

STATE OF ARIZONA

NOV 8 1996

DEPARTMENT OF INSURANCE

DEPT. OF INSURANCE
BY CWB

In the Matter of)	Docket No. 96A-199
)	
TITAN INSURANCE COMPANY)	CONSENT ORDER
TITAN INDEMNITY COMPANY)	
)	
Respondents.)	

Market Conduct Examiners (the "Examiners") for the Arizona Department of Insurance (the "Department") conducted a market conduct examination of Respondents Titan Insurance Company, NAIC #36269 and Titan Indemnity Company, NAIC #13242. Respondents are referred to collectively as "the Titan Companies." The Report of Market Conduct Examination (the "Report") prepared by the Examiners alleges that the Titan Companies violated Arizona Revised Statutes ("A.R.S.") §§ 20-229, 20-385, 20-400.01, 20-462, 20-1632, and Arizona Administrative Code Rule ("A.A.C.R.") 20-6-801.

The Respondents and the Department wish to resolve this matter without formal adjudicative proceedings and agree to this Consent Order.

The Director of Insurance (the "Director") enters the following Findings of Fact and Conclusions of Law, which are neither admitted nor denied by Respondents, and the following Order.

1. The Titan Companies are authorized to transact property and casualty insurance pursuant to Certificates of Authority issued by the Director.

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1 2. The Examiners were authorized by the Director to
2 conduct a market conduct examination of the Titan Companies.
3 The on-site examination was concluded on July 7, 1995.

4 3. The Examiners reviewed 347 of Titan Indemnity
5 Company's 8,420 private passenger auto policies in force as of
6 June 5, 1995. Of these, Titan Indemnity Company issued one
7 policy (0.3%) at a premium which included surcharges other than
8 those determined from the information provided on the
9 application. As a result, the insured was undercharged by
10 \$105.00.

11 4. The Examiners found that, prior to May 12, 1995, Titan
12 Indemnity Company's personal auto policies issued in Arizona
13 were countersigned by the president of Titan Insurance Company,
14 who was neither a resident of Arizona nor licensed as an Arizona
15 agent. The Titan Companies changed their procedures at once,
16 and policies are now countersigned by a licensed agent in
17 accordance with A.R.S. § 20-229(A).

18 5. The Examiners reviewed 23 of the 131 surety bonds
19 issued by the Titan Companies and in force as of June 22, 1995.
20 Eight of the bonds (34.7%) were issued with Titan Indemnity
21 Company as surety although Titan Indemnity Company had no filed
22 rates and rules with the Department for surety as of that date.

23 6. The Examiners reviewed 109 of the 9,941 personal
24 automobile policies cancelled or non-renewed by Titan Indemnity
25 Company from November 9, 1994 through July 1, 1995. Of the 109
26 files, 12 were terminated for underwriting reasons, 54 for
27 non-payment of premium, and 43 for other reasons. The Examiners
28 found the following:

1 a. Of the 54 policies cancelled for non-payment of
2 premium, Titan Indemnity Company cancelled 10 policies to the
3 inception date because the insureds' initial premium checks were
4 not honored by the bank, and did not provide at least 10 days'
5 notice to the insureds. Titan Indemnity Company changed its
6 notice procedure, effective June 16, 1995, to comply with this
7 requirement.

8 b. Titan Indemnity Company failed to refund unearned
9 premiums with the notices of cancellation sent to five (41.6%)
10 of the 12 insureds whose policies were cancelled for
11 underwriting reasons. Titan Indemnity Company changed its
12 refund procedure, effective June 6, 1995, to comply with this
13 requirement.

14 7. The Examiners reviewed all 40 first party total loss
15 claims filed with Titan Indemnity Company, with loss dates from
16 October 4, 1994 through May 8, 1995. As to these, the Examiners
17 found as follows:

18 a. Titan Indemnity Company did not pay three claims
19 (7.5%) within 30 days of the receipt of adequate proofs of loss
20 with all information necessary to pay the claims, and did not
21 pay interest on the amounts of the claims.

