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**BEFORE THE INSURANCE COMMISSIONER
OF THE STATE OF CALIFORNIA**

In the Matter of the Rates, Rating Plans, or
Rating Systems of

KEMPER INDEPENDENCE
INSURANCE COMPANY,

Respondent.

File No. NC-2022-00003

STIPULATION AND CONSENT ORDER

The California Department of Insurance (“Department”) and KEMPER INDEPENDENCE INSURANCE COMPANY (“Respondent”) (collectively, the “Parties”) hereby stipulate and agree to the resolution of this matter on the terms stated herein, and request the Insurance Commissioner of the State of California approve the terms of the Stipulation and adopt those terms as an Order on the basis of the parties’ agreement as set forth here.

RECITALS

- A. The Department has jurisdiction over Respondent who is, and at all relevant times was, an insurer licensed to transact the business of insurance in California.
- B. At all relevant times, Respondent transacted the business of insurance in California on risks or lines subject to the provisions of the California Insurance Code and the California Code of Regulations.
- C. Respondent introduced a wildfire surcharge through its homeowners multi-peril program (CDI File No. 15-4071) submitted on April 29, 2015 for both new and renewal business.

1 CDI approved this filing on September 1, 2015.

2 D. After the Commissioner approved CDI File No. 15-4071, Respondent changed its
3 mapping of Fireline scores to wildfire categories, without seeking the Commissioner's prior
4 approval of this change. As a result of this unapproved change, CDI alleges that Respondent
5 violated the Commissioner's prior approval authority, which may have resulted in Respondent
6 charging policyholders a higher rate than the rate approved on September 1, 2015 in CDI File No.
7 15-4071 ("Premium Overcharge Allegations").

8 E. Respondent acknowledges receipt of the Notice of Noncompliance in this matter
9 which includes the Premium Overcharge Allegations.

10 F. As set forth in the Notice of Noncompliance, the Department alleges that based on
11 the Premium Overcharge Allegations, Respondent has violated Insurance Code sections
12 1861.01(c) and 1861.05(b) and Title 10, California Code of Regulations (hereafter "CCR")
13 sections 2360.2, 2360.3, and 2360.4, and that following a hearing Respondent may be subject to
14 monetary and other penalties pursuant to Insurance Code sections 1858.07, 1858.3, and 1859.1

15 **STIPULATION**

16 The Department and Respondent stipulate as follows:

- 17 1. The purpose of this Stipulation is to resolve contested issues resulting from the
18 Premium Overcharge Allegations.
- 19 2. The Department and Respondent believe that it is in the public interest to resolve
20 this matter without the need for a hearing or any further administrative action.
- 21 3. This Stipulation is entered into as a result of arm's length and good faith
22 discussions and negotiations between representatives of the Department and Respondent.
23 Respondent is fully aware of its legal rights in this matter, including the right to a hearing; the
24 right to confront and cross-examine witnesses, the right to the issuance of subpoenas to compel
25 the attendance of witnesses and the production of documents; the right to reconsideration and
26 court review of an adverse decision; and all other rights accorded by the Administrative
27 Procedure Act and other applicable laws. Respondent voluntarily and knowingly waives and
28

1 gives up each and every right set forth above, including without limitation any and all rights to
2 which it may be entitled pursuant to California Insurance Code sections 1858.1, *et seq.*

3 4. This Stipulation represents a full and final settlement of the contested issues raised
4 regarding the Premium Overcharge Allegations between the Department and Respondent. This
5 Stipulation is intended by the parties to be an integrated writing representing the complete, final,
6 and exclusive embodiment of the Parties' agreement regarding those contested issues. It
7 supersedes any and all prior or contemporaneous agreements, understandings, discussions,
8 negotiations, and commitments (written or oral). This Stipulation may not be altered, amended,
9 modified, supplemented, or otherwise changed, except by a writing executed by an authorized
10 representative of each of the parties.

11 5. If any provision of this Stipulation is held illegal or unenforceable in a judicial
12 proceeding, such provision shall be severed and shall be inoperative, and the remainder of this
13 Stipulation shall remain operative and binding on the parties.

14 6. This Stipulation may be executed in one or more counterparts and shall become
15 effective when counterparts have been signed by each party and delivered to the other party. The
16 parties understand and agree that Portable Document Format (PDF) and facsimile copies of this
17 Stipulation, including PDF and facsimile signatures thereto, shall have the same force and effect
18 as originals.

