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STATE OF ARIZONA
DEPARTMENT OF INSURANCE

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In the Matter of:

GULF INSURANCE COMPANY,
NAIC #22217

Respondent

) Docket No. 01A-030-INS

) CONSENT ORDER
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Examiners for the Department of Insurance (the "Department") conducted a market conduct examination of Gulf Insurance Company. The Report of Examination of the Market Conduct Affairs of Gulf alleges that Gulf has violated A.R.S. §§ 20-311, 20-357, 20-385, 20-400.01, 20-1676, 20-1677, 20-461(A)(8), 23-906 and 23-961.

Gulf wishes to resolve this matter without formal proceedings, neither admits or denies the following Findings of Fact and Conclusions of Law, and consents to the entry of the following Order.

FINDINGS OF FACT

1. Gulf is authorized to transact property and casualty insurance, 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 Gulf. The on-site examination was concluded on May 8, 1997.

3. Based on the Examiners findings, they prepared the "Report of Examination of the Market Conduct/Rate Affairs of Gulf Insurance Company" dated May 8, 1997.

. . . .

October 27, 2000

1 4. The Examiners reviewed 189 Commercial Lines policies issued by Gulf
2 which had effective dates from January 1, 1994 through June 1997, and found the
3 Company failed to comply with its own filings as follows:

4 a. Gulf failed to document the link of schedule credits/debits to the risk
5 characteristics on six Workers' Compensation policies, one Commercial Auto, two
6 Package, and two General Liability policies.

7 b. Gulf issued one Package and three Commercial Automobile
8 policies where the risks were eligible for automobile schedule rating, but were not
9 considered.

10 c. Gulf issued seven Workers' Compensation policies where it failed
11 to send schedule rating worksheets to NCCI pursuant to its filing requirements.

12 d. Gulf issued 12 Workers' Compensation policies in which it failed to
13 indicate the FEIN Code on the policies' declaration page in accordance with NCCI rules.

14 e. Gulf issued two Workers' Compensation policies where the
15 company used a different experience modifier than what was calculated by NCCI. As a
16 result, these insureds paid \$590 more they should have.

17 f. Gulf failed to apply the Experience Rating Plan when the risks were
18 eligible to one Package and four Commercial Automobile policies. As a result, two
19 insureds paid \$11,488 less than what they would have and two insureds paid \$1,392
20 more than what they should have had the Company adhered to its filings.

21 g. Gulf issued three Workers' Compensation policies where it failed to
22 conduct a loss prevention survey, as required by the Schedule Rating Plan.

23 h. Gulf issued two Workers' Compensation policies where the
24 Company failed to attach the Anniversary Rating Date Endorsement.

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1 i. Gulf issued nine Workers' Compensation where the Company
2 failed to notify the Industrial Commission of its issuance, renewal, cancellation and/or
3 nonrenewal and reinstatement of Workers' Compensation.

4 j. Gulf failed to obtain the signed Employee's Right to Rejection Form
5 on 11 Workers' Compensation policies.

6 k. Gulf issued three Workers' Compensation policies where it
7 attached a manuscript endorsement amending the nonpayment cancellation which did
8 not meet the statutory regulation of 30 days.

9 l. Gulf failed to attach the mandatory Arizona Cancellation
10 endorsement on three Workers' Compensation policies.

11 m. Gulf issued three General Liability policies in a in which the insured
12 was not eligible.

13 n. Gulf issued one General Liability policy and 18 Architects and
14 Engineers policies where the Company failed to send 60 day notice of premium
15 increase on renewal of the policy.

16 o. Gulf paid commissions to nonresident agents not properly licensed
17 on two Workers' Compensation policies, one Package policy, one Commercial Auto
18 policy, and two General Liability policies.

19 p. Gulf issued two Commercial Automobile policies where it failed to
20 use the correct filed rating territory. As a result, one insured paid \$681 more that he
21 should have.

22 q. Gulf issued five Commercial Automobile policies where it applied a
23 15% package modifier when the risks were not eligible. As a result, these insureds paid
24 \$139,948 less than what they should have.

1 r. Gulf issued one Commercial Automobile and one Package policy in
2 which it failed to use the filed increase limit factors. As a result, one insured paid \$44
3 more than he should have.

4 s. Gulf issued 10 Workers' Compensation policies in which the
5 Company did not use the correct exposure base in developing the estimated annual
6 premium.

7 t. Gulf issued four Workers' Compensation policies, two Package,
8 one Commercial Automobile, one Umbrella, and three General Liability policies where
9 the Company did not use filed rates. As a result, one insured paid \$580 more than he
10 should have and seven insureds paid \$7,445 less than they would have.