22 b. Titan Indemnity Company failed to settle one
23 claim (2.5%) on the basis of actual cash value ("ACV") and did
24 not document the basis for the claim settlement. As a result,
25 the insured was underpaid by \$1,395.70.

26 c. Titan Indemnity Company determined the ACV of one
27 total loss automobile (2.5%) on a "book" value rather than on
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1 the value of a comparable car or on two or more dealer
2 quotations.

3 d. Titan Indemnity Company failed to complete its
4 investigation of one claim (2.5%) within 30 days of the
5 notification of claim, and did not document the reasons that the
6 investigation could not be completed within 30 days.

7 8. The Examiners did not find any evidence that Titan or
8 its agents had knowingly or intentionally performed any of the
9 acts listed in Findings of Fact 3-7 above.

10 CONCLUSIONS OF LAW

11 1. By issuing one personal automobile policy at a premium
12 other than that determined using its filed rates and rules,
13 Titan Indemnity Company violated A.R.S. § 20-385(A).

14 2. By failing to have policies countersigned by a
15 licensed agent or broker resident in Arizona, Titan Indemnity
16 Company violated A.R.S. § 20-229(A).

17 3. By failing to file rates for the issuance of surety
18 bonds, the Titan Indemnity Company violated A.R.S. § 20-385(A).
19 By issuing surety bonds at rates not filed with the Director,
20 Titan Indemnity Company violated A.R.S. § 20-400.01(A).

21 4. By cancelling 10 personal auto policies because the
22 insureds' initial premium checks were not honored by the
23 insureds' banks, without giving notice to the insureds at least
24 10 days prior to cancellation, Titan Indemnity Company violated
25 A.R.S. § 20-1632.

26 5. By failing to refund unearned premiums with the
27 notices of cancellation of five personal auto policies, Titan
28 Indemnity Company violated A.R.S. § 20-1632(C).

1 6. By failing to pay interest on three first party claims
2 not paid within thirty days of the receipt of adequate proofs of
3 loss with all information necessary to pay the claims, Titan
4 Indemnity Company violated A.R.S. § 20-462(A).

5 7. By settling one claim other than on the basis of ACV
6 determined from the cost of a comparable car or two or more
7 dealer quotations, and failing to document the rationale for the
8 amount of the settlement, Titan Indemnity Company violated
9 A.A.C. R20-6-801(H)(1)(c).

10 8. By failing to document the reason that one
11 investigation could not be completed within 30 days, Titan
12 Indemnity Company violated A.A.C. R20-6-801(F).

13 ORDER

14 The Titan Companies having admitted the jurisdiction of the
15 Director to enter this Order, having waived the Notice of
16 Hearing, and having consented to the entry of the
17 Order set forth:

18 IT IS ORDERED THAT:

19 1. The Titan Companies shall:

20 a. issue only policies of insurance which are
21 countersigned by individual authorized to do so, pursuant to
22 A.R.S. § 20-229;

23 b. issue surety bonds only if rates and rules
24 therefor are filed with the Director within thirty days after
25 issuance;

26 c. cancel personal auto policies only after
27 notifying the insureds at least 10 days in advance of the
28 effective date of cancellation;

1 d. refund any unearned premiums due insureds with
2 notices of policy cancellation; and

3 e. pay interest at the rate of 10 percent per annum,
4 from the date that claims are filed to the date of claim
5 payment, on any first party claims not paid by the Titan
6 Companies within 30 days of receipt of documentation which
7 contains all information necessary for claim adjustment.

8 2. Within 30 days of the filed date of this Order, the
9 Titan Companies shall submit to the Director written procedures
10 for paying interest on all first party claims not paid within 30
11 days of the Titan Companies' receipt of documentation which
12 contains all information necessary for adjustment of the claim.

