

MAY 5 2000

STATE OF ARIZONA

DEPARTMENT OF INSURANCE

DEPT. OF INSURANCE
BY CB

In the Matter of:)
)
SUPERIOR PACIFIC CASUALTY)
COMPANY (NAIC No. 30570))
)
Respondent.)
)
)
)

Docket Number 00A-040-INS
CONSENT ORDER

On March 14, 2000, the Director issued an order summarily suspending the certificate of authority of Superior Pacific Casualty Company ("Respondent"). Respondent has been advised of its right to a hearing in this matter, which it waives. Respondent admits the following Findings of Fact are true and consents to entry of the following Conclusion of Law and Order. Respondent and the Arizona Department of Insurance ("Department") agree to modify the suspension of Respondent's certificate of authority based on the facts and pursuant to the terms set forth herein.

FINDINGS OF FACT

1. Respondent is domiciled in California and holds a certificate of authority issued by the Arizona Department of Insurance ("Department") to transact casualty insurance and is authorized to write workers' compensation insurance in Arizona.

2. On or about March 2, 2000, the Insurance Commissioner of the State of California ("California Commissioner") issued a Seizure Order against Respondent for the summary seizure of all property, business, books, records and accounts, offices and premises pursuant to California Insurance Code Section 1013. The California Commissioner determined the following: that Respondent is in such condition that the further transaction of business will be, and is, hazardous to its policyholders, creditors and the public; that Respondent is insolvent within the meaning of the California Insurance Code; that

1 Respondent does not meet the requirements of issuance to it of a certificate of authority; and that
2 irreparable loss or injury to the property and business of Respondent has or may occur unless the
3 California Commissioner acts immediately to take possession.

4 3. On or about March 6, 2000, the Superior Court of the State of California, County of Los
5 Angeles issued an Ex Parte Order appointing Conservator and Restraining Orders appointing the
6 California Commissioner as the Conservator for Respondent.

7 4. Since the entry of the Order Summarily Suspending Certificate of Authority, the
8 Conservator has requested that Respondent be permitted to issue new and renewal workers'
9 compensation insurance policies in Arizona. In support of the Conservator's request, the Conservator
10 has provided the Department with a copy of "Superior Companies Interim Cut-Through Reinsurance
11 Agreement No. SC-LMC 00-001" between the Conservator and Lumbermens Mutual Casualty
12 Company ("Kemper") signed on April 5, 2000 (referred to herein as the "Reinsurance Agreement"). The
13 stated purpose of the Reinsurance Agreement is to permit Respondent to "function with enhanced safety
14 for its policyholders during this interim period pending final disposition of [Respondent's] business and
15 operations by the Court."

16 5. The Reinsurance Agreement provides that Kemper will indemnify Respondent with
17 respect to one hundred percent of all Loss and Allocated Loss Adjustment Expenses as to "Eligible
18 Policies" issued, renewed or originated by Respondent on April 5, 2000 through July 3, 2000, unless the
19 Reinsurance Agreement is terminated sooner in accordance with the termination provisions in the
20 Reinsurance Agreement. The Reinsurance Agreement further provides that in the event there is a final
21 order entered by a court of competent jurisdiction placing Respondent into liquidation, Kemper shall
22 assume directly all obligations under all policies reinsured by this Reinsurance Agreement
23 . . .

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2 6. "Eligible policies" are defined in the Reinsurance Agreement as

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4 New and renewal direct Workers Compensation, Employer's Liability and
5 USL&H policies and/or endorsements issued by SC during the term of this Agreement
6 shall be ceded hereunder provided that (a) the policy does not cover exposures on the list
7 of ineligible classifications and operations attached [to the Agreement] as Exhibit I and
8 has been co-underwritten in accordance with and within one of the classes described in
9 that document entitled "SC Interim Underwriting Guidelines," provided by Kemper to the
10 Conservator, (b) the policy has been co-underwritten by Kemper, (c) Kemper has
11 approved the pricing and risk selection of the policy, and (d) Kemper has provided its
12 prior written approval to issue such policy. Kemper retains the discretion to waive, in
13 whole or in part, the conditions described in the preceding sentence.

14 7. The Conservator has represented to the Director that Respondent's issuance of "Eligible
15 Policies" as defined in the Reinsurance Agreement is not hazardous to Respondent's Arizona
16 policyholders, creditors and the public.

