providing certified copies.
- 36. Providing or requesting a SR-22..
- 37. Providing testimony in a lawsuit.

1 38. Maintaining a computer database link between
2 agency offices for consumer convenience.

3 39. Maintaining Customer Service Representatives
4 (CSRs) to answer consumer questions.

5 40. Obtaining a "letter of experience" from past
6 insurers.

7 41. Inspecting a vehicle.

8 42. Processing (collecting and remitting) monthly
9 premium finance payments.

10 To the extent customarily provided services, within the
11 meaning of this Order, are not provided in connection with the
12 transaction of insurance, this Order does not prohibit the
13 charging of a fee therefor.

14 Pursuant to A.R.S. §20-465(B), an insurer, agent, or
15 broker may charge a fee or service charge in addition to the
16 premium charged for non-customarily provided services if the fee
17 is filed with the Director and the following conditions exist:

18 1. The services performed by the
19 insurer, agent or broker are in excess of
those normally performed for insureds.

20 2. The service charge and the specific
21 services for which the charge is made are
22 disclosed and agreed to in writing by the
insured on a form that is approved by the
director.

23 3. The amount of the service charge is
24 reasonably related to the cost of the service
performed.

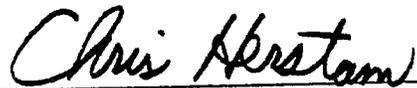
25 The Director finds the following services to be
26 non-customary and for which an insurer, agent, or broker may
27 charge a fee or service charge in addition to the premium,
28 provided the fee has first been filed with the Director and the

1 filing and collection of the fee otherwise complies with A.R.S.
2 §20-465(B):

- 3 1. Providing postage-paid return envelopes to
- 4 policyholders.
- 5 2. Copying documents.
- 6 3. Roadside assistance/motor club enrollment.
- 7 4. Accepting and processing non-sufficient fund
- 8 checks.

9 Any producer wanting to charge a fee or service charge
10 pursuant to A.R.S. §20-465(B) shall file with the Department on
11 the form attached as "Exhibit A" together with supporting
12 documentation. The Department reserves the right to change the
13 form at its discretion.

14 DATED this 5th day of July, 1994.

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16 CHRIS HERSTAM
17 Director of Insurance