BEFORE THE COMMISSIONER OF COMMERCE AND INSURANCE
FOR THE STATE OF TENNESSEE

TENNESSEE INSURANCE DIVISION, Petitioner,	)	
vs.	)	No.: 12.01-053303J
LUMBERMENS MUTUAL CASUALTY COMPANY, Respondent.	)	

AGREED ORDER

WHEREAS, Petitioner, the Tennessee Insurance Division, (hereinafter referred to as the "Division") and the Respondent, Lumbermens Mutual Casualty Company, hereby stipulate and agree, subject to the approval of the Commissioner of Commerce and Insurance (hereinafter referred to as the "Commissioner") as follows:

GENERAL STIPULATIONS

1. It is expressly understood that this Agreed Order is subject to the Commissioner's acceptance and has no force and effect until such acceptance is evidenced by the entry of the Commissioner.

2. The Commissioner has determined that the resolution set forth in this Agreed Order is fair, reasonable, and in the best public interest.

3. This Agreed Order is executed by the Respondent for the purpose of avoiding further administrative action with respect to this cause. Furthermore, should this Agreed Order not be accepted by the Commissioner, it is agreed that presentation to and consideration of this Agreed Order by the Commissioner shall not unfairly or illegally prejudice the Commissioner from further participation or resolution of these proceedings.

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4. Respondent fully understands that this Agreed Order will in no way preclude additional proceedings by the Commissioner against the Respondent for acts or omissions not specifically addressed in this Agreed Order or for facts and/or omissions that do not arise from the facts or transactions herein addressed.

5. Respondent expressly waives all further procedural steps and all rights to seek judicial review of or to otherwise challenge or contest the validity of the Agreed Order, the stipulations and imposition of discipline contained herein, and the consideration and entry of said Agreed Order by the Commissioner.

FINDINGS OF FACT

6. Lumbermens Mutual Casualty Company (hereinafter referred to as the "Respondent") is an insurance company domiciled in the State of Illinois.

7. Schedule P of the Respondent's 2004 annual statement discloses that loss reserves were discounted on a non-tabular basis. Schedule P further provides that the amount of the discount is Five Hundred Seventy-Three Million Six Hundred Fifty-One Thousand Dollars ($573,651,000). Such discounting was allowed by the Respondent's domestic insurance regulator pursuant to a confidential corrective order issued by the Illinois Department of Financial and Professional Regulation - Division of Insurance.

8. Tenn. Code Ann. § 56-1-501(g) provides that the annual statements provided by insurance companies shall be prepared in accordance with the National Association of Insurance Commissioners Accounting Practices and Procedures Manual in effect for the period covered by the statement.

9. The practice of discounting non-tabular loss reserves is not authorized by the Statements of Statutory Accounting Principles (hereinafter referred to as the "SSAP") published by the National Association of Insurance Commissioners in its Accounting Practices and Procedures Manual or by the Tennessee Law. Statement of Statutory Accounting Principle No. 65 ¶ 10 of the Accounting Practices and Procedures Manual states that, with the exception of fixed and reasonably determinable payments such as those emanating from workers' compensation tabular indemnity reserves and long-term disability claims, property and casualty loss reserves shall not be discounted.

10. The Respondent deviated from Statement of Statutory Accounting Principle No. 65 by booking a non-tabular discount of its loss reserves. The loss reserves which were discounted were not fixed and reasonably determinable payments, as required by Statement of Statutory Accounting Principle No. 65. Such deviation is a violation of Tennessee Law and, therefore, should not be recognized as a valid practice in this State.

11. In order to avoid any further expenses or costs associated with litigating this mater, Respondent hereby desires to enter into this Agreed Order.

CONCLUSIONS OF LAW

12. Tenn. Code Ann. § 56-1-416 provides that the Commissioner shall revoke or suspend all certificates of authority granted to an insurance company if the Commissioner is of the opinion, upon examination or other evidence, that a foreign insurance company is in an unsound condition or has failed to comply with the law and, upon such a finding, no new business shall be done by the company or its agents under suspension or revocation while such

default or disability continues and not until its authority to do business is restored by the Commissioner.

