



THE TREASURER OF THE STATE OF FLORIDA  
DEPARTMENT OF INSURANCE

FILED

MAR 5 2002

Treasurer and  
Insurance Commissioner  
Docketed by: S. M. R.

RECEIVED

MAR 06 2002

TOM GALLAGHER

IN THE MATTER OF:

CASE NO.: 43721-01-CO

**ARIES INSURANCE COMPANY**  
2001 Property and Casualty  
Market Conduct Examination

CONSENT ORDER

THIS CAUSE came on for consideration as the result of an agreement between **ARIES INSURANCE COMPANY** (hereinafter referred to as "ARIES") 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 and of the parties herein.
2. **ARIES** is a domestic 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 **ARIES** covering the period of January 1998 through December 2000. As a result of such examination, the **DEPARTMENT** determined that **ARIES** committed the

following violations of the Florida Insurance Code and/or Florida Administrative Code as outlined in total in the Report of Examination Findings.

a. Commercial Automobile

- (1) Section 627.062, F.S.-Failure to Follow Filed Rate, Rating Schedule or Rating Rule.
- (2) Rule 4-170.004, F.A.C.-Failure to Document/Substantiate Debit/Credit.

b. Workers' Compensation

- (1) Section 627.191, F.S.-Failure to Audit Policy and Return Premium Timely.
- (2) Section 627.191, F.S.-Failure to Follow Filed Rate, Rating Schedule, Rating Rule or Underwriting Guideline.

c. Agents/MGA

- (1) Section 627.4085, F.S.-Failure to Display Agent Name/License ID# or Insurer Name on Application.
- (2) Section 626.112, F.S.-Use of Unlicensed and Unappointed Agent.

d. Cancellations/Nonrenewals

- (1) Section 627.4091, F.S.-Failure to Provide Specific Reason for Denial, Cancellation or Nonrenewal.
- (2) Section 627.7283, F.S.-Failure to Comply with Return of Unearned Premium Requirements.
- (3) Section 627.728, F.S.-Failure to Provide Timely Notice of Renewal, Nonrenewal or Cancellation.

e. Claims

- (1) Rule 4-166.023, F.A.C.-Failure to Disclose all Relevant Policy Coverages.

(2) Section 319.30, F.S.-Failure to Properly Forward Automobile Titles to the Department of Highway Safety and Motor Vehicles.

(3) Section 627.4265, F.S.- Failure to Pay Claim Timely.

f. Complaints

(1) Rule 4-166.025, F.A.C.-Failure to Respond to Department Inquiries.

(2) Section 627.4137, F.S.-Failure to Disclose Information.

(3) Section 626.9541, F.S.-Failure to Comply with Unfair Trade Practice Requirements.

(4) Section 627.4265, F.S.-Failure to Pay Claim Timely.

(5) Section 627.7283, F.S.- Failure to Comply with Return of Unearned Premium Requirements.

(6) Section 626.877, F.S.-Failure to Properly Adjust Claim Per Policy Requirements.

g. Financial

(1) Section 627.736, F.S.-Failure to Comply with PIP Benefit Requirements.

(2) Rule 4-167.001, F.A.C.-Failure to Return Premium Timely.

(3) Section 627.7283, F.S.-Failure to Comply with Return of Unearned Premium Requirements.

(4) Section 627.728, F.S.-Failure to Provide Timely Notice of Renewal, Nonrenewal or Cancellation.

(5) Section 627.4265, F.S.-Failure to Pay Claim Timely.

(6) Section 627.736, F.S.-Failure to Comply with PIP Benefit Requirements.

(7) Rule 4-167.001, F.A.C.-Failure to Return Premium Timely.

(8) Section 627.7283, F.S.-Failure to Comply with Return of Unearned Premium Requirements.

(9) Section 627.4265, F.S.-Failure to Pay Claims Timely.

4. The **DEPARTMENT** and **ARIES** 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. **ARIES** 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. **ARIES** agrees that upon the execution of this Consent Order it shall be subject to the following terms and conditions:

(a) **ARIES** shall pay an administrative penalty of Fourteen Thousand Five Hundred Dollars (\$14,500) and administrative costs in the amount of One Thousand Five Hundred Dollars (\$1,500) on or before the 30th day after this Consent Order is executed.

(b) **ARIES** shall henceforth comply with all of the provisions of the Florida Insurance Code, Florida Administrative Code and implement policies and procedures that will preclude the recurrence of violations contained in the examination report. These policies and procedures shall be made available to the **DEPARTMENT** for review upon request.

(c) **ARIES** shall implement all recommendations contained in this report within ninety (90) days following the issuance of this Consent Order, including any pending refunds, and submit written confirmation to the **DEPARTMENT** that all directives contained in the report have been met and all refunds have been made.

(d) **ARIES** 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 **ARIES** will subject **ARIES** to appropriate penalties.

6. ARIES 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 ARIES 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 ARIES 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 5th day of March, 2002.



KEVIN MCCARTY  
Deputy Insurance Commissioner

By execution hereof ARIES 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. The undersigned represents that he/she has the authority to bind ARIES INSURANCE COMPANY to the terms and conditions of this Consent Order.

ARIES INSURANCE COMPANY

By: \_\_\_\_\_

Title: TREASURER FANNY FRAYND

Date: 02/22/02

CORPORATE SEAL

**COPIES FURNISHED TO:**

Mr. Paul Fraynd, President  
Aries Insurance Company  
560 Northwest 165th Street Road  
Miami, Florida 33169

Cheryl C. Jones, AIE  
Field Insurance Regional Administrator  
Division of Insurer Services  
Bureau of Market Conduct  
200 East Gaines Street, Suite 220.12  
Tallahassee, Florida 32399-4210

S. Marc Herskovitz  
Senior Attorney  
Division of Legal Services  
200 East Gaines Street  
Tallahassee, Florida 32399-0333