

Docket No. INS 05-218

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CONSENT AGREEMENT

This document is a Consent Agreement authorized by 10 M.R.S.A. § 8003(5)(B) and entered into by and among Fortis Insurance Company (hereafter also Fortis), John Alden Life Insurance Company, (hereafter also “John Alden”), the Superintendent of the Maine Bureau of Insurance (“the Superintendent”), and the Maine Office of the Attorney General (“the Attorney General”). Its purpose is to resolve, without resort to an adjudicatory proceeding, Fortis Insurance Company’s failure to comply with the requirements of 24-A M.R.S.A. § 2849-B(8)(B) as set forth below.

FACTS

1. The Superintendent is the State official charged with administering and enforcing Maine's insurance laws and regulations.
2. Fortis Insurance Company is a licensed insurer authorized to sell health insurance in Maine, and presently holds license # LHF 276. John Alden Life Insurance Company is a licensed insurer authorized to sell health insurance in Maine, and presently holds license #LHF 724. Fortis and John Alden market short-term policies in the state of Maine. Both carriers are owned by the same parent company.
3. Title 24-A M.R.S.A. § 2849-B(8)(B) Short-term insurance, provides in part:
 - B. An insurer or the insurer’s agent or broker may not issue a short-term policy that replaces a prior short-term policy if the combined term of the new policy and all prior successive policies exceed 12 months. All individuals making an application for coverage under a short-term policy must disclose any prior coverage under a short-term policy and the policy duration.
4. In the course of investigating a policyholder complaint regarding coverage under a Fortis short-term policy, Bureau staff determined that Fortis had issued a total of four successive short-term policies to a Maine policyholder.
5. The policyholder was insured through a Fortis short-term policy effective December 16, 2002 through March 21, 2003.
6. The policyholder was insured through a second Fortis short-term policy from April 8, 2003 Through October 10, 2003.
7. In December of 2003, a Fortis representative advised the policyholder that she had to go without coverage from Fortis for one month before she could obtain another six month policy.

8. The policyholder was insured through a third Fortis short-term policy from December 24, 2003 until June 25, 2004.

9. The policyholder was insured through a fourth Fortis short-term policy from June 26, 2004 until December 27, 2004.

CONCLUSIONS OF LAW

10. Fortis violated 24-A M.R.S.A. § 2849-B(8)(B) by issuing four successive short-term policies providing coverage for a period of approximately twenty one months.

COVENANTS

11. A formal hearing in this matter is waived.

12. Fortis shall pay a civil penalty of Two Thousand Dollars (\$2,000.00) for violating 24-A M.R.S.A. § 2849-(B)(8)(B). Such payment shall be made payable to the Treasurer of the State of Maine within 30 days after Fortis executes this Consent Agreement.

13. Fortis and John Alden shall institute procedures acceptable to the Superintendent to ensure that once a Maine resident has had short-term health insurance coverage from any carrier for 12 months he or she may not obtain another short-term policy from Fortis or John Alden unless:

A. A period of at least 12 months has elapsed since the applicant's last short-term policy terminated, or

B. At their discretion, Fortis or John Alden may also institute procedures that permit a Maine resident to purchase a short-term policy if the applicant has had "creditable coverage" since his or her last short-term coverage ended, and lost such coverage involuntarily. When creditable coverage has been lost involuntarily, a short-term policy may be issued even if a period of less than 12 months has elapsed since the applicant's last short-term policy terminated.

14. This Consent Agreement constitutes licensee disciplinary action (against Fortis only), and the Superintendent shall report it to the NAIC RIRS database.

15. This Consent Agreement may be modified only by the written consent of the parties hereto. If Maine law is amended regarding the issuance of successive short-term policies, the parties agree to modify the requirements of paragraph 13 to conform to any such amendment.

16. The Superintendent agrees not to seek sanctions against Fortis or John Alden for the issuance of multiple successive short-term policies issued prior to the date of this agreement.

17. Nothing in this Agreement shall be construed to affect any right or interest of any person not a party hereto.

18. This Consent Agreement is a public record within the meaning of 1 M.R.S.A. § 402 and will be available for public inspection and copying as provided for by 1 M.R.S.A. § 408.

19. Fortis and John Alden have been advised of their right to consult with counsel and have, in fact, consulted with counsel before executing this Consent Agreement.

20. Nothing shall prohibit the Superintendent or the Attorney General from seeking an order to enforce this Consent Agreement or from seeking additional sanctions, in the event that Fortis or John Alden do not comply with the terms of the Agreement or in the event that the Superintendent or Attorney General receives heretofore unknown evidence deemed by the Superintendent or Attorney General to warrant further legal action.

SIGNATURES

FORTIS INSURANCE COMPANY

Dated:

By: _____

Its: _____
(Printed Name and Title)

Subscribed and sworn to before me
this _____ day of _____, 2005

Notary Public

Printed name

Date of commission expiration

**JOHN ALDEN LIFE INSURANCE
COMPANY**

Dated:

By: _____

Its: _____
(Printed Name and Title)

Subscribed and sworn to before me
this _____ day of _____, 2005

Notary Public

Printed name

Date of commission expiration

MAINE BUREAU OF INSURANCE

Dated:

Alessandro A. Iuppa
Superintendent of Insurance

MAINE OFFICE OF THE
ATTORNEY GENERAL

Dated:

Thomas C. Sturtevant, Jr.
Assistant Attorney General