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PA INSURANCE DEPARTMENT
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BEFORE THE INSURANCE COMMISSIONER
OF THE
COMMONWEALTH OF PENNSYLVANIA

IN RE:	:	VIOLATIONS:
	:	
GREAT AMERICAN SPIRIT	:	Sections 4(a) and (h) of the Act of
INSURANCE COMPANY	:	June 11, 1947, P.L. 538, No. 246
11975 Westline Drive	:	(40 P.S. §1184)
St. Louis, MO 63145	:	
	:	Section 1793(b) of Act 1990-6, Title
	:	75, Pennsylvania Consolidated
	:	Statutes, Section 1793(b)
	:	
Respondent.	:	Docket No. CO03-12-008

CONSENT ORDER

AND NOW, this *12th* day of *January*, 2003, this Order is hereby issued by the Deputy Insurance Commissioner of the Commonwealth of Pennsylvania pursuant to the statutes cited above and in disposition of the matter captioned above.

1. Respondent hereby admits and acknowledges that it has received proper notice of its rights to a formal administrative hearing pursuant to the Administrative Agency Law, 2 Pa.C.S. § 101, et seq., or other applicable law.

2. Respondent hereby waives all rights to a formal administrative hearing in this matter, and agrees that this Consent Order, and the Findings of Fact and Conclusions of Law contained herein, shall have the full force and effect of an Order duly entered in accordance with the adjudicatory procedures set forth in the Administrative Agency Law, supra, or other applicable law.

FINDINGS OF FACT

3. The Deputy Insurance Commissioner finds true and correct each of the following Findings of Fact:

- (a) Respondent is the Great American Spirit Insurance Company, and maintains its address at 11975 Westline Drive, St. Louis, Missouri 63145.
- (b) Respondent has a certificate of authority to conduct the business of insurance in the Commonwealth of Pennsylvania.
- (c) On January 27, 2001 and June 5, 2002, insured Benjamin Bowman, Phoenixville, Pennsylvania, had two automobile accidents.
- (d) In August, 2002, upon renewal of Bowman's policy, Respondent surcharged 118% instead of the approved 80% for the two accidents.

- (e) In 2002, insured Bowman filed a complaint with the Department, and Respondent corrected the inappropriate surcharge.
- (f) In 2003, upon renewal of Bowman's policy, Respondent again surcharged 118% instead of the approved 80% for the two accidents.
- (g) In 2003, insured Bowman filed an additional complaint with the Department and Respondent corrected the inappropriate surcharge.

CONCLUSIONS OF LAW

4. In accord with the above Findings of Fact and applicable provisions of law, the Deputy Insurance Commissioner concludes and finds the following Conclusions of Law:

- (a) Respondent is subject to the jurisdiction of the Pennsylvania Insurance Department.
- (b) Section 4 of the Casualty and Surety Rate Regulatory Act, No. 246 (40 P.S. § 1184) requires (a) every insurer to file with the Insurance Commissioner every manual of classifications, rules and rates, every rating plan and every modification of any rating plan which it proposes

to use in this Commonwealth, and (h) prohibits an insurer from making or issuing a contract or policy with rates other than those approved.

(c) Respondent's activities described above in paragraphs 3(c) through 3(g) constitute using a rate other than that filed with the Department, in violation of Sections 4(a) and (h) of the Casualty and Surety Rate Regulatory Act (40 P.S. § 1184).

(d) Respondent's violations of Sections 4(a) and (h) of the Casualty and Surety Rate Regulatory Act, No. 246 (40 P.S. § 1184) are punishable under Section 16 (40 P.S. § 1196) of the Casualty and Surety Rate Regulatory Act:

(i) imposition of a civil penalty not to exceed \$50 for each violation or not more than \$500 for each such willful violation;

(ii) suspension of the license of any insurer which fails to comply with an Order of the Commissioner within the time limited by such Order, or any extension thereof which the Commissioner may grant.

(e) Section 1793(b) of Act 1990-6, Title 75, Pa.C.S. § 1793(b) requires all insurers to provide to the insured a surcharge disclosure plan. The insurer providing the surcharge disclosure plan shall detail the provisions of the plan including, but not limited to, a description of conditions that would assess a

premium surcharge to an insured along with the estimated increase of the surcharge per policy period, per policyholder and the number of years any surcharge will be in effect. The surcharge disclosure plan shall be delivered to each insured by the insurer at least once annually. Additionally, the surcharge information plan shall be given to each prospective insured at the time application is made for motor vehicle insurance coverage.

