

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

TENNESSEE INSURANCE DIVISION,)	
)	
Petitioner,)	
)	
vs.)	No.: 20-078
)	
FIRST DAKOTA INDEMNITY COMPANY,)	
)	
Respondent.)	
)	

CONSENT ORDER

The Insurance Division of the Tennessee Department of Commerce and Insurance (the “Division”) and First Dakota Indemnity Company (“Respondent”) hereby stipulate and agree to the entry and execution of this Consent Order (“Order”), subject to the approval of the Commissioner of the Tennessee Department of Commerce and Insurance (the “Commissioner”), as follows:

GENERAL STIPULATIONS

1. It is expressly understood that this 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 the Commissioner.

2. This Order is executed by the parties for the purpose of avoiding further administrative action with respect to this cause. Furthermore, should this Order not be accepted by the Commissioner, it is agreed that presentation to and consideration of this 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 Order will in no way preclude additional proceedings by the Commissioner against the Respondent for acts or omissions that do not arise from the facts or transactions herein addressed.

4. The Respondent fully understands that this Order will in no way preclude proceedings by state government representatives, other than the Commissioner, for alleged violations of the law addressed specifically in this Order, against the Respondent for violations of law under statutes, rules, or regulations of the State of Tennessee, which may arise out of the facts, acts, or omissions contained in the Findings of Fact and Conclusions of Law stated herein, or which may arise as a result of the entry and execution of this 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 Order, the stipulations and imposition of discipline contained herein, and the consideration and entry and execution of said Order by the Commissioner.

AUTHORITY AND JURISDICTION

6. The Commissioner has jurisdiction over this matter pursuant to Tenn. Code Ann. §§ 56-5-106(d) and 56-5-117.

7. The Respondent has received a Certificate of Authority to sell insurance in the State of Tennessee, thereby subjecting the Respondent to regulation pursuant to the law.

PARTIES

8. The Division is the lawful agent through which Tenn. Code Ann. § 56-5-106(d) is administered and is authorized to bring this action.

9. The Respondent is a licensed workers' compensation insurance company in the State of Tennessee.

FINDINGS OF FACT

10. The Respondent is a licensed insurance company that offers insurance in the State of Tennessee. The Respondent has Certificates of Authority to sell, among other types of insurance, workers' compensation insurance in Tennessee.

11. The Respondent failed to timely file its annual loss cost multiplier data for 2020 on or before March 1, 2020, and, therefore, has violated Title 56, Chapter 5, Part 1 of Tennessee Code Annotated.

12. The Respondent filed its loss cost multiplier for 2020 subsequent to the statutory due date on April 2, 2020.

CONCLUSIONS OF LAW

13. Tenn. Code Ann. § 56-5-106(d) provides as follows:

Each workers' compensation insurer, or group of insurers under common ownership, shall individually file with the commissioner the multiplier and supporting information not later than fifteen (15) days after the effective date, and at least annually thereafter on March 1. Multipliers shall apply to the most recently approved, currently effective advisory prospective loss cost.

14. Tenn. Code Ann. § 56-5-117 provides, in pertinent part, as follows:

(a) If the commissioner finds that any person or organization has violated this part, the commissioner may impose a penalty of not more than five hundred dollars (\$500) for each violation, to be recovered for the use of the state in a civil action brought in the name of the state by the commissioner in a court of competent jurisdiction. Technical violations arising from systems or computer errors of the same type shall be treated as a single violation. In the event of an overcharge, if the insurer makes restitution, including payment of interest, no penalty shall be imposed.

(b) The commissioner may, in lieu of subsection (a), impose a civil penalty after notice and hearing in accordance with the Uniform Administrative Procedures Act, compiled in title 4, chapter 5, if the commissioner finds that any person or organization has violated this part. This civil penalty shall not exceed five hundred dollars (\$500)

for each violation as provided for in subsection (a).

15. In failing to timely file its loss cost multiplier data with the Commissioner by March 1, 2020, the Respondent violated Tenn. Code Ann. § 56-5-106(d).

16. The Respondent admits to the Findings of Fact and Conclusions of Law stated herein, and consents to entry and execution of this Order.

ORDER

NOW THEREFORE, on the basis of the foregoing and the waiver by the Respondent of its right to a hearing and appeal under Tennessee insurance law and Tennessee's Uniform Administrative Procedures Act, Tenn. Code Ann. §§ 4-5-101 to 4-5-404, and the Respondent's admission of the 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 Order, and agrees that this Order is in the public interest, consistent with the purposes fairly intended by the law.

IT IS THEREFORE ORDERED, pursuant to Tenn. Code Ann. § 56-5-117, that the Respondent, First Dakota Indemnity Company:

Pay a **CIVIL PENALTY** in the amount of five hundred dollars (\$500) for the violations of Tennessee insurance law. The first page of this Order must accompany payment for reference. Payment shall be made within thirty (30) days of the date this agreement is executed by the Commissioner, and payment shall be mailed to:

**State of Tennessee
Department of Commerce and Insurance
Legal Division
Attn: Nikita Hampton
Davy Crockett Tower
500 James Robertson Parkway
Nashville, TN 37243**

IT IS FURTHER ORDERED that this Order represents the complete and final resolution of, and discharge with respect to all administrative and civil claims, demands, actions and causes of action by the Commissioner against the Respondent for violations of Tenn. Code Ann. § 56-5-106(d) alleged by the Division to have occurred with respect to the facts contained herein.

This 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.

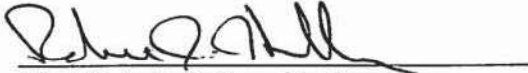
This Order is in the public interest and in the best interests of the parties, represents a compromise and settlement of the controversy between the parties, and is for settlement purposes only. By the signatures affixed below, the Respondent affirmatively states that it has freely agreed to the entry and execution of this Order, that it waives the right to a hearing on the matters underlying this Order and to a review of the Findings of Fact and Conclusions of Law contained herein, and that no threats or promises of any kind have been made to it by the Commissioner, the Division, or any agent or representative thereof. The parties, by signing the Order, affirmatively state their agreement to be bound by the terms of this Order and aver that no promises or offers relating to the circumstances described herein, other than the terms of settlement as set forth in this Order, are binding upon them.

ENTERED AND EXECUTED this 27 day of July, 2020.


Hodgen Mainda (Jul 27, 2020 19:55 CDT)

Hodgen Mainda
Commissioner
Department of Commerce and Insurance

APPROVED FOR ENTRY:



First Dakota Indemnity Company

Name Robert J. Hollan

Title SVP, Secretary & General Counsel

Nikita Hampton

Nikita Hampton (BPR # 033327)

Assistant General Counsel

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Davy Crockett Tower

Nashville, TN 37243

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