

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

In Re:)
)
OLD SURETY LIFE INSURANCE) **Market Conduct Exam No. 1306-14-TGT**
COMPANY (NAIC #67325))
)
)
)

ORDER OF THE DIRECTOR

NOW, on this 21st day of OCTOBER, 2015, Director John M. Huff, after consideration and review of the market conduct examination of Old Surety Life Insurance Company (NAIC #67325) (hereinafter "Old Surety") conducted by the Division of Insurance Market Regulation (hereinafter the "Division") pursuant to §374.205 RSMo and the Stipulation of Settlement and Voluntary Forfeiture ("Stipulation"), does hereby issue the following orders.

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

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

IT IS FURTHER ORDERED that Old Surety shall not engage in any of the violations of law and regulations set forth in the Stipulation and shall implement procedures to place Old Surety in full compliance with the requirements of 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 Old Surety shall pay, and the Department of Insurance, Financial Institutions and Professional Registration, State of Missouri, shall accept, the

Voluntary Forfeiture of \$150,000 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 21st day of October, 2015.



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 Old Surety Life Insurance Company (NAIC #67325) (hereinafter referred to as “Old Surety”), 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 of Missouri; and

WHEREAS, Old Surety has 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 Examination of Old Surety; and

WHEREAS, the Market Conduct Examination revealed that:

1. Representatives of Old Surety instructed producers not to submit applications from unhealthy individuals for Old Surety’s Medicare supplement insurance products, even if the individuals were in their open enrollment or guarantee issue periods, and advised agents to submit only healthy applicants in violation of §375.144 (2)¹, 375.881 (6), and 20 CSR 400-3.650(11)(A) (B) (12)(A)2;

2. Representatives of Old Surety instructed producers not to complete a Guarantee Issue Determination Form in conjunction with applications for Medicare supplement insurance so that applicants otherwise entitled to guarantee issue coverage would be subjected to health underwriting

in violation of §375.144 (2), 375.881 (6), and 20 CSR 400-3.650 (11)(A)(B) (12)(A)2;

3. Representatives of Old Surety represented to producers that the producers would be terminated if they submitted applications for guarantee issue Medicare supplement insurance in violation of §375.144 (2), 375.881 (6), and 20 CSR 400-3.650 (11)(A)(B) (12)(A)2;

4. Representatives of Old Surety required producers to have open enrollment and guarantee issue applicants for Medicare supplement insurance complete the twelve health questions on the application, along with listing doctors, medicine and future medical procedures, even though the application clearly stated that such applicants were not required to do so, in violation of §375.144(2), §375.445, §375.936 (4), (6) (a) and (13);

5. Representatives of Old Surety requested that producers have unhealthy applicants for Medicare supplement insurance who applied for coverage during the open enrollment or guarantee issue period sign cancellation or withdrawal statements in violation of §375.144(2), §375.445, §375.936 (4), (6) (a) and (13);

WHEREAS, Old Surety provides the following responses to be included as part of the Stipulation herein:

1. With respect to the Stipulation 1, 3 and 4, Old Surety understands that certain producers may have been under the impression they were not to submit applications from unhealthy individuals for which they would be terminated; however, Old Surety does accept such applications and 34 percent of its overall business on the books now in Missouri is derived from Open Enrollment and Guarantee Issue. Old Surety reserves the right to terminate producers for any reason that complies with laws of Missouri and does not violate the terms of this stipulation.
2. With respect to Stipulation 2, Old Surety acknowledges the instruction for the Guarantee Issue Determination Form was confusing at times; however, it was modified prior to this examination.
3. With respect to Stipulation 5, Old Surety believes there is confusion on this issue as Old Surety is permitted under law to allow applicants to withdraw applications in some instances including where six month pre-existing condition requirements apply.

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

WHEREAS, Old Surety does not admit to the Findings of the Division but does not desire to contest the Findings. Consequently, the Division and Old Surety have agreed to resolve the issues raised in the Market Conduct Examination 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.** Old Surety agrees to take remedial action bringing it into compliance with the statutes and regulations of Missouri and agrees to maintain those remedial actions at all times, to reasonably assure that the errors noted in the above-referenced market conduct examination do not recur. Such remedial actions shall include, but not be limited to, the following:

1. Old Surety agrees that Old Surety and its officers, employees, and representatives will not advise, state, or communicate to producers that the producers will be terminated for submitting applications for open enrollment and guarantee issue Medicare supplement insurance and will not terminate producers for submitting such applications. Old Surety may terminate producers for other reasons as permitted by Missouri law.

2. Old Surety agrees that it will not maintain any processes, practices, or procedures that discourage or impede the submission of applications for open enrollment and guarantee issue Medicare supplement insurance by producers to the Company.

3. Old Surety agrees to send a written notice, subject to Division approval, to its producers advising the producers that they will not be terminated for submitting applications for open enrollment and guarantee issue Medicare supplement insurance. Old Surety may terminate producers for other reasons as permitted by Missouri law.

4. Old Surety agrees that it will ensure that its underwriting guidelines and procedures include a provision requiring the acceptance of open enrollment and guarantee issue Medicare supplement insurance in conformity with the requirements of Missouri law.

5. Old Surety agrees to institute procedures to ensure that applicants for open enrollment

and guarantee issue Medicare supplement insurance coverage are not required to answer underwriting questions.

6. Old Surety will either file with the Director an endorsement, rider, or amendment to its Medicare Supplement insurance policies insuring Missouri residents setting forth the terms of its credit program offered through USA Senior Care Network and obtain approval from the Director for the filing on or before January 1, 2016, or will cease offering and applying the program to both new policies and to existing policies insuring Missouri residents for hospital admissions occurring on or after January 1, 2016. In the event Old Surety chooses to offer a credit to Medicare Supplement insurance policyholders residing in Missouri at a later date, Old Surety will first file with the Director an endorsement, rider or amendment to the policy setting forth the terms of the program for which approval must be granted by the Director before such credit may be allowed.

C. **Compliance.** Old Surety has filed documentation with the Division of remedial actions taken to implement compliance with the terms of this stipulation. Old Surety agrees that this examination shall be closed when all documentation required to be provided by this paragraph is received by the Division and the final order has been entered by the Director.

D. **Voluntary Forfeiture.** Old Surety agrees, voluntarily and knowingly, to surrender and forfeit the sum of \$150,000, such sum payable to the Missouri State School Fund, in accordance with §374.049 and §374.280 RSMo Supp. 2013.

E. **Other Penalties.** The Division agrees that it will not seek penalties from Old Surety, other than those agreed to in this Stipulation, for the conduct found in Market Conduct Examination 1306-14-TGT.

F. **Waivers.** Old Surety, 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 Examination.

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.

J. **Effect of Stipulation.** This Stipulation of Settlement and Voluntary Forfeiture shall not become effective until entry of a Final Order by the Director of the Department of Insurance, Financial Institutions and Professional Registration (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: 10/15/2015



Angela Nelson
Director, Division of Insurance
Market Regulation

DATED: 10-15-2015



Stewart Freilich
Senior Regulatory Affairs Counsel
Division of Insurance Market Regulation

DATED: _____



President
Old Surety Life Insurance Company

DATED: _____

Ann M. Frohman
Counsel for Old Surety Life Insurance Company

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Angela Nelson
Director, Division of Insurance
Market Regulation

DATED: _____

Stewart Freilich
Senior Regulatory Affairs Counsel
Division of Insurance Market Regulation

DATED: _____

President
Old Surety Life Insurance Company

DATED: Oct 8, 2015

Ann M Frohman
Ann M. Frohman
Counsel for Old Surety Life Insurance Company