

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

In the Matter of:

BOSTON INDEMNITY COMPANY, INC. (NAIC #30279)

Administrative Proceeding No: 19-AP-FINCON-02008

FINDINGS OF FACT, CONCLUSIONS OF LAW AND CONSENT ORDER

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, as amended. Boston Indemnity Company, Inc. (“BIC”), a South Dakota domiciled insurance company, is licensed to transact the business of property and casualty 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. BIC is subject to licensing under Article 3, Chapter 33 of the West Virginia Code and related legislative rules and the authority of the Commissioner, as a foreign insurance company.

The Commissioner notified BIC that it is the intent to proceed, pursuant to W.Va. Code §33-3-11, an administrative process to determine whether BIC has violated any provision of Chapter Thirty-Three of the West Virginia Code, in that BIC failed to comply with any lawful rule, regulation or order of the Commissioner, or is transacting insurance in an illegal, improper or unjust manner. 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. BIC 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. BIC 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. BIC unintentionally 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. BIC had eight (8) licensed individual producers appointed in the State of West Virginia during the 2019 calendar year.

5. The West Virginia Offices of the Insurance Commissioner ("WVOIC") sent notices to BIC advising BIC of the required filings on December 13, 2018 and on January 03, 2019. BIC does not have any record or indication that it received such notices.

6. The WVOIC emailed BIC on July 8, 2019 informing the company of its failure to file the required documentation to renew its Certificate of Authority ("COA"). BIC does not have any record or indication that it received such notices.

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

8. On September 24, 2019 BIC filed the required documentation for the renewal of its COA.

9. BIC's COA was renewed on September 30, 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 West Virginia Code and the West Virginia Code of State Rules by BIC as well as all other provisions of regulation that BIC 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 and may renew an existing Certificate of Authority under W.Va. Code § 33-3-8.

5. BIC 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 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 BIC have agreed to enter into this Consent Order. The Parties have further agreed to the imposition of an administrative penalty against BIC as set forth below.

It is accordingly AGREED and ORDERED as follows:

1. BIC 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. BIC shall ensure compliance with the West Virginia Code and the Code of State Rules.
3. BIC 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. All 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 BIC.

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


ENTERED this 29th day of July 2020



JAMES A. DODRILL
Insurance Commissioner


Prepared by:

OFFICES OF THE INSURANCE COMMISSIONER



Gregory A. Elam (WVSB #6026)
Associate General Counsel
Legal Division
West Virginia Offices of the Insurance Commissioner
Post Office Box 50540
Charleston, West Virginia 25305-0540

Agreed to by:



BOSTON INDEMNITY COMPANY INC.

TITLE President