



4. On August 3, 2010, the Board issued a Compliance Audit Report detailing its findings (the "Report"). The Report's findings relevant to questionable claims-handling techniques that violated 39-A M.R.S. § 359(2) included non-filing of forms, late filing of forms, untimely and inaccurate indemnity payments, and failure to pay medical bills timely. In the course of its audit, the Board identified Federal Insurance Company and Chubb Indemnity Insurance Company as having errors that constituted patterns of questionable claims-handling techniques.
5. In August 2010, the Board and the Chubb Group entered into four consent decrees, in lieu of administrative hearings, addressing the findings in the Report. In one such decree (the "Consent Decree"), the Chubb Group agreed that it had "engaged in patterns of questionable claims-handling techniques in violation of Section 359(2)" of the WCA by failing to:
  - a. File or timely file forms with the Board,
  - b. Pay benefits timely,
  - c. Comply with the Board's rules concerning payment of medical bills, and
  - d. Pay claims accurately.
6. On September 10, 2010, the Board certified these findings to the Superintendent as required by 39-A M.R.S. § 359(2).
7. On October 26 through 28, 2010 and on June 22 through 24, 2011, the Companies' claims personnel attended Board training to address the claims-handling issues identified in the Report.
8. As a result of the Report, the Chubb Group reviewed all Maine indemnity claims paid during 2008 for accuracy and corrected any such claims not accurately paid under the WCA. The Chubb Group has conducted internal audits, which included a sampling of Maine indemnity claims paid since January 1, 2008.

## II

### MAINE LAW

9. 39-A M.R.S. § 359(2) provides in part that:

[T]he [workers' compensation] board ... upon finding, after hearing, that an employer, insurer or 3rd-party administrator for an employer has engaged in a pattern of questionable claims-handling techniques or repeated unreasonably contested claims ... shall certify its findings to the Superintendent of Insurance, who shall take appropriate action so as to bring any such practices to a halt.

## III

### CONCLUSIONS OF LAW

10. Federal Insurance Company and Chubb Indemnity violated 39-A M.R.S. § 359(2) by engaging in patterns of questionable claims-handling techniques through September 10, 2010.

11. The Superintendent is required, pursuant to the Board's September 10, 2010 certification of its findings that the Companies engaged in a pattern of questionable claims-handling techniques, to take appropriate action to bring those practices to a halt.

#### IV

#### COVENANTS

12. Each Company shall comply with each provision of this Agreement. However, the Companies may, unless otherwise provided herein, act as a group to comply with any affirmative obligation under this Agreement, including delivering to the Superintendent the reports and certifications pursuant to paragraphs 14 and 15, provided that (a) each Company shall take all necessary steps to authorize any group action on its behalf, and (b) all Companies wishing to act as a group remain affiliated with each other. Each Company acknowledges and agrees that a breach of this Agreement resulting from any group action shall constitute an individual breach of this Agreement by each Company.
13. Each Company shall bring to a halt and adopt procedures designed to prevent the occurrence of, the patterns of questionable claims-handling techniques as set forth in this Agreement.
14. Within thirty (30) days after executing this Agreement, the Companies shall adopt, and deliver to the Superintendent for approval, with a copy to the WCB Deputy Director, MAE Division, written procedures that ensure that all claims for indemnity benefits under the WCA are paid in compliance with Maine law.

At a minimum, such procedures must include plans for:

- a. ensuring compliance with the benchmarks in Exhibit A;
- b. ensuring that the Companies' supervisory and front-line staff are knowledgeable in Maine workers' compensation law;
- c. training in-house and third-party administrator claims personnel on the provisions of the WCA concerning derivation of benefit levels from average weekly wages and accuracy of indemnity payments;
- d. encouraging the Companies' policyholders to meet the reporting requirements of the WCA;
- e. ensuring that third-party administrators working on behalf of the Chubb Group comply with the requirements of the WCA;
- f. maintaining claims payment standards through ongoing staff and third-party administrator education and supervision;
- g. implementing adequate claim review procedures, to include monitoring the accuracy and timeliness of WCB form filings and indemnity payments; and
- h. auditing, on at least a quarterly basis, all indemnity claims to measure compliance with the benchmarks in Exhibit A.

