

MAY 7 2001

STATE OF ARIZONA  
DEPARTMENT OF INSURANCE

DEPT. OF INSURANCE  
BY CB

In the Matter of:

**AMERICAN INTERNATIONAL SOUTH INSURANCE  
COMPANY,**

NAIC #40258,

Respondents.

) Docket No. 01A-121-INS

) **CONSENT ORDER**

Examiners for the Department of Insurance (the "Department") conducted a market conduct examination of the American International South Insurance Company ("AISIC"). In the Report of the Examination of the Market Conduct Affairs of AISIC, the Examiners allege that American International South violated A.R.S. §§ 20-311, 20-385, 20-442, 20-443, 20-461, 20-462, 20-1113, 20-1631, 20-1632, 20-1632.01, A.A.C. R20-6-801, and the prior Consent Order, Docket No 8651 filed December 14, 1994.

AISIC wishes to resolve this matter without formal proceedings, waives its right to contest Findings of Fact without admitting them as true, and consents to the entry of the following Conclusions of Law and Order.

**FINDINGS OF FACT**

1. AISIC 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 AISIC. The on-site examination covered the time period from January 1, 1994 through December 31, 1996, and was concluded on January 10, 1997. Based on their findings the Examiners prepared the "Report of Examination of the Market Conduct Affairs of American International South Insurance Company" dated January

1 10, 1997.

2 3. Following a market conduct examination of American Global Insurance  
3 Company ("AGIC") as of September 3, 1993, the Director entered a Consent Order,  
4 Docket No. 8631, which was filed on December 14, 1994 (the "1994 Order"). Section 1  
5 of the "Order" section stated as follows:

6  
7 "AGIC shall cease and desist from using incorrect territory codes; From  
8 failing to give the seven day grace period to PA insureds for nonpayment  
9 of premium; From not acknowledging notification of automobile total loss  
10 claims within ten working days; From failing to complete the investigation  
11 of automobile total loss claims within 30 days; From failing to pay the total  
amount of sales taxes and license fees in settlements of automobile total  
loss claims; From making undocumented deductions on automobile total  
loss settlements; and From failing to pay interest to insureds on claims not  
paid within 30 days of receipt by AGIC of acceptable proofs of loss."

12 4. AGIC's name was changed to American International South Insurance  
13 Company effective September 14, 1995.

14 5. The Examiners reviewed 159 personal automobile (PA) policies issued by  
15 the Company during the time frame of the examination and found as follows:

16 a. AISIC paid commissions on three PA policies to an agent whose  
17 license had expired. According to the Company's business records, this agent issued  
18 approximately 2,250 policies without being licensed and the Company paid  
19 commissions to the agent on those policies while the agent's license was expired.

20 b. AISIC applied vehicle symbols other than those determined on the  
21 basis of its filed rates and rules, in rating nine policies.

22 c. AISIC misrepresented the terms of the policy by failing to honor its  
23 agents' premium quotations in the issuance of ten PA policies.

24 6. As a result of its issuance of personal automobile policies at other than its  
25 filed rates and its failure to honor its agents' premium quotations, AISIC overcharged 14

1 insureds and undercharged six insureds, resulting in a net overcharge of \$1,293 on 13  
2 policies.

3 7. The Examiners reviewed 127 personal automobile files that were cancelled  
4 by the Company during the time frame of the examination and found as follows:

5 a. AISIC cancelled two policies for underwriting reasons, but did not  
6 return unearned premium to the insureds at the time the notices were sent.

7 b. AISIC cancelled 18 policies for underwriting reasons without notifying  
8 the insureds of the specific reasons for cancellation.

9 c. AISIC included misleading information on 49 Reminder Notices by  
10 indicating a past-due amount that included the amount of a missed payment and also  
11 the amount of a payment that was not actually due until two weeks after the Reminder  
12 Notice.

13 d. AISIC issued 49 Reinstatement Notices that indicated a date of  
14 reinstatement on policies that had not been canceled.

