

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

In the Matter of:

ACCC INSURANCE COMPANY (NAIC # 10807)

Administrative Proceeding No. 20-FINCON-02007

AGREED ORDER SUSPENDING CERTIFICATE OF AUTHORITY

Pursuant to the provisions of *W. Va. Code* §33-3-11(a)(4) as well as other provisions of Chapter 33 of said *Code*, all of which authorizes the West Virginia Insurance Commissioner (“Commissioner” or “WVOIC”) to, after notice and hearing, refuse to renew, revoke or suspend the license of an insurer if the insurer is found by the Commissioner to be in an unsound condition or in such condition as to render its further transaction of insurance in West Virginia hazardous to its policyholders or to the people of West Virginia, the Commissioner makes the following Findings of Fact, Conclusions of Law and Order:

I. PARTIES AND JURISDICTION

1. The Commissioner, pursuant to *W. Va. Code* §33-2-3, administers and enforces Chapter 33 of the *West Virginia Code* and Title 114 of the *West Virginia Code of State Rules*.
2. The Commissioner, pursuant to *W. Va. Code* §33-34-3a, possesses regulatory authority and jurisdiction over insurers deemed to be in hazardous financial condition.
3. ACCC Insurance Company, Inc. (“ACCC” or “Company”) is a Texas domiciled insurer with a last known statutory home office address of ACCC Insurance Company, Inc., 390 Benmar Dr, Houston, TX 77060.
4. ACCC’s Government Relations Contact is Ross E Bennett, whose address is 390 Benmar Drive, Houston, Texas 77060.

5. ACCC was issued a Certificate of Authority by the Commissioner on October 9, 2003, and is authorized to transact marine insurance, *W. Va. Code* §33-1-10(d); fire, *W. Va. Code* §33-1-10(c); casualty insurance, *W. Va. Code* §33-1-10(e); and surety insurance, *W. Va. Code* §33-1-10(f), in the State of West Virginia.

6. The Commissioner has jurisdiction over this matter pursuant to *W. Va. Code* §33-2-3.

II. FINDINGS OF FACT

7. The Commissioner issued ACCC a Certificate of Authority on October 9, 2003 and assigned NAIC No. 10807.

8. Certain standards may be considered by the WVOIC to determine whether the continued operation of an insurer transacting an insurance business in this State might be deemed to be hazardous to its policyholders, creditors, or the general public. *W. Va. Code* §33-34-3a.

9. On March 2, 2020, the Company electronically filed its 2019 Annual Statement with the National Association of Insurance Commissioners (NAIC) in which report the Company reported significant negative results of operation in 2019, that included, but were not limited to:

- a. Net Underwriting Loss of \$48,402,486;
- b. Combined Ratio of 129.2%;
- c. Net Loss of \$43,843,487;
- d. Net Cash from Operations of \$56,003,366; and
- e. Surplus as of December 31, 2019 was \$8,065,709 which was a reduction of -\$49,079,659 (-85.9%) which resulted in a change in Risk Based Capital (RBC) ratio of 63.2%, placing ACCC in a Mandatory Action Level.

10. ACCC had unfavorable one-year and two-year reserve development in each of the past five (5) years. For 2019, its one-year reserve development was \$42,294,000 or 74.0% of prior year policyholders' surplus, and its two-year reserve development was \$64,162,000 or 123.3% of second prior year policyholders' surplus.

11. ACCC's development and results triggers the following standards to determine if it is operating in a hazardous financial condition:

a. *W. Va. Code* §33-34-3a(a)(2). The NAIC's insurance regulatory information system and its other financial analysis solvency tools and reports. The Company's 2019 financial data resulted in 12 unusual IRIS ratios.

b. *W. Va. Code* §33-34-3a(a)(3). Whether the insurer has made adequate provision, according to presently accepted actuarial standards of practice, for the anticipated cash flows required by the contractual obligations and related expenses of the insurer, when considered in light of the assets held by the insurer with respect to such reserves and related actuarial items including, but not limited to, the investment earnings on such assets and the considerations anticipated to be received and retained under such policies and contracts. ACCC's hazardous ratio result was 1.275 which triggered a failed result (benchmark is 1.000).

c. *W. Va. Code* §33-34-3a(a)(5). Whether the insurer's operating loss in the last twelve-month period or any shorter period of time, including but not limited to net capital gain or loss, change in nonadmitted assets and cash dividends paid to shareholders, is greater than fifty percent of such insurer's remaining surplus as regards policyholders in

excess of the minimum required. ACCC's hazardous ratio result was 965%, which triggered a failed result (benchmark is 50%).

d. *W. Va. Code §33-34-3a(a)(6)*. Whether the insurer's operating loss in the last twelve-month period or any shorter period of time, excluding net capital gains, is greater than twenty percent of the insurer's remaining surplus as regards policyholders in excess of the minimum required. ACCC's hazardous ratio (excluding net capital gains) result was 966%, which triggered a failed result (benchmark is 20%).

e. *W. Va. Code §§33-34-3a(a)(16)*. Whether the insurer has experienced or will experience in the foreseeable future cash flow or liquidity problems. ACCC's liquidity ratio was 144.1%, which triggered a failed result (benchmark is <100%).

f. *W. Va. Code §33-34-3a(a)(18)*. Whether management persistently engages in material under-reserving that results in adverse development. ACCC experienced unfavorable one-year and two-year reserve development in each of the past 5 years. For 2019, ACCC's one-year reserve development was \$42,294,000 or 74.0% of prior year policyholders' surplus and its two-year reserve development was \$64,162,000 or 123.3% of second prior year policyholders' surplus.

12. ACCC is not currently writing business in West Virginia; nor have they ever been actively writing any business in this state. Review of Schedule T filings for each of the past 10 years reflected \$0 of premiums and \$0 of claims liabilities in WV for calendar years 2010 to 2019.

III. CONCLUSIONS OF LAW

13. Paragraphs 1-12 are incorporated by this reference and made a part hereof.

14. The continued operation of ACCC in West Virginia is hazardous to its policyholders pursuant to the standards set forth in *W. Va. Code* §33-34-3a.

15. Because the insurer is in hazardous financial condition, the Commissioner is authorized to suspend ACCC's license to transact insurance in the State of West Virginia.

IV. ORDER

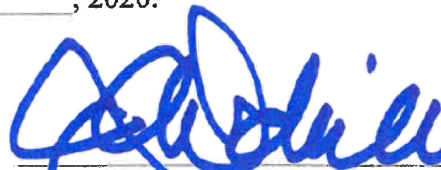
Pursuant to *W. Va. Code* §33-2-11, it is, therefore, **ORDERED** that:

A. The Certificate of Authority issued to ACCC to transact the business of marine, fire, casualty, and surety insurance in the State of West Virginia is **SUSPENDED** until such time as it has returned to full compliance with West Virginia statutes and rules unless sooner terminated as permitted by law. This suspension also automatically suspends the authority of ACCC's producers to act as agents of ACCC.

B. ACCC shall not solicit, sell, issue or deliver new policies of insurance, renew policies of insurance, or assume any West Virginia risk.

C. ACCC shall file its annual financial statement and pay any fees and taxes required to be paid under West Virginia law.

ENTERED this 24th day of April, 2020.



JAMES A. DODRILL
Insurance Commissioner

Prepared by:



Gregory A. Elam (WVSB #6026)
Associate General Counsel
Legal Division
West Virginia Offices of the Insurance Commissioner
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Reviewed and Agreed to by:


ACCC INSURANCE COMPANY

Printed Name: Jack Ikenaga

Title: President