

**IN THE DEPARTMENT OF INSURANCE, FINANCIAL
INSTITUTIONS AND PROFESSIONAL REGISTRATION
STATE OF MISSOURI**

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| In Re: |) | |
| |) | |
| AMCO INSURANCE COMPANY (NAIC #0140-19100) |) | Market Conduct Investigation No. 13068-19100-PC |
| |) | |
| DEPOSITORS INSURANCE COMPANY (NAIC #0140-42587) |) | Market Conduct Investigation No. 13083-42587-PC |
| |) | |
| NATIONWIDE MUTUAL INSURANCE COMPANY (NAIC #0140-23787) |) | Market Conduct Investigation No. 13097-23787-PC |

ORDER OF THE DIRECTOR

NOW, on this 29th day of December, 2016, Director, John M. Huff, after consideration and review of the market conduct investigations of AMCO Insurance Company (NAIC #19100) (hereinafter referred to as "AMCO") investigation number 13068-19100-PC, Depositors Insurance Company (NAIC #42587) (hereinafter referred to as "Depositors") investigation number 13087-42587-PC, Nationwide Mutual Insurance Company (NAIC #23787) (hereinafter referred to as "Nationwide"), investigation number 13097-23787, conducted by the Division of Insurance Market Regulation pursuant to §374.190¹ and the Stipulation of Settlement and Voluntary Forfeiture ("Stipulation"), does hereby issue the following orders:

This order, issued pursuant to §374.046.15, RSMo (Cum. Supp. 2013) and §374.280 (Cum. Supp. 2013) is in the public interest.

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

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

IT IS FURTHER ORDERED that AMCO, Depositors, and Nationwide shall not engage in any of the violations of law and regulations set forth in the Stipulation, shall implement procedures to place each 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, and shall fully comply with all terms of the Stipulation.

IT IS FURTHER ORDERED that AMCO shall pay, and the Department of Insurance, Financial Institutions and Professional Registration, State of Missouri, shall accept, the Voluntary Forfeiture of \$36,750, payable to the Missouri State School Fund.

IT IS FURTHER ORDERED that Depositors shall pay, and the Department of Insurance, Financial Institutions and Professional Registration, State of Missouri, shall accept, the Voluntary Forfeiture of \$16,250, payable to the Missouri State School Fund.

IT IS FURTHER ORDERED that Nationwide shall pay, and the Department of Insurance, Financial Institutions and Professional Registration, State of Missouri, shall accept, the Voluntary Forfeiture of \$51,250, 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 29th day of December, 2016.





John M. Huff
Director

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STIPULATION OF SETTLEMENT AND VOLUNTARY FORFEITURE

It is hereby stipulated and agreed by the Division of Insurance Market Regulation (hereinafter “the Division”) and AMCO Insurance Company (NAIC #0140-19100) (hereinafter referred to as “AMCO”), Depositors Insurance Company (NAIC #0140-42587) (hereinafter referred to as “Depositors”), Nationwide Mutual Insurance Company (NAIC #0140-23787) (hereinafter referred to as “Nationwide Mutual”), as follows:

WHEREAS, the Division is a unit of the Missouri Department of Insurance, Financial Institutions and Professional Registration (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 in Missouri; and

WHEREAS, AMCO, Depositors, and Nationwide Mutual have been granted a certificate of authority to transact the business of insurance in the State of Missouri; and

WHEREAS, the Division conducted a Market Conduct Investigation of AMCO, Depositors, and Nationwide Mutual; and

WHEREAS, based on the Market Conduct Investigations the Division alleges that:

1. In 67 instances, AMCO failed to have audits completed, billed and premiums returned within 120 days from the expiration or cancellation date of the policy in violation of §287.955¹ and 20 CSR 500-6.500(2)(A).
2. AMCO estimated premium at final audit in 13 instances in violation of §287.955.

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

3. AMCO failed to document that it made Administrative Surcharge payments for 2010, 2011 and 2012 in violation of §287.716.2 and §287.690.

4. AMCO applied a waiver of subrogation to Missouri employers in construction lines in 8 instances, in violation of §287.150(6).

5. In 24 instances, Depositors failed to have audits completed, billed and premiums returned within 120 days from the expiration or cancellation date of the policy in violation of §287.955 and 20 CSR 500-6.500(2)(A).

6. Depositors estimated premium at final audit in 17 instances, in violation of §287.955.

7. Depositors failed to document that it made Administrative Surcharge payments for 2010, 2011 and 2012 in violation of §287.716.2 and §287.690.

8. Depositors applied a waiver of subrogation to Missouri employers in construction lines in 3 instances in violation of §287.150(6).

9. In 72 instances, Nationwide Mutual failed to have audits completed, billed and premiums returned within 120 days from the expiration or cancellation date of the policy in violation of §287.955 and 20 CSR 500-6.500(2)(A).

