



DEPARTMENT OF COMMERCE & INSURANCE

P.O. Box 690, Jefferson City, Mo. 65102-0690

In Re:)
)
ENDURANCE AMERICAN INSURANCE) Market Conduct Investigation No. 317714
COMPANY (NAIC #10641))

ORDER OF THE DIRECTOR

NOW, on this 04th day of May, 2021, Director, Chlora Lindley-Myers, after consideration and review of the Stipulation of Settlement and Voluntary Forfeiture (hereinafter “Stipulation”) entered into by the Division of Insurance Market Regulation (hereinafter “Division”), and Endurance American Insurance Company (NAIC #10641) (hereinafter “EAIC”), relating to the market conduct investigation no. 317714, does hereby issue the following orders:

This order, issued pursuant to §374.046.15¹ and §374.280 is in the public interest.

IT IS THEREFORE ORDERED that EAIC and the Division having agreed to the Stipulation, the Director does hereby approve and agree to the Stipulation.

IT IS FURTHER ORDERED that EAIC shall not engage in any of the violations of law and regulations set forth in the Stipulation, shall implement procedures to place it in full compliance with the requirements in the Stipulation and the statutes and regulations of the State of Missouri, and to maintain those corrective actions at all times, and shall fully comply with all terms of the Stipulation.

¹ All references, unless otherwise noted, are to Revised Statutes of Missouri 2016, as amended, or to the Code of State Regulations, 2020, as amended.

IT IS FURTHER ORDERED that EAIC shall pay, and the Department of Commerce and Insurance, State of Missouri, shall accept, the Voluntary Forfeiture of \$500.00, payable to the Missouri State School Fund.

IT IS SO ORDERED.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the seal of my office in Jefferson City, Missouri, this 04th day of May, 2021.



Chlora Lindley-Myers
Chlora Lindley-Myers
Director

**IN THE DEPARTMENT OF COMMERCE AND INSURANCE
STATE OF MISSOURI**

In Re:)
)
ENDURANCE AMERICAN INSURANCE) **Market Conduct Investigation**
COMPANY (NAIC #10641)) **No. 317714**

STIPULATION OF SETTLEMENT AND VOLUNTARY FORFEITURE

It is hereby stipulated and agreed by the Division of Insurance Market Regulation (hereinafter “the Division”) and Endurance American Insurance Company (NAIC #10641) (hereinafter “EAIC”), as follows:

WHEREAS, the Division is a unit of the Missouri Department of Commerce and Insurance (hereinafter “the Department”), an agency of the State of Missouri, created and established for administering and enforcing all laws in relation to insurance companies doing business in the State of Missouri;

WHEREAS, EAIC has been granted a certificate of authority to transact the business of insurance in the State of Missouri;

WHEREAS, the Division conducted a market conduct investigation of EAIC, investigation #317714; and

WHEREAS, based on the market conduct investigation of EAIC, the Division alleges that:

1. EAIC did not file forms, rates and rules for private/personal casualty aircraft policies issued to Missouri risks in violation of §379.321.1.¹

2. EAIC used unfiled rates for 20 private/personal casualty aircraft policies in violation of §379.321.1

¹ All references, unless otherwise noted, are to Missouri Revised Statutes 2016, as amended or to the Code of State Regulations, 2020, as amended.

3. EAIC did not submit an Exhibit B consent to rate filing for 20 private/personal casualty aircraft policies in violation of §379.321.1 and 20 CSR 500-4.300 (2) (A).

4. EAIC did not file forms for commercial casualty aircraft policies issued to Missouri risks in violation of §379.321.6 (7).

5. EAIC rated 13 commercial casualty aircraft policies applying base rate modification factors exceeding + or – 25% in violation of §379.318 (4), §379.321.6 (10), and 20 CSR 500-4.100 (7) (A).

WHEREAS, the Division and EAIC have agreed to resolve the issues raised in the market conduct investigation as follows:

A. **Scope of Agreement.** This Stipulation of Settlement and Voluntary Forfeiture (hereinafter “Stipulation”) embodies the entire agreement and understanding of the signatories with respect to the subject matter contained herein. The signatories hereby declare and represent that no promise, inducement or agreement not herein expressed has been made, and acknowledge that the terms and conditions of this agreement are contractual and not a mere recital.

