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THE TREASURER OF THE STATE OF FLORIDA
DEPARTMENT OF INSURANCE

Treasurer and
Insurance Commissioner
Docketed by:

TOM GALLAGHER

IN THE MATTER OF:

CASE NO.: 60223-02-CO

FIREMAN'S FUND INSURANCE COMPANY

2001 Property and Casualty Market Conduct
Examination

CONSENT ORDER

THIS CAUSE came on for consideration as the result of an agreement between **FIREMAN'S FUND INSURANCE COMPANY**, hereinafter referred to as **FIREMAN'S FUND** 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. **FIREMAN'S FUND** 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 **FIREMAN'S FUND** covering the period of January 1997 through December 1999, pursuant to Section 624.3161, Florida Statutes. As a result of such examination, the **DEPARTMENT** determined that **FIREMAN'S FUND** 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. Homeowners

1. Section 627.062, F.S.-Failure to Follow Filed Rate, Rating Schedule or Rating Rule-Incorrect Protection Class.
2. Section 624.3161, F.S.-Failure to Correct Violation in Prior Exam Report.
3. Section 627.062, F.S.- Failure to Follow Filed Rate, Rating Schedule or Rating Rule-Incorrect Territories.
4. Section 627.062, F.S.-Use of Unfiled Rate, Rating Schedule or Rating Rule-Protection Class I.
5. Section 627.062, F.S.- Failure to Follow Filed Rate, Rating Schedule or Rating Rule-Incorrect Rate Filing
6. Section 627.062, F.S.- Failure to Follow Filed Rate, Rating Schedule or Rating Rule-Construction.

b. Other Liability

1. Rule 4-137.008, Failure to Report/Properly Report Individual Rated Risk Stats.

2. Rule 4-170.004, Failure to Document/Substantiate Debit/Credit.
3. Section 627.062, F.S.-Use of Unfiled Rate, Rating Schedule or Rating Rule-Swimming Pools.
4. Section 627.062, F.S.- Failure to Follow Filed Rate, Rating Schedule or Rating Rule-Limits/Deductible.
5. Section 627.062, F.S.-Use of Unfiled Rate, Rating Schedule or Rating Rule-Adjustment Factors.
6. Section 627.410, F.S.-Use of Unfiled Form/Endorsement-Year 2000 Exclusion Endorsement.
7. Section 627.410, F.S.-Use of Unfiled Form/Endorsement-5234-8/92R-Advertising Injury Liability.
8. Section 627.410, F.S.-Use of Unfiled Form/Endorsement-LSA000301-94-Comparative Advertising Exclusion.
9. Rule 4-170.004,-Failure to Apply Credit/Debit within Approved Range-25% Range.
10. Section 627.062, F.S.-Failure to Follow Filed Rate, Rating Schedule or Rating Rule-Incorrect Rate.
11. Section 627.062, F.S.-Failure to Follow Filed Rate, Rating Schedule or Rating Rule-Gross Receipts and Prior Acts Factor.
12. Section 627.318, F.S.-Failure to Maintain Records.

c. Agents/MGA

1. Section 626.741, F.S.-Use of Unlicensed Nonresident Agent.

d. Cancellations/Nonrenewals

1. Section 627.062, F.S.-Failure to Follow Filed Rate, Rating Schedule or Rating Rule-Unearned Premium.
2. Rule 4-167.001, Failure to Return Premium Timely.
3. Section 627.318, F.S.-Failure to Maintain Records.
4. Section 627.4133, F.S.-Failure to Provide Timely Notice of Renewal, Nonrenewal or Cancellation-Nonrenewal.
5. Section 627.4133, F.S.-Failure to Provide Timely Notice of Renewal, Nonrenewal or Cancellation.
6. Section 627.4091, F.S.-Failure to Provide Specific Reason for Denial, Cancellation or Nonrenewal.
7. Rule 4-167.010, Failure to Provide Proof of Mailing.

e. Claims

1. Section 626.863, F.S.-Use of Unlicensed/Unappointed Independent Adjuster.
2. Section 626.873, F.S.-Use of Unlicensed Non-Resident Adjuster.
3. Section 627.4137, F.S.-Failure to Disclose Information.

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

(a) **FIREMAN'S FUND** shall pay an administrative penalty of \$11,850 and administrative costs of \$2,000 on or before the 30th day after this Consent Order is executed.

(b) **FIREMAN'S FUND** 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, **FIREMAN'S FUND** 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) **FIREMAN'S FUND** 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 **FIREMAN'S FUND**

may be deemed willful, subjecting FIREMAN'S FUND to appropriate penalties.

6. FIREMAN'S FUND 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 FIREMAN'S FUND 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 FIREMAN'S FUND 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 16TH day of APRIL, 2002.



KEVIN MCCARTY
DEPUTY INSURANCE COMMISSIONER

By execution hereof FIREMAN'S FUND 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.

FIREMAN'S FUND INSURANCE COMPANY

By: _____ JOHN C. MANCINI _____
Title: Vice President
Date: April 1, 2002

COPIES FURNISHED TO:

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