19 7. Other than as set forth in the Application and this Stipulation, the Parties agree no
20 factual findings or legal conclusions have been made.

21 8. Respondent denies the allegations contained in the Notice of Noncompliance and
22 by entering into this stipulated agreement, memorialized by this Stipulation, Respondent makes
23 no admission of liability, wrongdoing or violation of law.

24 9. From March 2021 until the present time Respondent has met and conferred with
25 the Department, and will continue to meet and confer with the Department as necessary, to
26 address concerns arising from the Premium Overcharge Allegations.

27 10. In order to resolve the Premium Overcharge Allegations, Respondent has agreed to
28 refund, and has refunded or is in the process of refunding, any and all premium overcharges, as

1 identified by the Department in the Premium Overcharge Allegations, to its policyholders along
2 with 10% interest compounded annually on the refund amount. , and will report to the
3 Department when it has completed providing appropriate refunds with interest to its
4 policyholders.

5 11. In further compromise of the issues arising from the Premium Overcharge
6 Allegations, Respondent agrees to and shall pay, within thirty (30) days after receiving an invoice
7 from the California Department of Insurance, Accounting Services Bureau, a fine in the amount
8 of \$542,200.

9 12. At the present time, the Department agrees that by paying these refunds with
10 interest and the fine specified in this Stipulation, Respondent has or will have achieved
11 compliance with California insurance laws with respect to the Premium Overcharge Allegations

12 13. Respondent acknowledges that it freely and voluntarily executed this Stipulation
13 with full realization of its legal rights.

14 14. Respondent acknowledges that this Stipulation is effective on the date the Order
15 adopting it is executed by the Commissioner.

16 15. This Stipulation shall have no force or effect if it is not approved by the
17 Commissioner.

18 16. This Stipulation and Consent Order includes all acts covered in the Premium
19 Overcharge Allegations up to the date of this Stipulation and Consent Order. Nothing in this
20 Stipulation precludes any action of the Department in pursuing further action against Respondent
21 for failure to correct the actions which are the subject of this Stipulation and Consent Order.

22 17. Nothing contained in this Stipulation and Consent Order constitutes a limitation
23 upon, or a waiver of the rights and powers of the Commissioner to enforce any California law, to
24 examine the rating, underwriting and any other business practices of Respondent, to take
25 corrective or disciplinary action, to assess penalties against Respondent as provided for by law, or
26 to take such other action as necessary to protect the public. But the Department shall not seek any
27 additional penalty against Respondent based on the Premium Overcharge Allegations arising
28 from acts occurring before the issuance of the Insurance Commissioner's final order settling this

1 matter.

2 18. Respondent acknowledges that California Insurance Code section 12921(a)(1)
3 requires the Insurance Commissioner of the State of California (“Commissioner”) to approve the
4 final settlement of this matter. Both the settlement terms and conditions in this Stipulation and
5 the acceptance of those terms and conditions are contingent upon the Commissioner’s approval.
6 This Stipulation will become final and effective when it is approved by the Commissioner as
7 evidenced by the execution of the Order provided below, expressly adopting this Stipulation.

8 19. The Stipulation and proposed Order shall be subject to approval by the
9 Commissioner. Respondent understands and agrees that counsel for the Department and
10 Department staff may communicate directly with the Commissioner regarding the Stipulation and
11 the Order, without notice to or participation by Respondent or its counsel.

12 20. By signing the Stipulation, Respondent understands and agrees that it may not
13 withdraw its agreement or seek to rescind the Stipulation prior to the time the Commissioner
14 considers and acts upon the Stipulation and Order. If the Commissioner rejects the Stipulation
15 and Order, the Stipulation shall be of no force or effect, except for this paragraph, it shall be
16 inadmissible in any legal action between the parties, and the Commissioner shall not be
17 disqualified from further action by having considered this matter.

18 21. This Stipulation is made solely for the purpose of reaching a compromise and
19 resolution of the disputes concerning the Premium Overcharge Allegations.

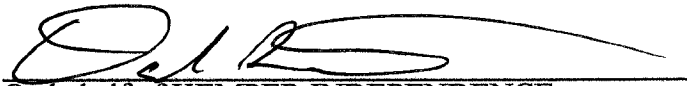
20 22. The Commissioner retains jurisdiction to ensure that the Parties comply with the
21 provisions and terms of this Stipulation and the Order requested thereon.

