

BEFORE THE DIVISION OF INSURANCE

STATE OF COLORADO

FINAL AGENCY ORDER O-00-194

**IN THE MATTER OF THE MARKET CONDUCT EXAMINATION OF ALLIED
PROPERTY AND CASUALTY INSURANCE COMPANY**

THIS MATTER comes before the Colorado Commissioner of Insurance (the "Commissioner") as a result of a routine market conduct examination conducted by the Colorado Division of Insurance ("the Division") of Allied Property and Casualty Insurance Company ("the Company"), pursuant to §§10-1-201-207, C.R.S. The Commissioner has reviewed the market conduct examination report dated December 8, 1999, the Company's written submissions, responses, rebuttals, and the recommendations of staff. The Commissioner enters findings of fact, conclusions of law and orders, as follows:

FINDINGS OF FACT

1. At all times relevant to this Order, the Company was a corporation licensed by the Division and authorized in Colorado to conduct the business of a property and casualty insurer, pursuant to §§10-3-101, et seq., of the Colorado Revised Statutes. Twenty-seven (27) jurisdictions licensed the Company to transact insurance and the Division licensed the Company to transact insurance in Colorado on May 1, 1986.
2. The Company markets private passenger automobile and homeowners insurance and reported \$6,720,000 total automobile premiums and \$3,196,000 total homeowners' premiums in Colorado in 1997. This volume represented a 0.34 percentage market share of all private passenger automobile and a 0.60 percentage market share of the homeowners insurance written in the State of Colorado.
3. On October 18, 1999, the Division completed a routine market conduct examination of the advertising, agent licensing, complaint handling, underwriting, rating and claims practices of the Private Passenger Automobile and homeowners insurance business of the Company. The examination covered the period from July 1, 1997 to June 30, 1998.
4. The market conduct examiners prepared an examination report. The examination report is comprised of the facts appearing upon the books, records, or other documents of the Company, its agents or other persons

examined, or as ascertained from the testimony of the Company's officers or agents or other persons examined concerning the Company's affairs. The examination report contains the examiners' conclusions and recommendations that the examiners find reasonably warranted based upon the facts.

5. The Company submitted its response to this report. The Commissioner fully considered and reviewed all of the Company's written submissions, responses and rebuttals.
6. All issues and recommendations not specifically addressed in this Order are considered resolved per the recommendations of the examiners as contained in the final report of examination.

CONCLUSIONS OF LAW

1. Issues identified as "resolved per documentation previously submitted by the Company" do not require further documentation to the Division but are still considered violations of Colorado insurance law and may provide the basis for a fine.
2. Unless modified in this Order, the Commissioner specifically adopts the conclusions of the examiners contained in the final examination report, including the violations enumerated in the examination report, as his conclusions of law. The Commissioner finds that the Company knew or reasonably should have known that its conduct was in violation of Colorado law.

ORDERS

1. Regarding Issue A, failure to offer a named driver exclusion: the Company shall perform an audit on all existing policies canceled by the Company within the first fifty-nine (59) days to determine any policyholders who should have been offered the option of a named driver exclusion but were not, covering the period from January 1, 1998 to present.
2. Regarding Issue B, use of restricted criteria within a set of Company underwriting standards to facilitate the placement of applicants: this issue is considered resolved pursuant to documentation previously provided by the Company.
3. Regarding Issue C, failure to file and receive approval, prior to use, of disclosure forms containing cost containment options: this issue is considered resolved per documentation previously submitted by the Company.

4. Regarding Issue D, failure to use rates and/or rating rules filed with the Division: this issue is considered resolved per documentation previously provided by the Company.
5. Regarding Issue E, failure to obtain specific written assignment from the insured when issuing checks directly payable or co-payable to a repair or service facility: this issue is considered resolved per documentation previously provided by the Company.
6. Regarding Issue F, failure to pay insurance claims in accordance with policy provisions and/or written Company claims handling procedures: this issue is considered resolved per documentation previously submitted by the Company.
7. Regarding Issue G, delay in paying PIP benefits: this issue is considered resolved per documentation previously submitted by the Company.
8. Regarding Issue H, failure to obtain specific written assignment from insureds prior to making direct payment of PIP benefits to healthcare providers: the Company shall provide, to the Division, written procedures showing that evidence of a written assignment from the insured, is required before making direct payment of personal injury protection benefits.
9. Regarding Issue I, failure to make a full refund of unearned premium upon termination of insurance coverage: the Company shall provide documentation of filing and disclosure of its waiver of premium rule.
10. Regarding Issue J, failure to use a complying reason for cancellation of a policy: the Company shall use reasons for cancellation that comply with the requirements of Colorado insurance law. In addition, the Company will provide to the Division written documentation of its corrected procedures for immediate review of canceled policies to determine non-complying reasons for the surcharge.
11. Regarding Issue K, failure to use rates and/or rating rules filed with the Division: the Company shall demonstrate that it amended procedures to comply with §§10-3-1104(1)(f)(II), 10-4-401(3)(b), C.R.S., and Colorado Insurance Regulation 5-1-10 III (B). Additionally, the Company should perform an audit of those policies having a wood roof surcharge or a hail resistant credit, that were issued from July 1, 1997 to present. The Company shall refund any excess premium amounts that were identified as a result of the audit.
12. Regarding Issue L, failure to document adequately claim files when determining depreciation: this issue is considered resolved per documentation previously submitted by the Company.

13. Pursuant to Section 10-1-205(3)(d), C.R.S., the Company shall pay a civil penalty to the Division in the amount of Fifteen Thousand Two Hundred Fifty Dollars and no/100 (\$15,250.00) for the cited violations of Colorado law.
14. The Company shall submit a complete response within thirty (30) days of the date of this Order, including documentation of compliance with all completed requirements of the Order, including all audits conducted in accordance with Colorado Division of Insurance guidelines. At the completion of any audit, the Company shall provide a summary of the findings, including any monies returned to policyholders. Rate and form filings shall be submitted to the Division Rate and Forms section with copies to the Market Conduct section.
15. For any items which cannot be completed within thirty (30) days, the Company shall submit a specific compliance plan setting forth how the Company will achieve compliance on all requirements of the Order within ninety (90) days of the date of this Order.
16. This Order shall not prevent the Division from commencing future agency action relating to conduct of the Company not addressed in the examination report, or not resolved according to the terms and conditions expressed in this Order. Failure by the Company to comply with the terms of this Order may result in additional actions, penalties and sanctions, as provided for by law.
17. Copies of the examination report, the Company's response, and this final Order will be made available to the public thirty (30) days after the date of this Order, subject to the requirements of §10-1-205, C.R.S.

WHEREFORE: It is hereby ordered that the findings and conclusions contained in the final examination report dated December 8, 1999, are hereby adopted and filed and made an official record of this office, and the above Order is hereby approved this 28th day of January 2000.



William J. Kirven III
Commissioner of Insurance