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THE TREASURER OF THE STATE OF FLORIDA  
DEPARTMENT OF INSURANCE

TOM GALLAGHER

FILED

JUN 5 2002

Treasurer and  
Insurance Commissioner  
Docketed by: 06

IN THE MATTER OF:

PROGRESSIVE CONSUMERS  
INSURANCE COMPANY,  
PROGRESSIVE EXPRESS  
INSURANCE COMPANY, and  
PROGRESSIVE SOUTHEASTERN  
INSURANCE COMPANY,

CASE NO. 61022  
CASE NO. 61026  
CASE NO. 61024

2000 Property and Casualty  
Market Conduct Examinations

CONSENT ORDER

THIS CAUSE came on for consideration as the result of an agreement between  
PROGRESSIVE CONSUMERS INSURANCE COMPANY, PROGRESSIVE  
EXPRESS INSURANCE COMPANY AND PROGRESSIVE SOUTHEASTERN  
INSURANCE COMPANY, hereinafter referred to as PROGRESSIVE COMPANIES,  
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 DEPARTMENT, hereby finds as follows:

1. The DEPARTMENT has jurisdiction over the subject matter of, and  
parties to, this proceeding.

2. **PROGRESSIVE COMPANIES** are domestic property and casualty insurers authorized to transact insurance business in Florida and are subject to the jurisdiction and regulation of the **DEPARTMENT** pursuant to the Florida Insurance Code.

3. The **DEPARTMENT** conducted property and casualty market conduct examinations of **PROGRESSIVE COMPANIES** covering the period of January 1996 through July 2000, pursuant to Section 624.3161, Florida Statutes. As a result of such examinations, the **DEPARTMENT** determined that **PROGRESSIVE COMPANIES** committed the following violations of the Florida Insurance Code or Florida Administrative Code as outlined in total in the Fine Worksheet provided with the Reports of Examination Findings:

a. Claims

1. Rule 4-166.022, F.A.C., Failure to Maintain/Provide Claims Documentation.
2. Rule 4-166.024, F.A.C., Failure to Timely Communicate.
3. Rule 4-166.026, F.A.C., Failure to Compute Sales Tax.
4. Rule 4-166.026, F.A.C., Failure to provide Written Explanation of Claim Denial.
5. Rule 4-166.027, F.A.C., Failure to Adjust Total Loss Correctly.
6. Section 319.30, F.S., Failure to Properly Forward Automobile Titles to the Department of Highway Safety and Motor Vehicles.
7. Section 626.112, F.S., Use of Unlicensed and Unappointed Adjuster.
8. Section 626.877, F.S., Failure to Properly Adjust Claim per Policy Requirements.

9. Section 626.9541, F.S., Failure to Comply with Unfair Trade Practice Requirements.

10. Section 627.318, F.S., Failure to Maintain Records.

11. Section 627.4137, F.S., Failure to Disclose Information.

12. Section 627.426, F.S., Failure to Comply with Claims Administration Requirements.

4. The issue of tier rating as noted in the market conduct exams is intended by the parties to be exclusively addressed by separate consent order in case numbers 40664, 40672 and 41693.

5. The DEPARTMENT and PROGRESSIVE COMPANIES 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. PROGRESSIVE COMPANIES hereby knowingly and voluntarily waive 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.

6. PROGRESSIVE COMPANIES agree that upon the execution of this Consent Order it shall be subject to the following terms and conditions:

(a) PROGRESSIVE COMPANIES shall pay an aggregate administrative penalty of \$4,750 and aggregate administrative costs of \$2,000 on or before the 30th day after this Consent Order is executed. Individually, Progressive Consumers Insurance Company is assessed an administrative penalty of \$1,750 and costs of \$750; Progressive Express Insurance Company is assessed an administrative penalty of

\$1,000 and costs of \$500; Progressive Southeastern Insurance Company is assessed an administrative penalty of \$2,000 and costs of \$750.

(b) **PROGRESSIVE COMPANIES** 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, **PROGRESSIVE COMPANIES** 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.

(c) **PROGRESSIVE COMPANIES** are hereby placed on notice of the requirements of the above referenced sections of law and agree that any future violations of these sections by **PROGRESSIVE COMPANIES** may be deemed willful, subjecting **PROGRESSIVE COMPANIES** to appropriate penalties.

7. **PROGRESSIVE COMPANIES** agree 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 **PROGRESSIVE COMPANIES** to such administrative action as the Treasurer and Insurance Commissioner may deem appropriate.

8. The parties intend for this consent order to resolve all regulatory issues relative to **PROGRESSIVE COMPANIES'** 2000 Property & Casualty Market Conduct examinations.

9. As noted above, each party to this action shall bear its own costs and attorney's fees.

10 The parties agree that this Consent Order will be deemed to be executed when the agency head or his designee has signed a copy of this Consent Order bearing the signatures of **PROGRESSIVE COMPANIES**, notwithstanding the fact that the copy was transmitted to the agency by facsimile machine. **PROGRESSIVE COMPANIES** agree that the signatures of their representatives as affixed to this Consent Order shall be under seal of a Notary Public.

11 THEREFORE, the agreement between **PROGRESSIVE COMPANIES** and the **DEPARTMENT**, the terms and conditions that are set forth above, is approved.

FURTHER, all terms and conditions above are hereby ORDERED.

DONE AND ORDERED this 5<sup>th</sup> day of June, 2002.



Kevin McCarty  
Deputy Insurance Commissioner

By execution hereof **PROGRESSIVE CONSUMERS 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.

**PROGRESSIVE CONSUMERS INSURANCE COMPANY**

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

Title: Secretary

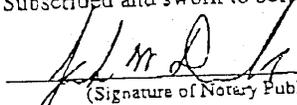
Date: May 30, 2002

STATE OF OHIO

COUNTY OF CUYAHOGA

On MAY 30, 2002 before me personally appeared DANE SHARPLEW personally known to me (or proved to me on the basis of satisfactory evidence) to be the person whose name is subscribed to the within instrument and acknowledged to me that he/she executed the same in his authorized capacity, and that by his signature on the instrument, the person or the entity upon behalf which the person acted, executed the instrument. Identification provided: \_\_\_\_\_

Subscribed and sworn to before me this 30<sup>TH</sup> day of MAY, 2002

  
(Signature of Notary Public)

(SEAL)

My Commission Expires: \_\_\_\_\_

**JOHN W. DOMECK, Attorney**  
**NOTARY PUBLIC - STATE OF OHIO**  
My commission has no expiration date.  
Section 147.03 R.C.

By execution hereof PROGRESSIVE EXPRESS 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 he/she has the authority to bind PROGRESSIVE EXPRESS INSURANCE COMPANY to the terms and conditions of this Consent Order.

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

Print Name: Dane A. Shrallow

Title: Secretary

Date: April 23, 2002

Corporate Seal

By execution hereof PROGRESSIVE SOUTHEASTERN 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 he/she has the authority to bind PROGRESSIVE SOUTHEASTERN INSURANCE COMPANY to the terms and conditions of this Consent Order.

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

Print Name: Dane A. Shrallow

Title: Secretary

Date: April 23, 2002

Corporate Seal

COPIES FURNISHED TO:

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