

NOV 17 1994

STATE OF ARIZONA
DEPARTMENT OF INSURANCE

DEPARTMENT OF INSURANCE
By *dec*

In the Matter of

CINCINNATI INSURANCE COMPANY)	Docket No. 8607
CINCINNATI INDEMNITY COMPANY)	
CINCINNATI CASUALTY COMPANY)	CONSENT ORDER
)	
Respondents)	
)	

A rate examination was made of the Cincinnati Companies: Cincinnati Insurance Company ("CIC"), Cincinnati Indemnity Company ("CID") and Cincinnati Casualty Company ("CCC") as of October 29, 1992 by Rate Examiners for the Arizona Department of Insurance ("ADOI"). These companies are hereinafter referred to as the "Respondents". Based upon the examination results, it is alleged that CIC, CID and CCC have violated all or some of the provisions of the Arizona Revised Statutes, Sections 20-356, 20-357, 20-359, 20-383, 20-385, 20-398, 20-400.01, 20-448, 20-451, 20-1113, 20-1120, 20-1674, 20-1676, 20-1677 and 23-961.

The Respondents wish to resolve this matter without formal adjudicative proceedings and hereby agree to a Consent Order.

The Arizona Director of Insurance (the "Director") enters the following Findings of Fact, and Conclusions of Law, which are neither admitted nor denied by Respondents, and the following Order.

FINDINGS OF FACT

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

1 2. The Rate Examiners ("Examiners") were authorized by
2 the Director to conduct an examination of the Respondents. The
3 on-site examination was concluded October 29, 1992 and a Report
4 of Examination ("1992 Report") was written. All policies
5 examined had effective dates after October 1, 1987.

6 3. The National Council of Compensation Insurance ("the
7 NCCI"), a duly licensed rating organization in Arizona, makes
8 rate filings on behalf of its members with the ADOI. WC
9 insurers are required by statute to belong to a WC rating
10 organization and to adhere to its rates unless the insurer has
11 filed deviations from these rates. Respondents are members of
12 the NCCI. Any reference to Respondents' "filings" or "filed
13 rates and rules" means rates and rules filed with the ADOI by
14 Respondents or by the NCCI on Respondents' behalf.

15 4. The NCCI's Schedule Rating Plan ("Plan") was approved
16 for use in Arizona July 8, 1982 by the Director. Effective
17 October 1, 1988, the Plan was amended to require insurers to
18 include within each WC policy file a completed schedule rating
19 worksheet and loss prevention survey.

20 5. On April 22, 1982, CIC filed a 15% downward rate
21 deviation, which was eventually withdrawn by CIC effective July
22 1, 1985, when CIC filed to adopt the Plan. CID filed a 20%
23 upward rate deviation July 1, 1991 and, therefore, is not filed
24 to use the Plan. CCC does not have a filed deviation nor has it
25 filed to adopt the Plan.

26 6. Respondents used a different WC experience modifier
27 than the modifier calculated by NCCI on two (2) policies.
28

1 7. CID issued one (1) policy where a schedule debit had
2 been applied under the Plan. However because CID had a filed
3 deviation, the policy was ineligible for schedule rating.

4 8. Respondents elected to nonrenew six (6) WC policies
5 but failed to send the insureds thirty (30) days prior notice of
6 nonrenewal of the insureds' policies as required by A.R.S.
7 §23-961(F).

8 9. On four (4) WC policies which Respondents elected to
9 nonrenew, Respondents failed to send the thirty (30) days prior
10 notice of nonrenewal to the Industrial Commission of Arizona as
11 required by A.R.S. §23-961(F).

12 10. There was no WC loss control report in any companion
13 file and no documentation in the policy file linking the debit
14 percentage applied by CID on one (1) policy to any individual
15 risk characteristics of the Plan.

16 11. Respondents are members of the Insurance Services
17 Office ("ISO"), a property and casualty (P&C) rating
18 organization duly licensed by the ADOI to file rates on behalf
19 of its members. ISO files rates on behalf of Respondents.
20 Respondents have filed with the ADOI various deviations from the
21 ISO filings as well as having filed independent filings of their
22 own.

