

JUN 22 2017

BEFORE THE DEPARTMENT OF INSURANCE STATE OF NEBRASKA

FILED

STATE OF NEBRASKA)
DEPARTMENT OF INSURANCE,)
PETITIONER,)
VS.)
AMERICAN FAMILY MUTUAL)
INSURANCE COMPANY (NAIC #19275),)
RESPONDENT.)

CONSENT ORDER

CAUSE NO. C-2308

IDENTIFIER # 19275
AMOUNT \$ 300.-

JUN 23 2017

DISTRIBUTION # 21358076
CHECK # 13585169

In order to resolve this matter, the Nebraska Department of Insurance ("Department"), by and through its attorney, Robert M. Bell, and American Family Mutual Insurance Company ("Respondent"), mutually stipulate and agree as follows.

JURISDICTION

1. The Department has jurisdiction over the subject matter and Respondent pursuant to Neb. Rev. Stat. § 44-101.01, 44-135, and 44-303 et. seq. Said jurisdiction and control have been present at all times material hereto.

2. Respondent is a licensed Wisconsin domiciled insurance company licensed to engage in the business of insurance in the State of Nebraska.

STIPULATIONS OF FACT

1. The Department initiated this administrative proceeding by filing a petition captioned State of Nebraska Department of Insurance vs. American Family Mutual Insurance Company (NAIC #19275), Cause Number C-2308, on May 30, 2017. A copy of the Petition was served upon Respondent's registered mailing address 6000 American Pkwy, Madison, WI 53783 and Respondent's agent for service of process, CSC-Lawyers Incorporating Service Co., 233 South 13th

St., Suite 1900, Lincoln, NE 68508, by certified mail, return receipt requested and by email, sop@cscinfo.com

2. The Department has jurisdiction over Respondent in the above-described administrative proceeding.

3. In order to cooperatively settle this matter, Respondent agrees the conduct summarized below may be a violation of Neb. Rev. Stat. §§ 44-1540(2) as a result of the following conduct:

- a. On or about January 26, 2016, Respondent's insured was involved in a motor vehicle accident in Blair, Nebraska. According to the police report, Respondent's insured did not stop at a stop sign at an intersection and collided with another vehicle, causing damage to both vehicles. Respondent's insured received a traffic citation for running the stop sign.
- b. On or about January 27, 2016, Respondent's insured contacted Respondent to file a claim. During the loss report, the insured indicated the other driver's information was unknown.
- c. On or about January 28, 2016, Respondent interviewed its insured regarding the accident. During the conversation that was not part of the recorded interview, the insured confirmed she did not have the other driver's information and it would be on the police report. Additionally, on this date Respondent ordered a police report.
- d. On or about February 4, 2016, Suzanne White, the driver of the other vehicle called Respondent to speak with an adjuster. Ms. White was transferred to the adjuster's voicemail and left a message.
- e. On or about February 5, 2016, Ms. White again called Respondent and left a message seeking a call back.
- f. On or about February 8, 2016, Ms. White again called Respondent and she received the adjuster's contact information from Respondent, and again was transferred to the assigned adjuster's voicemail. The assigned adjuster was out of the office for a family emergency and it is Respondent's standard practice to update voicemail messages with out of office information and to give another number to call for immediate assistance.
- g. On or about February 9, 2016, Respondent received the police report from the Blair Police Department. The police report contained Ms. White's address, phone number, and insurer information.
- h. On or about February 16, 2016, Ms. White again called Respondent seeking follow-up from an adjuster. At this time, Respondent interviewed Ms. White on the details of the accident and damage to her vehicle.
- i. On or about February 17, 2016, Respondent contacted Ms. White and offered a settlement of her damages and followed up with a written offer.

- j. On or about March 18, 2016, after no response to the settlement offer, Respondent called Ms. White and left a voicemail inquiring on the status of her offer and asking whether or not she had filed a claim with her insurer.
- k. On or about April 7, 2016, without replying to the Respondent settlement offer, Ms. White filed a complaint with the Nebraska Department of Insurance related to Respondent's handling of the claim. On or about April 18, 2016, Respondent replied to the Department's inquiry into its handling of Ms. White's claim admitting to delays. In the response, Respondent informed the Department of its decision to pay one hundred percent of Ms. White's damages because of the delays, but maintained its position in support of a comparative negligence assessment.

4. In the spirit of cooperation and in order to avoid further expense and loss of time, Respondent enters into this Consent Order feely and voluntarily. Respondent was informed of its right to a public hearing. Respondent waives its right to a hearing and acknowledges that by doing so, Respondent also waives its right to confrontation of witnesses, production of evidence, and judicial review.

5. Respondent neither admits nor denies the allegations set forth in paragraph 3 of this section and is willing to amicably resolve all pending matters to avoid the uncertainty and expense of litigation.

CONCLUSIONS OF LAW

Respondent's conduct as stipulated above constitutes a violation of Neb. Rev. Stat. Neb. Rev. Stat. §§ 44-1540(2) and is subject to administrative penalty pursuant to Neb. Rev. Stat. § 44-1529.

CONSENT ORDER

It is therefore ordered by the Director of Insurance and agreed by the Respondent, American Family Mutual Insurance Company, that Respondent shall pay an administrative fine in the amount of \$300.00 due within 30 days after the Director of Insurance or his designee approves and signs this Consent Order.

STATE OF NEBRASKA
DEPARTMENT OF INSURANCE

Bruce R. Ramge
BRUCE R. RAMGE
Director of Insurance

6-22-2017
Date

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing Consent Order was served upon Respondent by mailing a copy to Respondent's registered mailing address, 6000 American Pkwy, Madison, WI 53783, by certified mail, return receipt requested, on this 26 day of June, 2017.

I also hereby certify that a copy of the foregoing Petition and Notice of Hearing was served upon Respondent by mailing a copy to Respondent's agent for service of process, CSC-Lawyers Incorporating Service Co., at 233 South 13th St., Suite 1900, Lincoln, NE 68508, by certified mail, return receipt requested, and by email sop@cscinfo.com, this ~~26~~^{26 BB} day of June, 2017.

Brandis J. Bauer