BEFORE THE COMMISSIONER OF THE
TENNESSEE DEPARTMENT OF COMMERCE AND INSURANCE

IN THE MATTER OF:	)	
	)	
TENNESSEE INSURANCE DIVISION	)	DOCKET NO. 12.01-072978J
Petitioner	)	
v.	)	
	)	
CENTURY INDEMNITY COMPANY	)	
Respondent	)	

ORDER

THIS ORDER IS AN INITIAL ORDER RENDERED BY AN ADMINISTRATIVE JUDGE WITH THE ADMINISTRATIVE PROCEDURES DIVISION.

THE INITIAL ORDER IS NOT A FINAL ORDER BUT SHALL BECOME A FINAL ORDER UNLESS:

1. A PARTY FILES A WRITTEN APPEAL OR PETITION FOR RECONSIDERATION WITH THE ADMINISTRATIVE PROCEDURES DIVISION NO LATER THAN **September 12, 2005.**
OR
2. THE AGENCY FILES A WRITTEN NOTICE OF REVIEW WITH THE ADMINISTRATIVE PROCEDURES DIVISION NO LATER THAN **September 12, 2005.**

YOU MUST FILE THE APPEAL, PETITION FOR RECONSIDERATION, OR NOTICE OF REVIEW WITH THE ADMINISTRATIVE PROCEDURES DIVISION. THE ADDRESS OF THE ADMINISTRATIVE PROCEDURES DIVISION IS:

SECRETARY OF STATE
ADMINISTRATIVE PROCEDURES DIVISION
8TH FLOOR, WILLIAM R. SNODGRASS TOWER
312 EIGHTH AVENUE NORTH
NASHVILLE, TENNESSEE 37243

IF YOU HAVE ANY FURTHER QUESTIONS, PLEASE CALL THE ADMINISTRATIVE PROCEDURES DIVISION, 615/741-7008 OR 741-2078 OR FAX 741-4472.

YOU WILL NOT RECEIVE FURTHER NOTICE OF THE INITIAL ORDER BECOMING A FINAL ORDER

PLEASE CONSULT APPENDIX A AFFIXED TO THE INITIAL ORDER FOR NOTICE OF APPEAL PROCEDURES.

BEFORE THE DEPARTMENT OF COMMERCE AND INSURANCE
FOR THE STATE OF TENNESSEE

TENNESSEE INSURANCE DIVISION, Petitioner,	)	
vs.	)	No.: 05-032 12.01-072978J
CENTURY INDEMNITY COMPANY, Respondent.	)	

NOTICE OF DEFAULT AND INITIAL ORDER

This matter came to be heard on July 28, 2005, before Lynn England, an Administrative Judge assigned to the Secretary of State, Administrative Procedures Division, and sitting for the Commissioner of the Tennessee Department of Commerce and Insurance in Nashville, Tennessee. John F. Morris, Staff Attorney, Department of Commerce and Insurance, represented the State. The Respondent, Century Indemnity Company, was not present at the hearing nor did an attorney appear on its behalf.

ORDER OF DEFAULT

This matter was heard upon the Petitioner's Motion for Default due to a failure of the Respondent to appear or to be represented at the hearing on July 28, 2005, after receiving proper notice thereof. The record indicates that the Respondent was properly served under the provisions of Title 56, Chapter 2, Part 5. After consideration of the record, it was determined that the Petitioner's motion was proper. The Respondent, Century Indemnity Company, was held in **DEFAULT**, and the Petitioner was permitted to proceed with an uncontested case.

INITIAL ORDER

The subject of this hearing was the proposed revocation of the Respondent's foreign certificate of authority in Tennessee. After consideration of the argument of counsel and the record in this matter, it is the determination of this Administrative Judge that the Respondent's certificate of authority should be **SUSPENDED**. This decision is based upon the following Findings of Fact and Conclusions of Law.

FINDINGS OF FACT

1. Century Indemnity Company (hereinafter referred to as the "Respondent") is an insurance company domiciled in the State of Pennsylvania. Respondent currently holds a certificate of authority to sell property, casualty, vehicle, and surety lines of insurance in the State of Tennessee.

2. The financial statement filed with the Department by the Respondent reported that, as of December 31, 2004, it possessed policyholders' surplus in the amount of Twenty Five Million Dollars ($25,000,000.00). The policyholders' surplus reported for 2004 represents a decrease of eighty-five percent (85%) since year end 2000.

3. Tenn. Code Ann. § 56-1-501(g) provides that the annual statements provided by insurance companies shall be prepared in accordance with the National Association of Insurance Commissioners Accounting Practices and Procedures Manual in effect for the period covered by the statement.

