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THE TREASURER OF THE STATE OF FLORIDA  
DEPARTMENT OF INSURANCE

Treasurer and  
Insurance Commissioner  
Docketed by: SP

TOM GALLAGHER

IN THE MATTER OF:

CASE NO.: 60694-02-CO

**ZURICH AMERICAN INSURANCE COMPANY**

2001 Property and Casualty Market Conduct Examination

**CONSENT ORDER**

THIS CAUSE came on for consideration as the result of an agreement between **ZURICH AMERICAN INSURANCE COMPANY**, hereinafter referred to as **ZURICH AMERICAN** and the **FLORIDA DEPARTMENT OF INSURANCE**, hereinafter referred to as the **DEPARTMENT**. Following a complete review of the entire record, and upon consideration thereof, and being otherwise fully advised in the premises, the **DEPARTMENT** hereby finds as follows:

1. The **DEPARTMENT** has jurisdiction over the subject matter of, and parties to, this proceeding.
2. **ZURICH AMERICAN** is a foreign property and casualty insurer authorized to transact insurance business in Florida and is subject to the jurisdiction and regulation of the **DEPARTMENT** pursuant to the Florida Insurance Code.
3. The **DEPARTMENT** conducted a property and casualty market conduct examination of **ZURICH AMERICAN** covering the period of January 2000 through December

2000, pursuant to Section 624.3161, Florida Statutes. As a result of such examination, the **DEPARTMENT** determined that **ZURICH AMERICAN** committed the following violations of the Florida Insurance Code or Florida Administrative Code as outlined in total in the Fine Worksheet provided with the Report of Examination Findings:

- a. Business Automobile
  - 1. Section 627.318, F.S.-Failure to Maintain Records-Rating Worksheet.
  
- b. Top II-Agri Cover
  - 1. Section 627.410, F.S.-Use of Unfiled Form/Endorsement-Debris Removal.
  - 2. Section 627.410, F.S.-Use of Unfiled Form/Endorsement-Earth Movement.
  - 3. Section 627.410, F.S.-Use of Unfiled Form/Endorsement-Miscellaneous Property Coverage.
  
- c. General Liability
  - 1. Section 627.410, F.S.-Use of Unfiled Form/Endorsement-Composite Rate.
  - 2. Section 627.410, F.S.-Use of Unfiled Form/Endorsement-Underground Storage Tank.
  - 3. Section 627.410, F.S.-Use of Unfiled Form/Endorsement - Superfund Exclusion.
  - 4. Section 627.410, F.S.-Use of Unfiled Form/Endorsement - Radioactive Matter.
  - 4. Section 627.410, F.S.-Use of Unfiled Form/Endorsement-Knowledge of Occurrence.
  - 6. Section 627.410, F.S.-Use of Unfiled Form/Endorsement-Waiver of Subrogation.

7. Section 627.410, F.S.-Use of Unfiled Form/Endorsement-Hired Auto.
8. Section 627.410, F.S.-Use of Unfiled Form/Endorsement-Advertising Injury.
9. Section 627.410, F.S.-Use of Unfiled Form/Endorsement-Non-Owned Auto.
10. Section 627.410, F.S.-Use of Unfiled Form/Endorsement-Mental Anguish.
11. Section 627.410, F.S.-Use of Unfiled Form/Endorsement-U-GL-D-140-B CW (01/93).

d. Commercial Umbrella

1. Section 627.062, F.S.-Use of Unfiled Rate, Rating Schedule or Rating Rule.
2. Section 627.062, F.S.-Failure to Document Individually Rated Risks.
3. Section 627.410, F.S.-Use of Unfiled Form/Endorsement-U-EU-155-A CW (07/88).

e. Agents/MGA

1. Section 627.318, F.S.-Failure to Maintain Records-Application.
2. Section 627.4085, F.S.-Failure to Display Agent Name/License ID# or Insurer Name on Application.

f. Cancellations/Nonrenewals

1. Section 627.4091, F.S.-Failure to Provide Specific Reason for Denial, Cancellation or Nonrenewal.
2. Section 627.4133, F.S.-Failure to Provide Timely Notice of Renewal, Nonrenewal or Cancellation.
3. Rule 4-167.010, Failure to Provide Proof of Mailing.

g. Claims

1. Section 626.112, F.S.-Use of Unappointed Adjuster.

4. The **DEPARTMENT** and **ZURICH AMERICAN** expressly waive a hearing in this matter and the making of Findings of Fact and Conclusions of Law by the **DEPARTMENT** and all further and other proceedings herein to which the parties may be entitled by law. **ZURICH AMERICAN** hereby knowingly and voluntarily waives the rights to challenge or to contest this Order in any forum now available to it, including the right to any administrative proceeding, circuit or federal court action, or any appeal.

5. **ZURICH AMERICAN** agrees that upon the execution of this Consent Order it shall be subject to the following terms and conditions:

(a) **ZURICH AMERICAN** shall pay an administrative penalty of \$42,500 and administrative costs of \$2,000 on or before the 30th day after this Consent Order is executed.

(b) **ZURICH AMERICAN** shall henceforth comply with all of the provisions of the Florida Insurance Code and Florida Administrative Code, and implement policies and procedures that will preclude the recurrence of the violations contained in the examination report. These policies and procedures shall be made available to the **DEPARTMENT** for review upon request. Within 90 days after execution of this Consent Order, **ZURICH AMERICAN** shall both implement the recommendations contained in this report, and submit confirmation in writing to the **DEPARTMENT** that all directives contained in the report have been met, including all refunds made.

(c) **ZURICH AMERICAN** is hereby placed on notice of the requirements of the above referenced sections of law and agrees that any future violations of these sections by

ZURICH AMERICAN may be deemed willful, subjecting ZURICH AMERICAN to appropriate penalties.

6. ZURICH AMERICAN agrees that the failure to adhere to one or more of the above terms and conditions of this Order shall constitute a violation of a lawful order of the DEPARTMENT, and shall subject ZURICH AMERICAN to such administrative action as the DEPARTMENT may deem appropriate.

7. Except as noted above, each party to this action shall bear its own costs and attorney's fees.

8. THEREFORE, the agreement between ZURICH AMERICAN INSURANCE COMPANY and the DEPARTMENT, the terms and conditions of that are set forth above, is approved.

FURTHER, all terms and conditions above are hereby ORDERED.

DONE AND ORDERED this 11TH day of JUNE, 2002.



KEVIN MCCARTY  
DEPUTY INSURANCE COMMISSIONER

By execution hereof **ZURICH AMERICAN INSURANCE COMPANY** consents to entry of this Order, agrees without reservation to all of the above terms and conditions, and shall be bound by all provisions herein. I am authorized to execute this document.

**ZURICH AMERICAN INSURANCE COMPANY**

By: David A. Bowers  
Title: Executive Vice-Pres & Corporate Secretary  
Date: June 6, 2002

COPIES FURNISHED TO:

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