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BEFORE THE INSURANCE COMMISSIONER  
OF THE  
COMMONWEALTH OF PENNSYLVANIA  
HEARINGS OFFICE

IN RE:	:	VIOLATIONS:
	:	
BRISTOL WEST INSURANCE	:	40 Purdons Statutes, Sections
COMPANY	:	991.1405(a)(2)(i) and
1515 Market Street	:	991.1405(a)(2)(iii)(A)(B)
Philadelphia, PA 19102	:	
	:	
	:	
Respondent.	:	Docket No. CO03-08-022

CONSENT ORDER

AND NOW, this *11<sup>th</sup>* day of *February*, 2004, 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 Bristol West Insurance Company, and maintains its address at 1515 Market Street, Philadelphia, Pennsylvania 19102.
- (b) Respondent is, and during 2001 through 2002 was, a licensed property and casualty insurance company with a Certificate of Authority effective April 26, 1999.
- (c) On July 13, 2001, the Coast National Insurance Company (hereinafter, Coast), made a cash contribution of \$4 million to Respondent.  
Respondent is a wholly owned subsidiary of Coast.

- (d) On December 31, 2002, Coast made a cash contribution of \$5.5 million to Respondent.
- (e) On December 31, 2002, Coast entered into a Reinsurance Agreement in the amount of \$35,706,348.00 with Respondent.
- (f) Respondent, being a Pennsylvania domiciled company, failed to report the above-referenced transactions referenced in (c) through (e) above to the Department at least 30 days prior to the transaction, as required.

#### 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) 40 Purdon's Statutes, Section 991.1405(a)(2)(i) prohibits the following transaction involving a domestic insurer, and any person in its holding company system, from being entered into unless the insurer has notified the department in writing of its intention to enter into such transaction at least 30

days prior, provided the Department has not disapproved the transaction within that period of time; investments, including assets to be received by the domestic insurer as contributions to its surplus, provided that, as of the 31<sup>st</sup> day of December, such transaction is equal to or exceed the lesser of 5% of the insurer's admitted assets or 25% of the surplus as regards policyholders.

- (c) Respondent's activities described above in paragraphs 3(c) and 3(d) constitute entering into a financial transaction without filing a Form D – Prior Notice of a Transaction, as required by 40 Purdons Statutes, Section 991.1405(a)(2)(i).
  
- (d) 40 Purdons Statutes, Section 991.1405(a)(2)(iii)(A) and (B) prohibits reinsurance agreements or modifications thereto, involving a domestic insurer, and any person in its holding company system, from being entered into unless the insurer has notified the department in writing of its intention to enter into such transaction at least 30 days prior, provided the Department has not disapproved the transaction within that period of time, where either: (1) the reinsurance premium equals or exceeds 5% of the insurer's surplus as regards policyholders as of the 31<sup>st</sup> day of December next preceding, or (2) the change in the insurer's liabilities or any transfer of assets required to fund the transaction equals or exceeds 25% of the insurer's surplus as regards policyholders as of the 31<sup>st</sup> day of December next preceding.

- (e) Respondent's activities described in paragraph 3(e) constitute entering into a reinsurance agreement without filing a Form D – Prior Notice of a Transaction, as required by 40 Purdons Statutes, Section 991.1405(a)(2)(iii)(A) and (B).
- (f) Respondent's violations of 40 Purdons Statutes, Sections 991.1405(a)(2)(i) and 991.1405(a)(2)(iii)(A) and (B), are punishable by the following, under Section 991.1410 of Title 40, Purdons Statutes:
- (i) After a hearing, the insurer shall pay a penalty not to exceed \$500 per day's delay, to a maximum of \$25,000, for failure to file any registration statement.
  - (ii) Any officer or director who knowingly permits or participates in transactions or makes investments which have not been properly reported or submitted, after a hearing, shall individually pay a civil forfeiture of not more than \$25,000.
  - (iii) The Department may order the company to cease and desist further activity under the transaction or contract. After a hearing, the Department may also order the insurer to void such contract and restore

the status quo if such action is in the best interests of the policyholders, creditors or the public.

- (iv) For any willful violation, the Department may cause criminal proceedings to be instituted in common pleas court. Any insurer which willfully violates this article may be fined not more than \$100,000. Any individual who willfully violates this article may be fined in his individual capacity not more than \$50,000, or imprisoned for not more than one to three years, or both.
  
- (v) Any officer or employee who wilfully and knowingly makes or causes false statements or false reports with the intent to deceive the department shall, upon conviction, be sentenced to pay a fine of \$100,000, or imprisonment for not more than three years, or both. Any fines imposed shall be paid by the officer or employee in his individual capacity.

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 failing to notify the Department of inter-company transactions governed by 40 Purdons Statutes, Sections 991.1504(a)(2)(9) and 991.1405(a)(2)(iii), when such transactions are required by such statutes to be reported to the Department.

(b) Respondent shall pay a civil penalty of Ten Thousand Dollars (\$10,000.00) to the Commonwealth of Pennsylvania. Payment of 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

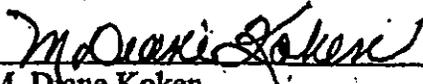


BEFORE THE INSURANCE COMMISSIONER  
OF THE  
COMMONWEALTH OF PENNSYLVANIA

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.

  
  
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M. Diane Koken  
Insurance Commissioner