

COMMONWEALTH OF VIRGINIA
STATE CORPORATION COMMISSION

AT RICHMOND, JULY 10, 2018

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COMMONWEALTH OF VIRGINIA, *ex rel.*

STATE CORPORATION COMMISSION

v.

CASE NO. INS-2018-00160

MERCURY CASUALTY COMPANY,
and
AMERICAN MERCURY INSURANCE COMPANY,
Defendants

SETTLEMENT ORDER

Based on a market conduct examination conducted by the Bureau of Insurance ("Bureau"), it is alleged that Mercury Casualty Company and American Mercury Insurance Company ("Defendants"), duly licensed by the State Corporation Commission ("Commission") to transact the business of insurance in the Commonwealth of Virginia ("Virginia"), in certain instances violated § 38.2-305 A of the Code of Virginia ("Code") by failing to provide the information required by statute in the insurance policy; §§ 38.2-305 B, 38.2-610 A, 38.2-2120, 38.2-2125, and 38.2-2129 of the Code by failing to accurately provide the required notices to insureds; § 38.2-502 (1) of the Code by misrepresenting the benefits, advantages, conditions or terms of an insurance policy; § 38.2-1318 of the Code by failing to provide convenient access to files, books and records; §§ 38.2-1812 A and 38.2-1833 of the Code by paying commissions to agencies/agents that are not appointed by the Defendants; § 38.2-1822 A of the Code by permitting an unlicensed agent to act on the Defendants' behalf; §§ 38.2-1906 A and 38.2-1906 D of the Code by making or issuing insurance contracts or policies not in accordance with the rate and supplementary rate information filings in effect for the Defendants; §§ 38.2-2113 A, 38.2-2113 C, 38.2-2114 A, 38.2- 2114 C, 38.2-2114 I, 38.2-2208 A,



38.2-2208 B, 38.2-2212 D, 38.2-2212 E and 38.2-2212 F of the Code by failing to properly terminate insurance policies; § 38.2-2204 of the Code by attempting to exclude a driver contrary to the statute; § 38.2-2214 of the Code by failing to have a rate classification statement available for use; § 38.2-2220 of the Code by failing to use forms in the precise language of standard forms previously filed and adopted by the Commission; § 38.2-2223 of the Code by failing to file and obtain approval from the Commission of forms prior to use; §§ 38.2-2126 B and 38.2-2234 B of the Code by failing to update the insured's credit information at least once in a three-year period; §§ 38.2-510 A (1) and 38.2-510 C of the Code and 14 VAC 5-400-30, 14 VAC 5-400-40 A, 14 VAC 5-400-70 D and 14 VAC 5-400-80 D of the Commission's Rules Governing Unfair Claim Settlement Practices, 14 VAC 5-400-10 *et seq.* ("Rules"), by failing to properly handle claims with such frequency as to indicate a general business practice.

The Commission is authorized by §§ 38.2-218, 38.2-219, and 38.2-1040 of the Code to impose certain monetary penalties, issue cease and desist orders, and suspend or revoke a defendant's license upon a finding by the Commission, after notice and opportunity to be heard, that a defendant has committed the aforesaid alleged violations.

The Defendants have been advised of the right to a hearing in this matter whereupon the Defendants, without admitting any violation of Virginia law, have made an offer of settlement to the Commission wherein the Defendants have agreed to comply with the corrective action plan outlined in company correspondence dated March 31, 2017, August 23, 2017, January 4, 2018, March 15, 2018, and May 11, 2018; have tendered to Virginia the amount of Forty-two Thousand Six Hundred Sixty-eight Dollars and Twenty-five Cents (\$42,668.25) from Mercury Casualty Company and Thirty-two Thousand Thirty-one Dollars and Seventy-five Cents (\$32,031.75) from American Mercury Insurance Company for their proportionate share of the

alleged violations for a total amount of Seventy-four Thousand Seven Hundred Dollars (\$74,700); confirmed that restitution was made to 69 consumers in the amount of Twenty-four Thousand Two Hundred Fifty-one Dollars and Ninety-three cents (\$24,251.93); and waived the right to a hearing.

The Bureau has recommended that the Commission accept the offer of settlement of the Defendants pursuant to the authority granted the Commission in § 12.1-15 of the Code.

NOW THE COMMISSION, having considered the record herein, the offer of settlement of the Defendants, and the recommendation of the Bureau, is of the opinion that the Defendants' offer should be accepted.

Accordingly, IT IS ORDERED THAT:

- (1) The offer of the Defendants in settlement of the matter set forth herein is hereby accepted.
- (2) This case is dismissed, and the papers herein shall be placed in the file for ended causes.

AN ATTESTED COPY hereof shall be sent by the Clerk of the Commission to: Joseph B. Miller, General Counsel, Mercury Insurance, 4484 Wilshire Boulevard, Los Angeles, California 90010; and a copy shall be delivered to the Commission's Office of General Counsel and the Bureau of Insurance in care of Deputy Commissioner Rebecca Nichols.