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OFFICE OF  
INSURANCE COMMISSIONER

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HEARINGS UNIT  
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Chief Hearing Officer

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BEFORE THE STATE OF WASHINGTON  
OFFICE OF INSURANCE COMMISSIONER

In the Matter of:	)	No. 10-0209 & 10-0210
	)	
FEDERAL INSURANCE COMPANY,	)	
PACIFIC INDEMNITY COMPANY,	)	ORDER CONSOLIDATING
GREAT NORTHERN INSURANCE COMPANY,	)	MATTER NOS. 10-0209 &
EXECUTIVE RISK INDEMNITY, INC.,	)	10-0210 AND GRANTING
VIGILANT INSURANCE COMPANY,	)	DISCRETIONARY STAY
NORTHWESTERN PACIFIC INDEMNITY CO.	)	
	)	
Authorized Insurers.	)	

<b>TO:</b> Thomas M. Jones, Esq.	Philip A. Talmadge, Esq.
Law Offices of Cozen O'Connor	Talmadge / Fitzpatrick PLLC
1201 Third Avenue, Suite 5200	18010 Southcenter Parkway
Seattle, WA 98101-3071	Tukwila, WA 98188

John Joseph Degnan, President and CEO  
Federal Insurance Company, Pacific Indemnity Company,  
Great Northern Insurance Company, Executive Risk Indemnity, Inc.,  
Vigilant Insurance Company, & Northwestern Pacific Indemnity Co.  
15 Mountain View Road  
Warren, NJ 07061-1615



ORDER CONSOLIDATING MATTERS &  
GRANTING DISCRETIONARY STAY  
No. 10-0209 & 10-0210

**COPY TO:** Mike Kreidler, Insurance Commissioner  
Michael G. Watson, Chief Deputy Insurance Commissioner  
Carol Sureau, Esq., Deputy Commissioner, Legal Affairs Division  
Charles D. Brown, Esq., Sr. Staff Attorney, Legal Affairs Division  
James T. Odiorne, CPA, JD, Deputy Commissioner, Company Supervision  
Office of the Insurance Commissioner  
PO Box 40255  
Olympia, WA 98504-0255

On November 8, 2010, the Insurance Commissioner ("OIC") entered a Notice of Hearing to Request Imposition of a Fine, Matter No. 10-0209 ("Notice"), and an Order Suspending Certificates of Authority, Matter No. 10-0210 ("Order"), against Federal Insurance Company, Pacific Indemnity Company, Great Northern Insurance Company, Executive Risk Indemnity, Inc., Vigilant Insurance Company, and Northwestern Pacific Indemnity Co. ("Insurers"). On November 9, the undersigned received a Demand for Hearing herein. The purpose of said Demand for Hearing is to contest the OIC's imposition of a fine as set forth in his Notice of Hearing to Request Imposition of a Fine and the Commissioner's suspension of Insurers' Certificates of Authority as set forth in his Order Suspending Certificates of Authority. The Insurers further requested consolidation of Matter Nos. 10-0209 and 10-0210 on the basis that these two matters involve the same facts and questions of law.

As stated in his aforereferenced Notice, the OIC seeks to impose a fine against Respondent Companies, pursuant to RCW 48.05.185, totaling \$534,000, based upon the Respondents' alleged violations of RCW 48.19.040, WAC 284-24-070 and WAC 284-24-100.

As stated in his aforereferenced Order, the OIC seeks to suspend Respondents' ability to write new business for a period of nine months, effective November 18, 2010, based upon findings of a market conduct examination performed by the OIC covering the period from January 1, 1998, through September 30, 1998, and the alleged violations discovered during this market conduct examination..

The Insurers challenge the Notice and Order on the grounds that, *inter alia*, 1) the fine and suspension violate the Insurers' rights to equal protection and due process; 2) the Insurers deny the factual allegations underlying the violations; 3) the fine and suspension are excessive, unfair and contrary to the public interests; 4) the OIC has not alleged any actual or potential consumer harm and the penalties are disproportionate to the alleged violations; 5) the suspension is unreasonable and unwarranted; 6) such a fine and suspension constitute an abuse of the OIC's discretion; 7) such a fine and suspension constitute an error of law on the basis that they conflict with applicable statutory and regulatory authority; 8) the OIC is barred from imposing sanctions and penalties based upon matters that were previously resolved between the parties; 9) the Insurers deny any

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willful or intentional violations of the law; and 10) the Insurers have made good faith efforts to comply with applicable laws.

