

OCT 29 2002

DEPT. OF INSURANCE
BY CB

STATE OF ARIZONA
DEPARTMENT OF INSURANCE

In the Matter of:)	Docket No. 02A-182-INS
EMPLOYERS INSURANCE OF WAUSAU, A MUTUAL COMPANY)	Consent Order
NAIC # 21458,)	
Respondent.)	

Examiners for the Department of Insurance (the "Department") conducted a market conduct examination of Employers Insurance of Wausau, A Mutual Company, ("Employers"). In the Report of the Examination of the Market Conduct Affairs of Employers, the Examiners allege that Employers violated A.R.S. §§ 20-229, 20-357, 20-385, 20-400.01, 20-1120 and 23-961.

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

2. The Examiners were authorized by the Department to conduct a market conduct examination of Employers. The on-site examination covered the time period from January 1, 1995 to December 31, 1997 and was concluded on of July 8, 1998. Based on the findings, the Examiners prepared the "Report of Examination of the Market Conduct Affairs of Employers Insurance Company of Wausau, A Mutual Company" dated July 8, 1998.

1 3. The Examiners reviewed 27 workers' compensation policies with
2 effective dates from January 1, 1995 to October 1, 1997. Of these, Employers:

3 a. Failed to issue two WC policies within 90 days of the policy
4 effective dates.

5 b. Failed to consider 15 WC policies meeting the eligibility
6 requirements for schedule rating.

7 c. Issued two WC policies in which the documentation for the
8 schedule credit as applied was not adequate.

9 d. Failed to complete the loss control survey within 90 days of the
10 policy effective date in the issuance of four WC policies.

11 e. Failed to comply with the NCCI premium deposit rule in the
12 issuance of 12 WC policies.

13 f. Failed to send the Notice of Arizona Workers Compensation
14 Insurance to the Industrial Commission of Arizona (ICA) for the issuance of policies
15 and the cancellations and non-renewals of policies at the election of the Company on
16 six WC policies.

17 g. Failed to apply an expected loss ratio (ELR) factor within the range
18 according to its filing in the issuance of four WC policies.

19 h. Failed to provide evidence of a document, signed by the insured or
20 the insured's representative, electing to be subject to the Retrospective Rating Plan, in
21 the issuance of three retrospectively rated WC policies.

22 4. The Examiners reviewed 22 assigned-risk workers' compensation
23 policies with effective dates from June 14, 1995 to December 19, 1997. Of these,
24 Employers:
25

1 a. Failed to apply the final E-mod factor as promulgated by NCCI in
2 the premium audit billing of one assigned-risk WC policy.

3 b. Failed to send the Notice of Arizona Workers' Compensation
4 Insurance to the Industrial Commission of Arizona (ICA) for the issuance of policies
5 and the cancellations and non-renewals of policies at the election of the Company on
6 two assigned-risk WC policies.

7 c. Failed to include the "Arizona Workers Compensation Insurance
8 Plan Standard Notice" as required by NCCI'S circular memorandum dated September
9 21, 1994, in the issuance of five assigned-risk WC policies.

10 5. The Examiners reviewed 23 commercial automobile (CA) policies with
11 policy effective dates from May 1, 1995 to October 19, 1997. Of these, Employers:

12 a. Failed to provide adequate documentation to support schedule-
13 rating adjustments in the premium calculation of nine CA policies.

14 b. Issued three CA policies in which the schedule-rating
15 documentation included percentages of debits or credits that exceeded the range for
16 the risk categories according to the Company's filing.

17 c. Failed to provide loss reports in such a manner that the Examiners
18 can verify the accuracy of the losses applied in the determination of the experience
19 rating factor, and failed to provide the experience rating worksheets to support the
20 calculation of the experience rating factors applied in premium determinations in the
21 issuance of eight CA policies.

22 d. Failed to consider four CA policies for application of the
23 experience rating when the risks met the eligibility requirements for experience rating.

24 e. Determined the premium for one CA policy by applying a loss
25 rating plan that was not filed.

1 f. Failed to provide documentation for the determination of the
2 standard premium used as the basis for calculating the basic premium factor in the
3 issuance of four retrospectively rated CA policies.

4 g. Issued five CA policies with incorrect increased limit factors in the
5 premium calculations.

6 h. Failed to include an Arizona Countersignature Endorsement on
7 five CA policies.

8 i. Failed to issue two CA policies within 90 days of the policy
9 effective dates.

10 j. Failed to file its adoption of ISO's filing CA-96-BRLA1, effective
11 January 1, 1997, and applied those loss costs in the determination of premium for
12 eight CA policies.

