

No. **2022-7262**

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

Date: 03/09/2022

Subject Considered:

Falcon Insurance Company
724 Enterprise Drive
Oak Brook, Illinois 60523-1908

Consent Order
TDI Enforcement File No. 28629

General remarks and official action taken:

This is a consent order with Falcon Insurance Company (Falcon). The Texas Department of Insurance (TDI) conducted a targeted market conduct examination and found violations of Texas law. Falcon has agreed to pay an administrative penalty of \$60,000.

Waiver

Falcon acknowledges that the Texas Insurance Code and other applicable law provide certain rights. Falcon 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. Falcon is a foreign casualty company holding a certificate of authority to transact business in Texas.

2022-7262

Commissioner's Order
Falcon Insurance Company
Page 2 of 7

2. TDI conducted a targeted market conduct examination of Falcon on its private passenger automobile line of business for the period of January 1, 2019, and December 31, 2019.
3. The purpose of the examination was to determine Falcon's compliance with the Texas Insurance Code and Title 28 of the Texas Administrative Code related to sales, advertising, marketing, underwriting and rating, claims practices, and consumer complaints.
4. During the examination, TDI found violations of the Texas Insurance Code and the Texas Administrative Code.

Prior Disciplinary Action

5. On May 9, 2017, the commissioner entered Order No. 2017-5068 against Falcon for violations found during a 2015 market conduct examination and imposed an \$80,000 administrative penalty against Falcon.

Sales, Advertising, and Marketing

6. Falcon used 115 active agents and terminated appointments of nine agents in 2019. Staff randomly sampled 100 policies issued in 2019 to determine compliance with agents' licensing and appointment requirements.
7. In 2% (2 of 100) of the policies reviewed, Falcon allowed an agent who was not properly licensed to issue or service policies.
8. In 10% (10 of 100) of the policies reviewed, Falcon allowed an agent and/or subagent who was not properly appointed to sign an insurance application and issue or service policies. This finding was repeated from the 2015 examination but decreased in percentage.

Claims Practices: Paid Claims

9. The examination reviewed 100 paid claims on non-named driver policies for compliance with claims settlement practices and Chapter 542 of the Texas Insurance Code.

2022-7262

Commissioner's Order
Falcon Insurance Company
Page 3 of 7

10. The following findings were repeated from the prior examination and slightly increased in percentage:
 - a. In 2% (2 of 100) of the policies reviewed, Falcon failed to notify the claimant in writing of the acceptance of the claim not later than the 15th business day; and
 - b. In 6% (6 of 100) of the policies reviewed, Falcon failed to pay the claim not later than the fifth business day after the notice.

11. The following findings were repeated from the prior examination and decreased significantly in percentage:
 - a. In 2% (2 of 100) of the policies reviewed, Falcon failed to provide the claimant with the required Notice of Rights Regarding Repair of Motor Vehicle; and
 - b. In 2% (2 of 100) of the policies reviewed, Falcon failed to adopt and implement reasonable standards for the prompt investigation of the claim arising under the insurer's policy by failing to follow up on information necessary to process the claim.

12. In 7% (7 out of 100) of the policies reviewed, Falcon failed to notify the insured in writing of the offer to settle a claim not later than the 10th day.

Claims Practices: Denied or Closed Claims

13. The examination reviewed 50 denied and closed claims on non-named driver policies for compliance with claims settlement practices and Chapter 542 of the Texas Insurance Code.

14. In 4% (2 of 50) of the claims reviewed, Falcon failed to notify the claimant in writing of the denial of the claim not later than the 15th business day. This finding was repeated from the 2015 examination, without a change in percentage.

15. In 14% (7 of 50) of the claims reviewed, Falcon failed to provide the claimant with the required Notice of Rights Regarding Repair of Motor Vehicle. This finding was repeated from the 2015 examination and increased in percentage.

