

**FILED**

MAR 19 2020

INSURANCE REGULATION  
Docketed by: g.d.



OFFICE OF INSURANCE REGULATION

DAVID ALTMAIER  
COMMISSIONER

IN THE MATTER OF:

CASE NO.: 260437-20-CO

Application for the Issuance of a Certificate of Authority to  
MIDWEST BUILDERS' CASUALTY MUTUAL COMPANY

CONSENT ORDER

THIS CAUSE came on for consideration upon the filing of an application with the FLORIDA OFFICE OF INSURANCE REGULATION ("OFFICE") for the issuance of a Certificate of Authority to MIDWEST BUILDERS' CASUALTY MUTUAL COMPANY ("APPLICANT") as an authorized foreign insurer, pursuant to Sections 624.401, 624.404, and 624.413, Florida Statutes, to write the (0160) Workers' Compensation line of insurance in this state ("Application"). Following a complete review of the entire record, and upon consideration thereof, and being otherwise fully advised in the premises, the OFFICE hereby finds as follows:

1. The OFFICE has jurisdiction over the subject matter and the parties herein.
2. APPLICANT has applied for and, subject to the present and continuing satisfaction of the requirements, terms, and conditions established herein, has satisfactorily met all of the conditions precedent to the granting to it of a Certificate of Authority to operate as a foreign insurer in Florida, pursuant to the requirements set forth for such licensure in the Florida Insurance Code.
3. APPLICANT is a Kansas-domiciled mutual insurer that is owned by its policyholders.

4. APPLICANT has made material representations that, except as disclosed in the Application, none of its officers and directors have been found guilty of, or have pleaded guilty or nolo contendere to, a felony or a misdemeanor, other than a civil traffic offense.

5. APPLICANT has further represented that it has submitted complete background information on each of the individuals referenced in paragraph 4 above. If said information has not been provided to the OFFICE, or if the sources utilized by the OFFICE in its investigation process reveal that the representations made in paragraph 4 above are inaccurate, any such individual shall be removed as officer or director within 30 days of receipt of notification from the OFFICE and replaced with a person or persons acceptable to the OFFICE.

6. If, upon receipt of such notification from the OFFICE, pursuant to paragraph 5 above, APPLICANT does not timely take the required corrective action, APPLICANT agrees that such failure to act would constitute an immediate serious danger to the public and the OFFICE may immediately suspend, revoke, or take other administrative action as it deems appropriate upon the Certificate of Authority of APPLICANT without further proceedings, pursuant to Sections 120.569(2)(n) and 120.60(6), Florida Statutes.

7. The OFFICE has relied upon the representations in the Plan of Operation and supporting documents that APPLICANT has submitted with its Application. Written approval must be secured from the OFFICE prior to any material deviation from said Plan of Operation.

8. APPLICANT shall file with the OFFICE, via the National Association of Insurance Commissioners' electronic filing system, full and true statements of its financial condition, transactions, and affairs as required by Section 624.424, Florida Statutes, in a complete and timely manner. Further, notwithstanding the provisions of Section 625.340, Florida Statutes, APPLICANT shall be subject to the requirements of Parts I and II of Chapter 625, Florida Statutes.

Non-qualifying assets or investments in excess of limitations shall be non-admitted by the OFFICE, and the surplus as to policyholders adjusted accordingly.

9. APPLICANT shall at all times remain in compliance with Sections 624.404(4) and 624.610, Florida Statutes.

10. APPLICANT shall submit to the OFFICE, no less than annually, all required filings, pursuant to Section 627.0645, Florida Statutes, and Rule 69O-170.007, Florida Administrative Code, unless so exempted, pursuant to Section 627.0645, Florida Statutes.

11. Within 60 days of execution of this Consent Order, APPLICANT shall file, and shall thereafter maintain, an anti-fraud plan that complies with Section 626.9891, Florida Statutes, and Chapter 69D-2, Florida Administrative Code.

12. Any managing general agent, as defined by Section 626.015(16)(a)-(b), Florida Statutes, utilized by APPLICANT in Florida shall be properly appointed as a managing general agent in Florida.

13. Any managing general agent or related contracts entered into by APPLICANT following the issuance of a Certificate of Authority shall meet the requirements of Sections 626.015(16) and 626.7451, Florida Statutes.

14. APPLICANT shall maintain sufficient and adequate internal controls and supervision of any external contractor providing services in connection with the insurance transactions of APPLICANT and shall further assume responsibility for the actions of said contractor as they relate to any performance under the service agreements.