13 6. The Examiners reviewed a sample of 23 Commercial General Liability
14 (CGL) policies issued. Of these, Employers:

15 a. Failed to include documentation to support the change in schedule
16 rating adjustments applied in the issuance of three CGL policies.

17 b. Failed to include documentation to support the experience rating
18 adjustment applied in the issuance of eight CGL policies.

19 c. Failed to provide rating worksheets detailing the premium
20 determination for six CGL policies.

21 d. Issued five Employment Practices Liability policies for which no
22 rates or premium charges were filed with the Department.

23 e. Applied incorrect increased limit factors in the premium
24 calculations of three CGL policies.

25

1 f. Failed to include an Arizona Countersignature Endorsement on
2 five CGL policies.

3 g. Applied premium charges related to additional coverages (code
4 70408-Fellow Employee 7% of Premises/Operations and code 70416-Employee
5 Benefits Liability Per Policy), which were not filed with the Department, in the issuance
6 of three CGL policies.

7 h. Failed to file the adoption of ISO filings GL-95-BGL1 effective
8 June 1, 1996 and GL-96-BGL1 effective November 1, 1996 with the Department, and
9 applied the loss cost revisions included in the ISO filings in the determination of
10 premium of three CGL policies.

11 7. The Examiners reviewed 26 Commercial Property (CP) policies. Of
12 these, Employers:

13 a. Failed to include an Arizona Countersignature Endorsement in the
14 issuance of nine CP policies.

15 b. Failed to provide documentation for all adjustments in the
16 determination of the EDP premium in the issuance of eight CP policies.

17 c. Applied unfiled rates in the premium determination of the Boiler
18 and Machinery coverage included in the issuance of five CP policies.

19 8. The Examiners reviewed 11 Commercial Package Policies. Of these,
20 Employers:

21 a. Failed to provide documentation to support the schedule rating
22 and/or IRPM adjustments applied in the premium determination of four CP policies.

23 b. Failed to provide adequate documentation to support the schedule
24 rating adjustments applied in the premium determination of three CP policies.

1 c. Failed to provide documentation to support the experience rating
2 adjustments applied in the premium determination of two CP policies.

3 d. Failed to provide documentation of the ISO loss costs for the
4 specific rating of property locations covered on two CP policies.

5 e. Applied unfiled "A" rates in the premium determination of three CP
6 policies.

7 f. Issued five CP policies and failed to file the adoption of the
8 Insurance Services Organization's (ISO) commercial property loss cost filings, CF-93-
9 RLA1 effective 9-1-93, CF-96-RLA1 effective 11-14-96, and CF-97-RLA1 effective 12-
10 3-97, with the Department.

11 g. Issued four CP policies and failed to file the adoption of ISO's
12 general liability loss cost filings GL-95-BGL1 effective 6-1-96 and GL-96-BGL1
13 effective 11-1-96, with the Department.

14 h. Applied an incorrect package modifier in the premium
15 determination of two CPP policies.

16 9. The Examiners reviewed 17 umbrella policies. Of these, Employers
17 failed to file the rates and premium charges for the coverages provided in the 17
18 commercial umbrella policies issued.

19
20 **CONCLUSIONS OF LAW**

21 1. Employers violated A.R.S. § 20-1120(B) by failing to issue workers'
22 compensation and commercial automobile policies within 90 days of the policy
23 effective dates.

24 2. Employers violated A.R.S. § 20-357(E) by failing to comply with the filed
25 NCCI rules to:

1 a. Complete a loss control survey within 90 days of the policy
2 effective date on schedule rated policies.

3 b. Consider all risks meeting the eligibility requirements for schedule
4 rating.

5 c. Obtain the insured's signature on a document indicating the
6 election to be subject to the Retrospective Rating Plan.

7 d. Include the Arizona Workers Compensation Insurance Plan
8 Standard Notice on all assigned-risk WC policies.

9 3. Employers violated A.R.S. §§ 20-357(E) and 20-400.01(A) by
10 determining the premium in a manner that was not consistent with its filing by:

11 a. Failing to apply the NCCI final experience modification factor in
12 determining premium.

13 b. Failing to comply with the NCCI premium deposit rule.

14 c. Failing to apply its filed expected loss ratio.

15 4. Employers violated A.R.S. §§ 20-357(E) and 20-400.01(B) by failing to
16 provide documentation for all adjustments to manual premium by failing to include
17 correctly completed schedule-rating worksheets.

