

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

<i>In Re:</i>)	
)	
THE CONTINENTAL INSURANCE COMPANY (NAIC #35289))	Market Conduct Examination No. 1610-50-TGT
)	
VALLEY FORGE INSURANCE COMPANY (NAIC #20508))	Market Conduct Examination No. 1610-51-TGT
)	
TRANSPORTATION INSURANCE COMPANY (NAIC #20494))	Market Conduct Examination No. 1610-52-TGT
)	
NATIONAL FIRE INSURANCE COMPANY OF HARTFORD (NAIC #20478))	Market Conduct Examination No. 1610-53-TGT
)	
CONTINENTAL CASUALTY COMPANY (NAIC #20443))	Market Conduct Examination No. 1610-54-TGT
)	
AMERICAN CASUALTY COMPANY OF READING, PA (NAIC #20427))	Market Conduct Examination No. 1610-55-TGT

ORDER OF THE DIRECTOR

NOW, on this 22nd day of March, 2017, Acting 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"), The Continental Insurance Company (NAIC #35289), Valley Forge Insurance Company (NAIC #20508), Transportation Insurance Company (NAIC #20494), National Fire Insurance Company of Hartford (NAIC #20478), Continental Casualty Company (NAIC #20443), and American Casualty Company of Reading, PA (NAIC #20427) (hereinafter collectively "CNA Group of Companies"), relating to the market conduct examinations set out in the caption above, does hereby issue the following orders:

This order, issued pursuant to §374.205.2(5) RSMo 2000, §374.280 RSMo (Cum. Supp. 2013) and §374.046.15. RSMo (Cum. Supp. 2013), is in the public interest.

IT IS THEREFORE ORDERED that the CNA Group of Companies 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 the CNA Group of Companies shall not engage in any of the violations of law and regulations set forth in the Stipulation, shall implement procedures to place CNA Group of Companies in full compliance with the requirements in the Stipulation, to maintain those corrective actions at all times, and shall fully comply with all terms of the Stipulation.

IT IS FURTHER ORDERED that the CNA Group of Companies shall pay, and the Department of Insurance, Financial Institutions and Professional Registration, State of Missouri, shall accept, the Voluntary Forfeiture of \$9,000 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 22nd day of March, 2017.




Chlora Lindley-Myers
Acting 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”), The Continental Insurance Company (NAIC #35289), Valley Forge Insurance Company (NAIC #20508), Transportation Insurance Company (NAIC #20494), National Fire Insurance Company of Hartford (NAIC #20478), Continental Casualty Company (NAIC #20443), and American Casualty Company of Reading, PA (NAIC #20427)(hereinafter collectively “CNA Group of Companies”), 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, CNA Group of Companies have been granted certificates of authority to transact the business of insurance in the State of Missouri; and

WHEREAS, the Division called Market Conduct Examinations of the CNA Group of Companies based upon findings contained in Market Conduct Investigations; and

WHEREAS, the Market Conduct Investigations revealed that:

1. Continental Insurance Company failed to include a payment for sales tax in one commercial automobile policy first party total loss settlement even though the company's policy provided for payment of the sales tax in violation of §§ 375.445, 375.936(13), 375.1007(1), and 375.1007(4), RSMo, and 20 CSR 100-1.020(1)(A).

2. Valley Forge Insurance Company failed to include a payment for sales tax in two commercial automobile policy first party total loss settlements even though the company's policies provided for payment of the sales tax in violation of §§ 375.445, 375.936(13), 375.1007(1), and 375.1007(4), RSMo, and 20 CSR 100-1.020(1)(A).

3. Transportation Insurance Company failed to include a payment for sales tax in two commercial automobile policy first party total loss settlements even though the company's policies provided for payment of the sales tax in violation of §§ 375.445, 375.936(13), 375.1007(1), and 375.1007(4), RSMo, and 20 CSR 100-1.020(1)(A).

4. National Fire Insurance Company failed to include a payment for sales tax in two commercial automobile policy first party total loss settlements even though the company's policies provided for payment of the sales tax in violation of §§ 375.445, 375.936(13), 375.1007(1), and 375.1007(4), RSMo, and 20 CSR 100-1.020(1)(A).

