

No. **2022-7313**

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

**Date: 05/03/2022**

**Subject Considered:**

Occidental Fire & Casualty Company of North Carolina  
4200 Six Forks Road, Suite 1400  
Raleigh, North Carolina 27609-2683

Consent Order  
TDI Enforcement File No. 28236

**General remarks and official action taken:**

This is a consent order with Occidental Fire & Casualty Company of North Carolina (Occidental). The department conducted a targeted market conduct examination and found violations of Texas law. Occidental has agreed to pay an administrative penalty of \$75,000.

**Waiver**

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

**Findings of Fact**

Licensure and Background

1. Occidental is a foreign fire & casualty insurer domiciled in the state of North Carolina and holds a certificate of authority to transact business in Texas. Occidental was originally licensed by the department on August 10, 1962.

## 2022-7313

Commissioner's Order

Occidental Fire & Casualty Company of North Carolina

Page 2 of 9

2. The department conducted a market conduct examination of Occidental for the period of January 1, 2018, through December 31, 2018, on Occidental's homeowner line of business.
3. The purpose of the examination was to determine Occidental's compliance with the Texas Insurance Code and Texas Administrative Code 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.

### Unlicensed Managing General Agent (MGA) and Deficient MGA Contract

5. January 1, 2009, Occidental entered into a contract with Coastal Risk Underwriters, LLC (Coastal) for its MGA services. This contract was revised several times, with the September 30, 2010, revision and eight additional amendments in effect during the department's examination. The fourth amendment, June 21, 2013, changed Coastal's name to SageSure Insurance Managers, LLC (SageSure). The agreement with Occidental allowed SageSure to underwrite policies, issue policies, process cancellations, and collect premiums, but not to process claims on behalf of Occidental.
6. SageSure was not a licensed MGA at the time of the examination.
7. SageSure was not appointed to act as an MGA at the time of the examination.
8. The contract between Occidental and SageSure did not include the following required provisions:
  - a. a statement that all amendments and changes to the contract must be in writing and specify the effective date;
  - b. a statement that if prior approval is given, the MGA must promptly forward a report to the insurer; and
  - c. a statement 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.

## 2022-7313

Commissioner's Order

Occidental Fire & Casualty Company of North Carolina

Page 3 of 9

9. SageSure applied for and received a Texas MGA license with a property and casualty qualification on April 21, 2020.
10. SageSure was appointed as an MGA for Occidental on June 15, 2020.
11. Occidental provided the department with an executed copy of Addendum One to the agreement with SageSure which included all required missing provisions.

### Agents' Licensing and Appointments

12. In 2% (2 of 100) of policies reviewed, Occidental allowed an agent or subagent who was not properly licensed to issue or service policies.
13. In 17% (17 of 100) of policies reviewed, Occidental allowed an agent or subagent who was not properly appointed to issue or service policies.
14. Occidental, through its MGA SageSure, contracted with an outside vendor that syncs daily with NIPR. SageSure receives automated license and appointment information from this vendor, as well as daily alerts if a producer's license is expired or if they have any regulatory infractions.

### Policy Forms and Filings

15. The department randomly sampled policies issued by Occidental in 2018 to determine use of proper forms and endorsements, and compliance with applicable statutes and regulations. Occidental utilized the Texas standard policy forms and endorsements as well as its own policy forms and endorsements as authorized under the Insurance Code.
16. In 100% (50 of 50) of policies reviewed, Occidental did not attach the Homeowners Consumer Bill of Rights.
17. In 100% (100 of 100) of policies reviewed, Occidental attached an outdated Company's Toll-Free Telephone Numbers and Information and Complaint Procedures notice. This notice did not have the current department contact information as required.

## 2022-7313

Commissioner's Order

Occidental Fire & Casualty Company of North Carolina

Page 4 of 9

18. Occidental represents that it has taken corrective action to address the policy forms and filings violations. Occidental has introduced additional resource tools to ensure all state required forms and notices are captured in policy production.

### Incorrect Rating Factor

19. The department randomly sampled policies issued by Occidental in 2018 to determine accuracy of underwriting and rating as filed with the department.
20. Occidental failed to ensure premium was accurately billed in accordance with filed rates, applicable rating manuals, supplementary rating information, and any additional applicable information.
21. In 1% (1 of 100) of policies reviewed, Occidental used an incorrect wildfire rating factor to determine the premium.
22. Occidental represents a total of 395 insureds were impacted by the incorrect wildfire rating factor. Occidental issued refunds totaling \$173,973 to the impacted insureds. Occidental represents it has dedicated staff to validate all rating steps and tables, independent of the actuarial team, to prevent a similar occurrence in the future.

### Cancellations and Non-renewals

23. The department reviewed sampled cancellations and non-renewals to determine the accuracy of premium refunding and compliance with policy termination requirements.
24. In 2% (1 of 50) of cancelled policies reviewed by the department, Occidental did not refund the policy holders' unearned premium within 15 business days after the effective date of cancellation.
25. Occidental represents that its MGA, SageSure, has instituted automated processes and additional monitoring to ensure all refunds are sent within 15 business days.

### Claims Payments

26. The department conducted stratified sampling to include all coverage types for claims processed by Occidental in 2018 to determine compliance with policy

## 2022-7313

Commissioner's Order

Occidental Fire & Casualty Company of North Carolina

Page 5 of 9

provisions, timeliness, accuracy of payment, supporting documentation, general claims handling, and compliance with the Texas Insurance Code.

