

No. **2023-7771**

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

Date: 02/01/2023

Subject Considered:

Lemonade Insurance Company
5 Crosby St Fl 3
New York, NY 10013-4590

Consent Order
TDI Enforcement File No. 30674

General remarks and official action taken:

This is a consent order with Lemonade Insurance Company (Lemonade). The department conducted a market conduct examination and found violations of Texas law. Lemonade has agreed to an administrative penalty of \$200,000.

Waiver

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

Findings of Fact

1. Lemonade is a foreign fire and casualty company holding a certificate of authority to transact business in the state of Texas.
2. The department conducted a targeted market conduct examination that covered activity between January 1, 2020, and December 31, 2020, on Lemonade's homeowners line of business.

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3. The purpose of the examination was to determine Lemonade's compliance with Texas statutes and regulations related to sales, advertising, marketing; underwriting and rating; claims practices; and consumer complaints.
4. During the examination, the department found violations of the Texas Insurance Code and the Texas Administrative Code.

Agreements with Affiliates

5. Lemonade began writing homeowners residential coverage through Lemonade Insurance Agency, LLC (the Agency), a managing general agent (MGA), on December 31, 2019.
6. Under the terms of the MGA agreement, the Agency was allowed to appoint agents, underwrite policies, issue policies, process cancellations, and process claims.
7. The Agency operated in the capacity of an MGA without a proper MGA license. The Agency was subsequently licensed as an MGA in Texas on May 27, 2022.
8. The Agency was not appointed to act as an MGA for Lemonade. The Agency was subsequently appointed in Texas on June 10, 2022.
9. The required MGA audit reports provided by Lemonade did not satisfy statutory requirements.
10. The MGA agreement did not state that the MGA must notify the insurer in writing within 30 days if there is a change in ownership of 10% or more of the outstanding stock of the MGA, any principal officer of the MGA, or any director of the MGA.
11. The MGA agreement did not state that the MGA is not allowed to offset balances due under any contract with any offset due under any other contract.

Agents' Licensing and Appointments

12. In 100% (100 of 100) of the policies staff reviewed, Lemonade used an agent who was not properly appointed to issue or service policies.

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13. Lemonade's affiliated agency, Lemonade Insurance Agency, LLC, was subsequently appointed on February 22, 2021.

Underwriting and Rating

14. Staff randomly sampled policies Lemonade issued in 2020 to determine accuracy of rating, use of proper forms and endorsements, timely handling of transaction and policy service requests, adherence to consistent and nondiscriminatory underwriting practices, mandatory coverages, and compliance with statutes and regulations.
15. In 100% (70 of 70) of the new policies staff reviewed, Lemonade did not attach the Consumer Bill of Rights to the policy.
16. In 77% (54 of 70) of the new policies staff reviewed, Lemonade did not provide the required Initial Privacy Notice.
17. In 70% (21 of 30) of the renewal policies staff reviewed, Lemonade did not provide the required Annual Privacy Notice.
18. In 100% (100 of 100) of the policies staff reviewed, Lemonade did not attach the Flood Disclosure to the policy.
19. In 2% (1 of 50) of the cancellations staff reviewed, Lemonade did not return the premium due to the insured not later than the 15th business day after the effective date of the cancellation or termination of the policy.
20. In 7% (1 of 15) of the rescissions staff reviewed, Lemonade did not return the premium due to the insured not later than the 15th business day after the effective date of the cancellation or termination of the policy.

Claims

21. Staff conducted stratified sampling to include all policy and coverage types for claims Lemonade processed in 2020 to determine compliance with policy provisions, timeliness and accuracy of payment, supporting documentation, general claims handling, adjuster licensing, and compliance with statutes and regulations.

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22. In 5% (5 of 100) of the claims staff reviewed, Lemonade failed to adopt and implement reasonable standards for the prompt investigation of claims arising under the insurer's policy on claims that resulted in payments. Lemonade delayed processing of these claims.
23. In 3% (3 of 100) of the claims staff reviewed, Lemonade failed to notify the claimant in writing of the acceptance of the claims not later than the 15th business day.
24. In 2% (2 of 100) of the claims staff reviewed, Lemonade failed to pay the claim or a portion of a claim not later than the fifth business day.
25. In 65% (65 of 100) of the claims staff reviewed, Lemonade used adjusters that were not properly licensed.
26. In 10% (5 of 50) of the claims staff reviewed, Lemonade failed to adopt and implement reasonable standards for prompt investigation of claims arising under the insurer's policy on claims that were denied or were closed without claims payment. Lemonade delayed processing of these claims.
27. In 4% (2 of 50) of the claims staff reviewed, Lemonade failed to notify the claimant in writing of the rejection of the claim not later than the 15th business day.

Complaints

28. Staff sampled the complaints Lemonade received in 2020 to determine compliance with TEX. INS. CODE § 38.001 and § 542.005; 28 TEX. ADMIN. CODE § 21.203(6); 28 TEX. ADMIN. CODE §§ 21.2501-21.2507; and other statutes and regulations.
29. Staff reviewed 50 complaints and seven (14%) were considered confirmed.
30. In 4% (2 of 50) of the complaints staff reviewed, Lemonade failed to adopt and implement reasonable standards for the prompt investigation of claims arising under the insurer's policy. Lemonade delayed processing of these claims.
31. In 6% (3 of 50) of the complaints staff reviewed, Lemonade failed to notify the claimant in writing of the acceptance or rejection of the claim not later than the 15th business day.