23 12. CIC made adjustments to the full manual premium
24 developed on:

25 a. Ninety-six (96) various sections of sixty-seven (67)
26 policies by applying credits or debits under a schedule rating
27 plan or an Individual Risk Premium Modification Plan ("IRPM").
28 However, CIC failed to include in the files of these policies

1 any documentation of the facts supporting the adjustments made
2 by CIC.

3 b. Two hundred and thirty (230) various policy sections
4 of one hundred sixty-nine (169) policies by applying credits or
5 debits under a schedule rating plan or an IRPM. However, CIC
6 failed to include in the files of these policies adequate
7 documentation of the facts supporting the adjustments.

8 c. Twenty-five (25) policies by applying credits or
9 debits under a schedule rating plan or an IRPM not meeting the
10 eligibility requirements of the filed rating plans.

11 d. Fifty-four (54) policies by applying maximum IRPM or
12 credits or debits under a schedule rating plan which exceeded
13 CIC's filed rating plans.

14 13. CIC issued eighty two (82) policies on which
15 experience credits/debits different than the credits/debits
16 earned according to filed rating plans were applied resulting in
17 fifty-five (55) policyholders paying more and twenty-seven (27)
18 policyholders paying less than they should have. Other
19 policyholders paid what they should have paid because Respondent
20 applied its rating plans in a manner consistent with
21 Respondent's filings.

22 14. CIC issued eighteen (18) policies to which Respondent
23 applied experience rating ("ER") although the policies were not
24 eligible for ER under the Respondent's filed rating plans.

25 15. CIC issued one (1) policy in which CIC applied an
26 unmerited experience debit to both the property and general
27 liability portions of the policy.

28

1 16. CIC has filed in Arizona a twenty-five (25) percent
2 downward deviation from its filed commercial automobile rates.
3 CIC applied an ER debit to one (1) policy for the purpose of
4 offsetting the twenty-five (25) percent deviation by the amount
5 of the debit.

6 Also CIC applied an ER debit to one (1) policy for the
7 purpose of offsetting the twenty-five (25) percent deviation by
8 the amount of the debit.

9 17. CIC issued eight (8) policies where CIC failed to rate
10 the policies in a manner consistent with CIC's rate filings.

11 18. CIC issued nine (9) policies in which the premiums
12 charged the insureds were not in accordance with CIC's filings.

13 19. CIC issued two (2) policies in which CIC did not apply
14 any of its filed package modifications.

15 20. CIC issued thirteen (13) policies in which CIC did not
16 apply the filed deviations.

17 21. CIC issued three (3) policies using unfiled
18 deviations.

19 22. CIC issued fifty-eight (58) Commercial Package
20 policies. CIC filings and/or policy state an Arizona
21 Cancellation Endorsement must be attached to the policy.

22 23. CIC issued two (2) policies where noneligible coverage
23 was provided to the insureds.

24 24. CIC failed to send any cancellation or non-renewal
25 notices to the insureds on fifteen (15) commercial package
26 policies. However, had the situation presented itself, CIC would
27 have voluntarily stayed on the risk until other coverage was
28 obtained as required by Arizona law.

1 25. CIC failed to send written notice of premium increase
2 or policy change at least sixty (60) days prior to policy
3 expiration on five (5) commercial package policies. However, had
4 the situation presented itself, CIC would have voluntarily
5 stayed on the risk until other coverage was obtained as required
6 by Arizona law.

7 26. CIC bound coverage over ninety (90) days without the
8 written permission of the Director to extend the binders. Two
9 (2) policies were issued by CIC approximately one hundred and
10 twenty-five (125) days and ninety-six (96) days from the dates
11 the policy binders were issued.

12 27. CIC issued three (3) policies to which CIC failed to
13 apply the specific territory which should have been applied with
14 its filed rating territories.

15 28. CIC issued seventy-one (71) policies where the
16 Respondent did not use the correct Package Modification Factor
17 ("PMF").

18 29. CIC issued seven (7) policies with Increased Limit
19 Factors (ILE) different from those ILE which should have been
20 used.

21 30. CIC failed to apply filed deductible factors to three
22 (3) commercial package policies.

23 31. Group I and II property Class Rates were incorrectly
24 used by CIC to develop the contents premium of one (1) policy
25 and the building premium of one (1) policy.

26 32. CIC failed to apply the territorial multiplier to the
27 property rates of one (1) policy.

28

1 33. CIC issued one (1) policy, but did not use the correct
2 payroll exposure base to determine the insured's premium.

