FILED

FEB 10 2005

OFFICE OF
INSURANCE REGULATION
Docketed by:

OFFICE OF INSURANCE REGULATION

KEVIN M. MCCARTY
COMMISSIONER

IN THE MATTER OF: Case No.: 80163-05-CO

AMERICAN SOUTHERN INSURANCE COMPANY
2004 Market Conduct Investigation
_____/

ORDER

To: Scott Gallatin Thompson, President
American Southern Insurance Company
200 SW 30th Street
Topeka, KS 66611

YOU ARE HEREBY NOTIFIED that pursuant to the provisions of Section 624.3161, Florida Statutes, the **OFFICE OF INSURANCE REGULATION**, (hereinafter referred to as the "**OFFICE**"), has conducted a market conduct investigation of your activities as an authorized insurer in this State and as a result it has been found that:

1. The Commissioner of the Office of Insurance Regulation, as head of the **OFFICE**, has jurisdiction over the subject matter of, and parties to, this proceeding.

2. **AMERICAN SOUTHERN INSURANCE COMPANY** (hereinafter referred to as "**AMERICAN SOUTHERN**") is a foreign property and casualty insurer authorized to transact insurance business in Florida and is subject to the jurisdiction and regulation of the **OFFICE** pursuant to the Florida Insurance Code.

3. **AMERICAN SOUTHERN** has violated the following provisions of the Florida Insurance Code and/or Florida Administrative Code, to wit:

Rule 69OER04-19, F.A.C. – Failure to Comply with Established Reporting Deadlines.
a. Affidavit Part II – Filed two (2) days late.

4. Rule 69OER04-19(12), F.A.C. provides for a fine of $2,500.00 for each day the **OFFICE** has not received the affidavit.

5. **IT IS THEREFORE ORDERED** that **AMERICAN SOUTHERN** shall pay a penalty of $5,000.00 on or before the 30th day after this Order is issued.

DONE AND ORDERED this 10th day of February 2005.

KEVIN M. McCARTY
Commissioner
Office of Insurance Regulation

NOTICE OF RIGHTS

Pursuant to Sections 120.569 and 120.57, Florida Statutes and Rule Chapters 28-106 and 28-107, Florida Administrative Code (F.A.C.), you have a right to request a proceeding to contest this action by the Office of Insurance Regulation (hereinafter the "Office"). You may request a proceeding by filing a Petition. Your Petition for a proceeding must be in writing and must be filed with the General Counsel acting as the Agency Clerk, Office of Insurance Regulation. If served by U.S. Mail the Petition should be addressed to the Florida Office of Insurance Regulation at 612 Larson Building, Tallahassee, Florida 32399-4206. If Express Mail or hand-delivery is utilized, the Petition should be delivered to 612 Larson Building, 200 East Gaines Street, Tallahassee, Florida 32399-0300. The written Petition must be received by, and filed in the Office no later than 5:00 p.m. on the twenty-first (21) day after your receipt of this notice. Unless your Petition challenging this action is received by the Office within twenty-one (21) days from the date of the receipt of this notice, the right to a proceeding shall be deemed waived. Mailing the response on the twenty-first day will not preserve your right to a hearing.

If a proceeding is requested and there is no dispute of material fact the provisions of Section 120.57(2), Florida Statutes would apply. In this regard you may submit oral or written evidence in opposition to the action taken by this agency or a written statement challenging the grounds upon which the agency has relied. While a hearing is normally not required in the absence of a dispute of fact, if you feel that a hearing is necessary one will be conducted in Tallahassee, Florida or by telephonic conference call upon your request.

If you dispute material facts which are the basis for this agency's action you may request a formal adversarial proceeding pursuant to Sections 120.569 and 120.57(1), Florida Statutes. If you request this type of proceeding, the request must comply with all of the requirements of Rule Chapter 28-106.201, F.A.C., must demonstrate that your substantial interests have been affected by this agency's action, and contain:

a) A statement of all disputed issues of material fact. If there are none, the petition must so indicate;

b) A concise statement of the ultimate facts alleged, including the specific facts the petitioner contends warrant reversal or modification of the agency's proposed action;

c) A statement of the specific rules or statutes the petitioner contends require reversal or modification of the agency's proposed action; and

d) A statement of the relief sought by the petitioner, stating precisely the action petitioner wishes the agency to take with respect to the agency's proposed action.

These proceedings are held before a State hearing officer of the Division of Administrative Hearings. Unless the majority of witnesses are located elsewhere the Office will request that the hearing be conducted in Tallahassee.

In some instances you may have additional statutory rights than the ones described herein.

Failure to follow the procedure outlined with regard to your response to this notice may result in the request being denied. Any request for administrative proceeding received prior to the date of this notice shall be deemed abandoned unless timely renewed in compliance with the guidelines as set out above.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing Order has been furnished by certified mail to: Scott Gallatin Thompson, President, American Southern Insurance Company, 200 SW 30th Street, Topeka, KS 66611 this 10th day of February, 2005.

Anoush Arakálian Brangaccio
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