

MARYLAND INSURANCE
ADMINISTRATION
200 ST. PAUL PLACE, SUITE 2700
BALTIMORE, MARYLAND 21202

BEFORE THE
MARYLAND INSURANCE
COMMISSIONER

vs.

EMPHEYSYS INSURANCE COMPANY
(NAIC #88595)
500 West Main Street
Louisville, KY 40202

CASE NO.: MIA-2012-11-014

* * * * *

ORDER

This Order is entered by the Maryland Insurance Administration ("Administration") against Empheysis Insurance Company, ("Empheysis"), pursuant to §§ 2-108 and 2-204 of the Insurance Article, Maryland Code Annotated (2011 Repl. Vol.). Empheysis has the right to request a hearing regarding the above violation under § 2-210 of the Insurance Article.

I. Facts

1. Empheysis, at all times relevant to this Order, has held and currently holds a certificate of authority from the Maryland Insurance Administration to operate as an insurer.
2. Section 30-102 of the Insurance Article required an insurer authorized to do business in the State to provide the Insurance Commissioner, on or before October 1, 2011, with: (1) a report of information in the records of the insurer about each slaveholder insurance policy issued in the State by the insurer, or any predecessor of the insurer, during the "slavery era"; and (2) a copy of each document in the insurer's records that related to the information.
3. Code of Maryland Regulations Section 31.16.09.04 specified the format and content of the report required under § 30-102.

4. On December 18, 2009, the Administration issued Bulletin 09-32 to clarify that all authorized insurers doing business in Maryland would be required to submit a report even if the company or its predecessor company was not in existence during the slavery era.
5. In April, 2012, the Administration issued the Slavery Era Insurance Policy Report that stated that the Administration would issue another bulletin extending the reporting requirement to July 1, 2012.
6. On May 12, 2012, the Administration issued Bulletin 12-08 as a reminder that all authorized insurers were required to submit a report pursuant to § 30-102. An insurer that failed to comply with the reporting requirement would be subject to appropriate enforcement action, including, but not limited to, the assessment of a monetary penalty.
7. Emphesys failed to submit the required report by July 1, 2012.
8. Emphesys submitted the required report on August 3, 2012.

II. Violations

In addition to all other relevant sections of the Insurance Article, the Administration relies on the following pertinent sections in finding that Emphesys violated Maryland's insurance laws:

9. Section 30-102 of the Insurance Article provides in pertinent part:
 - (a) Requirements. -- On or before October 1, 2011, an insurer authorized to do business in the State shall provide the Commissioner with:
 - (1) a report of information in the records of the insurer about each slaveholder insurance policy issued in the State by the insurer, or any predecessor of the insurer, during the slavery era; and
 - (2) a copy of each document in the insurer's records that relates to the information provided under item (1) of this subsection.

10. Section 31.16.09 of the Code of Maryland Regulations ("COMAR") provides in pertinent part:

.07 Enforcement.

The Commissioner may impose on an insurer any penalty, sanction, or other form of legal enforcement which the Commissioner has the authority to impose for failure to comply with the provisions of this chapter.

11. Section 4-113 of the Insurance Article provides in pertinent part:

(d) Penalty. -- Instead of or in addition to suspending or revoking a certificate of authority, the Commissioner may:

(1) impose on the holder a penalty of not less than \$100 but not more than \$125,000 for each violation of this article;

12. By the conduct described herein, Emphesys violated § 30-102 of the Insurance Article. As such, Emphesys is subject to disciplinary action under the Insurance Article § 4-113(d) and COMAR 31.16.09.07.

III. Sanctions

13. WHEREFORE, for the reasons set forth above, and subject to your right to request a hearing, it is this 5th day of November, 2012, ORDERED, that:

A. Pursuant to § 4-113(d) of the Insurance Article, based on consideration of COMAR 31.02.04.02, within thirty (30) days of the date of this Order, Emphesys shall pay an administrative penalty in the amount of \$1,000 for violation of § 30-102 of the Insurance Article.

14. Administrative penalties shall be made payable to the Maryland Insurance Administration and shall identify the case by number or name. Unpaid penalties will be referred to the Central Collection Unit for collections. Payment of the administrative

penalty shall be sent to the attention of: Associate Commissioner, Compliance and Enforcement, 200 St. Paul Place, Suite 2700, Baltimore, MD 21202.

THERESE M. GOLDSMITH
INSURANCE COMMISSIONER

**Signature on file with
original**

By:

Thomas L. Marshall, Associate Commissioner
Compliance & Enforcement

RIGHT TO REQUEST A HEARING

Pursuant to § 2-210 and COMAR 31.02.01.03, you may request a hearing on this Order. This request must be in writing and be received by the Commissioner within thirty (30) days of the date of the letter accompanying this Order.

Pursuant to § 2-212 of the Insurance Article, however, the Order shall be stayed pending a hearing only if a demand for hearing is received by the Commissioner within ten (10) days after the Order is served.

The request for hearing must be made in writing. The request must be addressed to the Maryland Insurance Administration, 200 St. Paul Place, Suite 2700, Baltimore, Maryland 21202, ATTN: Sharon Kraus, Appeals Clerk. Failure to request a hearing timely or to appear at a scheduled hearing will result in a waiver of your rights to contest this Order and the Order shall be final on its effective date. Should you request a hearing, the hearing officer may reduce, increase, or affirm the penalty amount sought by the Commissioner.

Pursuant to Insurance Article § 4-113(b)(2), failure to comply with the terms of this Order may result in further administrative action including additional fines and the suspension or revocation of your certificate of authority.