

BEFORE THE IOWA INSURANCE COMMISSIONER

IN THE MATTER OF)	Division Case No. 102145
)	
INDEPENDENCE AMERICAN)	ORDER AND CONSENT TO ORDER
INSURANCE COMPANY)	
NAIC Cocode 26581)	
)	
Respondent)	

COMES NOW the Iowa Insurance Division (“Division”) and pursuant to the provisions of Iowa Code Chapter 507A—Unauthorized Insurers and Iowa Code Chapter 515—Insurance Other Than Life, states and alleges the following:

I. PARTIES AND JURISDICTION

1. The Commissioner of Insurance, Douglas M. Ommen, directly and through his designees, administers and enforces Iowa Code Chapter 507A—Unauthorized Insurers and Iowa Code Chapter 515—Insurance Other Than Life pursuant to Iowa Code § 505.8.

2. Independence American Insurance Company (“Independence”) is a corporation organized and existing under the laws of the State of Delaware and having an address of 1209 Orange Street, Wilmington, Delaware 19801 and a NAIC company code of 26581.

3. From May 2012 to March 1, 2019, Independence has engaged in acts and practices in the State of Iowa constituting cause for an order to cease and desist, the imposition of a civil penalty, and recovery of costs and expenses of the investigation and prosecution of this matter pursuant to Iowa Code §§ 507A.10(1) and 505.8(10).

4. Pursuant to Iowa Code § 505.28, Independence has consented to the jurisdiction of the Commissioner by committing acts governed and prohibited by Chapters 507A and 515 of the Iowa Code.

II. FINDINGS OF FACT

5. On February 26, 1973, Independence organized as a stock fire and casualty company in the State of Delaware.
6. Independence has been licensed in Iowa since April 12, 2002 pursuant to Iowa Code Chapter 515.
7. Pursuant to Independence's Certificate of Authority issued on June 1, 2018, Independence is authorized to write accident only (individual), accident and health (individual), hospital and medical expense (individual), group accident and health, non-cancellable accident and health, and other liability lines in Iowa.
8. At no point from April 12, 2002 until March 1, 2019, did Independence have authority to sell inland marine.
9. Inland marine authority is required to write pet insurance in Iowa.
10. In February 2019, Independence self-reported to the Division that it wrote \$139,016 of inland marine premium, specifically pet insurance, in 2018 without having proper authority to do so.
11. Independence instructed its agents to stop selling pet insurance in Iowa on February 26, 2019.
12. On March 11, 2019, Independence filed an application to amend its certificate of authority in Iowa to add "inland marine" as an authorized line of business.
13. An investigation by the Division found that from May 2012 until March 1, 2019, Independence wrote pet insurance in the State of Iowa earning premiums of \$503,233.

III. CONCLUSIONS OF LAW

14. Iowa Code § 507A.5 provides that an insurer is prohibited from “directly or indirectly performing any of the acts of doing an insurance business” without authorization.

15. Under Iowa Code § 507A.3, an unauthorized insurer is doing an insurance business if it does any of the following acts, including but not limited to: receiving any application for insurance; receiving any premiums; making or proposing to make an insurance contract and doing or proposing to do any insurance business that is substantively equivalent to the items identified in § 507A.3(1) in a manner that evades Iowa insurance laws.

16. Insurers who intend to conduct business in Iowa must submit a Uniform Certificate of Authority Application for each desired line of business to the Division in accordance with Iowa Code Chapter 515. The Division must approve the application and issue a Certificate of Authority for each line prior to any insurer conducting business for that line in Iowa.

17. From May 2012 until March 1, 2019, Independence did not have a Certificate of Authority to write inland marine.

18. From May 2012 until March 1, 2019, Independence wrote inland marine policies without the authority to do so.

19. Independence is in violation of Iowa Code Chapters 507A and 515 subjecting Independence to an order requiring Independence to cease and desist from engaging in such acts or practices, a civil penalty, an award of the costs and expenses of the investigation and prosecution of this matter, and any other corrective action the Commissioner deems necessary and appropriate pursuant to Iowa Code §§ 507A.10 and 505.8.

IV. ORDER

WHEREFORE, IT IS ORDERED pursuant to the powers granted to the Commissioner of Insurance by Iowa Code Chapters 507A and 515:

- A. Independence shall cease and desist from writing pet insurance without authority to do so; and
- B. Independence shall, contemporaneously with this Consent Order, pay a civil penalty in the amount of \$7,000.00, made payable to the Iowa Insurance Division.

SO ORDERED on the 18th day of June, 2019.



DOUGLAS M. OMMEN
Iowa Insurance Commissioner

Respectfully submitted,



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Attorney for Iowa Insurance Division

CERTIFICATE OF SERVICE

The undersigned certifies that the foregoing instrument was served upon all parties to the above cause, or their attorney, at their respective addresses disclosed on the pleadings on June, 2019.

- By: First Class Mail Personal Service
 Restricted certified mail, return receipt Email, by consent
 Certified mail, return receipt

Signature: Hilary Foster
~~Tammi Green~~ Hilary Foster

Copy to:
Ms. Marla Di Resta
Vice President
Independence American Insurance Company
485 Madison Avenue
14th Floor
New York, NY 10022-5872

NOTICE OF PENALTIES FOR WILLFUL VIOLATION OF THIS ORDER

YOU ARE NOTIFIED that willful violation of this Order by an insurer, is a felony under Iowa Code § 507A.10, subjecting you to punishment of imprisonment, jail, fines, or any combination of custody and fines.

YOU ARE ALSO NOTIFIED that if you violate this Order, you may be subject to administrative and civil penalties pursuant to Iowa Code §§ 505.8 and 507A. The Commissioner may petition the district court to hold a hearing to enforce the order as certified by the Commissioner. The district court may assess a civil penalty against you, and may issue further orders as it deems appropriate.

NOTICE OF FINAL ORDER IMPACT


A final order in an administrative action does not resolve any potential criminal or civil violations or causes of action that might arise from the same or similar conduct that is the subject of this this order. It may result in criminal law enforcement authorities, including the fraud bureau of the Iowa Insurance Division, pursuing a criminal investigation or prosecution of potential criminal law violations.

CONSENT TO ORDER AND AGREEMENT

I, David T. Kettig, an authorized agent of Independence in this matter, have read, understood, and do knowingly consent to this Order in its entirety. By executing this Consent, I understand that Independence is waiving its rights to a hearing, to confront and cross-examine witnesses, to produce evidence, and to judicial review.

I further understand that this Order is considered a final administrative action that may be reported by the Division to the National Association of Insurance Commissioners and to other regulatory agencies. I also understand that this Order is a public record under Iowa Code Chapter 22, which will be disclosed to other state regulatory authorities, upon request, pursuant to Iowa Code § 505.8(8)(d). I also understand that this Order will be posted to the Division's website and a notation will be made to the publicly available website record that administrative action has been taken against me.

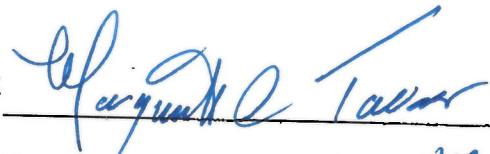
6/14/19
Date


Authorized Agent:

Signatory Address: 485 Madison Avenue
(14th Floor)
New York, NY 10022

Subscribed and sworn before me by Suve on this 14 day of _____, 2019.

MARGURITE A TAVARES
Notary Public, State of New York
No. 01TA4989168
Qualified in New York County
Commission Expires 12/02/2021


Notary Public for the State of NY