The Chubb Group shall deliver to the Superintendent and the WCB Deputy Director, MAE Division, the results of the audits referred to in subparagraph (h) for four (4) successive calendar quarters starting with the quarter in which the Chubb Group executes

this Agreement. The Chubb Group shall deliver each audit report within forty-five (45) days after the end of the applicable calendar quarter. Within forty-five (45) days thereafter, the Superintendent may call a meeting with the Chubb Group to discuss any concerns he may have with the Chubb Group's claims performance during the period covered by such audit report. Failure to call any such meeting shall not waive any of the Superintendent's or the Attorney General's rights under this Agreement. The Chubb Group shall deliver with the last audit report (the "Final Self-Audit Report"), a certification in the form attached as Exhibit B, attesting to the accuracy of all claims performance audit information required under this Agreement. The Chubb Group shall also deliver, upon the Superintendent's or the WCB Deputy Director's request, any and all work papers and documents, in any format, in its possession, custody or control, related to any Self-Audit Report.

15. The Chubb Group shall, for the period starting January 1, 2009 and ending as of the effective date of this Agreement:
  - a. review the indemnity claims, except those discharged under 39-A M.R.S. § 352, presented to any Company under the WCA, the incapacity periods, and indemnity benefits, penalties and interest originally paid thereon;
  - b. recalculate the benefits, penalties and interest to ensure their compliance with the WCA;
  - c. pay to the appropriate claimants any deficiencies, with the penalties and interest provided for in the WCA, and file with the Board such related forms as the WCA requires; and
  - d. deliver to the Superintendent and the WCB Deputy Director, MAE Division, by the date the Chubb Group must deliver the Final Self-Audit Report, an electronic spreadsheet report viewable in Microsoft Excel listing each claim so reviewed (the "Look-Back Report"). The Look-Back Report shall contain the following data, safeguarded in accordance with the WCA, for each claim:
    - i. the Board number, if known;
    - ii. the claimant's Social Security number (general format/no dashes);
    - iii. the claimant's last and first name (in that order);
    - iv. the date of injury;
    - v. Company name and claim file number; the incapacity periods;
    - vi. the amount of indemnity originally paid;
    - vii. whether or not the claim was settled under 39-A M.R.S. § 352 (Y or N) and the date of such settlement;
    - viii. the amount of indemnity paid after review;
    - ix. the amount of penalties paid after review;
    - x. the amount of interest paid after review;
    - xi. the amount of overpayment upon review; and
    - xii. the name of the person conducting the review.

The Chubb Group shall deliver with the Look-Back Report a certification attesting to the accuracy of all information in the report, in the form attached as Exhibit

B.

This paragraph shall not apply to any claims that are subject to the audits described in paragraph 14, to any claims that have been discharged under 39-A M.R.S.A § 352, or to any claims that were previously presented to any Company or third-party administrator working on behalf of a Company that were previously audited by the Board and subsequently corrected by the Company or third-party administrator.

16. Should the Superintendent, in his sole and absolute discretion, determine, within twelve (12) months after receiving the (i) Final Self-Audit Report or (ii) Look-Back Report, that the Companies:
  - a. on an aggregate basis, did not meet or exceed on average the benefit payment and form filing benchmarks in Exhibit A during the self-audit review period described in paragraph 14, then each Company shall pay and deliver a civil penalty of Two Thousand Five Hundred Dollars (\$2,500) to the Superintendent, within thirty (30) days of receiving the determination, or
  - b. failed to correct deficiencies in indemnity benefits as required by paragraph 15.c, including penalties and interest due thereon, pursuant to the WCA, resulting in compliance with the WCA in less than 93 percent of claims required to be reviewed pursuant to paragraph 15, then each Company shall pay and deliver a civil penalty of Eight Hundred Thirty-Three Dollars (\$833) to the Superintendent within thirty (30) days of receiving the determination.

Each Company agrees that (i) any civil penalties assessed under subsection (a) or (b) above will have resulted from its continued failure through the delivery date of either the Final Self-Adult Report or the Look-Back Report, to halt the pattern of questionable claims-handling techniques established by the Consent Decree, (ii) in declaring the Civil Penalty due, the Superintendent may rely on the Self-Audit Reports and the Look-Back Report as conclusive evidence of the fact and extent of such failure, and (iii) the amount of this penalty will not limit further measures, penalties or remedies that the Superintendent or the Attorney General may impose or seek under paragraph 26 below.

