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STATE OF ALASKA
DEPARTMENT OF COMMERCE, COMMUNITY AND ECONOMIC
DEVELOPMENT
DIVISION OF INSURANCE
550 W. 7th AVENUE, SUITE 1560
ANCHORAGE, ALASKA 99501-3567

STATE OF ALASKA
DEPARTMENT OF COMMERCE, COMMUNITY AND ECONOMIC
DEVELOPMENT
DIVISION OF INSURANCE
550 W. 7th AVENUE SUITE 1560
ANCHORAGE, ALASKA 99513-3567
PHONE: (907) 268-7900

In the Matter of:)
)
BERKSHIRE HATHAWAY HOMESTATE)
INSURANCE COMPANY,)
)
Insurer)
)
)

Alaska Division of Insurance Case No. D23-02

STIPULATED AGREEMENT AND ORDER

The State of Alaska Division of Insurance (the "Division") and Berkshire Hathaway
Homestate Insurance Company ("BHHIC") stipulate and agree to the following:

I. **BACKGROUND**

A. On December 7, 1995, the Division issued BHHIC (FEIN 47-0529945), a foreign
property casualty insurer domiciled in Nebraska, a certificate of authority for
workers' compensation and employer's liability insurance pursuant to
AS § 21.12.070.

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B. BHHIC retained Northern Adjusters Inc. (“NAI”) (FEIN 92-0036847), a domestic business corporation licensed as an independent insurance adjusting company (Alaska Entity 8695D, Alaska License 26946), to adjust its Alaska workers’ compensation claims.

C. In 2016, BHHIC was the workers’ compensation insurer for an Alaska employer.

D. On December 29, 2016, an Alaska employee covered under BHHIC’s workers’ compensation policy, suffered a workplace injury. The employee filed a claim with BHHIC (Claim 55060414), and the claim was adjusted by NAI (Claim 11.54310). The claim became the subject of Alaska Workers’ Compensation Board (“AWCB”) Case 201700005. BHHIC filed controversions on September 20 and October 18, 2018, denying portions of the employee’s claim.

E. The matter of the two controversions was heard by the AWCB on August 28, 2019. In Decision No. 19-0114, the AWCB determined that BHHIC “made a frivolous or unfair controversion” of the employee’s workers’ compensation benefits. The Director of the Alaska Workers’ Compensation Division notified the Division of the determination pursuant to AS § 23.30.155(o). The Division investigated the controversions to determine whether they constituted unfair claim settlement practices under AS § 21.36.125.

F. The Division’s investigation revealed:

- (i) BHHIC’s controversions violated AS § 21.36.125(a)(4) when the insurer failed to perform a “reasonable investigation” of all “available information”. At the time BHHIC controverted the employee’s benefits, it possessed relevant and material information relating to the employee’s

1 ongoing, physician-recommended medical treatments and his lack of
2 medical stability. The AWCB found that BHHIC's reliance on the
3 independent medical examination alone was "insufficient to controvert"
4 the employee's benefits.
5

6 (ii) BHHIC's controversions violated AS § 21.36.125(a)(6) when BHHIC
7 failed to "attempt in good faith to make prompt and equitable settlement"
8 of the employee's claim. BHHIC's records demonstrated an intent to
9 settle the employee's claim as early as 2017. However, BHHIC never
10 tendered a settlement offer to the employee.
11

12 (iii) BHHIC's controversions were determined by the AWCB to lack "a
13 plausible legal defense (legal-based) and evidence (fact-based) to support
14 controverting." The AWCB's finding demonstrates BHHIC violated AS §
15 21.36.125(a)(15) when it failed to "promptly provide a reasonable
16 explanation of the basis in the insurance policy in relation to the facts or
17 applicable law for denial of a claim."
18

19 G. Pursuant to AS § 21.36.910(d), the Division's director may, after a hearing, order
20 restitution, assess a penalty of not more than \$2,500 for each violation or \$25,000
21 for engaging in a general business practice in violation of this chapter.
22

23 **II. TERMS OF AGREEMENT**

24 BHHIC stipulates and agrees:

- 25 (i) that the conduct described in Paragraph F above constitutes three violations of
26 AS § 21.36.125;
27
28 (ii) that BHHIC will pay a penalty of \$2,500 per violation for a total of \$7,500;
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- (iii) that BHHIC waive its right to a hearing and enters into this agreement voluntarily and with full knowledge of all rights it may have in this matter.
- (iv) BHHIC understands that this agreement is not binding on the parties unless and until the Division’s director signs the order adopting this stipulated agreement.
- (v) BHHIC further understands that this stipulated agreement resolves the civil liability issues between the parties to this agreement related to BHHIC’s violations of the State of Alaska’s insurance laws.

DATED: 3/15/2023

ALASKA DIVISION OF INSURANCE

Alex M. Romero

Alex Romero, Chief Investigator

DATED: 17-MAR-2023

BERKSHIRE HATHAWAY HOMESTATE INSURANCE COMPANY

Andrew Linkhart

Andrew Linkhart, Chief Financial Officer/
Chief Claims Officer

DATED: 3/16/2023

BERKSHIRE HATHAWAY HOMESTATE INSURANCE COMPANY

William Lawrence

William Lawrence, Vice President
Compliance and Quality Assurance

1 Approved as to form and content:

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DATED: March 20, 2023

TREG TAYLOR
ATTORNEY GENERAL



Susan Mitchell, Assistant Attorney General

ORDER

IT IS FURTHER ORDERED that this Stipulated Agreement and Order is adopted in full resolution of the civil liability issues between the parties to this agreement in this case and shall constitute the final order in this matter.

DATED this 31st day of March, 2023.

ALASKA DIVISION OF INSURANCE


Lori K. Wing-Heler, Director