

DEC 20 2001

STATE OF ARIZONA
DEPARTMENT OF INSURANCE

DEPT. OF INSURANCE
BY CB

In the Matter of:)	Docket No. 01A-288-INS
CIGNA INSURANCE COMPANY, N.K.A.)	CONSENT ORDER
ACE AMERICAN INSURANCE COMPANY,)	
NAIC # 22667)	
Respondent)	

Examiners for the Department of Insurance (the "Department") conducted a market conduct examination of CIGNA Insurance Company, n.k.a. ACE American Insurance Company ("ACE"). The Report of Examination of the Market Conduct Affairs of ACE alleges that ACE violated A.R.S. §§ 20-357, 20-385, 20-400.01, 20-1677, 23-906, and 23-916.

ACE wishes to resolve this matter without formal adjudicative proceedings, neither admits nor denies that the following Findings of Fact and Conclusions of Law are true, and consents to the entry of the following Order.

FINDINGS OF FACT

1. ACE is authorized to transact property and casualty insurance pursuant to Certificates of Authority issued by the Director.

2. The Examiners were authorized by the Director to conduct a market conduct examination of ACE. The on-site examination covered the time period from June 1994 to May 1998 and was concluded on December 24, 1998. Based on their findings, the Examiners prepared the "Report of Examination of the Market Conduct Affairs of CIGNA Insurance Company on October 30, 1998.

1 3. Effective July 2, 1999, CIGNA Insurance Company changed its name to
2 ACE American Insurance Company.

3 4. ACE is a member of the National Council on Compensation Insurance
4 ("NCCI") and a member of the Insurance Service Office ("ISO"), a property and
5 casualty rating organization duly licensed by the Department to file rates and forms on
6 behalf of its members. ACE has also independently filed certain rates and forms.
7 Such rates rules and forms filed by the ACE, or filed on its behalf, are included in this
8 Order's reference to ACE's "filed rates and rules".

9 5. The Examiners reviewed 36 Phoenix Branch workers' compensation
10 (WC) policies and 19 National WC policies issued by the Company during the time
11 frame of the examination and found as follows:

- 12 a. ACE failed to complete the ERM #14 form on three WC policies,
- 13 b. ACE failed to follow the NCCI Premium Deposit Rule on three WC
14 policies,
- 15 c. ACE failed to obtain loss control reports on 12 WC policies.
- 16 d. ACE did not retain adequate rate development information to
17 enable verification of compliance of filings on 13 national WC policies.
- 18 e. ACE failed to comply with NCCI's requirement for obtaining the
19 insured's notice of election on its retrospective (retro) policies on two national WC
20 policies.
- 21 f. ACE failed to calculate the retro adjustments according to the
22 retro endorsement on five national WC policies.
- 23 g. ACE failed to use filed NCCI retro option V factors on three
24 national WC retro policies.

1 h. ACE failed to follow its filed pages and tables of its WC large
2 deductible filings on eight national WC policies.

3 i. ACE applied expense allocations or loss retentions to calculate
4 premiums which were not consistent with its Arizona filings.

5 j. ACE failed to use NCCI developed retro basic premium factors on
6 three national WC policies.

7 k. ACE failed to attach mandatory retro endorsements on three
8 national WC policies.

9 l. ACE failed to complete NCCI's schedule rating worksheet on eight
10 national WC policies.

11 m. ACE failed to send the schedule rating worksheet to NCCI on eight
12 national WC policies.

13 n. ACE failed to apply premium discount to two eligible WC policies.

14 o. ACE failed to apply the correct NCCI experience modifications to
15 three national WC policies.

16 p. ACE failed to mail ICA card/notice to the Industrial Commission on
17 six WC policies.

18 q. ACE did not get a signed rejection endorsement for employees
19 rejecting the plan on four WC policies.

20 6. The Examiners reviewed three commercial automobile (CA) policies and
21 12 commercial package (PKG) policies issued by the Company during the time frame
22 of the examination and found as follows:

23 a. ACE failed to produce records or to document experience
24 calculations on 20 CA policies.

25 b. ACE used incorrect maximum single losses on two PKG policies.

1 c. ACE failed to use the correct filed loss cost on three PKG policies
2 and four CA policies.

3 d. ACE did not follow the employee benefit liability filing on two PKG
4 policies.

5 e. ACE used unfiled guide "a" rates on five PKG policies.

6 f. ACE did not send 60 day notice of increase or change on three
7 PKG policies.

8 g. ACE failed to document debit/credit changes in its schedule rating
9 plan on four PKG policies and two CA policies.

10 h. ACE failed to apply experience rating to eligible insureds on two
11 CA policies.

12 i. ACE failed to file its liquor liability rate/loss cost on five PKG
13 policies.

14 j. ACE did not use known or correct losses in its experience
15 calculations of two PKG policies, resulting in overcharges of \$12,784.

