



NEW YORK STATE DEPARTMENT OF FINANCIAL SERVICES

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In the Matter of

PHILADELPHIA INDEMNITY INSURANCE COMPANY

No. 2022-0274-S

Respondent.

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CONSENT ORDER

WHEREAS, the Department of Financial Services (the “Department”) conducted a market conduct investigation into the business practices of Philadelphia Indemnity Insurance Company (hereinafter “Philadelphia”) for the period from January 2014 through September 2014.

WHEREAS, the investigation focused primarily on the Respondent’s underwriting and rating practices of Respondent’s commercial multi-peril and commercial general liability insurance policies.

WHEREAS, this Consent Order contains the Department’s findings and the relief agreed to by the Department and Respondent.

NOW, THEREFORE, the Department and Respondent are willing to resolve the matters cited herein in lieu of proceeding by notice and hearing.

FINDINGS

1. Respondent is a foreign insurance company authorized to transact accident and health, fire, miscellaneous property, water damage, burglary and theft, glass, boiler and machinery, elevator, animal, collision, personal injury liability, property damage liability, workers’

compensation and employers' liability, fidelity and surety, credit, motor vehicle and aircraft physical damage, marine and inland marine, marine protection and indemnity, residual value and gap insurance business in this State pursuant to Section 1113(a) of the New York Insurance Law ("Insurance Law").

2. Respondent, for the time period January 2014 to September 2014:
 - a. failed to charge rates in accordance with filed and approved rates and rating rules resulting in both premium overcharges and undercharges to policyholders and failed to establish adequate procedures to minimize the occurrence of improperly charged rates;
 - b. failed to file policy forms with the Department for approval prior to issuing such forms to policyholders;
 - c. failed to file rating plans that include reasonable factors that give appropriate recognition to distinct exposures involved in the applicable rating plans;
 - d. failed to update each of its filings or file a statement with the Department that its analysis indicates that no updating is appropriate, at least once every three years;
 - e. failed to utilize filed and approved rating plans in a non-discriminatory manner for certain eligible classes of risk;
 - f. failed to include specific criteria relative to the risk being rated in individual underwriting files and to document the particular circumstances that support each debit or credit applied in the use of filed and approved rating plans;
 - g. applied schedule or IRPM modifications that exceeded the 15% limitation;
 - h. failed to conduct premium audits within 180 days after expiration of applicable policies;
 - i. failed to retain in the insurer's underwriting file for each individually rated policy the necessary supporting information for "a" rated risks that must be made available for inspection by the Department;
 - j. failed to state the specific reasons for conditional renewal of a policy and failed to include the amount of premium increase or reasonable estimate in the conditional renewal notices issued to such policies;
 - k. failed to maintain coverage on the same terms and conditions of an expiring policy for 60 days from the mailing or delivery of a late conditional renewal notice or a late non-renewal notice that is provided prior to the expiration date of the policy;

- l. failed to maintain proper records containing pertinent information of non-renewal or conditional renewal notices not in compliance with Insurance Law Section 3426(e)(1), (2) and (3);
 - m. failed to include the correct disclosure notice on special risk policies and endorsements issued pursuant to Insurance Law Article 63, (“ hereinafter “Free Trade Zone Policies”);
 - n. failed to retain necessary documents disclosing the premium and the basis for the rate or premium charged on Free Trade Zone Policies;
 - o. failed to indicate the appropriate classification code on the lower left corner of the front page of binders, policies, contracts, riders, or endorsements and on subsequent amendments thereto on Free Trade Zone Policies;
 - p. failed to deliver an anti-arson application to policyholders for policies covering the peril of fire or explosion;
 - q. failed to retain certain policy records for six years after the policies were no longer in effect; and
 - r. failed to include the proof of financial security statement on applicable termination notices and failed to retain proof of mailing to insureds of cancellation notices for nonpayment of premium.
3. Respondent’s violations during the aforementioned time period contravened New York Insurance Laws and Regulations.

VIOLATIONS

4. By reason of the foregoing, Respondent violated:
 - a. Sections 160.2(c) and (g) of Insurance Regulation 57 [11 NYCRR 160]
 - b. Insurance Law 2307(b);
 - c. Insurance Law 2344(e) and Section 161.8(d) of Insurance Regulation 129 [11 NYCRR 161];
 - d. Section 161.7(c) of Regulation 129;
 - e. Section 161.8(e) of Regulation 129;
 - f. Section 161.8(g) of Regulation 129;
 - g. Section 161.8(h) of Regulation 129;

- h. Section 161.10(a) of Regulation 129;
- i. Section 161.12 of Regulation 129;
- j. Insurance Law 3426(e)(2);
- k. Insurance Law 3426(e)(5)(B);
- l. Insurance Law 3426(e)(7);
- m. Section 16.3 of Insurance Regulation 86 [11 NYCRR 16];
- n. Section 16.5 of Regulation 86;
- o. Section 16.12(c) of Regulation 86;
- p. Section 62-4.2(a) and (b) of Insurance Regulation 96 [11 NYCRR 62];
- q. Section 243.2(b) of Insurance Regulation 152 [11 NYCRR 243]; and
- r. New York Vehicle and Traffic Law Section 313.

