

MAR 9 2001

STATE OF ARIZONA

DEPT. OF INSURANCE
BY CP

DEPARTMENT OF INSURANCE

In the Matter of:

) Docket No. 01A-068-INS

Employee Benefits Insurance Company,

NAIC # 32794

Security Insurance Company of Hartford,

NAIC # 24902

The Fire and Casualty Insurance Company of Connecticut,

NAIC # 24880

The Connecticut Indemnity Company,

NAIC # 24872

) CONSENT ORDER

Respondents

Examiners for the Department of Insurance ("the Department") conducted a market conduct examination of Employee Benefits Insurance Company (EBIC), Security Insurance Company of Hartford (SICH), The Fire and Casualty Insurance Company of Connecticut (FCIC) and The Connecticut Indemnity Company (CIC), hereinafter referred to collectively as ("Respondents"). The Report of the Examination of the Market Conduct Affairs of the Respondents, alleges that Respondents have violated A.R.S. §§ 20-285, 20-356 (5), 20-357 (E), 20-400.01 (A), 20-443 (1), 20-448 (C), 20-451, 20-452 (3)(4) and 23-906.

Respondents wish to resolve this matter without formal adjudicative proceedings. Respondents admit that the following Findings of Fact are true, and consent to the entry of the following Conclusions of Law and Order.

FINDINGS OF FACT

1. Respondents are authorized to transact property and casualty insurance pursuant to Certificate of Authority issued by the Director.

1 2. Respondents are authorized to transact workers' compensation insurance.

2 3. The Examiners were authorized by the Director to conduct a market
3 conduct examination of the Respondents. The on-site examination was concluded on
4 May 13, 1998 and covered the time period from January 1, 1994 to February 28, 1998,
5 and. Based on their findings the examiners prepared the "Report of Examination" dated
6 May 13,1998.

7 4. Respondents are members of the National Council on Compensation
8 Insurance ("NCCI"), a workers' compensation rating organization licensed by the
9 Department to file rates and forms on behalf of its members.

10 5. The Examiners reviewed 71 workers' compensation policies issued by the
11 Respondents during the time frame of the examination and found as follows:

12 a. Respondents applied a deferral of premium on 19 policies and
13 quotes and did not offer or apply such deferrals on other like policyholders or
14 prospective policyholders.

15 b. Respondents selected sliding scale and level dividend offerings on
16 36 policies and quotes and did not select similar sliding scale and level dividends on
17 other like policyholders or prospective policyholders.

18 c. Respondents failed to issue six policies and four dividend quotes
19 with the correct published sliding scale ranges.

20 d. Respondents failed to place one policy and one quote in the correct
21 Company to correlate with its dividend selections.

22 e. Respondents applied a 27-month deferral of premium on one policy
23 and one quote. While, no other policyholder received a 27-month premium deferral.

24 f. Respondents guaranteed both a dividend and a schedule credit on
25 one policy.

1 g. Respondents offered differing optional dividend quotes linked to
2 differing optional schedule credit quotes, not associated with risk characteristics on two
3 policies.

4 h. Respondents failed to include signed "Employee's Notices to Reject
5 Terms of the Arizona Workers Compensation Law" on 13 policies that excluded
6 coverage for these employees.

7 i. Respondents failed to pay two earned dividends. Respondents
8 have since paid those dividends. One in the amount of \$4,534 plus \$277 interest for a
9 total \$4,811 and the other for \$8,669 plus interest of \$530 for a total of \$9,199.

10 j. Respondents failed to license its service representatives who work
11 in the field with and assist agents in soliciting, negotiating and effectuating insurance.

12 **CONCLUSIONS OF LAW**

13 1. Respondents violated A.R.S. § 20-356 (5) by applying a premium deferral
14 program on certain policies and quotes and not applying the program on other like
15 policyholders or prospective policyholders, by applying certain sliding scale dividends to
16 some insureds and not offering the same options to other like insureds, by issuing
17 policies and quotes offering sliding scale dividends outside the range of Respondents
18 published ranges, and by issuing policies and quotes with dividends not designed for
19 the issuing company.

