



OFFICE OF
INSURANCE COMMISSIONER

FILED

2012 JUN -7 10 31

Christina J. Peterson
Chief Hearing Officer

In Re the Matter of

BCS INSURANCE COMPANY,

An authorized insurer.

NO. 11-0247

NOTICE OF HEARING

TO: Timothy J. Parker
Carncy Badley Spellman
701 Fifth Avenue, Suite 3600
Seattle, Washington 98104-7010

The Honorable Mike Kreidler, Insurance Commissioner of the State of Washington, proposes disciplinary action against BCS Insurance Company ("BCS" or "the Company") and hereby issues this Notice of Hearing. The Insurance Commissioner submits the following as the basis of this Notice of Hearing in accordance with RCW 48.04.010.

1. PARTIES AND JURISDICTION

1.1 Pursuant to the Insurance Code, Title 48 RCW, the Insurance Commissioner is authorized to regulate the business of insurance and enforce the insurance laws of Washington State in order to protect the public interest.

1.2 BCS is authorized to transact the business of insurance in Washington State and, therefore, is subject to Title 48 RCW and Chapter 284 WAC. BCS is authorized to issue travel insurance.

1.3 Jurisdiction and venue are appropriate under, among other provisions, RCW 48.02.060, RCW 48.05.185, and RCW 48.04.010.

2. FACTS

2.1 BCS Insurance Company, ("BCS" or "the Company") is an authorized insurer domiciled in Ohio. BCS issues disability and property and casualty insurance, including travel insurance.

2.2 BCS had two filed and approved travel insurance policy and amendatory rider forms since 2005. A market continuum action was commenced in May 2010 because it appeared that the Company was using variations on the filed and approved forms. The reviews revealed that between 2007 and 2009, BCS issued over 500,000 travel insurance policies, on up to seventy-two different forms, that deviated from the two filed and approved forms. By 2010, BCS was marketing 81 separate plans. A review of the multiple policy forms found filed amendatory language was incorporated into the policy forms without reference to the filed form numbers. Contract sections were also not in the order filed. Contract language omitted material words and phrases. Some policy terms were variable, also known as "bracketed," despite the Company having been specifically told in writing in 2002 that the OIC does not consider variable terms to be compliant with RCW 48.18.100.

2.3 BCS had filed and approved rates since 2005, based on the filed and approved forms in effect at the time of the rate filing. Since 2007, the Company began to market up to seventy-two different products designed for specific clients and business partners containing partial covered reasons and exclusions to filed benefits. The policy forms had benefits with covered conditions or exclusion variations, rate variations, or a combination of both. Inasmuch as rates must conform to the filed benefits, rates marketed for identical benefit policies were found to be inconsistent, depending on who was the customer.

2.4 BCS refiled rates and forms that were approved by the OIC on June 23, 2011.

3. ALLEGED VIOLATIONS OF LAW

3.1 By issuing policy forms to Washington residents that were not filed with and approved by the Commissioner, BCS violated RCW 48.18.100.

- 3.2 By using rates not then approved by the Commissioner, BCS violated RCW 48.19.010(2).
- 3.3 By using rates deviating from the approved rates, BCS violated RCW 48.19.040(6).

4. SANCTIONS REQUESTED

- 4.1 Pursuant to RCW 48.05.185, the Commissioner seeks imposition of a fine against BCS in an amount to be determined at hearing.

5. NOTICE OF HEARING

The OIC will convene a hearing at a date, location and time to be determined to consider the allegations above and the sanctions to be imposed upon BCS pursuant to RCW 48.04.010 and RCW 48.05.185. At the hearing, the OIC will present evidence showing that BCS violated statutes and that the sanctions requested above are authorized under the law. BCS may cross-examine OIC witnesses and present any defenses, evidence, or arguments it may have in opposition.

Dated this 7th day of September, 2012.