3 34. CIC issued thirty-seven (37) policies not using the
4 filed rates applicable to various sections of its packages.

5 35. CIC issued forty (40) policies using unfiled "A" or
6 "a" rates on the GL sections of the policies. Respondent did not
7 file its Guide "A" Rate Manual until October 1, 1989.

8 36. CIC issued ten (10) policies using "A" rates that were
9 different from those published either by ISO or the Guide "A"
10 Rate Manual on General Liability Sections of Policies.

11 37. CIC issued twenty-two (22) policies in which
12 Respondent applied Expense credits or debits to commercial
13 package policies without adjusting the agents' commission. This
14 meant that a credit or debit was used in the rating of the
15 policy in the amount the agent agreed to contribute from his
16 commission. However, the agent's commission was not reduced
17 accordingly; which was required by CIC's filings or filings made
18 on its behalf.

19 38. CIC issued fifteen (15) policies where the Respondent
20 applied prior revision rates (previous rates as opposed to rates
21 in effect at the time the policy was issued) to various sections
22 of its commercial package policies.

23 39. CIC failed to use the correct filed rating plans on
24 five (5) policies. The "Special Premium Credit" of 10% should
25 have been applied to the five (5) policies, but was not applied.

26 40. CIC failed to rate for all coverages on two (2)
27 policies which resulted in the insureds' paying less than the
28

1 insureds should have paid had CIC rated the policies in
2 accordance with CIC's filings.

3 41. CIC applied a classification in a manner inconsistent
4 with Respondent's filings on eighteen (18) policies which
5 resulted in insureds' paying different premiums than they should
6 have paid had the Respondent adhered to its filings.

7 42. CIC issued two (2) policies for the same insured and
8 misclassified both policies as respects the general liability.

9 43. CIC failed to file rates for Respondent's Umbrella
10 Program used for rating 1,746 policies written prior to January
11 15, 1990. CIC filed all rates for the Umbrella Program effective
12 January 15, 1990.

13 44. The Examiners reviewed thirty-three (33) of
14 approximately four hundred (400) commercial umbrella policies
15 issued by CIC during the period January 15, 1990 and October 29,
16 1992. Of the thirty-three policies reviewed, eleven (11)
17 policies evidenced that CIC applied rates which had not been
18 filed with the ADOI for limits of liability exceeding
19 \$1,000,000. Further, on nine (9) of the thirty-three (33)
20 policies reviewed, CIC used unfiled minimum premiums.

21 45. CIC had not at the time of the examination (October
22 29, 1992) filed with the ADOI CIC's Commercial Umbrella Policy
23 forms.

24 CONCLUSIONS OF LAW

25 1. Respondents violated A.R.S. §§ 20-357(A) and
26 20-359(A) by failing to either adhere to all provisions of the
27 rating systems filed on their behalf by the NCCI with the ADOI
28 or to file their own rating systems. After August 18, 1987, by

1 developing premiums in a manner not consistent with such
2 filings, Respondents violated A.R.S. § 20-400.01(A).

3 2. By failing to issue WC policies in accordance with
4 filings made by the Respondents or by the NCCI on Respondents
5 behalf, Respondents violated A.R.S. § 20-357(E).

6 3. By applying SR to a WC policy which was ineligible for
7 SR Respondents violated A.R.S. §§ 20-357(E), 20-359(A),
8 20-400.01(A) and 20-400.01(B).

9 4. By failing to completely document and allocate credits
10 and debits in accordance with Number 6 of the Plan, and by
11 failing to include loss control reports in all policy files, as
12 required by Number 7 of the Plan, Respondents violated A.R.S. §§
13 20-357(E), 20-359(A), and 20-400.01(A), (B), and (D).

14 5. Respondents violated A.R.S. § 23-961(F) by failing to
15 send to the insured or the Arizona Industrial Commission the
16 required thirty (30) day notice of nonrenewal.

17 6. By calculating the premiums of certain WC insureds
18 having substantially like insuring, risk and exposure factors,
19 or expense elements, Respondents unfairly discriminated between
20 insureds in violation of A.R.S. §§ 20-356(1) and 20-448(C).

