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Attorney for State Farm

**BEFORE THE COMMISSIONER OF SECURITIES AND INSURANCE
OFFICE OF THE MONTANA STATE AUDITOR**

In the Matter of the Examination and
Proposed Agency Action Against State
Farm Mutual Automobile Insurance
Company,

Respondent.

Case No. INS-2020-000203

**CONSENT AGREEMENT AND
FINAL ORDER**

This Consent Agreement (“Agreement”) and Final Order (“Order”) are entered into by the Commissioner of Securities and Insurance, Office of the Montana State Auditor (“CSI” or “the Commissioner”) acting pursuant to the authority granted under the Montana Insurance Code, § 33-1-101 *et seq.*, MCA, and State Farm Mutual Automobile Insurance Company (“State Farm”).

RECITALS

WHEREAS, CSI conducted an Examination under § 33-1-401 *et seq.*, MCA, regarding State Farm's claims handling practices as they relate to the application of comparative negligence to third party claimants, as well as payments for loss of use of claimants' automobiles. CSI examiners issued a Market Conduct Examination Report ("the Report") attesting to their findings on November 6, 2023;

WHEREAS, CSI transmitted a draft Notice of Proposed Agency Action to State Farm on January 4, 2024 ("the NOPAA") proposing to impose fines for conduct alleged in the Report, as well as related conduct;

WHEREAS, CSI alleges that certain State Farm claims handling practices during the applicable examination period violated the Unfair Claims Settlement Practices provisions of § 33-18-201, MCA, and related provisions of previous memoranda issued by the CSI;

WHEREAS, CSI and State Farm have conferred further regarding the allegations in the Report and State Farm's views in response thereto;

WHEREAS, the CSI believes that the best interests of Montanans would be served by entering into this Agreement;

WHEREAS, State Farm has cooperated with CSI and is actively working to resolve the issues identified in the Report and NOPAA;

WHEREAS, State Farm specifically denies that it has violated any federal or state laws, but desires to enter into this Agreement to resolve CSI's allegations without extended litigation;

NOW, THEREFORE, in consideration of the mutual undertakings contained in this Agreement, CSI and State Farm ("the parties") hereby agree to settle this matter as follows:

STIPULATIONS AND CONSENTS

1. The parties stipulate and agree that CSI has jurisdiction over State Farm and the subject matter of this matter pursuant to § 33-1-101 *et seq.*, MCA.

2. The parties have entered into this Agreement without trial of any issue of fact or law. State Farm specifically denies that it has violated any state or federal laws. The parties agree that nothing in this Agreement shall be taken as or construed to be an admission or concession of any violation of law or regulation, or any other matter of fact or law, or any liability or wrongdoing, nor shall it constitute any evidence or finding supporting any of the allegations of fact or law by the CSI, or any violation of state or federal law, rule or regulation, or any liability or wrongdoing by State Farm whatsoever.

3. The parties agree that this Agreement is not intended to constitute evidence or precedent of any kind except in any action or proceeding by one of the parties to enforce, rescind, or otherwise implement or affirm any of the terms of this Agreement. The parties expressly acknowledge and agree that nothing shall prevent CSI's enforcement of any rights associated with this Agreement.

4. For any person or entity not a party to this Agreement, this Agreement does not limit or create any private rights or remedies against State Farm, limit or create liability of State Farm, or limit or create defenses for State Farm to any claims.

5. Without admitting to any of CSI's findings in the Report or any allegations in CSI's associated NOPAA, State Farm stipulates and consents as follows:

a. Within thirty (30) days from the execution of this Agreement, State Farm stipulates and agrees to pay a fine in the total amount of \$2,000,000 to the State of Montana.

b. The payment shall be sent by electronic funds transfer (EFT) or automated clearing house (ACH) payment to the State of Montana pursuant to instructions to be provided by CSI concurrently with this Consent Agreement.

c. State Farm stipulates and agrees that it will be subject to an additional suspended fine of \$2,000,000, which CSI agrees will be discharged upon successful completion of the following conditions:

i. State Farm agrees to follow and carry out the Recommendations set forth in Section VI of the Amended Market Conduct

Examination Report dated February 5, 2024 (“Amended Report”), and adopted by the Commissioner in the Order below. Upon State Farm providing satisfactory evidence of completion of the recommendations related to policies, procedures, and training to CSI within six (6) months of the execution of this Agreement, and recommendations related to internal review and payment of claims within twelve (12) months of the execution of this Agreement, \$1,000,000 of the suspended fine will be discharged.

