

IN RE : ACCIDENT FUND INSURANCE)
COMPANY OF AMERICA)
) CONSENT AGREEMENT
) DOCKET NO. INS-05-228
)

Accident Fund Insurance Company of America (“Accident Fund”), the Maine Superintendent of Insurance (the “Superintendent”), and the Maine Office of the Attorney General hereby enter into this Consent Agreement, pursuant to 10 M.R.S.A. § 8003(5)(B), to resolve, without an adjudicatory hearing, issues arising out of Accident Fund’s failure to respond to inquiries of the Superintendent.

Stipulations

1. The Superintendent is the official charged with administering and enforcing the insurance laws of the State of Maine.
2. Accident Fund is domiciled in the State of Michigan and has been authorized by the Superintendent pursuant to 24 A M.R.S.A. § 414 to do business in the State of Maine as a workers’ compensation insurer.
3. Due to data processing errors by National Council on Compensation Insurance, Inc. (“NCCI”), the workers’ compensation advisory organization designated by the Superintendent pursuant to 24-A M.R.S.A. § 2382-B(2), pure premium calculations for certain business classifications were overstated for policy years 2003, 2004, and 2005, and policyholders whose rates were based upon those erroneous calculations were overcharged as a result. On June 10, 2005, the Superintendent issued an order requiring all insurers that issued or renewed Maine workers’ compensation policies on or after January 1, 2003 to take corrective action and to report information on affected policies to the Superintendent within 30 days after receiving documentation from NCCI. NCCI forwarded the Superintendent’s order to Accident Fund.
4. Accident Fund did not provide the information requested by the Superintendent, and admits that its failure to respond violated 24 A M.R.S.A. § 220(2). The Superintendent sent a reminder letter to Accident Fund on July 21, 2005, warning that “If the information is not received by August 12, your company may be subject to fines and other administrative actions.” Accident Fund again failed to respond. Accident Fund admits that its failure to provide a timely response is a further violation of 24 A M.R.S.A. § 220(2).

Covenants

Accident Fund, the Superintendent, and the Office of the Attorney General agree as follows:

5. This Consent Agreement is entered into in accordance with 10 M.R.S.A. § 8003(5)(B) and is not subject to review or appeal. This Consent Agreement is enforceable by an action in the Superior Court.

6. Accident Fund agrees to the imposition of a civil penalty of \$500, pursuant to 24 A M.R.S.A. § 12 A(1). A check for that amount, payable to the Treasurer of the State of Maine, shall be submitted at the time of the execution of this Agreement. Accident Fund further agrees to provide all information requested in the Superintendent's letters no later than October 24, 2005, unless that deadline is further extended in writing by the Superintendent upon a compelling showing of good cause.

7. In consideration of Accident Fund's execution of and compliance with the terms of this Consent Agreement, the Superintendent agrees to forgo pursuing any disciplinary measures or other civil or administrative sanction for the actions described in the Stipulations, other than those agreed to in this Consent Agreement. However, should Accident Fund violate this Consent Agreement, the Superintendent reserves the right to pursue any available legal remedy for the violation, including without limitation the suspension or revocation of Accident Fund's certificate of authority to act as an insurer in the State of Maine.

8. The parties to this Agreement understand that nothing herein shall affect any rights or interests that any person not a party to this Agreement may possess.

9. Accident Fund understands and acknowledges that this Agreement will constitute a public record within the meaning of 1 M.R.S.A. § 402, will be available for public inspection and copying as provided for by 1 M.R.S.A. § 408, and will be reported to the National Association of Insurance Commissioners' "RIRS" database.

10. Accident Fund has been advised of its right to consult with counsel, and has consulted with counsel before executing this Agreement.

11. This Consent Agreement may be modified only by a written agreement executed by all of the parties.

**FOR ACCIDENT FUND INSURANCE
COMPANY OF AMERICA**

By: _____
Signature

Dated: _____

Typed Name and Title

Subscribed and sworn to before me
this day _____

Notary Public

**FOR THE OFFICE OF THE ATTORNEY
GENERAL**

Dated:

Thomas C. Sturtevant, Jr., AAG

**BY THE SUPERINTENDENT OF
INSURANCE**

Dated:

Alessandro A. Iuppa, Superintendent