20 2. Respondents violated A.R.S. §§ 20-357 (E) and 20-400.01(A) by
21 guaranteeing schedule credit levels not associated with risk characteristics, and by
22 providing options to insureds to select optional schedule credit levels not associated
23 with risk characteristics.

24 3. Respondents violated A.R.S. § 20-451 by utilizing dividend offerings as an
25 inducement of insurance, by offering to insureds differing schedule credit/dividend

1 options not linked to risk characteristics, by guaranteeing dividends and schedule
2 credits, by selection of certain dividend options for some insureds and not for other like
3 insureds, by allowing sliding scale dividends outside of Respondents published ranges,
4 by using dividends in one company that had been designed for other companies, and by
5 deferring a premium for 27 months.

6 4. Respondents violated A.R.S. § 20-452 (3) and (4) by guaranteeing a
7 dividend offering, by offering to insureds differing schedule credit/dividend options not
8 linked to risk characteristics, by guaranteeing schedule credits, by selection of certain
9 dividend options for some insureds and not for other like insureds, by allowing sliding
10 scale dividends outside of Respondents published ranges, by using dividends in one
11 company that had been designed for other companies, and by deferring a premium for
12 27 months.

13 5. Respondents violated A.R.S. § 20-448 (C) by guaranteeing a schedule
14 credit not related to risk characteristics and by offering to insureds differing schedule
15 credit/dividend options not linked to risk characteristics.

16 6. Respondents violated A.R.S. § 20-443 (1) by misrepresenting to
17 policyholders the benefits promised through guaranteeing and by misrepresenting to
18 other policyholders promises of optional schedule credits without reference to risk
19 characteristics.

20 7. Respondents violated A.R.S. § 20-285 by not licensing its service
21 representatives who work in the field with and assist agents in soliciting, negotiating and
22 effectuating insurance.

23 8. Respondents violated A.R.S. § 23-906 by failing to include signed
24 "Employee's Notices to Reject Terms of the Arizona Workers Compensation Law".

25

1 9. Grounds exist for the entry of the following Order in accordance with
2 A.R.S. §§ 20-220, 20-456 and 20-397.

3 **ORDER**

4 **IT IS HEREBY ORDERED THAT:**

- 5 1. Respondents shall cease and desist from the following practices:
- 6 a. applying a premium deferral program on certain policies and quotes
7 and not applying the program on other like policyholders or prospective policyholders,
8 applying certain sliding scale dividends to some insureds and not offering the same
9 options to other like insureds, issuing policies and quotes offering sliding scale
10 dividends outside the range of Respondents published ranges, and issuing policies and
11 quotes with dividends not designed for the issuing company.
- 12 b. guaranteeing schedule credit levels not associated with risk
13 characteristics, and providing options to insureds to select optional schedule credit
14 levels not associated with risk characteristics.
- 15 c. utilizing dividend offerings as an inducement of insurance, offering
16 to insureds differing schedule credit/dividend options not linked to risk characteristics,
17 guaranteeing dividends and schedule credits, selecting certain dividend options for
18 some insureds and not for other like insureds, allowing sliding scale dividends outside of
19 Respondents published ranges, using dividends in one company that had been
20 designed for other companies, and deferring a premium for the incorrect number of
21 months.
- 22 d. guaranteeing a dividend offering, offering to insureds differing
23 schedule credit/dividend options not linked to risk characteristics, guaranteeing
24 schedule credits, by selection of certain dividend options for some insureds and not for
25 other like insureds, allowing sliding scale dividends outside of Respondents published

1 ranges, using dividends in one company that had been designed for other companies,
2 and by deferring a premium for the incorrect number of months.

