

JAN 14 2005

STATE OF ARIZONA  
DEPARTMENT OF INSURANCE

DEPT. OF INSURANCE  
BY 

In the Matter of: ) Docket No. 05A-009-INS  
BALBOA INSURANCE COMPANY, NAIC # 24813, )  
Respondent. )  
**CONSENT ORDER**

Examiners for the Department of Insurance (the "Department") conducted a target market examination of Balboa Insurance Company ("Balboa"). In the Report of Examination of the Market Conduct Affairs of Balboa, the Examiners allege that Balboa violated A.R.S. §§20-385, 20-461, 20-466.03, and A.A.C. R20-6-801.

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

2. The Director authorized the Examiners to conduct a target market examination of Balboa. The examination covered the time period from January 1, 2002 to December 31, 2003 and was concluded on October 29, 2004. Based on their findings, the Examiners prepared the "Report of Target Market Examination of Balboa Insurance Company" dated December 31, 2003.

3. The Examiners reviewed 100 of 7,522 homeowner new business files issued during the time frame of the examination and found that Balboa incorrectly applied a 20% Platinum Community Credit to 52 files.

4. The Examiners reviewed 50 of 560 homeowner paid claim files, 50 of

1 286 homeowners closed without payment files, 50 of 115 dwelling fire paid claim files,  
2 44 of 44 dwelling fire closed without payment files, 50 of 582 automobiles physical  
3 damage total loss claim files processed by the Company during the time frame of the  
4 examination and found that Balboa failed to complete the investigation of the claim  
5 within 30 days in 17 files.

6 5. The Examiners reviewed all of the claim forms used by the Company  
7 during the time frame of the examination and found that Balboa used four claim forms  
8 that failed to contain a fraud warning notice.

9 6. During the review of the Company's business procedures, the following  
10 premium overcharges and claim underpayments were made by the Company:

11 a. Three Homeowners policyholders were paid a total of \$282.00.

12 b. Three Personal Auto total loss insureds were paid a total of  
13 \$3,069.52, plus \$306.95 interest.

14 c. Four Dwelling Fire insureds were paid a total of \$1,859.42, plus  
15 \$185.95 interest.

16 d. One Homeowner insured was paid \$250.00, plus \$25.00 interest.

17 **CONCLUSIONS OF LAW.**

18 1. Balboa violated A.R.S §20-385(A) by using unfiled rates and rules in the  
19 premium determination of homeowner policies.

20 2. Balboa violated A.R.S §20-461(A)(3) and A.A.C. R20-6-801(F) by failing  
21 to complete the investigation of a claim within 30 days..

22 3. Balboa violated A.R.S §20-466.03 by using claim forms that failed to  
23 contain the required fraud warning notice.

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

1 ORDER

2 **IT IS HEREBY ORDERED THAT:**

3 1. Balboa Insurance Company shall cease and desist from:

4 a. Failing to use its filed rates and rules to determine premiums for its  
5 homeowners insurance policies.

6 b. Failing to complete the investigation of a claim within 30 days.

7 c. Using claim forms that fail to contain a compliant fraud warning  
8 notice.

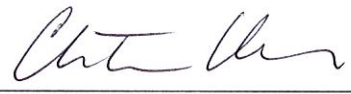
9 2. Within 90 days of the filed date of this Order, Balboa shall submit to the  
10 Arizona Department of Insurance, for approval, evidence that corrections have been  
11 implemented and communicated to the appropriate personnel, regarding the issues  
12 outlined in Paragraph 1 of the Order section 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 Balboa has complied with all provisions of this Order.

18 4. Balboa shall pay a civil penalty of \$7,500.00 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.

1           5.     The Report of Target Market Examination of Balboa Insurance Company  
2 as of December 31, 2003, including the letter accepting the Report of Examination,  
3 shall be filed with the Department upon the filing of this Order.

4  
5 DATED at Phoenix, AZ this 14<sup>th</sup> day of January, 2005.

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9 Christina Urias  
10 Director of Insurance  
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**CONSENT TO ORDER**

1. Balboa Insurance Company has reviewed the foregoing Order.
2. Balboa 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. Balboa Insurance Company is aware of the right to a hearing, at which it may be represented by counsel, present evidence and cross-examine witnesses. Balboa Insurance Company irrevocably waives the right to such notice and hearing and to any court appeals related to this Order.
4. Balboa 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. Balboa 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. Thomas M. Scrivener, who holds the office of MD, Personal Lines of Balboa Insurance Company, is authorized to enter into this Order for them and on their behalf.

1/7/2005  
Date

**BALBOA INSURANCE COMPANY**

By Thomas Scrivener

1 COPY of the foregoing mailed/delivered  
2 this 14<sup>th</sup> day of January, 2005, 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 Griffith

Chief Financial Examiner

13 Alexandra Schafer

Assistant Director

14 Life and Health Division

Terry L. Cooper

Fraud Unit Chief

15 DEPARTMENT OF INSURANCE

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20 Mel Martinez, Senior Counsel and Compliance Director

Balboa Insurance Company

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