

APR 9 2001

STATE OF ARIZONA

DEPT. OF INSURANCE
BY CB

DEPARTMENT OF INSURANCE

In the Matter of:

TITAN INSURANCE COMPANY,

NAIC #36269,

Respondent

) Docket No. 01A-095-INS

) **CONSENT ORDER**

Examiners for the Department of Insurance (the "Department") conducted a market conduct examination of Titan Insurance Company ("Titan"). The Report of Examination of the Market Conduct Affairs of Titan, dated November 12, 1999, alleges that Titan has violated A.R.S. §§20-297, 20-385, 20-461, 20-466.03, 20-1631, 20-1632, 20-1632.01, A.A.C. R20-6-801, and the Consent Order, Docket #96A-199, dated November 8, 1996.

Titan 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. Titan is authorized to transact property and casualty insurance pursuant to Certificate of Authority issued by the Director.

2. The Examiners were authorized by the Director to conduct a market conduct examination of Titan. The on-site examination covered the time period from July 1, 1996 through June 30, 1999 and was concluded on November 12, 1999. Based on the findings the Examiners prepared the "Report of Examination of the Market Conduct Affairs of Titan Insurance Company," dated November 12, 1999.

1 3. The Department previously conducted a market conduct examination of
2 Titan. The on-site examination was concluded as of July 7, 1995. As a result, a
3 Consent Order (the "1996 Order"), was filed by the Director on November 8, 1996,
4 Docket No. 96A-199. The 1996 Order stated in pertinent part as follows:

5 "The Titan Companies shall: cancel personal auto policies only after
6 notifying the insured at least 10 days in advance of the effective date of cancellation;
7 refund any unearned premiums due insureds with notices of policy cancellation."

8 4. The Examiners reviewed the lists of agents filed by Titan with the
9 Department during the time frame of the examination and found that the Company
10 failed to submit its lists of agents to the Department on or before January 30, 1998 and
11 1999.

12 5. The Examiners reviewed 108 of 59,215 new business, 108 of 42,749
13 renewal business, and two complaints on personal automobile (PA) policies that were
14 issued or renewed during the time frame of the examination and found as follows:

15 a. Titan failed to apply filed rates and rules in the premium
16 determination of 22 policies.

17 b. Titan applied an accident surcharge for an accident not caused by
18 or significantly contributed to by the insured on one policy.

19 6. The Examiners reviewed 60 of 199 personal automobile (PA) policies
20 that were nonrenewed, 200 of 72,383 PA policies that were canceled and two
21 complaints involving PA policy cancellations that occurred during the time frame of the
22 examination and found as follows:

23 a. Titan failed to provide a statement in writing of the specific facts
24 constituting the reasons for the nonrenewal of 18 policies.

25 b. Titan failed to provide a valid reason for the nonrenewal or

1 cancellation of 12 policies.

2 c. Titan failed to provide proof that 54 nonrenewal notices and four
3 cancellation notices were mailed either certified mail or certificate of mailing.

4 d. Titan failed to provide a ten-day advance notice of intent to cancel
5 on three policies.

6 e. Titan failed to include the refund of unearned premium with its
7 cancellation notices on seven policies.

8 f. Titan failed to provide a minimum seven-day grace period after the
9 paid-through date in the cancellation of three policies.

10 g. Titan failed to issue the cancellation effective on the date mailed in
11 the cancellation of 63 PA policies and two PA complaints.

12 7. The Examiners reviewed 100 of 1,392 first-party automobile total-loss
13 claims, 58 of 781 third-party total loss claims paid and 98 of 8,911 claims closed
14 without payment during the time frame of the examination and found as follows:

15 a. Titan failed to include all sales taxes and license fees in the
16 settlement of 40 first-party automobile total-loss claims and 15 third-party total loss
17 claims.

18 b. Titan failed to document how the actual cash value of one first-
19 party automobile total-loss claim was determined.

20 c. Titan failed to adequately document and itemize by dollar amount
21 deductions from the actual cash value in the settlement of 31 first-party automobile
22 total-loss claims and 14 third-party automobile total-loss claims.

23 d. Titan failed to include the Arizona Fraud warning on claims
24 documents included in 38 automobile total-loss claims.

25 8. Titan's failure to honor agent's quotes, failure to comply with its filed rates

1 and assessment of an incorrect surcharge resulted in premium overcharges totaling
2 \$1,967.00. Titan's failure to document deductions from actual cash value on PA
3 settlements and failure to pay all sales taxes and license fees on total-loss claims
4 resulted in claims underpayments totaling \$22,808.94. All overcharges and
5 underpayments have been repaid to the insureds and claimants.

6 **CONCLUSIONS OF LAW**

7 1. Titan violated A.R.S. §20-297 by failing to submit its lists of agents to the
8 Department on or before January 30 of 1998, and 1999.

9 2. Titan violated A.R.S. §20-385(A) by failing to apply filed rates and rules in
10 the premium determination of personal automobile policies.

11 3. Titan violated A.R.S. §20-1631(D) by failing to provide a valid reason for
12 the cancellation or nonrenewal of personal automobile policies that were in force more
13 than 60 days.

