

**STATE OF VERMONT
DEPARTMENT OF FINANCIAL REGULATION**

IN RE:)
THE COMMERCE INSURANCE COMPANY) DOCKET NO. 20-020-I
NAIC # 34754)
)

STIPULATION AND CONSENT ORDER

WHEREAS, the Vermont Department of Financial Regulation (“the Department”) asserts that the Commerce Insurance Company (“Respondent”) has violated the insurance laws as set forth below; and

WHEREAS, Respondent and the Department wish to resolve these violations without further administrative proceedings or litigation;

NOW, THEREFORE, Respondent and the Department stipulate and agree to the terms and conditions in this Stipulation and Consent Order.

STATEMENT OF FACTS

1. Respondent is a foreign property and casualty insurance company with a principal place of business at 211 Main Street Webster, MA 01570-0758.
2. Respondent is a subsidiary of MAPFRE U.S.A. Corporation.
3. Respondent’s NAIC number is 34754.
4. At all times relevant to this matter, Respondent held a license issued by the Insurance Division of the Department (“the Insurance Division”) pursuant to 8 V.S.A. § 3361 authorizing Respondent to operate as an insurer in the State of Vermont.
5. Following the Insurance Division’s review of Respondent’s 2017 and 2018 Market Conduct Annual Statements, in a letter dated December 4, 2019, the Insurance Division requested that Respondent provide an explanation of, and records pertaining to, the mid-term policy

cancellations that Respondent issued in 2017 and 2018, including copies of the notices of cancellation and proofs of mailing.

6. The information provided by Respondent in response to the Insurance Division's request of December 4, 2019 demonstrates that between January 1, 2017 and December 31, 2018, Respondent mailed 6 notices of cancellation to policyholders for policies that had, at the time of the notice, been in effect for 60 or more days and were canceled based on a substantial increase in hazard without the prior approval of the Commissioner of Financial Regulation ("the Commissioner").
7. The information provided by Respondent in response to the Insurance Division's request of December 4, 2019 also demonstrates that between January 1, 2017 and December 31, 2018, Respondent did not use certified mail to mail 12 notices of cancellation to policyholders whose policies were cancelled for reasons other than the nonpayment of a premium.
8. In response to the Insurance Division's request of December 4, 2019, by letter dated January 8, 2020, Respondent informed the Insurance Division it had taken internal corrective actions to prevent future violations, including requiring underwriters to obtain supervisor approval prior to proceeding with cancellations and establishing a manual process for mailing cancellation notices while its electronic system was updated to conform with Vermont law.
9. Respondent has cooperated with and been responsive to the Insurance Division's requests for information and records, has acknowledged that it engaged in statutory violations, and has implemented internal corrective actions to prevent future violations of the laws governing the cancellation of fire and casualty located in 8 V.S.A., Chapters 101 and 105.

LEGAL STANDARDS AND DESCRIPTION OF VIOLATIONS

10. The Commissioner is responsible for administering and enforcing the insurance laws of the State of Vermont and is authorized to investigate insurance companies to determine compliance with Vermont law and issue orders imposing remedial actions and administrative penalties, pursuant to 8 V.S.A. §§ 10-15, 3661, and 3885.
11. Pursuant to 8 V.S.A. § 3661, the Commissioner may impose a civil administrative penalty for each violation of Title 8, an administrative rule of the Department, or an order of the Commissioner relating to insurance, of up to \$1,000 per violation or \$10,000 per willful violation.
12. Pursuant to 8 V.S.A. § 3885, the Commissioner may impose a civil administrative penalty for each violation of §§ 3879-3884 of up to \$2,000 per violation.
13. Pursuant to 8 V.S.A. § 3879, cancellation of fire and casualty insurance policies must be mailed or delivered to policy holders less than 60 days following the policy's effective date, unless the cancellation is based on the nonpayment of a premium, fraud or material misrepresentation, a violation of the terms or conditions of the policy, or a substantial increase in hazard.
14. Pursuant to 8 V.S.A. § 3879, the Commissioner's prior approval must be obtained prior to cancelling fire and casualty insurance policies based on a substantial increase in hazard when the notice will be mailed or delivered 60 or more days following the policy's effective date.
15. Pursuant to 8 V.S.A. § 3883, cancellation notices for fire and casualty insurance policies provided via mail must be sent using certified mail, unless the cancellation is for nonpayment of a premium.

