



THE TREASURER OF THE STATE OF FLORIDA
DEPARTMENT OF INSURANCE

TOM GALLAGHER

IN THE MATTER OF:

CASE NO.: 38139-00-CO

COMMERCE AND INDUSTRY
INSURANCE COMPANY
Property and Casualty Target
Market Conduct Examination

CONSENT ORDER

THIS CAUSE came on for consideration as the result of an agreement between COMMERCE AND INDUSTRY INSURANCE COMPANY, hereinafter referred to as COMMERCE AND INDUSTRY 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 Treasurer and Insurance Commissioner, as head of the FLORIDA DEPARTMENT OF INSURANCE, hereby finds as follows:

1. The Treasurer and Insurance Commissioner, as head of the DEPARTMENT, has jurisdiction over the subject matter of, and parties to, this proceeding.
2. COMMERCE AND INDUSTRY 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 target market conduct examination of COMMERCE AND INDUSTRY covering the period of January 1999 through June 2000, pursuant to Section 624.3161, Florida Statutes. As a result of such examination, the DEPARTMENT determined that COMMERCE AND INDUSTRY 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. Pollution Liability

1. Use of Unfiled Rate, Rating Schedule or Rating Rule-Discounts or Credits in violation of Section 627.062, Florida Statutes.
2. An Unfair Trade Practice in the Use of New Rates Prior to Effective Date of the rates in violation of Section 626.9541, Florida Statutes.
3. Committed Unfair Trade Practice by the Use of Old Rates After effective Date of New Rates in violation of Section 626.9541, Florida Statutes.
4. Failure to Document/Substantiate Debit/Credit in violation of Rule 4-170.004, Florida Administrative Code.

4. The DEPARTMENT and COMMERCE AND INDUSTRY 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. COMMERCE AND INDUSTRY 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. For each violation noted in Paragraph 3, which was not corrected during the examination and verification provided to the DEPARTMENT, COMMERCE AND INDUSTRY shall provide written documentation to the DEPARTMENT no later than 90 days from the date of the execution of this Consent Order detailing the corrective action taken in order to comply with Florida Statutes for each of the remaining violations noted in Paragraph 3. Any pending refunds shall be completed within 60 days of the execution of the Consent Order and documentation provided to the DEPARTMENT.

6. COMMERCE AND INDUSTRY agrees that upon the execution of this Consent Order it shall be subject to the following terms and conditions:

(a) COMMERCE AND INDUSTRY shall pay an administrative penalty of \$10,000 and administrative costs of \$1,500 on or before the 30th day after this Consent Order is executed.

(b) COMMERCE AND INDUSTRY shall henceforth comply with all of the provisions of the Florida Insurance Code and Florida Administrative Code, and will implement the recommendations contained in this report within 90 days after execution of Consent Order.

(c) COMMERCE AND INDUSTRY 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 COMMERCE AND INDUSTRY may be deemed willful, subjecting COMMERCE AND INDUSTRY to appropriate penalties.

7. COMMERCE AND INDUSTRY 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 COMMERCE AND INDUSTRY to such administrative action as the Treasurer and Insurance Commissioner may deem appropriate.

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

9. THEREFORE, the agreement between COMMERCE AND INDUSTRY 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 _____ day of _____, 2001.

KEVIN MCCARTY
Deputy Insurance Commissioner

By execution hereof COMMERCE AND INDUSTRY 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.

COMMERCE AND INDUSTRY INSURANCE
COMPANY

By: _____

(Printed or Typed Name)

Title: _____

Date: _____

COPIES FURNISHED TO:

Mr. Joseph L. Boren, President
Commerce and Industry Insurance Company
70 Pine Street
New York, New York 10270

Cheryl C. Jones, AIE
Field Insurance Regional Administrator
Division of Insurer Services
Bureau of P&C Insurer Solvency and
Market Conduct Review
200 East Gaines Street, Suite 131B
Tallahassee, Florida 32399-0329

John L. Swyers, Esquire
Florida Department of Insurance
Division of Legal Services
200 East Gaines Street
Tallahassee, Florida 32399-0333

INVOICE

ADMINISTRATIVE PENALTY IMPOSED BY CONSENT ORDER

In order to ensure that your payment is received and properly credited, please make your check payable to the Florida Department of Insurance and **return this invoice with your check** to:

Department of Insurance and State Treasurer
Division of Legal Services
Revenue Processing Section
Post Office Box 6100
Tallahassee, FL 32399-6100

REFERENCE

NAME: Commerce and Industry Insurance
Company
ADDRESS: 70 Pine Street
CITY, STATE, ZIP: New York, New York 10270
Case#: 38139-00-CO
Attorney: John L. Swyers
Source: Property & Casualty Insurer Solvency &
MCR

Fine Due:	\$ 10,000.00
Costs Due:	\$ 1,500.00
TOTAL Amount Due:	<u>\$ 11,500.00</u>

Amount Remitted: \$

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B/T T/C F/T AMT(inserted by operator)
M 1106 J