

BEFORE THE DIVISION OF INSURANCE

STATE OF COLORADO

FINAL AGENCY ORDER O-03-150

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

Respondent

THIS MATTER comes before the Colorado Commissioner of Insurance (the "Commissioner") as a result of a market conduct examination conducted by the Colorado Division of Insurance (the "Division") of American Reliable Insurance Company (the "Respondent"), pursuant to §§ 10-1-201 to 207, C.R.S. The Commissioner has considered and reviewed the market conduct examination report dated September 23, 2002 (the "Report"), relevant examiner work papers, all written submissions and rebuttals, and the recommendations of staff. The Commissioner finds and orders as follows:

FINDINGS OF FACT

1. At all relevant times, the Respondent was a corporation licensed by the Division to conduct all lines of property and casualty insurance including bail bonds.
2. In accordance with §§ 10-1-201 to 207, C.R.S., on September 23, 2002, the Division completed a market conduct examination of the Respondent. The period of examination was January 1, 2001, to December 31, 2001.
3. In scheduling the market conduct examination and in determining its nature and scope, the Commissioner considered such matters as complaint analyses, underwriting and claims practices, pricing, product solicitation, policy form compliance, market share analyses, and other criteria as set forth in the most recent available edition of the examiners' handbook adopted by the National Association of Insurance Commissioners, as required by § 10-1-203(1), C.R.S.
4. In conducting the examination, the examiners observed those guidelines and procedures set forth in the most recent available edition of the examiners' handbook adopted by the National Association of Insurance Commissioners and the Colorado insurance examiners handbook. The Commissioner also employed other guidelines and procedures that he deemed appropriate, pursuant to § 10-1-204(1), C.R.S.

5. The market conduct examiners prepared the Report. The Report is comprised of only the facts appearing upon the books, records, or other documents of the Respondent, its agents or other persons examined, or as ascertained from the testimony of the Respondent's officers or agents or other persons examined concerning Respondent's affairs. The Report contains the conclusions and recommendations that the examiners find reasonably warranted based upon the facts.
6. Respondent delivered to the Division written submissions and rebuttals to the Report.
7. The Commissioner has fully considered and reviewed the Report, all of Respondent's submissions and rebuttals, and all relevant portions of the examiner's work papers.

CONCLUSIONS OF LAW AND ORDER

8. Unless expressly modified in this Final Agency Order, the Commissioner adopts the facts, conclusions and recommendations contained in the Report. A copy of the Report is attached to the Order and is incorporated by reference.
9. Issue A concerns the following violation: Paying commissions to an unlicensed agent contrary to Colorado insurance law. The Respondent shall review all procedures relating to the payment of commissions or other remuneration, and implement necessary changes to ensure compliance with Colorado insurance law. The Division's records indicate that the Respondent has complied with the corrective actions ordered concerning this violation.
10. Issue B concerns the following violation: Failure to maintain records for market conduct examination. The Respondent shall review, revise and implement procedures relating to record retention to ensure compliance with Colorado insurance law. The Division's records indicate that the Respondent has complied with the corrective actions ordered concerning this violation. To the extent Respondent continues to issue bonds in Colorado, Respondent shall perform a self-audit of all records required to be maintained for market conduct examination purposes and concerning this violation for the time period beginning March 1, 2003 through May 31, 2003. Respondent shall submit a summary of the audit findings to the Division on or before August 31, 2003.
11. Issue C concerns the following violation: Failure to properly report premium and pay the appropriate taxes due. The Respondent shall review, revise and implement all procedures related to reporting of premium and paying of premium taxes due to ensure compliance with Colorado insurance law. The Division's records indicate that the Respondent has complied with the corrective actions ordered concerning this violation. Respondent shall perform a self-audit of all

premiums and taxes due concerning this violation for the time period beginning March 1, 2003 through May 31, 2003. Respondent shall submit a summary of the audit findings to the Division on or before August 31, 2003.