11 u. Gulf issued four Commercial Automobile policies where the
12 Company applied unfiled credits by "a" rating the unmodified premiums. As a result,
13 these insureds paid \$131,634 less than they would have.

14 v. Gulf issued two Package policies where the Company used unfiled
15 liquor liability rates.

16 w. Gulf issued seven Workers' Compensation policies where the
17 Company failed to display the correct policy filed minimum premiums. As a result, one
18 insured paid \$1,306 more than he should have.

19 x. Gulf issued three Workers' Compensation policies where the
20 Company applied the premium discount when the policies were not eligible. As a result
21 these insureds paid \$101,546 less than they would have.

22 y. Gulf issued one General Liability policy and nine Workers'
23 Compensation policies using its Large Risk Rating Plan that is not filed with the
24 Department. The examiners were unable to determine the overpayment, if any, by

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1 these insureds. As a result, the General Liability insured paid \$268,400 less than he
2 would have.

3 z. Gulf issued two Workers' Compensation policies where the
4 Company did not apply the correct deposit premiums. As a result, one insured paid
5 \$571 more than he should have.

6 aa. Gulf issued five Umbrellas policies where the Company did not
7 comply with its filed rating plan. As a result, two insureds paid \$669 more than they
8 should have and one insured paid \$1,702 less than he would have.

9 bb. Gulf issued 21 non-profit D&O policies in which it failed to use the
10 correct filed rates.

11 cc. Gulf issued one Package, one umbrella, and three Commercial
12 Automobile policies where the policy files did not contain any development of rates or
13 have adequate documentation.

14 dd. Gulf issued eight Commercial Automobile and eight Package
15 policies where the company did not use correct Program rates on coverage.

16 ee. Gulf issued six Package and four General Liability policies where
17 the Company did not use its Entertainment Program rates on the general liability
18 coverage written in the Program. As a result three insureds paid \$1,917 more than they
19 should have and two insured paid \$1,175 less than they would have.

20 ff. Gulf issued six Package policies where the Company did not use its
21 Entertainment Program Rates for the property coverage. As a result, one insured paid
22 \$69 less than he would have.

23 gg. Gulf issued one Package and three Inland Marine policies where
24 the Company did not use its Entertainment Program rates for the Inland Marine
25 coverage.

1 hh. Gulf issued two General Liability policies where the Company
2 exceeded the individual risk characteristics debits.

3 ii. Gulf issued one General Liability policy where the Company
4 charged for an additional insured when the Program rule states "no charge". As a result
5 this insured paid \$55 more than he should have.

6 5. The Examiners reviewed 46 Architects and Engineers Professional
7 Liability policies and found that the Company failed to comply with its own filings as
8 follows:

9 a. Gulf issued seven policies where the Company used its IRPM Plan
10 in a manner not intended by its filing.

11 b. Gulf issued four policies, two policies were affected three complete
12 terms, in which it failed to apply the earned experience credit/debits. As a result two
13 insureds paid \$12,587 less than they would have.

14 c. Gulf failed to notify the insured 60 days in advance of a premium
15 increase or change in deductible on 18 policies.

16 d. Gulf used unfiled surcharges on four policies.

17 e. Gulf issued 26 policies with an unfiled Minimum Earned Premium
18 Endorsement.

19 6. The Examiners reviewed 37 Surety Bonds and found that the Company
20 failed to comply with its own filings as follows:

21 a. Gulf issued two Performance and Payment Bonds where the
22 Company failed to charge the correct filed rates. As a result, these insureds paid
23 \$3,357 less than they would have.

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1 b. Gulf issued three Performance and Payment Bonds where the
2 Company failed to maintain adequate documentation in the files that would allow the
3 Examiners to verify compliance with Arizona Law.

4 7. Gulf issues a Master policy that provides "Personal Effects Coverage"
5 (PEC) to individuals renting through car rental agencies. The Examiners reviewed six
6 PEC policies and found that the brochure given to applicants failed to include the same
7 policy exclusions used to deny claims by Gulf's claims representative, Mid-America
8 Insurance Services.

9 CONCLUSIONS OF LAW

10 1. By making adjustments to full manual premium developed for commercial
11 automobile, general liability, package, workers' compensation, and surety bonds
12 policies without adequate justification for the adjustments, Gulf violated A.R.S. § 20-
13 400.01(B).

14 2. By failing to include sufficient documentation in commercial policy files to
15 enable the examiners to determine how it developed the premium, Gulf violated A.R.S.
16 § 20-400.01(D).

