



**BEFORE THE COMMISSIONER OF COMMERCE AND INSURANCE
FOR THE STATE OF TENNESSEE**

TENNESSEE INSURANCE DIVISION,)
)
 Petitioner,)
)
 vs.) **TID No.: 20-162**
)
 AMERICAN COUNTRY INSURANCE)
 COMPANY,)
)
 Respondent.)

AGREED FINAL ORDER

COME NOW, Petitioner, the Insurance Division of the Tennessee Department of Commerce and Insurance (“Division”), by and through counsel, and the Respondent, American Country Insurance Company (“Respondent” or “ACIC”), and hereby stipulate and agree, subject to the approval of the Commissioner of the Tennessee Department of Commerce and Insurance (“Commissioner”), as follows:

GENERAL STIPULATIONS

1. It is expressly understood that this Agreed Final Order is subject to the Commissioner’s acceptance and has no force and effect until such acceptance is evidenced by the entry and execution of this Agreed Final Order by the Commissioner. Entry and execution of the Agreed Final Order by the Commissioner shall occur when the Commissioner signs and dates this Agreed Final Order.

2. This Agreed Final Order is executed by the Respondent for the purpose of avoiding further administrative action with respect to this cause. Furthermore, should this Agreed Final

Order not be accepted by the Commissioner, it is agreed that presentation to and consideration of this Agreed Final Order by the Commissioner shall not unfairly or illegally prejudice the Commissioner from further participation or resolution of these proceedings.

3. The Respondent fully understands that this Agreed Final Order will in no way preclude additional proceedings by the Commissioner against the Respondent for acts or omissions not specifically addressed in this Agreed Final Order or for facts and/or omissions that do not arise from the facts or transactions herein addressed.

4. The Respondent fully understands that this Agreed Final Order will in no way preclude proceedings by state government representatives, other than the Commissioner, for violations of the statutes, rules, or regulations addressed specifically in the Findings of Fact and Conclusions of Law in this Agreed Final Order, or which may arise as a result of the execution of this Agreed Final Order by the Respondent.

5. The Respondent expressly waives all further procedural steps, and expressly waives all rights to seek judicial review of or to otherwise challenge or contest the validity of this Agreed Final Order and the consideration and entry and execution of said Agreed Final Order by the Commissioner.

AUTHORITY AND JURISDICTION

6. The Commissioner has jurisdiction over this matter pursuant to Tennessee insurance law, Title 56 of the Tennessee Code Annotated (“Tenn. Code Ann.”), specifically Tenn. Code Ann. §§ 56-1-101 *et seq.*, 56-1-202, 56-1-401 *et seq.*, 56-2-101 *et seq.*, 56-2-305, and 56-14-101 *et seq.* (the “Law”). The Law places on the Commissioner the responsibility of the administration of its provisions.

PARTIES

7. The Division is the lawful agent through which the Commissioner administers the Law and is authorized to bring this action for the protection of the public.

8. The Respondent is an accredited insurance company licensed by the Commissioner to conduct insurance business in the State of Tennessee.

FINDINGS OF FACT

9. The Respondent is an eligible surplus lines insurer in Tennessee but does not have any appointed agents in Tennessee at this time.

10. The Respondent is one (1) of several companies that comprise the Atlas Financial Holdings Group (“Atlas Group”), National Association of Insurance Commissioners (“NAIC”) Group Number 4795.

11. Subsequent to filing its 2018 annual statement in March of 2019, the Respondent has not filed any financial statements or supporting documents with the NAIC or the Division.

12. The Respondent’s directors unanimously agreed and consented to be placed in rehabilitation in Illinois on May 14, 2019.

13. The Respondent was put in rehabilitation on July 8, 2019, via an Agreed Order of Rehabilitation in the State of Illinois.

14. The Respondent, and the remaining companies in the Atlas Group, agreed to discontinue writing new business as of August 15, 2019, as part of the Agreed Order of Rehabilitation.

15. The Respondent, and the remaining companies in the Atlas Group, agreed to discontinue renewing business as of October 1, 2019, subject to the statutory non-renewal notice requirements of each state.

CONCLUSIONS OF LAW

16. Tenn. Code Ann. § 56-1-416 provides that the Commissioner shall revoke or suspend all certificates of authority granted to an insurance company if the Commissioner is of the opinion, upon examination or other evidence, that a foreign insurance company is in an unsound condition and, upon such a finding, no new business shall be done by the company or its agents under suspension or revocation while such default or disability continues and not until its authority to do business is restored by the Commissioner.

17. Tenn. Code Ann. § 56-1-501(b) provides that:

All companies authorized to do business under chapters 2, 14-16, 18-21, 23, 24, 26-31 and 35 of this title shall annually, on or before March 1, file in the office of the commissioner an annual statement in the form adopted for use by companies, by class of business authorized, which statement shall exhibit its financial condition on December 31 of the previous year, and its business of that year, which statement shall be completed and filed in accordance with annual statement instructions established by the commissioner.

18. Tenn. Code Ann. § 56-14-109(c) provides that:

If, at any time the commissioner has reason to believe that any unauthorized insurer then on the list of eligible surplus lines insurers no longer meets conditions of eligibility, has willfully violated the laws of this state or does not conduct a proper claims practice, the commissioner may declare it ineligible.