18 5. Employers violated A.R.S. § 23-961(F) by failing to provide notice to the
19 Industrial Commission of Arizona of the issuance of workers' compensation policies
20 and the cancellation and non-renewal of policies, and failing to provide 30-days
21 advance notice in the cancellation of workers' compensation policies for nonpayment
22 of premium.

23 6. Employers violated A.R.S. § 20-229 by failing to include the Arizona
24 Countersignature Endorsement on commercial automobile, general liability and
25 commercial property policies.

- 1 7. Employers violated A.R.S. § 20-385(A) by:
- 2 a. Failing to file its loss-rating plan for commercial automobile
- 3 policies.
- 4 b. Failing to file its adoption of ISO's loss cost filings applicable to
- 5 commercial automobile coverages.
- 6 c. Failing to file its adoption of ISO's loss cost filings applicable to
- 7 commercial general liability coverages.
- 8 d. Failing to file rates applicable to Employment Practices Liability
- 9 policies.
- 10 e. Failing to file rates applicable to general liability codes 70408 and
- 11 70416.
- 12 f. Failing to file its adoption of ISO's commercial property loss costs.
- 13 g. Failing to file rates for Boiler and Machinery coverage.
- 14 h. Failing to file "A" rates applicable to commercial package policies.
- 15 i. Failing to file rates applicable to umbrella coverages.
- 16 8. Employers violated A.R.S. §§ 20-385(A) and 20-400.01(A) by
- 17 determining premium in a manner that was not consistent with its filings by:
- 18 a. Applying schedule rating debits and/or credits that exceeded the
- 19 filed range for commercial automobile policies.
- 20 b. Failing to consider all eligible commercial automobile risks for
- 21 application of schedule rating.
- 22 c. Applying incorrect increased limit factors on commercial
- 23 automobile and general liability policies.
- 24 d. Failing to apply experience rating to eligible risks in the issuance
- 25 of commercial property and package policies.

1 e. Failing to apply filed rates applicable to commercial package
2 policies.

3 f. Applying incorrect package modifiers on commercial package
4 policies.

5 9. Employers violated A.R.S. §§ 20-385(A) and 20-400.01(B) by:

6 a. Failing to include schedule and experience-rating worksheets as
7 documentation for adjustments to the manual premium on commercial automobile,
8 general liability, commercial property and commercial package policies.

9 b. Failing to provide documentation for adjustments to EDP premium
10 in commercial property policies.

11 c. Failing to provide completed Individual Risk Premium Modification
12 worksheets on commercial package policies.

13 10. Employers violated A.R.S. § 20-400.01(D) by failing to provide rating
14 worksheets as documentation of the premium calculations of retrospectively-rated
15 commercial automobile policies and general liability policies, and failing to provide
16 ISO's loss costs for specific rating of property locations covered on commercial
17 property and package policies.

18 11. Grounds exist for the entry of the following Order, in accordance with
19 A.R.S. § 20-220, 20-400.03, and 20-456.

20 **ORDER**

21 **IT IS HEREBY ORDERED THAT:**

22 1. Employers Insurance Of Wausau, A Mutual Company, shall cease and
23 desist from committing the following practices:

24 a. Failing to file all rates, rules, and rate-related rules as required by
25 Arizona laws.

1 b. Failing to comply with its filings in the issuance of commercial lines
2 policies.

3 c. Failing to determine premium in a manner consistent with its
4 filings.

5 d. Failing to provide documentation of all adjustments to manual
6 premium in the issuance of commercial lines policies.

7 e. Failing to provide rating worksheets as documentation of premium
8 determination in the issuance of commercial lines policies.

9 f. Failing to issue policies within 90 days after the policy effective
10 date without obtaining the director's permission to issue policies after 90 days.

11 g. Failing to comply with NCCI rates and rules filed on behalf of
12 Employers.

13 h. Failing to provide notice to the Industrial Commission of Arizona of
14 the issuance, cancellation, and nonrenewal of workers' compensation policies.

15 i. Failing to provide a 30-day advance notice in the cancellation of
16 workers' compensation policies for nonpayment of premium.

17 2. Within 90 days of the filed date of this Order, Employers shall refund the
18 premium overcharges to the seven policyholders listed in Exhibit A of this Order. The
19 refunds shall include interest at the rate of ten percent per annum, calculated from the
20 date that the payment was made, to the date of the refund.

21 3. The payments made pursuant to paragraph 2 shall be accompanied by a
22 letter in a form previously approved by the Director. Employers shall submit a report to
23 the Department within 90 days of the filed date of this Order, that includes the names
24 of the policyholders, policy number, date of payment, amount of the refund and the
25 amount of interest paid.

