



DEPARTMENT OF COMMERCE & INSURANCE

P.O. Box 690, Jefferson City, Mo. 65102-0690

In Re:)
)
ATLANTIC SPECIALTY INSURANCE) **Market Conduct Investigation No. 299125**
COMPANY (NAIC #27154))

ORDER OF THE DIRECTOR

NOW, on this 01st day of March, 2021, 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”), and Atlantic Specialty Insurance Company (NAIC #27154) (hereinafter “ASIC”), relating to the market conduct investigation no. 299125, does hereby issue the following orders:

This order, issued pursuant to §374.046.15¹ and §374.280 is in the public interest.

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

IT IS FURTHER ORDERED that ASIC shall not engage in any of the violations of law and regulations set forth in the Stipulation, shall implement procedures to place it 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 ASIC shall pay, and the Department of Commerce and Insurance, State of Missouri, shall accept, the Voluntary Forfeiture of \$14,000.00, payable to the Missouri State School Fund.

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

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 01st day of March, 2021.



A handwritten signature in blue ink that reads "Chlora Lindley-Myers".

Chlora Lindley-Myers
Director

**IN THE DEPARTMENT OF COMMERCE AND INSURANCE
STATE OF MISSOURI**

In Re:)
)
ATLANTIC SPECIALTY INSURANCE) **Market Conduct Investigation No. 299125**
COMPANY (NAIC #27154))

STIPULATION OF SETTLEMENT AND VOLUNTARY FORFEITURE

It is hereby stipulated and agreed by the Division of Insurance Market Regulation (hereinafter, the “Division”), and Atlantic Specialty Insurance Company (NAIC #27154) (hereinafter “ASIC”), as follows:

WHEREAS, the Division is a unit of the Missouri Department of Commerce and Insurance (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;

WHEREAS, ASIC has been granted a certificate of authority to transact the business of insurance in the State of Missouri;

WHEREAS, the Division conducted a market conduct investigation of ASIC, investigation no. 299125; and

WHEREAS, based on the market conduct investigation of ASIC the Division alleges that:

1. ASIC sent subrogation letters in connection with Missouri insureds’ claims for medical or disability benefits after being advised that subrogation is not permitted in Missouri in violation of §375.936 (6) (a)¹ and 20 CSR 400-2.030 (6) (D) 3.

2. ASIC’s group occupational accident program, solicited and sold to Missouri employers, did not include required disclosures in violation of 20 CSR 400-2.090 (4) (B) 1.

¹ All references, unless otherwise noted, are to Revised Statutes of Missouri 2016, as amended, or to the Code of State Regulations, 2020, as amended.

3. ASIC misstated information to the Department when it represented that a certain certificate form, AH 402A OA ODCGIT MO 09 16 was being used in Missouri and was issued to two Missouri employers in violation of §374.210.1 (2).

WHEREAS, ASIC denies: (i) that its subrogation practices violated Missouri law; (ii) that the disclosures required by 20 CSR 400-2.090 (4) (B) 1 apply to the policy at issue; and (iii) that it misstated information to the Department.

WHEREAS, the Division and ASIC 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 (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.** ASIC agrees to take remedial action to ensure full compliance with the statutes and regulations of Missouri and agrees to maintain those remedial actions at all times. Such remedial actions shall include, but are not limited to, the following:

1. Unless there is an intervening change in Missouri law allowing for subrogation, ASIC agrees not to seek subrogation in connection with claims for medical or disability benefits under group occupational accident health insurance certificates issued to Missouri residents and adjudicated in the state of Missouri or any forum applying Missouri law.

2. Unless there is an intervening change in Missouri law allowing for subrogation, ASIC agrees to cease representing that it has a subrogation claim or subrogation interest in connection with

claims for medical or disability benefits under group occupational accident health insurance certificates issued to Missouri residents and adjudicated in the state of Missouri or any forum applying Missouri law.

