

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

**IN THE MATTER OF THE TARGET
MARKET EXAMINATION OF
ABILITY INSURANCE COMPANY**

**FINDINGS OF FACT,
CONCLUSIONS OF LAW AND
ORDER**

On April 21, 2015 the Target Market Conduct Examination Report ("Report") for Ability Insurance Company ("the Company"), whose address of record is PO Box 3735, Omaha, Nebraska 68102, was submitted to the Company. The Director of the South Dakota Division of Insurance ("Division") reviewed the Report and makes the following Findings of Fact, Conclusions of Law and Order, pursuant to SDCL § 58-3-12 and SDCL Chapter 1-26:

FINDINGS OF FACT

I.

The Company is a licensed long-term care insurer in South Dakota subject to examination, pursuant to SDCL § 58-3-1.

II.

On July 25, 2014, the Director of the Division issued an Order for Examination of the Company.

III.

A Target Market Conduct Examination of the Company was conducted that covered the period from July 8, 2013 through December 17, 2014, unless otherwise noted in the Report.

IV.

The Target Market Conduct Examination of the Company resulted in a Report which the Division has reviewed.

V.

The Report was filed with the Division on April 17, 2015.

VI.

The Report was transmitted by the Division to the Company via Electronic Mail on April 21, 2015.

VII.

The Company received the Report via Electronic Mail on April 21, 2015.

VIII.

The Director has considered and reviewed the Report.

IX.

To the extent any of the foregoing are improperly designated and are instead conclusions of law, they are hereby redesignated and incorporated herein as Conclusions of Law.

CONCLUSIONS OF LAW

I.

The Director of the Division has jurisdiction over this matter pursuant to SDCL Chapter 58-3.

II.

SDCL §§ 58-3-12 and 58-3-17 require the Director to issue an Order in this matter, pursuant to SDCL Chapter 1-26. The Report may be adopted as filed or with modifications or corrections, or the Report may be rejected in full, or the Director may call for an investigatory hearing.

III.

Pursuant to SDCL § 58-3-17, the Company must serve its directors with a copy of this Order and the Report and file affidavits from the directors with the Division stating they have received a copy of the Order and Report.

IV.

Pursuant to SDCL §§ 1-27-1.5(5) and 58-3-14, the Report and its attachments, including the Company response, are not open to public inspection.

V.

Pursuant to SDCL § 58-3-25, the Director has the authority to set forth the time frame for implementation of the Report recommendations.

VI.

To the extent any of the foregoing are improperly designated and are instead findings of fact, they are hereby redesignated and incorporated herein as Findings of Fact.

ORDER

It is hereby ORDERED pursuant to SDCL § 58-3-12(1), that the contents of the Report are adopted; and it is further

ORDERED pursuant to SDCL § 58-3-17, the Company is to serve a copy of the Order and Report on each member of its Board of Directors; and it is further


ORDERED pursuant to SDCL § 58-3-17, that within 30 days of the date of this Order, the Company shall file affidavits with the Division, executed by each member of its Board of Directors, stating they have received a copy of the Order and Report; and it is further

ORDERED the Director will release the adopted Report in compliance with SDCL § 58-3-14 unless a court of competent jurisdiction stays its publication; and it is further

ORDERED that this Order may not be used by any person for any competitive purpose or used in a manner that would violate SDCL Chapter 58-33.

This Order may be appealed to the Circuit Court and South Dakota Supreme Court pursuant to SDCL Chapter 1-26.

Dated this 19th day of June, 2015.



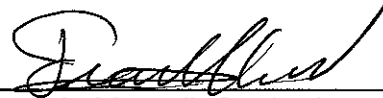
Larry Deiter, Director
South Dakota Division of Insurance
124 South Euclid Avenue, 2nd Floor
Pierre, SD 57501

CERTIFICATE OF SERVICE

I, Frank Marnell, the undersigned, do hereby certify that on this 19th day of June, 2015, a true and correct copy of the Findings of Fact, Conclusions of Law and Order with respect to the above-entitled action was sent U.S. Certified Mail thereon, to the following:

Stephen La Pierre, Chief Operating Officer
Ability Insurance Company
161 Worcester Road, Suite 300
Framingham, MA 01701

Dated this 19th day of June, 2015 in Pierre, South Dakota.



Frank A. Marnell, Senior Legal Counsel
South Dakota Division of Insurance
124 S. Euclid Ave., 2nd Floor
Pierre, SD 57501