

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

<i>In Re:</i>	)	
	)	
<b>MIDWESTERN INDEMNITY COMPANY (NAIC #0111-23515)</b>	)	<b>Market Conduct Investigation No. 13119-23515-PC</b>
	)	
<b>NETHERLANDS INSURANCE COMPANY (NAIC #0111-24171)</b>	)	<b>Market Conduct Investigation No. 13098-24171-PC</b>

**ORDER OF THE DIRECTOR**

NOW, on this 20<sup>th</sup> day of March, 2018, 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"), Midwestern Indemnity Company (NAIC #23515) (hereinafter "Midwestern"), and Netherlands Insurance Company (NAIC #24171) (hereinafter "Netherlands"), relating to the market conduct investigations set out in the caption above, does hereby issue the following orders:

This order, issued pursuant to §374.046.15<sup>1</sup> and §374.280 is in the public interest.

**IT IS THEREFORE ORDERED** that Midwestern, Netherlands, and the Division having agreed to the Stipulation, the Director does hereby approve and agree to the Stipulation.

**IT IS FURTHER ORDERED** that Midwestern and Netherlands shall not engage in any of the violations of law and regulations set forth in the Stipulation, shall implement procedures to place each 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 Midwestern and Netherlands shall collectively 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 FURTHER ORDERED** that payment of \$100,000 of the above amount is suspended subject to the terms of the Stipulation.

**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 20<sup>th</sup> day of March, 2018.



*Chlora Lindley-Myers*  
Chlora Lindley-Myers  
Director

<sup>1</sup> All references, unless otherwise noted, are to Missouri Revised Statutes 2016, as amended.

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<i>In Re:</i>	)	
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<b>MIDWESTERN INDEMNITY COMPANY (NAIC #0111-23515)</b>	)	<b>Market Conduct Investigation No. 13119-23515-PC</b>
	)	
<b>NETHERLANDS INSURANCE COMPANY (NAIC #0111-24171)</b>	)	<b>Market Conduct Investigation No. 13098-24171-PC</b>

**STIPULATION OF SETTLEMENT AND VOLUNTARY FORFEITURE**

It is hereby stipulated and agreed by the Division of Insurance Market Regulation (hereinafter "the Division"), Midwestern Indemnity Company (NAIC #0111-23515) (hereinafter "Midwestern"), and Netherlands Insurance Company (NAIC 0111-24171) (hereinafter "Netherlands), 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**, Midwestern and Netherlands have been granted certificates of authority to transact the business of insurance in the State of Missouri; and

**WHEREAS**, the Division conducted Market Conduct Investigations of Midwestern and Netherlands; and

**WHEREAS**, based on the Market Conduct Investigation of Midwestern, the Division alleges that:

1. In three hundred ninety-eight (398) instances, an audit was completed and billed more than 120 days from the expiration date of the policy in violation of §287.955.3 and 20 CSR

500-6.500(2)(A).

2. In five hundred seventy-eight (578) instances, Midwestern estimated premium at final audit in violation of §287.955.

3. Midwestern failed to file all rates and supplementary rate information in violation of §287.947.1 and 20 CSR 500-6.950.

4. In three (3) instances, Midwestern failed to attach to policies with Missouri premium or exposure the MO Amendatory Endorsement WC 24 06 04(A) in violation of §287.955.

5. In four (4) instances, Midwestern failed to provide a copy of the MO Amendatory Endorsement to the Department in violation of §287.955.

**WHEREAS**, based on the Market Conduct Investigation of Netherlands, the Division alleges that:

1. In six hundred forty-seven (647) instances, an audit was completed and billed more than 120 days from the expiration date of the policy in violation of §287.955.3 and 20 CSR 500-6.500(2)(A).

2. In six hundred fifty-four (654) instances, Netherlands estimated premium at final audit in violation of §287.955.

3. Netherlands failed to file all rates and supplementary rate information in violation of §287.947.1.

4. In sixty-three (63) instances, Netherlands failed to attach to policies with Missouri premium or exposure the MO Amendatory Endorsement WC 24 06 04(A) in violation of §287.955.

5. In fourteen (14) instances, Netherlands failed to provide a copy of the MO

Amendatory Endorsement to the Department in violation of §287.955.

**WHEREAS**, the Division, Midwestern and Netherlands have agreed to resolve the issues raised in the 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.** Midwestern and Netherlands 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. Midwestern and Netherlands 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 Midwestern or Netherlands provided that the agreement is adequately documented.