5. Continental Casualty Company failed to include a payment for sales tax in one commercial automobile policy first party total loss settlement even though the company's policy

provided for payment of the sales tax in violation of §§ 375.445, 375.936(13), 375.1007(1), and 375.1007(4), RSMo, and 20 CSR 100-1.020(1)(A).

6. American Casualty Company failed to include a payment for sales tax in one commercial automobile policy first party total loss settlement even though the company's policy provided for payment of the sales tax in violation of §§ 375.445, 375.936(13), 375.1007(1), and 375.1007(4), RSMo, and 20 CSR 100-1.020(1)(A).

WHEREAS, the Division and CNA Group of Companies have agreed to resolve the issues raised in the Market Conduct Examinations and Market Conduct Investigations 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.** The CNA Group of Companies agree that, once the Final Order approving this Stipulation and closing the Market Conduct Examinations is entered, the CNA Group of Companies will take remedial action bringing the CNA Group of Companies into compliance with the statutes and regulations of Missouri and agree to maintain those remedial actions at all times. Such remedial actions shall include the following:

1. CNA Group of Companies agree that on or after the Final Order approving this Stipulation and closing these Market Conduct Examinations it will pay all first party automobile total loss claims, including payment for all sales taxes relating to such claims, according to the terms of their policy provisions and agree to maintain this remedial action at all times.

2. CNA Group of Companies agrees that it will review all first party automobile total

loss claims with a claim notice date on or after January 1, 2012 to March 1, 2017 to determine if the CNA Group of Companies paid all applicable sales taxes to total loss claimants for their damaged vehicles using the contractual value payable under the terms of each policy at the time of loss.¹ If all applicable sales taxes were not paid by the CNA Group of Companies to a claimant, the CNA Group of Companies shall pay restitution to the claimant in the amount of the sales tax payable under its policy on the date of loss, including all state, city, county and other taxes. Such restitution shall be paid with no reduction in the amount payable to the claimant if the owner of the total loss vehicle retains the vehicle as salvage, unless there is a clear and specific provision in the policy supporting the reduction. For purposes of this Stipulation, providing a claimant with a sales tax affidavit pursuant to the provisions of §144.027 does not constitute payment of all applicable sales taxes to the claimant.

C. **Compliance.** CNA Group of Companies 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 to implement compliance with the terms of this Stipulation and to document payment of restitution required under the terms of this Stipulation.

D. **Examination Fees.** CNA Group of Companies agrees to pay any reasonable examination fees expended by the Division in conducting its review of the documentation provided by the Company pursuant to Paragraph C of this Stipulation.

E. **Voluntary Forfeiture.** CNA Group of Companies agrees, voluntarily and knowingly, to surrender and forfeit the sum of \$9,000, such sum payable to the Missouri State School Fund, in accordance with §374.280, RSMo Supp. 2013.

F. **Other Penalties.** The Division agrees that it will not seek penalties against CNA

¹ This could be Actual Cash Value, Stated Value or some other valuation method listed in the policy.

Group of Companies , other than those agreed to in this Stipulation, in connection with Market Conduct Examinations #1610-50-TGT, #1610-51-TGT, #1610-52-TGT, #1610-53-TGT, #1610-54-TGT, #1610-55-TGT.

G. **Waivers.** CNA Group of Companies, 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 Market Conduct Examinations #1610-50-TGT, #1610-51-TGT, #1610-52-TGT, #1610-53-TGT, #1610-54-TGT, #1610-55-TGT.

H. **Changes.** No changes to this Stipulation shall be effective unless made in writing and agreed to by representatives of the Division, Continental Insurance, Valley Forge, Transportation, National Fire, Continental Casualty, and American Casualty.

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 the CNA Group of Companies respectively.

K. **Effect of Stipulation.** This Stipulation shall not become effective until entry of a Final Order by the Director of the Department (hereinafter the "Director") approving this Stipulation.

L. **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: 3/14/17




Angela L. Nelson, Director
Division of Insurance Market Regulation

DATED: 3/14/17



Stewart Freilich
Senior Regulatory Affairs Counsel

DATED: 3/7/17



Peter McCarron
SVP Commercial Claims
The Continental Insurance Company
Valley Forge Insurance Company
Transportation Insurance Company
National Fire Insurance Company of Hartford
Continental Casualty Company
American Casualty Company of Reading, PA