# IN RE: MANUFACTURERS OF MAINE GROUP WORKERS' COMPENSATION TRUST FUND

### CONSENT AGREEMENT

#### DOCKET NO. INS-06-218

Manufacturers of Maine Group Workers' Compensation Trust Fund (Manufacturers), the Maine Superintendent of Insurance (the "Superintendent"), 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 hearing, issues arising out of Manufacturers' failure to file timely reports with the Superintendent.

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#### Stipulations

- 1. The Superintendent is the official charged with administering and enforcing the insurance laws of the State of Maine.
- 2. Manufacturers is a Maine workers' compensation group self-insurer organized pursuant to 39 A M.R.S.A. § 403 and Bureau of Insurance Rule 250 and authorized thereunder by the Superintendent to provide workers' compensation coverage to member employers.
- 3. On May 4, 2005, Manufacturers distributed fund surplus to members in the aggregate amount of \$96,000.00. According to the information Manufacturers provided when reporting the distribution to the Superintendent after the distribution, which was based on a financial report as of March 31, 2005, the fund surplus remaining after the distribution was \$366,229.00.
- 4. On August 30, 2005, based on updated loss information that was not then available to the Superintendent, Manufacturers' Board of Trustees authorized an additional surplus distribution in the aggregate amount of \$800,000.00, which was distributed to members on September 23, 2005.
- 5. The Superintendent has subsequently approved this distribution. However, the distribution could not have been approved at the time without the filing of additional financial information.
- 6. Manufacturers inadvertently failed to report this distribution or the supporting recalculation of fund liabilities to the Superintendent at the time the distribution was made. The Superintendent first learned of the distribution on June 2, 2006, when Manufacturers reported an aggregate Year 2005 surplus distribution of \$896,000.00 in materials filed in support of its application for renewal of its self-insurance authorization.
- Manufacturers' failure to report the distribution was a violation of 39-A M.R.S.A. § 403(3)(C)(1) and Rule Chapter 250 § III(E)(3), which require any surplus distribution to be reported to the Superintendent, along with specified supporting information, within ten days after the distribution.

#### **Covenants**

Manufacturers, the Superintendent, and the Office of the Attorney General agree as follows:

- 8. 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.
- 9. Manufacturers agrees to the imposition of a civil penalty of \$500.00, pursuant to 24 A M.R.S.A. § 12 A(1). A check for that amount, payable to the Treasurer of the State of Maine, shall be submitted at the time of the execution of this Agreement.
- 10. In entering into this Consent Agreement, the Superintendent has relied upon the representations made by Manufacturers regarding the circumstances of the surplus distribution and the failure to report it in a timely manner. Manufacturers warrants that those representations were substantially accurate to the best of its knowledge, and acknowledges that any willful or reckless misrepresentation materially affecting the validity of the Stipulations would constitute a violation of this Consent Agreement.
- 11. In consideration of Manufacturers' 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 actions described in the Stipulations, other than those agreed to in this Consent Agreement. However, should Manufacturers 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 Manufacturers' certificate of authority to act as a group selfinsurer in the State of Maine.
- 12. 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.
- 13. Manufacturers 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.
- 14. Manufacturers has been advised of its right to consult with counsel, and has consulted with counsel before executing this Agreement.
- 15. This Consent Agreement may be modified only by a written agreement executed by all of the parties.

### FOR MANUFACTURERS

Dated: 10/2/06

(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: 10/11/06

Thomas C. Sturtevant, Jr., AAG

## BY THE SUPERINTENDENT OF INSURANCE

Dated: 10/11/06

Alessandro A. Iuppa, Superintendent