

STATE OF ARIZONA  
DEPARTMENT OF INSURANCE

AUG 20 1996

DEPT. OF INSURANCE  
BY     *CSB*    

In the Matter of	)	Docket No. 96A-137
	)	
LEGION INSURANCE COMPANY	)	CONSENT ORDER
	)	
Respondent.	)	
	)	

Examiners for the Department of Insurance (the "Department") conducted a market conduct examination of Legion Insurance Company ("Legion"), NAIC #24422. The Report of Examination of the Market Conduct Affairs of Legion (the "Report") alleges that Legion has violated A.R.S. §§ 20-297, 20-357, 20-400.01, 20-1120, 23-901, and 23-961, and Arizona Administrative Code Rules (A.A.C. R) 4-13-123 and 4-13-127.

Legion wishes wishes to resolve this matter without formal adjudicative proceedings and agrees to this Consent Order.

The Director enters the following Findings of Fact and Conclusions of Law, which are neither admitted nor denied by Legion, and the following Order.

FINDINGS OF FACT

1. Legion is authorized to tranact property and casualty insurance in Arizona, including workers' compensation, pursuant to a Certificate of Authority issued by the Director.

2. The Examiners were authorized by the Director to conduct an examination of Legion. The on-site portion of the examination was concluded on June 2, 1995.

3. The National Council on Compensation Insurance ("the NCCI"), a duly-licensed rating organization in Arizona, makes rate filings on behalf of its members with the Department.

1 Workers' Compensation ("WC") insurers are required by statute to  
2 belong to a WC rating organization and to adhere to the  
3 organization's filed rates unless the insurer has filed  
4 deviations from these rates. Legion is a member of the NCCI.  
5 Any reference to Legion's filings, or to its "filed rates and  
6 rules" refers to rates and rules filed with the Department by  
7 Legion or by the NCCI on its behalf.

8 4. Legion filed annual lists of its agents with the  
9 Department on March 2, 1993, February 4, 1994, and February 9,  
10 1995. In each case, Legion failed to file its list before  
11 January 30 of each year as required by law.

12 5. The Examiners reviewed 32 WC policies with effective  
13 dates from January 1, 1992 through March 31, 1995, and  
14 criticized a total of 27 policy files.

15 6. Legion issued WC policies not in accordance with its  
16 filings and filings made by the NCCI on its behalf, by:

17 a. failing to acquire and include the  
18 interstate/intrastate risk identification number ("Risk ID #")  
19 on the policy information page of six policies.

20 b. failing to acquire and include the employers'  
21 Federal identification number ("FEIN") on the policy form page  
22 of two policies.

23 c. failing to include the anniversary rating date  
24 ("ARD") endorsement on one policy which had an ARD other than  
25 the policy inception date.

26 d. failing to include the split rates and/or the  
27 split experience modifiers ("E-mods") used in determining the  
28 premium due in final audit billings of two policies with ARD's.

1 e. failing to process or endorse the published NCCI  
2 E-Mod factor received six months into the policy term of one  
3 policy file until three months after receipt.

4 f. failing to include copies of final audit billings  
5 in the files of four expired policies.

6 g. issuing Amendatory Endorsement WC000318 with one  
7 policy, although the endorsement had previously been withdrawn by  
8 the NCCI.

9 7. Legion failed to apply its filed rates and rules in  
10 rating WC policies, by:

11 a. applying a "preliminary" E-Mod factor instead of  
12 the "actual" final E-Mod factor in determining the final audited  
13 premium of one policy.

14 b. applying the "preliminary" E-Mod factor on two  
15 "current" policy files and failing to request or endorse the  
16 "actual" E-Mod factor on a timely basis, prior to policy  
17 expiration.

18 c. applying rates other than its filed rates to  
19 determine the premium due on one policy.

20 d. applying minimum premiums other than those filed  
21 with the Department, or calculated minimum premium charges other  
22 than those based upon its filed rates and rules, to nine policy  
23 files.

24 e. applying an incorrect increase limits charge to  
25 two policy files.

26 f. applying "pro-rata" expense constants on six  
27 policies of less than 12 months duration.

28 . . . . .

1 g. applying an unfiled surcharge endorsement to four  
2 policy files.

3 h. applying an unfiled premium charge for the Waiver  
4 of Our Right to Recover from Others Endorsement to one policy  
5 file.

