

BEFORE THE DIVISION OF INSURANCE  
DEPARTMENT OF LABOR AND REGULATION  
STATE OF SOUTH DAKOTA

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IN THE MATTER OF CONTINENTAL  
GENERAL INSURANCE COMPANY

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CONSENT ORDER

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In resolution of the above matter and in lieu of issuance of a Notice of Hearing and a formal hearing, the undersigned parties do hereby agree to the following:

CONTINENTAL GENERAL INSURANCE COMPANY ("CGI"), whose address is 11001 Lakeline Blvd., Suite 120, Austin, Texas 78717 is an insurance company holding a certificate of authority to transact business in the State of South Dakota;

CGI is aware that the South Dakota Division of Insurance ("Division") has conducted an investigation of its Medicare Supplement insurance sales activities in South Dakota between October 2010 and December 2012;

The Division has alleged the following:

- 1) The Division conducted a review of CGI's outbound telephone sales calls to Medicare-eligible South Dakotans who previously owned a Medicare Supplement insurance policy issued by a life company affiliated with, or formerly affiliated with, GGI;
- 2) The telephone calls regarded the sale, solicitation, or negotiation of CGI Medicare Supplement insurance policies;
- 3) The insurance producers selling, soliciting, or negotiating the CGI Medicare Supplement policies worked as part of a direct sales operation representing CGI and its affiliates, or former affiliates, and were making the calls from an office in Austin, Texas that served as the administration office for the Medicare Supplemental insurance policies issued by CGI and its affiliates and former affiliates;
- 4) In numerous instances, CGI's agents:
  - a. failed to identify to consumers the name of the actual insurer, CGI, and identified themselves as a representative of an insurer affiliated with CGI or formerly affiliated with CGI with whom customers previously had a policy in violation of SDCL § 58-33-6 and ARSD 20:06:10:04 and 20:06:10:14(1);
  - b. made untrue, deceptive, or misleading assertions by asserting that CGI's Medicare Supplement rates had recently been lowered or reduced in South Dakota. CGI's Medicare Supplement rates had not recently been lowered or reduced in South Dakota and, in fact, were increased three times during the timeframe reviewed by the Division. These acts constitute violations of SDCL § 58-33-6 and ARSD 20:06:10:04;
  - c. represented that CGI Medicare Supplement policies were "low cost" because the company paid their insurance producers smaller commissions than other insurers or no commissions. These acts constitute violations of SDCL § 58-33-6 and ARSD 20:06:10:04 and 20:06:10:05;

- d. made disparaging statements regarding other insurers' Medicare Supplement policies, Medicare Advantage policies, and rates in violation of ARSD 20:06:10:12; and
  - e. used twisting, cold lead advertising, and high-pressure tactics in the sale, solicitation, or negotiation of Medicare Supplement policies in violation of ARSD 20:06:13:58;
- 5) Since the time of the reviewed calls, CGI has represented that it has closed this block of Medicare Supplement business and no longer markets the block to consumers;
- 6) Any of the above-cited violations may be grounds for the revocation or suspension of CGI's certificate of authority pursuant to SDCL § 58-6-46;

CGI is aware of and understands the nature of the charges and has been informed that it has the right to notice, hearing, and appeal, and that by agreeing to and signing this Consent Order waives these rights;

In return for CGI agreeing to the provisions of this Consent Order, the Division agrees not to proceed to hearing and agrees that this Consent Order will constitute an informal disposition of this licensing matter pursuant to SDCL § 1-26-20;

CGI agrees to a monetary penalty in the amount of \$125,000 pursuant to SDCL § 58-4-28.1, in lieu of contesting this matter formally; and

CGI further agrees to conduct itself in accordance with the insurance laws and regulations of the State of South Dakota;

CGI further agrees that this Consent Order may be considered for the purpose of determining the appropriate sanction in any future actions with the Division for any violations of the laws or regulations of the State of South Dakota or for failing to abide by any order of the Director;

By the execution of this Consent Order and the payment of a penalty pursuant to this Consent Order, CGI neither admits to nor denies violation of the laws of the State of South Dakota;

Wherefore, good cause appearing from the foregoing, it is hereby ORDERED that CGI pay a monetary penalty in the amount of \$125,000 payable to "South Dakota Division of Insurance" for deposit in the general fund of the State of South Dakota; and it is further

ORDERED that CGI abide by all the agreements made by it in this Consent Order; and it is further

ORDERED that should CGI fail to comply with the provisions of this Order, the Division may seek the suspension or revocation of CGI's Certificate of Authority at hearing pursuant to SDCL § 58-6-46, or seek other remedies available at law; and it is further

ORDERED that the use of this Consent Order for competitive purposes by an insurance agent or third-party administrator holding a license in the State of South Dakota, or by any company holding a Certificate of Authority, or by anyone on their behalf, may be deemed unfair competition and be grounds for suspension or revocation of said license or authority; and it is further

ORDERED that the provisions of this Consent Order shall be effective from the date the Director signs this Order.

Dated at Pierre, South Dakota this 6<sup>th</sup> day of October, 2014.

Merle Scheiber  
Merle Scheiber, Director  
South Dakota Division of Insurance

The undersigned, on behalf of CGI, represents it understands the terms of this Consent Order and the waiver of its due process rights and voluntarily enter into this Consent Order.

Dated this 1<sup>st</sup> day of October, 2014.

[Signature]  
Signature of Authorized Representative  
John P. Gruber  
Printed Name  
Vice President  
Title