4. Exhibit B to the Statement of Actuarial Opinion (hereinafter referred to as the "Opinion") discloses that loss reserves were discounted on a non-tabular basis. Exhibit B to the Opinion further provides that the amount of the discount is Five Hundred Sixteen Million and Forty-

Three Thousand Dollars ($516,043,000.00).

5. The practice of discounting non-tabular loss reserves is not authorized by the Statements of Statutory Accounting Principles (hereinafter referred to as "SSAP") published by the National Association of Insurance Commissioners in its Accounting Practices and Procedures Manual or by the Tennessee Law. Statement of Statutory Accounting Principle No. 65 ¶ 10 of the Accounting Practices and Procedures Manual states that, with the exception of fixed and reasonably determinable payments such as those emanating from workers' compensation tabular indemnity reserves and long-term disability claims, property and casualty loss reserves shall not be discounted.

6. The Respondent deviated from SSAP No. 65 by booking a non-tabular discount of its loss reserves. The loss reserves which were discounted were not fixed and reasonably determinable payments, as required by SSAP No. 65. Such deviation is a violation of Tenn. Code Ann. § 56-1-501(g) and, therefore, should not be recognized as a valid practice.

7. Tenn. Code Ann. § 56-2-115 states, in pertinent part, that all insurance companies doing business in this state shall possess and maintain bona fide surplus funds in the amount of One Million Dollars ($1,000,000.00). In Note 1 to the financial statement, the Respondent states that, had it complied with SSAP, policyholders' surplus would have been negative Two Hundred Twenty-Two Million Three Hundred and Sixty-Five Thousand Dollars ($(221,365,000.00)). Therefore, the Respondent's policyholders' surplus, as determined using SSAP, fails to meet the requirement of Tenn. Code Ann. § 56-2-115 to maintain and possess One Million Dollars ($1,000,000.00) in bona fide surplus funds.

CONCLUSIONS OF LAW

1. Tenn. Code Ann. § 56-1-416(a)(1)(A) provides that, if the Commissioner is of the opinion, upon examination or other evidence, that a foreign insurance company is in an unsound condition, then the Commissioner shall revoke or suspend all certificates of authority granted to the company.

2. The Division has established by a preponderance of the evidence that Respondent Century Indemnity Company is in a financially unsound condition.

NOW THEREFORE, IN LIGHT OF THE FOREGOING, the following is hereby **ORDERED**:

Respondent Century Indemnity Company's certificate of authority to do business as a foreign insurance company in the State of Tennessee is hereby **SUSPENDED**.

This Initial Order entered and effective this 26 day of August, 2005.

Lynn England
Administrative Judge

Filed in the Administrative Procedures Division, this 26 day of August, 2005.

Charles C. Sullivan, II
Charles C. Sullivan, II, Director
Administrative Procedures Division

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and correct copy of this document has been served upon all parties, by delivering the same to them or to their counsel at their address of record or by placing a true and correct copy of same in the United States mail, postage prepaid.

This 26 day of August, 2005.

Administrative Procedures Division
Office of the Secretary of State

PREPARED FOR ENTRY BY:

John F. Morris (BPR# 019144)
Beth Mitchell (BPR#020880)
Staff Attorneys
Department of Commerce and Insurance
500 James Robertson Parkway
Davy Crockett Tower, Fifth Floor
Nashville, Tennessee 37243
(615) 253-4680

CERTIFICATE OF SERVICE

I hereby certify that a true and exact copy of the foregoing Notice of Default and Initial Order was mailed *via* US First Class Mail, postage prepaid, to the Respondent, c/o the following:

Century Indemnity Company
Constance Depyper O'Mara
President
1601 Chestnut Street
Philadelphia, PA 19103

on this the 23rd day of August, 2005.

Beth Mitchell
Certifying Attorney

APPENDIX A TO INITIAL ORDER

NOTICE OF APPEAL PROCEDURES

Review of Initial Order

This Initial Order shall become a Final Order (reviewable as set forth below) fifteen (15) days after the entry date of this Initial Order, unless either or both of the following actions are taken:

(1) A party files a petition for appeal to the agency, stating the basis of the appeal, or the agency on its own motion gives written notice of its intention to review the Initial Order, within fifteen (15) days after the entry date of the Initial Order. If either of these actions occurs, there is no Final Order until review by the agency and entry of a new Final Order or adoption and entry of the Initial Order, in whole or in part, as the Final Order. A petition for appeal to the agency must be filed within the proper time period with the Administrative Procedures Division of the Office of the Secretary of State, 8th Floor, William R. Snodgrass Tower, 312 Eighth Avenue N., Nashville, Tennessee, 37243. (Telephone No. (615) 741-7008). See Tennessee Code Annotated, Section (T.C.A. §) 4-5-315, on review of initial orders by the agency.

