

**INSURANCE COMPANY; ACCIDENT  
FUND INSURANCE COMPANY OF  
AMERICA; GRIFFIN, SMALLEY &  
WILKERSON, INC.;**  
*and* **PATRICK E. WILLIAMS**

**DOCKET NO. INS-05-201**

**CONSENT AGREEMENT BY  
ACCIDENT FUND  
INSURANCE COMPANY  
OF AMERICA**

Accident Fund Insurance Company of America, the Maine Superintendent of Insurance, and the Maine Office of the Attorney General hereby enter into this Consent Agreement pursuant to 10 M.R.S.A. § 8003(5)(B) to resolve, without an adjudicatory proceeding, issues arising out of Accident Fund's conduct under the regulatory authority of the Superintendent.

*Stipulations*

1. The Superintendent is the official charged with administering and enforcing the insurance laws of the State of Maine.
2. Respondent Accident Fund Insurance Company of America (NAIC Code 10166) is a Michigan stock insurance corporation with a principal place of business in Lansing, and has been licensed by the Superintendent to transact workers' compensation insurance within the State of Maine since February 3, 2003.
3. Patrick E. Williams and Griffin, Smalley & Wilkerson, Inc. (GS&W) were the producer and agency of record for PML Holdings Group, Inc., a Michigan-based employee leasing company whose workers' compensation coverage was underwritten by Accident Fund. However, since Accident Fund was not yet licensed in all of the states where coverage was to be provided, the policy was issued by Star Insurance Company and fully reinsured by Accident Fund. PML advised Williams that it had entered into a business relationship with World Wide Personnel Services of Maine, Inc. (WWPSME) and United Personnel Services, Inc. (UPSME), two Maine employee leasing companies, and that both WWPSME and UPSME would need workers' compensation insurance effective June 16, 2003.
4. At that time neither Williams nor GS&W was licensed in Maine. They therefore promptly contacted a contractor that processes license applications, received application materials by fax on June 6, and sent back complete, fully executed applications on June 10 for the contractor to forward to the Maine Bureau of Insurance.
5. The Bureau received the applications on June 20, and issued the license on July 1.
6. Accident Fund made no attempt to verify whether Williams or GS&W was licensed in Maine. Had Accident Fund been aware that the applications were not executed until June 10, Accident

Fund would have recognized that it would be unrealistic to expect licensure by June 16 even if the applications had been submitted directly to the Bureau.

7. Nevertheless, Williams, acting on behalf of GS&W, went forward with the sale of the Maine insurance coverage to WWPSME and UPSME with an effective date of June 16. Williams and GS&W represented both Star and Accident Fund in this transaction.

8. By placing business through unlicensed producers, Accident Fund violated 24-A M.R.S.A. §§ 1420 M(1) and 1445(1).

9. After the Bureau notified the insurers that the coverage had been sold through unlicensed producers, the Bureau was advised that the commission would be prorated and the producers would be paid only for the portion of the coverage period commencing on July 1, 2003. An insurer's recapture of commission payments does not remedy the violation because it inappropriately rewards the insurer for using an unlicensed producer. Furthermore, the issue is whether the producer was licensed at the time of the sale, not whether the producer was subsequently licensed during some or all of the term of coverage.

#### *Covenants*

Accident Fund Insurance Company of America, the Superintendent, and the Office of the Attorney General agree to the following:

10. This Consent Agreement is entered into in accordance with 10 M.R.S.A. § 8003(5)(B) and is not subject to review or appeal. This Consent Agreement is enforceable by an action in the Superior Court.

11. Accident Fund warrants that it has made full and accurate disclosure to the Superintendent of the underlying facts, and agrees that any material inaccuracy would constitute a violation of this Consent Agreement.

12. For the violations described above, Accident Fund agrees to the imposition of a civil penalty of \$250, pursuant to 24 A M.R.S.A. § 12 A(1), and shall submit a check in that amount, payable to the Treasurer of the State of Maine, at the time of the execution of this Agreement.

13. In consideration of Accident Fund's execution of and compliance with the terms of this Consent Agreement, the Superintendent agrees to forgo pursuing any disciplinary measures or other civil or administrative sanction for the violations of the notice and disclosure requirements described in the Stipulations, other than those agreed to in this Consent Agreement. However, should Accident Fund violate this Consent Agreement, the Superintendent reserves the right to pursue any available legal remedy for the violation, including without limitation the suspension or revocation of all licenses issued by the Superintendent.

14. The parties to this Agreement understand that nothing herein shall affect any rights or interests that any person not a party to this Agreement may possess.

15. Accident Fund understands and acknowledges that this Agreement will constitute a public record within the meaning of 1 M.R.S.A. § 402, will be available for public inspection and copying as provided for by 1 M.R.S.A. § 408, and will be reported to the National Association of Insurance Commissioners' "RIRS" database.

16. Accident Fund has been advised of its right to consult with counsel, and has consulted with counsel before executing this Agreement.

17. This Consent Agreement may be modified only by a written agreement executed by all of the parties.

**FOR ACCIDENT FUND INSURANCE COMPANY OF AMERICA**

Dated:

\_\_\_\_\_  
*(signature)*

\_\_\_\_\_  
*(printed name and title)*

Personally appeared before me this day \_\_\_\_\_, and signed this Consent Agreement in my presence.

\_\_\_\_\_  
Notary Public

**FOR THE OFFICE OF THE ATTORNEY GENERAL**

Dated:

\_\_\_\_\_  
Andrew L. Black, AAG

**BY THE SUPERINTENDENT OF INSURANCE**

Dated:

\_\_\_\_\_  
Alessandro A. Iuppa, Superintendent