

No. 2020-6562

**Official Order
of the
Texas Commissioner of Insurance**

Date: 11/17/2020

Subject Considered:

Safe Auto Insurance Company
4 Easton Oval
Columbus, Ohio 43219-6010

Consent Order
TDI Enforcement File No. 26153

General remarks and official action taken:

This is a consent order with Safe Auto Insurance Company (Safe Auto). Safe Auto self-reported that it incorrectly rated some personal automobile policy renewals because of an internal programming error. Safe Auto has agreed to pay restitution with interest to the affected policyholders.

Waiver

Safe Auto acknowledges that the Texas Insurance Code and other applicable law provide certain rights. Safe Auto waives all of these rights, and any other applicable procedural rights, in consideration of the entry of this consent order.

Findings of Fact

1. Safe Auto is a foreign casualty insurance company holding a certificate of authority to transact business in Texas.
2. In October 2020, Safe Auto reported to TDI a rating error in its private passenger automobile business. Specifically, a programming error caused certain renewals

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from February 2020 to July 2020 to be rated incorrectly not using the rating characteristics described by the company's Prior Insurance History rating rule.

3. Safe Auto represents that because of this error, 887 policyholders were overcharged more than \$31,000.

Conclusions of Law

1. The commissioner has jurisdiction over this matter pursuant to TEX. INS. CODE §§ 82.051 – 82.055, 84.021– 84.044, 801.052–801.053, and 2251.101.
2. The commissioner has the authority to informally dispose of this matter as set forth in TEX. GOV'T CODE § 2001.056; TEX. INS. CODE §§ 36.104 and 82.055; and 28 TEX. ADMIN. CODE § 1.47.
3. Safe Auto has knowingly and voluntarily waived all procedural rights to which it may have been entitled regarding the entry of this order, including, but not limited to, issuance and service of notice of intention to institute disciplinary action, notice of hearing, a public hearing, a proposal for decision, rehearing by the commissioner, and judicial review.
4. Safe Auto violated TEX. INS. CODE § 2251.101 by charging rates different than those on file with the department.
5. Pursuant to TEX. INS. CODE § 82.053, the commissioner is authorized to direct Safe Auto to make complete restitution to each policyholder impacted by the violations.

Order

Safe Auto is ordered to comply with the following:

- a. Safe Auto must identify all personal automobile insurance policies issued or renewed by it in Texas with effective dates from February 1, 2020, through July 13, 2020 (the "Review Period").
- b. For each policy in the Review Period, Safe Auto must calculate the Corrected Premium using the rate on file with the department.
- c. For each policy in the Review Period, Safe Auto must calculate and determine whether the dollar amount of the premium charged for each

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policy is less than or more than the Corrected Premium. If the premium charged is more than the Corrected Premium, the difference constitutes the Overcharge.

- d. Safe Auto must pay restitution in the form of a company check or account credit to each policyholder identified in the Review Period as having an Overcharge (the "Qualifying Policyholders"). The restitution check and/or account credit must include both the dollar amount of the overcharge, plus simple interest due on the overcharge. The rate of interest shall be 5 percent per annum.
- e. Safe Auto must mail the restitution checks and/or issue the account credits to the Qualifying Policyholders on or before December 31, 2020.
- f. Any restitution checks that are returned to Safe Auto with an address correction must be promptly resent to the correct address. Funds from any restitution checks that are returned thereafter for incorrect addresses and from checks that are not negotiated must be reported and delivered to the comptroller pursuant to the procedures and deadlines set forth in TEX. PROP. CODE §§ 72.001 *et. seq.*, 73.001 *et. seq.*, and 74.001 *et. seq.* Safe Auto must copy the department on any correspondence pertaining to presumed abandoned funds that is sent to the comptroller.
- g. On or before February 1, 2021, Safe Auto must report the restitution paid to the Qualifying Policyholders by submitting a complete and sortable electronic spreadsheet to the department. The spreadsheet must contain the following information:
 - i. policy number;
 - ii. policyholder name;
 - iii. policyholder address;
 - iv. effective date of the policy;
 - v. expiration date of the policy;
 - vi. amount of Overcharge;
 - vii. dollar amount of simple interest;
 - viii. amount of Overcharge and interest;
 - ix. date(s) of mailing of restitution check or credits;
 - x. the total sum of all Overcharges;
 - xi. the total sum of all simple interest; and,

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- xii. the total sum of all restitution paid (total Overcharges plus the total of the simple interest).

- h. Safe Auto must send all submissions required under the terms of this order by email to: EnforcementReports@tdi.texas.gov.

Commissioner of Insurance

By: 
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Doug Slape
Chief Deputy Commissioner
TEX. GOV'T CODE § 601.002
Commissioner's Order No. 2018-5528

Recommended and reviewed by:



Leah Gillum, Deputy Commissioner
Enforcement Division



Mandy Meesey, Associate Commissioner
Enforcement Division

Affidavit

STATE OF Ohio §

§

COUNTY OF Delaware §

Before me, the undersigned authority, personally appeared **Kelly A. Armstrong**, who being by me duly sworn, deposed as follows:

"My name is **Kelly A. Armstrong**. I am of sound mind, capable of making this statement, and have personal knowledge of these facts which are true and correct.

I hold the office of **Chief Legal Officer & Secretary** and am the authorized representative of Safe Auto Insurance Company. I am duly authorized by said organization to execute this statement.

Safe Auto Insurance Company has knowingly and voluntarily entered into the foregoing consent order and agrees with and consents to the issuance and service of the same by the commissioner of insurance of the state of Texas."

Kelly A. Armstrong 

Affiant

SWORN TO AND SUBSCRIBED before me on **November 13**, 2020.

(NOTARY SEAL)



Online Notary Public. This notarial act involved the use of online audio/video communication technology.

Katelyn Moran 

Signature of Notary Public

Katelyn Moran

Printed Name of Notary Public