

STATE OF ARIZONA

MAR 4 1996

DEPARTMENT OF INSURANCE

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3 In the Matter of)
4 VICTORIA FIRE AND CASUALTY COMPANY)
5 Respondent.)
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Docket No. 96A-030
CONSENT ORDER

The Department conducted a market conduct examination of the Victoria Fire and Casualty Company, NAIC #42889 ("Victoria"). Based upon the Report of Market Conduct Examination (the "Report") prepared by the Department's Market Conduct Examiners ("the Examiners"), Victoria has violated A.R.S. §§ 20-385, 20-461, 20-462, 20-1631, 20-1632 and Arizona Administrative Rule ("A.A.C. R") 20-6-801 (formerly A.A.C. R4-14-801).

Victoria wishes to resolve this matter without formal adjudicative proceedings and hereby agrees to a Consent Order.

The Director of Insurance of the State of Arizona ("the Director") enters the following Findings of Fact and Conclusions of Law, which are neither admitted nor denied by Victoria, and the following Order.

FINDINGS OF FACT

1. Victoria is authorized to transact property and casualty insurance pursuant to a Certificate of Authority issued by the Director.
 2. The Examiners were authorized by the Department to conduct a market conduct examination of Victoria. The on-site examination was concluded as of August 9, 1994.
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1 3. The Examiners reviewed 63 policy files cancelled or
2 non-renewed by Victoria. Of these, Victoria cancelled two
3 personal automobile policies which were in effect for more than
4 60 days for reasons not permitted by A.R.S. § 20-1631.

5 4. The Examiners found that Victoria failed to include
6 refunds of unearned premium with the notices cancelling 226
7 personal auto policies for reasons other than non-payment of
8 premium. Victoria has since changed its procedure to refund
9 unearned premium with each notice of cancellation.

10 5. Victoria charged premiums other than those determined
11 using its filed rates and rules on 3 of the 185 policies
12 reviewed (1.6%). One insured was charged \$50.00 less than he
13 should have been charged, and 2 insureds were overcharged by a
14 total of \$161.00. The overcharges have since been refunded by
15 Victoria.

16 6. The Examiners reviewed 105 first party automobile
17 total loss claims. Of these, they found that:

18 a. Victoria failed to pay any or all of the
19 applicable sales taxes and/or license fees due 51 claimants
20 (48.6%). The amount of \$9,802.53, plus interest, has since been
21 paid by Victoria to the claimants.

22 b. Victoria failed to adequately document 30 claim
23 files (28.6%) to support \$17,688.58 in deductions from actual
24 cash value. This amount, plus interest, has since been paid by
25 Victoria to these claimants.

26 c. Victoria paid 7 claims (6.7%) more than 30 days
27 after the receipt of an acceptable proof of loss which contained
28 all information necessary for claim adjudication, and did not

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pay interest thereon. Victoria has since paid the interest due to these claimants.

d. The Company determined the actual cash value of 4 (3.8%) vehicles on the basis of Kelly Blue Book or NADA Book values rather than the methodology set forth in A.A.C.R4-14-801(H)(1)(b). The sources used do not provide actual cash values in specific local market areas.

e. Victoria failed to document 28 claim files (22.4%) with sufficient adequacy to enable the Examiners to determine how settlement amounts were determined.

f. Victoria failed to complete the investigation of 6 claims (5.7%) within 30 days after notification of claim, and did not document the files to show that the investigations could not be completed within 30 days.

8. Victoria denied one (1) UM claim on the basis that the ten-year old passenger was not wearing a seat belt, although the file contained no evidence that all of the pain and suffering and medical costs would not have occurred had the boy been wearing a Seattle. Victoria has re-opened, and settled, this claim.

9. Victoria denied one claim for physical damage which should have been paid according to the terms of Victoria's policy, and another claim because the application was not timely mailed by the agent to Victoria, although the Company was bound at the time the application was signed by the insured. Victoria has re-opened, and settled, these claims.

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CONCLUSIONS OF LAW

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2 1. Victoria violated A.R.S. § 20-1631(C) by cancelling
3 personal auto policies which had been in effect for sixty (60)
4 days or longer for reasons other than those permitted by A.R.S.
5 § 20-1631(C).

6 2. By failing to include refunds of unearned premium
7 with notices of cancellation for reasons other than non-payment
8 of premium, Victoria violated A.R.S. § 20-1632(A)(3).

9 3. Victoria violated A.R.S. § 20-385(A) by charging
10 premiums for personal auto insurance which were determined other
11 than pursuant to Victoria's filed rates and rules.

12 4. By failing to pay the full amount of sales taxes and
13 license fees required for the purchase of comparable automobiles
14 to first-party claimants in their settlement of first-party
15 automobile total loss claims, Victoria violated A.A.C. Rule
16 4-14-801(H)(1)(b) and A.R.S. § 20-461(A)(6).

17 5. Victoria violated A.A.C.R4-14-801(H)(1)(c) and A.R.S.
18 § 20-461(A)(6) by making deductions from actual cash value which
19 were not supported by documentation showing them to be
20 measurable, discernible, itemized and appropriate in amount.

21 6. By failing to pay interest on all first party claims
22 not paid within thirty (30) days of the receipt of an acceptable
23 proof of loss which contained all information necessary for
24 claim adjudication, Victoria violated A.R.S. § 20-462(A).

25 7. Victoria violated A.A.C.R4-14-801(H)(1) by making
26 cash settlements of first party total loss claims other than on
27 the basis of one comparable car or two or more dealer quotations.
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1 8. Victoria violated A.A.C.R4-14-801(F) and A.R.S. §
2 20-461(A)(3) by failing to document claim files to show that
3 investigations not completed within 30 days after notification
4 of claim could not have reasonably been completed during that
5 time.