Consumer Complaints

16. Falcon's compliant files were reviewed for compliance with TEX. INS. CODE §§ 38.001 and 542.005, 28 TEX. ADMIN. CODE §§ 21.203(6) and 21.2501-21.2507, and other

2022-7262

insurance statutes and rules as applicable. Of the complaints reviewed 13% (6 of 45), were considered confirmed complaints.

17. In 7% (3 of 45) of the complaints reviewed, Falcon failed to adopt and implement reasonable standards for the prompt investigation of the claim arising under the insurer's policy. This finding was repeated from the 2015 examination but decreased in percentage.
18. In 2% (1 of 45) of the complaints reviewed, Falcon failed to notify the claimant in writing of the acceptance of the claim not later than the 15th business day. This finding was repeated from the 2015 examination, without a change in percentage.

Conclusions of Law

1. The commissioner has jurisdiction over this matter under TEX. INS. CODE §§ 82.051–82.055, 84.021–84.044, 751.001 *et seq.*, 801.051-801.053, 861.101 *et seq.*, and 982.052, and TEX. GOV'T CODE §§ 2001.051-2001.178.
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. Falcon 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. Falcon violated TEX. INS. CODE § 542.003(b) by failing to adopt and implement reasonable standards for the prompt investigation of claims arising under its policies, specifically by failing to follow up on information necessary to process claims.
5. Falcon violated TEX. INS. CODE § 542.056(a) by failing to notify the claimant in writing of acceptance or rejection of a claim not later than the 15th business day after the date it received all items, statements, and forms required to secure proof of loss.
6. Falcon violated TEX. INS. CODE § 542.057(a) by failing to pay a claim not later than the fifth business day after the date the notice of acceptance.


2022-7262

Commissioner's Order
Falcon Insurance Company
Page 5 of 7

7. Falcon violated TEX. INS. CODE § 542.153(a) by failing to notify the insured in writing of an offer to settle a claim not later than the 10th day after the date the initial settlement offer was made.
8. Falcon violated TEX. INS. CODE § 1952.305 and 28 TEX. ADMIN. CODE § 5.501 by failing to provide claimants the Notice of Rights Regarding Repair of Motor Vehicle.
9. Falcon violated TEX. INS. CODE § 4001.101 by allowing unlicensed persons to issue or service policies on its behalf.
10. Falcon violated TEX. INS. CODE §§ 4001.201 and 4001.205¹ by allowing unappointed persons to issue or service policies on its behalf.

Order

It is ordered that Falcon Insurance Company pay an administrative penalty of \$60,000 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:

FC5D7EDDFB4F8...

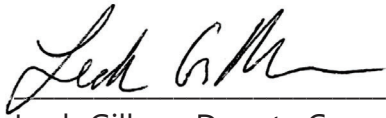
Cassie Brown
Commissioner of Insurance

¹ All references to TEX. INS. CODE § 4001.205 and associated findings and violations of that statute in this order refer to the law in existence during the examination period. Effective September 1, 2021, Section 4001.205 was repealed pursuant to H.B.4030 (87th R.S.).

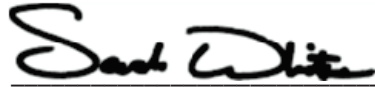
2022-7262

Commissioner's Order
Falcon Insurance Company
Page 6 of 7

Recommended and reviewed by:



Leah Gillum, Deputy Commissioner
Enforcement Division



Sarah White, Staff Attorney
Enforcement Divis

Affidavit

STATE OF ILLINOIS §

§
COUNTY OF DU PAGE §

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

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

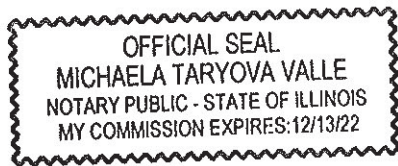
I hold the office of PRESIDENT and am the authorized representative of Falcon Insurance Company. I am duly authorized by said organization to execute this statement.

Falcon 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."

[Signature]
Affiant

SWORN TO AND SUBSCRIBED before me on March, 3rd, 2022.

(NOTARY SEAL)



[Signature]
Signature of Notary Public

MICHAELA TARYOVA VALLE
Printed Name of Notary Public