

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)) 16-006-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. §§ 11, 12, 13, 15, 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 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 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.

SCOPE OF EXAMINATION

5. The Department initiated an examination in August, 2013 with respect to Respondents’ practices regarding third party automobile liability claims involving comparative

negligence in order to determine whether claims settlement practices used in comparative negligence cases were in compliance with Vermont statutes and regulations (“Comparative Negligence Examination”). The Comparative Negligence Examination of Respondents covered the period from January 1, 2010 to December 31, 2012.

FINDINGS

6. As a result of the Comparative Negligence Examination, the Department concluded that the claims practices of Respondents violated one or more unfair claim settlement practices as set forth in 8 V.S.A. § 4724(9).

7. As a result of the Comparative Negligence Examination, the Department concluded that the claims practices of Respondents violated Regulation I-99-1 by failing to maintain claims records so as to show clearly the inception, handling, and disposition of each claim.

8. As a result of the Comparative Negligence Examination, the Department concluded that Respondents practices violated Regulation I-79-2 by failing to respond within ten (10) working days to a communication from a claimant.

STIPILATION AND AGREEMENT

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

10. 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.

11. 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.

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

13. 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.

14. The Department acknowledges that Respondents fully cooperated with the Department during the course of the Comparative Negligence Examination. Respondents voluntarily initiated payments to insureds impacted by the comparative negligence claims practices for restitution (and interest) in the amount of \$18,267.71. In addition, Respondents voluntarily revised their policies and procedures for comparative negligence claims in response to the Department's examination.

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. This includes 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 against Respondents.

17. Respondents agree that in cases involving a material dispute as to the relevant facts of an accident, its adjusters shall consider the use of various investigatory tools in order to reach a reasonable comparative negligence determination, including but not limited to, where appropriate:

- a. Interviewing and/or taking recorded statements from the insured driver, the claimant, and any witnesses;
- b. Obtaining and analyzing any police report and assessing the conclusions and opinions, if any, of the investigating officer;
- c. Conducting or causing to be conducted a scene investigation and/or obtaining photographic evidence of the accident scene; and,
- d. Conducting or causing to be conducted a vehicle inspection which should include photographic evidence; and/or engaging experts (e.g., engineers, accident

reconstructionists, medical experts) to identify the cause(s) of the accident and any contributing factors.

18. The Department acknowledges that certain steps may not be appropriate or reasonably required in all investigations of claims involving the assessment of comparative negligence. 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 if it is not evident from the context of the claim file so as to comply with the requirements of Regulation I-99-1.

19. Respondents shall, within sixty (60) days of the entry of this Stipulation and Consent Order, deliver additional training to its representatives to ensure their compliance with the requirements of this Stipulation and Consent Order with respect to the handling of comparative negligence determinations in automobile liability claims.

20. 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).

21. Respondents shall preserve business records as required by 8 V.S.A. § 3568 and Regulation I-99-1, Sections 4A, 6A and 7A(6).

THE DEPARTMENT AND RESPONDENTS FURTHER STIPULATE AND AGREE:

22. Respondents shall pay an administrative penalty in the amount of Twenty Thousand Dollars (\$20,000) for violations identified in the Comparative Negligence Examination.

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.

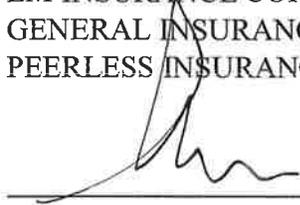
25. Respondents consent to the entry of this Stipulation and Consent Order and agree to be fully bound by its terms and conditions. Respondents acknowledge that noncompliance

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.


SEBESTYEN MARTENS, REGULATORY COUNSEL

SIGNATURE, TITLE

DATE: MARCH 4, _____, 2016

STATE OF Massachusetts
COUNTY OF Suffolk

On this 4th day of March _____ 2016 Sebastyan Martens personally appeared before me and pursuant to a sworn oath subscribed to this Stipulation and Consent Order represented that s/he has full authority to execute, deliver, and legally bind Respondents to this Stipulation and Consent Order.

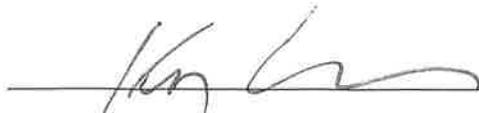


Notary Public

My commission expires: _____

Diane V. Reilly
Notary Public
Commonwealth of Massachusetts
My Commission Expires
June 19, 2020

ACCEPTED BY:



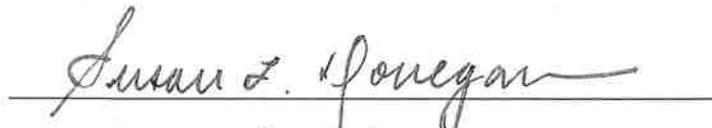
Kaj Samsom, Deputy Commissioner
Insurance Division, Vermont Department of Financial Regulation

March 7, 2016

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 7th day of March, 2016.



Susan L. Donegan, Commissioner
Vermont Department of Financial Regulation