15. APPLICANT shall, within 30 days of execution of this Consent Order, make and thereafter maintain a deposit with the Bureau of Collateral Management in the amount of at least \$150,000 U.S. Dollars, as required by Section 624.411, Florida Statutes.

16. APPLICANT shall take necessary steps to effectuate membership in the associations or funds as required by the statutes enumerated in this paragraph, and to comply with the conditions contained in such entities' Plans of Operation. Further, APPLICANT agrees to pay any and all assessments levied by such entities and applicable laws. APPLICANT acknowledges full responsibility for determining the associations' or funds' it is required to join, pursuant to Sections 215.555, 627.311(4), 627.351(1), 627.351(4), 627.351(6), 627.3515, 631.55, 631.715, and 631.911, Florida Statutes. APPLICANT further acknowledges its statutory obligations pursuant to the aforementioned statutes and will continually monitor the various associations or funds that it is required to join, as determined by the lines of business on the Certificate of Authority of the APPLICANT. Further, APPLICANT shall, based upon the lines of business on its Certificate of Authority, continually monitor and comply with statutory requirements regarding its membership in the associations and funds that are identified herein or that may be established in the future.

17. APPLICANT shall file with the OFFICE all premium growth reports as required by Section 624.4243, Florida Statutes, in a complete and timely manner.

18. APPLICANT agrees that it will file with the OFFICE, for informational purposes, any policyholder dividend plan it intends to offer. APPLICANT shall ensure that any such policyholder dividend plan is in compliance with Rule 69O-189.010, Florida Administrative Code, and further complies with Section 626.9541, Florida Statutes.

19. APPLICANT shall not transact business in any line of insurance in Florida until APPLICANT's forms and rates for those lines of business have been approved in writing by the OFFICE, unless so exempted pursuant to Sections 627.062 or 627.410, Florida Statutes.

20. APPLICANT affirms that all information, explanations, representations, statements, and documents provided to the OFFICE in connection with this Application, including all attachments and supplements thereto, are true and correct and fully describe all transactions, agreements, ownership structures, understandings, and control with regard to the current and future operations of APPLICANT. APPLICANT further agrees and affirms that said information, explanations, representations, statements and documents, including all attachments and supplements thereto, are material to the issuance of this Consent Order and have been relied upon by the OFFICE in its determination to enter into this Consent Order.

21. APPLICANT shall report to the OFFICE, Property & Casualty Financial Oversight, any time that APPLICANT is named as a party defendant in a class action lawsuit within 15 days after the class is certified. APPLICANT shall include a copy of the complaint at the time it reports the class action lawsuit to the OFFICE.

22. APPLICANT shall maintain an information security program for the security and protection of confidential and proprietary information under its control that complies with all applicable laws and regulations regarding information security. APPLICANT agrees that it shall continually monitor and enhance its information security program in order to mitigate data security breaches. APPLICANT further agrees that it shall notify the OFFICE within 5 business days of identifying a data breach.

23. Executive Order 13224 prohibits any transactions by U.S. persons involving the blocked assets and interests of terrorists and terrorist support organizations. APPLICANT shall maintain and adhere to procedures necessary to detect and prevent prohibited transactions with those individuals and entities, which have been identified at the Treasury Department's Office of Foreign Assets Control website, <http://www.treas.gov/ofac>.

24. Within 60 days from the date of the execution of this Consent Order, APPLICANT shall submit, or cause to be submitted, to the OFFICE a certification evidencing compliance with all of the requirements of this Consent Order. Any exceptions shall be so noted and contained in the certification. Exceptions noted in the certification shall also include a timeline defining when the outstanding requirements of the Consent Order will be complete. Said certification shall be submitted to the OFFICE via electronic mail and directed to the attention of the Assistant General Counsel representing the OFFICE in this matter and as named in this Consent Order.

25. Any deadlines, reporting requirements, other provisions, or requirements set forth in this Consent Order may be altered or terminated by written approval of the OFFICE. Such written approval by the OFFICE is subject to statutory or administrative regulation limitations.

26. APPLICANT expressly waives a hearing in this matter, the making of findings of fact and conclusions of law by the OFFICE, and all further and other proceedings herein to which it may be entitled by law or rules of the OFFICE. APPLICANT hereby knowingly and voluntarily waives all rights to challenge or to contest this Consent Order in any forum available to it, now or in the future, including the right to any administrative proceeding, state or federal court action, or any appeal.

