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OFFICE OF
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HEARINGS UNIT

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Patricia D. Petersen
Chief Hearing Officer

Kelly A. Cairns

Paralegal

(360) 725-7002

KellyC@oic.wa.gov

Patricia D. Petersen
Chief Presiding Officer
(360) 725-7105

BEFORE THE STATE OF WASHINGTON
OFFICE OF INSURANCE COMMISSIONER

In the Matter of:)	No. 11-0247
)	
BCS INSURANCE COMPANY,)	ORDER TERMINATING
)	PROCEEDINGS
An Authorized Insurer.)	
_____)	

TO: Timothy J. Parker, Esq.
Carney Badley Spellman
701 Fifth Avenue, Suite 3600
Seattle, WA 98104-7010

COPY TO: Mike Kreidler, Insurance Commissioner
Michael G. Watson, Chief Deputy Insurance Commissioner
Carol Sureau, Deputy Commissioner, Legal Affairs Division
Marcia Stickler, Staff Attorney, Legal Affairs Division
John F. Hamje, Deputy Commissioner, Consumer Protection Division
Office of the Insurance Commissioner
PO Box 40255
Olympia, WA 98504-0255

On September 7, 2012, the Insurance Commissioner ("OIC") filed a Notice of Hearing with the undersigned seeking imposition of a fine against BCS Insurance Company ("BCS") in an amount to be determined at hearing for alleged violations of the Insurance Code. Specifically, the OIC alleged that while BCS had two filed and approved travel insurance policy and amendatory rider forms since 2005, between 2007 and 2009 BCS issued over 500,000 travel insurance policies on up to 72 different forms, that were not filed or approved by the OIC, and by 2010 BCS was marketing 81 separate plans. Further, the OIC alleged, since 2007 BCS began to market up to 72 different



ORDER TERMINATING PROCEEDINGS

No. 11-0247

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products with inconsistent rates for identical benefit policies and unapproved rates for unapproved policy and rider forms. In response, on September 14, 2012, Timothy J. Parker, attorney for BCS, filed a Notice of Appearance in this matter.

On September 20, 2012, the OIC filed a Revised Notice of Hearing herein. Shortly thereafter, the parties advised the undersigned that they were in the process of negotiating a settlement in this matter and therefore no prehearing conference was scheduled.

On October 23, 2012, a copy of Consent Order Levying a Fine, No. 11-0247, was filed with the undersigned, it being executed by BCS and the OIC on October 12 and October 22, respectively. The Consent Order Levying a Fine, No. 11-0247, which documents the parties' settlement of this matter, is attached hereto and by this reference incorporated herein.

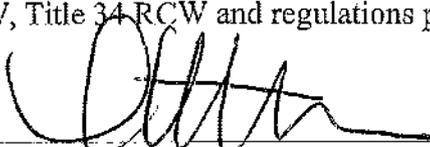
Relative to the Consent Order, it is noted that this case was settled prior to a hearing. Therefore, for purposes of clarification, while this Consent Order includes statements identified as "Findings of Fact" and "Conclusions of Law," these are not Findings of Fact or Conclusions of Law which were made by an adjudicator after an adjudicative proceeding; rather, the statements contained in the attached Consent Order which are entitled "Findings of Fact" and "Conclusions of Law" are only statements agreed upon between the parties without involvement of a finder of fact or adjudicator.

Based upon the above activity,

IT IS HEREBY ORDERED that this case has been settled prior to a hearing. Therefore, for purposes of clarification, while the Consent Order Levying a Fine, No. 11-0247, executed by BCS and the OIC on October 12, 2012 and October 22, 2012, respectively, includes statements identified as "Findings of Fact" and "Conclusions of Law," these are not Findings of Fact or Conclusions of Law which were made by an adjudicator after an adjudicative proceeding; rather, the statements contained in the attached Consent Order entitled "Findings of Fact" and "Conclusions of Law" are only statements agreed upon between the parties without involvement of a finder of fact or adjudicator.

IT IS FURTHER ORDERED that, by agreement of the parties, this proceeding, Docket No. 11-0247, is hereby dismissed with prejudice.

Entered this 25th day of October, 2012, at Tumwater, Washington, pursuant to Title 48 RCW, Title 34 RCW and regulations pursuant thereto.



PATRICIA D. PETERSEN
Chief Presiding Officer

ORDER TERMINATING PROCEEDINGS

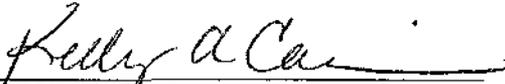
No. 11-0247

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Declaration of Mailing

I declare under penalty of perjury under the laws of the State of Washington that on the date listed below, I mailed or caused delivery through normal office mailing custom, a true copy of this document to the following people at their addresses listed above: Timothy J. Parker, Esq., Mike Kreidler, Mike Watson, John F. Hamje, Carol Sureau, Esq. and Marcia G. Stickler, Esq..

DATED this 25th day of October, 2012.


KELLY A. CAIRNS

MIKE KREIDLER
STATE INSURANCE COMMISSIONER

STATE OF WASHINGTON



OFFICE OF
INSURANCE COMMISSIONER

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

2012 04 23 P 3: 22

Richard L. ...
Patricia D. ...
Chief Executive Officer

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.

Mailing Address: P. O. Box 40255 • Olympia, WA 98504-0255
Street Address: 5000 Capitol Blvd. • Tumwater, WA 98501



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:

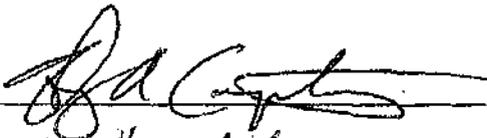
BCS, acknowledging its duty to comply fully with the applicable laws of the State of Washington, consents to the following in consideration of its desire to resolve this matter without further administrative or judicial proceedings. The Insurance Commissioner consents to settle the matter in consideration 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). If no violations of the statutes that are the subject of this Order are committed during the two-year suspension period, the suspended amount of the fine is cancelled.

- 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 12th day of October, ^{2012.}_{2011.}

BCS INSURANCE COMPANY

By: 

Printed Name: HENRY A. CARPENTER

Corporate Title: SVP GENERAL COUNSEL & SECY

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). If no violations of the statutes that are the subject of this Order are committed during the two-year suspension period, the suspended amount of the fine is cancelled.

- 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 29th day of October 2012

MIKE KREIDLER
Insurance Commissioner

By:


~~Marcia G. Stickler~~
Staff Attorney
Legal Affairs Division

Carol Sureau

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 60 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 90 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.