

DEC 21 2021

FILED

BEFORE THE DEPARTMENT OF INSURANCE  
STATE OF NEBRASKA

STATE OF NEBRASKA	)	
DEPARTMENT OF INSURANCE,	)	
	)	
PETITIONER,	)	CONSENT ORDER
	)	
VS.	)	
	)	
BRISTOL WEST INSURANCE	)	CAUSE NO. C-2729
COMPANY,	)	
	)	
RESPONDENT.	)	

In order to resolve this matter, the Nebraska Department of Insurance ("Department"), by and through its representative, Michael W. Anderson, and Bristol West 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, §44-303 and §44-4047, et seq.
2. Respondent was licensed as an insurer under the laws of Nebraska at all times material hereto.

STIPULATIONS OF FACT

1. The Department initiated this administrative proceeding by filing a petition styled State of Nebraska Department of Insurance vs. Bristol West Insurance Company, Cause Number C-2729 on November 10, 2021. A copy of the petition was served upon the Respondent, at the Respondent's address registered with the Department by certified mail, return receipt requested.
2. The petition alleges that Respondent violated Neb. Rev. Stat. §§ 44-1540 (2), 44-1540(3), 44-1540(4), and Title 210 NAC Ch. 60 §§ 008.04 as a result of the following conduct:

- a. On September 2, 2021, Petitioner's Office received a consumer complaint from a complainant whose truck and trailer had been hit by an intoxicated driver, who was insured by Respondent.
- b. On September 3, 2021, Respondent was sent an inquiry regarding their handling of the claim.
- c. Respondent's response was received on September 22, 2021, and documents contained in that response allowed reconstruction of the following events:
  - a. On June 2, 2021, Respondent was emailed the police report of the accident, as well as photos of the damage to complainant's truck and trailer.
  - b. On June 4, 2021, Respondent requested additional photos of damage to the trailer.
  - c. On June 4, 2021, Respondent's file confirms that the additional photos of the trailer were received and supported the estimates.
  - d. On June 9, 2021, complainant's insurer sent a notice of subrogation rights to Respondent
  - e. On June 16, 2021, Respondent accepted liability for their insured and issued a payment of \$846.73 for damages to complainant's trailer. The letter sent along with this payment inaccurately referenced the payment as being for damage to complainant's vehicle.
  - f. On July 15, 2021, the exposure was marked as closed in Respondent's system, due to "inactivity".

- g. A subrogation demand was sent to Respondent on July 16, 2021 for damage to complainant's vehicle in the amount of \$7,823.26.
- h. On September 1, 2021, a separate subrogation demand was sent to Respondent for damage to complainant's trailer in the amount of \$4,381.75.
- i. On September 8, 2021, after involvement of Petitioner's Office, settlement payments were issued to the complainant, which included reimbursement of the deductibles paid by the complainant.
- j. No documentation was offered by the Respondent to explain the lapses in contact with the complainant from June 18, 2021 through July 15, 2021, and from July 29, 2021 through September 8, 2021.
- k. In their response, Respondent admits that the photos of complainant's vehicle were overlooked "due to human oversight".

3. Respondent was informed of the right to a public hearing. Respondent waives that right, and enters into this Consent Order freely and voluntarily. Respondent understands and acknowledges that by waiving its right to a public hearing, Respondent also waives its right to confrontation of witnesses, production of evidence, and judicial review.

4. Respondent neither admits nor denies conduct as alleged above in paragraph #2. Respondent admits that conduct as alleged above in paragraph #2 subjects Respondent to disciplinary action pursuant to Neb. Rev. Stat. § 44-1529.

CONCLUSIONS OF LAW

The conduct of Bristol West Insurance Company, as alleged above, constitutes multiple violations of Neb. Rev. Stat. §§ 44-1540 (2), 44-1540(3), 44-1540(4), and Title 210 NAC Ch. 60 §§ 008.04.

CONSENT ORDER

It is therefore ordered by the Director of Insurance and agreed to by Respondent, that Respondent shall pay an administrative fine in the amount of three thousand dollars (\$3,000). The Respondent has thirty days from the date of approval of this consent order by the Nebraska Director of Insurance to pay the fine. The Nebraska Department of Insurance shall retain jurisdiction of this matter for the purpose of enabling the Department to make application for such further orders as may be necessary.