21 7. By charging certain policyholders reduced premiums
22 inconsistent with Respondents' rate filings, Respondents gave
23 rebates to certain policyholders as an inducement to insurance
24 in violation of A.R.S. § 20-451

25 8. CIC violated A.R.S. § 20-385(A) by failing to file all
26 rating systems including "a" and "A" rates for CP, GL and CA
27 risks and deviations therefrom with the ADOI.
28

1 9. CIC violated A.R.S. § 20-400.01(A) by developing
2 premiums for CP, GL and CA risks in a manner not consistent with
3 filings made by CIC pursuant to A.R.S. § 20-385(A).

4 10. By misclassifying risks and determining their rates on
5 the basis of the misclassifications, CIC violated A.R.S. §
6 20-400.01(B) and (C). By developing premiums based upon these
7 misclassifications, CIC violated A.R.S. § 20-400.01(A).

8 11. By making adjustments to full manual premiums
9 developed for CP, GL and CA risks without adequately documenting
10 facts supporting the adjustments in policy files, CIC violated
11 A.R.S. § 20-400.01(B) and (D). By issuing policies rated without
12 adequate documentation, CIC violated A.R.S. § 20-400.01(A).

13 12. By calculating the premiums of certain CP, GL and CA
14 insureds differently than those of other insureds having
15 substantially like insuring, risk and exposure factors, or
16 expense elements, CIC unfairly discriminated between insureds in
17 violation of A.R.S. §§ 20-383(A) and 20-448(C).

18 13. CIC violated A.R.S. § 20-1113(B)(7) by issuing
19 policies to insureds without attaching the Arizona Cancellation
20 Endorsement.

21 14. CIC violated A.R.S. § 20-1676(B) by failing to deliver
22 a notice of commercial policy non-renewal to an insured at least
23 sixty (60) days before the termination date of the policy.

24 15. By failing to send notices of premium increase, change
25 in deductible or substantial reduction in coverage of commercial
26 policies at least sixty (60) days before the expiration date of
27 the policy, CIC violated A.R.S. § 20-1677(A).

28

1 cancellation, non-renewal, premium increase or policy change to
2 insureds and to the Industrial Commission of Arizona; not issue
3 binders which are valid for more than 90 days from their
4 effective dates, without written approval of the Director; not
5 use rating procedures which result in certain insureds' paying
6 different premiums than others having substantially like
7 insuring, risk and exposure factors; not offer any reduction of
8 premium as an inducement to insurance; not classify risks other
9 than pursuant to filed rates and rules; not charge rates other
10 than those filed with the ADOI; file rates and rules with the
11 ADOI; document all facts in CP policy files which support
12 adjustments to manual premium and shall file with the ADOI all
13 policy forms.

14 2. Within sixty (60) days of this Order's filed date,
15 Respondents shall submit to the Director written action plans to:

16 a. monitor Arizona issued policies to ensure that
17 personnel use only rates, rating plans and rating rules which
18 have been filed with the ADOI by Respondents or on their behalf;
19 that personnel document the facts in such detail that the facts
20 support any credits/debits used to develop the premiums; that
21 policy files are documented to support credits/debits applied,
22 and that filed rates and ER/SR plans are applied consistently
23 according to filed plans between insureds having like insuring,
24 risk, exposure and expense factors.

25 b. provide on-going training for all commercial
26 underwriting personnel in all provisions of the statutes cited
27 in this Order, including adherence to ER and SR plans and
28 application of ER and SR to all eligible insureds. This

1 training shall include training in the documentation of facts
2 supporting justification of credits/debits to full manual
3 premiums in such detail that the facts fully support the
4 credits/debits and include justification for any change in
5 credits/debits, and in the application of loss rating and
6 composite rating in accordance with Respondents' filed ER and SR
7 plans.

8 3. Respondents shall file with the ADOI within ninety
9 (90) days of the filed date of this Order any rates, rules,
10 deviations and forms used in Arizona which have not been filed
11 with the ADOI, including but not limited to the following:
12 CIC's Commercial Umbrella Policy Forms.

