

STATE OF ARIZONA

DEC 13 1993

DEPARTMENT OF INSURANCE

DEPARTMENT OF INSURANCE
By

In the Matter of)	Docket No. 8287
)	
COLONIAL INSURANCE COMPANY OF CALIFORNIA)	CONSENT ORDER
)	
Respondent.)	
_____)	

A Market Conduct Examination of Respondent, Colonial Insurance Company of California ("Colonial"), was conducted by Market Conduct Examiners ("the Examiners") for the Arizona Department of Insurance ("ADOI"). Based on 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 20-297, 20-383, 20-443, 20-448, 20-461, 20-462, 20-1631, 20-1632, 20-1632.01 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 January 5, 1993 and a Report of

1 Examination ("Report") was written. The Examiners reviewed open
2 and closed claim files from March, 1987 through September, 1992.
3 Also, the Examiners reviewed underwriting and rating files from
4 November, 1985 through October, 1992. Cancellation files were
5 reviewed for the years 1990, 1991 through October, 1992.

6 3. Respondent failed to file its list of agents with the
7 Director prior to January 30, 1992.

8 4. Respondent quoted premiums for 334 personal automobile
9 ("PA") policies and issued the policies at that price for a
10 shorter term, where all necessary information for determining
11 rates were available to Respondent at the time the quotations
12 were made. The misquotations of premiums were caused by
13 incorrect rating calculations being applied to 312 policies;
14 incorrect territories being used in three (3) policies and
15 incorrect symbols being used on nineteen (19) policies.

16 5. Respondent cancelled fourteen (14) PA policies which
17 had been in effect for more than sixty (60) days for reasons
18 other than those listed in A.R.S. § 20-1631(C).

19 6. Respondent cancelled thirty (30) PA policies, but
20 failed to send the notice of cancellation by certified mail or
21 United States post office certificate of mailing.

22 7. Respondent terminated fifty-four (54) PA policies, but
23 failed to send a notice of nonrenewal or cancellation at least
24 ten (10) days prior to the effective date of such nonrenewal or
25 cancellation date.

26 8. Respondent cancelled thirty (30) PA policies, but
27 failed to give the specific facts which constituted the reasons
28 for cancellation.

1 9. Respondent cancelled 75 PA policies without sending
2 refunds of unearned premium to the insureds with the
3 cancellation notices.

4 10. Respondent cancelled fifty-two (52) PA policies for
5 nonpayment of premium, but failed to provide the minimum grace
6 period of seven (7) days for payment of any premium due.

7 11. Respondent cancelled fifty-three (53) PA policies, but
8 failed to mail notices of cancellation to the insureds after the
9 end of the grace period.

10 12. Respondent failed to cancel PA Policy #010049110 on
11 the date of the insured's request to cancel. The policy was
12 cancelled after the requested date, thereby reducing the return
13 premium to the insured by \$83.00.

14 13. In one (1) first party total loss, Claim #14279, the
15 Respondent failed to support the ACV of the vehicle with
16 documentation giving particulars of the automobile's condition
17 in electing a cash settlement of the claim. The settlement
18 amount was determined by means other than the value of a
19 comparable automobile in the local market area or by utilizing
20 two (2) dealer quotes. The file of Claim #11664 did not contain
21 documentation as to the value of the salvage.

22 14. Respondent failed to advise two (2) first party total
23 loss insureds, Claims #15516 and #22897, that they had coverage
24 for clothing stolen in connection with the theft of their
25 vehicles.

26 15. Respondent failed to acknowledge receipt of one (1)
27 notification of claim, PA Claim #11616, within ten (10) working
28 days.

1 16. Respondent failed to complete its investigation of
2 eighteen (18) PA claims within thirty (30) days after
3 notification of the claims. There was no evidence in the file
4 that the Respondent needed more time to complete its
5 investigation.

6 17. Respondent failed to pay the full amount of sales
7 taxes and fees due on 126 first-party automobile total loss
8 claims. A total of \$22,408.82 was due these claimants but was
9 not paid.

10 18. Respondent failed to use the cost of a comparable
11 automobile or dealer quotations or document deviations therefrom
12 to establish the basis for a cash settlement on twenty-three
13 (23) automobile total loss settlements.

14 19. On eighty-seven (87) first party total loss claims,
15 Respondent took undocumented deductions, thereby reducing the
16 ACV. The settlement was then based on the lower ACV amount. A
17 total of \$21,053.14 less was paid to these insureds than what
18 should have been paid had Respondent not made the undocumented
19 deductions.

20 20. On five (5) first party total loss claim files,
21 Respondent failed to pay the claims within thirty (30) days
22 after the receipt of an acceptable proof of loss.

23 CONCLUSIONS OF LAW

24 1. By failing to file its list of agents prior to January
25 30, 1992, Respondent violated A.R.S. § 20-297.

