

**IN THE DEPARTMENT OF INSURANCE, FINANCIAL
INSTITUTIONS AND PROFESSIONAL REGISTRATION
STATE OF MISSOURI**

<i>In Re:</i>)	
)	
SENTRY INSURANCE A MUTUAL COMPANY (NAIC #24988))	Market Conduct Investigation No. 294855
)	
SENTRY SELECT INSURANCE COMPANY (NAIC #21180))	Market Conduct Investigation No. 294857

ORDER OF THE DIRECTOR

NOW, on this 12 day of March, 2018, Director, Chlora Lindley-Myers, after consideration and review of the Stipulation of Settlement and Voluntary Forfeiture (hereinafter “Stipulation”) entered into by the Division of Insurance Market Regulation (hereinafter “Division”), Sentry Insurance a Mutual Company (NAIC #24988) (hereinafter “Sentry Mutual”), and Sentry Select Insurance Company (NAIC #21180) (hereinafter “Sentry Select”), relating to the market conduct investigations set out in the caption above, does hereby issue the following orders:

This order, issued pursuant to §374.046.15¹ and §374.280 is in the public interest.

IT IS THEREFORE ORDERED that Sentry Mutual, Sentry Select, and the Division having agreed to the Stipulation, the Director does hereby approve and agree to the Stipulation.

IT IS FURTHER ORDERED that Sentry Mutual and Sentry Select shall not engage in any of the violations of law and regulations set forth in the Stipulation, shall implement procedures to place each in full compliance with the requirements in the Stipulation, to maintain those corrective actions at all times, and shall fully comply with all terms of the Stipulation.

IT IS FURTHER ORDERED that Sentry Mutual shall pay, and the Department of Insurance, Financial Institutions and Professional Registration, State of Missouri, shall accept,

¹ All references, unless otherwise noted, are to Missouri Revised Statutes 2016, as amended.

the Voluntary Forfeiture of \$2,000 payable to the Missouri State School Fund.

IT IS FURTHER ORDERED that Sentry Select shall pay, and the Department of Insurance, Financial Institutions and Professional Registration, State of Missouri, shall accept, the Voluntary Forfeiture of \$2,000 payable to the Missouri State School Fund.

IT IS SO ORDERED.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the seal of my office in Jefferson City, Missouri, this 12 day of March, 2018.



Chlora Lindley-Myers
Chlora Lindley-Myers
Director

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STIPULATION OF SETTLEMENT AND VOLUNTARY FORFEITURE

It is hereby stipulated and agreed by the Division of Insurance Market Regulation (hereinafter, the “Division”), Sentry Insurance a Mutual Company (NAIC #24988) (hereinafter “Sentry Mutual”), and Sentry Select Insurance Company (NAIC #21180) (hereinafter “Sentry Select”), as follows:

WHEREAS, the Division is a unit of the Missouri Department of Insurance, Financial Institutions and Professional Registration (hereinafter, the “Department”), an agency of the State of Missouri, created and established for administering and enforcing all laws in relation to insurance companies doing business in the State in Missouri; and

WHEREAS, Sentry Mutual and Sentry Select have been granted certificates of authority to transact the business of insurance in the State of Missouri; and

WHEREAS, the Division opened an investigation of Sentry Mutual and an investigation of Sentry Select to determine if these companies paid all automobile total loss claims, including payment for sales taxes, according to the terms of their policy provisions.

WHEREAS, based on the Market Conduct Investigations of Sentry Mutual and Sentry Select, the Division alleges that:

1. Sentry Mutual failed to include a payment for sales tax in two commercial automobile policy first party total loss settlements even though the company's policies provided for payment of the sales tax in violation of §§ 375.445,¹ 375.936(13), 375.1007(1), and 375.1007(4), RSMo, and 20 CSR 100-1.020(1)(A).

2. Sentry Select failed to include a payment for sales tax in two commercial automobile policy first party total loss settlements even though the company's policies provided for payment of the sales tax in violation of §§ 375.445, 375.936(13), 375.1007(1), and 375.1007(4), RSMo, and 20 CSR 100-1.020(1)(A).

WHEREAS, the Division, Sentry Mutual, and Sentry Select have agreed to resolve the issues raised in the Market Conduct Investigations as follows:

A. **Scope of Agreement.** This Stipulation of Settlement and Voluntary Forfeiture (hereinafter, "Stipulation") embodies the entire agreement and understanding of the signatories with respect to the subject matter contained herein. The signatories hereby declare and represent that no promise, inducement or agreement not herein expressed has been made, and acknowledge that the terms and conditions of this agreement are contractual and not a mere recital.

B. **Remedial Action.** Sentry Mutual and Sentry Select agree to take remedial action bringing each into compliance with the statutes and regulations of Missouri and agree to maintain those remedial actions at all times. Such remedial actions shall include, but are not limited to, the following:

1. Sentry Mutual and Sentry Select agree that they will pay all first party automobile total loss claims, including payment for all sales taxes relating to such claims, according to the terms of their policy provisions and agree to maintain this remedial action at all times.