(2) A party files a petition for reconsideration of this Initial Order, stating the specific reasons why the Initial Order was in error within fifteen (15) days after the entry date of the Initial Order. This petition must be filed with the Administrative Procedures Division at the above address. A petition for reconsideration is deemed denied if no action is taken within twenty (20) days of filing. A new fifteen (15) day period for the filing of an appeal to the agency (as set forth in paragraph (1) above) starts to run from the entry date of an order disposing of a petition for reconsideration, or from the twentieth day after filing of the petition, if no order is issued. See T.C.A. §4-5-317 on petitions for reconsideration.

A party may petition the agency for a stay of the Initial Order within seven (7) days after the entry date of the order. See T.C.A. §4-5-316.

Review of Final Order

Within fifteen (15) days after the Initial Order becomes a Final Order, a party may file a petition for reconsideration of the Final Order, in which petitioner shall state the specific reasons why the Initial Order was in error. If no action is taken within twenty (20) days of filing of the petition, it is deemed denied. See T.C.A. §4-5-317 on petitions for reconsideration.

A party may petition the agency for a stay of the Final Order within seven (7) days after the entry date of the order. See T.C.A. §4-5-316.

YOU WILL NOT RECEIVE FURTHER NOTICE OF THE INITIAL ORDER BECOMING A FINAL ORDER

A person who is aggrieved by a final decision in a contested case may seek judicial review of the Final Order by filing a petition for review in a Chancery Court having jurisdiction (generally, Davidson County Chancery Court) within sixty (60) days after the entry date of a Final Order or, if a petition for reconsideration is granted, within sixty (60) days of the entry date of the Final Order disposing of the petition. (However, the filing of a petition for reconsideration does not itself act to extend the sixty day period, if the petition is not granted.) A reviewing court also may order a stay of the Final Order upon appropriate terms. See T.C.A. §4-5-322 and §4-5-317.

State of Tennessee
Department of State
Administrative Procedures Division
312 Eighth Avenue North
8th Floor, William R. Snodgrass Tower
Nashville, Tennessee 37243
Phone: (615) 741-7008 Fax: (615) 741-4472

RECEIVED
AUG 30 2005
LEGAL SERVICES
DEPT. OF COMMERCE & INSURANCE

August 26, 2005

Commissioner Paula Flowers
Department of Commerce and Insurance
Davy Crockett Tower, 5th Floor
500 James Robertson Parkway
Nashville, Tennessee 37243-5065

Beth Mitchell, Staff Attorney
Department of Commerce & Insurance
Davy Crockett Tower, 5th Floor
500 James Robertson Parkway
Nashville, Tennessee 37243

Century Indemnity Company
Constance Depyper O'Mara
President
1601 Chestnut Street
Philadelphia, Pennsylvania 1910[illegible]

RE: In the Matter original Company
072978J

Dear Parties:

Please find enclosed a [illegible] Initial Order rendered in connection with the above-styled case.

Sincerely yours,

Charles C. Sullivan, II, Director
Administrative Procedure Division

/mlc

BEFORE THE COMMISSIONER OF THE
TENNESSEE DEPARTMENT OF COMMERCE AND INSURANCE

IN THE MATTER OF:	)	
	)	
TENNESSEE INSURANCE DIVISION	)	DOCKET NO. 12.01-072978J
Petitioner	)	
v.	)	
	)	
CENTURY INDEMNITY COMPANY	)	
Respondent	)	

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OR

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SECRETARY OF STATE
ADMINISTRATIVE PROCEDURES DIVISION
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BEFORE THE DEPARTMENT OF COMMERCE AND INSURANCE
FOR THE STATE OF TENNESSEE

TENNESSEE INSURANCE DIVISION, Petitioner,	)	
vs.	)	No.: 05-032 12.01-072978J
CENTURY INDEMNITY COMPANY, Respondent.	)	

NOTICE OF DEFAULT AND INITIAL ORDER

This matter came to be heard on July 28, 2005, before Lynn England, an Administrative Judge assigned to the Secretary of State, Administrative Procedures Division, and sitting for the Commissioner of the Tennessee Department of Commerce and Insurance in Nashville, Tennessee. John F. Morris, Staff Attorney, Department of Commerce and Insurance, represented the State. The Respondent, Century Indemnity Company, was not present at the hearing nor did an attorney appear on its behalf.