12. Issue D concerns the following violation: Failure to have procedures to audit and monitor producers, including MGAs, and failure to conduct audits. The Respondent shall periodically and at least semi-annually conduct on-site reviews of its producers and its MGA's operations. In addition, Respondent shall implement anti-fraud procedures and practices to ensure compliance with Colorado insurance law. The Division's records indicate that the Respondent has complied with the corrective actions ordered concerning this violation. To the extent Respondent continues to issue bonds in Colorado, Respondent shall perform an audit of its producers' and MGA's operations concerning this violation for the time period beginning March 1, 2003 through May 31, 2003. Respondent shall submit a summary of the audit findings to the Division on or before August 31, 2003.
13. Issue E concerns the following violation: Failure to report late remittance of premiums by producers to the Commissioner. The Respondent shall implement procedures and safeguards regarding premium reporting by agents to ensure compliance with Colorado insurance law. The Division's records indicate that the Respondent has complied with the corrective actions ordered concerning this violation. To the extent Respondent continues to issue bonds in Colorado, Respondent shall perform an audit of its producers' premium remittance concerning this violation for the time period beginning March 1, 2003 through May 31, 2003. Respondent shall submit a summary of the audit findings to the Division on or before August 31, 2003.
14. Issue F concerns the following violation: Failure to have an agent training manual that is in compliance with Colorado insurance law. The Respondent shall revise its training manual to ensure compliance with Colorado insurance law. The Division's records indicate that the Respondent has complied with the corrective actions ordered concerning this violation.
15. Issue G concerns the following violation: Failure to require and obtain a list of collateral taken by agents. The Respondent shall review, revise and implement procedures relating to reports by agents to ensure compliance with Colorado insurance law. The Division's records indicate that the Respondent has complied with the corrective actions ordered concerning this violation. To the extent Respondent continues to issue bonds in Colorado, Respondent shall perform an audit of collateral records concerning this violation for the time period beginning March 1, 2003 through May 31, 2003. Respondent shall submit a summary of the audit findings to the Division on or before August 31, 2003.
16. Issue H concerns the following violation: Failure to monitor and ensure the issuance of receipts for collateral received by agents. The Respondent shall

review, revise and implement procedures regarding the agents' issuance of receipts for collateral to ensure compliance with Colorado insurance law. The Division's records indicate that the Respondent has complied with the corrective actions ordered concerning this violation. To the extent Respondent continues to issue bonds in Colorado, Respondent shall perform an audit of its collateral records concerning this violation for the time period beginning March 1, 2003 through May 31, 2003. Respondent shall submit a summary of the audit findings to the Division on or before August 31, 2003.

17. Issue I concerns the following violation: Failure to monitor and ensure agents' release of collateral received and liens placed. The Respondent shall review, revise and implement procedures regarding the agents' release of collateral received and liens placed to ensure compliance with Colorado insurance law. The Division's records indicate that the Respondent has complied with the corrective actions ordered concerning this violation. To the extent Respondent continues to issue bonds in Colorado, Respondent shall perform an audit of its collateral and lien release records concerning this violation for the time period beginning March 1, 2003 through May 31, 2003. Respondent shall submit a summary of the audit findings to the Division on or before August 31, 2003.
18. Issue J concerns the following violation: Failure to monitor and ensure agents and principal sign the bond agreement as required by Colorado insurance law. The Respondent shall review, revise and implement procedures to ensure the agents and principal sign the bonding agreements as required by Colorado insurance law. The Division's records indicate that the Respondent has complied with the corrective actions ordered concerning this violation. To the extent Respondent continues to issue bonds in Colorado, Respondent shall perform a self-audit of the bonding agreements concerning this violation for the time period beginning March 1, 2003 through May 31, 2003. Respondent shall submit a summary of the audit findings to the Division on or before August 31, 2003.
19. Issue K concerns the following violation: Failure to monitor and ensure agents issue a reconveyance of title, a certificate of discharge or a full lien release as required by Colorado insurance law. The Respondent shall review, revise, and implement procedures to ensure that after the appeal period that exonerates the bail bond has expired, the agent issues the appropriate documents to reconvey title, and release or discharge liens, as the case may be. The Division's records indicate that the Respondent has complied with the corrective actions ordered concerning this violation. To the extent Respondent continues to issue bonds in Colorado, Respondent shall perform a self-audit of the release, reconveyance and discharge documents concerning this violation for the time period beginning March 1, 2003 through May 31, 2003. Respondent shall submit a summary of the audit findings to the Division on or before August 31, 2003.

