

STATE OF VERMONT
DEPARTMENT OF FINANCIAL REGULATION

IN RE: LIBERTY MUTUAL INSURANCE CO. (NAIC # 23043))	
LIBERTY MUTUAL FIRE INSURANCE CO. (NAIC # 23035))	
FIRST LIBERTY INSURANCE CORP. (NAIC # 33588))	
LIBERTY INSURANCE CORP. (NAIC # 42404))	DOCKET NO.
LM INSURANCE CORP. (NAIC # 33600))	17-016-I
GENERAL INSURANCE CO. OF AMERICA (NAIC # 24732))	
PEERLESS INSURANCE CO. (NAIC # 24198))	

STIPULATION AND CONSENT ORDER

The Insurance Division of the Vermont Department of Financial Regulation (“Department”) and Liberty Mutual Insurance Co., Liberty Mutual Fire Insurance Co., First Liberty Insurance Corp., Liberty Insurance Corp., LM Insurance Corp., General Insurance Company of America, and Peerless Insurance Co. (“Respondents”) stipulate and agree:

1. Pursuant to the authority contained in 8 V.S.A. §§ 13, 4723 and 4726 the Commissioner of the Department (“Commissioner”) is charged with enforcing the insurance laws of the State of Vermont.

2. Pursuant to the authority contained in 8 V.S.A. § 4726, the Commissioner may investigate any person engaged in the business of insurance in Vermont to determine whether that person is complying with Vermont insurance laws, and may suspend or revoke the license of any insurer, and/or may impose an administrative penalty for any violation of Title 8, Chapter 129.

3. Respondents are companies that are licensed to sell insurance in Vermont. Respondents’ corporate headquarters is located at 175 Berkeley Street, Boston, MA 02116.

4. Respondents acknowledge and admit the jurisdiction of the Commissioner over the subject matter of this Stipulation and Consent Order.

FINDINGS

5. Title 23 V.S.A. § 941 sets forth the statutory requirements for insurance against uninsured motorists (uninsured motorist property damage or “UMPD”). Under this provision, a

deductible of \$150 is permitted only if the claimant does not have any collision coverage for his or her motor vehicle. If the claimant does have collision coverage, no deductible would apply. A violation of this provision of Title 23 constitutes a violation of 8 V.S.A. § 4723 pursuant to 8 V.S.A. § 4724(9)(F).

6. In response to a 2015 consumer complaint filed with the Department, Respondents conducted a self-audit of uninsured motorist claims to identify claims processed where the \$150 deductible was applied incorrectly.

7. The self-audit revealed that of one hundred fifty-two (152) UMPD losses paid, the \$150 deductible had been incorrectly applied to six (6) claims. Respondents issued checks, plus interest, to the affected claimants in the amount of \$1,286.63.

8. Based on Respondents voluntary actions and the restitution paid to consumers, the Department took no further action.

9. In August 2016, the Department received another complaint relating to UMPD coverage and again asked Respondents to conduct a self-audit.

10. The self-audit for the period September 23, 2015 to September 23, 2016 revealed that of 156 total UMPD losses paid, 14 claims applied the \$150 deductible in error. Liberty voluntarily refunded the deductible with interest to affected insureds.

11. Any person violating any provision of Chapter 129 may be subject to an administrative penalty of not more than \$1,000.00 for each violation. The Commissioner may impose an administrative penalty of not more than \$10,000.00 each for those violations the Commissioner finds were willful.

STIPULATION AND AGREEMENT

12. Respondents have agreed to enter into this Stipulation and Consent Order with the Department on the terms and conditions hereinafter set forth in lieu of proceeding with a hearing.

13. Respondents waive their right to a hearing before the Commissioner or the Commissioner's designee, and all other procedures otherwise available under Vermont law, the rules of the Department, the provisions of chapter 25 of Title 3 regarding contested cases, or any right they may have to judicial review by any court by way of suit, appeal, or extraordinary remedy with respect to the terms of this Stipulation and Consent Order.

14. Respondents acknowledge their understanding of all terms, conditions, undertakings, and obligations contained in this Stipulation and Consent Order.

