

No. **2021-6702**

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

**Date: 03/03/2021**

**Subjects Considered:**

American Casualty Company of Reading, Pennsylvania  
Continental Casualty Company  
The Continental Insurance Company  
National Fire Insurance Company of Hartford  
Transportation Insurance Company  
Valley Forge Insurance Company  
151 N Franklin St  
Chicago, Illinois 60606

Consent Order  
TDI Enforcement File Nos. 26825, 26827, 26828, 26829, 26830, 26831

**General remarks and official action taken:**

This is a consent order with American Casualty Company of Reading, Pennsylvania; Continental Casualty Company; The Continental Insurance Company; National Fire Insurance Company of Hartford; Transportation Insurance Company; and Valley Forge Insurance Company (collectively, the "CNA Companies"). The CNA Companies self-reported rating errors and have agreed to pay restitution with interest to the affected policyholders.

**Waiver**

The CNA Companies acknowledge that the Texas Insurance Code and other applicable law provide certain rights. The CNA Companies waive all of these rights, and any other applicable procedural rights, in consideration of the entry of this consent order.

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## Findings of Fact

1. The CNA Companies are all foreign fire and casualty insurance companies that hold certificates of authority to transact business in Texas.
2. In January 2021, the CNA Companies notified the department that they discovered system errors related to certain commercial general liability policies. The programming errors caused the CNA Companies to charge rates different than those on file with the department.
3. Specifically, the error caused the CNA Companies to incorrectly calculate experience rating factors. The CNA Companies reported that the rating errors resulted in undercharges and overcharges from January 1, 2018, through December 31, 2020. The CNA Companies estimate 450 Texas policyholders were undercharged an aggregate of \$5,000,000 and 642 Texas policyholders were overcharged an aggregate of \$3,100,000.
4. The CNA Companies represent that they made system changes effective January 1, 2021, to prevent further rating errors.

## 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. The CNA Companies have knowingly and voluntarily waived all procedural rights to which they 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. The CNA Companies violated TEX. INS. CODE § 2251.101 by charging rates different than those on file with the department.

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### Order

The CNA Companies are ordered to comply with the following:

- a. The CNA Companies must identify all commercial general liability insurance policies issued or renewed by it in Texas with effective dates from January 1, 2018, through December 31, 2020 (the "Review Period").
- b. For each policy in the Review Period, the CNA Companies must calculate the Corrected Premium using the rate on file with the department.
- c. For each policy in the Review Period, the CNA Companies must calculate and determine whether the dollar amount of the premium charged for each 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. The CNA Companies 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. The CNA Companies must mail the restitution checks and/or issue the account credits to the Qualifying Policyholders on or before August 15, 2021.
- f. Any restitution checks that are returned to the CNA Companies 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.* The CNA Companies must copy the department on any correspondence pertaining to presumed abandoned funds that is sent to the comptroller.
- g. On or before December 15, 2021, the CNA Companies must report the restitution paid to the Qualifying Policyholders by submitting a complete

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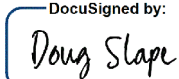
The CNA Companies

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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,
  - xii. the total sum of all restitution paid (total Overcharges plus the total of the simple interest).
- h. The CNA Companies must send all submissions required under the terms of this order by email to: EnforcementReports@tdi.texas.gov.

Commissioner of Insurance

DocuSigned by:  
  
By: C77A87C8C21B435...

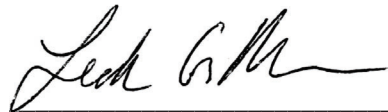
Doug Slape

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** \_\_\_\_\_ §

§

**COUNTY OF** \_\_\_\_\_ §

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

"My name is **KELly Walsh**\_\_\_\_\_. 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 <sup>SVP, General Liability & Umbrella, Middle Market</sup> \_\_\_\_\_, and am the authorized representative of American Casualty Company of Reading, Pennsylvania. I am duly authorized by said organization to execute this statement.

American Casualty Company of Reading, Pennsylvania 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 Walsh* Feb 16, 2021  
KELly Walsh (Feb 16, 2021 08:22 CST)

Affiant

SWORN TO AND SUBSCRIBED before me on \_\_\_\_\_, 2021.