6 9. Victoria violated A.A.C.R4-14-801(C) by failing to
7 document claims files with sufficient adequacy to reconstruct
8 its determination of settlement amounts.

9 10. By denying three (3) claims although the files
10 contained no evidence supporting the reasons for the denials,
11 Victoria violated A.A.C.R4-14-801(D)(1).

12 ORDER

13 Victoria having admitted the jurisdiction of the
14 Director to enter the Order set forth herein, having waived the
15 Notice of Hearing, and having consented to the entry of the
16 Order set forth hereinafter, and there being no just reason for
17 delay:

18 IT IS HEREBY ORDERED THAT:

19 1. Victoria shall cease and desist from:

20 a. Failing to include refunds of unearned premium
21 with notices of personal auto policy cancellation for reasons
22 other than non-payment of premium;

23 b. Failing to pay the full amount of sales taxes
24 and license fees required for the purchase of comparable
25 automobiles to claimants in their settlement of first-party
26 automobile total loss claims;

27 c. Failing to support all deductions from actual
28 cash value of first party total loss vehicles by documentation

1 showing them to be measurable, discernible, itemized and
2 appropriate in amount;

3 d. Failing to pay interest on all first party
4 claims not paid within thirty (30) days of the receipt of an
5 acceptable proof of loss which contained all information
6 necessary for claim adjudication;

7 e. Failing to document claim files to show that
8 investigations not completed within 30 days after notification
9 of claim could not have reasonably been completed during that
10 time.

11 f. Failing to document all claims files with
12 sufficient adequacy to enable the Examiners to reconstruct
13 Victoria's determination of settlement amounts.

14 g. Failing to return unearned premium to insureds
15 with the cancellation notice on all personal auto policies
16 cancelled for reasons other than nonpayment of premium.

17 2. Victoria shall conduct a self-audit of all first
18 party total loss claims with dates of loss from February 22,
19 1994 through August 31, 1994. In addition, Victoria shall
20 conduct a self-audit of 50% of all first-party total loss claims
21 settled between September 1, 1994 and the filed date of this
22 Order, to be selected on a random basis. If Victoria's
23 self-audit of the latter claims reveals that more than 5% of the
24 claims reviewed were underpaid, Victoria shall self-audit the
25 remaining 50% of the claims. A list of all files self-audited,
26 including the name and address of each insured, the policy
27 number, the amount actually paid, the amount which should have
28 been paid, and the difference, shall be submitted to the

1 Department within 90 days of the filed date of this Order. As
2 to each claim, Victoria shall determine whether the claim was
3 processed and the claim amount determined and paid in accordance
4 with the provisions of A.A.C.R20-6-801. Any amounts owing the
5 claimants shall be paid, and interest on the amounts due shall
6 be paid at the rate of ten percent (10%) per annum calculated
7 from the date the claim was received by Victoria to the date of
8 repayment.

9 3. The payments listed in Paragraph 2 above shall be
10 accompanied by a letter to the insureds acceptable to the
11 Director. A list of payments, giving the name and address of
12 each party to whom payments were made, the base amount of the
13 payment, the amount of interest paid, and the date of payment,
14 shall be provided to the Department when all payments have been
15 made. This list shall be submitted after all payments have been
16 made, but no later than 90 days after the filed date of this
17 Order.

18 4. The Department shall be permitted, through authorized
19 representatives, to verify Victoria has fully complied with all
20 requirements of this Order.

21 5. Victoria shall pay a civil penalty of Twelve Thousand
22 Five Hundred Dollars (\$12,500) to the Director for deposit in
23 the State General Fund in accordance with A.R.S. §20-220(B).
24 This civil penalty shall be provided to the Market Conduct
25 Examinations Division of the Department on or before February
26 18, 1996.

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6. The August 9, 1994 Report of Examination, to include any objections to the Report filed by Victoria, shall be filed with the Department.

DATED at Phoenix, Arizona this 1st day of March, 1996.

Chris Herstam
Chris Herstam
Director of Insurance

CONSENT TO ORDER

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2 1. Respondent Victoria Fire and Casualty Company has
3 reviewed the foregoing Consent Order.

4 2. Respondent is aware of its right to a hearing at which
5 hearing it may be represented by counsel, present evidence and
6 cross-examine witnesses. Respondent has irrevocably waived its
7 right to such public hearing and to any court appeals relating
8 thereto.

9 3. Respondent admits the jurisdiction of the Director of
10 Insurance, State of Arizona, and consent to the entry of this
11 Consent Order.

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

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

22 6. IVAN KRAMER represents that as
23 General Counsel & Secretary he is an officer of Victoria Fire and
24 Casualty Company, and that, as such, he is authorized by it to
25 enter into this Consent Order on its behalf.

26 2/7/96
27 (Date)

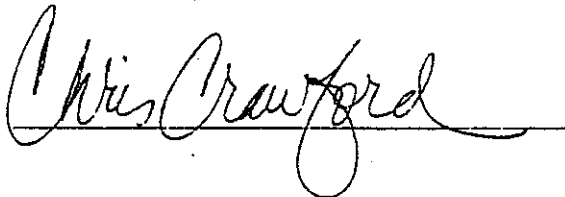
Ivan Kramer, General Counsel & Secretary
VICTORIA FIRE AND CASUALTY COMPANY

1 COPY of the foregoing mailed/delivered
this 4th day of March , 1996, to:

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

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