

BEFORE THE DIVISION OF INSURANCE

STATE OF COLORADO

FINAL AGENCY ORDER O-05-023

IN THE MATTER OF THE MARKET CONDUCT EXAMINATION OF AMERICAN HOME ASSURANCE 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 Home Assurance 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 April 29, 2004 (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 workers' compensation insurance.
2. In accordance with §§ 10-1-201 to 207, C.R.S., on or about April 29, 2004, the Division completed a market conduct examination of the Respondent's workers' compensation insurance business. 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 "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: Failure, in some cases, to maintain records required when writing workers' compensation policies which contain Colorado exposures. The Respondent shall provide written evidence that it has taken appropriate steps to ensure that all required records are maintained when writing workers' compensation policies containing Colorado exposures in compliance with Colorado insurance law.
10. Issue B concerns the following violation: Failure to require each insured to indicate on a form their awareness of the potential savings available when an insured obtains cost containment certification by the Colorado Workers' Compensation Cost Containment Board, and to retain this form in the insured's underwriting file. The Respondent shall provide written evidence that it has modified its procedures to require each insured to indicate on a form their awareness of the potential savings available when an insured obtains cost containment certification by the Colorado Workers' Compensation Cost Containment Board and to retain this form in the insured's underwriting file in compliance with Colorado insurance law.
11. Issue C concerns the following violation: Failure to require each insured to indicate on a form their awareness of the premium differential available when an insured selects a designated medical provider, and to retain this form in the insured's underwriting files. The Respondent shall provide written evidence that it has modified its procedures to require each insured to indicate on a form their awareness of the premium differential available when an insured selects a

designated medical provider, and to retain this form in the insured's underwriting files in compliance with Colorado insurance law.

12. Issue D concerns the following violation: Failure, in some cases, to use experience modification factors promulgated by NCCI. The Respondent shall provide written evidence that all workers' compensation policies written by Respondent that contain Colorado exposures include the experience modification factors promulgated by NCCI to ensure compliance with Colorado insurance law.
13. Issue E concerns the following violation: Failure, in some cases, to apply the correct rating methodology when rating workers' compensation policies that contain Colorado exposures. The Respondent shall provide written evidence that it has taken appropriate steps to ensure correct rating methodology is applied when rating policies with Colorado exposures in compliance with Colorado insurance law.
14. Pursuant to § 10-1-205(3)(d), C.R.S., Respondent shall pay a civil penalty to the Division in the amount of eighteen thousand and 00/100 dollars (\$18,000.00). 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. 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 order.
16. 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. All self-audits, if any, shall be performed in accordance with the Division's document, 'Guidelines for Self Audits Performed by Companies' presented at the market conduct examination exit meeting. Unless otherwise specified in this Order, all self-audit reports must be received within ninety (90) days of the Order, including a summary of the findings and all monetary payments to covered persons.
17. 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.

18. 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 April 29, 2004, are hereby adopted and filed and made an official record of this office and the above Order is hereby approved this 25th day of August, 2004.



Kirk R. Yeager,
Deputy Commissioner of Market Regulation

CERTIFICATE OF CERTIFIED MAILING

I hereby certify that on the 25th day of August, 2004, I deposited the **FINAL AGENCY ORDER No. O-05-023 IN THE MATTER OF THE MARKET CONDUCT EXAMINATION OF AMERICAN HOME ASSURANCE COMPANY**, in the United States
Mail via certified mail with the proper postage affixed and addressed to:

Mr. John Q. Doyle, President
American Home Assurance Company
70 Pine Street
New York, NY 10270

Allan L. Wadsworth, Manager Regulatory Affairs
DBG Legal Services
175 Water Street, 18th Floor
New York, NY 10038



Dolores Arrington, MA, AIRC
Market Conduct Section