20. Issue L concerns the following violation: Failure to fulfill fiduciary responsibilities by commingling of funds. The Respondent shall review, revise and implement procedures relating to the handling of funds received by agents to ensure compliance with Colorado insurance law. The Division's records indicate that the Respondent has complied with the corrective actions ordered concerning this violation. To the extent Respondent continues to issue bonds in Colorado, Respondent shall perform an audit of the agents' funds handling concerning this violation for the time period beginning March 1, 2003 through May 31, 2003. Respondent shall submit a summary of the audit findings to the Division on or before August 31, 2003.
21. Issue M concerns the following violation: Failure to collect and report premiums as filed with the Division. The Respondent shall review, revise and implement procedures relating to premiums charged and reported by agents to ensure compliance with Colorado insurance law. The Division's records indicate that the Respondent has complied with the corrective actions ordered concerning this violation. To the extent Respondent continues to issue bonds in Colorado, Respondent shall perform a self-audit of premium records concerning this violation for the time period beginning March 1, 2003 through May 31, 2003. Respondent shall submit a summary of the audit findings to the Division on or before August 31, 2003.
22. Issue N concerns the following violation: Failure to monitor and ensure premium remittance from agents in the required time frames. The Respondent shall review, revise and implement procedures to monitor and ensure timely premium remittance by its agents in compliance with Colorado insurance law. The Division's records indicate that the Respondent has complied with the corrective actions ordered concerning this violation. To the extent Respondent continues to issue bonds in Colorado, Respondent shall perform a self-audit of premium records concerning this violation for the time period beginning March 2, 2003 through May 31, 2003. Respondent shall submit a summary of the audit findings to the Division on or before August 31, 2003.
23. Issue O concerns the following violation: Failure to monitor and ensure agent compliance with reporting requirements to the Division. The Respondent shall review, revise and implement procedures relating to agent reporting requirements to ensure compliance with Colorado insurance law. The Division's records indicate that the Respondent has complied with the corrective actions ordered concerning this violation. To the extent Respondent continues to issue bonds in Colorado, Respondent shall perform an audit to determine the agents' compliance with reporting requirements concerning this violation for the time period beginning March 1, 2003 through May 31, 2003. Respondent shall submit a summary of the audit findings to the Division on or before August 31, 2003.

24. Issue P concerns the following violation: Failure to monitor and ensure agents issuance of premium and collateral receipts as required by Colorado insurance law. The Respondent shall review, revise and implement procedures relating to ensure agents issue receipts in accordance with Colorado insurance law. The Division's records indicate that the Respondent has complied with the corrective actions ordered concerning this violation. To the extent Respondent continues to issue bonds in Colorado, Respondent shall perform an audit to determine the agents' compliance with collateral and premium receipt requirements concerning this violation for the time period beginning March 1, 2003 through May 31, 2003. Respondent shall submit a summary of the audit findings to the Division on or before August 31, 2003.
25. Issue Q concerns the following violation: Permitting agents to charge additional fees for bail bonds in violation of Colorado insurance law. The Respondent shall review, revise and implement procedures relating to premium charges to ensure compliance with Colorado insurance law. The Division's records indicate that the Respondent has complied with the corrective actions ordered concerning this violation. To the extent Respondent continues to issue bonds in Colorado, Respondent shall perform an audit to determine the agents' compliance with fee requirements concerning this violation for the time period beginning March 1, 2003 through May 31, 2003. Respondent shall submit a summary of the audit findings to the Division on or before August 31, 2003.
26. Pursuant to § 10-1-205(3)(d), C.R.S., Respondent shall pay a civil penalty to the Division in the amount of thirty-six thousand two hundred fifty dollars and 00/100 dollars (\$36,250.00) 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.
27. Pursuant to § 10-1-205(4)(a), C.R.S., within sixty (60) days of the date of this Order, the Respondent shall file affidavits executed by each of its directors stating under oath that they have received a copy of the adopted report and related orders.
28. 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 with all requirements to the Division within the thirty (30) day time frame, except where Respondent has already complied, as specifically noted in the Order. Copies of any rate and form filings shall be provided to the rate and forms section with evidence of the filings sent to the market conduct section. Unless otherwise specified in this Order, all audit reports must be received within ninety (90) days of the Order, with a summary of the findings, including all monetary payments to covered persons.
23. This Order shall not prevent the Division from commencing future agency action relating to conduct of the Respondent not specifically addressed in the Report, not

resolved according to the terms and conditions in this Order, or occurring before or after the examination period. 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.

24. 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 September 23, 2002, are hereby adopted and filed and made an official record of this office and the above Order is hereby approved this 31st day of January, 2003.



Doug Dean
Commissioner of Insurance