3. ASIC agrees to cease the use of any and all solicitations or sales material and certificates that do not contain the following disclosure required by 20 CSR 400-2.090 (4) (B): “Premium rates may differ based on the mode of transportation used for delivery. Rates are calculated on the basis of experience within the entire group. Individual coverage will not be cancelled or non-renewed due to the deterioration of the health of participants. Any change in premium rates will be communicated to the policyholder and the approved platform operator with written notice 60 days in advance of the premium due date.”

4. ASIC agrees to reprocess any claim submitted under the On-Demand Companies’ Group Insurance Trust that was improperly denied based upon the unfiled exclusion language “suicide or any attempt at suicide,” rather than on the filed exclusion language “suicide or any attempt at suicide while sane.” Interest, calculated pursuant to §374.191, shall be included with the reprocessed payment. In addition, a letter should be included with the payments stating that “as a result of a Missouri market conduct investigation, the claim was found to be payable.”

5. ASIC agrees that it will only use certificate forms containing the following elements when issuing ODCGIT coverage to Missouri drivers:

- a. The certificate shall include the language: “suicide or any attempt at suicide while sane” rather than the general certificate’s use of “suicide or any attempt at suicide.” (See 20 CSR 400-2.060 (3) (F))
- b. The certificate shall use the language “mental handicap,” rather than “mental retardation.” (See §376.426 (16))
- c. The certificate shall include a Missouri specific “Notice of Protection Provided by

Missouri Life and Health Insurance Guaranty Association.”

- d. The certificate shall include the following language: “Premium rates may differ based on the mode of transportation used for delivery. Rates are calculated on the basis of experience within the entire group. Individual coverage will not be cancelled or non-renewed due to the deterioration of the health of participants. Any change in premium rates will be communicated to the policyholder and the approved platform operator with written notice 60 days in advance of the premium due date.” (See 20 CSR 200-2.090 (4) (B)). ASIC also agrees to send a bulletin or other written correspondence to the policyholder or approved platform operator reminding the policyholder or approved platform operator of the requirement to send notification to any individual unit or individual participant to which a premium rate change will apply.

6. ASIC agrees that it will provide complete and accurate information to the Department in response to future inquiries, investigations or examinations.

C. **Compliance.** ASIC 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.

D. **Voluntary Forfeiture.** ASIC agrees, voluntarily and knowingly, to surrender the sum of \$14,000 as a forfeiture, such sum payable to the Missouri State School Fund, in accordance with §374.049.11 and §374.280.2.

E. **Other Penalties.** The Division agrees that it will not seek penalties against ASIC, other than those agreed to in this Stipulation, in connection with the above referenced market conduct investigation.

F. **Non-Admission.** Nothing in this Stipulation shall be construed as an admission by

ASIC, this Stipulation being part of a compromise settlement to resolve disputed factual and legal allegations arising out of the above referenced market conduct investigation.

G. **Waivers.** ASIC, 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 investigation no. 299125.

H. **Changes.** No changes to this Stipulation shall be effective unless made in writing and agreed to by representatives of the Division and ASIC.

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

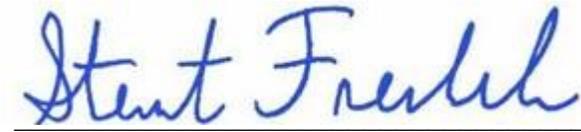
J. **Authority.** The signatories below represent, acknowledge and warrant that they are authorized to sign this Stipulation, on behalf of the Division and ASIC respectively.

K. **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. Execution by facsimile or by electronically transmitted signature shall be fully and legally effective and binding.

L. **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.

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.

DATED: 2=22-2021



Stewart Freilich
Chief Market Conduct Examiner and Senior Counsel
Division of Insurance Market Regulation

DATED: February 19, 2021



Sarah A. Kolar
General Counsel
Atlantic Specialty Insurance Company