

**STATE OF VERMONT
DEPARTMENT OF FINANCIAL REGULATION**

IN THE MATTER OF:)	
)	
ALLSTATE FIRE & CASUALTY INSURANCE CO.)	
NAIC # 29688)	
)	
ALLSTATE INDEMNITY CO.)	Docket Number 21-024-I
NAIC # 19240)	
)	
ALLSTATE INSURANCE CO.)	
NAIC # 19232)	
)	
ALLSTATE PROPERTY & CASUALTY CO.)	
NAIC # 17230)	

STIPULATION AND CONSENT ORDER

The Insurance Division of the Vermont Department of Financial Regulation (“Department”) and Allstate Fire & Casualty Insurance Company, Allstate Indemnity Company, Allstate Insurance Company, and Allstate Property & Casualty Company (collectively “Allstate” or “Respondents”) 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 Vermont Department of Financial Regulation (“Commissioner”) is charged with enforcing the insurance laws of the State of Vermont and is authorized to examine insurers to determine compliance with Vermont statutes and regulations.
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 has violated 8 V.S.A. § 4723 by engaging in any unfair method of competition or in any unfair or deceptive act or practice, may suspend or revoke the license of any insurer, and/or may impose an administrative penalty for any violation of Title 8, Chapter 29.
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 2775 Sanders Road, Suite A2W, Northbrook, IL 60062-69127.

5. The Department commenced an examination of Respondents on July 9, 2018. The examination focused on claims settlement practices of third-party automobile liability claims involving comparative negligence in order to determine whether comparative negligence cases were handled in accordance with Vermont law.

6. The Department identified violations of 8 V.S.A. § 4724 which constitute unfair or deceptive acts or practices in the business of insurance in violation of 8 V.S.A. § 4723 and enforceable under 8 V.S.A. § 4726. The Department identified the following violations:

- a. Failure to adopt and implement reasonable standards for the prompt investigation of claims arising under insurance policies in violation of 8 V.S.A. § 4724 (9)(C). Without making any determination as to whether Respondents *adopted* reasonable standards, the Department identified instances where Respondents' claim files did not document evidence of their implementation. While the Respondents aver and the Department acknowledges it is possible that Respondents implemented their reasonable standards but failed to document the implementation, the Department, without evidence to the contrary, has concluded that Respondents violated 8 V.S.A. § 4724(9)(C) based on Respondents' failure to implement reasonable standards for the prompt investigation of claims arising under insurance policies.
- b. Refusal to pay claims without conducting a reasonable investigation based upon all available information. The Department identified instances where Respondents' claim files lacked sufficient documentation to determine what investigative steps had been taken, which constitutes a violation of 8 V.S.A. § 4724(9)(D).
- c. Failure to attempt, in good faith, to effectuate prompt, fair, and equitable settlements of claims in which liability has become reasonably clear in violation of 8 V.S.A. § 4724(9)(F).

7. The Department concludes that Respondents violated Regulation I-99-01 by failing to maintain claims records in such a manner as to show clearly the inception, handling and disposition of each claim.

8. The Department concludes that Respondents violated Regulation I-79-2 §7 by failing to provide claimant with appropriate reasons for denial, including a reference to the applicable policy provision, condition or exclusion.

9. The Department concludes that Respondents violated 8 V.S.A. § 4793(a), which prohibits any person from acting as an insurance adjuster unless duly licensed. The Department identified numerous claims that were settled without having been reviewed by a Vermont licensed adjuster.

10. 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.

11. 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.

12. 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.

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

14. 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.

15. 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.

16. 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:

17. Respondents shall pay an administrative penalty in the amount of \$225,000 within ten (10) days of the execution of this Stipulation and Consent Order. Payment shall be made via wire or check made payable to the "Department of Financial Regulation" and mailed to:

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

18. Respondents shall pay restitution (with statutory interest) to any third-party claimant whose claim was initially denied (partially or fully) due to Respondents' assignment of comparative negligence liability to such claimant in cases where a subsequent review of the claim determined the assignment of liability to be faulty.

19. 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 take certain steps before making a determination of comparative negligence. The steps may include, where appropriate:

- a. Taking recorded statements from the insured driver, the claimant, and any witness(es).
- b. Requesting and analyzing the police report 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.
- c. Conducting or causing to be conducted a scene investigation which should include photographic evidence and a diagram of the scene.
- d. Conducting or causing to be conducted a vehicle inspection which should include photographic evidence.

e. Conducting or causing to be conducted an accident reconstruction to identify the cause(s) of the collision and any contributing factors, including, but not limited to the role of the driver(s), vehicle(s), roadway, and environment.

f. Documenting the claim file when an insured, claimant, and/or any witness has refused to give a recorded statement, and the reasons given for such refusal.

g. Documenting the claim file when an insured, claimant, and/or any witness cannot be located, as well as a description of what steps were taken to locate the insured, the claimant, and/or any witness.

h. Contacting the investigating officer in the most expedient way possible.

i. The Department acknowledges that certain steps may not be appropriate in certain situations. Respondents agree that in the event an adjuster deems any step inappropriate, the adjuster shall document in the claim file why the step was inappropriate.