26 2. By erroneously quoting premiums for policies at a
27 price for a specific term and issuing the policies at that price
28 for a shorter term, where all necessary information for

1 determining rates was available to Respondent at the time the
2 quotations were made, Respondent misrepresented policies to the
3 insureds in violation of A.R.S. § 20-443(1).

4 3. As the result of misquotation of premium charges by
5 its agents, Respondent collected premiums not determined using
6 by using its filed rates and rules, thereby violating A.R.S. §
7 20-383(A).

8 4. Respondent unfairly discriminated between insureds
9 with substantially similar risks by developing premiums for
10 certain insureds which were different than the premiums
11 developed for substantially similar risks in violation of A.R.S.
12 § 20-448(C).

13 5. Respondent violated A.R.S. § 20-1631(C) by cancelling
14 policies in effect for more than sixty (60) days reasons other
15 than those listed in A.R.S. § 20-1631(C).

16 6. Respondent violated A.R.S. § 20-1632(A) by failing to
17 send notices of PA policy cancellation by certified mail or
18 United States post office certificate of mailing and by failing
19 to send notices of nonrenewal or cancellation at least ten (10)
20 days prior to the effective date of the nonrenewal or
21 cancellation.

22 7. Respondent violated A.R.S. § 1632(A)(1) by failing to
23 give the specific facts which constitute the reason for the
24 cancellations of PA policies.

25 8. Respondent violated A.R.S. § 20-1632(A)(3) by failing
26 to send refunds of unearned premium to insureds with PA policy
27 cancellation notices.

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1 9. Respondent violated A.R.S. § 1632.01(A) by cancelling
2 PA policies for nonpayment of premium, but failing to provide
3 the minimum grace period of seven (7) days for payment of any
4 premium due and owing.

5 10. By failing to send notices to PA policyholders of
6 cancellation for nonpayment of premium after the seven (7) day
7 grace period, Respondent violated A.R.S. § 20-1632.01(B).

8 11. Respondent violated A.R.S. § 20-448(C) by failing to
9 cancel PA insured's policy as of the request of the insured.

10 12. By failing to use the cost of a comparable automobile
11 or dealer quotations to establish the basis for a cash
12 settlement of an automobile total loss claim and failing to
13 document deviations therefrom, Respondent violated A.A.C.
14 R4-14-801(H)(1)(b) and A.R.S. § 20-461(A)(6).

15 13. Respondent violated A.A.C. R4-14-801(D)(1) by failing
16 to disclose to insureds all pertinent benefits, coverages or
17 other provisions of an insurance policy or an insurance contract
18 under which a claim is presented.

19 14. By failing to acknowledge notification of an
20 automobile total loss claim within ten (10) working days,
21 Respondent violated A.A.C. R4-14-801(E)(1).

22 15. By failing to complete the investigation of
23 automobile total loss claims within thirty (30) days of
24 notification, Respondent violated A.A.C. R4-14-801(F) and A.R.S.
25 § 20-461(A)(3).

26 16. By failing to pay the full amount of sales taxes and
27 license fees required for the purchase of comparable automobiles
28 to first party claimants in their settlement of first party

1 automobile total loss claims, Respondent violated A.C.C. Rule
2 4-14-801(H)(1)(b) and A.R.S. § 20-461(A)(6).

3 17. By failing to document deviations from the methodology
4 of A.A.C. Rule 4-14-801(H)(1)(a) and (b) in the calculation of
5 ACV of automobiles involved in first party total loss claims, to
6 give particulars of the automobiles' conditions and to make
7 deductions from the ACV which were measurable, discernible,
8 itemized and specified as to dollar amount and appropriate in
9 amount, Respondent violated A.A.C. Rules 4-14-801(H)(1)(c) and
10 (H)(6) and A.R.S. § 20-461(A)(6).

11 18. By failing to pay automobile total loss settlements
12 within thirty (30) days after receipt of an acceptable proof of
13 loss and failing to pay interest thereon, Respondent violated
14 A.R.S. § 20-462(A).

15 19. Grounds exist for the entry of all other provisions of
16 the following Order.

17 ORDER

18 Respondent having admitted the jurisdiction of the
19 Director to enter the Order set forth herein, having waived the
20 Notice of Hearing, and having consented to the entry of the
21 Order set forth hereinafter, and there being no just reason for
22 delay:

23 **IT IS HEREBY ORDERED THAT:**

24 1. Respondent shall cease and desist from quoting or
25 charging premiums other than as determined on the basis of its
26 filed rates and rules; from quoting premiums at a price for a
27 specific term and then issuing policies at the quoted price for
28 a shorter term; from unfairly discriminating between insureds

1 with substantially similar risks; from not refunding unearned
2 premiums with the policy cancellation notices; from cancelling
3 policies for reasons not allowed under Arizona statutes; from
4 failing to send notices to PA policyholders of cancellation for
5 nonpayment of premium after the seven (7) day grace period; from
6 not acknowledging notification of an automobile total loss claim
7 within ten (10) working days; from failing to complete an
8 automobile total loss claim within thirty (30) days; from
9 failing to pay the total amount of sales taxes and license fees
10 in settlements of automobile total loss claims; from failing to
11 use the cost of a comparable automobile or a dealer quotation
12 including documentation to support any deviation therefrom to
13 establish the basis for a cash settlement of automobile total
14 loss claims; from taking undocumented deductions on automobile
15 total loss settlements and from failing to pay automobile total
16 loss settlements within thirty (30) days of receipt of an
17 acceptable proof of loss.