27. APPLICANT affirms that all requirements set forth herein are material to the issuance of this Consent Order.

28. APPLICANT agrees that, upon execution of this Consent Order, failure to adhere to one or more of the terms and conditions contained herein may result, without further proceedings, in the OFFICE suspending, revoking, or taking other administrative action as it deems appropriate upon APPLICANT's Certificate of Authority in this state in accordance with Sections 120.569(2)(n) and 120.60(6), Florida Statutes.

29. Each party to this action shall bear its own costs and fees.

30. The parties agree that this Consent Order shall be deemed to be executed when the OFFICE has signed and docketed a copy of this Consent Order bearing the signature of the authorized representative of APPLICANT, notwithstanding the fact that the copy may have been transmitted to the OFFICE electronically. Further, APPLICANT agrees that the signature of its authorized representative as affixed to this Consent Order shall be under the seal of a Notary Public.

WHEREFORE, the agreement between MIDWEST BUILDERS' CASUALTY MUTUAL COMPANY and the FLORIDA OFFICE OF INSURANCE REGULATION, the terms and conditions of which are set forth above, is APPROVED, and the Application for the issuance of a Certificate of Authority to MIDWEST BUILDERS' CASUALTY MUTUAL COMPANY, pursuant to Sections 624.401, 624.404, and 624.413, Florida Statutes, is APPROVED.

FURTHER, all terms and conditions contained herein are hereby ORDERED.

DONE and ORDERED this 19 day of March, 2020.



*David Altmaier*

David Altmaier, Commissioner  
Office of Insurance Regulation

By execution hereof, MIDWEST BUILDERS' CASUALTY MUTUAL COMPANY consents to entry of this Consent Order, agrees without reservation to all of the above terms and conditions, and shall be bound by all provisions herein. The undersigned represents that they have the authority to bind MIDWEST BUILDERS' CASUALTY MUTUAL COMPANY to the terms and conditions of this Consent Order.

MIDWEST BUILDERS' CASUALTY MUTUAL COMPANY

By: \_\_\_\_\_

Print Name: Johnny Dean Crowley Jr.

Title: President/CEO

Date: 3-19-20

STATE OF Missouri

COUNTY OF Jackson

The foregoing instrument was acknowledged before me by means of  physical presence or  online notarization, this 19<sup>th</sup> day of March 2020, by Johnny Dean Crowley Jr. (name of person) as officer for Midwest Builders' Casualty Mutual Company (type of authority; e.g., officer, trustee, attorney in fact) (company name)



Amy E. Dub  
(Signature of the Notary)

(Print, Type or Stamp Commissioned Name of Notary)

Personally Known  OR Produced Identification \_\_\_\_\_

Type of Identification Produced \_\_\_\_\_

My Commission Expires: 11-27-2023



COPIES FURNISHED TO:

JOHNNY CROWLEY JR., PRESIDENT  
Midwest Builders' Casualty Mutual Company  
1100 Walnut Street, Suite 3010  
Kansas City, Missouri 64106  
Telephone: (816) 474-7799  
E-Mail: [jcrowley@mwbc.com](mailto:jcrowley@mwbc.com)

KEVIN WIGGS  
First Consulting & Administration  
929 Walnut Street, Suite 300  
Kansas City, Missouri 64106  
Telephone: (816) 391-2736  
E-mail: [kevin.wiggs@firstconsulting.com](mailto:kevin.wiggs@firstconsulting.com)

ALISON STERETT, FINANCIAL ADMINISTRATOR  
Property & Casualty Financial Oversight – Company Admissions  
Florida Office of Insurance Regulation  
200 East Gaines Street  
Tallahassee, Florida 32399

JEANNINE CARROLL, FINANCIAL EXAMINER/ANALYST SUPERVISOR  
Property & Casualty Financial Oversight – Company Admissions  
Florida Office of Insurance Regulation  
200 East Gaines Street  
Tallahassee, Florida 32399

JENNIFER LAWSON/FINANCIAL EXAMINER/ANALYST II  
Property & Casualty Financial Oversight – Company Admissions  
Florida Office of Insurance Regulation  
200 East Gaines Street  
Tallahassee, Florida 32399

COURTNEY COLSTON-HAYES, ASSISTANT GENERAL COUNSEL  
Florida Office of Insurance Regulation  
200 East Gaines Street  
Tallahassee, Florida 32399  
Telephone: (850) 413-4174  
Facsimile: (850) 922-2543  
E-mail: [courtney.colston-hayes@flor.com](mailto:courtney.colston-hayes@flor.com)