15 e. AISIC failed to provide the seven-day grace period in the cancellation  
16 of 11 policies for nonpayment of premium but instead canceled the policies as of the  
17 renewal date or within seven days after the renewal date.

18 8. The Examiners reviewed 84 first party automobile total loss claims  
19 settled by the Company during the time frame of the examination and found as follows:

20 a. AISIC failed to pay \$40.55 of the applicable sales tax incident to  
21 transfer of evidence of ownership of comparable automobiles to five claimants.

22 b. AISIC deducted a total of \$614.52 from the actual cash value of two  
23 total loss vehicles. These amounts, for detailing and cleaning the front seats of the total  
24 loss vehicles, were not measurable, discernible, itemized, specified as to dollar amount,  
25 and appropriate in amount.

1        9. The Examiners reviewed 78 third-party total loss automobile claims settled  
2 by the Company during the time frame of the examination and found that AISIC did not  
3 pay one claim within 30 days of receipt of an acceptable proof of loss, and therefore  
4 owes \$530.78 in interest to the claimant.

5        10. The Examiners reviewed 111 of 111 complaints filed with the Arizona  
6 Department of Insurance against the Company during the time frame of the  
7 examination, and found as follows:

8            a. AISIC failed to honor the agent's premium quotation in the issuance of  
9 seven PA policies and instead issued the policies for higher premium.

10           b. AISIC canceled nine PA policies without providing the seven-day grace  
11 period following the date through which premiums were paid.

12        11. The Examiners reviewed a sample of 70 personal automobile policies  
13 reinstated by the Company during the time frame of the examination, after a lapse in  
14 coverage within 30 days after the policy renewal date and found as follows:

15           a. AISIC canceled 61 policies for nonpayment of the renewal premium  
16 and failed to provide the seven-day grace period because the policies were canceled on  
17 the renewal due date instead of on the eighth day after the renewal due date.

18           b. AISIC failed to give credit for the payments of insurance premiums on  
19 70 policies as of the postmark date.

20           c. AISIC charged a reinstatement fee to 61 policyholders where no  
21 cancellation notice was issued, but had been canceled on the computer system.

22           d. AISIC failed to comply with its policy provisions by lapsing coverage  
23 during the seven-day grace period following the renewal due date on 61 policies.

24           e. AISIC issued Reinstatement Notices on 70 policies in which the  
25 Company had lapsed coverage but continued to reflect the original renewal date as the

1 policy effective date instead of reflecting the policy was reinstated after the lapse.

2 f. AISIC issued Reinstatement Notices that incorrectly advised 61  
3 insureds that premium payments were received after the cancellation/termination date  
4 when in fact the policies were canceled in the company's computer system only, and no  
5 Notices of Cancellation were sent to the insureds.

#### 6 **CONCLUSIONS OF LAW**

7 1. AISIC violated A.R.S. § 20-311(A) by paying commissions to an agent not  
8 licensed as such by the Director

9 2. AISIC violated A.R.S. § 20-385(A) by determining personal automobile  
10 premiums other than according to its filed rates and rules.

11 3. AISIC violated A.R.S. § 20-442 by including misleading information on its  
12 Reinstatement Notes that policies were reinstated when in fact the policies had not  
13 been canceled, and by including misleading information on its reminder Notices  
14 indicating an amount as "Past Due" when that amount also included the payment due in  
15 two weeks.

16 4. AISIC violated A.R.S. § 20-443(1) by failing to issue new personal  
17 automobile policies in accordance with the terms, payments plans, and coverages as  
18 requested by the insureds on the applications for coverage.

19 5. AISIC violated A.R.S. § 20-443(1) by misrepresenting the terms of its  
20 personal automobile policies in its failure to honor its agent's quotations but instead  
21 issued policies with premiums of more than ten dollars in excess of the premiums  
22 quoted by its agents.

