

MAR 1 2001

DEPT. OF INSURANCE
BY *[Signature]*

STATE OF ARIZONA

DEPARTMENT OF INSURANCE

In the Matter of:

AMEX ASSURANCE COMPANY,

NAIC #27928

Respondent

) Docket No. 01A-056-INS

) CONSENT ORDER

Examiners for the Department of Insurance (the "Department") conducted a market conduct examination of AMEX Assurance Company ("AMEX"). The Report of Examination of the Market Conduct Affairs of AMEX alleges that AMEX has violated A.R.S. §§20-461, 20-466.03, 20-1632(A), A.A.C. R20-6-801 and Consent Order, Docket No. 8641, dated December 9, 1994.

AMEX wishes to resolve this matter without formal proceedings, admits that the following Findings of Fact are true, and consents to the entry of the following Conclusions of Law and Order.

FINDINGS OF FACT

1. AMEX 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 Director to conduct a market conduct examination of AMEX. The on-site examination covered claims for the period from January 1, 1999 through December 31, 1999 and underwriting actions for the period of January 1, 1998 through December 31, 1999. The on-site examination was concluded on May 11, 2000. Based on their findings the Examiners prepared the

1 "Report of Examination of the Market Conduct Affairs of AMEX Assurance Company"
2 dated May 11, 2000.

3 3. Following a market conduct examination of AMEX as of October 14,
4 1993, the Director entered a Consent Order, Docket No. 8641, which was filed on
5 December 9, 1994. (the "1994 Order"). In pertinent part, the 1994 Order stated as
6 follows:

7
8 1. Respondent shall...pay the total amount of sales taxes and license fees in
9 settlements of automobile total loss claims...

10 4. The Examiners reviewed 56 of 1,058 personal automobile policies
11 cancelled during the time frame of the examination and found that AMEX sent three
12 notices of cancellation to insureds, because of underwriting reasons, and failed to send
13 refunds of the unearned premiums until a later date.

14 5. The Examiners reviewed 60 personal automobile claims and 23
15 homeowner claims closed with payment, other than total losses, during the time frame
16 of the examination and found that the claim forms used by AMEX either failed to
17 contain the required fraud notice or contained the notice in a type size much smaller
18 than the required 12-point type.

19 6. The Examiners reviewed 60 of 92 first party total loss claims and 13 of 13
20 third party total loss claims incurred during the time frame of the examination and
21 found that AMEX failed to pay appropriate taxes and fees in the settlement of 30 first
22 party claims and six third party claims, resulting in the underpayment of \$1,595.23 in
23 taxes and fees in the first party claims and \$213.27 in the third party claims. Before
24 the conclusion of the Examination, AMEX paid the amounts due plus interest to the
25 insureds and claimants.

1 **CONCLUSIONS OF LAW**

2 1. AMEX violated A.R.S. §20-461(A)(6), A.A.C. R20-6-801(H)(1)(b) and the
3 1994 Consent Order by failing to pay appropriate taxes and fees on first and third party
4 total loss settlements,.

5 2. AMEX violated A.R.S. §20-1632(A)(3) by failing to return unearned
6 premiums with notices of cancellation.

7 3. AMEX violated A.R.S. §20-466.03 by using claim forms that did not
8 include the required fraud statement in 12-point type.

9 4. Grounds exist for the entry of the following Order, in accordance with
10 A.R.S. §§20-220 and 20-456.

11 **ORDER**

12 **IT IS ORDERED THAT:**

13 1. AMEX Assurance Company shall cease and desist from:

14 a. Failing to include appropriate taxes and fees in the settlement of
15 first and third party total loss claims.

16 b. Failing to include a refund of unearned premiums with company
17 initiated notices of cancellation.

18 c. Failing to include the required fraud notice on claim forms in no
19 less than 12-point type.

20 2. Within 90 days of the filed date of this Order, AMEX shall submit to the
21 Arizona Department of Insurance, for approval, evidence that corrections have been
22 implemented and communicated to the appropriate personnel for all of the items
23 mentioned in Paragraph 1 of the Order section of this Consent Order. Evidence of
24 corrective action and communication thereof includes but is not limited to memos,
25 bulletins, E-mails, correspondence, procedures manuals, print screens and training

1 materials.

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

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

8 5. The Report of Examination of the Market Conduct Affairs of AMEX
9 Assurance Company dated May 11, 2000, including the letter submitted in response to
10 the Report of Examination, shall be filed with the Department after the Director has
11 filed this Order.

12 DATED at Phoenix, Arizona this 28th day of February, 2001.

13 
14 _____
15 Charles R. Cohen
16 Director of Insurance
17
18
19
20
21
22
23
24
25

CONSENT TO ORDER

1. AMEX Assurance Company has reviewed the attached Consent Order.

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

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

4. AMEX Assurance Company 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. AMEX Assurance Company acknowledges that 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. Dianne Wilson , who holds the office of Senior Vice President of AMEX Assurance Company, is authorized to enter into this Order for it and on its behalf.

AMEX ASSURANCE COMPANY

2-15-01
Date

By: 

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

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

DEPARTMENT OF INSURANCE
2910 North 44th Street, Second Floor
Phoenix, AZ 85018

AMEX ASSURANCE COMPANY
Jennifer Piczkowski, Contract Analyst
1400 Lombardi Avenue, Suite 200
Green Bay, WI 54304-3922