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RESPONDENT

Dated: 3-23-23, 2023


On behalf of KEMPER INDEPENDENCE
INSURANCE COMPANY

Dated: March 23, 2023

CALIFORNIA DEPARTMENT OF INSURANCE

By Nikki McKennedy
Nikki S. McKennedy

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**BEFORE THE INSURANCE COMMISSIONER
OF THE STATE OF CALIFORNIA**

In the Matter of the Rates, Rating Plans, or
Rating Systems of
**KEMPER INDEPENDENCE
INSURANCE COMPANY,**
Respondent.

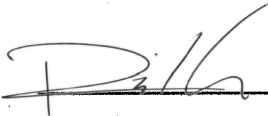
File No. NC-2022-00003
**ORDER ADOPTING STIPULATION AND
CONSENT ORDER**

ORDER

Having reviewed the parties' Stipulation and good cause appearing, I approve the terms of the Stipulation and adopt those terms as the Order of the Insurance Commissioner of the State of California in this matter.

Dated: 03/27/2023, 2023

RICARDO LARA
Insurance Commissioner



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PROOF OF SERVICE
In the Matter of the Rates, Rating Plans or Rating Systems of
Kemper Independence Insurance Company, Respondent.
CDI File No. NC-2022-00003

I am over the age of eighteen years and am not a party to the within action. I am an employee of the Department of Insurance, State of California, employed at 1901 Harrison Street, 4th Floor, Oakland, CA 94612. On March 28, 2023, I served the following document(s):

STIPULATION AND CONSENT ORDER

on all persons named on the attached Service List, by the method of service indicated, as follows:

If **U.S. MAIL** is indicated, by placing on this date, true copies in sealed envelopes, addressed to each person indicated, in this office's facility for collection of outgoing items to be sent by mail, pursuant to Code of Civil Procedure Section 1013. I am familiar with this office's practice of collecting and processing documents placed for mailing by U.S. Mail. Under that practice, outgoing items are deposited, in the ordinary course of business, with the U.S. Postal Service on that same day, with postage fully prepaid, in the city and county of San Francisco, California.

If **OVERNIGHT SERVICE** is indicated, by placing on this date, true copies in sealed envelopes, addressed to each person indicated, in this office's facility for collection of outgoing items for overnight delivery, pursuant to Code of Civil Procedure Section 1013. I am familiar with this office's practice of collecting and processing documents placed for overnight delivery. Under that practice, outgoing items are deposited, in the ordinary course of business, with an authorized courier or a facility regularly maintained by one of the following overnight services in the city and county of San Francisco, California: Express Mail, UPS, Federal Express, or Golden State overnight service, with an active account number shown for payment.

If **FAX SERVICE** is indicated, by facsimile transmission this date to fax number stated for the person(s) so marked.

If **PERSONAL SERVICE** is indicated, by hand delivery this date.

If **INTRA-AGENCY MAIL** is indicated, by placing this date in a place designated for collection for delivery by Department of Insurance intra-agency mail.

If **EMAIL** is indicated, by electronic mail transmission this date to the email address(es) listed.

Executed this date at San Francisco, California. I declare under penalty of perjury under the laws of the State of California that the above is true and correct.

Cecilia Padua
Cecilia Padua

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SERVICE LIST
In the Matter of the Rates, Rating Plans or Rating Systems of
Kemper Independence Insurance Company, Respondent.
CDI File No. NC-2022-00003

<u>Name/Address</u>	<u>Phone/Fax Numbers</u>	<u>Method of Service</u>
Chris Longeway, Esq. Vice President & General Counsel, P&C Kemper Corporate Services Megan Mulvihill, Esq. Attorney(s) for Respondent KEMPER INDEPENDENCE INSURANCE COMPANY 200 E. Randolph St., Suite 3300 Chicago, IL 60601 clongeway@kemper.com mmulvihill@kemper.com	Tel: (312) 589-3298 C#: (773) 551-6825	Via EMAIL

NON PARTY

Kenneth Allen Deputy Commissioner Rate Regulation Branch CALIFORNIA DEPARTMENT OF INSURANCE 300 South Spring Street, 14 th Floor Los Angeles, CA 90013 Ken.allen@insurance.ca.gov	Tel: (213) 346-6783 Fax: (213) 897-9051	Via EMAIL
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