27. In 4% (4 of 100) of claims reviewed, Occidental failed to pay a claim or portion of a claim not later than the fifth business day.
28. In 4% (4 of 100) of claims reviewed, Occidental failed to notify the claimants in writing of the acceptance of the claim not later than the 15th business day.
29. In 16% (16 of 100) of claims reviewed, Occidental used a person who acted as or was represented as an adjuster without a license.
30. In 2% (1 of 50) of denied claims reviewed, Occidental failed to notify the claimant in writing of the rejection of the claim not later than the 15th business day.
31. In 8% (2 of 25) of pending claims reviewed, Occidental failed to notify the claimant in writing of the rejection of the claim not later than the 15th business day.
32. Occidental represents its adjuster staff has completed additional Texas specific Fair Claims Practices training to address the claims payments violations. Additionally, Occidental established an adjuster licensing coordinator to ensure all adjusters working on Texas claims are appropriately licensed.

### Failure to Respond to Official Inquiries

33. The department sampled complaints Occidental received in 2018 to determine compliance with the Insurance Code and other applicable Texas statutes and rules.
34. In 21% (3 of 14) complaints reviewed, Occidental failed to respond to the initial department inquiry not later than the 15th business day.
35. Occidental represents it has updated its tracking and oversight processes for complaint handling. The company updated its tracking log to include additional fields which proactively send reminders to business partners when the statutory deadline to respond is approaching. Also, an additional layer of managerial oversight was added to ensure proper tracking of complaints.

## Conclusions of Law

1. The commissioner has jurisdiction over this matter under TEX. INS. CODE §§ 82.051–82.055, 84.021–84.044, and 801.052–801.053.
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. Occidental 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. Occidental violated TEX. INS. CODE §§ 4053.051 and 4053.054, by allowing SageSure to perform the acts of an MGA on its behalf without holding the required license and without being appointed.
5. Occidental violated 28 TEX. ADMIN. CODE § 19.1204(b)(1), (b)(7), and (b)(21)(A)-(C) by not including required provisions in its contract with its MGA, SageSure.
6. Occidental violated TEX. INS. CODE §§ 4001.101 and 4051.051, by allowing unlicensed or improperly licensed agents to issue or service policies.
7. Occidental violated TEX. INS. CODE §§ 4001.201 and 4001.205<sup>1</sup> by allowing unappointed agents or subagents to issue or service policies.
8. Occidental violated 28 TEX. ADMIN. CODE § 5.9971 by failing to include the Homeowners Consumer Bill of Rights in issued policies.
9. Occidental violated TEX. INS. CODE § 521.005 and 28 TEX. ADMIN. CODE § 1.601 by failing to include the department's updated contact information in the Company's Toll-Free Telephone Numbers and Information and Complaint Procedures notice in issued policies.
10. Occidental violated TEX. INS. CODE §§ 1806.104 and 2251.101(a) by charging a premium on an insurance policy not in accordance with an applicable filing.

---

<sup>1</sup> This violation occurred prior to the repeal of Texas Insurance Code § 4001.205.

# 2022-7313

Commissioner's Order

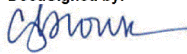
Occidental Fire & Casualty Company of North Carolina

Page 7 of 9

11. Occidental violated TEX. INS. CODE § 558.002(d) by failing to refund unearned premium to the policyholder not later than the 15th business day after the effective date of cancellation or termination of the policy.
12. Occidental violated TEX. INS. CODE § 542.057 by failing to pay a claim not later than the fifth business day after notice of acceptance of the claim.
13. Occidental violated TEX. INS. CODE § 542.056(a) by failing to notify claimants in writing of the acceptance or rejection of their claim not later than the 15th business day after receiving all required items, statements, forms, etc.
14. Occidental violated TEX. INS. CODE § 4101.051 by allowing individuals who did not hold a Texas adjuster license to act as an adjuster on claims.
15. Occidental violated TEX. INS. CODE § 38.001 by not responding to the department's inquiry in writing not later than the 15th day after the date the inquiry was received.

## Ordercan

It is ordered that Occidental Fire & Casualty Company of North Carolina pay an administrative penalty of \$75,000 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:  
  
FC5D7EDDFFBB4F8...

---

Cassie Brown  
Commissioner of Insurance

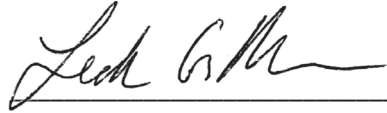
# 2022-7313

Commissioner's Order

Occidental Fire & Casualty Company of North Carolina

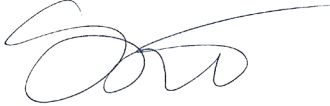
Page 8 of 9

Recommended and reviewed by:



---

Leah Gillum, Deputy Commissioner  
Fraud and Enforcement Division



---

Stephanie Daniels  
Enforcement Division



**Affidavit**

STATE OF North Carolina §

§

COUNTY OF Wake §

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

"My name is Mike Blinson. 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 Corporate Secretary and am the authorized representative of Occidental Fire & Casualty Company of North Carolina. I am duly authorized by said organization to execute this statement.

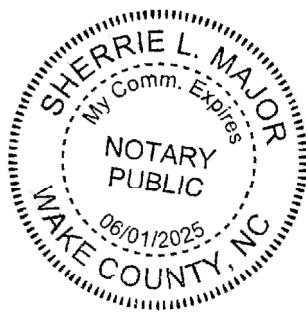
Occidental Fire & Casualty Company of North Carolina has knowingly and voluntarily entered into the foregoing consent order and agrees with and consents to the issuance and service of the same by the commissioner of insurance of the State of Texas."

Mike D. Blinson

Affiant

SWORN TO AND SUBSCRIBED before me on March 21, 2022.

(NOTARY SEAL)



Sherrie L. Major  
Signature of Notary Public

Sherrie L. Major  
Printed Name of Notary Public