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ADMIN HEARINGS OFFICE

BEFORE THE INSURANCE COMMISSIONER
OF THE
COMMONWEALTH OF PENNSYLVANIA

IN RE:	:	VIOLATIONS
	:	
Highmark Casualty Insurance Company	:	40 P.S. § 443(e)(1)
120 Fifth Avenue, Suite 924	:	
Pittsburgh, PA 15222	:	Docket No. <i>2019-03-021</i>
	:	
Respondent,	:	

CONSENT ORDER

AND NOW, this *26th* day of *July*, 2019, 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, *supra*, or other applicable law.

FINDINGS OF FACT

3. The Deputy Insurance Commissioner finds true and correct each of the following Findings of Fact:

- (a) Respondent is Highmark Casualty Insurance Company which maintains its address with the Pennsylvania Insurance Department as 120 Fifth Avenue, Suite 924, Pittsburgh, PA 15222-3024.

- (b) At all relevant times herein, Respondent has held an active Certificate of Authority to conduct the business of insurance in Pennsylvania.
- (c) Respondent as an insurer must comply with any and all Pennsylvania filing provisions.
- (d) Respondent is required by Pennsylvania statutes to timely file an annual financial statement with the Department.
- (e) Respondent's parent company, HM Insurance Group, LLC (formerly HM Insurance Group, Inc.) ("HMIG") sold the workers' compensation books of business of its subsidiaries, including Respondent's workers compensation book of business, to the BrickStreet Mutual Insurance Company ("BrickStreet") in part through a Renewal Rights and Purchase Agreement and an assumption reinsurance agreement for Respondent.
- (f) HMIG entered into a Transitional Services Agreement with BrickStreet for the period July 1, 2016 – February 1, 2017. Under that agreement, HMIG was responsible for completing and submitting to the Pennsylvania Compensation Rating Bureau the 2014 and 2015 annual workers' compensation loss cost experience reports. BrickStreet was responsible for completing and submitting to the Pennsylvania Compensation Rating Bureau the 2016 and 2017 annual workers' compensation loss cost experience reports.
- (g) Respondent submitted its annual 2016 financial statement to the Department on March 1, 2017.

- (h) Pursuant to Statement of Statutory Account Principles No. 62R, prior approval of the Commissioner is required prior to accounting for sales transactions as “run off” business.
 - (i) Respondent failed to obtain formal approval from the Department prior to reporting “run off” from the sale of the book of business of Respondent when preparing the statement identified in finding 3(g). The Department did not determine that Respondent’s accounting treatment of the transaction was incorrect.
4. The Pennsylvania Insurance Department (“Department”) has concluded that:
- (a) BrickStreet’s actuarial department, while preparing its 2016 annual workers’ compensation loss cost experience report discovered that its internal loss cost data did not reconcile with the statement identified in finding 3(g).
 - (b) After communication between Respondent and BrickStreet regarding the statement identified in finding 3(g), BrickStreet accepted Respondent’s explanation for the discrepancies identified in finding 4(a). BrickStreet submitted its 2016 annual workers’ compensation loss cost experience report to the Pennsylvania Compensation Rating Bureau containing inflated loss cost data.
 - (c) BrickStreet’s filing identified in finding 4(b) was then used by the Pennsylvania Compensation Rating Bureau in computing industry over-all loss cost experience, resulting in an inflated loss cost experience report being submitted to and later approved by the Department.

CONCLUSIONS OF LAW

5. 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) Pursuant to 40 P.S. § 443(e)(1), any company, association, or exchange, which neglects to make and file its annual statement, or other statements that may be required, in the form or within the time herein provided shall forfeit a sum not to exceed two hundred dollars for each day during which such neglect continues, and, upon notice by the Commissioner, its authority to do new business shall cease while such default continues.
- (c) Respondent's activities described in paragraph 3(i) violate 40 P.S. § 443(e)(1).

ORDER

6. 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) The Department shall take no action on Respondent's failure to obtain written permission of the Commissioner for runoff treatment of the BrickStreet transaction under Statement of Statutory Accounting Principal 62R and will not require Respondent to refile its annual statements affected by this treatment.

(d) Respondent shall pay a civil penalty of one hundred forty-five thousand dollars (\$145,000) to the Commonwealth of Pennsylvania. Payment shall be made by check payable to the Commonwealth of Pennsylvania and directed to Christopher Monahan, Deputy Insurance Commissioner, Office of Market Regulation, 1227 Strawberry Square, Harrisburg, PA 17120. Payment must be made no later than thirty (30) days from the date of this Order.

7. 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, the Deputy Insurance Commissioner 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.

8. Alternatively, in the event the Deputy Insurance Commissioner finds that there has been a breach of any of the provisions of this Order, the Deputy Insurance 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, supra, or other relevant provision of law.

9. In any such enforcement proceeding, Respondent may contest whether a breach of the provisions of this Order has occurred.

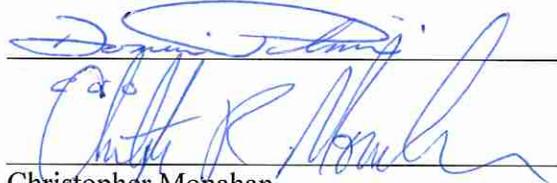
10. Respondent hereby expressly waives any relevant statute of limitations and application of the doctrine of laches for purposes of any enforcement of this Order by the Insurance Department.

11. 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.

12. 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.

13. The signatory hereto on behalf of Respondent is duly authorized to execute this Consent Order and, by so doing, to bind Respondent to the terms hereof.

BY: Highmark Casualty Insurance Company
Respondent



Christopher Monahan
Deputy Insurance Commissioner