

No. **2023-7843**

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

Date: 03/10/2023

Subject Considered:

State Farm Lloyds
1251 State St., Ste. 1000
Richardson, Texas 75082-2202

Consent Order
TDI Enforcement File No. 29001

General remarks and official action taken:

This is a consent order with State Farm Lloyds. The department alleges that State Farm Lloyds paid incorrect interest amounts due to claimants for claims not timely paid. State Farm Lloyds has agreed to pay restitution to the affected policyholders and an administrative penalty of \$350,000 for these violations.

Waiver

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

Findings of Fact

1. State Farm Lloyds holds a certificate of authority to transact the business of insurance in Texas.
2. A complaint was filed with TDI alleging some of State Farm Lloyds practices were in violation of the Texas Insurance Code. After investigation, the department

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- determined that State Farm Lloyds was incorrectly calculating prompt pay interest amounts due to claimants on certain real property claims.
3. TEX. INS. CODE § 542.058 provides that if an insurer delays payment of a claim past the period designated by statute, or for more than 60 days, the insurer shall pay damages as provided by TEX. INS. CODE § 542.060.
 4. Under TEX. INS. CODE § 542.060(a), an insurer must pay the claim, plus interest at the rate of 18 percent a year unless the claim is subject to Chapter 542A.
 5. Chapter 542A became effective September 1, 2017. It applies to legal actions taken on first party, real property claims that arise from damage to or loss of covered property caused, wholly or partly, by forces of nature.
 6. TEX. INS. CODE § 542.060(c) provides that in an action to which Chapter 542A applies, the insurer must pay the claim, plus interest at the rate determined on the date of judgement by adding five percent to the interest rate determined under Section 304.003, Finance Code. While this amount could equal 18 percent interest, the calculated amount since September 1, 2017, has been approximately 10 percent.
 7. Since the enactment of Chapter 542A in 2017, State Farm Lloyds calculated all prompt pay penalties for real property claims arising from a force of nature type loss under the calculation provided in TEX. INS. CODE § 542.060(c), regardless of whether there was a legal action on a claim as described in TEX. INS. CODE § 542A.002. Consequently, State Farm Lloyds paid its claimants less prompt pay penalty interest than required by Texas law.
 8. State Farm Lloyds represents that it received a total of 316,505 force of nature type loss claims from September 1, 2017, to November 8, 2022. State Farm Lloyds represents that, of these claims, it identified 7,871 claims paid with an incorrect interest payment.
 9. State Farm Lloyds identified 2,299 of the 7,871 impacted claims with interest payments below \$5.99. State Farm Lloyds proposed, and the department agreed, that each of these incorrectly calculated payments be issued restitution in the amount of \$7, an amount greater than the maximum potential interest owed.
 10. State Farm Lloyds conducted a review of all interest payments issued for the identified claims on prompt pay violations from September 1, 2017, to November

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8, 2022. State Farm Lloyds represents it issued supplemental interest payments on any claims identified where the incorrect interest payment was used. State Farm Lloyds further represents that it corrected all internal processes related to this error as of November 8, 2022.

11. State Farm Lloyds completed the review of all impacted claims, and issued restitution payments to policyholders totaling \$1,434,010.78 as of January 31, 2023.

Conclusions of Law

1. The commissioner has jurisdiction over this matter under TEX. INS. CODE §§ 82.051–82.055, 84.021–84.044, 542.058, 542.060, 542A.002, 801.051–801.053, and 941.001–941.103.
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. State Farm Lloyds 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. State Farm Lloyds violated TEX. INS. CODE §§ 542.058, 542.060, and 542A.002 by incorrectly assessing the amount of interest due for late paid claims where a claim was attributed to a force of nature type loss.
5. Pursuant to TEX. INS. CODE § 82.053, the commissioner is authorized to direct State Farm Lloyds to make complete restitution to each policyholder impacted by the violation.

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Order

State Farm Lloyds is ordered to comply with the following:

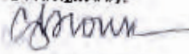
- a. State Farm Lloyds must pay an administrative penalty of \$350,000 within 30 days from the date of this order. The administrative penalty must be paid as instructed in the invoice, which the department will send after entry of this order.
- b. Any restitution checks that are returned to State Farm Lloyds 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.*
- c. State Farm Lloyds reported the restitution paid to the impacted insureds to the department in a complete and sortable electronic spreadsheet. The spreadsheet contained the following information:
 - i. claim number;
 - ii. policy number;
 - iii. policyholder name;
 - iv. policyholder address;
 - v. effective date of the policy;
 - vi. expiration date of the policy;
 - vii. dollar amount of interest paid on the initial prompt pay violation payment;
 - viii. amount of the supplemental prompt pay violation payment;
 - ix. dollar amount of interest paid on the supplemental prompt pay violation payment;
 - x. date(s) of mailing of restitution check(s); and
 - xi. the total sum of all restitution paid.
- d. State Farm Lloyds must provide written confirmation of restitution payments to the department within 30 days of the date of this order by emailing it to: EnforcementReports@tdi.texas.gov.

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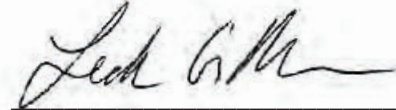
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DocuSigned by:

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Cassie Brown
Commissioner of Insurance

Recommended and reviewed by:



Leah Gillum, Deputy Commissioner
Fraud and Enforcement Division



Stephanie Daniels, Attorney
Enforcement

Affidavit

STATE OF Illinois §

§


COUNTY OF McLean §

Before me, the undersigned authority, personally appeared Gregory E Jones who being by me duly sworn, deposed as follows:

"My name is Gregory E Jones. I am of sound mind, capable of making this statement, and have personal knowledge of these facts which are true and correct.

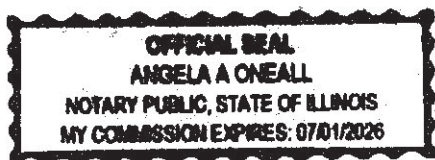
I hold the office of Vice President Operations and am the authorized representative of State Farm Lloyds. I am duly authorized by said organization to execute this statement.

State Farm Lloyds 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 March 2, 2023.

(NOTARY SEAL)



Angela A. O'Neill
Signature of Notary Public

Angela A. O'Neill
Printed Name of Notary Public