6 i. failing to endorse three WC policy files on which  
7 partners had elected to be covered with the NCCI Sole  
8 Proprietors, Partners, Officers and Others Coverage Endorsement  
9 and to charge the proper premium for the endorsement.

10 8. Legion bound coverage for three insureds, but failed  
11 to issue the policies within 90 days of the dates that coverage  
12 was bound.

13 9. Legion failed to obtain signed rejection forms or  
14 apply Exclusion Endorsements to two WC policy files.

15 10. Legion failed to include the Arizona cancellation  
16 endorsement in two WC policy files.

17 11. Legion failed to notify the Industrial Commission of  
18 Arizona (the "ICA") within five days of renewing four WC  
19 policies.

20 12. The Examiners reviewed ten WC policies which had been  
21 cancelled or non-renewed from January 1, 1993 through November  
22 1, 1994. The Examiners found that Legion had failed to notify  
23 the ICA of the cancellation or nonrenewal of three policies at  
24 least 30 days in advance of the effective date of cancellation  
25 or nonrenewal.

26 13. Legion writes medical malpractice insurance for a risk  
27 purchasing group of psychiatrists. In their review of Legion's  
28 medical malpractice business, the examiners found that Legion:

1 a. Issued seven annual master policies from March 1,  
2 1988 through March 1, 1994, which were not filed with the  
3 Department, for 994 doctor-years.

4 b. Failed to file the rates and rules for group  
5 malpractice coverage, which were applied to the above seven  
6 policies, with the Department.

7 CONCLUSIONS OF LAW

8 1. By failing to file a list of all agents representing  
9 it in Arizona prior to January 30 of 1993, 1994 and 1995, Legion  
10 violated A.R.S. § 20-297.

11 2. By issuing policies of workers' compensation insurance  
12 other than in accordance with its filings and filings made by  
13 the NCCI on its behalf, Legion violated A.R.S. § 20-357(E).

14 3. By calculating workers' compensation policy premiums  
15 other than on the basis of its rates and rules filed pursuant to  
16 A.R.S. § 20-357(A), Legion violated A.R.S. § 20-400.01(A).

17 4. By making adjustments to full manual premium developed  
18 for workers' compensation policies without adequate  
19 justification for the adjustments, Legion violated A.R.S. §  
20 20-400.01(B).

21 5. By failing to issue policies within 90 days of their  
22 bound dates, and not requesting approval for extensions from the  
23 Director, Legion violated A.R.S. § 20-1120(B).

24 6. By failing to obtain and maintain copies of written  
25 notices by employees rejecting WC coverage, Legion violated  
26 A.R.S. § 20-357(E) and A.A.C. R4-13-123(A).

27 . . . . .  
28 . . . . .

1           7. By failing to issue the Arizona Cancellation  
2 Endorsement with each WC policy, Legion violated A.R.S. §  
3 20-357(E).

4           8. By failing to endorse certain policy files with the  
5 NCCI Sole Proprietors', Partners, Officers and Others coverage  
6 endorsement, and failing to rate the policies accordingly,  
7 Legion violated A.R.S. §§ 20-357(E), 20-400.01(A) and (B),  
8 23-901(5)(b), and 23-1041(E)(4).

9           9. By failing to notify the ICA of policy renewal within  
10 five days of the effective date of renewal, Legion violated  
11 A.R.S. § 20-357(E) and A.A.C. R4-13-127(A).

12           10. By failing to notify the ICA of policy cancellation or  
13 nonrenewal at least thirty days prior to the effective date of  
14 cancellation or nonrenewal, within five days of the effective  
15 date of renewal, Legion violated A.R.S. § 23-961(F).

16           11. By failing to file its medical malpractice policy  
17 forms, Legion violated A.R.S. § 20-357(E).

18           12. By failing to file its medical malpractice rates and  
19 rules, Legion violated A.R.S. § 20-357(A).

20           13. By determining the premiums of medical malpractice  
21 policies other than on the basis of filed rates and rules,  
22 Legion violated A.R.S. § 20-400.01(A). By issuing medical  
23 malpractice policies other than on the basis of filed rates and  
24 rules, Legion violated A.R.S. § 20-357(E).

25           14. Grounds exist for the entry of the provision of the  
26 following Order.