17. The Companies shall pay, as provided by law, the Superintendent's reasonable costs and expenses of monitoring their compliance with, and enforcing the Companies' obligations under, this Agreement.
18. The Companies shall not recoup any payments of refunds, interest, or civil penalties made under this Agreement or any costs associated with complying with this Agreement in any future rate adjustments.
19. The Companies shall ensure that third-party administrators working on their behalf comply with the WCA and this Agreement. If any third-party administrator fails to comply with the WCA or this Agreement, the Companies will consider removing the non-compliant third-party administrator from the Companies' Maine panel of approved third-party administrators. The Companies acknowledge their continued responsibility for the actions of any third-party administrator not removed from such panel.

V

**MISCELLANEOUS**

20. Any action that this Agreement permits the Superintendent to take may be taken against all or any of the Companies.
21. The Companies waive any:
  - a. hearing rights arising from this Agreement;
  - b. any action that may be taken by the Superintendent pursuant to this Agreement, including but not limited to the imposition of the civil penalties specified in paragraph 16 and agree they will make no appeal from this Agreement; and
  - c. objection to the Board's release to the Superintendent and the Attorney General of claim of confidentiality of Board "audit working papers," as defined in section 153 of the WCA, related to any audit of any Company and, in connection with this waiver, to the use of such papers by the Superintendent and Attorney General for purposes related to the implementation and enforcement of this Agreement.
22. The Companies acknowledge that this Agreement is a public record within the meaning of 1 M.R.S. § 402 and will be available for public inspection and copying as provided for by 1 M.R.S. § 408, and will be reported by Company to the Regulatory Information Retrieval System database at the National Association of Insurance Commissioners.
23. The Companies have been advised of their right to consult with counsel and have, in fact, consulted with counsel before executing this Agreement.
24. This Agreement does not bind any person or entity not a party to this Agreement, or limit the Superintendent's ability to seek any available legal remedy for any violations of the WCA or the Maine Insurance Code against any Chubb Group affiliate or subsidiary not a party to this Agreement or against any entity from which any Company obtains WCA claims administrator services.
25. Nothing in this Agreement shall limit the ability of the Superintendent, in his sole and absolute discretion, in order to determine whether any Company has brought to a halt all violations of 39-A M.R.S. § 359(2) established by the Consent Decree, to investigate the:
  - a. handling of the Chubb Group's indemnity claims having dates of injury after December 31, 2008;
  - b. accuracy of the self-audit quarterly review described in paragraph 14; or
  - c. accuracy of the indemnity claim review described in paragraph 15.
26. The purpose of the self-audit quarterly review described in paragraph 14 and the indemnity claim review described in paragraph 15 is to bring to a halt the violations established by the Consent Decree. Therefore, in consideration of the Companies' execution of this Agreement, the Superintendent and the Attorney General shall not pursue civil penalties, disciplinary measures or other civil or administrative sanctions, other than those agreed to herein, for violations established by the Consent Decree that continue through the period of the paragraph 14 and paragraph 15 reviews. However, the Superintendent or the Attorney General may pursue any available legal remedy, including without limitation

imposition of additional civil penalties and the limitation, suspension or revocation of workers' compensation authorities issued to any Company by the Superintendent should any Company:

- a. engage in conduct that violates 39-A M.R.S. § 359(2) after the period of the paragraph 14 and paragraph 15 reviews; or
  - b. violate any provision of this Agreement other than as described in subsections (a) and (b) of paragraph 16; or
  - c. otherwise violate Maine law.
27. The effective date of this Agreement is the date entered in the Superintendent's signature line below.
28. This Agreement may be modified only by the written consent of all parties.

Dated: February 14, 2012

**PACIFIC INDEMNITY COMPANY**

By: W. Andrew Macan

Its: W. ANDREW MACAN VP and Secretary  
Printed Name and Title

Subscribed and sworn to before me this 14<sup>th</sup> day of February, 2012.

Jacqueline Spanvill  
Notary Public

JACQUELINE SPANVILL  
Notary Public of New Jersey  
Printed name My Commission Expires March 7, 2013  
ID# 2297677

Date commission expires

Dated: \_\_\_\_\_, 2012

**VIGILANT INSURANCE COMPANY**

By: W. Andrew Macan

Its: W. ANDREW MACAN, VP and Secretary  
Printed Name and Title

Subscribed and sworn to before me this 14<sup>th</sup> day of February, 2012.

