

**BEFORE THE INSURANCE COMMISSIONER
FOR THE STATE OF ARKANSAS**

IN THE MATTER OF:)
)
ENCOMPASS INDEMNITY)
COMPANY)
)
AND)
)
ENCOMPASS INSURANCE)
COMPANY OF AMERICA)
)
CERTIFICATE OF AUTHORITY)
NO. 2717 AND 2738)

A.I.D. NO. 2019 - 80

CONSENT ORDER

On this day, the matter of Encompass Indemnity Company and Encompass Insurance Company of America (collectively, “Companies”) came before Allen Kerr, Arkansas Insurance Commissioner (“Commissioner”). The Arkansas Insurance Department (“Department”) is represented by Melissa Grisham, Associate Counsel, in this matter. From the facts and law before him, the Commissioner finds as follows:

GENERAL STIPULATIONS

1. It is expressly understood that this Consent Order is subject to the Commissioner’s acceptance and has no force or effect until such acceptance is evidenced by the entry of the Commissioner.
2. By the signature affixed below, Companies affirmatively state that the entry of this Consent Order has been freely entered, and that no threats or promises of any kind have been made by the Commissioner, the Department, or any agent or representative thereof.

3. The parties state their agreement to be bound by the terms of this Consent Order and aver that no promises or offers relating to the circumstances described herein have been made, other than the terms of settlement set forth herein.

FINDINGS OF FACT

1. On August 26, 2019, Encompass Indemnity Company filed a rate increase with a requested effective date of September 26, 2019.

2. On August 28, 2019, the Department sent an objection to Encompass Indemnity Company, which Encompass Indemnity Company responded to on September 12, 2019. The objection cited numerous issues, one of which was the request for additional information on rating variables.

3. On September 13, 2019, the Department sent follow-up objections along with a disposition disapproving the filing.

4. During the objection and response process, the Department learned that Encompass Indemnity Company began processing renewals under the unapproved rates beginning on August 12, 2019, prior to filing the rate request with the Department. This was due to Encompass Indemnity Company's 45-day lead time that is required for renewals processing and the mistaken belief that internal processing and new rate implementation could begin prior to the Department's approval.

5. On September 25, 2019, the Department re-opened the rate filing per Encompass Indemnity Company's request and ultimately approved the rate increase on October 2, 2019.

6. As a result of the implementation of an unapproved rate, 238 Arkansas policyholders were impacted. The consumers who were overcharged premium will receive a

premium refund via an issued check or a policy credit. The consumers who were undercharged premium will not be required to pay the additional premium due.

7. On October 28, 2019, the Companies notified the Department of three (3) additional instances where rate increases were implemented prior to filing the rates or receiving approval from the Department. These rate increases occurred on September 19, 2016; April 30, 2018; and August 12, 2019.

8. As a result of the implementation of the three (3) additional unapproved rates, 249 additional Arkansas policyholders were impacted. The consumers who were overcharged premium will receive a premium refund.

CONCLUSIONS OF LAW

1. The Commissioner has jurisdiction over the parties and the subject matter pursuant to Ark. Code Ann. § 23-61-103.

2. Pursuant to Ark. Code Ann. § 23-67-211(a)(1)(A)-(B), “In a competitive market, every insurer shall file with the Insurance Commissioner all rates, supplementary rate information, and supporting information for risks which are to be written in this state. The rates and information shall be filed twenty (20) days prior to the effective date. A filing shall be deemed to meet the requirements of this chapter and to become effective upon expiration of the waiting period or sooner if approved by the commissioner.”

3. The Department alleges that the Companies violated Ark. Code Ann. § 23-67-211(a)(1)(A) by implementing four (4) different rate increases prior to filing the rates or receiving approval from the Department.

4. Pursuant to Ark. Code. Ann. § 23-60-108, a violation of a statute or regulation enforceable by the Insurance Commissioner is punishable by the refusal, suspension, revocation

or nonrenewal of a license or certificate of authority; and a fine no greater than one thousand dollars (\$1,000) per violation, not to exceed fifty thousand dollars (\$50,000) in any six-month period.

5. Based on the Department's findings, the Companies are assessed and agree to pay a monetary penalty in the amount of \$40,000.00.

IT IS HEREBY ORDERED AND JOINTLY AGREED that:

1. In consideration of the Commissioner's Findings of Fact and Conclusions of Law, the Companies shall pay a monetary penalty in the amount of \$40,000.00.

2. The Companies shall provide a final report verifying the issuance of a refund check or policy credit to all impacted Arkansas policyholders that were overcharged premium.

3. The Companies shall prepare a Corrective Action Plan detailing the steps taken to ensure future compliance with Ark. Code Ann. § 23-67-211(a)(1)(A) and provide to the Department no later than 30 days after filing of this Consent Order.

4. The monetary penalty is to be received by the Department no later than ten (10) days after filing of this Consent Order.

IT IS SO ORDERED THIS 2nd day of ^{December} ~~November~~, 2019.


ALLEN KERR
INSURANCE COMMISSIONER
STATE OF ARKANSAS


BRIAN SAVAGE
ENCOMPASS PRODUCT VICE PRESIDENT
ENCOMPASS INDEMNITY COMPANY
ENCOMPASS INSURANCE COMPANY OF AMERICA