16 **CONCLUSIONS OF LAW**

17 1. ACE violated A.R.S. § 20-400.01(D) by failing to document debit/credit
18 changes in its schedule rating plan and by failing to produce records.

19 2. ACE violated A.R.S. §§ 20-400.01(A) and 20-357(E) by issuing policies
20 whose premiums have been developed in a manner that is inconsistent with their filed
21 rates and rules.

22 3. ACE violated A.R.S. § 20-400.01(B) failing to obtain loss control reports.

23 4. ACE violated A.R.S. §§ 20-385(A) and 20-400.01(A) by failing to file all
24 rates used to develop premiums.

5. ACE violated A.R.S. § 20-400.01(A) by failing to apply experience rating to eligible insureds, by applying experience rating to ineligible insureds, and by not using known losses in its experience calculations.

6. ACE violated A.R.S. § 23-916(F) by not obtaining signed employee rejection forms.

7. ACE violated A.R.S. § 23-906 by failing to send ICA cards/notices to the Industrial commission.

8. ACE violated A.R.S. § 20-400.01(B) by using incorrect liquor liability rates.

9. ACE violated A.R.S. § 20-400.01(A) by using incorrect experience maximum single losses, failing to use the correct filed loss cost, not following the employee benefit liability filing, and by using unfiled guide “a” rates.

10. ACE violated A.R.S. § 20-1677 by failing to send a 60-day notice of an increase in premium, change in deductible, reduction in limits, or substantial reduction in coverage.

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

ORDER

IT IS HEREBY ORDERED THAT:

1. ACE shall cease and desist from the following acts:
 - a. Failing to apply experience rating to eligible insureds.
 - b. Not using known losses on experience calculations.
 - c. Failing to document debit/credit changes in its schedule rating plan.

1 d. The application of expense allocations to establish premiums for
2 Arizona risks other than in accordance with its Arizona workers' compensation filings.

3 2. Within 90 days of this Order's filed date, ACE shall submit to the Arizona
4 Department of Insurance, for approval, evidence that corrections have been
5 implemented and communicated to the appropriate personnel, regarding the issues
6 outlined in Item 1 of the Order section of this Consent Order. Evidence of corrective
7 action and communication thereof includes, but is not limited to, memos, bulletins,
8 emails, correspondence, procedures manuals, print screens, and training materials.

9 3. Within 90 days of the filed date of this Order, ACE shall reimburse the
10 policyholders listed in Exhibit A of this Order, who were overcharged. Interest shall be
11 paid at the rate of ten percent per annum, calculated from the date that the premium
12 was paid, until the date of the reimbursement. Each payment shall include a letter to
13 the insured in a form previously approved by the Director. A list of payments, giving
14 the name and address of each party paid, the amount of interest paid, and the date of
15 payment, shall be provided to the Department within 90 days of the filed date of this
16 Order.

17 4. The Department shall be permitted, through authorized representatives,
18 to verify that ACE has complied with all provisions of this Order.

19 5. ACE shall pay a civil penalty of \$14,000 to the Director for remission to
20 the State Treasurer for deposit in the State General Fund in accordance with A.R.S. §
21 20-220(B). The civil penalty shall be provided to the Market Conduct Examinations
22 Section of the Department prior to the filing of this Order.

23 6. The Report of Examination of the Market Conduct Affairs of ACE
24 American Insurance Company as of October 30, 1998 including the letter of objection
25

1 to the Report of Examination shall be filed by with the Department after this Order is
2 issued.

3 **DATED** at Phoenix, AZ this 20th day of December, 2001.

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6 **Charles R. Cohen**
7 **Director of Insurance**
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EXHIBIT A

Premium Overcharge Refunds

Phoenix Branch Accounts

Account ID Number	Amount
AO2	\$6,210.00
MO1	\$48.00
PO3 (Auto)	\$3,103.00
PO1, 2, 3 (PKG)	\$855.00
RO1	\$1549.00
Total	\$11,765.00

CONSENT TO ORDER

1. ACE American Insurance Company has reviewed the foregoing Order.

2. ACE American Insurance Company 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 Order.

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

4. ACE American Insurance Company states that no promise of any kind or nature whatsoever was made to them to induce them to enter into this Consent Order and that they have entered into this Consent Order voluntarily.

5. ACE American 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. RICHARD C. FRANKLIN, who holds the office of SENIOR Vice President of ACE American Insurance Company, is authorized to enter into this Order for them and on their behalf.

ACE AMERICAN INSURANCE COMPANY

12-3-2001
Date

By Richard C. Franklin

1 COPY of the foregoing mailed/delivered
2 This 20th day of December 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 Deloris E. Williamson
11 Assistant Director
12 Rates & Regulations Division
13 Steve Ferguson
14 Assistant Director
15 Financial Affairs Division
16 Nancy Howse
17 Chief Financial Examiner
18 Alexandra Shafer
19 Assistant Director
20 Life & Health Division
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