NIKKI MCKENNEDY (SBN 184269)
SARA AHN (SBN 292206)
EMILY SUN (SBN 231243)
CALIFORNIA DEPARTMENT OF INSURANCE
1901 Harrison Street, Sixth Floor
Oakland, CA 94612
Telephone: (415) 538-4162
Email: nikki.mckennedy@insurance.ca.gov
sara.ahn@insurance.ca.gov
emily.sun@insurance.ca.gov

Attorneys for the California Department of Insurance

BEFORE THE INSURANCE COMMISSIONER

OF THE STATE OF CALIFORNIA

In the Matter of the Rates, Rating Plans, or Rating Systems of SOMPO AMERICA INSURANCE COMPANY, Respondent.	**File No. NC-2026-00008** **NOTICE OF NONCOMPLIANCE [Ins. Code § 1858 *et seq.*]**

TO: SOMPO AMERICA INSURANCE COMPANY

NOTICE OF NONCOMPLIANCE

PURSUANT TO CALIFORNIA INSURANCE CODE SECTION 1858.1:

THE CALIFORNIA DEPARTMENT OF INSURANCE ("Department" or "CDI") NOTIFIES YOU that the Insurance Commissioner of the State of California ("Commissioner") has good cause to believe that the rating plans, rating systems, rates, and underwriting guidelines of SOMPO AMERICA INSURANCE COMPANY ("Respondent") violate various provisions of California law, including but not limited to California Insurance Code sections 1861.01, subdivision (c), and 1861.05, subdivisions (a) and (b), and Title 10, California Code of Regulations, sections 2360.3 and 2360.4. Pursuant to California Insurance Code section 1858.1, this Notice sets forth the manner and extent of noncompliance. The Department is informed and believes, and thereon alleges, the following:

BACKGROUND FACTS

1. Respondent is, and was at all relevant times, an insurer licensed to transact the business of insurance in the State of California.

2. Respondent transacts the business of insurance in California on risks or lines subject to the provisions of the California Insurance Code ("Insurance Code" or "CIC") and Title 10 of the California Code of Regulations ("10 CCR").

3. On August 23, 2023, Respondent submitted a rate application (CDI File No. 23-2585; SERFF No. MRTN-133681198) requesting prior approval of a 28.8% rate decrease in its commercial lines equipment breakdown program (the "Application").

4. In February 2024, the Department approved the 28.8% rate decrease with an effective date of August 1, 2024 for new and renewal business.

5. On November 13, 2025, Respondent disclosed that to date, it had failed to implement the approved rate decrease.

6. Beginning May 1, 2026, Respondent implemented the approved rate decrease for new and renewal business.

SPECIFIC ALLEGATIONS

ALLEGATION NO. 1: VIOLATION OF INSURANCE CODE SECTIONS 1861.01(c) AND 1861.05(b)

7. Insurance Code sections 1861.01(c) and 1861.05(b) require that an insurer obtain the Commissioner's prior approval of property and casualty insurance rates before using them. Specifically, Insurance Code section 1861.01(c) provides that "insurance rates subject to this chapter must be approved by the commissioner prior to their use." Insurance Code section 1861.05(b) provides in relevant part that "[e]very insurer which desires to change any rate shall file a complete rate application with the commissioner." Once the Commissioner has approved a requested rate change, the insurer is required to charge that rate for new and renewal business on a going forward basis effective as specified in the approval. (Insurance Code sections 1861.01 and 1861.05.)

8. Here, the Commissioner approved a new rate for respondent effective August 1, 2024, but Respondent failed to implement the approved rate change and continued charging its prior rate until May 1, 2026.

9. By failing to implement the new rate approved by the Commissioner effective August 1, 2024, Respondent charged unapproved rates and violated the Commissioner's order.

10. Respondent's failure to comply with the Commissioner's new rate order violated Insurance Code sections 1861.01(c) and 1861.05(b) and resulted in rates that were excessive, inadequate, and/or unfairly discriminatory.

11. All of these noncompliant acts are subject to monetary penalties pursuant to Insurance Code sections 1858.07, 1858.3, and 1859.1. The Department does not currently know the number of noncompliant acts. That will be determined at hearing.

ALLEGATION NO. 2: VIOLATION OF INSURANCE CODE SECTION 1861.05(a) AND 10 CCR SECTIONS 2360.3 AND 2360.4

12. Insurance Code section 1861.05(a) and 10 CCR sections 2360.3 and 2360.4 require that an insurer determine and offer to each insured the lowest premium for which the insured qualified.

