

No. 2020-6567

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

Date: 11/18/2020

Subject Considered:

Benchmark Insurance Company
150 Lake Street West
Wayzata, Minnesota 55391

Consent Order
TDI Enforcement File No. 23982

General remarks and official action taken:

This is a consent order with Benchmark Insurance Company (Benchmark). Benchmark did not file and obtain approval from the department to use an Insurance Services Office (ISO) commercial policy form, which it used for three years. Benchmark agrees to pay a \$25,000 administrative penalty.

Waiver

Benchmark acknowledges that the Texas Insurance Code and other applicable law provide certain rights. Benchmark waives all of these rights, and any other applicable procedural rights, in consideration of the entry of this consent order. Pursuant to TEX. INS. CODE § 82.055(b), Benchmark agrees to this consent order with the express reservation that it does not admit to a violation of the Texas Insurance Code or of a rule and that the existence of a violation is in dispute.

Findings of Fact

1. Benchmark is a fire and casualty insurance company holding a certificate of authority to transact business in the state of Texas.

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2. In 2017, a third party made several form filings on behalf of Benchmark, but failed to file one ISO commercial liability umbrella form.
3. As a result, the department did not approve use of the form, but Benchmark represents that it believed that the form had been filed and approved.
4. Between 2017 and February 2020, Benchmark issued 55 policies using this form through Stone Falls Agency, LLC (Stone Falls), a licensed managing general agency.
5. In February 2020, Benchmark filed the form and self-reported to the department that it discovered Stone Falls had sold policies using that form. The form was approved by the department on February 26, 2020.
6. There is no evidence of consumer harm to Texans related to the use of the unapproved form.

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 801.051-801.053.
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. Benchmark 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. Benchmark violated TEX. INS. CODE § 2301.006 by failing to file and using an unapproved form.

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Order

It is ordered that Benchmark Insurance Company must pay an administrative penalty of \$25,000 within 30 days from the date of this order. The administrative penalty must be paid by cashier's check or money order made payable to the "State of Texas" and transmitted to the Texas Department of Insurance, Attn: Enforcement, Division 60851, MC 9999, P.O. Box 149104, Austin, Texas 78714-9104.

Commissioner of Insurance

DocuSigned by:

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By: _____

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



Anna Kalapach, Staff Attorney
Enforcement Division

Affidavit

STATE OF Minnesota §

§

COUNTY OF Hennepin §

Before me, the undersigned authority, personally appeared Joy N. Edler, who being by me duly sworn, deposed as follows:

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

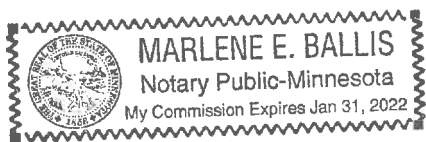
I hold the office of Chief Operating Officer, and am the authorized representative of Benchmark Insurance Company. I am duly authorized by said organization to execute this statement.

Benchmark 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."

Joy N. Edler
Affiant

SWORN TO AND SUBSCRIBED before me on November 9, 2020.

(NOTARY SEAL)



Marlene E. Ballis
Signature of Notary Public

Marlene E. Ballis
Printed Name of Notary Public