MIKE KREIDLER
Insurance Commissioner

By:


Marcia G. Stickler, JD, LLM
Staff Attorney
Legal Affairs Division

CERTIFICATE OF SERVICE

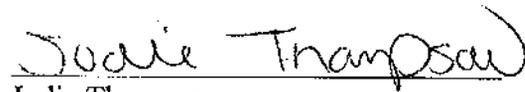
The undersigned certifies under the penalty of perjury under the laws of the State of Washington that I am now and at all times herein mentioned, a citizen of the United States, a resident of the State of Washington, over the age of eighteen years, not a party to or interested in the above-entitled action, and competent to be a witness herein.

On the date given below I caused to be served the foregoing NOTICE OF HEARING on the following individuals in the manner indicated:

Mr. Timothy Parker
Carney Badley Spellman
701 Fifth Avenue, Suite 3600
Seattle, Washington 98104-7010
(XXX) Via U.S. Mail

Patricia D. Petersen, Chief Hearing Officer
5000 Capitol Boulevard
Tumwater, WA 98501
(XXX) Via Hand Delivery

SIGNED this 7th day of September, 2012, at Tumwater, Washington.



Jodie Thompson

MIKE KREIDLER
STATE INSURANCE COMMISSIONER

STATE OF WASHINGTON



OFFICE OF
INSURANCE COMMISSIONER

Phone: (360) 725-7000
www.insurance.wa.gov

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Patricia D. Johnson
Chief Hearing Officer

October 28, 2011

Timothy Parker, Attorney at Law
Carney Badley Spellman
701 Fifth Avenue, Ste. 3600
Seattle, WA 98104-7010

RE: BCS Insurance Company
Proposed Consent Order No. 11-0247

Dear Mr. Parker:

Enclosed are two originals of Washington State Office of Insurance Commissioner's Consent Order Levying a Fine. This order will result in the Company being required to pay a fine in lieu of other action relative to its Certificates of Authority.

Please have an authorized representative of the Company sign and return both of the original orders by November 28, 2011. Upon receipt, the orders will be signed by me, entered with our office, and one of the executed originals will be returned to you. The Company will then have 30 days in which to pay the fine. If the Company wishes to include payment with the orders, please have them make their check payable to the Office of the Insurance Commissioner and mail to Delia Zebroski, Fiscal Analyst, Operations Division, Office of the Insurance Commissioner, PO Box 40255, Olympia, Washington 98504-0255 or deliver to 5000 Capitol Blvd., Tumwater, WA 98501.

Should you have any questions regarding this matter, please feel free to contact me at (360) 725-7048.

Sincerely,

A handwritten signature in cursive script that reads "Marcia G. Stickler".

Marcia G. Stickler, Staff Attorney
Legal Affairs Division

Enclosures



OFFICE OF
INSURANCE COMMISSIONER

IN THE MATTER OF

BCS INSURANCE COMPANY,

An Authorized Insurer.

ORDER NO. 11-0247

CONSENT ORDER
LEVYING A FINE

The Insurance Commissioner of the State of Washington, pursuant to the authority set forth in RCW 48.05.185, having reviewed the official records and files of the Office of the Insurance Commissioner ("OIC"), makes the following:

FINDINGS OF FACT:

1. BCS Insurance Company, ("BCS" or "the Company") is an authorized insurer domiciled in Ohio. BCS issues disability and property and casualty insurance, including travel insurance.
2. BCS had two filed and approved travel insurance policy and amendatory rider forms since 2005. A market continuum action was commenced in May 2010 because it appeared that the Company was using variations on the filed and approved forms. The reviews revealed that between 2007 and 2009, BCS issued over 500,000 travel insurance policies, on up to seventy-two different forms, that deviated from the two filed and approved forms. A review of the multiple policy forms found filed amendatory language was incorporated into the policy forms without reference to the filed form numbers. Contract sections were also not in the order filed. Contract language omitted material words and phrases.
3. BCS had filed and approved rates since 2005, based on the filed and approved forms in effect at the time of the rate filing. Since 2007, the Company began to market up to seventy-two different products designed for specific clients and business partners containing partial covered reasons and exclusions to filed benefits. Inasmuch as rates must conform to the filed benefits, rates marketed for identical benefit policies were found to be inconsistent, depending on who was the customer.
4. BCS refiled rates and forms that were approved by the OIC on June 23, 2011.

