



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

TENNESSEE INSURANCE DIVISION, )  
 )  
Petitioner, )  
 )  
vs. ) TID No.: 20-087  
 )  
SOUTHERN STATES INSURANCE )  
EXCHANGE, )  
 )  
Respondent. )

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AGREED FINAL ORDER

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COME NOW, Petitioner, the Insurance Division of the Tennessee Department of Commerce and Insurance ("Division"), by and through counsel, and the Respondent, Southern States Insurance Exchange ("Respondent"), 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 Tennessee Code Annotated ("Tenn. Code Ann."), specifically Tenn. Code Ann. §§ 56-1-101 *et seq.*, 56-1-202, 56-2-305, 56-5-117 and 56-5-120 (the "Law"). The Law places on the Commissioner the responsibility of the administration of its provisions.

14. The Report's grading of the companies is based on data submissions for all states combined, and then individual state performance is indicated. Only companies failing to meet the performance standards set by the NCCI show up on the Report.

15. The Respondent was required to make three (3) unit statistical data filings for 2019. The Respondent's name appeared on the Report indicating one (1) failure in filing unit statistical data.

#### CONCLUSIONS OF LAW

16. Tenn. Code Ann. § 56-5-120(a) provides that "[t]he commissioner may designate a rate service organization to assist in gathering, compiling and reporting relevant workers' compensation insurance statistical information[.]" and that "[i]f the commissioner makes the designation, every workers' compensation insurer shall record and report its workers' compensation insurance experience to the designated rate service organization as set forth in the uniform statistical plan approved by the commissioner[.]" It further provides that "if requested, [every workers' compensation insurer] shall file a copy of the report with the commissioner."

17. Tenn. Code. Ann. § 56-5-117(a) provides that "[i]f 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 . . ."

18. Based on the NCCI report showing the Respondent failed to record and report its workers' compensation insurance experience on one (1) occasion, the Respondent is in violation of Tenn. Code. Ann. § 56-5-120(a).

## 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 located in Virginia and currently has a Certificate of Authority to sell insurance in the State of Tennessee.

## FINDINGS OF FACT

9. The Respondent is an insurance company that provides workers' compensation insurance.

10. The National Council on Compensation Insurance ("NCCI") is the designated rate service organization for assisting in the reporting of workers' compensation insurance statistical information. The NCCI has been designated by the Commissioner to assist in gathering, compiling and reporting relevant workers' compensation insurance statistical information.

11. On April 2, 2020, the Policy Analysis Section of the Division received the 2019 Regulators' Report on Carrier Data Quality (the "Report") from the NCCI.

12. The Report assesses carrier data reporting performance for 2019 and grades six (6) categories, including Financial Data Quality, Unit Statistical Data, Policy Data Quality, and Detailed Claim Information.

13. According to the NCCI Statistical Plan Manual, "[l]osses included in the first reporting of a given policy must be valued as of eighteen (18) months after the month in which the policy became effective. Subsequent reporting of loss data (2nd–10th) must be valued twelve (12) months after the valuation date of the preceding report. Each report level must be filed no later than two (2) months after the respective valuation date."

## 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. § 56-5-117, that:

1. The Respondent pay a civil penalty of five hundred dollars (\$500) for the violations outlined above, as warranted by the facts and conclusions of law.

2. 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, Southern States Insurance Exchange 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.

3. 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.

4. 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** on ~~June~~ July 10, 2020.

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*Hodgen*  
Hodgen Minda (Jul 10, 2020 13:38 EDT)  
Hodgen Minda, Commissioner  
Department of Commerce and Insurance

APPROVED FOR ENTRY AND EXECUTION:

Chris Cook  
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