

BEFORE ALLAN L. MCVEY, INSURANCE COMMISSIONER
OF THE STATE OF WEST VIRGINI

In the Matter of:

FIRST INDEMNITY OF AMERICA INSURANCE COMPANY (NAIC # 38326)

Administrative Proceeding No. 24-IC-172723

ORDER ASSESSING CIVIL PENALTIES

The undersigned, Allan L. McVey, is the Insurance Commissioner (“Commissioner”) of the State of West Virginia, Offices of the Insurance Commissioner (“OIC”) and is charged with enforcing Chapter 33 of the *West Virginia Code*. First Indemnity of America Insurance Company (“FIAIC”), an New Jersey domiciled insurance company, is licensed to transact the business of surety insurance in the State of West Virginia, pursuant to *West Virginia Code* §§33-3-1 through 33b, under a Certificate of Authority (“COA”) issued by the Insurance Commissioner. FIAIC is subject to licensing under Article 3, Chapter 33 of the *West Virginia Code*, related legislative rules and the authority of the Commissioner, as a foreign insurance company.

FIAIC failed to submit a complete renewal application with supporting documents prior to the statutory due date, as required by *West Virginia Code* §33-3-8. The application does not include:

- Signed Jurat, *West Virginia Code* §33-4-14, due March 1, 2024.
- Certificate of Compliance issued by state of domicile, *West Virginia Code* §33-3-2, by March 1, 2024.
- Certificate of Deposit issued by state of domicile or jurisdiction where their statutory deposit is held, *West Virginia Code* §33-3-6, due March 1, 2024.
- Certificate of Advertising Compliance, West Virginia CSR §§114-10-17.2 and 114-11-9.3, due March 1, 2024.

The aforementioned items were required to be submitted to the OIC no later than March 1, 2024. The filings were to be submitted to the OIC via the System for Electronic Rates and Forms Filing (SERFF). Notices were sent to all licensed insurers regarding this requirement on January 11, 2024, and February 9, 2024.

West Virginia Code §33-3-8 requires all insurers to submit completed required forms with supporting documents and fees prior to March 1st in order to renew the COA *by May 31 of each year*. To date, FIAIC has not filed the required forms for renewal of its COA.

West Virginia Code §33-3-11 provides that the Commissioner may, after notice and hearing, refuse to renew, or may revoke or suspend the license of an insurer, if the insurer violates any provision of Chapter 33 other than those as to which refusal, suspension or revocation is mandatory or fails to comply with any lawful rule, regulation or order of the Commissioner. However, *West Virginia Code* §33-3-11(b) provides that, in lieu of taking action under *West Virginia Code* §33-3-11(a), in any case except where such action is mandatory, the Commissioner may, by order, require the insurer to pay a penalty in a sum not exceeding Ten Thousand Dollars (\$10,000.00).

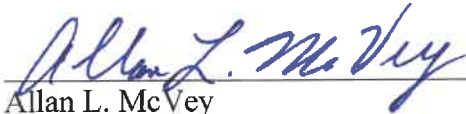
The Commissioner hereby finds and concludes that FIAIC violated *West Virginia Code* §33-3-8 by failing to timely file the required document for the renewal of its COA.

It is, therefore, **ORDERED** that a civil penalty in the amount of Three Thousand Five Hundred Dollars (\$3,500.00) be, and it is, hereby, assessed against FIAIC, for the aforesaid violations. It is further **ORDERED** that the civil penalty, totaling Three Thousand Five Hundred Dollars (\$3,500.00), shall be paid within 30 days after notice of this Order.

Pursuant to *West Virginia Code* §33-3-11(b), if FIAIC fails to pay such penalty within 30 days after notice of this Order, the company's license will be subject to revocation or suspension. Further, pursuant to the *West Virginia Code* §33-2-13, should FIAIC feel aggrieved by this Order,

it may make a written demand to the Commissioner for a hearing in this matter. Such a demand shall specify the grounds to be relied upon as a basis for the relief to be requested at the hearing.

ENTERED this 19th day of April 2024.



Allan L. McVey
CPCU, ARM, AAI, AAM, AIS
Insurance Commissioner