

**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 June 3, 2013 the Target Market Conduct Examination Report ("Report") for Ability Insurance Company ("the Company"), whose address of record is 1515 South 75th Street, Omaha, NE 68124, was submitted to the Company. The Company submitted its response to the Director of the South Dakota Division of Insurance ("Division") for his consideration and review pursuant to SDCL § 58-3-12. The Director 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 insurer in South Dakota subject to examination, pursuant to SDCL § 58-3-1. The Company is a licensed life and health insurer.

II.

On December 21, 2010, 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 January 1, 2006 through June 30, 2010, 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 finalized Report was filed with the Division on June 3, 2013.

VI.

The Report was transmitted by the Division to the Company via Electronic Mail and Overnight Mail on June 3, 2013.

VII.

The Company received the Report via Electronic Mail on June 3, 2013.

VIII.

The Company provided a written response to the Report to the Division via Electronic Mail pursuant to SDCL § 58-3-12.

IX.

The Director has considered and reviewed the Report and the Company's written response.

X.

The Company's response outlines the company's assertions of current compliance and other matters which have been considered by the Director and which are incorporated into the Report.

XI.

The Director determined that no substantial discrepancies between the Report and the Company's written response exist.

XII.

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, including the Company response, is not open to public inspection for a period of 30 days after the date of this Order.

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 that the Company's response is incorporated into the Report as part of the Report; and it is further

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

ORDERED pursuant to SDCL § 58-3-17, that 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 that they have received a copy of the Order and Report; and it is further

ORDERED that the Director will provide the Company 20 days to propose the time frame for implementation of the Report recommendations; and it is further

ORDERED that once 20 days has passed, the Director will set the time frame for implementation of the Report recommendations; and it is further

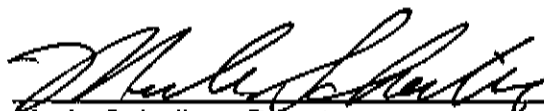
ORDERED that once the time frame has been set, the Company shall comply with the Report recommendations and shall continue to follow the policies and procedures that have been put in place during the course of the examination and those subsequent to the examination's completion; and it is further

ORDERED that the Director will release the adopted Report as modified 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 8th day of July, 2013.



Merle Scheiber, Director
South Dakota Division of Insurance
445 E. Capitol Ave.
Pierre, SD 57501

CERTIFICATE OF SERVICE

I, Frank Marnell, the undersigned, do hereby certify that on this 8th day of July, 2013, 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. First Class Mail thereon, to Ability Insurance Company, 1515 South 75th Street, Omaha, NE 68124.

Dated this 8th day of July, 2013 in Pierre, South Dakota.



Frank A. Marnell, Division Counsel
South Dakota Division of Insurance
445 E. Capitol Ave.
Pierre, SD 57501