(NOTARY SEAL)

\_\_\_\_\_  
Signature of Notary Public

\_\_\_\_\_  
Printed Name of Notary Public

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**Affidavit**

**STATE OF** \_\_\_\_\_ §

§

**COUNTY OF** \_\_\_\_\_ §

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

“My name is **KELly Walsh**. I am of sound mind, capable of making  
this statement, and have personal knowledge of these facts which are true and correct.

SVP, General Liability & Umbrella, Middle Market

I hold the office of \_\_\_\_\_, and am the authorized representative  
of Continental Casualty Company. I am duly authorized by said organization to execute  
this statement.

Continental Casualty 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 Walsh*  
KELly Walsh (Feb 16, 2021 08:22 CST)

Feb 16, 2021

Affiant

SWORN TO AND SUBSCRIBED before me on \_\_\_\_\_, 2021.

(NOTARY SEAL)

\_\_\_\_\_  
Signature of Notary Public

\_\_\_\_\_  
Printed Name of Notary Public

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**Affidavit**

**STATE OF** \_\_\_\_\_ **§**

**§**

**COUNTY OF** \_\_\_\_\_ **§**

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

“My name is **KELly Walsh**. I am of sound mind, capable of making  
this statement, and have personal knowledge of these facts which are true and correct.

SVP, General Liability & Umbrella, Middle Market

I hold the office of \_\_\_\_\_, and am the authorized representative  
of The Continental Insurance Company. I am duly authorized by said organization to  
execute this statement.

The Continental 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 Walsh*  
KELly Walsh (Feb 16, 2021 08:22 CST)

Feb 16, 2021

Affiant

SWORN TO AND SUBSCRIBED before me on \_\_\_\_\_, 2021.

(NOTARY SEAL)

\_\_\_\_\_  
Signature of Notary Public

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Printed Name of Notary Public

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**Affidavit**

**STATE OF** \_\_\_\_\_ §

§

**COUNTY OF** \_\_\_\_\_ §

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

“My name is **KELLY WALSH**. I am of sound mind, capable of making this statement, and have personal knowledge of these facts which are true and correct.

SVP, General Liability & Umbrella, Middle Market

I hold the office of \_\_\_\_\_, and am the authorized representative of National Fire Insurance Company of Hartford. I am duly authorized by said organization to execute this statement.

National Fire Insurance Company of Hartford 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 WALSH*  
KELLY WALSH (Feb 16, 2021 08:22 CST)

Feb 16, 2021

Affiant

SWORN TO AND SUBSCRIBED before me on \_\_\_\_\_, 2021.

(NOTARY SEAL)

\_\_\_\_\_  
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Printed Name of Notary Public



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**§**

**COUNTY OF \_\_\_\_\_ §**

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

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

SVP, General Liability & Umbrella, Middle Market

I hold the office of \_\_\_\_\_, and am the authorized representative of Transportation Insurance Company. I am duly authorized by said organization to execute this statement.

Transportation 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 Walsh*  
KELly Walsh (Feb 16, 2021 08:22 CST)

Feb 16, 2021

Affiant

SWORN TO AND SUBSCRIBED before me on \_\_\_\_\_, 2021.

(NOTARY SEAL)

\_\_\_\_\_  
Signature of Notary Public

\_\_\_\_\_  
Printed Name of Notary Public

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**Affidavit**

**STATE OF** \_\_\_\_\_ §

§

**COUNTY OF** \_\_\_\_\_ §

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

“My name is **KELLY WALSH**. I am of sound mind, capable of making this statement, and have personal knowledge of these facts which are true and correct.

SVP, General Liability & Umbrella, Middle Market

I hold the office of \_\_\_\_\_, and am the authorized representative of Valley Forge Insurance Company. I am duly authorized by said organization to execute this statement.

Valley Forge 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 WALSH*  
KELLY WALSH (Feb 16, 2021 08:22 CST)

Feb 16, 2021

Affiant

SWORN TO AND SUBSCRIBED before me on \_\_\_\_\_, 2021.

(NOTARY SEAL)

\_\_\_\_\_  
Signature of Notary Public

\_\_\_\_\_  
Printed Name of Notary Public