PROCEEDING BEFORE MICHAEL D. RILEY
INSURANCE COMMISSIONER OF THE STATE OF WEST VIRGINIA

IN THE MATTER OF
ACE AMERICAN INSURANCE COMPANY (NAIC #22667)
ACE FIRE UNDERWRITERS INSURANCE COMPANY (NAIC #20702)
ACE PROPERTY & CASUALTY INSURANCE COMPANY (NAIC #20699)
BANKERS STANDARD INSURANCE COMPANY (NAIC #18279)
INDEMNITY INSURANCE COMPANY OF NORTH AMERICA (NAIC #43575)
PACIFIC EMPLOYERS INSURANCE COMPANY (NAIC #22748)

CONSENT ORDER NO. 13-MAP-02000

This Consent Order is made between ACE American Insurance Company; ACE Fire Underwriters Insurance Company; ACE Property & Casualty Insurance Company; Bankers Standard Insurance Company; Indemnity Insurance Company of North America; and Pacific Employers Insurance Company and the West Virginia Insurance Commissioner. The effective date of this Consent Order is the date of entry by the Commissioner.

STIPULATIONS OF FACT AND LAW

1. Michael D. Riley (hereinafter "the Commissioner") is the duly appointed Insurance Commissioner for the State of West Virginia, and as such is charged with the responsibility of enforcing the various provisions of Chapters 23 and 33 of the West Virginia Code, in addition to the administrative rules promulgated thereunder.

2. ACE American Insurance Company, ACE Fire Underwriters Insurance Company, ACE Property & Casualty Insurance Company, Bankers Standard Insurance Company, Indemnity Insurance Company of North America and Pacific Employers Insurance Company (collectively hereinafter "the ACE Group") are licensed by the Commissioner to transact insurance business in the State of West Virginia as permitted and authorized under Chapter 33 of the West Virginia Code.

3. A market conduct examination was called by the Commissioner on the ACE Group pursuant to a letter dated March 30, 2012, with the scope of the examination identified as "workers' compensation claims handling" and "workers' compensation complaint handling."

4. The targeted market conduct examination was to cover the period of January 1, 2009 through December 31, 2011 (hereinafter "the applicable period").

5. Prior to the call of the market conduct examination, the Commissioner's market conduct examiners observed the following with respect to the applicable period:

a. ***Above Average Complaint Share Index.*** The ACE Group was more likely to have a complaint filed with the Commissioner as other carriers that write workers' compensation insurance in West Virginia. (A complaint share index is a ratio derived by dividing a company's complaint share by its market share. A complaint share index greater than 1.00 indicates the company's complaint share is disproportionately higher than its market share for a specific line of insurance.)

b. ***Above Average Protest Share Index.*** The ACE Group was more likely to have one of its claims decisions protested by a claimant to the Workers' Compensation Office of Judges as other carriers that write workers' compensation insurance in West Virginia. (A protest share index is derived by dividing a company's protests by its market share. A protest share index greater than 1.00 indicates the company's protests share is disproportionately higher than its market share for a specific line of insurance.)

c. ***Above Average Reversal Share Index.*** The ACE Group likely to have its claims decisions reversed during litigation heard by the Workers' Compensation Office of Judges as other carriers that write workers' compensation insurance in West Virginia. (A reversal share index is derived by dividing a company's claim reversal decisions by the Workers' Compensation Office of Judges by its market share. A reversal share index greater than 1.00 indicates the company's reversal share is disproportionately higher than its market share for a specific line of insurance.)

d. The Workers' Compensation Office of Judges, through proceedings before it, had determined the ACE Group committed multiple code and/or rule violations with respect to timely acting on certain claims. The following are the subject cases listed by the jurisdictional claim number (with date of order, if applicable) and the respective code/rule violations involved:

2009069395 (2/9/11)	W.Va. Code St. R. §§85-1-10.1 & 10.6
2009070020	W.Va. Code St. R. §85-1-10.7
2010112628 (8/15/12)	W.Va. Code §23-5-1(b)(1)
2010118930	W.Va. Code St. R. §§85-1-10.1 & 85-1-10.3
2010120246 (11/2/11)	W.Va. Code §23-4-1c(b)
2010122270 (11/15/11)	W.Va. Code §§23-4-1c(b) & 23-5-1(b)(1); Code St. R. §85-1-10.3
2011019905 (1/27/12)	W.Va. Code St. R. §§85-1-10.3 & 10.5b

e. A review of claimant protests uncovered numerous potential code and/or rule violations. The areas of concern, generally speaking, involved denials and/or delay of compensability, medical authorizations and temporary total disability when the condition or medical evidence was sufficient. The following are the subject protests listed by the jurisdictional claim number and the respective code/rule violations involved:

ACE American Insurance Co (NAIC #22667)

2009063350 (12/22/09)	W.Va. Code §23-4-3; Code St. R. §§85-20, 23-4-1g
2009070020 (9/2/10)	W.Va. Code §§23-4-1c & 1g
2009070020 (3/28/11)	W.Va. Code St. R. §85-1-10.5
2009079405 (9/8/11)	W.Va. Code §§23-4-16(a)(4) & 23-4-7a
2009085208 (2/1/10)	W.Va. Code §23-4-16(a)
2009087112 (6/30/10)	W.Va. Code §§23-5-2 and 23-5-3
2009087834 (12/21/09)	W.Va. Code §23-4-1c; Code St. R. §85-20
2009088158 (12/30/10)	W.Va. Code §23-4-3; Code St. R. §85-20
2010096650 (6/24/11)	W.Va. Code §§23-4-1 and 23-4-1g
2010105500 (5/5/10)	W.Va. Code §§23-4-1, 23-4-15(a) and 23-4-1g
2010113327 (8/30/10)	W.Va. Code §§23-4-1 & 23-4-1g
2010116120 (5/19/10)	W.Va. Code §§23-4-1 & 23-4-1g
2010117121 (6/1/10)	W.Va. Code §23-4-1c
2010118930 (9/20/11)	W.Va. Code §23-4-3; Code St. R. §85-20
2010121484 (4/26/11)	W.Va. Code §23-4-1g
2011002743 (9/26/11)	W.Va. Code §23-4-1g
2011005161 (9/30/11)	W.Va. Code §23-4-1
2011012323 (7/27/11)	W.Va. Code §§23-4-1 & 23-4-1g
2011013883 (10/31/11)	W.Va. Code §§23-4-1 & 23-4-1g; Code St. R. §85-20

Indemnity Insurance Co of North America (NAIC #43575)

2009093901 (1/31/11)	W.Va. Code §§23-4-3, 23-4-1c, 23-4-1g
2009093901 (4/25/11)	W.Va. Code St. R. §85-20
2010103656 (10/14/10)	W.Va. Code §§23-4-1 & 23-4-1g
2010105491 (4/28/11)	W.Va. Code §§23-4-1 & 23-4-1g
2010123396 (7/21/11)	W.Va. Code §§23-4-1 & 23-4-1g
2010131190 (12/19/11)	W.Va. Code §§23-4-1 & 23-4-1g
2011004529 (2/1/11)	W.Va. Code §§23-4-1 & 23-4-1g
2011005065 (2/9/11)	W.Va. Code §§23-4-1 & 23-4-1g
2011005059 (10/28/11)	W.Va. Code §23-4-1c
2011018537 (9/22/11)	W.Va. Code §§23-4-1 & 23-4-1g

6. The issues addressed in paragraph five above were outlined in a packet provided to the ACE Group at the time the market conduct examination was called. It was requested that the ACE Group submit a response to the identified issues.

7. The ACE Group subsequently responded by indicating that the following corrective actions had been, and will continue to be, undertaken:

a. The ACE Group's third party administrators (ACE TPAs) shall provide additional training of adjusters handling West Virginia workers' compensation claims;

b. The ACE Group and ACE TPAs shall discuss applicable Informational Letters issued by the Commissioner at their regularly scheduled staff meetings, which are held bi-weekly;

c. The ACE Group and ACE TPAs shall conduct performance management actions, which include weekly meetings between employees and their supervisors to discuss claim management issues and concerns;

d. The ACE Group and ACE TPAs shall track all complaints to address potential compliance issues, including the issues raised herein by the Commissioner;

e. The ACE Group shall monitor claim-handling practices of ACE TPAs with the goal of confirming full compliance with all legal and regulatory requirements to include conducting periodic audits on West Virginia workers' compensation claims to ensure proper claims handling practices are being observed;

f. The ACE Group and ACE TPAs shall provide timely and comprehensible documentation to the claimant when a claim is denied or additional information is required to process the claim; and

g. The ACE Group shall monitor the total number of Administrative Law Judge hearings and the resulting decisions (including appeals) to track trends for review and action with ACE TPAs.

