

No. **2022-7597**

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

Date: 11/04/2022

Subject Considered:

Focus Finance, LLC
PO Box 451899
Sunrise, Florida 33345

Consent Order
TDI Enforcement File No. 30325

General remarks and official action taken:

This is a consent order with Focus Finance, LLC (Focus). The Texas Department of Insurance (department) conducted a premium finance examination of Focus and found violations of the Texas Insurance Code and Texas Administrative Code. Focus has agreed to pay a \$35,000 administrative penalty for these violations.

Waiver

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

Findings of Fact

1. Focus is a domestic premium finance company, licensed by the department on February 8, 2017, to transact business in Texas under license number 13765533.
2. The department conducted a premium finance examination for the period of January 1, 2020, through December 31, 2020.

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3. The purpose of the examination was to determine Focus's compliance with Texas statutes and regulations related to originated agreements, canceled agreements, advertising, Focus's file for official correspondence and reports, complaints, and a limited review of Focus's financial statements.
4. During the exam, the department found violations of both the Texas Insurance Code and Texas Administrative Code.

Originated Agreements

5. Staff randomly sampled active and paid-out agreements Focus reported in the 2020 Annual Operations Report to determine compliance with TEX. INS. CODE CH. 651 and 28 TEX. ADMIN. CODE CH. 25.
6. Staff reviewed Focus's notification and funding procedures to determine compliance with TEX. INS. CODE § 651.165 and 28 TEX. ADMIN. CODE §§ 25.44 and 25.64.
7. In 100% (18 of 18) of the agreements staff reviewed, Focus did not notify the insurer whose premiums were being financed of the existence of such agreements in violation of TEX. INS. CODE § 651.165(a) and 28 TEX. ADMIN. CODE § 25.64(a).
8. Staff reviewed and recalculated finance charges for active and paid-out agreements to determine compliance with TEX. INS. CODE §§ 651.108 and 651.109 and 28 TEX. ADMIN. CODE § 25.42.
9. Focus did not make the rate and refund chart available for review and inspection to the department in violation of 28 TEX. ADMIN. CODE § 25.42.

Canceled Agreements

10. Staff reviewed Focus's notification procedures for canceled agreements to determine compliance with TEX. INS. CODE § 651.161 and 28 TEX. ADMIN. CODE § 25.58 and 25.59.
11. In 85% (11 of 13) of the agreements staff reviewed, Focus did not send the notice of intent to cancel to the insured with a cancellation date not earlier than 10 days after the mailing date of the notice of intent to cancel in violation of TEX. INS. CODE § 651.161 and 28 TEX. ADMIN. CODE § 25.58(a).

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Official Correspondences and Complaints

12. Focus did not pay the \$250 assessment fee that was due to the department with the 2019 Annual Operations Report on April 1, 2020, in violation of TEX. INS. CODE § 651.006 and 28 TEX. ADMIN. CODE § 25.88.

Financial Statements

13. Staff did a limited review of Focus's balance sheet and income statement in 2020 to determine compliance with 28 TEX. ADMIN. CODE § 25.32 and 25.90.
14. Focus did not establish an escheat or unclaimed property account in violation of 28 TEX. ADMIN. CODE § 25.90.

Internal Control Observations

15. Focus's internal controls and governance structure was ineffective to meet its obligation.
16. Focus reported incorrect data on the 2020 Annual Operations Report for new loans and canceled agreements. Focus reported 10 new loans and no canceled agreements. However, Focus had 18 new loans and 13 canceled agreements in 2020.
17. Focus did not provide documents during the examination in a sufficient manner for the originated and canceled agreements. The examiner had to make multiple requests to Focus to rectify the documents with the data provided which caused delays in the examination.

Conclusions of Law

1. The commissioner has jurisdiction over this matter pursuant to TEX. INS. CODE §§ 82.051-82.055, 84.021-84.044, and 651.051.
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.

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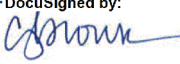
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3. Focus has knowingly and voluntarily waived all procedural rights to which it may have been entitled regarding the entry of this order, including, but not limited to, issuance and service of notice of intention to institute disciplinary action, notice of hearing, a public hearing, a proposal for decision, rehearing by the commissioner, and judicial review.
4. Focus violated TEX. INS. CODE § 651.165(a) and 28 TEX. ADMIN. CODE § 25.64(a) by not notifying the insurer whose premiums were being financed of the existence of such agreement.
5. Focus violated TEX. INS. CODE § 651.161 and 28 TEX. ADMIN. CODE § 25.58(a) by not sending the notice of intent to cancel to the insured with a cancellation date not earlier than ten days after the mailing date of the notice of intent to cancel.
6. Focus violated TEX. INS. CODE § 651.006 and 28 TEX. ADMIN. CODE § 25.88 by not paying the \$250 assessment fee that was due to the department with the 2019 Annual Operations Report on April 1, 2020.
7. Focus violated 28 TEX. ADMIN. CODE § 25.90 by not establishing an escheat or unclaimed property account.

Order

It is ordered that Focus Finance, LLC pay an administrative penalty of \$35,000 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.

It is also ordered that Focus Finance, LLC provide a report, on or before 60 days from the date of this order, detailing how Focus Finance, LLC intends to implement a corrective action plan to address errors in reporting and in notifications to insureds and insurers, identifying resources dedicated to implementation, timelines, and a process for independent verification of objective progress to comply with Texas law. The report must be sent to EnforcementReports@tdi.texas.gov.

DocuSigned by:

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Cassie Brown
Commissioner of Insurance

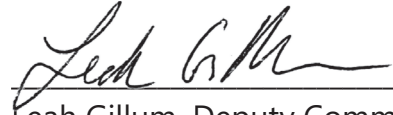
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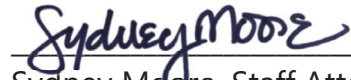
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Recommended and reviewed by:



Leah Gillum, Deputy Commissioner
Fraud and Enforcement Division



Sydney Moore, Staff Attorney
Enforcement

Affidavit

**STATE OF Florida §
§
COUNTY OF Miami-Dade §**

Before me, the undersigned authority, personally appeared Joseph Kurtz, who being by me duly sworn, deposed as follows:

"My name is Joseph Kurtz. 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 Secretary, and am the authorized representative of Focus Finance, LLC. I am duly authorized by said organization to execute this statement.

Focus Finance, LLC 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."

Joseph Kurtz
Affiant

SWORN TO AND SUBSCRIBED before me on October 25, 2022.

(NOTARY SEAL)



Rita Marro
Signature of Notary Public

RITA MARRO
Printed Name of Notary Public