

**STATE OF VERMONT
DEPARTMENT OF FINANCIAL REGULATION**

IN RE:)
STATE FARM FIRE & CASUALTY CO.)
(NAIC #25143) and STATE FARM) DOCKET NO. 18-048-I
MUTUAL AUTO INSURANCE CO.)
(NAIC #25178))

STIPULATION AND CONSENT ORDER

The Vermont Department of Financial Regulation (“Department”) and State Farm Fire & Casualty Company and State Farm Mutual Auto Insurance Co. (“Respondents” or “State Farm”) stipulate and agree:

1. Pursuant to the authority granted by Vermont law including, but not limited to, that contained in 8 V.S.A. §§ 11, 12, 13, and 4726, the Commissioner of the Department is charged with administering and enforcing the insurance laws of the State of Vermont and is authorized to investigate insurers to determine compliance with these laws and regulations. Respondents acknowledge and admit the jurisdiction of the Commissioner over the subject matter of this Stipulation and Consent Order.
2. Respondents are foreign insurance companies and are duly licensed in the State of Vermont. Respondents are located at 1 State Farm Plaza, Bloomington, IL 61710-0001.
3. The Department and Respondents enter into this Stipulation and Consent Order to resolve, without further administrative proceedings, the Department’s allegations that Respondents’ practices related to the handling of claims for coverage under the Uninsured Motorists Property Damage (“UMPD”) provisions of the insured’s policy resulted in certain claims being processed in a manner that violated Vermont law.
4. Title 23 V.S.A. § 941 sets forth the statutory requirements for insurance against uninsured motorists. Under this provision, a deductible of \$150 is permitted only if the claimant

does not have collision coverage for his or her motor vehicle.¹ If the claimant does have collision coverage, no deductible is permitted. 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).

5. After receiving consumer complaints, the Department began an investigation into Respondents' claims practices relating to UMPD coverage.

6. As a result of its investigation, the Department concludes that Respondents failed in some cases to waive the collision deductible when it should have been waived, which constitutes a violation of 23 V.S.A. § 941 and 8 V.S.A. § 4723 pursuant to 8 V.S.A. § 4724(9)(F).

7. As a result of its investigation, the Department concludes that Respondents' systems and policies were insufficient in that some insureds were not clearly notified of all applicable policy coverages and conditions, which constitutes a violation of 8 V.S.A. § 4723 pursuant to 8 V.S.A. § 4724(9)(A).

8. The Department acknowledges that Respondents have fully cooperated with the Department's investigation. Respondents reviewed all collision claims for the period January 1, 2014 through May 31, 2018 for compliance with UMPD provisions under Vermont law. Respondents identified 265 claims that were not processed and/or paid in accordance with Vermont law, and as a result voluntarily refunded to Vermont insureds the sum of \$83,013.99 including interest.

9. 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

¹ See also Bulletin No. 175.

violated the provisions of Vermont law set forth above and agree not to contest such findings. Respondents acknowledge that noncompliance with any 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.

10. Nothing herein shall be construed as a waiver of any private right of action any person may have, nor shall it restrain or limit the Department in responding and addressing any consumer complaint which may be filed, or from pursuing any other violation of Vermont laws, orders, or regulations, including any violation of this Stipulation and Consent Order.

11. Respondents agree to take corrective action to address this failure to comply with Vermont's uninsured motorist requirements. Respondents agree to put in place by January 1, 2019 appropriate policies and procedures to further instruct respondents' claims handlers on the proper method of adjusting UMPD claims, to include the following:

- a. Respondents have developed comprehensive Jurisdictional Reference guides and training materials that are accessible electronically to all personnel handling Vermont claims. These materials have been updated to include the guidance provided by the Vermont DFR regarding claims involving an uninsured motorist as contained in Bulletin 152.
- b. Respondents will implement additional technology enhancements embedded in respondents' claim file systems that will automatically alert and remind each claim handler of the specific Vermont requirements and the need to process the claim accordingly.

