

BEFORE THE DIVISION OF INSURANCE

STATE OF COLORADO

FINAL AGENCY ORDER O-00-281

**IN THE MATTER OF THE MARKET CONDUCT EXAMINATION OF
AMERICAN STANDARD INSURANCE COMPANY OF WISCONSIN,**

Respondent

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 American Standard Insurance Company of Wisconsin ("the Respondent"), pursuant to §§10-1-201-207, C.R.S. The Commissioner has reviewed the market conduct examination report dated December 8, 1999, the Respondent's written submissions and 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 Respondent was a corporation licensed by the Division and authorized in Colorado to conduct the business of private passenger automobile insurance, pursuant to §10-16-201, et seq., of the Colorado Revised Statutes.
2. The Respondent began marketing auto insurance in Colorado in 1966. The Respondent reported \$34,365,000 in total written premiums in 1998. This volume represented a 1.67% market share of all private passenger automobile insurance written in the State of Colorado.
3. On December 8, 1999, the Division completed a routine market conduct examination of various company practices, including Marketing, Sales and Advertising, Complaint Handling, Agent Licensing and Appointments, Underwriting, Rating, and Claims Settlement issue to determine whether the business practices of the Respondent complied with Colorado insurance laws and regulations. The examination covered the period from January 1, 1998 through December 31, 1998.
4. On March 2, 2000, the Respondent submitted its response to this report indicating disagreement with some issues and indicating that, in most instances,

it had made the recommended changes. The Division wishes to acknowledge the commendable attention and cooperation of the Respondent.

5. The Commissioner fully reviewed and considered all of the Respondent's submissions and rebuttals, and all relevant portions of the examiner's work papers. Issues identified as "resolved prior to the date of this Order " 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.

CONCLUSIONS OF LAW AND ORDER

6. Unless modified herein, the Commissioner specifically adopts the facts, recommendations and conclusions of the examiners contained in the final examination report, including the violations enumerated therein, as his conclusions of law. A copy of the final examination report is attached to this Order and is incorporated herein by reference.
7. Issue A concerns the following violation: Failure to respond to Division inquiries regarding complaints within the prescribed twenty (20) calendar days. The Respondent shall be required to provide evidence and documentation demonstrating that it has addressed its procedures for timely complaint responses to the Division in order to ensure compliance with the requirements of Colorado Insurance Law. The Respondent has provided adequate documentation with its response demonstrating that it has amended its practices to comply with the requirements of the Order.
8. Issue B concerns the following violation: Failure to file an annual certification of forms. The Respondent shall provide evidence and documentation demonstrating that it has immediately filed an annual certification report of its forms and endorsements for 1999 with the Rates and Forms section of the Division of Insurance and provide documentation of the annual certification to the Market Conduct section. The Respondent has provided adequate documentation with its response demonstrating that it has amended its practices to comply with the requirements of the Order.
9. Issue C concerns the following violation: Failure to provide the reason for non-renewal. The Respondent shall provide evidence to the Division that it will complete the reasons for nonrenewal with a statement that clearly describes its underwriting rule, policy, or guideline, which was the basis for the proposed action in order to ensure compliance with the requirements of Colorado law.
10. Issue D concerns the following violation: Failure to provide minimum coverage for rehabilitation expense: The Respondent shall provide evidence and documentation demonstrating that it will amend its endorsements 05-107 (Ed.8/91), Colorado Automated Savings Option Coverage Endorsement, and 05-

106 (Ed.7/91), Colorado Personal Injury Protection (PIP), and certify these with the Rates & Forms section of the Division of Insurance and provide documentation of the certification to the Market Conduct section. Upon completion of the certification, the Respondent shall provide documentation of the Division of Insurance stamped filing certification to the Market Conduct section of the Division. The Respondent has provided adequate documentation with its response demonstrating that it has amended its practices to comply with the requirements of the Order.

11. Issue E concerns the following violation : Delay in paying PIP benefits. The Respondent shall review its PIP claims handling procedures with all Colorado branch claims offices regarding the correct procedures pertaining to timely handling of PIP benefit payments, situations that define a qualifying accumulation period, and the proper documentation as to what constitutes the received date which triggers the thirty (30) day time period, in order to ensure future compliance with Colorado law.
12. Issue F concerns the following violation: Failure to pay insurance claims in accordance with standard Respondent claims handling practices. The Company shall provide evidence and documentation that it has instituted training procedures to reaffirm its handling of total loss claims by all claims branch offices, and provide copies of all letters regarding underpayments dispersed on the instances cited, to the Division of Insurance, Market Conduct section. The Respondent has provided adequate documentation with its response demonstrating that it has amended its practices to comply with the requirements of the Order.
13. Issue G concerns the following violation: Failure to retain records. The Respondent shall provide evidence and documentation that it has instituted a procedure ensuring that its records are properly retained to document all claim payments made. The Respondent has provided adequate documentation with its response demonstrating that it has amended its practices to comply with the requirements of the Order.
14. Pursuant to Section 10-1-205(3)(d), C.R.S., the Respondent shall pay a civil penalty in the amount of Seven Thousand dollars and no/100 (\$7,000.00). This fine represents a combined fine for the cited violations of Colorado law. This fine was calculated in accordance with Division guidelines for assessing penalties and fines, including Division bulletin no. 1-98, issued on January 1, 1998.

15. Unless otherwise specified in this Order, all requirements with this Order shall be completed within thirty (30) days of the date of this Order. Respondent shall submit written evidence of compliance to the Division within the thirty (30) day time frame. Copies of any rate/form filings shall be provided to both the rate and forms section and the Market Conduct section. Affidavits from Board Members must be submitted within sixty (60) days of the date of this Order. Any requested audits should be received within ninety (90) days of the Order, with a summary of the findings, including all monies returned to policyholders.
16. This Order shall not prevent the Division from commencing future agency action relating to conduct of the Respondent not addressed in the examination report, or not resolved according to the terms and conditions expressed in this Order. Failure by the Respondent 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 Respondent's response, and this final Order will be made available to the public no earlier than 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 31st day of May, 2000.



William J. Kirven III
Commissioner of Insurance