13 3. Within 30 days of the filed date of this Order, the
14 Titan Companies shall pay to the insured of Claim #02-000219 the
15 amount of \$1,395.70, representing the amount of the claim not
16 previously paid. The Titan Companies shall also pay the insured
17 interest on that amount at the rate of ten percent per annum
18 calculated from the date the claim was received by the Titan
19 Companies to the date of repayment.

20 4. Within 30 days of the filed date of this Order, the
21 Titan Companies shall pay to the insureds of Claims #02-000183,
22 02-000132 and 02-000253 interest on the amounts of their claims
23 not paid within 30 days of the Titan Companies' receipt of
24 documentation which contains all information necessary for
25 adjudication of the claims. The Titan Companies shall also pay
26 the insureds interest on that amount at the rate of ten percent
27 per annum calculated from the date the claim was received by the
28 Titan Companies to the date of repayment.

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5. The payments listed in Paragraphs 3 and 4 of this Order shall be accompanied by a letter to each insured acceptable to the Director. A list of payments, giving the name and address of each party to whom payments were made, the base amount of the payment, the amount of interest paid, and the date of payment, shall be provided to the Department within 45 days of the filed date of this Order.

6. The Department shall be permitted, through authorized representatives, to verify that the Titan Companies have fully complied with all requirements of this Order.

7. The Titan Companies shall pay a civil penalty of Two Thousand Five Hundred Dollars (\$2,500.00) to the Director for remission to the State Treasurer for deposit in the State General Fund in accordance with A.R.S. §20-220(B). The civil penalty shall be provided to the Market Conduct Examinations Division of the Department prior to the filing of this Order.

8. The July 7, 1995 Report of Examination, and the letter filed in response by the Titan Companies, shall be filed with the Department after the Director has executed this Order.

DATED at Phoenix, Arizona this 8th day of November, 1996.



John King
Director of Insurance

CONSENT TO ORDER

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2 1. Respondents, Titan Insurance Company and Titan
3 Indemnity Company, have reviewed the foregoing Consent Order.

4 2. Respondents are aware of the right to a hearing at
5 which hearing they may be represented by counsel, present
6 evidence and cross-examine witnesses. Respondents have
7 irrevocably waived its right to such public hearing and to any
8 court appeals relating thereto.

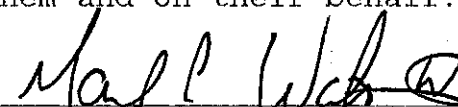
9 3. Respondents admit the jurisdiction of the Arizona
10 Department of Insurance and the Director of the Arizona
11 Department of Insurance, and consent to the entry of this
12 Consent Order.

13 4. Respondents state that no promise of any kind or
14 nature whatsoever was made to them to induce them to enter into
15 this Consent Order and that they have entered into this Consent
16 Order voluntarily.

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

24 6. Mark E. Watson III, who holds the office
25 of General
Senior Vice President & Counsel of Respondents, is authorized to
26 enter into this Order for them and on their behalf.

27 October 28, 1996
28 (Date)



TITAN INSURANCE COMPANY
TITAN INDEMNITY COMPANY

1 COPY of the foregoing mailed/delivered
2 this 8th day of November , 1996, to:

3 Charles R. Cohen
4 Deputy Director

5 Gregory Y. Harris
6 Executive Assistant Director

7 Erin H. Klug
8 Chief Market Conduct Examiner

9 Saul R. Saulson
10 Examinations Supervisor
11 Market Conduct Examinations Division

12 Mary Butterfield
13 Assistant Director
14 Life & Health Division

15 Deloris E. Williamson
16 Assistant Director
17 Rates & Regulations Division

18 Gary Torticill
19 Assistant Director and Chief Financial Examiner
20 Corporate & Financial Affairs Division

21 Cathy O'Neil
22 Assistant Director
23 Consumer Services Division

24 John Gagne
25 Assistant Director
26 Investigations Division

27 F. Duane Avey
28 Fraud Unit Chief

Dean Ehler
Supervisor
Property and Casualty Section

DEPARTMENT OF INSURANCE
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Curry W. Burtner