27 . . . . .  
28 . . . . .

**ORDER**

Legion having admitted the jurisdiction of the Director to enter this Order, having waived the Notice of Hearing, having consented to the entry of this Order, and there being no just reason for delay:

**IT IS HEREBY ORDERED THAT:**

1. Legion shall cease and desist from:

a. failing to file a list of all agents representing it in Arizona prior to January 30 of each calendar year.

b. issuing policies of workers' compensation insurance other than in accordance with its filings and filings made by the NCCI on its behalf.

c. failing to issue policies within 90 days of their bound dates, unless extensions of time are requested from the Director.

d. calculating workers' compensation policy premiums other than on the basis of its filed rates and rules.

e. making adjustments to full manual premiums developed for workers' compensation policies without adequate justification for the adjustments.

f. failing to obtain and maintain copies of written notices by employees rejecting WC coverage.

g. failing to issue the Arizona Cancellation Endorsement with each WC policy.

h. failing to endorse policy files with the NCCI Sole Proprietors', Partners, Officers and Others coverage endorsement when such coverage is requested by the insured.

1 i. failing to notify the ICA of policy renewal  
2 within five days of the effective date of renewal

3 j. failing to notify the ICA of policy cancellation  
4 or nonrenewal at least thirty days prior to the effective date  
5 of cancellation or nonrenewal.

6 k. issuing policies of insurance without having  
7 filed forms, rates and rules for the issuance of such policies.

8 l. calculating insurance premiums, and issuing  
9 insurance policies, other than on the basis of rates and rules  
10 filed with the Director.

11 2. Within ninety (90) days of this Order's filed date,  
12 Legion shall submit to the Director and implement written  
13 procedures to monitor Arizona issued policies to ensure that its  
14 personnel:

15 a. use only rates, rating plans and rating rules  
16 which have been filed with the Department.

17 b. calculate insurance premiums, and issue policies,  
18 only on the basis of filed rates and rules.

19 c. issue policies within 90 days of their bound  
20 dates, unless extensions of time are approved by the Director.

21 d. document all adjustments to full manual premiums  
22 developed for insurance policies.

23 e. obtain and maintain copies of written notices by  
24 employees rejecting WC coverage.

25 f. issue the Arizona Cancellation Endorsement with  
26 each WC policy.

27 . . . . .

28 . . . . .



1 g. endorse policy files with the NCCI Sole  
2 Proprietors, Partners, Officers and Others coverage endorsement  
3 when the coverage is requested by the insured.

4 h. notify the ICA of policy renewal within five days  
5 of the effective date of policy renewal.

6 i. notify the ICA of policy cancellation or  
7 nonrenewal at least thirty days prior to the effective date of  
8 cancellation or nonrenewal.

9 3. Within 60 days of the filed date of this Order, Legion  
10 shall reimburse the policyholders of WC Policies # 1002775 and  
11 2004432, for premium overcharges totalling \$100, plus interest  
12 at the rate of ten percent (10%) per annum calculated from the  
13 date the premium was paid by the insured to the date of  
14 repayment to the insured.

15 4. Within 60 days of the filed date of this Order, Legion  
16 shall revise the final audit billing on WC Policies #1003324,  
17 1005147, and 2003324 to apply the correct ARD, split rate, and  
18 E-meds and return excess premiums, if any, to the insureds with  
19 interest at the rate of ten percent (10%) per annum calculated  
20 from the date the premium was paid by the insured to the date of  
21 repayment to the insured.

22 5. Within 60 days of the filed date of this Order, Legion  
23 shall calculate the final audit premiums on WC Policies  
24 #1010688, 1012900, 1013817, and 2002775, retain a copy of the  
25 final audit billing in each policy file, and return excess  
26 premiums, if any, to the insureds with interest at the rate of  
27 ten percent (10%) per annum calculated from the date the premium  
28

1 was paid by the insured to the date of repayment to the  
2 insured.

3 6. Within 60 days of the filed date of this Order, Legion  
4 shall revise the final audits on WC Policies #1005147, 1007186,  
5 1008756, 1008758, 2003324, 2004432, and 3003324, and return  
6 excess premiums, if any, to the insureds with interest at the  
7 rate of ten percent (10%) per annum calculated from the date the  
8 premium was paid by the insured to the date of repayment to the  
9 insured.

