

1 NIKKI MCKENNEDY (SBN 184269)
MELISSA WURSTER (SBN 198899)
2 CALIFORNIA DEPARTMENT OF INSURANCE
1901 Harrison Street
3 Oakland, CA 94612
Telephone: (415)538-4162
4 *Attorneys for the California Department of Insurance*

5
6
7
8 **BEFORE THE INSURANCE COMMISSIONER**
9 **OF THE STATE OF CALIFORNIA**
10

11 In the Matter of the Rate Application of
12 PROGRESSIVE SELECT INSURANCE
13 COMPANY,
14 Applicant.

File No. PA-2023-00001
SETTLEMENT STIPULATION

15
16 PROGRESSIVE SELECT INSURANCE COMPANY (“Applicant”), CONSUMER
17 FEDERATION OF CALIFORNIA EDUCATION FOUNDATION (“Petitioner”), and the
18 California Department of Insurance (“Department”) (collectively, the “Parties”) stipulate as
19 follows:

20 **RECITALS**

- 21 A. The Applicant is licensed by the Department to conduct insurance business in
22 California.
- 23 B. On September 8, 2022, Applicant filed rate application File No. 22-2227
24 (“Application”) with the Department, requesting an overall rate increase of 6.9% for its private
25 passenger automobile insurance program.
- 26 C. On September 23, 2022, pursuant to California Insurance Code (“CIC”) section
27 1861.05(c), the Department notified the public of the Application.
28

1 D. On November 3, 2022, Petitioner submitted a timely Petition for Hearing, Petition
2 to Intervene, and Notice of Intent to Seek Compensation regarding the Application (collectively,
3 “Petition”).

4 E. On November 8, 2022, Applicant responded to the Petition, admitting that it filed
5 the Application and that the Department gave public notice of the Application but otherwise
6 generally denying the remaining allegations of the Petition.

7 F. On November 30, 2022, the Commissioner granted Petitioner’s Petition to
8 Intervene.

9 G. The Parties have engaged in discussions regarding the Application and additional
10 information and analysis which the Parties provided.

11 H. As a result of the Parties’ discussions and negotiations, Applicant updated the
12 Application per the Parties’ agreement.

13 **STIPULATION**

14 1. This Stipulation, together with the updated Application and the Commissioner’s
15 approval in SERFF, represents the complete and final settlement resolving all issues between the
16 Parties regarding the Application, subject to the acknowledgments contained herein.

17 2. Based upon the Application and additional information which the Parties provided,
18 the Parties agree that an overall rate increase of 6.9% is supportable and should be implemented
19 in accordance with this Stipulation, the updated Application, and the Commissioner’s approval in
20 SERFF. Applicant has made appropriate updates to the filing in SERFF to reflect revised rate
21 changes by coverage. Approval of the Application described in this Stipulation will only be
22 effective when approved by the Commissioner in SERFF. Applicant will implement the rate
23 change with an effective date of September 29, 2023.

24 3. This Stipulation does not constitute an endorsement or approval of models
25 generally, or any specific model, eligibility or nonrenewal criteria, or rating methodology.

26 4. In addition to the broad disclaimer in paragraph 3, this Stipulation does not
27 constitute an endorsement or approval of Applicant’s filed distribution system for purposes of
28

1 setting its efficiency standard under Regulation¹ 2644.12(b) or its calculation of its institutional
2 advertising expenses to be excluded under Regulation 2644.10(f). Further, although Applicant’s
3 requested rate change is appropriate and approvable regardless of Petitioner’s proposed changes
4 to the distribution system and the calculation of excluded institutional advertising expenses,
5 Petitioner does not agree with, and this Stipulation does not imply Petitioner’s agreement with,
6 Applicant’s filed selections relative to these elements.

7 5. This Stipulation does not address any issues regarding the sufficiency of
8 Applicant’s COVID-related premium refunds pursuant to the Commissioner’s Bulletins 2020-3,
9 2020-4, and 2020-8. Applicant’s requested rate change is appropriate and approvable regardless
10 of Petitioner’s request that the refund issues be addressed, and the Parties agree that the
11 sufficiency of Applicant’s COVID-related premium refunds is not a material term of this
12 Stipulation.

13 6. Applicant has changed its underwriting guidelines to resolve an issue identified by
14 Petitioner, and Applicant agrees that it will use only underwriting guidelines that have been
15 publicly filed with the Department. Applicant will publicly file its complete underwriting
16 guidelines contemporaneously with all future rate and rule applications. For purposes of this
17 stipulation, “underwriting guidelines” include, but are not limited to, any criteria Applicant uses
18 to refer or determine whether to refer a policy to underwriting for possible non-renewal, including
19 criteria used in any automated system.

20 7. Notwithstanding this Stipulation, Petitioner and Applicant continue to disagree as
21 to whether the underwriting guidelines with respect to group policies comply with California law,
22 and the Parties acknowledge that the Department has stated it would be more appropriate to
23 consider Petitioner’s concerns regarding group policies in a separate rulemaking proceeding that
24 addresses the issue on an industry-wide basis.

25 8. Paragraphs 5 and 7, above, are not material terms in this settlement stipulation.

26 9. Applicant will include this Stipulation in SERFF with File No. 22-2227.

27
28

¹ “Regulation” means regulations set forth in title 10 of the California Code of Regulations.