8. The ACE Group denies that it violated any West Virginia law during the applicable period but wishes to resolve and settle the issues subject to this Consent Order.

AGREEMENT AND ORDER

NOW, THEREFORE, the parties do hereby agree, and it is ORDERED by the Commissioner, as follows:

1. The ACE Group will comply with all statutes and rules of the State of West Virginia concerning workers' compensation claims and/or complaints handled in this state.

2. The ACE Group will continue the corrective actions that it has voluntarily commenced as set forth in paragraph seven of the "Stipulations of Fact and Law" section of this Consent Order.

3. The ACE Group shall continue its corrective action plans with the purpose of meeting or exceeding the following targeted goals:

	Period A (ending Dec. 31, 2013)	Period B (ending Dec. 31, 2014)	Period C (ending Dec. 31, 2015)
Complaint Share Index	4	3	1.5
Protest Share Index	4	3	1.5
Reversal Share Index	4	3	1.5

4. The Commissioner shall monitor the ACE Group for compliance with this Consent Order. In support of the ACE Group's compliance, the Commissioner will make all reasonable efforts, upon written request by the ACE Group, to produce a list of complaints, protests, reversals, and any other pertinent information in the possession of the Commissioner and associated with the ACE Group; provided however, that the Commissioner's failure to produce such information shall not release or excuse the ACE Group from its obligations pursuant to this Consent Order.

5. The ACE Group is hereby assessed and agrees to pay five thousand dollars ($5,000) as an administrative penalty in settlement of the findings set forth herein. The penalty shall be due within thirty (30) days of the entry of this Consent Order. The following additional penalties may also be assessed by the Commissioner unless the ACE Group is able to show good cause as to why the failure(s) occurred.

Failure to meet the targeted Reversal Share Index for Period A:	$7,500
Failure to meet the targeted Reversal Share Index for Period B:	$15,000
Failure to meet the targeted Reversal Share Index for Period C:	$25,000

For the purposes of this agreement, the Reversal Share Index will be calculated for each period by dividing the ACE Group's percentage of number of reversals (Reversal Share) at the end of each period by the ACE Group's percentage of the West Virginia workers' compensation market (Market Share) for each period. Market Share will be calculated in two ways: percentage of total workers' compensation claims and percentage of total workers' compensation premium. Reversal Share Indices will be calculated using both Market Shares calculations; the lower of the two resulting indices will be used to determine compliance with paragraph three of this agreement.

6. The ACE Group understands and agrees that, by executing this Consent Order, it waives any and all rights to an administrative hearing or appeal with respect to the issues addressed herein.

7. This Consent Order is in lieu of the Commissioner performing a market conduct examination pertaining to the issues expressed herein; however, if the ACE Group fails to meet the targeted standards set forth in paragraph three of this Agreement or otherwise fails to comply with this Agreement, the Commissioner may immediately, or soon thereafter, commence a market conduct examination upon the ACE Group. If the Commissioner performs a market conduct examination, the ACE Group shall be responsible for all reasonable expenses associated with the examination.

8. This Consent Order resolves only those issues addressed herein and the Commissioner reserves and preserves all rights concerning his duties and legal responsibilities as enumerated to him under West Virginia law. More specifically, this Consent Order is not intended and may not be construed to limit the authority of the Commissioner in investigating and taking appropriate action with regard to the claim handling practices of the ACE Group concerning a particular claim.

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IN WITNESS WHEREOF, the ACE Group and the Commissioner have duly executed this Consent Order as of the dates indicated below.

ENTERED THIS 17th day of January, 2013.

OFFICE OF THE INSURANCE COMMISSIONER
FOR THE STATE OF WEST VIRGINIA

Michael D. Riley, Insurance Commissioner

Date: 1/17/2013

By execution hereof, the ACE Group consents to entry of this Order and agrees to the above terms and conditions.

ACE GROUP

By: _____

Its: General Counsel - North America

Date: 1/11/2013