- (f) Respondent's activities described above in paragraphs 3(c) through 3(g) constitute failure to notify the insured of the surcharge disclosure plan, in violation of Section 1793(b) of Act 1990-6, Title 75, Pa.C.S. § 1793(b).

ORDER

5. In accord with the above Findings of Fact and Conclusions of Law, the Deputy Insurance Commissioner orders and Respondent consents to the following:

- (a) Respondent shall cease and desist from engaging in the activities described herein in the Findings of Fact and Conclusions of Law.
- (b) Respondent shall pay a civil penalty of One Thousand Dollars (\$1,000.00) to the Commonwealth of Pennsylvania. This penalty shall be made payable to the Commonwealth of Pennsylvania, and directed to Sharon L. Harbert, Administrative Assistant, Bureau of Enforcement, 1311 Strawberry Square,

Harrisburg, Pennsylvania 17120. Payment may be enclosed with the Consent Order, but must be paid in any event no later than thirty (30) days after the date of the Consent Order.

6. In the event the Deputy Insurance Commissioner finds that there has been a breach of any of the provisions of this Order, based upon the Findings of Fact and Conclusions of Law contained herein, the Department may pursue any and all legal remedies available, including but not limited to the following: The Department may enforce the provisions of this Order in an administrative action pursuant to the Administrative Agency Law, supra, or other relevant provision of law; or, if applicable, the Department may enforce the provisions of this Order in any other court of law or equity having jurisdiction.

7. Alternatively, in the event the Deputy Commissioner finds that there has been a breach of any of the provisions of this Order, the Deputy Commissioner may declare this Order to be null and void and, thereupon, reopen the entire matter for appropriate action pursuant to the Administrative Agency Law, supra, or other relevant provision of law.

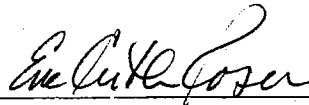
8. In any such enforcement proceeding, Respondent may contest whether a breach of the provisions of this Order has occurred but may not contest the Findings of Fact and Conclusions of Law contained herein.

9. Respondent hereby expressly waives any relevant statute of limitations and application of the doctrine of laches for purposes of any enforcement of this Order.

10. This Order constitutes the entire agreement of the parties with respect to the matters referred to herein, and it may not be amended or modified except by an amended order signed by all the parties hereto.

11. This Order shall be final upon execution by the Deputy Insurance Commissioner. Only the Insurance Commissioner or the duly authorized Deputy Insurance Commissioner is authorized to bind the Insurance Department with respect to the settlement of the alleged violation of law contained herein, and this Consent Order is not effective until executed by the Insurance Commissioner or the duly authorized Deputy Insurance Commissioner.

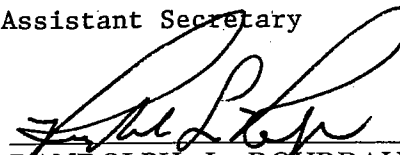
BY: GREAT AMERICAN SPIRIT
INSURANCE COMPANY, Respondent



Vice President



Assistant Secretary



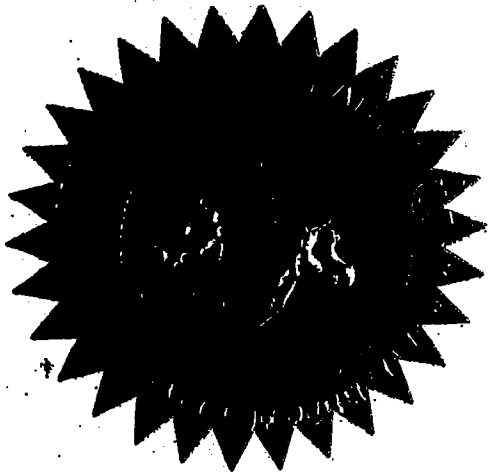
RANDOLPH L. ROHRBAUGH
Deputy Insurance Commissioner
Commonwealth of Pennsylvania

BEFORE THE INSURANCE COMMISSIONER
OF THE
COMMONWEALTH OF PENNSYLVANIA

IN RE: The Act of April 9, 1929, P.L. 177, No. 175, known as The
Administrative Code of 1929

AND NOW, this 29 day of April, 2002, Randolph L.

Rohrbaugh, Deputy Insurance Commissioner, is hereby designated as the
Commissioner's duly authorized representative for purposes of entering in and executing
Consent Orders. This delegation of authority shall continue in effect until otherwise
terminated by a later Order of the Insurance Commissioner.





M. Diane Koken
Insurance Commissioner