20. All documentation referenced in Paragraph Nineteen (19) shall comply with Department Regulation I-99-01 relating to Record Retention requiring that claims records be maintained in such a manner as to show clearly the inception, handling and disposition of each claim.

21. Respondents have implemented and will continue to 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.

22. Respondents have implemented and shall maintain appropriate controls, which shall be reviewed on a periodic basis, to ensure the process for making comparative negligence determinations is working as intended and make any necessary corrections to that process. Such controls may be amended from time to time in order 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.

23. Respondents have implemented and shall continue to maintain processes, procedures and controls designed to ensure that all Vermont claims are reviewed and approved by a Vermont licensed adjuster. Respondents represent that they have already taken corrective action and have implemented procedures to ensure that Vermont claims are routed only to adjusters licensed in Vermont since July 30, 2019.

24. On or before January 31, 2022, Respondents shall provide the Department with: (a) a list of all of their adjusters who have been duly licensed in Vermont; and (b) a certification that each of those adjusters has received the shared liability training referenced above in Paragraph 21.

25. The Department may conduct a follow-up examination within twelve (12) to twenty-four (24) months after the date of execution of this Stipulation and Consent Order. The examination may focus on Respondents' level of compliance with 8 V.S.A. § 4723, 8 V.S.A. § 4724, and Department Regulation I-99-01, as well as any other issue deemed appropriate at that time by the Department. The follow-up examination may cover the period from the date of the execution of this Stipulation and Consent Order through the date of the examination. Respondents shall reimburse the Department for all costs and expenses associated with the follow up examination pursuant to 8 V.S.A. § 18. Nothing in this paragraph or Stipulation and Consent Order shall be construed to limit the Department's ability to examine Respondents prior to twelve months or subsequent to twenty-four months from the date of the signing of this Order.

26. Respondents shall comply with all applicable Vermont laws, Regulations, and Bulletins including but not limited to, 8 V.S.A. § 4723, 8 V.S.A. § 4724, and Department Regulation I-99-01.

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

28. 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.

29. 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 Stipulation and Consent 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.

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

SIGNATURES

The terms and conditions set forth in this Stipulation and Consent Order are hereby stipulated and agreed to. I certify under the pains and penalties of perjury that I have taken all necessary steps to obtain the authority to bind Allstate Fire & Casualty Insurance Company to this Stipulation and Consent Order and that I have been duly authorized to enter into this Stipulation and Consent Order on behalf of Allstate Fire & Casualty Insurance Company.

ALLSTATE FIRE & CASUALTY INSURANCE COMPANY

By: Michael Capuzzi
Michael Capuzzi
Senior Vice President of Claims

Date: December 2, 2021

The terms and conditions set forth in this Stipulation and Consent Order are hereby stipulated and agreed to. I certify under the pains and penalties of perjury that I have taken all necessary steps to obtain the authority to bind Allstate Indemnity Company to this Stipulation and Consent Order and that I have been duly authorized to enter into this Stipulation and Consent Order on behalf of Allstate Indemnity Company.

ALLSTATE INDEMNITY COMPANY

By: Michael Capuzzi
Michael Capuzzi
Senior Vice President of Claims

Date: December 2, 2021

The terms and conditions set forth in this Stipulation and Consent Order are hereby stipulated and agreed to. I certify under the pains and penalties of perjury that I have taken all necessary steps to obtain the authority to bind Allstate Insurance Company to this Stipulation and Consent Order and that I have been duly authorized to enter into this Stipulation and Consent Order on behalf of Allstate Insurance Company.

ALLSTATE INSURANCE COMPANY

By: Michael Capuzzi
Michael Capuzzi
Senior Vice President of Claims

Date: December 2, 2021

The terms and conditions set forth in this Stipulation and Consent Order are hereby stipulated and agreed to. I certify under the pains and penalties of perjury that I have taken all necessary steps to obtain the authority to bind Allstate Property & Casualty Company to this Stipulation and Consent Order and that I have been duly authorized to enter into this Stipulation and Consent Order on behalf of Allstate Property & Casualty Company.

ALLSTATE PROPERTY & CASUALTY COMPANY

By: Michael Capuzzi
Michael Capuzzi
Senior Vice President of Claims

Date: December 2, 2021

ACCEPTED BY:

Kevin Gaffney
Kevin Gaffney, Deputy Commissioner of Insurance
Vermont Department of Financial Regulation

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.

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

DEPARTMENT OF FINANCIAL REGULATION

By: 

Michael S. Pieciak
Commissioner of Financial Regulation
Vermont Department of Financial Regulation

Date: December 7th, 2021