16. By mailing 6 notices of cancellation to policyholders for policies that had, at the time of the notice, been in effect for 60 or more days and were canceled based on a substantial increase in hazard without the prior approval of the Commissioner, Respondent violated 8 V.S.A. § 3879.
17. By failing to use certified mail to mail 12 notices of cancellation to policyholders whose policies were cancelled for reasons other than nonpayment of a premium, Respondent violated 8 V.S.A. § 3883.

CONSENT ORDER

18. Within 30 business days of the entry of this Stipulation and Consent Order by the Commissioner, Respondent shall pay an administrative penalty of \$ 18,000. Payment shall be made via check made payable to the “Department of Financial Regulation” and mailed to:

Attn: Tom Taylor
Department of Financial Regulation
Insurance Division
89 Main Street
Montpelier, VT 05620-3101

19. Respondent shall also implement the following corrective actions:
 - a. Respondent shall employ internal procedures concerning issuance of cancellations of property and casualty insurance policies in the State of Vermont that conform with the laws regulating the cancellation of fire and casualty policies located in 8 V.S.A., Chapters 101 and 105.
 - b. As required by 8 V.S.A. § 3879, when cancelling fire and casualty insurance policies for reasons other than the nonpayment of a premium, fraud or material misrepresentation, a violation of the terms or conditions of the policy, or a substantial


- increase in hazard, each Respondent shall mail or deliver notices of cancellations to policy holders within 59 days following the policy's effective date.
- c. As required by 8 V.S.A. § 3883, when cancelling fire and casualty insurance policies for reasons other than the nonpayment of a premium, and when providing the notices of cancellation by mail, each Respondent shall use certified mail.
 - d. As required by 8 V.S.A. § 3879, Respondent shall not cancel any property or casualty insurance policy in the State of Vermont without the Commissioner's prior approval when the cancellations are based on a substantial increase in hazard and the notice of the cancellation is mailed or delivered 60 or more days following the policy's effective date.
20. Respondent acknowledges and admits the jurisdiction of the Commissioner over the subject matter of this Stipulation and Consent Order.
21. With respect to the facts and violations identified herein, Respondent waives its right to a hearing before the Commissioner or the Commissioner's designee and waives its right to all other administrative or judicial review otherwise available under Vermont law, including the rules of the Vermont Department of Financial Regulation and the provisions of 3 V.S.A., Chapter 25.
22. This Stipulation and Consent Order is entered into solely for the purpose of resolving the violations identified herein, and it is not intended for any other purpose.
23. Respondent understands all terms and conditions in this Stipulation and Consent Order, consents to the entry of this Stipulation and Consent Order, and acknowledges that its consent is given freely and voluntarily and that, except as set forth herein, no promise was made to induce Respondent's consent.

24. Noncompliance with any of the terms and conditions in this Stipulation and Consent Order shall be a violation of a lawful order of the Commissioner and a violation of the laws of the State of Vermont and may result in additional administrative or civil action and the imposition of injunctive relief, sanctions, and additional penalties pursuant to applicable provisions of Title 8.
25. Nothing herein shall be construed as limiting the Commissioner's ability to investigate Respondent for violations not resolved herein or to respond to and address any consumer complaints made with regard to Respondent.
26. Nothing herein shall be construed as having relieved, modified, or in any manner affected Respondent's ongoing obligation to comply with all federal, state, or local statutes, rules, and regulations applicable to Respondent.
27. Nothing herein shall be construed as limiting any private right of action a person may have.
28. This Stipulation and Consent Order shall be governed by and construed under the laws of the State of Vermont.

SIGNATURES


The terms and conditions set forth in this Stipulation and Consent Order are hereby stipulated and agreed to. I state under oath that I have taken all necessary steps to obtain the authority to bind Respondent to this Stipulation and Consent Order and that I have been duly authorized to enter into this Stipulation and Consent Order on behalf of Respondent.

THE COMMERCE INSURANCE COMPANY

By:  May 19, 2020
Date
Printed name: Christopher Matherly
Title: VP, Chief Compliance Officer
and Lead Regulatory Counsel

The terms and conditions set forth in this Stipulation and Consent Order are hereby stipulated, agreed to, and ordered.

DEPARTMENT OF FINANCIAL REGULATION

By:  May 20, 2020
Date
Michael S. Pieciak
Commissioner of Financial Regulation
Vermont Department of Financial Regulation