- c. All Respondents' Claim Section Managers, Team Managers, and claim handlers with Vermont vehicle property damage claim responsibility will, on a monthly basis, verbally review Message Points containing the Vermont requirements for UMPD claims. As part of this review, claim handlers will also be reminded where this information is located within the electronic Vermont Jurisdictional Reference for their individual access.
- d. Respondents will conduct a quarterly self-audit of VT UMPD claims. The purpose of these self-audits will be to identify any Vermont claims that may require additional investigation and to determine the effectiveness of the newly implemented controls at improving Respondents' compliance rate. Following each self-audit, additional action items may be considered. Claim personnel handling Vermont claims determined to be non-compliant with Vermont requirements will receive appropriate management guidance, coaching, and correction. This information will be maintained for training and trending analysis. Respondents will submit quarterly results to DFR for review and verification, at a minimum for the period beginning on July 1, 2018 and ending on December 31, 2019. After this time, DFR may extend the review period and/or seek additional relief if the policies and procedures implemented pursuant to this Order are inadequate or if the percentage of violations for this period of time exceeds 7%.
- e. Respondents will make full restitution, with interest if applicable, for claims identified in the audits that were not processed in accordance with Vermont law.

12. Respondents agree to accurately communicate in writing with their insureds as to the reason, if applicable, the insured's UMPD claim has been denied.

13. Respondents shall implement other appropriate controls necessary to ensure the process for making UMPD determinations is working as intended and make any necessary corrections to that process. Such controls shall be reviewed on a periodic basis and amended from time to time as needed to accomplish their intended purpose. Examples of such controls 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.

14. Respondents shall pay an administrative penalty in the amount of two hundred and thirty-nine thousand (\$239,000) dollars to the Vermont Department of Financial Regulation and contribute twenty-six thousand dollars (\$26,000) to the "VT DFR – Financial Services Education & Training Special Fund" within twenty (20) days of execution of this Stipulation and Consent Order.

15. Respondents acknowledge and agree that this Stipulation and Consent Order is entered freely and voluntarily and that, except as set forth herein, no promise was made to induce Respondents to enter into it, and that this Stipulation and Consent Order represents the entire agreement of the parties as to the subject matter of this agreement and Order.

16. Respondents acknowledge that they are and have been represented by counsel in this matter and, understanding that they are entitled to a hearing before the Commissioner or her

designee in the event administrative charges are filed against them, hereby voluntarily waive that right.

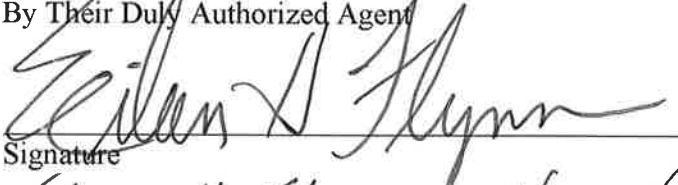
17. Respondents further acknowledge that the Commissioner retains jurisdiction over this matter for the purpose of enforcing this order.

18. This Stipulation and Consent Order shall be governed and construed by the laws of the State of Vermont.

19. Each of the parties signing below represents that she or he has full authority to bind the entity on behalf of which she or he signs.

STATE FARM

By Their Duly Authorized Agent


Signature

1-3-2019
Date

Eileen H Flynn Vice President Operations
Printed Name and Title

Accepted by: 
Christina Rouleau

Date: 1/14/19

Deputy Commissioner, Insurance Division,
Vermont Department of Financial Regulation

ORDER

1. Respondents shall comply with all agreements, stipulations and undertakings as recited above.
2. Nothing contained in this Order shall restrain or limit the Department in responding and addressing any consumer complaint that may be filed, nor shall it preclude the Department from pursuing any other violation of Vermont laws.

Dated at Montpelier, Vermont this 14th day of January, 2019.



Michael S Pieciak, Commissioner
Vermont Department of Financial Regulation