3 e. guaranteeing a schedule credit not related to risk characteristics
4 and offering to insureds differing schedule credit/dividend options not linked to risk
5 characteristics.

6 f. misrepresenting to policyholders the benefits promised through
7 guaranteeing and misrepresenting to other policyholders promises of optional schedule
8 credits without reference to risk characteristics.

9 g. failing to license its service representatives who work in the field
10 with and assist agents in soliciting, negotiating and effectuating insurance.

11 h. failing to include signed "Employee's Notices to Reject Terms of the
12 Arizona Workers Compensation Law".

13 2. Within ninety (90) days of this Order's filed date, Respondents shall submit
14 to the Director for approval, evidence that corrections have been implemented and
15 communicated to the appropriate personnel, regarding all of the items listed above in
16 Paragraph 1 of the Order section of this Consent Order. Evidence of corrective action
17 and communications thereof includes, but is not limited to, memos, bulletins, E-mails,
18 correspondence, procedure manuals, print screens and training materials.

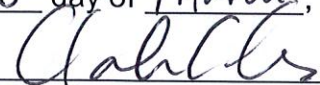
19 3. The Department shall be permitted, through authorized representatives, to
20 verify that Respondents have complied with all provisions of this Order.

21 4. Respondents shall pay a civil penalty of \$16,000 to the Director for deposit
22 in the State General Fund in accordance with A.R.S. §§ 20-220(B). The civil penalty
23 shall be provided to the Market Conduct Examinations Section of the Department prior
24 to the filing of this Order.

25

1 5. The Report of Examination of the Market Conduct Affairs of the
2 Respondents as of May 13, 1998, including the letter submitted in response to the
3 Report of Examination, shall be filed with the Department after the Director has filed this
4 Order.

5 DATED at Phoenix, Arizona this 8th day of March, 2001.

6 
7 Charles R. Cohen
8 Director of Insurance
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

1 **CONSENT TO ORDER**

2 1. Respondents have reviewed the foregoing Order.

3 2. Respondents admit the jurisdiction of the Director of Insurance, State of
4 Arizona, admit the foregoing Findings of Fact, and consent to the entry of the
5 Conclusions of Law and Order.

6 3. Respondents are aware of the right to a hearing, at which they may be
7 represented by counsel, present evidence and cross-examine witnesses. Respondents
8 irrevocably waive the right to such notice and hearing and to any court appeals related
9 to this Order.

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

13 5. Respondents acknowledge that the acceptance of this Order by the
14 Director of the Arizona Department of Insurance is solely for the purpose of settling this
15 matter and does not preclude any other agency or officer of this state or its subdivisions
16 or any other person from instituting proceedings, whether civil, criminal, or
17 administrative, as may be appropriate now or in the future.

18 6. JERRY M. KUWIN, who holds the office of
19 Vice President of Respondents, is authorized to enter into this Order
20 for them and on their behalf.

21 **Employee Benefits Insurance Company**
22 **Security Insurance Company of Hartford**
23 **The Fire and Casualty Insurance Company of Connecticut**
24 **The Connecticut Indemnity Company**

25 3/5/01
(Date)

By Jerry M. Kuwin

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

COPY of the foregoing mailed/delivered
This 9th day of March 2001, to:

- Sara Begley
Deputy Director
- Mary Butterfield
Assistant Director
Consumer Affairs Division
- Paul J. Hogan
Chief Market Conduct Examiner
Market Conduct Examinations Section
- Deloris E. Williamson
Assistant Director
Rates & Regulations Division
- Steve Ferguson
Assistant Director
Financial Affairs Division
- Alexandra Shafer
Assistant Director
Life & Health Division
- Nancy Howse
Chief Financial Examiner
- Terry L Cooper
Fraud Unit Chief

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

Ronald Grove
EMPLOYEE BENEFITS INSURANCE COMPANY, et al
Nine Farm Springs Drive
Farmington, CT 06032

