

BEFORE THE IOWA INSURANCE COMMISSIONER

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IN THE MATTER OF	)	
MIDVALE INDEMNITY COMPANY	)	ORDER AND CONSENT TO ORDER
NAIC # 27138	)	

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Now comes the Iowa Insurance Division (“Division”) pursuant to the provisions of the Iowa Insurance Division Act - Iowa Code Chapter 505, the Iowa Insurance Trade Practices Act – Iowa Code Chapter 507B and the Iowa Insurance Other Than Life Act - Chapter 515 and enters into the following Order and Consent to Order (“Consent Order”).

**I. PARTIES AND JURISDICTION**

1. The Commissioner of Insurance, Doug Ommen, directly and through his designees, pursuant to Iowa Code § 505.8 (2019), administers and enforces the Iowa Insurance Division Act - Iowa Code Chapter 505, the Iowa Insurance Trade Practices Act – Iowa Code Chapter 507B and the Iowa Insurance Other Than Life Act – Iowa Code Chapter 515. Commissioner Ommen has designated James N. Armstrong as Deputy Commissioner of Supervision.
2. Midvale Indemnity Company (“Midvale”) is a Wisconsin corporation with a last known mailing address of 6000 American Parkway, Madison, WI 53783-0001, Attn: Fabian Fondriest, Chief Executive Officer.
3. Midvale is and has been issued a Certificate of Authority with the Division since September 5, 1975.

**II. FINDINGS OF FACT**

4. The Division issued Midvale a Certificate of Authority on September 5, 1975 and assigned NAIC number 27138.

5. Midvale filed a Uniform Consent to Service of Process (the “Consent”) on December 20, 2017. In submitting the Consent, Midvale designated the Commissioner as an agent for service of process.
6. On November 2, 2018, the Division emailed the Government Relations Contact person at Midvale, identified in a certain database maintained by the National Association of Insurance Commissioners (“NAIC”), to request written information reflecting dram shop liability insurance in the state of Iowa. The Division’s email stated that the dram shop liability insurance information for the years 2016 and 2017 was due to the Division’s contact person on or before December 12, 2018 and for the year 2018 was due on or before February 11, 2019. No response was received to the email.
7. On January 16, 2019, the Division emailed a second substantially identical request to the Government Relations Contract person at Midvale. At the top of the email was a statement “SECOND REQUEST – DUE IMMEDIATELY.” No response was received to the email.
8. On April 3, 2019, a letter was sent by certified mail to the Chief Executive Officer of Midvale providing directions on how to respond to the evaluation of dram shop liability insurance in Iowa. The letter stated that there had been no response to the previous emails sent to the Government Relations Contact person. The letter further advised that “A written response to this letter is due within 20 days of the receipt of this letter. A failure to comply with the instructions in this letter may result in administrative action being taken against the company.”
9. According to the United States Postal Service Tracking website, the certified letter was delivered on April 9, 2019. No response was received to the previous emails or to the certified letter.
10. On May 15, 2019, a Notice of Hearing was issued to Midvale by the Iowa Department of Inspections and Appeals. The Notice of Hearing contained an attached Statement of Charges alleging a failure to timely respond to the Division’s inquiry.

11. On May 24, 2019, the Division received the requested response from Midvale to its inquiry.

### III. CONCLUSIONS OF LAW

12. Paragraphs 1-11 are incorporated by reference.

13. Midvale failed or refused to promptly respond to inquiries from the commissioner within thirty days of the receipt of the inquiry.

14. Midvale's delayed response in this instance is not a frequency that reflects a general business practice.

15. Midvale's acts and practices have been in violation of Iowa Code § 507B.4A subjecting it to a civil penalty, an order requiring it to cease and desist from engaging in such acts or practices, and any other corrective action the Commissioner deems necessary and appropriate pursuant to Iowa Code §§ 505.7A, 505.8(10), 505.33, 507B.4A, 507B.6, 507B.7 and 515.144 (2019).

### IV. ORDER

**WHEREFORE, IT IS ORDERED**, pursuant to the powers granted to the Division pursuant to Iowa Code Chapters 505, 507B and 515.

A. Midvale shall cease and desist engaging in the acts or practices alleged herein pursuant to Iowa Code §§ 507B.7.

B. Midvale shall, upon the signing of the Consent Order, pay a civil penalty in the amount of \$500 by check made payable to the Iowa Insurance Division. The check and signed Consent Order should be sent to the attention of Robert Koppin, Company Regulation Counsel, Iowa Insurance Division, Two Ruan Center, 601 Locust Street, 4<sup>th</sup> Floor, Des Moines, Iowa 50309-3738.

C. Nothing contained in this Order shall in any way limit the right of the Division to institute administrative or legal action against Midvale for any other past conduct or future activity in violation of Iowa laws or administrative rules.

SO ORDERED on the 28th day of June, 2019.

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by JAMES N. ARMSTRONG  
Deputy Commissioner of Supervision

Respectfully Submitted

*/s/*

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Robert Koppin  
Company Regulation Counsel  
Two Ruan Center  
601 Locust St. – Fourth Floor  
Des Moines, Iowa 50309-3738

Copy to:

Leslie A. Even  
Compliance and Ethics Director  
American Family Mutual Insurance Company, S.I.

**CONSENT TO ORDER**

I, Leslie A. Even, being a duly authorized signatory, have read, understood, and do knowingly consent to this Order in its entirety. By executing this consent, I understand that I am waiving Midvale Indemnity Company's rights to a hearing, to confront and cross-examine witnesses, to produce evidence, and to judicial review.

I also understand that this Order is considered final administrative action that shall 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 (2019), that will be disclosed to other state regulatory authorities, upon request, pursuant to Iowa Code section 505.8(8)(d) (2019). I also understand that the information contained in the 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 the company.

*/s/*

Leslie A. Even

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Duly Authorized Signatory

\_\_\_\_\_  
Printed Name of Signatory

Midvale Indemnity Company, 6000 American Parkway, Madison, WI 53783

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Address of Signatory

Subscribed and sworn before me by Leslie A. Even on this 25th day of June, 2019.

Joan M. Dyreson

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Notary Public