AGREEMENT

IT IS HEREBY UNDERSTOOD AND AGREED by Respondent, its successors, and assigns (on behalf of its agents, representatives, employees, parent company, holding company, and any corporation, subsidiary, or division through which Respondent operates) that:

5. Respondent represents, and has demonstrated to the Department, that it has implemented the necessary actions to prevent recurrences of the violations described above including having made restitution in the total amount of \$346,455 including interest to policyholders who were improperly overcharged and represents that Respondent is now compliant with the aforementioned sections of Insurance Law and Regulations. Respondent shall submit a certification confirming that appropriate internal controls and systems enhancements are in place to ensure compliance with Insurance law and Regulations including but not limited to Article 23 and Insurance Regulation 57 requirements. Certification shall be submitted after each approved or acknowledged rate or form filing applicable to the Respondent's commercial multi-peril and commercial general liability policies that go into effect up to 2

years after execution of this Consent Order. Respondent will also take all necessary steps to comply with Insurance Law and Regulations with respect to its insurance products in the future.

MONETARY PENALTY

6. Within seven (7) days of the execution of this Consent Order, Respondent shall pay a civil penalty of One Million Three-Hundred Thousand Dollars (\$1,300,000). Respondent agrees that it will not claim, assert, or apply for a tax deduction or tax credit with regard to any U.S. federal, state, or local tax, directly or indirectly, for any portion of the civil monetary penalty paid pursuant to this Consent Order. Respondent further agrees that it will not claim, seek, or receive indemnification of the civil monetary penalty from any other person or entity. This provision is not intended, and shall not be construed, to prohibit Respondent's affiliates from funding inter-company transfers to Respondent.
7. The above referenced payment shall be payable to the New York State Department of Financial Services account at JP Morgan Chase Bank, N.A. via electronic transfer in accordance with the Department's instructions.

BREACH OF THE CONSENT ORDER

8. In the event that the Department believes Respondent to be materially in breach of this Consent Order ("Breach"), the Department will provide written notice of such Breach to Respondent, and Respondent must, within ten (10) business days from the date of receipt of said notice, or on a later date if so determined in the sole discretion of the Department, appear before the Department and have an opportunity to rebut the evidence, if any, of the Department that a Breach has occurred and, to the extent pertinent, to demonstrate that any such Breach is not material or has been cured.
9. Respondent understands and agrees that Respondent's failure to appear before the Department to make the required demonstration within the specified period as set forth herein is presumptive evidence of Respondent's Breach. Upon a finding of Breach, the Department has all the remedies available to it under New York or other applicable laws and

may use any and all evidence available to the Department for all ensuing examinations, hearings, notices, orders, and other remedies that may be available under New York or other applicable laws.

OTHER PROVISIONS

10. If Respondent defaults on any of its obligations under this Consent Order, the Department may terminate this Consent Order at its sole discretion, upon ten (10) days' written notice to Respondent. In the event of such termination, Respondent expressly agrees and acknowledges that this Consent Order shall in no way bar or otherwise preclude the Department from commencing, conducting, or prosecuting any investigation, action, or proceeding, however denominated, related to the Consent Order, against Respondent or from using in any way the statements, documents, or other materials produced or provided by Respondent prior to or after the date of this Consent Order, including, without limitation, such statements, documents, or other materials, if any, provided for purposes of settlement negotiations.
11. The Department has agreed to the terms of this Consent Order based on, among other things, representations made to the Department by Respondent and the Department's own factual examination. To the extent that representations made by Respondent are later found to be materially incomplete or inaccurate, this Consent Order or certain provisions thereof are voidable by the Department in its sole discretion.
12. Upon the request of the Department, Respondent shall provide all documentation and information reasonably necessary for the Department to verify compliance with this Consent Order.
13. All notices, reports, requests, certifications, and other communications to the Department regarding this Consent Order shall be in writing and shall be directed as follows:

If to the Department:

New York State Department of Financial Services
One State Street, 19th Floor

New York, NY 10004-1511
Attention: John F. Finston, Executive Deputy Superintendent for Insurance


If to the Company:

Philadelphia Indemnity Insurance Company
Three Bala Plaza East
Suite 400
Bala Cynwyd, PA 19004
Attention: John Doyle, Executive Vice President


14. This Consent Order and any dispute thereunder shall be governed by the laws of the State of New York without regard to any conflicts of laws principles.
15. Respondent waives its right to further notice and hearing in this matter as to any allegations of past violations up to and including the Effective Date and agrees that no provision of the Consent Order is subject to review in any court or tribunal outside the Department.
16. This Consent Order may not be amended except by an instrument in writing signed on behalf of all parties to this Consent Order.
17. This Consent Order constitutes the entire agreement between the Department and Respondent relating to the violations identified herein and supersedes any prior communication, understanding, or agreement, whether written or oral, concerning the subject matter of this Consent Order. No inducement, promise, understanding, condition, or warranty not set forth in this Consent Order has been relied upon by any party to this Consent Order.
18. In the event that one or more provisions contained in this Consent Order shall for any reason be held invalid, illegal, or unenforceable in any respect, such invalidity, illegality, or unenforceability shall not affect any other provision of this Consent Order.
19. Upon execution by the parties to this Consent Order, no further action will be taken by the Department against Respondent for the conduct set forth in this Consent Order, subject to the terms of this Order.

20. This Consent Order may be executed in one or more counterparts and shall become effective when such counterparts have been signed by each of the parties hereto and So Ordered by the Superintendent of Financial Services.


PHILADELPHIA INDEMNITY INSURANCE COMPANY

By:  Dated: 1/18/2023
John Doyle
Executive Vice President

NEW YORK STATE DEPARTMENT OF FINANCIAL SERVICES

By:  Dated: 1/27/2023
John F. Finston
Executive Deputy Superintendent for Insurance

THE FOREGOING CONSENT ORDER IS HEREBY APPROVED.

By:  Dated: 1/27/2023
Adrienne A. Harris
Superintendent of Financial Services