

No. 2018-5691

**OFFICIAL ORDER
of the
TEXAS COMMISSIONER OF INSURANCE**

Date: OCT 3 1 2018

Subjects Considered:

COLONIAL COUNTY MUTUAL INSURANCE COMPANY
1 West Nationwide Boulevard # 14701
Columbus, Ohio 43215-2752

TITAN INSURANCE SERVICES INC.
9903 Nationwide Drive
San Antonio, Texas 78251-3583

CONSENT ORDER
TDI ENFORCEMENT FILE NOS. 11653 and 11654

General remarks and official action taken:

The subject of this order is whether disciplinary action should be taken against Colonial County Mutual Insurance Company (Colonial) and Titan Insurance Services Inc. (Titan). Pursuant to TEX. INS. CODE § 82.055(b), Colonial and Titan agree to this consent order with the express reservation that they do not admit to a violation of the Texas Insurance Code or of a rule and that the existence of a violation is in dispute.

WAIVER

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

FINDINGS OF FACT

1. Colonial is a county mutual insurance company holding a certificate of authority to transact business in Texas.
2. Titan holds a managing general agency (MGA) license with the department under firm identification number 5986. Titan also holds a general lines agent license with property and casualty and life, accident, health, and HMO qualifications.
3. Colonial and Titan are affiliated entities within Nationwide Insurance.

Laws Applicable to Named Driver Policies

4. Section 1952.0545 of the Insurance Code [S.B. 1567 (83rd Leg. R.S., Davis), eff. Sept. 1, 2013], requires insurers and agents to make written and oral disclosures to the applicant or insured, and obtain contemporaneous written confirmation of the oral disclosure, of the nature and limitations of named driver automobile insurance policies. Disclosures must be made before accepting any premium or fee for the named driver policy. S.B. 1567 applies only to named driver policies delivered, issued for delivery, or renewed on or after January 1, 2014.
5. On May 18, 2014, the department adopted amendments to 28 TEX. ADMIN. CODE § 5.204, to partially implement provisions of S.B. 1567 requiring liability insurers that write named driver policies to include the named driver disclosure in the standard proof of motor vehicle liability insurance form, i.e., the "Texas Liability Insurance Card."
6. On January 28, 2015, the department adopted 28 TEX. ADMIN. CODE § 5.208 to implement the remaining disclosure requirements in S.B. 1567 for both new and renewal named driver policies, and to clarify the definition of a named driver policy.

Use of Unapproved Policy Forms

7. On October 22, 2013, under department filing link 129717, the department approved Colonial's personal automobile policy forms TX5CGEP0010114 and TX8CGEP0010114, including the respective named driver endorsements TX5CGEE1140114 and TX8CGEE1140114 which contain the requisite, named driver disclosure. These personal automobile policies are named driver policies when endorsed by either of the endorsements.
8. On February 12, 2016, under department filing link S620216, Colonial filed personal automobile policy forms TX5CGEP0011215 and TX8CGEP0011215, including their respective named driver endorsements TX5CGEE1141215 and TX8CGEE1141215 which contain the requisite, named driver disclosure. These personal automobile policies are named driver policies when endorsed by either of the endorsements.
9. Filing link S620216 was withdrawn by Colonial on March 9, 2016, and was not approved by the department for use in Texas.
10. Nevertheless, Colonial and Titan wrote policies using the withdrawn policy forms and endorsements in filing link S620216. Indeed, Colonial and Titan began making named driver policy renewal offers replacing approved policy forms with the withdrawn policy forms even prior to the filing of the forms with the department on February 12, 2016.

Named Driver Underwriting Practices

11. On and after January 28, 2015, Colonial and Titan, delivered, issued for delivery, and renewed named driver policies in three, six, and 12 month term lengths.
12. Colonial and Titan accepted payment of premium and fees for new and renewal named driver policies in person, by telephone, mail, online, and by recurring, automatic payment by credit card or electronic funds transfer (EFT) from a checking account.
13. For new named driver policies, Colonial and Titan required applicants to sign the "Texas Titan Lite Disclosure" form TX5CGEM1170114, which included the written named driver disclosure. If the applicant's agent failed to provide Colonial and Titan with the signed form and the named driver policy application within fifteen days, the named driver endorsement and the associated premium discount were immediately removed.
14. For new named driver policies, Colonial and Titan did not provide the oral named driver disclosure to applicants, and did not confirm contemporaneously in writing the provision of the oral disclosure.
15. For renewal named driver policies, Colonial and Titan mailed named driver policy renewal offers consisting of an invoice, declarations page, and Texas Liability Insurance Card to the insured approximately 30 days prior to the premium due date. The requisite named driver disclosure was conspicuously identified on the front of the Texas Liability Insurance Card.
16. The renewal offers did not indicate how Colonial or Titan would make the named driver oral disclosure, receive a signed copy of the written disclosure, or confirm contemporaneously in writing the provision of the oral disclosure.
17. Before Colonial and Titan accepted premium or fees for those renewals, they failed to: make the requisite oral disclosure; receive a signed copy of the requisite written disclosure; and confirm contemporaneously in writing the provision of the oral disclosure.
18. On August 23, 2016, under department filing link S627648, the department approved Colonial's personal automobile policy forms TX5CGEP0011016 and TX8CGEP0011016, including certain named driver exclusion endorsements, as replacements for the approved forms in filing link 129717. The forms in filing link S627648 are not named driver policies within the meaning of TEX. INS. CODE § 1952.0545.
19. On October 16, 2016, Colonial and Titan ceased writing new named driver policies.
20. As of November 15, 2016, Colonial had 406 named driver policies in force written through Titan.