CONCLUSIONS OF LAW:

1. By issuing policy forms to Washington residents that were not filed with and approved by the Commissioner, BCS violated RCW 48.18.100.
2. By using rates not then approved by the Commissioner, BCS violated RCW 48.19.010(2).
3. By using rates deviating from the approved rates, BCS violated RCW 48.19.040(6).
4. RCW 48.05.185 permits the Commissioner to levy a fine of between \$250 and \$10,000 for violation of the insurance code.

CONSENT TO ORDER:

BCS, acknowledging its duty to comply fully with the applicable laws of the State of Washington, consents to the following in consideration of its desire to resolve this matter without further administrative or judicial proceedings. The Insurance Commissioner consents to settle the matter in consideration of the Company's payment of a fine on such terms and conditions as are set forth below.

1. The Company consents to the entry of this Order, waives any and all hearing rights, and further administrative or judicial challenges to this Order.
2. By agreement of the parties, the Insurance Commissioner will impose a fine of \$750,000 (Seven Hundred Fifty Thousand Dollars), \$250,000 (Two Hundred Fifty Thousand Dollars) of which is suspended for two years from the date of entry of this Order, on the conditions as follows:
 - a. The Company commits no further violations of the statutes that are the subject of this Order during the two-year suspension period. If the Company commits further violations of the statutes that are the subject of this Order during the two-year suspension period, then the entire suspended amount of the fine—\$250,000—will become immediately due and payable, together with any such other and further fines and sanctions levied because of any such additional violation(s).

- b. The Company will abide by the terms and conditions of the Compliance Plan attached hereto and made a part of this Order as Exhibit A for a period of two years. Failure to materially comply with the provisions of the Compliance Plan shall constitute a per se violation of the laws of the State of Washington and may subject the Company to such further enforcement action as the Commissioner deems necessary under the circumstances.
- c. The unsuspended fine, (Five Hundred Thousand Dollars), must be paid, in full, within thirty days of the date of entry of this Order. Failure to pay the fine and to comply with the stated conditions shall constitute grounds for revocation of the Company's certificate of authority and in a civil action brought on behalf of the Insurance Commissioner by the Attorney General of the State of Washington.

EXECUTED this _____ day of _____, 2011.

BCS INSURANCE COMPANY

By: _____

Printed Name: _____

Corporate Title: _____

ORDER

Pursuant to the foregoing Findings of Fact, Conclusions of Law, and Consent to Order, the Insurance Commissioner hereby Orders as follows:

1. The Company is ordered to pay a fine in the amount of \$750,000 (Seven Hundred Fifty Thousand Dollars), \$250,000 (Two Hundred Fifty Thousand Dollars) of which is suspended for two years from the date of entry of this Order, on the conditions as follows:

- a. The Company commits no further violations of the statutes that are the subject of this Order during the two-year suspension period. If the Company commits further violations of the statutes that are the subject of this Order during the two-year suspension period, then the entire suspended amount of the fine—\$250,000—will become immediately due and payable, together with any such other and further fines and sanctions levied because of any such additional violation(s).

- b. The Company will abide by the terms and conditions of the Compliance Plan attached hereto and made a part of this Order as Exhibit A for a period of two years. Failure to materially comply with the provisions of the Compliance Plan shall constitute a per se violation of the laws of the State of Washington and may subject the Company to such further enforcement action as the Commissioner deems necessary under the circumstances.

- c. The unsuspended fine, (Five Hundred Thousand Dollars), must be paid, in full, within thirty days of the date of entry of this Order. Failure to pay the fine and to comply with the stated conditions shall constitute grounds for revocation of the Company's certificate of authority and in a civil action brought on behalf of the Insurance Commissioner by the Attorney General of the State of Washington.

ENTERED AT TUMWATER, WASHINGTON, this _____ day of _____ 2011.

MIKE KREIDLER
Insurance Commissioner

By: _____
Marcia G. Stickler
Staff Attorney
Legal Affairs Division

The first audit period will begin on the date that the Corrective Action Plan is approved by OIC. Each audit period is 6 months. The Company will provide each audit summary to OIC no later than 30 calendar days after the end of the time period audited.