10 7. Within 90 days of the filed date of this Order, Legion  
11 shall conduct a self-audit of its WC policy files not previously  
12 reviewed by the Examiners with effective dates from January 1,  
13 1992 through the filed date of this Order which the Examiners  
14 did not review, to determine compliance with the issues, laws  
15 and regulations referred to in the above Findings of Fact,  
16 Conclusions of Law, and Order. Legion shall include in the  
17 self-audit all policies other than those written through VCW,  
18 Inc., and 25 of the policies written through VCW, Inc., which  
19 shall be randomly selected by a method to be approved by the  
20 Director. Legion shall refund the excess premiums charged, if  
21 any, to the insureds with interest at the rate of ten percent  
22 (10%) per annum calculated from the date the premiums were paid  
23 by the insureds to the date of repayment to the insureds.

24 8. Each payment referred to in Paragraphs #3-7 above  
25 shall be accompanied by a letter acceptable to the Director. A  
26 list of payments, giving the name and address of each party  
27 paid, the amount of the overcharge, the amount of interest paid,  
28 and the date of payment, shall be furnished to the Market

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28


Conduct Examination Division of the ADOI within 75 days of the filed date of this Order.

9. The Department shall be permitted, through authorized representatives, to verify that Legion has fully complied with all requirements of this Order.

10. Legion shall pay a civil penalty of \$5,000 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 Examination Division of the Department prior to the filing of this Order.

11. The June 2, 1995 Report of Examination, and the letter of objection to the Report filed by Legion, shall be filed with the Department after this Order is issued.

DATED at Phoenix, Arizona this 20th day of August, 1996.

  
\_\_\_\_\_  
John King  
Director of Insurance

. . . . .  
. . . . .  
. . . . .  
. . . . .  
. . . . .

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

CONSENT TO ORDER

1. Respondent Legion Insurance Company has reviewed the attached Consent Order.

2. Respondent is aware of its right to a hearing at which hearing it may be represented by counsel, present evidence and cross-examine witnesses. Respondent has irrevocably waived its right both to demand a public hearing and to seek judicial review of this Order.

3. Respondent admits the jurisdiction of the Director of Insurance, State of Arizona, and consents to the entry of this Consent Order.

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

5. Respondent acknowledges that the acceptance of this Order by the Director of Insurance, State of Arizona, is solely to settle this matter against it and does not preclude any other agency or officer of this state or subdivision thereof from instituting other civil or criminal proceedings as may be appropriate now or in the future.

6. **ANDREW S. WALSH** \_\_\_\_\_, who holds the office of **SENIOR VICE PRESIDENT** \_\_\_\_\_ of Legion Insurance Company, is authorized to enter into this Order for and on its behalf.

LEGION INSURANCE COMPANY

8/6/96  
(Date)

By \_\_\_\_\_

*Andrew S Walsh*  
Sr. Vice President

1 COPY of the foregoing mailed/delivered  
2 this 20th day of August , 1996, to:

3 Charles R. Cohen  
4 Deputy Director  
5 Gregory Y. Harris  
6 Executive Assistant Director  
7 Lewis D. Kowal  
8 Chief Administrative Law Judge  
9 Erin H. Klug  
10 Chief Market Conduct Examiner  
11 Saul R. Saulson  
12 Examinations Supervisor  
13 Market Conduct Examinations Division  
14 Mary Butterfield  
15 Assistant Director  
16 Life & Health Division  
17 Deloris E. Williamson  
18 Assistant Director  
19 Rates & Regulations Division  
20 Gary Torticill  
21 Assistant Director and Chief Financial Examiner  
22 Corporate & Financial Affairs Division  
23 Cathy O'Neil  
24 Assistant Director  
25 Consumer Services Division  
26 John Gagne  
27 Assistant Director  
28 Investigations Division  
John King  
Fraud Unit Chief  
Dean Ehler  
Supervisor  
Property and Casualty Section

DEPARTMENT OF INSURANCE  
2910 North 44th Street, Suite 210  
Phoenix, AZ 85018

Andrew S. Walsh  
Senior Vice President and General Counsel  
Legion Insurance Company  
One Liberty Place  
1650 Market Street, Suite 2200  
Philadelphia, Pennsylvania 19103-7301

*Corey Walters Butler*