COMMISSIONER'S ORDER

Colonial County Mutual Insurance Company and Titan Insurance Services Inc.

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21. On January 3, 2017, Colonial notified the department of its intention to withdraw from writing all nonstandard automobile insurance policies in Texas, including both private passenger and commercial automobile insurance policies, and included a withdrawal plan for the commercial policies. Colonial's total premium amount for its nonstandard private passenger policies did not require Colonial to seek department approval for that line. Colonial represented that it ceased writing all new nonstandard private passenger policies on March 1, 2017. Further, Colonial represented that private passenger policyholders would be non-renewed beginning July 1, 2017, and would receive an offer of coverage with an unaffiliated insurer.
22. On February 7, 2017, the department approved Colonial's withdrawal plan, maintaining its certificate of authority to do business in Texas.
23. As of April 30, 2018, Colonial had 15 remaining named driver policies in force written through Titan, and expected all of those to expire by June 30, 2018.
24. Colonial represents that at this time it has no intention to write named driver policies or any nonstandard automobile insurance in the future.

Titan's Failure to Update Mailing Address

25. On August 10, 2016, the department sent a letter requesting information to Titan's address of record by certified mail, return receipt request. That letter was returned to the department on September 2, 2016, as unclaimed and unable to forward.
26. Titan failed to timely notify the department its mailing address had changed.
27. On October 28, 2016, Titan updated its mailing address of record with the department.

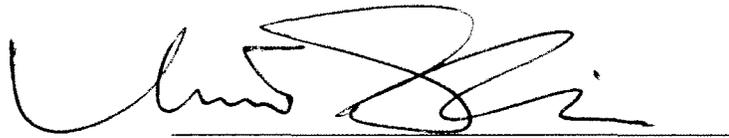
CONCLUSIONS OF LAW

1. The commissioner has jurisdiction over this matter pursuant to TEX. INS. CODE §§ 82.051 – 82.055, 84.021 – 84.044, 801.051 – 801.053, 912.002, 912.101 – 912.152, 4005.101, 4005.107, and 4053.151.
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. Colonial and Titan 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. Colonial and Titan violated TEX. INS. CODE § 2301.006 by using unapproved policy forms.
5. Colonial and Titan violated TEX. INS. CODE § 1952.0545 and 28 TEX. ADMIN. CODE § 5.208 by accepting a premium or fee for named driver policies without making the oral disclosure, without receiving a signed copy of the written disclosure, and failing to confirm contemporaneously in writing the provision of the oral disclosure.
6. Colonial and Titan violated TEX. INS. CODE §§ 541.003 and 541.061(5) by failing to disclose a matter required by law to be disclosed, including failing to make the requisite disclosures required by TEX. INS. CODE § 1952.0545 and 28 TEX. ADMIN. CODE § 5.208.
7. Titan violated TEX. INS. CODE § 4001.252 and 28 TEX. ADMIN. CODE § 19.906 by failing to notify the department monthly of a change in its mailing address.

It is ordered that Colonial County Mutual Insurance Company and Titan Insurance Services Inc. must pay, jointly and severally, an administrative penalty of \$50,000 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 Section, Division 60851, MC 9999, P.O. Box 149104, Austin, Texas 78714-9104.

It is further ordered that if it is found after a public hearing that Colonial or Titan has failed to comply with any of the terms of this Order, Colonial and Titan may be subject to further action by the commissioner under the provisions of TEX. INS. CODE § 82.054.



Kent C. Sullivan
Commissioner of Insurance

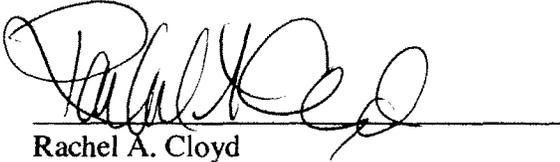
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APPROVED AS TO FORM AND CONTENT:

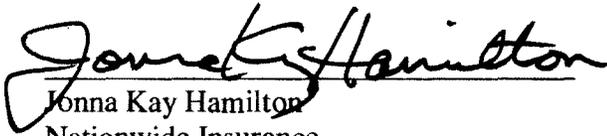


Rachel A. Cloyd

Director, Enforcement Section

Texas Department of Insurance

COUNSEL FOR COLONIAL COUNTY MUTUAL INSURANCE
COMPANY and TITAN INSURANCE SERVICES INC.:



Jonna Kay Hamilton
Nationwide Insurance

Colonial County Mutual Insurance Company
AFFIDAVIT

STATE OF CALIFORNIA §

COUNTY OF PLACER §

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

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

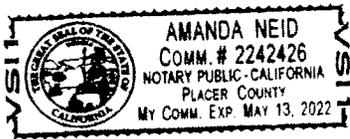
I hold the office of REGIONAL VICE PRESIDENT, and am the authorized representative
of Colonial County Mutual Insurance Company. I am duly authorized by said organization to
execute this statement.

Colonial County Mutual 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.”

Blair Crossan
Affiant

SWORN TO AND SUBSCRIBED before me on August 2nd, 2018.

(NOTARY SEAL)



Amanda Neid
Signature of Notary Public