ii. One (1) year from the execution of the Agreement, CSI will commence an audit pursuant to § 33-1-401 *et seq.*, MCA, of a 50-file sample from a list of all third-party claims received by State Farm since the end of the period covered by the Amended Report in which it applied comparative negligence to a third-party claimant. This audit will be confined to the categories of alleged errors identified in the Amended Report. If the error rate, as previously defined in the Amended Report, is below 8% upon satisfactory completion of the audit, then the other \$1,000,000 of the suspended fine will be discharged.

iii. The parties agree that this audit shall not limit CSI’s authority to otherwise conduct future examinations of State Farm pursuant to the legal authority granted to CSI, but that for the purposes of determining compliance with the terms of this Agreement, the audit shall proceed as described above.

iv. If State Farm fails to comply with the terms in section 5.c.i. and ii., respectively, the respective fines will be imposed and owing to the State of Montana within thirty (30) days of the failure, with payment to be made as described above in section 5.b.

d. By executing this Agreement, State Farm specifically and affirmatively waives a contested case hearing and all rights to appeal the Report, Amended Report, and NOPAA under the Montana Administrative Procedure Act,

§ 2-4-101 *et seq.*, MCA, and § 33-1-409(4)(a), MCA, and elects instead to resolve this matter on the terms and conditions herein.

e. State Farm consents to the entry of an Order adopting the Amended Report and agrees to waive the 30-day confidentiality period set forth in § 33-1-409(5)(a), MCA, to allow for the immediate publication of the Amended Report attached to this agreement and adopted by the Commissioner in the Final Order below.

6. The parties additionally stipulate and consent as follows:

a. The parties agree to meet for the purpose of CSI's relevant employees to provide additional feedback to State Farm on its findings in the Amended Report to further clarify CSI's positions on the application of the Unfair Claims Settlement Practices as set forth in § 33-18-201 *et seq.*, MCA, and State Farm's obligations under those provisions.

b. CSI agrees to adopt the Amended Report attached to this Agreement and Order, and that the Amended Report shall be the official report of the Market Conduct Examination described in the Recitals above. CSI agrees that the prior report shall be treated as CSI's working papers, subject to the full confidentiality protections set forth in § 33-1-409(6), MCA.

c. This agreement fully resolves the allegations set forth in the Report, Amended Report, and NOPAA. CSI agrees not to pursue further civil or administrative action against State Farm arising from the conduct and/or allegations set forth in the Amended Report and NOPAA. This Agreement does not, and is not intended to, limit CSI's authority to otherwise take enforcement action in the future against State Farm on matters outside the scope of this Agreement.

d. The applicable statutes of limitations and repose set forth in § 33-1-707, MCA, are tolled until final payment under this Agreement with regard to the allegations asserted in this matter. In the event State Farm fails to comply

with the terms of this Agreement at any time during the tolling period, CSI may pursue additional administrative action against Respondents.

7. This Agreement constitutes the entire agreement between CSI and Respondents, and no other promises or agreements, either express or implied, have been made by CSI or by any member, officer, agent, or representative of CSI to induce Respondents to enter into this Agreement.

8. This Agreement may not be modified orally, and any subsequent modifications to this Agreement must be mutually agreed upon in writing to be effective.

9. This Agreement will be incorporated into and made a part of the attached Final Order issued by the Commissioner.

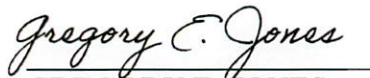
10. This Agreement shall be effective upon signing of the Final Order. CSI has jurisdiction over the enforcement of the Final Order.

11. This Agreement is a public record under Montana law and, as such, may not be sealed or otherwise withheld from the public.

By signing this Agreement, the parties agree to be bound by the terms of the Agreement.

DATED this 5th day of February 2024.

**STATE FARM MUTUAL AUTOMOBILE
INSURANCE COMPANY**



GREGORY E. JONES
Vice President – Operations

**COMMISSIONER OF SECURITIES AND
INSURANCE, OFFICE OF THE MONTANA
STATE AUDITOR**



OLE OLSON
Chief Counsel

FINAL ORDER

Pursuant to the authority vested by §§ 2-4-603, 33-1-409, and 33-1-101 *et seq.*, MCA, and upon review of the foregoing Agreement, and for good cause appearing,

IT IS HEREBY ORDERED that the foregoing Consent Agreement between CSI and State Farm is adopted as a Final Order if set forth fully herein.

IT IS FURTHER ORDERED that the Commissioner's Order dated January 4, 2024, adopting the Market Conduct Examination Report, is **RESCINDED**;

IT IS FURTHER ORDERED that upon consideration of State Farm's responses to the Market Conduct Examination Report, as well as the Consent Agreement above, the Amended Market Conduct Examination Report dated February 5, 2024, is adopted in full pursuant to § 33-1-409(3), MCA, and is attached to and made part of this Order.

DATED this 5th day of February, 2024.



TROY DOWNING

Commissioner of Securities and Insurance,
Montana State Auditor