13 4. Respondents shall reimburse the following
14 policyholders for premium overcharges, plus interest at the rate
15 of ten percent (10%) per annum calculated from the date paid by
16 the insured to the date of repayment to the insured as evidenced
17 by the worksheet, entitled "Amended List Of Package Policies By
18 Named Insured", and the Report furnished to the Respondents
19 insureds were overcharged in the net amount of \$233,379.00 . All
20 reimbursements shall be accompanied by a letter acceptable to
21 the Director, indicating why the refund is being sent. A list of
22 reimbursements, giving the name and address of each policyholder
23 reimbursed, policy number, policy term, the amount of the
24 overcharge, the amount of interest paid, and the date of payment
25 shall be filed with the ADOI within sixty (60) days of the filed
26 date of this Order.

27 5. The ADOI shall be permitted, through authorized
28 representatives, to verify Respondents have fully complied with

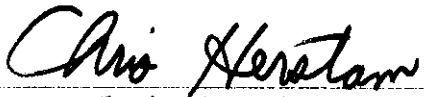
1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

all requirements of this Order, and the Director may separately order Respondents to comply.

6. Respondents shall pay a civil penalty of Sixty Thousand Dollars (\$60,000.00) 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 amount shall be provided to the Administrative Law Division of the ADOI on or before November 15, 1994.

7. The October 29, 1992 Report of Examination, to include any objections to the Report by Respondents, shall be filed with the ADOI.

DATED at Phoenix, Arizona this 17th day of November, 1994.



Chris Herstam
Director of Insurance

CONSENT TO ORDER

1
2 1. Respondents, Cincinnati Insurance Company, Cincinnati
3 Indemnity Company and Cincinnati Casualty Company have reviewed
4 the foregoing Consent Order.

5 2. Respondents are aware of their right to a hearing at
6 which hearing Respondents may be represented by counsel, present
7 evidence and cross-examine witnesses. Respondents have
8 irrevocably waived their right to such public hearing and to any
9 court appeals relating thereto.

10 3. Respondents admit the jurisdiction of the Director of
11 Insurance, State of Arizona, and consent to the entry of this
12 Consent Order.

13 4. Respondents state that no promise of any kind or
14 nature whatsoever was made to them to induce them to enter into
15 this Consent Order and that they have entered into this Consent
16 Order voluntarily.

17 5. It is acknowledged and agreed by Respondents on the
18 one hand and the Department on the other hand, that the entry of
19 this Consent Order is not an admission of any fault or liability
20 whatsoever by Respondents or any person, firm, corporation or
21 association, but is entered into to settle the disputed
22 contentions hereinabove referenced. However, this Consent Order
23 may be used in any administrative or judicial proceeding(s)
24 filed by the State of Arizona, including the Director of the
25 Arizona Department of Insurance, for any appropriate purposes
26 including the enforcement of this Consent Order and/or to
27 demonstrate the Respondents have been ordered to cease and
28

1 desist from those actions identified in paragraph 1 of the Order
2 portion of this Consent Order.

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

9
10 7. Bob R. Kerns represents that as
11 Senior Vice President he is an officer of Respondents Cincinnati
12 Insurance Company, Cincinnati Indemnity Company and Cincinnati
13 Casualty Company and that, as such, he is authorized by them to
14 enter into this Consent Order on their behalf.

15
16 CINCINNATI INSURANCE COMPANY
17 CINCINNATI INDEMNITY COMPANY
18 CINCINNATI CASUALTY COMPANY

19 November 9, 1994
20 (DATE)

21 BY Bob R. Kerns
22
23
24
25
26
27
28

1 COPY of the foregoing mailed/delivered
2 this 17th day of November , 1994, to:

3 Gay Ann Williams
4 Deputy Director
5 Gregory Y. Harris
6 Chief Administrative Law Judge
7 Erin Klüg
8 Manager
9 Market Conduct Examinations Division
10 Saul Saulson
11 Supervisor
12 Examinations Section
13 Bernard Hill
14 Supervisor
15 Property and Casualty Section
16 Deloris E. Williamson
17 Assistant Director
18 Rates & Regulations Division
19 Gary Torticill
20 Assistant Director and Chief Financial Examiner
21 Corporate & Financial Affairs Division
22 Cathy O,Neil
23 Assistant Director
24 Consumer Services and Investigations

14 DEPARTMENT OF INSURANCE
15 2910 North 44th Street, Suite 210
16 Phoenix, AZ 85018

16 Bob R. Kerns
17 The Cincinnati Companies
18 P.O. Box 14596
19 Cincinnati, Ohio 45250-5496

20 
21
22
23
24
25
26
27
28