In witness of their intention to be bound by this Consent Order, each party has executed this document by subscribing their signatures below.

  
\_\_\_\_\_  
Michael W. Anderson, #67618  
Department of Insurance  
1526 "K" Street, Suite 200  
Lincoln, Nebraska 68501  
(402) 471-4649  
  
12/20/21  
\_\_\_\_\_  
Date

  
\_\_\_\_\_  
Nichra L. McLarty  
Bristol West Insurance Company  
  
12/17/21  
\_\_\_\_\_  
Date

# CALIFORNIA ALL- PURPOSE CERTIFICATE OF ACKNOWLEDGMENT

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California }

County of ORANGE }

On 12-17-2021 before me, Marva C Bogle, Notary Public,  
(Here insert name and title of the officer)

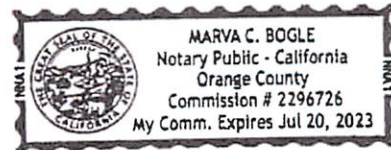
personally appeared Victoria L MCCARTHY,  
who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Marva C Bogle  
Notary Public Signature

(Notary Public Seal)



## ADDITIONAL OPTIONAL INFORMATION

DESCRIPTION OF THE ATTACHED DOCUMENT

Stipulation of Fact  
(Title or description of attached document)

Case No C-2729  
(Title or description of attached document continued)

Number of Pages \_\_\_\_\_ Document Date \_\_\_\_\_

CAPACITY CLAIMED BY THE SIGNER

Individual (s)

Corporate Officer

\_\_\_\_\_ (Title)

Partner(s)

Attorney-in-Fact

Trustee(s)

Other \_\_\_\_\_

## INSTRUCTIONS FOR COMPLETING THIS FORM

- This form complies with current California statutes regarding notary wording and, if needed, should be completed and attached to the document. Acknowledgments from other states may be completed for documents being sent to that state so long as the wording does not require the California notary to violate California notary law.*
- State and County information must be the State and County where the document signer(s) personally appeared before the notary public for acknowledgment.
  - Date of notarization must be the date that the signer(s) personally appeared which must also be the same date the acknowledgment is completed.
  - The notary public must print his or her name as it appears within his or her commission followed by a comma and then your title (notary public).
  - Print the name(s) of document signer(s) who personally appear at the time of notarization.
  - Indicate the correct singular or plural forms by crossing off incorrect forms (i.e. ~~he/she/they~~- is /are ) or circling the correct forms. Failure to correctly indicate this information may lead to rejection of document recording.
  - The notary seal impression must be clear and photographically reproducible. Impression must not cover text or lines. If seal impression smudges, re-seal if a sufficient area permits, otherwise complete a different acknowledgment form.
  - Signature of the notary public must match the signature on file with the office of the county clerk.
    - ❖ Additional information is not required but could help to ensure this acknowledgment is not misused or attached to a different document.
    - ❖ Indicate title or type of attached document, number of pages and date.
    - ❖ Indicate the capacity claimed by the signer. If the claimed capacity is a corporate officer, indicate the title (i.e. CEO, CFO, Secretary).
  - Securely attach this document to the signed document with a staple.

State of CA )  
 ) ss.  
County of Orange )

On this 17 day of December, 2021, \_\_\_\_\_, on behalf of Bristol West Insurance Company personally appeared before me and read this Consent Order, executed the same and acknowledged the same to be their voluntary act and deed.

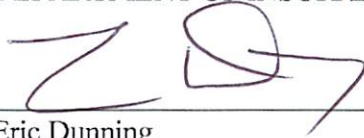
See attached California notary form  
Notary Public

Satisfactory Proof of Identification  
California Notary Form Attached  
Per California Law

CERTIFICATE OF ADOPTION

I hereby certify that the foregoing Consent Order is adopted as the Final Order of the  
Nebraska Department of Insurance in the matter of State of Nebraska Department of Insurance vs.  
Bristol West, Cause No. C-2729.

STATE OF NEBRASKA  
DEPARTMENT OF INSURANCE



Eric Dunning  
Director of Insurance

12/21/21  
Date

CERTIFICATE OF SERVICE

I hereby certify that a copy of the executed Consent Order was sent to the Respondent at  
900 S. Pine Island Road, Suite 600, Plantation, Florida, 33324, by certified mail, return receipt  
requested on this 21<sup>st</sup> day of December, 2021.

