

**STATE OF VERMONT  
DEPARTMENT OF FINANCIAL REGULATION**

<b>IN THE MATTER OF:</b>	)	
	)	
<b>GOVERNMENT EMPLOYEES INSURANCE</b>	)	
<b>COMPANY NAIC # 22063;</b>	)	<b>DOCKET NO. 16-041-I</b>
	)	
<b>GEICO GENERAL INSURANCE COMPANY</b>	)	
<b>NAIC # 35882</b>	)	
	)	
<b>GEICO INDEMNITY COMPANY</b>	)	
<b>NAIC # 22055</b>	)	

**STIPULATION AND CONSENT ORDER**

The Insurance Division of the Vermont Department of Financial Regulation (“Department”) and GEICO, stipulate and agree:

1. Pursuant to the authority contained in 8 V.S.A. §§ 11, 12, 13, 15 and Chapters 101, 129, and 131, 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 in order 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 acknowledge and admit the jurisdiction of the Commissioner over the subject matter of this Stipulation and Consent Order set forth herein.
4. Respondents sell insurance and are licensed to do so in Vermont. The principal address of Respondents is 5260 Western Avenue, Chevy Chase, Maryland 20815-3799.
5. The Department, pursuant to its statutory authority, commenced an investigation of Respondents’ claims practices regarding the adjustment of claims where comparative negligence allocations were assigned to claimants in order to determine Respondents’ level of compliance with Vermont law.

6. As a result of its investigation the Department identified violations of 8 V.S.A. § 4724(9)(D), refusing to pay claims without conducting a reasonable investigation based upon all available information in that certain files lacked sufficient documentation to determine what investigative steps had been taken, which the Department concludes constitutes a violation of 8 V.S.A. § 4723 and enforceable under 8 V.S.A. § 4726.

7. As a result of its investigation the Department concludes that Respondents failed to document certain files as to clearly show the handling and disposition of each claim, which the Department concludes constitutes a violation of Regulation I-99-01.

8. Respondents have been made aware that the Department may proceed with an administrative action against them for violations set forth herein, and seek appropriate relief pursuant to the Department's statutory authority.

9. Respondents wish to resolve this matter without a hearing by entering into this Stipulation and Consent Order with the Department on the terms and conditions set forth herein, but do not admit the existence of violations as set forth in this agreement.

10. Respondents waive their right to a hearing before the Commissioner or the Commissioner's designee, and all other provisions 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 the Stipulation and Consent Order set forth herein.

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

12. Respondents acknowledge that the Stipulation and Consent Order constitutes a valid order duly rendered by the Commissioner and agree to be fully bound by it. Respondents acknowledge that noncompliance with any of the terms of this Stipulation and Consent Order shall constitute a violation of a lawful order of the Commissioner and shall be a separate violation of the laws of the State of Vermont 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 Stipulation and Consent Order.

13. 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, including the right to pursue any remedy authorized by law in response to such a consumer complaint.

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

THE DEPARTMENT AND RESPONDENTS FURTHER STIPULATE AND AGREE:

15. Respondents shall pay an administrative penalty in the amount of \$50,000 within ten (10) days of the execution of this Stipulation and Consent Order.

16. Respondents shall properly document how the procedures its adjusters are to use when making comparative negligence determinations have been implemented. These procedures shall include guidelines and training materials which instruct adjusters to consider certain steps before making a determination of comparative negligence. The steps may include, where appropriate:

a. Interviewing and/or taking recorded statements from the insured driver, the claimant, and any witness(es) and documenting the claim file when an insured, claimant, and/or any witness has refused to give a recorded statement, as well as the reasons given for such refusal;

b. Documenting the claim file if the insured, a claimant, or any witness is unavailable, including a description of the steps taken to contact and/or locate the unavailable individual;

c. Requesting and analyzing the police report and/or attempting to contact the investigating officer in the most expedient way possible and documenting the claim file in the event the adjuster disagrees with the conclusion reached by the investigating officer, which documentation should include the reason(s) for said disagreement;

d. Conducting or causing to be conducted a scene investigation and/or obtaining photographic evidence and a diagram of the scene;

e. Conducting or causing to be conducted a vehicle inspection which should include photographic evidence; and/or

f. engaging experts (e.g. engineers, accident reconstructionists, medical experts) to identify the cause(s) of the accident and any contributing factors.

17. The Department acknowledges that all steps described in section 16 may not be appropriate in all situations. Respondents agree that an adjuster shall document the claim file as to why the investigatory steps taken were sufficient to assess comparative negligence. This may include documenting the claim file as to why a step was not taken if it is not otherwise evident from the claim file that the step was not relevant to the comparative negligence determination. For example, a police report is particularly relevant to comparative negligence determinations, so if the police report was not obtained, the adjuster must document (1) the reason(s) for not obtaining the police report, and (2) the reason(s) the police report was not relevant to the comparative negligence determination.

18. All documentation referenced in Paragraph Sixteen (16) shall comply with Department Regulation I-99-01 relating to Record Retention.

19. Respondents will deliver shared liability training periodically to file owners and adjusters who handle Vermont claims. Respondents will maintain records of the training and participants in the training.

20. To comply with 8 V.S.A. 4724(C) which requires the adoption and implementation of reasonable standards for the prompt investigation of claims arising under insurance policies, Respondents shall review the implementation of its controls on a periodic basis to ensure the process for making comparative negligence determinations is working as intended. Based on such reviews, Respondents may amend controls from time to time as necessary to accomplish their intended purpose. Respondents shall document such reviews as well as any amendments made as a result of such reviews. Examples of such controls may include:

- a. Internal or external audit;
- b. Checklists;
- c. Intervention by a supervisor or manager;
- d. Regular management reports;
- e. Periodic sampling;
- f. Employee evaluations; and/or
- g. Training or retraining.

21. Respondents shall comply with all applicable Vermont laws, Regulation, and Bulletins.

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

23. Respondents acknowledge and agree that this Stipulation and Consent Order is entered into 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 in this order. 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.

24. Respondents consent to the entry of this 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 them to sanctions. In the event the Department alleges a violation of the terms of this Stipulation and Consent Order, conducts any follow-up examination, and/or finds any separate violation other than those outlined in this Stipulation and Consent Order, Respondents specifically do not waive the right to an administrative hearing but instead retain that right as well as all other remedies available to Respondents.

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

26. 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.

**GOVERNMENT EMPLOYEES INSURANCE COMPANY**

**GEICO GENERAL INSURANCE COMPANY**

**GEICO INDEMNITY COMPANY**

By Their Duly Authorized Agent:

  
\_\_\_\_\_  
Signature

  
\_\_\_\_\_  
Date

Hank Nayden, Vice President and Legislative Counsel

Printed name and title

ACCEPTED BY:



Christina Rouleau, Deputy Commissioner

Insurance Division, Vermont Department of Financial Regulation


4/12/17

Date

**CONSENT ORDER**

1. The stipulated facts, terms and provisions of the Stipulation are incorporated by reference herein.
2. Jurisdiction in this matter is established pursuant to Chapters 101, 129, and 131 of Title 8.
3. Pursuant to the Stipulation, Respondents consent to the entry of this Consent Order.
4. Respondents shall comply with all agreements, stipulations, and undertakings as recited above.
5. Nothing contained in this Order shall restrain or limit the Department in responding 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, this 12<sup>th</sup> day of April, 2017



Michael S. Pieciak, Commissioner

Vermont Department of Financial Regulation