17 3. By failing to send written notice of premium increase, change in deductible
18 and reduction of liability to architects and engineers and general liability insureds at
19 least 60 days prior to policy expiration, Gulf violated A.R.S. § 20-1677.

20 4. By paying commissions to unlicensed agents, Gulf violated A.R.S. § 20-
21 311.

22 5. By failing to obtain signed rejection endorsement, Gulf violated A.R.S. §
23 23-906.

24 6. By not mailing ICA card to the Industrial Commission, Gulf violated A.R.S.
25 § 23-961.

1 7. By failing to attach the Anniversary Rating Date Endorsement, Gulf
2 violated A.R.S. § 20-357(E).

3 8. By failing to attach the Arizona Cancellation Endorsement, Gulf violated
4 A.R.S. § 20-357(E).

5 9. By failing to send copies of workers' compensation schedule rating
6 worksheets to the NCCI, Gulf violated A.R.S. § 20-357(E).

7 10. By failing to indicate the Federal Identification Code on the policy
8 declaration pages and by failing to conduct a loss prevention surveys in accordance
9 with NCCI Rules, Gulf violated A.R.S. § 20-357(E).

10 11. By determining the premiums of workers' compensation policies other
11 than on the basis of its rates and rules filed pursuant to A.R.S. § 20-357(A), Gulf
12 violated A.R.S. § 20-400.01(A).

13 12. By failing to display the correct policy filed minimum premiums, Gulf
14 violated A.R.S. § 20-357(E).

15 13. By determining the premiums of general liability, commercial automobile,
16 package, umbrella, directors and officers, inland marine, architects and engineers, and
17 surety bond policies other than on the basis of its rates and rules filed pursuant to
18 A.R.S. § 20-385(A), Gulf violated A.R.S. § 20-400.01(A).

19 14. By placing before the public an advertising pamphlet for its "Personal
20 Effects Coverage" (PEC) that fails to include policy exclusions used to deny claims, Gulf
21 violated A.R.S. § 20-461(A)(8).

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1 ORDER

2 **IT IS ORDERED THAT:**

- 3 1. Gulf shall cease and desist from:
- 4 a. Making adjustments to full manual premium on all its commercial
- 5 policies including surety bonds without adequate justification for the adjustments.
- 6 b. Failing to include sufficient documentation in commercial policy files
- 7 to enable the examiners to determine how it developed the premium.
- 8 c. Failing to send written notice of premium increase, change in
- 9 deductible and reduction of liability to all its commercial policy including workers'
- 10 compensation insureds at least 60 days prior to policy expiration.
- 11 d. Paying commissions to unlicensed agents.
- 12 e. Failing to obtain signed rejection endorsements.
- 13 f. Failing to mail ICA cards to the Industrial Commission.
- 14 g. Failing to attach the Anniversary Rating Date Endorsement and the
- 15 Arizona Cancellation Endorsement.
- 16 h. Attaching a manuscript endorsement amending the nonpayment
- 17 cancellation provision to 10 days on workers' compensation policies.
- 18 i. Failing to send copies of workers' compensation schedule rating
- 19 worksheets to the NCCI.
- 20 j. Failing to indicate the Federal Identification Code on the policy
- 21 declaration pages.
- 22 k. Failing to conduct loss prevention survey in accordance with NCCI
- 23 rules.
- 24 l. Determining premiums of workers' compensation policies other
- 25 than on the basis of its rates and rules filed.

October 27, 2000

1 m. Failing to display the correct policy filed minimum premiums on
2 workers' compensation policies.

3 n. Determining the premiums of its commercial policies including
4 surety bonds other than on the basis of its rates and rules filed.

5 o. Placing before the public advertising material which fails to include
6 policy exclusions used to deny claims for its PEC coverage.

7 2. Within 90 days of the filed date of this Order, Gulf shall submit to the
8 Arizona Department of Insurance, for approval, evidence that corrections have been
9 implemented and communicated to the appropriate personnel, regarding all of the items
10 listed above in the Paragraph 1 of the Order section of this Consent Order. Evidence of
11 corrective action and communication thereof includes, but is not limited to, memos,
12 bulletins, E-mails, correspondence, procedures manuals, print screens, and training
13 materials.

14 3. Within 90 days of the filed date of this Order, Gulf shall pay \$7,805 in
15 overcharges plus interest at the rate of 10% per annum from the date of the overcharge
16 to the date of payment to the insureds listed in Exhibit A of this Order.