1 10. Consistent with Regulations 2656.1(b) and 2662.3(c), no agreement regarding
2 Petitioner's compensation has been made. However, the Parties agree that the Commissioner's
3 approval of the Application, consistent with this Stipulation, will be a decision or order within the
4 meaning of CIC section 1861.10(b). Petitioner agrees to submit any request for compensation to
5 the Public Advisor within 30 days after notice of the Commissioner's approval in SERFF.

6 11. Petitioner will withdraw its Petition for Hearing within 10 days after notice of the
7 Commissioner's approval in SERFF.

8 12. This Stipulation is made solely to reach a compromise among the Parties.
9 Pursuant to Regulation 2656.4, discussions, admissions, concessions or offers to stipulate or settle
10 made by any party in negotiating this stipulated settlement, are confidential and are not
11 discoverable or admissible for any purpose in any proceeding, except to the extent permitted by
12 Regulation 2662.3(b)(3), and the Commissioner's approval of the Application shall not constitute
13 approval of or precedent regarding any principle or any issue in any other proceeding.

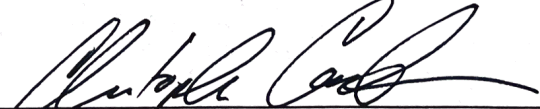
14 13. The Commissioner retains jurisdiction to ensure that the Parties comply with this
15 Stipulation and the updated Application and the Commissioner's approval in SERFF.

16 14. Nothing contained in this Settlement Stipulation constitutes a limitation upon, or a
17 waiver of, the rights and powers of the Commissioner to enforce any California law, to examine
18 the rating practices of the Applicant or to take such other action as necessary to protect the public.

19 15. This Stipulation may be executed in counterparts.

20
21 July ____, 2023

PROGRESSIVE SELECT INSURANCE COMPANY

22
23 By 
24 Christopher Cashman

25 July ____, 2023

CONSUMER FEDERATION OF CALIFORNIA
EDUCATION FOUNDATION

26
27 By _____
28 Richard Holober

1 10. Consistent with Regulations 2656.1(b) and 2662.3(c), no agreement regarding
2 Petitioner's compensation has been made. However, the Parties agree that the Commissioner's
3 approval of the Application, consistent with this Stipulation, will be a decision or order within the
4 meaning of CIC section 1861.10(b). Petitioner agrees to submit any request for compensation to
5 the Public Advisor within 30 days after notice of the Commissioner's approval in SERFF.

6 11. Petitioner will withdraw its Petition for Hearing within 10 days after notice of the
7 Commissioner's approval in SERFF.

8 12. This Stipulation is made solely to reach a compromise among the Parties.
9 Pursuant to Regulation 2656.4, discussions, admissions, concessions or offers to stipulate or settle
10 made by any party in negotiating this stipulated settlement, are confidential and are not
11 discoverable or admissible for any purpose in any proceeding, except to the extent permitted by
12 Regulation 2662.3(b)(3), and the Commissioner's approval of the Application shall not constitute
13 approval of or precedent regarding any principle or any issue in any other proceeding.

14 13. The Commissioner retains jurisdiction to ensure that the Parties comply with this
15 Stipulation and the updated Application and the Commissioner's approval in SERFF.

16 14. Nothing contained in this Settlement Stipulation constitutes a limitation upon, or a
17 waiver of, the rights and powers of the Commissioner to enforce any California law, to examine
18 the rating practices of the Applicant or to take such other action as necessary to protect the public.

19 15. This Stipulation may be executed in counterparts.


20
21 July ____ , 2023

PROGRESSIVE SELECT INSURANCE COMPANY

22
23 By _____
 Christopher Cashman

24
25 July ____ , 2023

CONSUMER FEDERATION OF CALIFORNIA
EDUCATION FOUNDATION

26
27 By  _____
 Richard Holober

28

1 July 31, 2023

CALIFORNIA DEPARTMENT OF INSURANCE

2
3 By *Nikki McKennedy*

4 Lisbeth Landsman-Smith
5 Nikki McKennedy
6 Melissa Wurster
*Attorneys for the California Department
of Insurance*

7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

PROOF OF SERVICE
In the Matter of the Rate Application of
Progressive Select Insurance Company, Applicant.
CDI File No. PA-2023-00001
(RRB FILE NO. 22-2227)

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 July 31, 2023, I served the following document(s):

SETTLEMENT STIPULATION

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

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

**In the Matter of the Rate Application of
Progressive Select Insurance Company, Applicant.
CDI File No. PA-2023-00001
(RRB FILE NO. 22-2227)**

<u>Name/Address</u>	<u>Phone/Fax Numbers</u>	<u>Method of Service</u>
Spencer Y. Kook, Esq. James C. Castle, Esq. Attorney(s) for Applicant HINSHAW & CULBERTSON LLP 350 South Grand Avenue, Suite 3600 Los Angeles, CA 90071-3476 skook@hinshawlaw.com jcastle@hinshawlaw.com	Tel: (213) 680-2800 Fax: (213) 614-7399	Via EMAIL
Richard Holober Douglas Heller Advocates for CONSUMER FEDERATION OF CALIFORNIA EDUCATION FOUNDATION 1225 8 th Street, Suite 470 Sacramento, CA 95814 DouglasHeller@Ymail.com	Tel: (310) 480-4170	Via EAIL
<u>NON PARTIES</u>		
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
Jamie Katz, Esq. Staff Counsel and Public Advisor Office of the Public Advisor CALIFORNIA DEPARTMENT OF INSURANCE 1901 Harrison Street, 4 th Floor Oakland, CA 94612 jamie.katz@insurance.ca.gov	Tel: (415) 538-4180 Fax: (510) 238-7830	Via EMAIL