

APR 14 2004

DEPT OF INSURANCE
BY CB

STATE OF ARIZONA
DEPARTMENT OF INSURANCE

In the Matter of:)	Docket No. 04A-063-INS
)	
CLARENDON NATIONAL INSURANCE)	
COMPANY, NAIC # 20532,)	CONSENT ORDER
Respondent.)	

Examiners for the Department of Insurance (the "Department") conducted a market conduct examination of Clarendon National Insurance Company ("CNIC"). In the Report of Examination of the Market Conduct Affairs of CNIC, the Examiners allege that CNIC violated A.R.S. §§ 20-357, 20-385, 20-400.01, 20-461, 20-462, 20-466.03, and A.A.C. R20-6-801, Consent Order Docket No. 8413, filed April 13, 1994 (the "1994 Order") and Consent Order Docket No. 01A-050-INS, filed February 23, 2001 (the "2001 Order").

CNIC 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. CNIC is authorized to transact life and disability 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 CNIC. The on-site examination covered the time period from July 1, 2001 to June 30, 2002 and was concluded on June 5, 2003. Based on their findings, the Examiners prepared the "Report of Examination of the Market Conduct Affairs of Clarendon National Insurance Company" dated June 5, 2003.

3. Following a market conduct examination of Clarendon National Insurance

1 Company as of July 16, 1993, the Director entered a Consent Order, Docket No. 8413,
2 which was filed on April 13, 1994 (the "1994 Order"). Section 1 of the "Order" portion of
3 the 1994 Order stated as follows:

- 4 "1. Respondent shall cease and desist from: ...
5 a. Violating orders of the Director. ...
6 g. Using unfiled rates. ...
7 i. Failing to pay the total amount of sales taxes and license fees in settlements of automobile total
8 loss claims".

9 4. Following a market conduct examination of Clarendon National Insurance
10 Company as of December 2, 1997, the Director entered a Consent Order, Docket No.
11 01A-050-INS, which was filed on February 23, 2001 (the "2001 Order"). Section 1 of
12 the "Order" portion of the 2001 Order stated as follows:

- 13 "1. Clarendon National Insurance Company shall cease and desist from: ...
14 r. Failing to pay all first and third party automobile total loss claimants for all applicable
15 taxes and fees incident to transfer of evidence of ownership of comparable automobiles.
16 s. Failing to pay interest on claims not paid within 30 days of receipt of an acceptable
17 proof of loss."

18 5. The Examiners reviewed 68 of 1,297 personal automobile policies
19 administered by Arrowhead General Agency for the Company during the time frame of
20 the examination and found that CNIC failed to apply its filed rates and rules in the
21 premium determination of nine files.

22 4. The Examiners reviewed 50 of 358 personal automobile policies,
23 consisting of 100 policy terms, administered by Westfield Services, Inc. for the
24 Company during the time frame of the examination and found as follows:

25 a. CNIC incorrectly applied prior rates after its February 4, 1999
26 filing to six policies.

b. CNIC applied an unfiled safe drive discount to 97 policies.

c. CNIC applied unfiled rating factors that were utilized to offset
27 premium increases filed by CNIC on November 1, 2002 to five policies.

1 d. CNIC applied incorrect territories or failed to file valid zip codes
2 with the proper territories in 11 files.

3 e. CNIC applied incorrect Tier factors to six policies.

4 f. CNIC refunded \$254.00 to one insured while the examiners were
5 on site.

6 5. The Examiners reviewed 34 of 85 new and renewal workers'
7 compensation insurance policies, consisting of 43 new and renewal terms,
8 administered by KRM Risk Management and Insurance Services for the Company
9 during the time frame of the examination and found as follows:

10 a. CNIC failed to apply the \$75.00 minimum premium for increased
11 policy limits to 17 policies.

12 b. CNIC failed to apply experience rating in the premium
13 determination of 21 policies that qualified for experience rating.

14 c. CNIC applied unfiled schedule rating debits to three policies.

15 6. The Examiners reviewed personal automobile and mobile homeowners
16 claims forms used by Arrowhead Claims Management during the time frame of the
17 examination and found that the required fraud warning notice was absent.

18 7. The Examiners reviewed 22 of 22 first party automobile total loss
19 settlements and ten of ten third party total loss settlements processed by Arrowhead
20 Claims Management and 50 of 469 personal automobile total loss settlements and two
21 of two claim subrogation processed by K & J Claims Service of America, Inc. for the
22 Company during the time frame of the examination and found as follows:

23 a. CNIC failed to pay all sales taxes and license fees to 17 first party
24 and eight third party claimants.

25 b. CNIC failed to reimburse a \$500 deductible to one insured.