17 **CONCLUSION OF LAW**

18 Based upon the foregoing Findings of Fact, Respondent's issuance of "Eligible Policies" as
19 defined in the Reinsurance Agreement is not hazardous to the policyholders or to the people of this state,
20 within the meaning of A.R.S. §20-220(A)(3) and A.A.C. R20-6-308.

21 **ORDER**

22 IT IS ORDERED modifying the suspension of Respondent's certificate of authority to permit
23 Respondent to issue "Eligible Policies" in Arizona as follows:

1. The effective date of the Reinsurance Agreement was April 20, 2000, and Respondent is
authorized, *nunc pro tunc*, to issue "Eligible Policies" in Arizona;

2. The Conservator shall notify the Department immediately upon receipt of a notice of
termination of the Reinsurance Agreement given by either party to this Reinsurance Agreement or the
final order of the Court directing such termination;

1 3. The Conservator shall notify the Department in advance of exercising its option to
2 compel Kemper to enter into an assumption reinsurance agreement respecting Eligible Policies;

3 4. If the Reinsurance Agreement is not extended beyond July 3, 2000, commencing on June
4 4, 2000, Respondent shall send out notices of its intent to non-renew policies expiring on or after July 4,
5 2000.

6 5. The Department reserves the right to reinstate the suspension of Respondent's certificate
7 of authority or to commence any other regulatory activity, including but not limited to commencing
8 delinquency proceedings;

9 6. The hearing currently scheduled for April 26, 2000, in this matter was vacated.
10 EFFECTIVE this 5th day of May, 2000.

11 

12 CHARLES R. COHEN
13 Director of Insurance

14 **CONSENT TO ORDER**

15 1. Respondent has reviewed the foregoing Findings of Fact, Conclusion of Law and Order.

16 2. Respondent admits the jurisdiction of the Director of Insurance, State of Arizona, and
17 admits the foregoing Findings of Fact and consents to the entry of the foregoing Conclusion of Law and
18 Order.

19 3. Respondent is aware of its right to notice and a hearing at which it may be represented
20 by counsel, present evidence and cross-examine witnesses. Respondent irrevocably waives its right to
21 such notice and hearing and to any court appeals relating to this Consent Order.

22 4. Respondent states that no promise of any kind or nature whatsoever, except as expressly
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1 contained in this Consent Order, was made to it to induce it to enter into this Consent Order and that it
2 has entered into this Consent Order voluntarily.

3 5. Respondent acknowledges that the acceptance of this Consent Order by the Director is
4 solely to modify the Order Summarily Suspending Certificate of Authority and does not preclude any
5 other agency, officer or subdivision of this state from instituting civil or criminal proceedings as may be
6 appropriate now or in the future.

7
8 4/20/00
Date

By Richard L. Kue
Conservator of Superior Pacific Casualty
Company

9
10 COPY of the foregoing mailed/hand-delivered
this 5th day of May, 2000, to:

11 Sara M. Begley, Deputy Director
12 Gerrie M. Marks, Executive Assistant
13 Gary A. Torticill, Assistant Director/Chief Examiner
14 Deloris Williamson, Assistant Director
Arizona Department of Insurance
2910 N. 44th Street, Suite 210
Phoenix, Arizona 85018

15 California Department of Insurance
16 300 Capitol Mall, Suite 1500
Sacramento, California 95814

17 California Department of Insurance
18 Ronald Reagan Building
300 South Spring Street
Los Angeles, California

19
20 Bill Lockyer, Attorney General
Richard W. Bakke
21 Mark P. Richelson
W. Dean Freeman
22 Office of the California Attorney General
300 South Spring Street, Room 5212
23 Los Angeles, California 90013

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Larry J. Etchechury, Director
Industrial Commission of Arizona
800 West Washington Street
Phoenix, Arizona 85007

Shelby L. Cuevas, Assistant Attorney General
Consumer Protection & Advocacy Section
Office of the Arizona Attorney General
1275 West Washington Street
Phoenix, Arizona 85007

Superior Pacific Casualty Company
P.O. Box 9850
Calabasas, California 91372-9850

Eric Bryant, Administrative Law Judge
Office of Administrative Hearings
1400 West Washington, Suite 101
Phoenix, Arizona 85007

S. David Childers
Low & Childers
2999 North 44th Street, Suite 250
Phoenix, Arizona 85018



Curvey Walters Burton