On November 22, 2010, the undersigned held a first prehearing teleconference in this matter. Federal Insurance Company, Pacific Indemnity Company, Great Northern Insurance Company, Executive Risk Indemnity, Inc., Vigilant Insurance Company, and Northwestern Pacific Indemnity Co. appeared by and through Thomas M. Jones, Esq., of Law Offices of Cozen O'Connor, in Seattle, Washington, and Philip A. Talmadge, Esq., of Talmadge/Fitzpatrick, in Tukwila, Washington. The OIC appeared pro se, by and through Charles D. Brown, Esq., Senior Staff Attorney in his Legal Affairs Division. The undersigned outlined procedure to be expected at hearing and discussed and responded to all issues raised by the parties. Of significance, the Insurers 1) requested that Matter Nos. 10-0209 and 10-0210 be consolidated on the basis that they are both based on the same or similar facts; 2) requested that a discretionary stay be granted in Matter No. 10-0209; and 3) requested that a second prehearing conference be scheduled for Friday, January 21, 2011. The OIC was in agreement with all three requests.

Stay of Actions: As reflected in their Demand for Hearing, the Insurers anticipated that both the OIC's Notice and Order would be automatically stayed pursuant to RCW 48.04.020(1). The undersigned advised that, pursuant to RCW 48.04.020, (1) an automatic stay of Order No. 10-0210 is in effect and shall remain in effect until entry of the Final Order on hearing because the Insurers' Demand for Hearing was received by the OIC prior to the effective date of said Order. However, the undersigned further advised the parties that there is no automatic stay of Notice No. 10-0209 since by its terms said Notice became effective immediately.

Therefore, upon request of the Insurers and with the agreement of the OIC, pursuant to RCW 48.04.020(2) the undersigned granted a discretionary stay of Notice No. 10-0209. Said discretionary stay of Notice No. 10-0209 shall remain in effect until entry of the Final Order herein.

The parties were informed if they had any future questions or concerns, or requests for additional prehearing conferences, they should contact Nicole Kelly, Paralegal to the undersigned, who can be reached by telephone at (360) 725-7002, e-mail at [nicolek@oic.wa.gov](mailto:nicolek@oic.wa.gov), or at the above address.

Based upon the above activity,

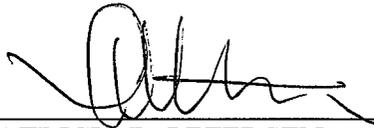
**IT IS HEREBY ORDERED** that, on November 22, 2010 a discretionary stay was GRANTED in Notice No. 10-0209 and shall remain in effect until entry of the Final Order on hearing, and it is confirmed that Order No. 10-0210 has been automatically stayed until entry of the Final Order on hearing;

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**IT IS FURTHER ORDERED** that Notice No. 10-0219 and Order No. 10-0210 are consolidated.

**IT IS FURTHER ORDERED** that a second telephonic prehearing conference in this matter shall commence on **Friday, January 21, 2011 at 9:00 a.m.**, Pacific Standard Time.

ENTERED AT TUMWATER, WASHINGTON, this 19<sup>th</sup> day of January, 2011, pursuant to RCW 48.04, Title 34 RCW and applicable regulations.

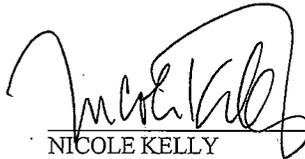


PATRICIA D. PETERSEN  
Chief Hearing Officer  
Presiding Officer

Declaration of Mailing

I declare under penalty of perjury under the laws of the State of Washington that on the date listed below, I mailed or caused delivery through normal office mailing custom, a true copy of this document to the following people at their addresses listed above: Thomas M. Jones, Esq., Philip A. Talmadge, Esq. Chubb & Son, Mike Kreidler, Michael G. Watson, Carol Sureau, Esq., Charles D. Brown, Esq., and John F. Hamje.

DATED this 19<sup>th</sup> day of January, 2011.



NICOLE KELLY