

**BEFORE THE COMMISSIONER OF INSURANCE
OF THE STATE OF KANSAS**

In the Matter of Phoenix Insurance Company) Docket No. 3004-SO

CONSENT ORDER

Phoenix Insurance Company wishes to resolve this matter without formal adjudicative proceedings by entering into this consent order. The Commissioner of Insurance ("Commissioner") hereby makes the following findings of fact, conclusions of law, and order, to-wit:

Findings of Fact

1. Phoenix Insurance Company ("Phoenix") is a stock insurance company authorized to transact the business of insurance in the State of Kansas with its office located at 9 Capitol St, Concord, NH, 03301, and is subject to the Kansas statutes regulating the business of insurance.
2. The Commissioner of Insurance ("the Commissioner") has jurisdiction over the subject matter of this proceeding, and this proceeding is held in the public interest.
3. On October 13, 1992, the Kansas Insurance Department ("the Department") approved the Supplementary Rate Plan ("the plan") filed by Phoenix. Because of poor loss experience, the company changed the discount range of the existing plan, but did not file new rates for approval by the Commissioner.
4. Seven hundred sixty-one (761) policyholders of Travelers Indemnity and its sister company, Phoenix Insurance Company, were negatively affected by the

change in discount. \$28,766 was credited by the companies to the negatively affected accounts.

Conclusions of Law

5. K.S.A. 40-955(f) provides, in relevant part:

No insurer shall make or issue a contract or policy except in accordance with filings which have been filed or approved for such insurer as provided in this act.

6. K.S.A. 40-963 provides, in relevant part:

...if the commissioner finds any person or organization has violated any provision of this act, may impose a penalty of not more than \$500 for each violation, but, if the commissioner finds such violation to be willful, may impose a penalty of not more than \$2,000 for each such violation...

7. Based on the information contained in paragraphs three (3) and four (4) above, it appears that Phoenix Insurance Company changed its Supplementary Rating Plan without approval from the Commissioner in violation of K.S.A. 40-955(f).

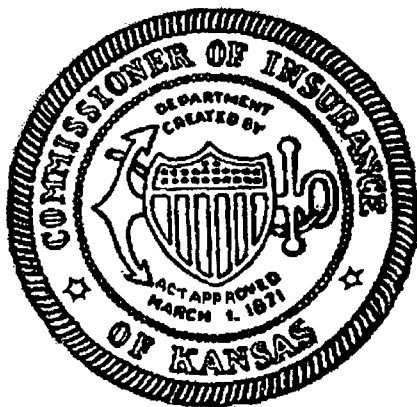
8. For the purposes of this Consent Order, Phoenix Insurance Company waives its right to a formal adjudicative proceeding and notice thereof and voluntarily consents to the following order of the Commissioner of Insurance.

IT IS THEREFORE, BY THE COMMISSIONER OF INSURANCE, ORDERED THAT:

1. Phoenix Insurance Company shall immediately cease and desist from all acts alleged to be violation herein. Specifically, they shall cease and desist from making or issuing contracts or policies except in accordance with filings which have been filed or approved for such insurers.

2. Phoenix Insurance Company shall remit to the Kansas Insurance Department an administrative penalty in the sum of two thousand dollars (\$2,000) for violating K.S.A. 40-955.

IT IS SO ORDERED THIS 6th DAY OF Sept. 2001, IN THE CITY OF TOPEKA, COUNTY OF SHAWNEE, STATE OF KANSAS.



Kathleen Sebelius

Kathleen Sebelius
Commissioner of Insurance

BY:

Kathy Greenlee

Kathy Greenlee
General Counsel

Reginald C. Momah

Reginald C. Momah
Phoenix Insurance Company

SUBMITTED AND APPROVED BY:

Deletria L. Nash

Deletria L. Nash
Attorney for Petitioner
Kansas Insurance Department