B. **Remedial Action.** EAIC agrees to take remedial action bringing it into compliance with the statutes and regulations of Missouri and agrees to maintain such remedial actions at all times, to reasonably ensure that the errors noted in the market conduct investigation and in this Stipulation do not recur. Such remedial actions shall consist of the following:

1. To the extent it has not already done so, EAIC agrees to file with the Director of the Department (hereinafter “Director”) all forms, rates and rules for private/personal casualty aircraft policies on Missouri risks, and to only utilize filed rates and rate factors (which does not include rate ranges). If EAIC has not already made a rate filing for its private/personal casualty aircraft policies, then EAIC shall make such filing through the System for Electronic Rate and

Form Filing (“SERFF”) and include a statement indicating that “as a result of a Missouri market conduct investigation this filing is being made.”

2. EAIC agrees that in rating Missouri private/personal casualty aircraft policies it will either utilize the filed rate or will submit to the Department on a monthly basis an Exhibit B consent to rate form if it deviates from the use of the filed rate.

3. To the extent it has not already done so, EAIC agrees to file with the Director all forms for commercial casualty aircraft policies on Missouri risks. If EAIC has not already made a form filing for its commercial casualty aircraft policies, then EAIC shall make such filing through SERFF and include a statement indicating that “as a result of a Missouri market conduct investigation this filing is being made.”

4. EAIC agrees to provide a premium refund to any policyholder identified in the investigation where a base rate modification factor was applied that exceeded + 25%. Interest, in an amount determined by §374.191 must be included with the refund. In addition, a letter should be included with the refund payment indicating that “as a result of a Missouri market conduct investigation, it was found that a premium refund was owed.”

5. EAIC agrees that it will not utilize IRPM or scheduled rating factors that exceed + or – 25% on commercial casualty aircraft policies with Missouri risks.

6. EAIC agrees to conduct a review of all Missouri commercial casualty aircraft policies, with effective dates between January 1, 2019 and the date of the Order is entered approving this Stipulation, to determine if the policyholder was overcharged due to the use of scheduled rating/base rate modifications exceeding +25%. If an overcharge is discovered, EAIC agrees to issue a refund in the amount of the overcharge to the policyholder, with interest as determined under §374.191. A letter will be included with the payment indicating that “as a result

of a Missouri market conduct investigation, a partial refund was due to the policyholder.”

C. **Compliance.** EAIC agrees to file documentation with the Division, in a format acceptable to the Division, within 90 days of the entry of a final order of any remedial action taken pursuant to Paragraph B to implement compliance with the terms of this Stipulation, including providing an accounting of all refunds issued to policyholders as a result of this Stipulation. Such documentation is provided pursuant to §374.190.

D. **Ongoing Investigation.** EAIC agrees to pay any reasonable investigation fees expended by the Division in conducting its review of the documentation provided by EAIC pursuant to Paragraph C of this Stipulation.

E. **Voluntary Forfeiture.** EAIC agrees, voluntarily and knowingly, to surrender and forfeit the sum of \$500.00 such sum payable to the Missouri State School Fund, in accordance with §374.049.11 and §374.280.2.

F. **Non-Admission.** Nothing in this Stipulation shall be construed as an admission by EAIC, this Stipulation being part of a compromise settlement to resolve disputed factual and legal allegations arising out of the above-referenced market conduct investigation.

G. **Waivers.** EAIC, after being advised by legal counsel, does hereby voluntarily and knowingly waive any and all rights for procedural requirements, including notice and an opportunity for a hearing, and review or appeal by any trial or appellate court, which may have otherwise applied to the above-referenced market conduct investigation.

H. **Changes.** No changes to this Stipulation shall be effective unless made in writing and agreed to by representatives of the Division and EAIC.

I. **Governing Law.** This Stipulation shall be governed and construed in accordance with the laws of the State of Missouri.

J. **Authority.** The signatories below represent, acknowledge, and warrant that they are authorized to sign this Stipulation, on behalf of the Division and EAIC respectively.

K. **Counterparts.** This Stipulation may be executed in multiple counterparts, each of which shall be deemed an original and all of which taken together shall constitute a single document. Execution and delivery of this Stipulation by facsimile or by an electronically transmitted signature shall be fully and legally effective and binding.

L. **Effect of Stipulation.** This Stipulation shall become effective only upon entry of a Final Order by the Director approving this Stipulation.

M. **Request for an Order.** The signatories below request that the Director issue an Order approving this Stipulation and ordering the relief agreed to in the Stipulation, and consent to the issuance of such Order.

DATED: 4-20-2021



Stewart Freilich
Chief Market Conduct Examiner and
Senior Counsel
Division of Insurance Market Regulation

DATED: 4/20/2021



Richard M. Appel
Senior Vice President & Senior Counsel
Endurance American Insurance Company