2. Midwestern and Netherlands agree to ensure that its procedures for determining final premium comply with NCCI rule 02-MO-2013 and that all rates used in determining final premium be filed with the Department.

3. Midwestern and Netherlands agree to attach the MO Amendatory Endorsement WC 24 06 04(A) to all policies with Missouri premium or exposure.

C. **Compliance.** Midwestern and Netherlands agree to file documentation with the Division within 120 days of the entry of a final order of all remedial action taken to implement compliance with the terms of this Stipulation. Such documentation is provided pursuant to §374.190.

D. **Voluntary Forfeiture.** Midwestern and Netherlands agree, voluntarily and knowingly, to surrender and forfeit the sum of \$150,000 in accordance with §374.280, RSMo. 2016.

E. **Partial Suspension of Voluntary Forfeiture.** Midwestern, Netherlands and the Division agree as follows with respect to the voluntary forfeiture set out in Section D:

1) Payment of \$50,000 is due within ten (10) days of the date the Director signs an Order approving this Stipulation;

2) Payment of \$100,000 is suspended subject to Midwestern and Netherlands substantially complying with the terms of Section B.1. of this Stipulation.

3) Substantial compliance with the terms of Section B.1. of this Stipulation shall be determined through a review undertaken by the Division of Insurance Market Regulation of Midwestern and Netherland's audits of workers compensation insurance policies with Missouri premium or exposure conducted after the date the Director signs the Order approving this Stipulation.

4) The Division will not begin its review until at least 240 days after the date the Director signs the Order approving this Stipulation, but may begin its review anytime thereafter.

5) The Division will review a statistically credible sample of audits of workers

compensation insurance policies with Missouri premium or exposure to determine a) if the audit was completed, billed and premiums returned within 120 days of policy expiration or cancellation, or b) if the audit was not completed, billed and premiums returned within 120 days of policy expiration or cancellation whether the delay i) was caused by the policyholder's failure to respond to reasonable audit requests provided that the requests were timely and adequately documented or ii) was by the mutual agreement of the policyholder provided that such mutual agreement was adequately documented.

6) If the Division concludes from its review that in over 3% of files examined, audits were a) not completed, billed and premiums returned within 120 days of policy expiration or cancellation, and b) Midwestern and Netherlands failed to adequately establish that delays were caused by the policyholder's failure to respond to reasonable and timely audit requests or resulted from a mutual agreement with the policyholder, the Director may order Midwestern and Netherlands to pay all or part of the suspended forfeiture amount.

**F. Other Penalties.** The Division agrees that it will not seek penalties against Midwestern or Netherlands, other than those agreed to in this Stipulation, for the conduct found in Market Conduct Investigation 13119-23515-PC and Market Conduction Investigation 13098-24171-PC.

**G. Non-Admission.** Nothing in this Stipulation shall be construed as an admission by Midwestern or Netherlands. This Stipulation is a compromised settlement to resolve disputed factual and legal allegations arising out the above-referenced Market Conduct Examinations.

**H. Waivers.** Midwestern and Netherlands, 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.

I. **Changes.** No changes to this stipulation shall be effective unless made in writing and agreed to by representatives of the Division, Midwestern, and Netherlands.

J. **Governing Law.** This Stipulation shall be governed and construed in accordance with the laws of the State of Missouri.

K. **Authority.** The signatories below represent, acknowledge and warrant that they are authorized to sign this Stipulation, on behalf of the Division, Midwestern, and Netherlands respectively.

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

M. **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.

N. **Counterparts.** This Stipulation may be executed in multiple counterparts, each of which shall be deemed an original and all of which taken together shall constitute a single document.


DATED: 3/14/2018

  
\_\_\_\_\_  
Angela Nelson  
Director, Division of Insurance  
Market Regulation

DATED: 3/14/2018

  
\_\_\_\_\_  
Stewart Freilich  
Senior Regulatory Affairs Counsel  
Division of Insurance Market Regulation

DATED: 3/14/18

 - AVP +  
Senior Corporate Counsel  
\_\_\_\_\_  
[Name and Title]  
Midwestern Indemnity Company

DATED: 3/14/18

 - AVP +  
Senior Corporate Counsel  
\_\_\_\_\_  
[Name and Title]  
Netherlands Insurance Company