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

3 5. Employers shall pay a civil penalty of \$15,000 to the Director for deposit in
4 the State General Fund in accordance with A.R.S. §§ 20-220. The civil penalty shall
5 be provided to the Market Conduct Examinations Section of the Department prior to
6 the filing of this Order.

7 6. The Report of Examination of the Market Conduct Affairs of Employers
8 Insurance of Wausau as of July 8, 1998, including the letter submitted in response to
9 the Report of Examination, shall be filed with the Department after the Director has
10 filed this Order.

11 DATED at Phoenix, Arizona this 28th day of October, 2002.

12 
13 _____

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

EXHIBIT A

WORKERS COMPENSATION PREMIUM REFUNDS

<u>Policy Numbers</u>	<u>Premium Overcharge</u>
0716-04-052651	<u>\$155.00</u>
Total	\$155.00

COMMERCIAL AUTO PREMIUM REFUNDS

<u>Policy Numbers</u>	<u>Premium Overcharge</u>
2337-02-056069	\$833.00
2338-02-056069	<u>\$604.00</u>
Total	\$1,437.00

COMMERCIAL PACKAGE PREMIUM REFUNDS

<u>Policy Numbers</u>	<u>Premium Overcharge</u>
0467-03-082598	\$131.00
0468-03-082598	\$189.00
0828-02-005075	\$6,123.00
2328-00-057206	<u>\$669.00</u>
Total	\$7,112.00

CONSENT TO ORDER

1
2 1. Employers Insurance of Wausau A Mutual Company ("Employers") has
3 reviewed the foregoing Order.

4 2. Employers admits the jurisdiction of the Director of Insurance, State of
5 Arizona, admits the foregoing Findings of Fact, and consents to the entry of the
6 Conclusions of Law and Order.

7 3. Employers is aware of the right to a hearing, at which it may be
8 represented by counsel, present evidence and cross-examine witnesses. Employers
9 irrevocably waives the right to such notice and hearing and to any court appeals
10 related to this Order.

11 4. Employers states that no promise of any kind or nature whatsoever was
12 made to it to induce it to enter into this Consent Order and that it has entered into this
13 Consent Order voluntarily.

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

19 6. J. S. Hoffert, who holds the office of
20 Vice President of Employers, is authorized to enter into this Order for
21 it and on its behalf.

EMPLOYERS INSURANCE OF WAUSAU, A MUTUAL COMPANY

22
23 9/27/02

24 Date

25 By

J S Hoffert

1 **COPY of the foregoing mailed/delivered**

2 This 29th day of October, 2002, to:

3
4 Sara Begley

Deputy Director

5 Mary Butterfield

Assistant Director

6 Consumer Affairs Division

Paul J. Hogan

7 Chief Market Conduct Examiner

8 Deloris E. Williamson

Assistant Director

9 Rates & Regulations Division

Steve Ferguson

10 Assistant Director

Financial Affairs Division

11 Alan Griffieth

Chief Financial Examiner

12 Alexandra Shafer

Assistant Director

13 Life & Health Division

14 Terry L Cooper

Fraud Unit Chief

15
16
17 Department Of Insurance

2910 North 44th Street, Second Floor

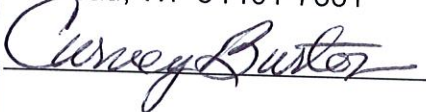
18 Phoenix, AZ 85018

19
20 Erlene Wanie, Regulatory Affairs

Employers Insurance of Wausau, a Mutual Company

21 2000 Westwood Drive

22 Wausau, WI 54401-7881

23 

Date: 10/24/02

Would you please have the Director review and sign the attached

Notice of Hearing Consent Order
 Other _____ Order

Regarding the

Revocation Redomestication
 Suspension Release of Deposit
 Civil Penalty or Restitution License Denial
 Withdrawal/Merger/Acquisition Supervision
 Surrender of Certificate or License Cease & Desist
 Other _____ Market Conduct Examination

Of Employers Insurance of Wausau

This document was drafted by:

Gerrie Marks Mary Kosinski
 Kurt Regner Jennifer Boucek
 Leslie Hess Other _____
 Market Conduct Division

Approved

Deadline

MRK
Initials

10/25/02
Date



Comments:
Old exam (1995-1997) - delay in issuing report (2000) then extensive negotiations that resulted in revisions to report and ultimately to these Consent orders
This is the last of pre 2000.