The audit summaries will be sent to:

Christine Tribe
Paralegal – Legal Affairs
Insurance 5000 Building
P.O. Box 40255
Olympia, WA 98504-0255
ChrisT@OIC.WA.gov
Fax: (360)586-0152

Provision of the audit summaries via fax or electronic means is acceptable.

ATTACHMENT A

COMPLIANCE PLAN

Introduction

This attachment outlines the plan to address the findings in OIC Order No. 11-0247. The plan is intended to ensure that the business conducted by BCS Insurance Company ("BCS" or "the Company") is in compliance with Washington Insurance Laws and Regulations. The plan encompasses two component parts: corrective actions and internal audits with reports to the OIC.

Effective Date of Plan

This plan will become effective on the date of the entry of Consent Order No. 11-0247.

Part 1. Administrative Actions:

Within 30 days of the date of entry of the Consent Order, the Company will provide a Corrective Action Plan. This Corrective Action Plan will include all steps planned and/or taken to resolve the violations in the Consent Order. This description will include:

- a. The type of action taken (i.e., changes to computer systems or tracking and reporting procedures, training);
- b. What personnel are/were involved in the corrective action;
- c. Relevant dates; and
- d. Copies of any material provided as part of corrective action, i.e. memoranda, written policies, educational materials, etc.

This information will be sent to:

Marcia Stickler
Staff Attorney
Insurance 5000 Building
P.O. Box 40255
Olympia, WA 98504-0255
MarciaS@oic.wa.gov
Fax: (360)586-0152

Provision of this information via fax or electronic means is acceptable.

Within 30 days following receipt of the Company's Corrective Action Plan, OIC will respond to the plan. This response will be either approval, in which case the plan is to be implemented immediately, or a detailed statement of the areas in which the plan requires changes to be acceptable, in which case the Company will have 15 days to respond. This process will continue until the Corrective Action Plan has been approved by OIC. Once the Plan is approved by OIC, it will be implemented immediately.

Part 2. Internal Audits

In order to assess the effects of the Corrective Action Plan, the Company will perform at least four semi-annual audits to ensure that no further violations have occurred of the statutes that are the basis of the Consent Order. The audits will evaluate whether all corrective actions set forth in the Corrective Action Plan are complete, and whether the corrective action has been successful in preventing any further violations of the statute. The audits will occur during a two-year period beginning on the date of entry of the Consent Order. The audit structure will be designed by the Company and will be presented to OIC for approval upon the same schedule set forth above for the Corrective Action Plan.

Therefore, the proposed audit structure will be due to OIC within 60 days of the date of entry of the Consent Order. Within 30 days following receipt of the proposed audit structure, OIC will respond to it. This response will be either approval, in which case no further action is necessary, or a detailed statement of the areas in which the audit structure requires changes to be acceptable, in which case the Company will have 15 days to respond. This process will continue until the audit structure has been approved by OIC.

The audit structure to be designed by the Company and approved by OIC will include audit summaries. Audit summaries are reports from the Company to OIC of the results of the semi-annual internal audits. The form to be used for the audit summaries will be designed by the Company and approved by OIC.

The audit structure, including summaries, will be designed to evaluate whether the Corrective Action Plan has been successful in preventing any further violations of the statutes that are the basis for the Consent Order. The audit summaries will be designed to demonstrate whether, during the audit period, the Company has violated the statutes that are the basis for the Consent Order. As an example, they may include a review of a statistically significant number of policy forms and corresponding rates charged since the last audit, to determine whether any rates or forms deviate from the approved rates and forms.

For each exception (violation) found as a result of the audit process, the Company will include an explanation of the cause(s) and the remedial action taken. The Company will undertake appropriate remedial action acceptable to OIC for each violation found within any audit.

The first audit period will begin on the date that the Corrective Action Plan is approved by OIC. Each audit period is 6 months. The Company will provide each audit summary to OIC no later than 30 calendar days after the end of the time period audited.

The audit summaries will be sent to:

Christine Tribe
Paralegal – Legal Affairs
Insurance 5000 Building
P.O. Box 40255
Olympia, WA 98504-0255
ChrisT@OIC.WA.gov
Fax: (360)586-0152

Provision of the audit summaries via fax or electronic means is acceptable.