13. Pursuant to Tenn. Code Ann. § 56-2-115, Respondent is required to possess and maintain bona fide surplus funds in the amount of One Million Dollars ($1,000,000). Had the Respondent complied with SSAP, bona fide surplus would have been negative Four Hundred Two Million Two Hundred Sixteen Thousand One Hundred Twenty Dollars (-$402,216,120). Such subjects the Respondent to sanctions pursuant to Tenn. Code Ann. § 56-1-416 for failing to comply with Tennessee law.

ORDER

NOW THEREFORE, on the basis of the foregoing, the waiver of the Respondent, of its rights to a hearing and appeal under Tennessee Insurance Law and Tennessee's Uniform Administrative Procedures Act, Tenn. Code Ann. §§ 4-5-101, *et seq.*, and the admission by Respondent of the jurisdiction of the Commissioner, the Commissioner finds that the Respondent has agreed to the entry of this order, this Order is appropriate, and in the public interest.

IT IS ORDERED, pursuant to Tenn. Code Ann. § 56-1-416 of the Tennessee Insurance Law, that:

1. Respondent's Certificate of Authority is hereby suspended for a period of two (2) years, so that during such period the Respondent shall continue to be licensed in Tennessee but shall cease writing any new business in the State of Tennessee, and shall renew only those policies that the law may require. Should the Commissioner determine that the Respondent's financial condition is no longer unsound, she may at any time remove the suspension of the

Respondent's Certificate of Authority. The Commissioner, in her sole discretion, may also extend the suspension period should she find such extension to be in the public interest. However, in the event the Respondent's Certificate of Authority is not reinstated within two (2) years from the date of this Order, unless the Commissioner shall have extended the suspension period, the Respondent's Certificate of Authority shall automatically be revoked without further action by the Commissioner or the Division.

2. Respondent shall continue to file its annual statement, pay fees, licenses and taxes as required and applicable, and service existing policyholders and adjust losses thereunder.

This Agreed Order is in the public interest and in the best interests of the parties. This Agreed Order represents a compromise and settlement of the controversy between the parties and is for settlement purposes only. By the signature affixed below, Lumbermens Mutual Casualty Company affirmatively states that it has freely agreed to the entry of this Agreed Order, that it has been advised that it may consult legal counsel in this matter and has had the opportunity to consult with legal counsel, that it waives its right to a hearing on the matters underlying this Agreed Order and to a review of the Findings of Fact and Conclusions of Law contained herein, and that no threats or promises of any kind have been made by the Commissioner, the Division, or any agent or representative thereof. The parties, by signing this Agreed Order, affirmatively state their agreement to be bound by the terms of this Agreed Order and aver that no promises or offers relating to the circumstances described herein, other than the terms of settlement set forth in this Agreed Order, are binding upon them.

Nothing in this Agreed Order should be construed to limit the authority of the Insurance Division or the Commissioner to take further action against the Respondent should such action, in the opinion of the Insurance Division or the Commissioner, be necessary.

SO ORDERED.

ENTERED this the 6th day of July, 2005.

Paula A. Flowers

Paula A. Flowers, Commissioner
Department of Commerce and Insurance

APPROVED FOR ENTRY:

Larry C. Knight, Jr.
Assistant Commissioner for Insurance
Department of Commerce and Insurance
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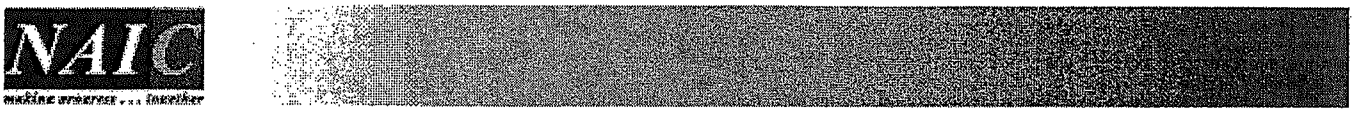

Regulatory Action Detail

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Name:	LUMBERMENS MUTUALCASUALTY CO.
Entity Number:	3764
Update ID:	TN063
Submitting State:	TN
State ID:	

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