23 6. AISIC violated A.R.S. § 20-1632(A)(3) by failing to refund unearned  
24 premium to insureds whose policies were cancelled for underwriting reasons, at the  
25 same time that they were sent notices of cancellation



1 failing to return unearned premium to the insureds at the time the notices were issued.

2 d. Canceling personal automobile policies for underwriting reasons  
3 without notifying the insureds of the specific reasons for cancellation.

4 e. Canceling or non-renewing personal automobile policies for  
5 nonpayment of premium without providing a grace period of at least seven days.

6 f. Failing to issue Notices of Cancellation for Nonpayment of Premium  
7 with cancellation effective dates effective on the date mailed;

8 g. Failing to include all applicable taxes and fees in the settlement of first  
9 party automobile total loss claims;

10 h. Issuing Reinstatement Notices that indicate a reinstatement date on  
11 policies that have not actually been canceled;

12 i. Issuing Reinstatement Notices that do not reflect the reinstatement  
13 date but continue to show the renewal date as the effective date, even though there  
14 was a lapse in coverage between the renewal date and the reinstatement date;

15 j. Issuing Reminder Notes that indicate a "Past Due" amount that also  
16 includes the payment due in two weeks;

17 k. Failing to honor its agents' premium quotations that are more than \$10  
18 less than the correct premium because of mistakes made by its agents and failing to  
19 issue policies for the policy term requested by the applicant;

20 l. Failing to pay interest on claims that were not paid within 30 days of  
21 receipt of an acceptable proof of loss.

22 2. Within 90 days of the filed date of this Order, AISIC shall submit to the  
23 Arizona Department of Insurance, for approval, evidence that corrections have been  
24 implemented and communicated to the appropriate personnel, regarding the issues  
25 outlined in Paragraph 1 of the Order section of this Consent Order. Evidence of

1 corrective action and communication thereof includes, but is not limited to, memos,  
2 bulletins, E-mails, correspondence, procedures manuals, print screens, and training  
3 materials.

4 3. Within 90 days of the filed date of this Order, AISIC shall reopen and  
5 process claims Nos. 310-006479 and 310-012598. The dates of loss of these claims  
6 were within the grace period, but AISIC denied the claims. Any payments due shall be  
7 paid, plus interest at the rate of ten per cent per annum, calculated from the original  
8 date that the claim was received by the Company, to the date the claim was paid.

9 4. Within 90 days of the filed date of this Order, AISIC shall refund the amount  
10 of \$1,293.00, plus interest at the rate of ten per cent per annum, calculated from the  
11 date of the overcharge to the date of the refund, to the 13 personal automobile insureds  
12 listed in Exhibit A of this Order.

13 5. Within 90 days of the filed date of this Order, AISIC shall pay the amount of  
14 \$655.07, plus interest at the rate of ten per cent per annum, calculated from the date  
15 the claim was received by the Company, to the date of the payment, to the five  
16 claimants listed in Exhibit B of this Order.

17 6. Within 90 days of the filed date of this Order, AISIC shall pay interest at the  
18 rate of ten per cent per annum, calculated from the date the third party automobile total  
19 loss claim was received by the Company, to the date the claim was paid, on claim No.  
20 310-012936.

21 7. Each payment made pursuant to paragraphs 3, 4, 5, and 6 above shall  
22 include a letter to the insured in a form previously approved by the Director. A list of  
23 payments, giving the name and address of each party paid, the amount of the payment,  
24 the amount of interest paid, and the date of payment, shall be provided to the  
25 Department within 90 days of the filed date of this Order.

1        8.    The Department shall be permitted, through authorized representatives, to  
2 verify that American International South has complied with all provisions of this Order.

3        9.    AISIC shall pay a civil penalty of \$45,000 to the Director for deposit in the  
4 State General Fund in accordance with A.R.S. § 20-220(B). The civil penalty shall be  
5 provided to the Market Conduct Examinations Division of the Department prior to the  
6 filing of this Order.

7        10.   The Report of Examination of the Market Conduct Affairs of American  
8 International South as of January 10, 1997, including the letter submitted in response to  
9 the Report of Examination, shall be filed with the Department after the Director has filed  
10 this Order.

