

# STATE OF MISSOURI



## DEPARTMENT OF INSURANCE, FINANCIAL INSTITUTIONS AND PROFESSIONAL REGISTRATION

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

In re: )  
Sompo Japan Insurance Company of America ) Investigation No. 10167-11126-PC  
(NAIC #3219-11126) )

### ORDER OF THE DIRECTOR

NOW, on this 6<sup>TH</sup> day of DECEMBER, 2012, Director John M. Huff, after consideration and review of the market conduct investigation of Sompo Japan Insurance Company of America (NAIC #3219-11126), (hereafter referred to as "Sompo") investigation number 10167-11126--PC, conducted by the Division of Insurance Market Regulation pursuant to §374.190 RSMo, and the Stipulation of Settlement ("Stipulation"), does hereby issue the following orders:

This order, issued pursuant to §374.046.15, RSMo (Cum. Supp. 2011) and §374.280 RSMo, is in the public interest.

IT IS THEREFORE ORDERED that, Sompo and the Division of Insurance Market Regulation having agreed to the Stipulation, the Director does hereby approve and agree to the Stipulation.

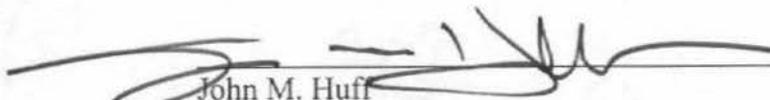
IT IS FURTHER ORDERED that Sompo shall not engage in any of the violations of law and regulations set forth in the Stipulation and shall implement procedures to place the Company in full compliance with the requirements in the Stipulation and the statutes and regulations of the State of Missouri and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

IT IS FURTHER ORDERED that Sompo shall pay, and the Department of Insurance, Financial Institutions and Professional Registration, State of Missouri, shall accept, the Voluntary

Forfeiture of \$25,250, 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 6<sup>TH</sup> day of DECEMBER, 2012.

  
John M. Huff  
Director



**DEPARTMENT OF INSURANCE, FINANCIAL  
INSTITUTIONS AND PROFESSIONAL REGISTRATION**

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

TO: Sompo Japan Insurance Company of America  
Two World Center, 43<sup>rd</sup> Floor  
225 Liberty Street  
New York, NY 10281-1058

RE: Sompo Japan Insurance Company of America (NAIC #3219-11126)  
Missouri Market Conduct Investigation #10167-11126-PC

**STIPULATION OF SETTLEMENT  
AND VOLUNTARY FORFEITURE**

It is hereby stipulated and agreed by John M. Huff, Director of the Missouri Department of Insurance, Financial Institutions and Professional Registration, hereinafter referred to as "Director," and Sompo Japan Insurance Company of America (NAIC # 3219-11126), (hereafter referred to as "Sompo") as follows:

WHEREAS, John M. Huff is the Director of the Missouri Department of Insurance, Financial Institutions and Professional Registration (hereafter referred to as "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 in Missouri; and

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

WHEREAS, the Department conducted a Market Conduct Investigation of Sompo and prepared report number 10167-11126-PC; and

WHEREAS, the report of the Market Conduct Investigation revealed that:

1. In fifty six (56) instances, Sompo failed to submit filings for individually rated large deductible workers compensation insurance policies in violation of §287.310<sup>1</sup> and §287.947;

<sup>1</sup> All references, unless otherwise noted, are to Missouri Revised Statutes 2000, as amended.

2. In some instances, Sampo incorrectly calculated the Second Injury Fund Surcharge in violation of §287.310.9;

3. Losses were reported on a gross basis, without obtaining the written agreement of the policyholder in violation of §287.310.4, 287.350, and 20 CSR 100-8.040.

WHEREAS, Sampo hereby agrees to take remedial action bringing the Company into compliance with the statutes and regulations of Missouri and agrees to maintain such corrective actions at all times, to reasonably assure that the errors noted in the above-referenced market conduct investigation report do not recur. The remedial actions shall include, but are not limited to, the following:

1. Sampo agrees to file all, in force, individually rated large deductible workers compensation insurance policies with the Director within 30 days of the date of the order closing this investigation, and agrees to file all individually rated large deductible workers compensation insurance policies within 30 days of the effective date of the policy;

2. Sampo agrees to review all individually rated large deductible workers compensation insurance policies issued from January 1, 2011 to the date of the Order closing this investigation to determine if the insured is entitled to any refund of premium or if the Second Injury Fund Surcharge was incorrectly paid. If the policyholder is entitled to a refund of premium, the Company shall issue any refund due to the insured, bearing in mind that an additional payment of nine per cent (9%) interest per annum is also required, pursuant to §408.020. A letter shall be included with the payment, indicating that "as a result of a Missouri Market Conduct Investigation," it was found that a refund was due to the insured. If the Second Injury Fund is owed additional payments, such payments shall be made to the fund with any applicable interest and penalties. Additionally, evidence shall be provided to the Department that such refunds to the insured and payments to the Second Injury Fund have been made within 90 days after the date of the Order finalizing this investigation.

3. Sampo agrees to report all large deductible workers compensation insurance policies on a net basis unless the employer exercises the right to purchase a gross reportable deductible plan.

4. Sampo agrees to review all individually rated large deductible workers compensation insurance policies issued from January 1, 2006 to the date of the Order closing this investigation to determine if losses were improperly reported on a gross basis. If losses were improperly reported on a gross basis, Sampo shall determine if the incorrect use of gross reporting negatively affected the e-mod. Since a negative impact on an e-mod can impact the employer for a period of three years, the company

shall take reasonable steps to evaluate the impact on the employer for a period of three years after the employer's e-mod was negatively impacted and refund any amount of premium that was overpaid due to the negatively impacted e-mod. If any policyholder is entitled to a refund of premium as a result of incorrectly reporting losses on a gross basis, Sompo must issue any refund due to the insured, bearing in mind that an additional payment of nine per cent (9) interest per annum is also required pursuant to §408.020. A letter must be included with the payment indicating that "as a result of a Missouri Market Conduct Investigation," it was found that a refund was due to the insured. Additionally, evidence must be provided to the Department that such refunds to the insured have been made within 90 days after the date of the order finalizing this investigation.

WHEREAS, Sompo, 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, which may have otherwise applied to the above referenced Market Conduct Investigation; and

WHEREAS, Sompo hereby agrees to the imposition of the ORDER of the Director and as a result of Market Conduct Investigation #10167-11126-PC further agrees, voluntarily and knowingly, to surrender and forfeit the sum of \$25,250.

NOW, THEREFORE, in lieu of the institution by the Director of any action for the SUSPENSION or REVOCATION of the Certificate(s) of Authority of Sompo to transact the business of insurance in the State of Missouri or the imposition of other sanctions, Sompo does hereby voluntarily and knowingly waive all rights to any hearing, consents to the ORDER of the Director, consents to take the remedial actions required by this stipulation, and consents to surrender and forfeit the sum of \$25,250, such sum payable to the Missouri State School Fund, in accordance with §374.280.

DATED: 11/15/2012

  
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President  
Sompo Japan Insurance Company of America