

**PROCEEDING BEFORE JAMES A. DODRILL
INSURANCE COMMISSIONER OF THE STATE OF WEST VIRGINIA**

**In Re: CM SELECT INSURANCE COMPANY (NAIC #16203)
ADMINISTRATIVE PROCEEDING NO. 19-AP-FINCON-02012**

FILED

2019 FEB 18 A 9:55

OFFICE WEST VIRGINIA
SECRETARY OF STATE

CONSENT ORDER

WHEREAS, James A. Dodrill is the Insurance Commissioner of the State of West Virginia ("Commissioner") and is charged with enforcing the provisions of Chapter 33 of the West Virginia Code;

WHEREAS, CM Select Insurance Company ("CMS"), a Wisconsin domiciled insurance company, is licensed to transact the business of property and casualty insurance in the State of West Virginia, pursuant to W.Va. Code §§33-3-1 through 33b, under a Certificate of Authority issued by the Insurance Commissioner;

WHEREAS, CMS 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;

WHEREAS, the Commissioner notified CMS that it is the intent of the Insurance Commissioner to proceed, pursuant to W.Va. Code §33-3-11, with an administrative process to determine whether CMS has violated any provision of Chapter Thirty-Three of the West Virginia Code, that being whether CMS failed to comply with any lawful rule, regulation or order of the Commissioner, or is transacting insurance in an illegal, improper or unjust manner;

WHEREAS, the Commissioner is authorized by W.Va. Code §33-3-11 to refuse to renew, or may revoke or suspend the license of an insurer, or require the insurer to pay to the State of West Virginia a penalty in a sum not exceeding ten thousand dollars, if an insurer has violated any

provision of Chapter Thirty-Three of the West Virginia Code, failed to comply with any lawful rule, regulation or order of the commissioner, or is transacting insurance in an illegal, improper or unjust manner;

FINDINGS OF FACT

1. CMS failed to file the required complete application for renewal of its Certificate of Authority prior to the May 31, 2019 expiration date. The application failed to include required supporting documents: a signed Jurat, a Certificate of Compliance issued by the state of domicile, a Certificate of Deposit, and a Certificate of Advertising Compliance.

2. CMS failed to submit a complete renewal application with supporting documents prior to the Certificate of Authority's expiration as required by W.Va. Code § 33-3-7

3. CMS operated as an unlicensed insurer in the State of West Virginia from the expiration of its Certificate of Authority on May 31, 2019 until the renewal date of September 24, 2019 in violation of W.Va. Code §§ 33-44-1 through 13.

4. CMS had appointed individual licensed producers in the State of West Virginia during the 2019 calendar year.

5. The West Virginia Offices of the Insurance Commissioner (WVOIC) sent notices to CMS advising CMS of the required filings on December 13, 2018 and on January 3, 2019.

6. The WVOIC emailed CMS on July 8, 2019 informing the company of its failure to file the required documentation to renew its Certificate of Authority (COA).

7. The WVOIC sent CMS a certified letter on September 12, 2019 informing CMS of its failure to file the required documentation to renew its COA.

8. On September 23, 2019 CMS filed the required documentation for the renewal of its COA.

9. CMS's COA was renewed on September 24, 2019.

CONCLUSIONS OF LAW

1. The Insurance Commissioner has jurisdiction over the subject matter and the parties to this proceeding.

2. This proceeding is pursuant to and in accordance with West Virginia Code §§33-3-8, 33-3-1, 33-44-4 and 33-3-11.

3. The Insurance Commissioner is charged with the responsibility of verifying continued compliance with the West Virginia Code and the West Virginia Code of State Rules by CMS as well as all other provisions of regulation that CMS is subjected to, by virtue of its Certificate of Authority to operate in the State of West Virginia.

4. Under W.Va. Code §33-3-7 each insurer must submit an application and supporting documents to the Insurance Commissioner to obtain an initial Certificate of Authority or to renew an existing Certificate of Authority.

5. CMS violated W.Va. Code §33-3-1 and W.Va. Code §33-44-4 by failing to renew its Certificate of Authority, by not filing a complete application and thereafter continuing to transact insurance in the State of West Virginia.

6. Any Conclusion of Law that is more properly a Finding of Fact is hereby incorporated as such.

ORDER

The Insurance Commissioner and CMS have agreed to enter into this Consent Order. The Parties have further agreed to the imposition of an administrative penalty against CMS as set forth below.

It is accordingly AGREED and ORDERED as follows:

1. It is AGREED and ORDERED that CMS will CEASE AND DESIST from failing to timely renew its Certificate of Authority in the State of West Virginia and provide timely and complete required filings and fees.

2. It is further AGREED and ORDERED that CMS shall ensure compliance with the West Virginia Code and the Code of State Rules.

3. It is AGREED and ORDERED that CMS shall pay an administrative penalty to the State of West Virginia in the amount of Three Thousand Dollars (\$3,000.00) for non-compliance with the West Virginia Code and West Virginia Rules as described herein. The payment of this administrative penalty is in lieu of any other regulatory penalty or remedy and is due upon execution of this Consent Order.

4. It is AGREED and ORDERED that all such statutory notices, administrative hearings and appellate rights are herein waived concerning this Consent Order. All such rights are preserved by the Parties regarding implementation or further action taken on such Order by the Commissioner against CMS.

5. Upon the failure of CMS to pay the penalty set forth above to the Commissioner as set forth in this Consent Order, the Commissioner may take other action against CMS, pursuant to W.Va. Code §33-3-11 or otherwise available provisions.

ENTERED this 12th day of ~~January~~ Feb. 2020.



James A. Dodrill
Insurance Commissioner
State of West Virginia

Prepared by:

OFFICES OF THE INSURANCE COMMISSIONER



Gregory A. Elam, Associate General Counsel
W.Va. State Bar No. 6026

Agreed to by:



CM SELECT INSURANCE COMPANY

TITLE SUP + CFO