11  
12 DATED at Phoenix, Arizona this 4<sup>th</sup> day of May, 2001.

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14 

15 Charles R. Cohen  
16 Director of Insurance  
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**EXHIBIT A**

**Premium Overcharges**

<b>Policy Number</b>	<b>Policy Term</b>	<b>Net Premium Variance</b>
7936076	2/11/94-2/11/95	\$61.00
8043482	10/20/95-10/20/96	\$74.00
8049458	10/25/95-10/25/96	\$76.00
8055538	11/07/94-5/07/95	\$33.00
8085930	3/04/96-3/04/97	\$109.00
8092782	1/05/95-1/05/96	\$48.00
8142266	4/07/95-4/07/96	\$11.00
8142787	4/08/95-4/08/96	\$25.00
8146588	5/05/95-5/05/96	\$202.00
8192016	6/13/95-6/13/96	\$142.00
8350214	11/28/95-11/28/96	\$100.00
8402359	4/01/96-10/01/96	\$208.00
8401693	3/22/96-3/22/97	\$204.00
<b>TOTALS</b>		<b>\$1293.00</b>

**EXHIBIT B**

**First Party Total Loss Automobile Claims**

<b>Date of Loss</b>	<b>Claim Number</b>	<b>Amount Paid</b>	<b>Amount Per ADOI</b>	<b>Difference</b>
7/05/94	310-005186	\$4,676.85	\$5,195.45	\$518.60
12/23/94	310-007870	\$3,354.95	\$3,358.55	\$3.60
5/08/95	310-010414	\$11,108.69	\$11,226.63	\$117.94
3/17/96	310-017531	\$1,936.64	\$1,941.17	\$4.53
5/03/96	310-018639	\$5,080.35	\$5,090.75	\$10.40
<b>TOTALS</b>		<b>\$26,157.48</b>	<b>\$26,812.55</b>	<b>\$655.07</b>

**CONSENT TO ORDER**

1. American International South Insurance Company ("AISIC") has reviewed the foregoing Order.

2. AISIC admits the jurisdiction of the Director of Insurance, State of Arizona, waives its right to contest the Findings of Fact without admitting them as true, and consents to the entry of the Conclusions of Law and Order.

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

4. AISIC 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.

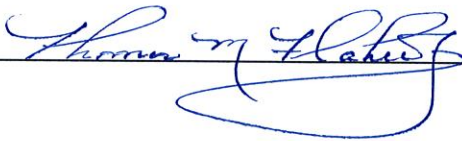
5. AISIC acknowledges that the acceptance of this Order by the Director of the Arizona Department of Insurance is solely for the purpose of settling this matter and does not preclude any other agency or officer of this state or its subdivisions or any other person from instituting proceedings, whether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

6. THOMAS M FLAHERTY, who holds the office of VICE - PRESIDENT of American International South Insurance Company, is authorized to enter into this Order for them and on their behalf.

**AMERICAN INTERNATIONAL SOUTH INSURANCE COMPANY**

4-12-01

By: \_\_\_\_\_



Date

1 COPY of the foregoing mailed/delivered

2 **this 7<sup>th</sup> day of May , 2001, to:**

3  
4 Sarah Begley

Deputy Director

5 Mary Butterfield

Assistant Director

6 Consumer Affairs Division

7 Paul J. Hogan

Chief Market Conduct Examiner

Market Conduct Examinations Section

8 Deloris E. Williamson

Assistant Director

9 Rates & Regulations Division

10 Steve Ferguson

Assistant Director

11 Financial Affairs Division

12 Nancy Howse

Chief Financial Examiner

Alexandra Shafer

13 Assistant Director

Life & Health Division

14 Terry L Cooper

Fraud Unit Chief

15  
16 DEPARTMENT OF INSURANCE

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18  
19 Mary Pat Norfleet, Manager, Regulatory Affairs

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