10. Nationwide Mutual estimated premium at final audit in 61 instances in violation of §287.955.

11. Nationwide Mutual failed to document that it made Administrative Surcharge payments for 2010, 2011 and 2012 in violation of §287.716.2 and §287.690.

12. Nationwide Mutual applied a waiver of subrogation to Missouri employers in construction lines in 6 instances in violation of §287.150(6).

WHEREAS, the Division, AMCO, Depositors, and Nationwide Mutual 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 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. AMCO, Depositors, and Nationwide Mutual agree to take remedial action bringing each into compliance with the statutes and regulations of Missouri and

agree to maintain such remedial actions at all times, to reasonably assure that the errors noted in the Market Conduct Investigations do not recur. Such remedial actions shall include, but not be limited to, the following:

1. AMCO, Depositors, and Nationwide Mutual agree that audits on workers compensation insurance policies with Missouri premium or exposure will be completed, billed and premiums returned within 120 days of policy expiration or cancellation unless a) a delay is caused by the policyholder's failure to respond to reasonable audit requests provided that the requests are timely and adequately documented or b) a delay is by the mutual agreement of the policyholder and AMCO, Depositors, and Nationwide Mutual provided that the agreement is adequately documented.

2. AMCO, Depositors, and Nationwide Mutual agree to ensure that procedures for determining final premium comply with NCCI rule 02-MO-2013.

3. AMCO, agrees to make payment to the Administrative Surcharge Fund in the amount of \$945.77 for years 2010, 2011 and 2012, if it has not already done so. AMCO, further agrees to make payment to the Administrative Surcharge Fund for payments owing to the fund for years 2013 and 2014 if it has not already done so.

4. Depositors, agrees to make payment to the Administrative Surcharge Fund in the amount of \$309.64 for years 2010, 2011 and 2012, if it has not already done so. Depositors, further agrees to make payment to the Administrative Surcharge Fund for payments owing to the fund for years 2013 and 2014 if it has not already done so.

5. Nationwide Mutual, agrees to make payment to the Administrative Surcharge Fund in the amount of \$799.91 for years 2010, 2011 and 2012, if it has not already done so. Nationwide Mutual, further agrees to make payment to the Administrative Surcharge Fund for payments owing to the fund for years 2013 and 2014 if it has not already done so.

6. AMCO, Depositors, and Nationwide Mutual agree that each will modify filed rules for workers compensation insurance in Missouri so that a waiver of subrogation is not placed upon or applied to Missouri employers in the construction lines of business.

C. Compliance. AMCO, Depositors, and Nationwide Mutual agree to file documentation with the Division within 90 days of the entry of a final order of all remedial action taken to implement compliance with the terms of this stipulation and to document payment of remediation required by this stipulation.

D. **Voluntary Forfeiture.** AMCO agrees, voluntarily and knowingly, to surrender and forfeit the sum of \$36,750, with such sum payable to the Missouri State School Fund in accordance with §374.280. Depositors agrees, voluntarily and knowingly, to surrender and forfeit the sum of \$16,250, with such sum payable to the Missouri State School Fund in accordance with §374.280. Nationwide Mutual agrees, voluntarily and knowingly, to surrender and forfeit the sum of \$51,250, with such sum payable to the Missouri State School Fund in accordance with §374.280.

E. **Waivers.** AMCO, Depositors, and Nationwide Mutual, after being advised by legal counsel, do 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 Investigations.

F. **Non-Admission.** Nothing in this Stipulation shall be construed as an admission by AMCO, Depositors, or Nationwide Mutual as to either a finding of fact or a conclusion of law, this Stipulation being part of a compromise settlement to resolve the above referenced Market Conduct Investigations.

G. **Changes.** No changes to this stipulation shall be effective unless made in writing and agreed to by all signatories to the stipulation.

H. **Governing Law.** This Stipulation of Settlement and Voluntary Forfeiture shall be governed and construed in accordance with the laws of the State of Missouri.

I. **Authority.** The signatories below represent, acknowledge and warrant that they are authorized to sign this Stipulation of Settlement and Voluntary Forfeiture, on behalf of the Division, AMCO, Depositors, and Nationwide Mutual respectively.

J. **Effect of Stipulation.** This Stipulation of Settlement and Voluntary Forfeiture shall become effective only upon entry of a Final Order by the Director of the Department (hereinafter the "Director") approving this Stipulation.

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

DATED: 12-27-2016

Angela R. Johnson

Angela Nelson
Director, Division of Insurance
Market Regulation


DATED: 12/27/16


Stewart Freilich
Senior Regulatory Affairs Counsel
Division of Insurance Market Regulation


DATED: 12/21/16


Jeremy Staun, Regional Vice President
AMCO Insurance Company

DATED: 12/21/16


Jeremy Staun, Regional Vice President
Depositors Insurance Company

DATED: 12/21/16


Jeremy Staun, Regional Vice President
Nationwide Mutual Insurance Company