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Department of Insurance
State of Idaho

Attorneys for Idaho Department of Insurance

**BEFORE THE DIRECTOR OF THE DEPARTMENT OF INSURANCE
STATE OF IDAHO**

IDAHO DEPARTMENT OF INSURANCE,

Complainant,

vs.

WELLFLEET NEW YORK INSURANCE
COMPANY, a foreign insurer domiciled in
the state of New York, holding Idaho
Certificate of Authority No. 367,

Respondent.

Docket No. 18-3936-21

**STIPULATION
AND FINAL ORDER**

STIPULATION

COME NOW the Idaho Department of Insurance (hereinafter "Department") and WELLFLEET NEW YORK INSURANCE COMPANY (hereinafter "Wellfleet New York"), by and through its undersigned officer, and agree and stipulate as follows:

1. Wellfleet New York is a New York-domiciled insurer.

2. Wellfleet New York holds Idaho Certificate of Authority No. 367, originally issued on August 24, 1950, and is authorized to transact casualty insurance in the state of Idaho including workers compensation insurance.

3. On July 21, 2021, the Department filed a complaint against Wellfleet New York alleging therein that it is a member of the National Council of Compensation Insurance, Inc. (hereinafter "NICCI") which is a rating organization within the meaning of chapter 16, title 41, Idaho Code.

4. The Department alleged that on November 26, 2019, in accordance with section 41-1614, Idaho Code, the Director entered an *Order Permitting Deviation from 2020 Workers' Compensation Rates*, and that the Order stated that the rate deviation "will take effect on January 1, 2020 and shall remain in effect for one year from the date unless terminated sooner with the approval of the Director."

5. The Department alleged that Wellfleet New York not only applied the rate deviation during calendar year 2020 but continued to apply the expired rate deviation from January 1, 2021, through April 30, 2021, without receiving authorization from the Director of the Idaho Department of Insurance (hereinafter "Director"), in violation of Idaho Code § 41-1614.

6. On or about April 15, 2021, Wellfleet New York submitted to the Department a request for permission to deviate from the workers' compensation rates filed by the NCCI for year 2021 by a uniform increase of fifteen percent (15%), effective May 1, 2021. The Director entered an order permitting the requested deviation on April 28, 2021, with a May 1, 2021, effective date.

7. Wellfleet New York admits that it neglected to timely file a request for permission to deviate from the workers' compensation rates filed by the NCCI for year 2021 to have such deviation effective January 1, 2021.

8. Wellfleet New York admits that it continued to apply the expired rate deviation from January 1, 2021, through April 30, 2021, without receiving the Director's authorization, in violation of Idaho Code § 41-1614.

9. In accordance with Idaho Code § 41-1432, the Director is authorized to impose penalties in accordance with Idaho Code § 41-114, which provides that each violation of title 41, Idaho Code, for which a greater penalty is not provided by a separate provision of title 41, Idaho Code, shall be an administrative penalty of not more than \$5,000 for each violation for any person other than an individual or natural person.

10. Based on the foregoing, the parties agree that this matter may be resolved by imposition of an administrative penalty of \$5,000 against Wellfleet New York.

11. The parties have agreed to the form of the Final Order as provided and agree to its entry herein by the Director.

12. Wellfleet New York acknowledges that it has had the opportunity to seek the advice of counsel with regard to this Stipulation and Final Order.

13. Wellfleet New York further acknowledges that it enters into this Stipulation and agrees to the entry of the Final Order knowingly and voluntarily and hereby waives its various rights in connection therewith, including but not limited to its rights to notice and hearing, and its rights to seek reconsideration and judicial review following entry of the Final Order.

14. The parties acknowledge that this Stipulation is subject to approval by the Director or the Director's designee and that, upon such approval by entry of the Final Order, binds all the parties to this Stipulation. Should the Director decline to approve this Stipulation, the Department and Wellfleet New York shall retain all of their rights, claims, and defenses, and any factual or legal admissions made by Wellfleet New York herein shall be withdrawn.

FINAL ORDER

In consideration of the Stipulation entered into by the parties hereto, upon review thereof and in consideration of the premises;

IT IS HEREBY ORDERED, pursuant to chapters 2 and 3, title 41, Idaho Code, that the foregoing Stipulation is hereby accepted and adopted by the Director, and the same is incorporated as if fully set forth herein;

IT IS FURTHER ORDERED that within thirty (30) days of the date of entry of this Final Order, WELLFLEET NEW YORK INSURANCE COMPANY shall pay to the Idaho Department of Insurance a total administrative penalty in the amount of \$5,000.00; said sum shall be made payable and delivered to the Idaho Department of Insurance, PO Box 83720-0043, Boise, Idaho, 83720-0043.

IT IS SO ORDERED.

DATED and EFFECTIVE this 23rd day of August, 2021.

STATE OF IDAHO
DEPARTMENT OF INSURANCE



DEAN L. CAMERON
Director

CERTIFICATE OF SERVICE

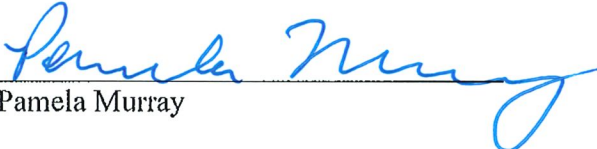
I HEREBY CERTIFY that on this 23rd day of August, 2021, I caused a true and correct copy of the foregoing fully-executed STIPULATION AND ORDER to be served upon the following by the designated means:

Wellfleet New York Insurance Company
Attn: Kimberly Nielsen
5814 Reed Road
Fort Wayne, IN 46835-3568
wellfleetregulatory@medpro.com

- first class mail
- certified mail
- hand delivery
- via facsimile
- via email

John C. Keenan
Deputy Attorney General
Idaho Department of Insurance
700 W. State Street, 3rd Floor
P.O. Box 83720
Boise, ID 83720-0043

- first class mail
- certified mail
- hand delivery
- via facsimile
- via email


Pamela Murray