ORDER OF DEFAULT

This matter was heard upon the Petitioner's Motion for Default due to a failure of the Respondent to appear or to be represented at the hearing on July 28, 2005, after receiving proper notice thereof. The record indicates that the Respondent was properly served under the provisions of Title 56, Chapter 2, Part 5. After consideration of the record, it was determined that the Petitioner's motion was proper. The Respondent, Century Indemnity Company, was held in **DEFAULT**, and the Petitioner was permitted to proceed with an uncontested case.

INITIAL ORDER

The subject of this hearing was the proposed revocation of the Respondent's foreign certificate of authority in Tennessee. After consideration of the argument of counsel and the record in this matter, it is the determination of this Administrative Judge that the Respondent's certificate of authority should be **SUSPENDED**. This decision is based upon the following Findings of Fact and Conclusions of Law.

FINDINGS OF FACT

1. Century Indemnity Company (hereinafter referred to as the "Respondent") is an insurance company domiciled in the State of Pennsylvania. Respondent currently holds a certificate of authority to sell property, casualty, vehicle, and surety lines of insurance in the State of Tennessee.

2. The financial statement filed with the Department by the Respondent reported that, as of December 31, 2004, it possessed policyholders' surplus in the amount of Twenty Five Million Dollars ($25,000,000.00). The policyholders' surplus reported for 2004 represents a decrease of eighty-five percent (85%) since year end 2000.

3. Tenn. Code Ann. § 56-1-501(g) provides that the annual statements provided by insurance companies shall be prepared in accordance with the National Association of Insurance Commissioners Accounting Practices and Procedures Manual in effect for the period covered by the statement.

4. Exhibit B to the Statement of Actuarial Opinion (hereinafter referred to as the "Opinion") discloses that loss reserves were discounted on a non-tabular basis. Exhibit B to the Opinion further provides that the amount of the discount is Five Hundred Sixteen Million and Forty-

Three Thousand Dollars ($516,043,000.00).

5. The practice of discounting non-tabular loss reserves is not authorized by the Statements of Statutory Accounting Principles (hereinafter referred to as "SSAP") published by the National Association of Insurance Commissioners in its Accounting Practices and Procedures Manual or by the Tennessee Law. Statement of Statutory Accounting Principle No. 65 ¶ 10 of the Accounting Practices and Procedures Manual states that, with the exception of fixed and reasonably determinable payments such as those emanating from workers' compensation tabular indemnity reserves and long-term disability claims, property and casualty loss reserves shall not be discounted.

6. The Respondent deviated from SSAP No. 65 by booking a non-tabular discount of its loss reserves. The loss reserves which were discounted were not fixed and reasonably determinable payments, as required by SSAP No. 65. Such deviation is a violation of Tenn. Code Ann. § 56-1-501(g) and, therefore, should not be recognized as a valid practice.

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CONCLUSIONS OF LAW

1. Tenn. Code Ann. § 56-1-416(a)(1)(A) provides that, if the Commissioner is of the opinion, upon examination or other evidence, that a foreign insurance company is in an unsound condition, then the Commissioner shall revoke or suspend all certificates of authority granted to the company.

2. The Division has established by a preponderance of the evidence that Respondent Century Indemnity Company is in a financially unsound condition.

NOW THEREFORE, IN LIGHT OF THE FOREGOING, the following is hereby **ORDERED**:

Respondent Century Indemnity Company's certificate of authority to do business as a foreign insurance company in the State of Tennessee is hereby **SUSPENDED**.

This Initial Order entered and effective this 26 day of August, 2005.

Lynn England
Administrative Judge

Filed in the Administrative Procedures Division, this 26 day of August, 2005.

Charles C. Sullivan, II
Charles C. Sullivan, II, Director
Administrative Procedures Division

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and correct copy of this document has been served upon all parties, by delivering the same to them or to their counsel at their address of record or by placing a true and correct copy of same in the United States mail, postage prepaid.

This 26 day of August, 2005.

Administrative Procedures Division
Office of the Secretary of State

PREPARED FOR ENTRY BY:

John F. Morris (BPR# 019144)
Beth Mitchell (BPR#020880)
Staff Attorneys
Department of Commerce and Insurance
500 James Robertson Parkway
Davy Crockett Tower, Fifth Floor
Nashville, Tennessee 37243
(615) 253-4680

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Century Indemnity Company
Constance Depyper O'Mara
President
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Philadelphia, PA 19103

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Beth Mitchell
Certifying Attorney

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