

State of Rhode Island and Providence Plantations
DEPARTMENT OF BUSINESS REGULATION
Insurance Division
1511 Pontiac Avenue, Bldg. 69-2
Cranston, Rhode Island 02920

IN THE MATTER OF:

USAA General Indemnity Company

RESPONDENT.

:
:
:
:
:
:
:
:
:
:

CONSENT AGREEMENT

It is hereby agreed between the Department of Business Regulation (“Department”) and USAA General Indemnity Company (“USAA”) as follows:

1. Respondent is an insurer licensed in the State of Rhode Island to issue property & casualty insurance policies including automobile insurance policies.
2. Prior to October 1, 2011 R.I. Gen. Laws § 44-18-30(23) included an exemption from sales tax for proceeds from total loss motor vehicles insurance claims. R.I. Gen. Laws § 44-18-30(23) was amended effective October 1, 2011 to remove this exemption.
3. On June 27, 2011 Insurance Bulletin 2011-4 was issued to inform all insurers and other interested parties of this statutory change. The bulletin was amended on July 7, 2011 and August 4, 2011 to provide further guidance. On initial promulgation, and on each amendment, Bulletin 2011-4 was posted on the Insurance Division’s website and sent to the interested parties list by email.
4. On February 18, 2014 Insurance Regulation 73 was amended and language was added to section (8)(B)(1) requiring that sales tax be included as an element of damages on the payment of total loss claims.
5. On July 2, 2015 the Department received a consumer complaint which included the information that Respondent had not included sales tax in the compensation paid to the claimant for a total loss claim.

RECEIVED

FEB 09 2016 CC

**STATE OF RHODE ISLAND
INSURANCE DIVISION**

6. Respondent was provided with the consumer complaint and indicated that it had not paid sales tax as part of the original settlement payment.

7. Upon further inquiry by the Department, Respondent indicated it had settled 1 total loss in 2011, 1 total loss in 2012, 4 total losses in 2013, 89 total losses in 2014 and 149 total losses in 2015 without paying the required Rhode Island sales tax for the vehicles, in a total amount of \$154,791.06.

8. Respondent indicated that these omissions were the result of the removal of automated controls and a change in process in 1st Quarter 2014, which removed a systematic inclusion of sales tax, and adjusters did not consistently recognize the need to perform a manual calculation.

THEREFORE, based on the foregoing, Respondent and the Department have decided to resolve this matter without further administrative proceedings and hereby agree to the following resolution:

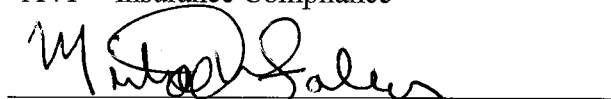
1. Respondent will pay to each of the two-hundred forty four (244) claimants identified an amount representing the sales tax on the total loss vehicle settlement including interest at twelve percent (12%) from the date of the occurrence pursuant to R.I. Gen. Laws § 9-21-10.
2. Respondent agrees that sales tax will be paid on all total loss settlements in the future in accordance with R.I. Gen. Laws §44-18-30(23) and Insurance Regulation 73(8)(B)(1).
3. Respondent will pay a fine of fifteen thousand dollars (\$15,000).

Counsel for the Department and Respondent hereby consent and agree to the foregoing on behalf of their respective clients the 10th day of February 2016.

Department of Business Regulation
By its Legal Counsel,


Elizabeth Kelleher Dwyer

USAA General Indemnity Company
AVP – Insurance Compliance


Michael Foley