1 c. CNIC failed to pay interest to 17 first party claimants.

2 d. CNIC has refunded \$1,439.76 restitution and interest to the 26
3 insureds and claimants noted above.

4 **CONCLUSIONS OF LAW.**

5 1. CNIC violated A.R.S §20-385(A) and the 1994 Order by using unfiled
6 rates and rules in the premium determination of personal automobile policies.

7 2. CNIC violated A.R.S §§20-357(A) and 20-400.01(A) by failing to apply
8 filed rates and rules in the premium determination of its workers' compensation
9 insurance policies.

10 3. CNIC violated A.R.S §20-466.03 by using claim forms that do not contain
11 the required fraud warning notice in at least 12 point type.

12 4. CNIC violated A.A.C. R20-6-801(H)(1)(b), A.R.S §20-461(A)(6), the 1994
13 Consent Order, and the 2001 Consent Order by failing to pay all taxes and license fees
14 in the settlement of an insured's first party automobile total loss claim.

15 5. CNIC violated A.R.S §20-461(A)(6), the 1994 Consent Order, and the
16 2001 Consent Order by failing to pay all taxes and license fees in the settlement of a
17 claimant's third party automobile total loss claim.

18 6. CNIC violated A.R.S §20-462(A) and the 2001 Consent Order by failing to
19 pay interest on all claims not paid within 30 days of receipt.

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

22 **ORDER**

23 **IT IS HEREBY ORDERED THAT:**

24 1. Clarendon National Insurance Company shall cease and desist from:

25 a. Failing to comply with Orders of the Director.

1 b. Failing to use its filed rates and rules to determine premiums for its
2 personal automobile and workers' compensation insurance policies.

3 c. Using claim forms that fail to contain the required fraud warning
4 notice in at least 12 point type.

5 d. Failing to pay all taxes and license fees associated with first and
6 third party automobile total loss settlements.

7 e. Failing to pay interest on all claims that are not paid within 30 days
8 of receipt of an acceptable proof of loss.

9 2. Within 90 days of the filed date of this Order, CNIC shall submit to the
10 Arizona Department of Insurance, for approval, evidence that corrections have been
11 implemented and communicated to the appropriate personnel, regarding the issues
12 outlined in Paragraph 1 of the Order section of this Consent Order. Evidence of
13 corrective action and communication thereof includes, but is not limited to, memos,
14 bulletins, E-mails, correspondence, procedures manuals, print screens, and training
15 materials.

16 3. The Department shall be permitted, through authorized representatives,
17 to verify that CNIC has complied with all provisions of this Order.

18 4. CNIC shall pay a civil penalty of \$45,000.00 to the Director for remission
19 to the State Treasurer for deposit in the State General Fund in accordance with A.R.S.
20 §§ 20-220(B) and 20-456. The civil penalty shall be provided to the Market Oversight
21 Division of the Department prior to the filing of this Order.

22 ...

23 ...

24 ...

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1 5. The Report of Examination of the Market Conduct Affairs of Clarendon
2 National Insurance Company as of June 5, 2003, including the letter accepting the
3 Report of Examination, shall be filed with the Department upon the filing of this Order.
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5 DATED at Phoenix, AZ this 13th day of April, 2004.
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9 Christina Urias
10 Director of Insurance
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1 **CONSENT TO ORDER**

2 1. Clarendon National Insurance Company has reviewed the foregoing
3 Order.

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

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

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

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

19 6. Gerhard Ketels, who holds the office of
20 Secretary of Clarendon National Insurance Company, is
21 authorized to enter into this Order for them and on their behalf.

22 **CLARENDON NATIONAL INSURANCE COMPANY**

23 3/31/04 By Ketels
24 Date

1 COPY of the foregoing mailed/delivered
2 this 14th day of April , 2004, to:

3 Gerrie Marks

Deputy Director

4 Mary Butterfield

Assistant Director

5 Consumer Affairs Division

6 Paul J. Hogan

Market Oversight Administrator

7 Market Oversight Division

8 Deloris E. Williamson

Assistant Director

9 Rates & Regulations Division

10 Steve Ferguson

Assistant Director

11 Financial Affairs Division

12 Alan Griffieth

Chief Financial Examiner

13 Alexandra Schafer

Assistant Director

14 Life and Health Division

Terry L. Cooper

Fraud Unit Chief

15 DEPARTMENT OF INSURANCE

16 2910 North 44th Street, Suite 210

17 Phoenix, AZ 85018

18 Charles Bolton, CPCU

19 Vice President, Underwriting

20 Clarendon National Insurance Company

1177 Avenue of the Americas

21 New York, NY 10036

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