18 2. Respondent shall develop and submit to ADOI, within
19 sixty (60) days of the filed date of this Report, written action
20 plans to:

21 a. ensure that all producers quote accurate premiums
22 to be in compliance with A.R.S. §§ 20-383, 20-385, 20-443 and
23 20-448(C).

24 b. ensure that all personnel who are responsible for
25 cancellations and refunds of unearned premiums to insureds are
26 familiar and comply with A.R.S. §§ 20-1631(C), 20-1632(A),
27 (A)(1) and (A)(3), 20-1632.01(A)(B), and 20-448(C).

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1 c. ensure that all personnel who are responsible for
2 the rating of policies are familiar and comply with A.R.S.
3 § 20-448(C).

4 d. ensure that all personnel who are responsible for
5 claims are familiar and comply with A.A.C. R4-14-801(C), (D)(1),
6 (E)(1), (F), (H)(1)(b), (H)(1)(c), A.R.S. §§ 20-462 and
7 20-461(A)(6).

8 3. Respondent shall send a letter of explanation,
9 acceptable to the ADOI, to the insureds identified in Exhibits
10 15 and 17 of the Report and refund a total of \$43,461.96, plus
11 interest at the rate of ten (10%) percent per annum from the
12 date of the first party total loss settlement until the date of
13 payment.

14 4. Respondent shall send a letter of explanation,
15 acceptable to the ADOI, to the insured of Policy #010049110 and
16 refund \$83.00 to the insured, plus interest at the rate of ten
17 (10%) percent per annum from the date of the requested
18 cancellation to the date of payment.

19 5. Respondent shall send a letter of explanation,
20 acceptable to the ADOI, to the five (5) insureds identified in
21 Exhibit 21 of the Report and pay interest at the rate of ten
22 (10%) per annum from the date the claim was received by the
23 Respondent until the date of payment.

24 6. A list of the payments made pursuant to Paragraphs 3,
25 4 and 5, giving the name and address of each party to whom
26 payments were made, the base amount of the payment, the amount
27 of interest paid and the date of payment shall be provided to
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1 the ADOI within ninety (90) days of the filed date of this
2 Order.

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

7 8. Respondent shall pay a civil penalty of Sixty Thousand
8 Dollars (\$60,000.00) to the Director for remission to the State
9 Treasurer for deposit in the State General Fund in accordance
10 with A.R.S. §20-220(B). Said \$60,000.00 shall be provided to
11 the Hearing Division of the ADOI on or before December 15, 1993.

12 9. The January 5, 1993 Report of Examination, to include
13 any objections to the Report by Respondents, shall be filed with
14 the ADOI.

15 DATED at Phoenix, Arizona this 13th day of December, 1993.

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18 Susan Gallinger
19 Director of Insurance
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CONSENT TO ORDER

1. Respondent, Colonial Insurance Company of California has reviewed the foregoing Consent Order.

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

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

4. Respondent states that no promise of any kind or nature whatsoever 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 Order by the Director of Insurance, State of Arizona, is solely for the purpose of settling this matter against it and does not preclude any other agency or officer of this state or subdivision thereof from instituting other civil or criminal proceedings as may be appropriate now or in the future.

6. David F. McBurre represents that as Vice-President, Law he is an officer of Respondent and that, as such, he is authorized by it to enter into this Consent Order on its behalf.

COLONIAL INSURANCE COMPANY OF CALIFORNIA

12/7/93

(Date)

By



1 COPY of the foregoing mailed/delivered
2 this 13th day of December, 1993, to:

3 Katrina Rogers
4 Chief Hearing Officer

5 Deloris E. Williamson
6 Assistant Director
7 Rates & Regulations Division

8 *Saul R. Saulson
9 Examinations Supervisor
10 Rates and Regulations Division

11 Bernard Hill
12 Property and Casualty Supervisor
13 Rates and Regulations Division

14 Maureen Catalioto
15 Licensing Supervisor
16 Rates and Regulations Division

17 Jay Rubin
18 Assistant Director
19 Investigations Division

20 Gary Torticill
21 Assistant Director and Chief Financial Examiner
22 Corporate & Financial Affairs Division

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Chris Crawford