CS SEP 14 AM II: 38

BEFORE THE INSURANCE COMMISSIONER OF THE COMMONWEALTH OF PENNSYLVANIA

IN RE:

VIOLATIONS:

FOREMOST INSURANCE COMPANY OF GRAND

Section 5(a)(9) of the Unfair Insurance Practices Act, Act of July 22, 1974, P.L. 589, No. 205 (40 P.S. § 1171.5)

RAPIDS, MICHIGAN

5600 Beech Tree Lane Caledonia, Michigan 49316

Respondent.

Docket No. MC05-08-016

CONSENT ORDER

AND NOW, this / day of , 2005, this Order is hereby issued by the Deputy Insurance Commissioner of the Commonwealth of Pennsylvania pursuant to the statutes cited above and in disposition of the matter captioned above.

1. Respondent hereby admits and acknowledges that it has received proper notice of its rights to a formal administrative hearing pursuant to the Administrative Agency Law, 2 Pa.C.S. § 101, et seq., or other applicable law.

- 2. Respondent hereby waives all rights to a formal administrative hearing in this matter, and agrees that this Consent Order shall have the full force and effect of an order duly entered in accordance with the adjudicatory procedures set forth in the Administrative Agency Law, <u>supra</u>, or other applicable law.
- 3. Without admitting the allegations of fact and conclusions of law contained herein, Respondent specifically denies that it violated any law or regulation of the Commonwealth.

FINDINGS OF FACT

- 3. The Deputy Insurance Commissioner finds true and correct each of the following Findings of Fact:
 - (a) Respondent is Foremost Insurance Company of Grand Rapids, Michigan and maintains its address at 5600 Beech Tree Lane, Caledonia, Michigan 49316.
 - (b) On, or about, May 19, 2005, the Insurance Department contacted Respondent concerning a complaint it received in which the deductible on a homeowner's policy was increased by Respondent due to prior loss history, as a condition for renewal of the policy.

- (c) On, or about, May 25, 2005, Respondent, in response to the Department, acknowledged that it increased the policy deductible, based upon prior loss history, as a condition for renewal of the policy.
- (d) A policy deductible may not be increased, based upon prior loss history, as a condition for renewal of the policy.

CONCLUSIONS OF LAW

- 4. In accord with the above Findings of Fact and applicable provisions of law, the Deputy Insurance Commissioner makes the following Conclusions of Law:
 - (a) Respondent is subject to the jurisdiction of the Pennsylvania Insurance

 Department.
 - (b) Act 205 Section 5(a)(9), (40 P.S. § 1171.5) sets forth permitted reasons for canceling any policy of insurance covering owner-occupied private residential properties.
 - (c) Respondent's actions as described above constitute a violation of Act 205, Section 5(a)(9), (40 P.S. § 1171.5).

- (d) Respondent's violation of Section 5 (a)(9) of the Unfair Insurance Practices act, No. 205 (40 P.S. § 1171.5) is punishable by the following, under Section 9 of the Unfair Insurance Practices Act (40 P.S. § 1171.9):
 - (i) an order to cease and desist and;
 - (ii) suspension or revocation of the license(s) of Respondent.
- (e) In addition to any penalties imposed by the Commissioner for Respondent's violations of the Unfair Insurance Practices Act (40 P.S. §§ 1171.1-1171.5), the Commissioner may, under Sections 10 and 11 of the Unfair Insurance Practices Act (40 P.S. §§ 1171.10, 1171.11) file an action in which Commonwealth Court may impose the following civil penalties:
 - (i) for each method of competition, act or practice which the company knew or should have known was in violation of the law, a penalty of not more than five thousand dollars (\$5,000.00);
 - (ii) for each method of competition, act or practice which the company did not know nor reasonably should have known was in violation of the law, a penalty of not more than one thousand dollars (\$1,000.00).

ORDER

- 5. In accord with the above Findings of Fact and Conclusions of Law, the Deputy Insurance Commissioner orders and Respondent consents to the following:
 - (a) Respondent shall cease and desist from engaging in the activities described herein in the Findings of Fact and Conclusions of Law.
 - (b) Respondent agrees to review its book of business and identify all policies on which the deductible was increased as a condition for renewal of the policy.
 - (c) Respondent agrees to contact all affected policyholders with an offer to restore the policy to the original deductible.
- (d) Respondent agrees to pay to any and all affected claimants the difference in deductible amount, plus interest, for any claims submitted subsequent to the increase in deductible.
- (e) Respondent must provide the Department with a listing of all affected insureds and claims, along with proof of restorative action and any additional claim payments made, within 90 days of the date of this Order.

- (f) Respondent shall pay Five Thousand Dollars (\$5,000.00) to the Commonwealth of Pennsylvania in settlement of the violation noted. Payment of this penalty shall be made by certified check or money order, payable to the Commonwealth of Pennsylvania. Payment should be directed to Sharon L. Harbert, Administrative Assistant, Bureau of Enforcement, 1227 Strawberry Square, Harrisburg, Pennsylvania 17120. Payment may be enclosed with the Consent Order, but must be paid in any event no later than thirty (30) days after the date of the Consent Order.
- 6. In the event the Deputy Insurance Commissioner finds that there has been a breach of any of the provisions of this Order, based upon the Findings of Fact and Conclusions of Law contained herein may pursue any and all legal remedies available, including but not limited to the following: The Deputy Insurance Commissioner may enforce the provisions of this Order in the Commonwealth Court of Pennsylvania or in any other court of law or equity having jurisdiction; or the Deputy Insurance Commissioner may enforce the provisions of this Order in an administrative action pursuant to the Administrative Agency Law, supra, or other relevant provision of law.
- 7. Alternatively, in the event the Deputy Commissioner finds that there has been a breach of any of the provisions of this Order, the Deputy Commissioner may declare this Order to be null and void and, thereupon, reopen the entire matter for appropriate action pursuant to the Administrative Agency Law, <u>supra</u>, or other relevant provision of law.

- 8. In any such enforcement proceeding, Respondent may contest whether a breach of the provisions of this Order has occurred but may not contest the Findings of Fact and Conclusions of Law contained herein.
- 9. Respondent hereby expressly waives any relevant statute of limitations and application of the doctrine of laches for purposes of any enforcement of this Order.
- 10. This Order constitutes the entire agreement of the parties with respect to the matters referred to herein, and it may not be amended or modified except by an amended order signed by all the parties hereto.
- 11. This Order shall be final upon execution by the Deputy Insurance
 Commissioner. Only the Insurance Commissioner or a duly authorized Deputy
 Insurance Commissioner is authorized to bind the Insurance Department with respect
 to the settlement of the alleged violations of law contained herein, and this Consent

Order is not effective until executed by the Insurance Commissioner or a duly authorized Deputy Insurance Commissioner.

BY: FOREMOST INSURANCE COMPANY OF GRAND RAPIDS, MICHIGAN, Respondent

Vice President & Chief Operations Officer

Secretary

RANDOLPH 19 ROHRBAUGH
Deputy Insurance Commissioner
Commonwealth of Pennsylvania