17 4. Within 90 days of the filed date of this Order, Gulf shall determine the
18 premium difference on the nine workers' compensation policies listed in Exhibit B of this
19 Order. If any of the premium difference were overcharges, Gulf shall refund these
20 overcharges to the insureds plus interest at the rate of 10% per annum from the date of
21 the overcharge to the date of payment.

22 5. Each payment made in accordance with Items 3 and 4 above shall be
23 accompanied by a letter to the insured in a form previously approved by the Director. A
24 list of payments, giving the name and address of each party paid, the amount of the

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1 payment, and the date of payment, shall be provided to the Department within 90 days
2 of the filed date of this Order.

3 6. The Department shall be permitted, through authorized representatives, to
4 verify that Gulf has complied with all provisions of this Order.

5 7. Gulf shall pay a civil penalty of \$13,000 to the Director for deposit in the
6 State General Fund in accordance with A.R.S. § 20-220(B). This civil penalty shall be
7 provided to the Market Conduct Examinations Division of the Department prior to the
8 filing of this Order.

9 8. The Report of Examination of the Market Conduct Affairs of Gulf dated
10 May 8, 1997, including the letter submitted in response to the Report of Examination,
11 shall be filed with the Department after the Director has filed this Order.

12 DATED at Phoenix, Arizona this 25th day of January, 2001.

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16 Charles R. Cohen
17 Director of Insurance
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CONSENT TO ORDER

1. Respondent has reviewed the attached Consent Order.

2. Respondent admits the jurisdiction of the Director of Insurance, State of Arizona, neither admits nor denies the foregoing Findings of Fact and Conclusions of Law, and consents to the entry of the foregoing Order.

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

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

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

6. JAMES A. ALLEN, who holds the office of Compliance Asst. V.P. + Director of Gulf Insurance Company, is authorized to enter into this Order for it and on its behalf.

GULF INSURANCE COMPANY

12/27/00
Date

By: James Allen

1 **Violations of A.R.S. §§ 20-385 and 20-400.01(A)**

2
3 **COMMERCIAL AUTOMOBILE**

4 **POLICY NUMBER OVERCHARGE**
5 5656855 \$580
6 5414391 \$681
7 5832325 \$723
8 5414243 \$669
9 **Subtotal: \$2,653**

10 **GENERAL LIABILITY**

11 **POLICY NUMBER OVERCHARGE**
12 5666807 \$55
13 **Subtotal: \$55**

14 **PACKAGE**

15 **POLICY NUMBER OVERCHARGE**
16 7693772 \$689
17 7691445 \$614
18 7676841 \$614
19 7689231 \$44
20 **Subtotal: \$1,961**

21 **UMBRELLA**

22 **POLICY NUMBER OVERCHARGE**
23 5832412 \$500
24 5832383 \$169
25 **Subtotal: \$669**

EXHIBIT A (Page 1 of 2)

Violations of A.R.S. §§ 20-357 and 20-400.01(A)

WORKERS' COMPENSATION

POLICY NUMBER	OVERCHARGE
5571304	\$571
5367526	\$362
5570891	\$228
5571114	\$1,306
Subtotal:	\$2,467
GRAND TOTAL	\$7,805

EXHIBIT A (Page 2 of 2)

Violation of A.R.S. §§ 20-357 and 20-400.01

Used incorrect rating plan

5540209

5540234

5540210

5367383

5613228

5367526

5367541

5367542

5367549

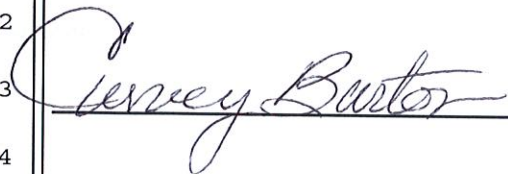
EXHIBIT B

1 COPY of the foregoing mailed/delivered
2 This 31st day of January 2001, to:

3
4 Sara Begley
5 Deputy Director
6 Mary Butterfield
7 Assistant Director
8 Consumer Affairs Division
9 Paul J. Hogan
10 Chief Market Conduct Examiner
11 Market Conduct Examinations Division
12 Deloris E. Williamson
13 Assistant Director
14 Rates & Regulations Division
15 Steve Ferguson
16 Assistant Director
17 Financial Affairs Division
18 Alexandra Shafer
19 Assistant Director
20 Life & Health Division
21 Nancy Howse
22 Chief Financial Examiner
23 Terry L Cooper
24 Fraud Unit Chief
25

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

29 James A. Allen, Director of Compliance
30 Gulf Insurance Company
31 125 Broad Street, Eighth Floor
32 NEW YORK, NY 10004

33 
34 _____
35

October 27, 2000