Jacqueline Spanvill  
Notary Public

JACQUELINE SPANVILL  
Notary Public of New Jersey  
Printed name My Commission Expires March 7, 2013

Date commission expires ID# 2297677

Dated: February 14, 2012

**FEDERAL INSURANCE COMPANY**

By: W. Andrew Macan

Its: W. Andrew Macan, VP and Secretary  
Printed Name and Title

Subscribed and sworn to before me this 14<sup>th</sup> day of February, 2012.

Jacqueline Spanvill  
Notary Public

JACQUELINE SPANVILL  
Notary Public of New Jersey  
My Commission Expires March 7, 2013  
ID 2297677

Date commission expires

Dated: \_\_\_\_\_, 2012

**GREAT NORTHERN INSURANCE COMPANY**

By: W. Andrew Macan

Its: W. Andrew Macan, VP and Secretary  
Printed Name and Title

Subscribed and sworn to before me this \_\_\_\_\_ day of \_\_\_\_\_, 2012.

Jacqueline Spanvill  
Notary Public

JACQUELINE SPANVILL  
Notary Public of New Jersey  
My Commission Expires March 7, 2013  
ID 2297677

Date commission expires

Dated: \_\_\_\_\_, 2012

**CHUBB NATIONAL INSURANCE COMPANY**

By: W. Andrew Macan

Its: W. Andrew Macan, VP and Secretary  
Printed Name and Title

Subscribed and sworn to before me this 14 day of February, 2012.

Jacqueline Spanvill  
Notary Public

JACQUELINE SPANVILL  
Notary Public of New Jersey  
My Commission Expires March 7, 2013  
ID 2297677

Date commission expires

Date commission expires

Dated: \_\_\_\_\_, 2012

**CHUBB INDEMNITY INSURANCE COMPANY**

By: 

Its: W. ANDREW MACAN, VP and Secretary  
Printed Name and Title

Subscribed and sworn to before me this 14<sup>th</sup> day of February, 2012.

  
Notary Public

JACQUELINE SPANVILL  
Notary Public of New Jersey  
Printed name My Commission Expires March 7, 2013  
ID 2297677

Date commission expires

Dated: March 2, 2012

**OFFICE OF THE MAINE ATTORNEY  
GENERAL**

  
Jonathan R. Bolton  
Assistant Attorney General

Effective  
Date: March 7, 2012

**MAINE BUREAU OF INSURANCE**

  
Eric A. Cioppa  
Superintendent



Exhibit B

Form of Certification

IN RE:

Pacific Indemnity Company, )  
 Vigilant Insurance Company, ) AFFIDAVIT OF  
 Federal Insurance Company, ) CORPORATE OFFICER  
 Great Northern Insurance Company, )  
 Chubb National Insurance Company, )  
 and ) Docket No. INS-12-201  
 Chubb Indemnity Insurance Company )  
 )

The undersigned, being duly sworn, says:

1. Terms used but not defined in this affidavit shall have the meanings given them in the Consent Agreement entered into between the above Companies, the Superintendent and the Attorney General under Bureau docket number INS-12-201.
2. I have read and understand the Consent Agreement and exhibits attached thereto.
3. I understand that the Board and Bureau may rely on the truthfulness of the information contained in and materials attached to this affidavit and that the truthfulness of this information is material to the ability of the Superintendent and the Board to evaluate the Companies' compliance with the Consent Agreement.
4. I have read the materials attached to this affidavit. They accurately and completely summarize the information contained therein, as required by [paragraph 14/paragraph 15] of the Consent Agreement.
5. I hold the position identified below and have obtained all necessary authority from each of the Companies to give this affidavit on its behalf in connection with the proceedings undertaken as Bureau Docket No. INS-12-201.

\_\_\_\_\_

(name typed or printed)

\_\_\_\_\_

(position typed or printed)

\_\_\_\_\_

(company name typed or printed)

Acknowledgement

State of \_\_\_\_\_

County of \_\_\_\_\_

Personally appeared before me on \_\_\_\_\_, 201\_, the above named \_\_\_\_\_ and, being duly sworn, affirmed that this affidavit is based upon his or her personal knowledge and is true and correct.

Before me,

\_\_\_\_\_  
Notary Public/Attorney-at-Law

[seal]

Printed Name: \_\_\_\_\_

My Commission Expires: \_\_\_\_\_