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32. In 2% (1 of 50) of the complaints staff reviewed, Lemonade failed to respond to a department inquiry in writing not later than the 15th day after the date the inquiry was received and the 10-day extension.

Mitigating Circumstances

33. Lemonade represents that it amended its MGA to include express language to meet TDI's expectations for full technical compliance with Texas insurance laws and regulations and has received regulatory approval of the amended MGA agreement.
34. Lemonade represents that to ensure all of its agents are properly appointed, it has enhanced its monitoring procedures through its subscription to AgentSync licensing database.
35. Lemonade represents that on September 19, 2022, it revised its processes to ensure that all Texas policyholders are now receiving the Consumer Bill of Rights and the Flood Disclosure Notice as required.
36. Lemonade represents that on October 4, 2020, for direct new business and on March 11, 2022, for new business sold through sub-agents and agency partners, Lemonade established processes to ensure that all new policyholders receive the required Initial Privacy Notice and Annual Privacy Notice.
37. Lemonade represents that it made full restitution to the policyholders identified during the examination and has implemented a Homeowners Operations team that is dedicated to processing refunds resulting from policy cancellations, terminations, and rescissions in a timely manner to ensure compliance.
38. Lemonade represents that it has revised its procedures to ensure all Texas claims are handled by licensed adjusters.
39. Lemonade represents that in March 2022, it adopted and implemented multiple system enhancements and improved procedures, including the automation of manual processes and enhanced monitoring of claims processing, to ensure compliance for the prompt investigation of claims, the timely notification of acceptance or rejection of a claim, the timely payment of a claim, and the timely response to a TDI inquiry regarding a complaint.

Conclusions of Law

1. The commissioner has jurisdiction over this matter under TEX. INS. CODE §§ 82.051–82.055, 84.021–84.044, 751.001 *et seq.*, 801.051-801.053, 861.101 *et seq.*, 862.051, and 982.052.
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. Lemonade 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. Lemonade violated TEX. INS. CODE § 4053.051(a) when its affiliated agency operated in the capacity of an MGA without a proper MGA license.
5. Lemonade violated TEX. INS. CODE § 4053.054(a) when its affiliated agency was not appointed to act as an MGA for Lemonade.
6. Lemonade violated 28 TEX. ADMIN. CODE § 19.1204(b)(20) (A-E) because the audit reports provided by Lemonade did not satisfy the legal requirements.
7. Lemonade violated 28 TEX. ADMIN. CODE § 19.1204(b)(21) (A-C) because the MGA agreement did not state that the MGA must notify the insurer in writing within 30 days if there is a change in ownership of 10% or more of the outstanding stock of the MGA, any principal officer of the MGA, or any director of the MGA.
8. Lemonade violated 28 TEX. ADMIN. CODE § 19.1204(b)(22) because the MGA agreement did not state that the MGA is not allowed to offset balances due under any contract with any offset due under any other contract.
9. Lemonade violated TEX. INS. CODE § 4001.201 by using an agent who was not properly appointed to issue or service policies.
10. Lemonade violated 28 TEX. ADMIN. CODE § 5.9970(d) and (e) by not attaching the Consumer Bill of Rights on new policies.

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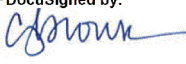
11. Lemonade violated 28 TEX. ADMIN. CODE § 22.8 by not providing the required Initial Privacy Notice on new policies.
12. Lemonade violated 28 TEX. ADMIN. CODE § 22.9 by not providing the required Annual Privacy Notice on renewal policies.
13. Lemonade violated TEX. INS. CODE § 2002.103 by not attaching the Flood Disclosure to policies.
14. Lemonade violated TEX. INS. CODE § 558.002(d) by not returning the premium due to the insured not later than the 15th business day after the effective date of the cancellation or termination of the policy.
15. Lemonade violated TEX. INS. CODE § 542.003(b)(3) by failing to adopt and implement reasonable standards for the prompt investigation of claims arising under the insurer's policy.
16. Lemonade violated TEX. INS. CODE § 542.056(a) by failing to notify the claimant in writing of the acceptance of the claim not later than the 15th business day.
17. Lemonade violated TEX. INS. CODE § 542.057(a) by failing to pay the claim or a portion of a claim not later than the fifth business day.
18. Lemonade violated TEX. INS. CODE § 4101.051 by using adjusters that were not properly licensed.
19. Lemonade violated TEX. INS. CODE § 38.001(c) by failing to respond to a department inquiry in writing not later than the 15th day after the date the inquiry was received and the 10-day extension.

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Order

It is ordered that Lemonade pay an administrative penalty of \$200,000 within 30 days from the date of this order. The administrative penalty must be paid as instructed in the invoice, which the department will send after entry of this order.

DocuSigned by:

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Cassie Brown
Commissioner of Insurance

Recommended and reviewed by:


Leah Gillum, Deputy Commissioner
Fraud and Enforcement Division


Sydney Moore, Staff Attorney
Enforcement

Affidavit

STATE OF New York §

§

COUNTY OF New York §

Before me, the undersigned authority, personally appeared Scott D. Fischer,
who being by me duly sworn, deposed as follows:

"My name is Scott D. Fischer. 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 General Counsel & Secretary and am the authorized representative of
Lemonade Insurance Company I am duly authorized by said organization to execute this
statement.

Lemonade 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."

Affiant

SWORN TO AND SUBSCRIBED before me on January 18, 2023

(NOTARY SEAL)



Laura A. Jones
Signature of Notary Public

Laura A. Jones
Printed Name of Notary Public