14 4. Titan violated A.R.S. §20-1632(A) by failing to provide proof that Notices
15 of Cancellation or Nonrenewal were mailed either certified mail or certificate of mailing
16 and by failing to provide a ten day advance notice of its intent to cancel personal
17 automobile policies.

18 5. Titan violated A.R.S. §20-1632(A)(1) with its Notices of Cancellation and
19 Nonrenewal of personal automobile policies by failing to provide a statement in writing
20 of the specific facts constituting the reasons for cancellation or nonrenewal.

21 6. Titan violated A.R.S. §20-1632(A)(3) and the 1996 Order by failing to
22 include the refund of unearned premium with its Notices of Cancellation of automobile
23 policies.

24 7. Titan violated A.R.S. §20-1632.01(A) by failing to provide a minimum
25 seven day grace period after the date through which the insured's premium has been

1 paid before canceling personal automobile policies for nonpayment of premium.

2 8. Titan violated A.R.S. §20-1632.01(B) by failing to issue Notices of
3 Cancellation for nonpayment of premium effective on the date mailed.

4 9. Titan violated A.A.C. R20-6-801(H)(1)(b), A.R.S. §20-461(A)(6) and the
5 1996 Order by failing to include all sales taxes and license fees in the settlement of
6 first-party automobile total-loss claims.

7 10. Titan violated A.A.C. R20-6-801(H)(1)(c) and A.R.S. §20-461(A)(6) by
8 failing to document and itemize by dollar amount deductions from actual cash value
9 (ACV) in the settlement of first-party automobile total-loss claims.

10 11. Titan violated A.A.C. R20-6-801(H)(6) and A.R.S. §20-461(A)(6) by
11 failing to document and itemize by dollar amount deductions for depreciation or
12 betterment from the ACV in the settlement of third-party automobile total-loss claims.

13 12. Titan violated A.R.S. §20-466.03 by failing to include the Arizona Fraud
14 warning on its claims notices.

15 13. Grounds exist for the entry of the following Order, in accordance with
16 A.R.S. §§20-220 and 20-456.

17 **ORDER**

18 **IT IS HEREBY ORDERED THAT:**

- 19 1. Titan shall cease and desist from committing the following practices:
- 20 a. Failing to submit its list of agents to the Department on or before
21 January 30 of each year.
- 22 b. Failing to comply with filed rates and rules in the issuance of new
23 and renewal business automobile policies.
- 24 c. Nonrenewing or canceling personal automobile policies for
25 reasons other than as provided by Arizona statutes.

1 d. Failing to mail Notices of Cancellation or Nonrenewal of personal
2 automobile policies by certified mail or certificate of mailing.

3 e. Failing to provide a ten-day advance notice of intent to cancel
4 personal automobile policies.

5 f. Failing to provide a statement in writing of the specific facts
6 constituting the reasons for cancellation or nonrenewal of personal automobile policies.

7 g. Failing to include the refund of unearned premium with personal
8 automobile Notices of Cancellation.

9 h. Failing to provide a minimum seven-day grace period after the
10 date through which the insured's premium has been paid before canceling personal
11 automobile policies for nonpayment of premium.

12 i. Failing to issue Notices of Cancellation for nonpayment of
13 premium on personal automobile policies effective on the date mailed.

14 j. Failing to include applicable sales taxes and license fees in the
15 settlements of first-party and third-party automobile total-loss claims.

16 k. Failing to document and itemize by dollar amount deductions from
17 actual cash value in the settlement of first-party automobile total-loss claims.

18 l. Failing to include the Arizona Fraud warning on claims notices.

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

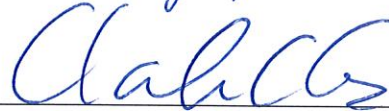
25 3. The Department shall be permitted, through authorized representatives,

1 to verify that Titan has complied with all provisions of this Order.

2 4. Titan shall pay a civil penalty of \$20,000 to the Director for deposit in the
3 State General Fund in accordance with A.R.S. §§20-220(B) and 20-456. The civil
4 penalty shall be provided to the Market Conduct Examinations Section of the
5 Department prior to the filing of this Order.

6 5. The Report of Examination of the Market Conduct Affairs of Titan dated
7 November 12, 1999, including the letter submitted in response to the Report of
8 Examination, shall be filed with the Department after the Director has filed this Order.

9 DATED at Phoenix, Arizona this 5th day of April, 2001.

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12 Charles R. Cohen
13 Director of Insurance
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CONSENT TO ORDER

1. Titan Insurance Company has reviewed the foregoing Order.

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

4. Titan Insurance Company 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. Titan Insurance Company acknowledges that the acceptance of this Order by the Director of the Arizona Department of Insurance is solely for the purpose of settling this matter and does not preclude any other agency or officer of this state or its subdivisions or any other person from instituting proceedings, whether civil, criminal, or administrative, as may be appropriate now or in the future.

6. ROBERT W. MUELLER, who holds the office of PRESIDENT of Titan Insurance Company, is authorized to enter into this Order for it and on its behalf.

TITAN INSURANCE COMPANY

4/3/01
Date

By RWM

1 COPY of the foregoing mailed/delivered

2 This 9th day of April, 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 Alexandra Shafer

20 Assistant Director

21 Life & Health Division

22 Terry Cooper

23 Fraud Unit Chief

24 DEPARTMENT OF INSURANCE

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