

No. 2020-6338

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

Date: 04/30/2020

Subject Considered:

Elephant Insurance Company
9950 Mayland Dr., Ste. 400
Henrico, Virginia 23233

Consent Order
TDI Enforcement File No. 23418

General remarks and official action taken:

This is a consent order with Elephant Insurance Company (Elephant). Elephant violated several provisions of the Texas Insurance Code as found in a targeted market conduct examination. Elephant has agreed to pay a \$80,000 administrative penalty for these violations.

Waiver

Elephant acknowledges that the Texas Insurance Code and other applicable law provide certain rights. Elephant waives all these rights, and any other applicable procedural rights, in consideration of the entry of this consent order. Pursuant to Texas Insurance Code §82.055, Elephant agrees to the terms of this Consent Order with the express reservation that it does not admit to any violation of the Texas Code, Rules, or Regulations and that the existence of any such violation is in dispute.

Findings of Fact

1. Elephant, company identification no. 13688, is a foreign property and casualty company holding a certificate of authority to transact business in Texas.
2. The Texas Department of Insurance conducted a market conduct examination for the period of January 1, 2016, through December 31, 2016. The examination

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reviewed the sales, advertising and marketing, underwriting and rating, claims practices, and consumer complaints/inquiries of Elephant's private passenger automobile business.

3. The purpose of the examination was to verify compliance with the Texas Insurance Code and Title 28 of the Texas Administrative Code.
4. A previous market conduct examination of its private passenger automobile business in 2014 noted Elephant violated the Texas Insurance Code and Title 28 of the Texas Administrative Code.
5. During the current exam, the department found violations of the Texas Insurance Code.

Underwriting and Rating Practices Review

6. The department reviewed sample issued policies to determine the accuracy of underwriting and rating as filed and to determine compliance with mandatory coverages, uninsured or underinsured motorists and personal injury protection, under the Texas Insurance Code and Texas Administrative Code.
7. Elephant disclosed discounts on the policy declaration's pages, misleading policyholders that it was factored into the premium, when the discount was not applied as follows:
 - a. Anti-theft Discount was present on the declaration page when it was not applied to the policy premium; and
 - b. E-Signature Discount was present on the declaration page when it was not applied to the policy premium.
8. Elephant provided written rejections for uninsured/underinsured motorists coverage in which the notices were unsigned, and in which the notice or written rejection was signed after the policy was issued.
9. Elephant provided written rejections for personal injury protection coverage in which the notices were unsigned, and in which the written rejections were signed after the policy was issued.
10. The department reviewed sampled cancellation and non-renewals to determine accuracy of premium refunding and found Elephant failed to mail the named

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insured written notice of the nonrenewal not later than the 30th day before the date on which the policy expired.

Claims Practices

11. The examination reviewed Elephant's claim files for compliance with policy provisions, timeliness and accuracy of payments, supporting documentation, general claim handling, and legal compliance. Sampled claims included paid claims, denied or closed without payment claims, and pending.
12. Elephant allowed a person to act or represent that the person was an adjuster without a license.

Consumer Complaints/Inquiries

13. The examination reviewed Elephant's complaint files for legal compliance. The department reviewed 48 complaints during the timeframe of the examination and six (13 percent) were considered confirmed.
14. Elephant failed to respond to the department's inquiry in writing not later than the 15th day after the date the inquiry was received.

Subsequent Remedial Action

15. Elephant has taken significant steps to improve regulatory compliance, including a two-level process involving quality assurance and internal compliance reviews.

Conclusions of Law

1. The commissioner of insurance has jurisdiction over this matter pursuant to TEX. INS. CODE §§ 82.051-82.055, and 84.021-84.044, and chs. 751, 861 and 982.
2. The commissioner of insurance has authority to informally dispose of this matter under TEX. INS. CODE § 82.055, TEX. GOV'T CODE § 2001.056, and 28 TEX. ADMIN. CODE § 1.47.
3. Elephant 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

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hearing, a public hearing, a proposal for decision, rehearing by the commissioner, and judicial review.

4. Elephant violated TEX. INS. CODE § 38.001 when it failed to respond to the department's inquiry in writing not later than the 15th day after the date the inquiry was received in five instances.
5. Elephant violated TEX. INS. CODE § 541.061(1) when it disclosed discounts on the declaration's pages even though the discount was not applied and was not factored into the rate or policy premium in 15 instances.
6. Elephant violated TEX. INS. CODE § 551.105 when it failed to mail the named insured written notice of the nonrenewal not later than the 30th day before the date on which the policy expired in two instances.
7. Elephant violated TEX. INS. CODE § 1952.101(b) and (c) when it provided written rejections for uninsured/underinsured motorists coverage in which the notices were unsigned in three instances, and in which the notice or written rejection was signed after the policy was issued in six instances.
8. Elephant violated TEX. INS. CODE § 1952.152(a) and (b) when it provided written rejections for personal injury protection coverage in which the notices were unsigned in 12 instances, and in which the written rejections were signed after the policy was issued in 21 instances.
9. Elephant violated TEX. INS. CODE § 4101.051 when it allowed a person to act or represent that the person was an adjuster without a license in 47 instances.

Order

It is ordered that Elephant Insurance Company must pay an administrative penalty of \$80,000. The administrative penalty must be paid 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." Mail the administrative penalty to the Texas Department of Insurance, Attn: Enforcement Division, Division 60851, MC 9999, P.O. Box 149104, Austin, Texas 78714-9104.

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Kent C. Sullivan

Commissioner of Insurance

By: 
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Doug Slape
Chief Deputy Commissioner
Commissioner's Order No. 2018-5528

Recommended and reviewed by:



Leah Gillum, Deputy Commissioner
Enforcement Division



Whitney Fraser, Director
Enforcement Division

Affidavit

THE STATE OF _____ §

§

COUNTY OF _____ §

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

1. "My name is Bryan H Sponza . I am of sound mind, capable of making this statement, and personally acquainted with the facts stated herein.
2. I hold the office of Corporate Secretary. I am the authorized representative of Elephant Insurance Company and am duly authorized to execute this affidavit.
3. Elephant Insurance Company has knowingly and voluntarily entered into the foregoing consent order and agrees with and consents to the issuance and service of the foregoing consent order by the commissioner of insurance of the state of Texas."



 Bryan H Sponza (Apr 22, 2020)
 Affiant

SWORN TO AND SUBSCRIBED before me on _____, 20____.

(NOTARY SEAL)

Signature of Notary Public

Printed Name of Notary Public