



THE TREASURER OF THE STATE OF FLORIDA
DEPARTMENT OF INSURANCE

TOM GALLAGHER

IN THE MATTER OF:

CASE NO.: 42094-01-CO

**EMPLOYERS INSURANCE OF WAUSAU,
A MUTUAL COMPANY**

2000 Property and Casualty Market Conduct
Examination

CONSENT ORDER

THIS CAUSE came on for consideration as the result of an agreement between **EMPLOYERS INSURANCE OF WAUSAU, A MUTUAL COMPANY**, hereinafter referred to as **EMPLOYERS INSURANCE** 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. **EMPLOYERS INSURANCE** 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 **EMPLOYERS INSURANCE** covering the period of January 1996 through December 1998, pursuant to Section 624.3161, Florida Statutes. As a result of such examination, the **DEPARTMENT** determined that **EMPLOYERS INSURANCE** 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. COMMERCIAL PROPERTY

1. Rule 4-137.008, F.A.C.-Failure to Report/Properly Report Individual Rated Risk Stats.
2. Section 627.4133, F.S.-Failure to Provide Timely Notice of Renewal, Nonrenewal or Cancellation.
3. Section 624.3161, F.S.-Failure to Correct Violation in Prior Exam Report.
4. Section 727.412, F.S.-Failure to Attach Mandatory Form/Endorsement-Form SE0901.
5. Section 627.318, F.S.-Failure to Maintain Records.
6. Section 624.3161, F.S.-Failure to Correct Violation in Prior Exam Report.
7. Section 627.421, F.S.-Failure to Deliver Policy Timely.
8. Section 627.062, F.S.-Failure to Follow Filed Rate, Rating Schedule or Rating Rule-Incorrect Building Construction.
9. Section 627.062, F.S.-Failure to Follow Filed Rate, Rating Schedule or Rating Rule-Incorrect Building Construction.
10. Section 627.062, F.S.-Failure to Follow Filed Rate, Rating Schedule or Rating Rule-Incorrect Protection Class.

11. Section 627.062, F.S.-Failure to Follow Filed Rate, Rating Schedule or Rating Rule-Incorrect Deductible.
12. Section 627.410, F.S.-Use of Unfiled Form/Endorsement-SF0001.
13. Section 627.410, F.S.-Use of Unfiled Form/Endorsement-SF0101.
14. Section 627.410, F.S.-Use of Unfiled Form/Endorsement-7100.
15. Section 624.3161, F.S.-Failure to Correct Violation in Prior Exam Report.
16. Section 627.410, F.S.-Use of Unfiled Form/Endorsement-SF7103.
17. Section 627.410, F.S.-Use of Unfiled Form/Endorsement-ML1001.

b. OTHER LIABILITY

1. Section 627.4133, F.S.-Failure to Provide Timely Notice of Renewal, Nonrenewal or Cancellation.
2. Section 624.3161, F.S.-Failure to Correct Violation in Prior Exam Report.
3. Rule 4-137.008, F.A.C.-Failure to Report/Properly Report Individual Rated Risk Stats.
4. Section 627.421, F.S.-Failure to Deliver Policy Timely.
5. Section 627.318, F.S.-Failure to Maintain Records-Application.
6. Section 624.3161, F.S.-Failure to Correct Violation in Prior Exam Report
7. Section 627.318, F.S.-Failure to Maintain Records-Experience Mod Worksheet.
8. Section 624.3161, F.S.-Failure to Correct Violation in Prior Exam Report.
9. Section 627.062, F.S.-Failure to Document Individually Rated Risks-Individual Rated Risk.
10. Section 627.410, F.S.-Use of Unfiled Form/Endorsement-CJ2406.
11. Section 627.410, F.S.-Use of Unfiled Form/Endorsement-CJ2410.
12. Section 627.410, F.S.-Use of Unfiled Form/Endorsement-GL0001.
13. Section 624.3161, F.S.-Failure to Correct Violation in Prior Exam Report.

- c. FIDELITY AND SURETY
 - 1. Section 627.410, F.S.-Use of Unfiled Form/Endorsement-CR1000.
 - 2. Section 624.3161, F.S.-Failure to Correct Violation in Prior Exam Report.
 - 3. Section 627.410, F.S.-Use of Unfiled Form/Endorsement-EY5002.

- d. WORKERS' COMPENSATION
 - 1. Section 627.191, F.S.-Failure to Audit Policy and Return Premium Timely.

- e. AGENTS/MGA
 - 1. Section 627.4085, F.S.-Failure to Display Agent Name/License ID# or Insurer Name on Application.
 - 2. Section 627.318, F.S.-Failure to Maintain Records.
 - 3. Section 626.741, F.S.-Use of Unlicensed Non-resident Agent.
 - 4. Section 626.752, F.S.-Failure to Comply with Exchange of Business Requirements.
 - 5. Section 626.112, F.S.-Use of Unappointed Agent.

- f. CANCELLATIONS/NONRENEWALS
 - 1. Section 627.318, F.S.-Failure to Maintain Records.
 - 2. Section 627.4133, F.S.-Failure to Provide Timely Notice of Renewal, Nonrenewal or Cancellation.
 - 3. Rule 4-167.010, F.A.C.-Failure to Provide Proof of Mailing.
 - 4. Rule 4-196.001, F.A.C.-Failure to Cancel One Day After Premium Finance Date.

- g. CLAIMS
 - 1. Section 626.873, F.S.-Use of Unlicensed Non-Resident Adjuster.

2. Section 817.234, F.S.-Failure to Affix Fraud Statement to Claim Form or Application.

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

(a) **EMPLOYERS INSURANCE** shall pay an administrative penalty of \$21,075 and administrative costs of \$2,000 on or before the 30th day after this Consent Order is executed.

(b) **EMPLOYERS INSURANCE** 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 violations contained in the examination report. These policies and procedures shall be made available to the **DEPARTMENT** for review upon request. **EMPLOYERS INSURANCE** will implement recommendations contained in this report within 90 days after execution of Consent Order, including any pending refunds.

(c) **EMPLOYERS INSURANCE** 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 **EMPLOYERS INSURANCE** may be deemed willful, subjecting **EMPLOYERS INSURANCE** to appropriate penalties.

6. **EMPLOYERS INSURANCE** 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 **EMPLOYERS INSURANCE** to such administrative action as the Treasurer and Insurance Commissioner 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 **EMPLOYERS INSURANCE OF WAUSAU, A MUTUAL 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 **EMPLOYERS INSURANCE OF WAUSAU, A MUTUAL 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.

EMPLOYERS INSURANCE OF WAUSAU, A MUTUAL COMPANY

By: _____

Title: _____

Date: _____

COPIES FURNISHED TO:

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