¹ All references, unless otherwise noted, are to Revised Statutes of Missouri 2000, as amended.

2. Sentry Mutual agrees that it will review all first party automobile total loss claims paid or processed at any time from January 1, 2011 to January 1, 2016 to determine if Sentry Mutual paid all applicable sales taxes to total loss claimants for their damaged vehicles using the contractual value payable under the terms of each policy at the time of loss.² If all applicable sales taxes were not paid by Sentry Mutual to a claimant, Sentry shall pay restitution to the claimant in the amount of the sales tax payable under its policy on the date of loss, including all state, city, county and other taxes. Such restitution shall be paid with no reduction in the amount payable to the claimant if the owner of the total loss vehicle retains the vehicle as salvage, unless there is a clear and specific provision in the policy supporting the reduction. For purposes of this Stipulation, providing a claimant with a sales tax affidavit pursuant to the provisions of §144.027 does not constitute payment of all applicable sales taxes to the claimant.

3. Sentry Select agrees that it will review all first party automobile total loss claims paid or processed at any time from January 1, 2011 to January 1, 2016 to determine if Sentry Select paid all applicable sales taxes to total loss claimants for their damaged vehicles using the contractual value payable under the terms of each policy at the time of loss.³ If all applicable sales taxes were not paid by Sentry Select to a claimant, Sentry Select shall pay restitution to the claimant in the amount of the sales tax payable under its policy on the date of loss, including all state, city, county and other taxes. Such restitution shall be paid with no reduction in the amount payable to the claimant if the owner of the total loss vehicle retains the vehicle as salvage, unless there is a clear and specific provision in the policy supporting the reduction. For purposes of this Stipulation, providing a claimant with a sales tax affidavit pursuant to the provisions of §144.027 does not

² This could be Actual Cash Value, Stated Value or some other valuation method listed in the policy.

³ This could be Actual Cash Value, Stated Value or some other valuation method listed in the policy.

constitute payment of all applicable sales taxes to the claimant.

C. **Compliance.** Sentry Mutual and Sentry Select agree to file documentation with the Division, in a format acceptable to the Division, within 120 days of the entry of a final order of any remedial action taken to implement compliance with the terms of this Stipulation and to document payment of restitution required under the terms of this Stipulation. Such documentation is provided pursuant to §374.190.

D. **Examination Fees.** Sentry Mutual and Sentry Select agree to pay any reasonable examination fees expended by the Division in conducting its review of the documentation provided by the Company pursuant to Paragraph C of this Stipulation.

E. **Voluntary Forfeiture.** Sentry Mutual agrees, voluntarily and knowingly, to surrender and forfeit the sum of \$2,000 such sum payable to the Missouri State School Fund, in accordance with §374.280, RSMo. Supp. 2013. Sentry Select agrees, voluntarily and knowingly, to surrender and forfeit the sum of \$2,000 such sum payable to the Missouri State School Fund, in accordance with §374.280, RSMo. Supp. 2013.

F. **Other Penalties.** The Division agrees that it will not seek penalties against Sentry Mutual and Sentry Select, other than those agreed to in this Stipulation, in connection with Market Conduct Investigations #294855 and #294857.

G. **Non-Admission.** Nothing in this Stipulation shall be construed as an admission by Sentry Mutual or Sentry Select. This Stipulation is a compromised settlement to resolve disputed factual and legal allegations arising out of the above-referenced Market Conduct Investigations.

H. **Waivers.** Sentry Mutual and Sentry Select, after being advised by legal counsel, do hereby voluntarily and knowingly waive any and all rights for procedural requirements, including

notice and an opportunity for a hearing, and review or appeal by any trial or appellate court, which may have otherwise applied to the Market Conduct Investigations #294855 and #294857.

I. **Changes.** No changes to this Stipulation shall be effective unless made in writing and agreed to by representatives of the Division, Sentry Mutual, and Sentry Select.

J. **Governing Law.** This Stipulation shall be governed and construed in accordance with the laws of the State of Missouri.

K. **Authority.** The signatories below represent, acknowledge and warrant that they are authorized to sign this Stipulation, on behalf of the Division, Sentry Mutual, and Sentry Select respectively.

L. **Effect of Stipulation.** This Stipulation shall not become effective until entry of a Final Order by the Director of the Department (hereinafter the "Director") approving this Stipulation.

M. **Request for an Order.** The signatories below request that the Director issue an Order approving this Stipulation and ordering the relief agreed to in the Stipulation, and consent to the issuance of such Order.

DATED: 3/7/2018




Angela L. Nelson, Director
Division of Insurance Market Regulation

DATED: 3/7/2018



Stewart Freilich
Senior Regulatory Affairs Counsel

DATED: _____



Kip J. Kobussen, Secretary
Sentry Insurance a Mutual Company

DATED: 3-1-18



Kip J. Kobussen, Secretary
Sentry Select Insurance Company

DATED: 3-1-18



Richard S. Brownlee III
Attorney for Sentry Insurance a Mutual Company and
Sentry Select Insurance Company