19. Tenn. Comp. R. & Regs. 0780-01-37-.07(1) provides that all insurers required by law to file annual statements are also required to file financial statements on a quarterly basis. The quarterly statements must be filed on May 15, August 15, and November 15 of each year.

20. Tenn. Comp. R. & Regs. 0780-01-66-.03(1) provides that the Commissioner may consider “[a]dverse findings reported in financial condition and market conduct examination

reports, audit reports, and actuarial opinions, reports or summaries[]” in determining whether an insurance company transacting business in this state is in a hazardous financial condition.

21. Tenn. Comp. R. & Regs. 0780-01-66-.03(2) provides that the Commissioner may consider “[t]he National Association of Insurance Commissioners Insurance Regulatory Information System and its other financial analysis solvency tools and reports[]” in determining whether an insurance company transacting business in this state is in a hazardous financial condition.

22. Tenn. Comp. R. & Regs. 0780-01-66-.03(3) provides that the Commissioner may consider:

Whether the insurer has made adequate provision, according to presently accepted actuarial standards of practice, for the anticipated cash flows required by the contractual obligations and related expenses of the insurer, when considered in light of the assets held by the insurer with respect to such reserves and related actuarial items including, but not limited to the investment earnings on such assets, and the considerations anticipated to be received and retained under such policies and contracts[.]

23. Tenn. Comp. R. & Regs. 0780-01-66-.03(8) provides that the Commissioner may consider “[c]ontingent liabilities, pledges or guaranties which either individually or collectively involve a total amount which in the opinion of the commissioner may affect the solvency of the insurer[.]”

24. Tenn. Comp. R. & Regs. 0780-01-66-.03(16) provides that the Commissioner may consider “[w]hether the insurer has experienced or will experience in the foreseeable future cash flow or liquidity problems[]” in determining whether an insurance company transacting business in this state is in a hazardous financial condition.

ORDER

NOW, THEREFORE, on the basis of the foregoing and the Respondent's waiver of the right to a hearing and appeal under Tennessee insurance law and Tennessee's Uniform Administrative Procedures Act, Tenn. Code Ann. §§ 4-5-101 *et seq.*, and the Respondent's admission of jurisdiction of the Commissioner, the Commissioner finds that the Respondent, for the purpose of settling this matter, admits the Findings of Fact and Conclusions of Law, agrees to the entry and execution of this Agreed Final Order and agrees that this Agreed Final Order is in the public interest, necessary for the protection of investors and consistent with the purposes fairly intended by the policy and provisions of the Law.

IT IS ORDERED, pursuant to Tenn. Code Ann. § 56-1-416 of the Tennessee insurance law, that:

1. ACIC is an ineligible surplus lines insurer in Tennessee.
2. ACIC agrees that it shall not be eligible to write any new business in Tennessee until the Commissioner determines that ACIC is no longer in a hazardous financial condition based on any of the factors in Tenn. Comp. R. & Regs. 0780-01-66-.03.
3. Should the Commissioner determine that ACIC's financial condition is no longer unsound, he may at any time deem the company eligible, by order, provided the Respondent meets all requirements including, but not limited to, Tenn. Code Ann. §§ 56-1-501, 56-1-502, 56-2-101 through 56-2-104, 56-2-113 through 56-2-115, 56-2-201, and 56-2-301.
4. This Agreed Final Order is in the public interest and in the best interests of the parties. This Agreed Final Order represents a compromise and settlement of the controversy between the parties and is for settlement purposes only. By the signature affixed below, in two (2) or more counterparts, ACIC affirmatively states it has freely agreed to the entry and execution of

this Agreed Final Order; it has been advised that it may consult legal counsel in this matter and has had the opportunity to consult with legal counsel; it waives its right to a hearing on the matters underlying this Agreed Final Order, to a review of the Findings of Fact and Conclusions of Law contained herein, and to objections to enforcement of this Agreed Final Order; and no threats or promises of any kind have been made by the Commissioner, the Division, or any agent or representative thereof. The parties, by signing this Agreed Final Order, affirmatively state their agreement to be bound by the terms of this Agreed Final Order and aver that no promises or offers relating to the circumstances described herein, other than the terms of settlement set forth in this Agreed Final Order, are binding upon them.

5. Nothing in this Agreed Final Order should be construed to limit the authority of the Division or the Commissioner to take further action against the Respondent should such action, in the opinion of the Division or the Commissioner, be necessary.

6. This Agreed Final Order may be executed in two (2) or more counterparts, each of which shall be deemed an original but all of which together shall constitute one and the same document. The facsimile, email, or other electronically delivered signatures of the parties shall be deemed to constitute original signatures, and facsimile or electronic copies shall be deemed to constitute duplicate originals.

IT IS SO ORDERED.

ENTERED AND EXECUTED November 14, 2020.


Carter Lawrence (Nov 14, 2020 13:14 CST)
Carter Lawrence, Commissioner
Department of Commerce and Insurance

APPROVED FOR ENTRY AND EXECUTION:

J. Kevin Baldwin

Name J. Kevin Baldwin

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