13. By failing to implement the approved 28.8% decrease in its rates by August 1, 2024, Respondent charged excessive rates and failed to determine and/or offer to each insured the lowest premium for which the insured qualified.

14. Respondent's charging of excessive rates and failure to determine and/or offer to each insured the lowest premium for which the insured qualified violated Insurance Code section 1861.05(a) and 10 CCR sections 2360.3 and 2360.4.

15. All of these noncompliant acts are subject to monetary penalties pursuant to Insurance Code sections 1858.07, 1858.3, and 1859.1. The Department does not currently know the number of noncompliant acts. That will be determined at hearing.

<u>RELIEF REQUESTED</u>

THE DEPARTMENT NOTIFIES RESPONDENT that, to the extent Respondent's unlawful practices are ongoing at the time of delivery of this Notice, Respondent must correct its noncompliance within ten (10) days of receipt of this Notice. For each allegation listed above, Respondent must provide proof of system-wide correction, or other response permitted by Insurance Code section 1858.1, within ten (10) days of receipt of this notice.

THE DEPARTMENT FURTHER NOTIFIES RESPONDENT that if Respondent fails to make an adequate or timely response, the Department will set a public hearing pursuant to CIC sections 1858.2 and 1858.3. If, at the conclusion of the hearing, the Commissioner finds that the facts are as alleged above and constitute violations of the Insurance Code and/or Code of Regulations, as set forth, he may issue an order for payment of money penalties and any other corrective action as he may deem appropriate.

THE DEPARTMENT FURTHER NOTIFIES RESPONDENT of all of the following:

- If the noncompliance referred to above constitutes willful acts involving the use of rates, rating plans, and/or rating systems in violation of Chapter 9, Part 2, Division 1 of the Insurance Code, the Department will seek civil penalties pursuant to CIC section 1858.07 in an amount up to $10,000.00 for each act;
- In the alternative, if the Commissioner does not find those acts involving the use of rates, rating plans, and/or rating systems in violation of Chapter 9, Part 2, Division 1 of the Insurance Code to be willful violations of that chapter, the Department will seek civil penalties in an amount up to $5,000.00 for each act pursuant to CIC section 1858.07;
- The Department may amend this Notice to set forth additional willful and/or non-willful noncompliant acts in violation of Chapter 9, Part 2, Division 1, of the Insurance Code and to seek additional penalties in an amount up to $5,000 to $10,000.00 for each act;
- If the noncompliance referred to above constitutes a willful failure to comply with a final order of the Commissioner under Chapter 9, Part 2, Division 1 of the Insurance Code, the Department may seek additional civil penalties pursuant to Insurance Code Section 1859.1 in an amount not exceeding $250,000.00 for the failure;
- In the alternative, if the Commissioner does not find the noncompliance referred to above to constitute a willful failure to comply with a final order of the Commissioner under

Chapter 9, Part 2, Division 1 of the Insurance Code, the Department may seek additional civil penalties pursuant to Insurance Code section 1859.1 in an amount not exceeding $50,000.00 for the failure;

- The Department may amend this Notice to set forth additional willful and/or non-willful failure to comply with a final order of the Commissioner under Chapter 9, Part 2, Division 1, of the Insurance Code and to seek additional penalties in an amount up to $50,000 to $250,000.00 for the failure;
- In addition to the foregoing monetary penalties, following a hearing regarding the foregoing noncompliant acts, the Commissioner shall seek any and all relief available pursuant to Insurance Code section 1858.3, subdivision (a), including any and all appropriate corrective actions including without limitation refunds with interest to policyholders who may have been charged excessive rates; and
- In further addition to monetary penalties and other appropriate relief, the Commissioner may, pursuant to Insurance Code Section 1858.4, suspend or revoke, in whole or in part, the license of any rating organization or the certificate of authority of any insurer with respect to the class or classes of insurance specified in that order, which fails to comply within the time limited by that order or any extension thereof which the commissioner may grant, with an order of the commissioner lawfully made by him or her pursuant to Insurance Code sections 1858.3 and 1858.6

THE DEPARTMENT FURTHER NOTIFIES RESPONDENT that, the Department may amend this Notice to set forth additional willful and/or non-willful noncompliant acts in violation of Chapter 9, Part 2, Division 1, of the Insurance Code and to seek additional penalties and/or require additional corrective actions as appropriate.

Dated: July 31, 2026 CALIFORNIA DEPARTMENT OF INSURANCE

By *Sara Ahn*

Sara Ahn
Emily Sun
Staff Counsel