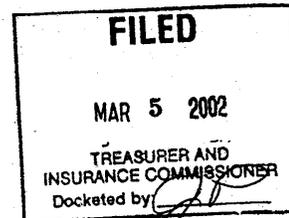




THE TREASURER OF THE STATE OF FLORIDA
DEPARTMENT OF INSURANCE



TOM GALLAGHER

IN THE MATTER OF:

CASE NO. 43756-01-CO

MASSACHUSETTS BAY INSURANCE COMPANY
2000 Property and Casualty Target
Market Conduct Examination

CONSENT ORDER

THIS CAUSE came on for consideration as the result of an agreement between **MASSACHUSETTS BAY INSURANCE COMPANY**, hereinafter referred to as **MASSACHUSETTS BAY**, 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. **MASSACHUSETTS BAY** 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 MASSACHUSETTS BAY 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 MASSACHUSETTS BAY committed the following violations of the Florida Insurance Code or Florida Administrative Code:

a. Commercial Automobile

1. Section 627.062, Florida Statutes, Failure to Follow Filed Rate, Rating Schedule or Rating Rule-Loss Cost Multiplier.
2. Section 627.062, Florida Statutes, Failure to Follow Filed Rate, Rating Schedule or Rating Rule-Rating Computation.
3. Rule 4-170.004, Florida Statutes, Failure to Document/Substantiate Debit/Credit.
4. Section 627.4133, Florida Statutes, Failure to Provide Timely notice of renewal, Nonrenewal or Cancellation.
5. Section 624.3161, Florida Statutes, Failure to Correct Violation in Prior Exam Report.
6. Section 627.318, Florida Statutes, Failure to Maintain Records.

7. Section 624.3161, Florida Statutes,
Failure to Correct Violation in Prior
Exam Report.
8. Rule 4-170.004, Florida Statutes,
Failure to Document/Substantiate
Debit/Credit.

b. Commercial Package

1. Section 627.062, Florida Statutes,
Failure to Follow Filed Rate, Rating
Schedule or Rating Rule-Incorrect
Protection Class.
2. Section 627.062, Florida Statutes,
Failure to Follow Filed Rate, Rating
Schedule or Rating Rule-Incorrect
Territory.
3. Section 627.062, Florida Statutes,
Failure to Follow Filed Rate, Rating
Schedule or Rating Rule-Base Rate.
4. Rule 4-170.004, Florida Statutes,
Failure to Document/Substantiate
Debit/Credit.
5. Section 624.3161, Florida Statutes,
Failure to Correct Violation in Prior
Exam Report.
6. Section 627.4133, Florida Statutes,
Failure to Provide Timely Notice of
Renewal, Nonrenewal or Cancellation.
7. Section 624.3161, Florida Statutes,
Failure to Correct Violation in Prior
Exam Report.
8. Rule 4-170.004, Florida Statutes,
Failure to Document/Substantiate
Debit/Credit.

c. Agents/MGA

1. Section 626.112, Florida Statutes, Use of Unappointed Agent/Adjuster.
2. Section 627.4085, Florida Statutes, Failure to Display Agent Name/License ID# or Insurer Name on Application.

d. Cancellations/Nonrenewals

1. Section 627.318, Florida Statutes, Failure to Maintain Records-Cancellation Notice.
2. Section 627.318, Florida Statutes, Failure to Maintain Records-Proof of Mailing.
3. Section 627.4091, Florida Statutes, Failure to Provide Specific Reason for Denial, Cancellation or Nonrenewal.
4. Section 624.3161, Florida Statutes, Failure to Correct Violation in Prior Exam Report.
5. Section 627.4133, Florida Statutes, Failure to Provide Timely Notice of Renewal, Nonrenewal or Cancellation.

e. Claims

1. Section 319.30, Florida Statutes, Failure to properly Forward Automobile Titles to the Department of Highway Safety and Motor Vehicles.
2. Section 626.112, Florida Statutes, Use of Unappointed Agent/Adjuster.

3. Section 626.112, Florida Statutes, Use of Unlicensed and Unappointed Agent/Adjuster.
4. Section 627.4137, Florida Statutes, Failure to Disclose Information.
5. Section 627.736, Florida Statutes, Failure to Comply with PIP Benefit Requirements.
6. Section 627.7401, Florida Statutes, Failure to Advise Insurer of PIP Rights and Benefits.

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

(a) **MASSACHUSETTS BAY** shall pay an administrative penalty of \$21,750.00 and administrative

costs of \$2,000.00 on or before the 30th day after this Consent Order is executed.

(b) **MASSACHUSETTS BAY** 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. Within 90 days after execution of Consent Order **MASSACHUSETTS BAY** shall both implement 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) **MASSACHUSETTS BAY** 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 **MASSACHUSETTS BAY** may be deemed willful, subjecting **MASSACHUSETTS BAY** to appropriate penalties.

6. **MASSACHUSETTS BAY** 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 **MASSACHUSETTS BAY** 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 MASSACHUSETTS BAY 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 5th day of March, 2002



Kevin McCarty
DEPUTY INSURANCE COMMISSIONER

By execution hereof MASSACHUSETTS BAY 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.

MASSACHUSETTS BAY INSURANCE
COMPANY

By: J. D. Davidson
Title: Assit. Vice President
Date: 1/25/02

Company Seal

COPIES FURNISHED TO:

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