

STATE OF ARIZONA

JUL 27 1995

DEPARTMENT OF INSURANCE

DEPARTMENT OF INSURANCE
By [Signature]

In the Matter of:

NOVA CASUALTY COMPANY

Respondent.

) Docket No. 95-169

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) CONSENT ORDER

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A market conduct examination was made of Nova Casualty Insurance Company by Market Conduct Examiners for the Arizona Department of Insurance ("ADOI"). Based upon the Report of Examination of the Market Conduct Affairs of Nova, it is alleged that Nova has violated the provisions of Arizona Revised Statutes, Title 20, Sections 20-461 and 20-1632; and Arizona Administrative Code Rule ("A.A.C. R") 4-14-801 (now 20-6-801). Nova wishes to resolve this matter without formal adjudicative proceedings and hereby agrees to a Consent Order.

The Director of Insurance of the State of Arizona (the "Director") enters the following Findings of Fact and Conclusions of Law, which are neither admitted nor denied by Nova, and the following Order.

FINDINGS OF FACT

1. Nova is authorized to transact property and casualty insurance pursuant to a Certificate of Authority issued by the Director.

2. The Examiners were authorized by the Director to conduct a market conduct examination of Nova. The on-site examination was concluded as of September 26, 1994 and a Report of Examination of the Market Conduct Affairs of Nova ("the Report") was written.

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2 2. By failing to determine actual cash value by obtaining
3 the price of a comparable motorcycle in the local market area or
4 by obtaining two or more quotations from two or more qualified
5 dealers within the local market area, Nova violated A.A.C.
6 R4-14-801(H)(1)(b) and A.R.S. § 20-461(A)(6).

7 3. By failing to settle first-party motorcycle total
8 losses by paying claimants the actual cash value plus all
9 applicable taxes, license fees and other fees incident to
10 transfer of evidence of ownership of a comparable motorcycle,
11 Nova violated A.A.C.R4-14-801(H)(1)(b) and A.R.S. § 20-461(A)(6).

12 4. By failing to adequately document files to support
13 deductions from actual cash value, Nova violated A.A.C.
14 R4-14-801(H)(1)(c) and A.R.S. § 20-461(A)(6).

15 5. Grounds exist for the entry of the provisions of the
16 following Order.

17 ORDER

18 Nova, having admitted the jurisdiction of the Director to
19 enter the Order set forth herein, having waived the Notice of
20 Hearing and the hearing, having waived any and all rights to
21 appeal this Order, and having consented to the entry of the
22 Order set forth hereafter, and there being no just reason for
23 delay:

24 IT IS HEREBY ORDERED THAT:

25 1. Unless otherwise permitted by law, Nova shall cease
26 and desist from:

27 a. determining the actual cash value of first-party
28 total loss motorcycles other than by obtaining the price of a
comparable motorcycle in the local market area or by obtaining

1 two or more quotations from two or more qualified dealers within
2 the local market area;

3 b. failing to pay first party motorcycle total loss
4 claimants for all applicable taxes, license fees and other fees
5 incident to transfer of evidence of ownership of a comparable
6 motorcycle;

7 c. failing to adequately document all first party
8 motorcycle total loss files to support deductions from actual
9 cash value.

10 2. Within 60 days of the filed date of this Order, Nova
11 shall file with the Director an action plan which outlines steps
12 to be taken by Nova to ensure that:

13 a. the actual cash value of first-party total loss
14 motorcycles is determined pursuant to A.A.C.R20-6-801(H), with
15 any deductions from actual cash value to be documented pursuant
16 to A.A.C.R20-6-801(H)(1)(c); and

17 b. first party total loss claimants are paid all
18 applicable taxes, license fees and other fees incident to
19 transfer of evidence of ownership of a comparable motorcycle.

20 The action plan shall include copies of memoranda to be sent to
21 Nova's staff adjusters and independent adjusters outlining steps
22 to be taken in determining actual cash value and taxes and fees
23 due.

24 3. The ADOI shall be permitted, through authorized
25 representatives, to verify that Nova has complied with all
26 provisions of this Order, and the Director may separately order
27 Nova to comply.
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4. Nova shall pay a civil penalty of Three Thousand Five Hundred Dollars (\$3,500) to the Director for remission to the State Treasurer for deposit in the State General Fund in accordance with A.R.S. § 20-220(B). This civil penalty shall be provided to the Market Conduct Examinations Division of the ADOI on or before July 7, 1995.

5. The Report of Examination of the Market Conduct Affairs of Nova as of September 16, 1994, including the response to the Report submitted by Respondents, shall be filed with the ADOI.

DATED at Phoenix, Arizona this 27th day of July, 1995.



Chris Herstam
Director of Insurance

CONSENT TO ORDER

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3 1. Respondent, Nova Casualty Company, has reviewed the
4 foregoing Order.

5 2. Respondent is aware of its right to a hearing, at
6 which hearing Respondent may be represented by counsel, present
7 evidence and cross-examine witnesses. Respondent has
8 irrevocably waived its right to such public hearing and to any
9 court appeals relating thereto.

10 3. Respondent admits the jurisdiction of the Director of
11 Insurance, State of Arizona, and consent to the entry of this
12 Order.

13 4. Respondent states that no promise of any kind or
14 nature whatsoever was made to induce them to enter into this
15 Order and that they have entered into this Order voluntarily.

16 5. Respondent acknowledges that the acceptance of this
17 Order by the Director of Insurance, State of Arizona, is solely
18 for the purpose of settling this litigation against it and does
19 not preclude any other agency or officer of the state or
20 subdivision thereof from instituting other civil or criminal
21 proceedings as may be appropriate now or in the future.

22 6. Harsha Acharya represents that,
23 as Executive Vice President, she is an officer of Nova
24 Casualty Company, and that, as such, she has been authorized by
25 Respondent to enter into this Order for and on their behalf.

26
27 NOVA CASUALTY COMPANY

28 By Harsha Acharya

7/11/95

Date

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COPY of the foregoing mailed/delivered
this 27th day of July , 1995, to:

- Charles R. Cohen
Deputy Director
- Gregory Y. Harris
Executive Assistant Director
- Lewis D. Kowal
Chief Administrative Law Judge
- Erin H. Klug
Executive Assistant to the Director
- Jimmy R. Potts
Examinations Coordinator
Market Conduct Examinations Division
- Saul R. Saulson
Examinations Supervisor
Market Conduct Examinations Division
- Lynda Aguila
Assistant Examiner
Market Conduct Examinations Division
- Mary Butterfield
Assistant Director
Life & Health Division
- Deloris E. Williamson
Assistant Director
Rates & Regulations Division
- Gary Torticill
Assistant Director and Chief Financial Examiner
Corporate & Financial Affairs Division
- Cathy O'Neil
Assistant Director
Consumer Services and Investigations
- Dean Ehler
Supervisor
Property and Casualty Section

DEPARTMENT OF INSURANCE
2910 North 44th Street, Suite 210
Phoenix, AZ 85018

Harsha Acharya, Vice President
Nova Casualty Company
180 Oak Street
Buffalo, New York 14203-1610