15. Respondents acknowledge that this Stipulation and Consent Order constitutes a valid order duly rendered by the Commissioner and agree to be fully bound by it. Respondents acknowledge that this Order constitutes a finding by the Commissioner that Respondents have violated the provisions of Vermont law set forth above and agree not to contest such findings. Respondents acknowledge that noncompliance with any of the terms of this Order shall constitute a violation of a lawful order of the Commissioner and shall subject Respondents to administrative action or sanctions as the Commissioner deems appropriate. Respondents further acknowledge that the Commissioner retains jurisdiction over this matter for the purpose of enforcing this Order.

16. The Department acknowledges that Respondents fully cooperated with the Department's investigation of the consumer complaints. Respondents voluntarily initiated payments to insureds for the deductibles applied in error, plus interest where applicable.

17. Respondents acknowledge that the Department has statutory authority and grounds to consider the current violations willful and impose an increased administrative penalty based on that finding. However, given Respondents' cooperation, voluntary restitution to the affected insureds and other considerations, the Department has forgone such heightened penalty in this instance.

18. The Department retains any rights it has to respond to and address any consumer complaint that may be made with regard to Respondents and a transaction in insurance, as defined in 8 V.S.A. § 3301. This includes the right to pursue any remedy authorized by law in response to such a consumer complaint.

19. Nothing herein shall be construed as a waiver of any private right of action any person may have against Respondents.

THE DEPARTMENT AND RESPONDENTS FURTHER STIPULATE AND AGREE:

20. Respondents shall pay an administrative penalty in the amount of Twenty Thousand Dollars (\$20,000) within ten (10) days of the execution of this Order.

21. Respondents shall, within 60 days of the entry of this Stipulation and Consent Order, deliver additional training to its representatives to ensure compliance with the requirements of this Stipulation and Consent Order with respect to the handling of UMPD claims, including but not limited to the requirements set forth in 23 V.S.A. § 941.

22. Respondents shall maintain records in a manner which clearly shows the inception, handling and disposition of the claims as required by Regulation I-99-1, Section 4A(3).

23. Respondents hereby waive their statutory right to notice and hearing before the Commissioner of the Department, or her designated appointee.

24. Respondents acknowledge and agree to enter into this stipulation freely and voluntarily, and that except as set forth herein, no promise was made to induce the Respondents to enter into it. Respondents acknowledge that they understand all terms and obligations contained herein. Respondents acknowledge that they have consulted with their attorney in this matter and that they have reviewed this Stipulation and Consent Order and understand all terms and obligations contained herein.

25. Respondents consent to the entry of this Stipulation and Consent Order and agree to be fully bound by its terms and conditions. Respondents acknowledge that noncompliance with any of the terms of this Order may constitute a separate violation of the insurance laws of the State of Vermont and may subject it to sanctions.

26. The terms set forth in this Stipulation and Consent Order represents the complete agreement between the parties as to its subject matter.

27. The undersigned representative of Respondents affirms that he or she has taken all necessary steps to obtain the authority to bind Respondents to the obligations stated herein and has the authority to bind Respondents to the obligations stated herein.

LIBERTY MUTUAL INSURANCE CO.,
LIBERTY MUTUAL FIRE INSURANCE CO.,
FIRST LIBERTY INSURANCE CORP.,
LIBERTY INSURANCE CORP.,
LM INSURANCE CORP.,
GENERAL INSURANCE COMPANY OF AMERICA,
PEERLESS INSURANCE CO.

By:

David C. Fernandez

July 18, 2017

SIGNATURE

DATE

David C. Fernandez, Vice President and Senior Field Manager,
Printed Name and Title Liberty Mutual Insurance

ACCEPTED BY:

Christina Rouleau

August 1, 2017

Christina Rouleau, Deputy Commissioner
Insurance Division, Vermont Department of Financial Regulation

CONSENT ORDER

1. The stipulated facts, terms and provisions of this Stipulation are incorporated by reference herein.
2. Jurisdiction in this matter is established pursuant to 8 V.S.A. Chapters 101 and 129.
3. Pursuant to the Stipulation, Respondents consent to the entry of this Consent Order and the findings set forth therein.
4. Respondents shall comply with all agreements, stipulations, and undertakings as recited above.
5. Other than as specifically set forth herein, nothing contained in this Order shall restrain or limit the Department in responding to and addressing any consumer complaint about Respondents filed with the Department or shall preclude the Department from pursuing any other violation of law.

Entered at Montpelier, Vermont, on this 1 day of August 2017.

Michael S. Pieciak

Michael S. Pieciak, Commissioner
Vermont Department of Financial Regulation