

No. 2019-5947

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

Date: APR 26 2019

Subject Considered:

MGA Insurance Company, Inc.
P.O. Box 199023
Dallas, Texas 75219

Consent Order
TDI Enforcement File No. 17214

General remarks and official action taken:

The subject of this order is whether disciplinary action should be taken against MGA Insurance Company, Inc. (MGA Insurance).

Waiver

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

Findings of Fact

1. MGA Insurance is a domestic property and casualty insurer and has been licensed by the Texas Department of Insurance (TDI) since August 13, 1981.
2. TDI conducted an examination of MGA Insurance for the period of January 1, 2015, through December 31, 2015. The examination focused on a review of MGA Insurance's sales, advertising, marketing, underwriting, rating, claims practices, consumer complaints and inquiries.

3. The purpose of the examination was to verify compliance with the Texas Insurance Code, Title 28 of the Texas Administrative Code, and the Texas Automobile Rules and Rating Manual.
4. The findings of the examination are set out in the Examination report dated June 13, 2018, which cited MGA Insurance for violations of the Texas Insurance Code and the Texas Administrative Code.

Sales, Advertising, and Marketing

5. The examination reviewed a sample of MGA Insurance's private passenger automobile policies to determine compliance with the agent licensing and appointment requirements under Texas law.
6. A review of the claims found that MGA Insurance:
 - a. issued several policies listing an agency on the declaration page that was not licensed by TDI;
 - b. issued several policies listing an agency on the declaration page that was not appointed to act as an agent for MGA Insurance; and
 - c. issued several policies where the agent or subagent was not properly licensed and not appointed to MGA Insurance.

Underwriting and Rating Practices

7. The examination reviewed MGA Insurance's issued policies to determine the accuracy of rating, use of proper forms and endorsements, timely handling of transactions and policy service requests, adherence to consistent and nondiscriminatory underwriting practices, and compliance with Texas Law.
8. A review of the policies found that MGA Insurance:
 - a. failed to provide the Uninsured or Underinsured Motorist Coverage for Property Damage in the policy or supplemental to the policy;
 - b. failed to obtain the insured's signed notice of rejection for Uninsured or Underinsured Motorist Coverage;

- c. failed to provide the Personal Injury Protection Coverage in the policy or supplemental to the policy;
- d. failed to timely refund the appropriate portion of any unearned premium to the policyholder; and
- e. failed to provide all supplementary rating information and additional information used by the insurer to determine the applicable premium for an insured, and failed to use rates, rating manuals, and rating rules that were filed with TDI on and after the date of the filing. This resulted in an undercharge in premiums to the insureds but did not result in any consumer harm.

Claims Practices

- 9. The examination reviewed MGA Insurance's claim files for compliance with policy provisions, timelines and accuracy of payments, supporting documentation, general claim handling, and legal compliance. Sampled claims included pending claims, paid claims, denied claims, and claims closed without payment.
- 10. A review of the claims found that MGA Insurance:
 - a. failed to include the insurer's name, mailing address, phone number, and fax number in bold face type on The Notice of Rights Regarding Repair of Motor Vehicle;
 - b. failed to adopt and implement reasonable standards for the prompt investigation of claims; and
 - c. failed to timely notify the insured of a settlement offer and a settlement in writing.

Consumer Complaints

- 11. The examination reviewed MGA Insurance's complaint files for legal compliance. MGA Insurance received a total of 110 complaints during the timeframe of the evaluation. A random sample of 36 complaints were reviewed and nine (25 percent) were considered confirmed.

12. A review of the complaints found that MGA Insurance:
 - a. failed to timely respond to an inquiry made by TDI;
 - b. failed to adopt and implement reasonable standards for the prompt investigation of claims; and
 - c. failed to timely notify the claimant in writing of the rejection of the claim.

Conclusions of Law

1. The commissioner has jurisdiction over this matter pursuant to TEX. INS. CODE chs. 751, 861, and 862; TEX. INS. CODE §§ 38.001, 82.051-82.055, and 84.021-84.051; and TEX. GOV'T CODE §§ 2001.051-2001.178.
2. The commissioner has the authority to dispose of this matter informally, as set out in TEX. GOV'T CODE § 2001.056, TEX. INS. CODE §§ 36.104 and 82.055, and 28 TEX. ADMIN. CODE § 1.47.
3. MGA Insurance 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. MGA Insurance violated TEX. INS. CODE § 38.001 by failing to respond to a TDI inquiry in writing not later than the 15th day after receipt of the inquiry.
5. MGA Insurance violated TEX. INS. CODE § 542.003(b)(3) by failing to adopt and implement reasonable standards for the prompt investigation of claims arising under the insurer's policies.
6. MGA Insurance violated TEX. INS. CODE § 542.056(a) by failing to notify a claimant in writing of the acceptance or rejection of a claim not later than the 15th business day after the date the insurer receives all items, statements, and forms required by the insurer to secure final proof of loss.
7. MGA Insurance violated TEX. INS. CODE § 542.153(b) by failing to notify the insured in writing of a settlement not later than the 30th day after the date a claim against

- the named insured under a casualty insurance policy issued to the insured is settled.
8. MGA Insurance violated TEX. INS. CODE § 558.002(d) by failing to refund the appropriate portion of any unearned premium to the policyholder not later than the 15th business day after the effective date of cancellation or termination of a policy.
 9. MGA Insurance violated TEX. INS. CODE § 1952.101(b) by delivering or issuing automobile liability insurance policies and failing to provide the uninsured or underinsured motorist coverage.
 10. MGA Insurance violated TEX. INS. CODE § 1952.101(c) by failing to obtain the insured's signed notice of rejection for the required uninsured or underinsured motorist coverage.
 11. MGA Insurance violated TEX. INS. CODE § 1952.152(a) by delivering or issuing automobile liability insurance policies and failing to provide the personal injury protection coverage in the policy.
 12. MGA Insurance violated TEX. INS. CODE § 1952.152(b) by failing to obtain the insured's signed notice of rejection for the required personal injury protection coverage.
 13. MGA Insurance violated TEX. INS. CODE § 1952.305(b) and 28 TEX. ADMIN. CODE § 5.501(h) by failing to include the insurer's name, mailing address, phone number, and fax number in bold face type on the notice of rights regarding repair of motor vehicle section of the policy.
 14. MGA Insurance violated TEX. INS. CODE § 2251.101 and 28 TEX. ADMIN. CODE § 5.9334 by failing to file supplementary rating information, and additional information as required with the commissioner.
 15. MGA Insurance violated TEX. INS. CODE § 4001.101 by issuing policies where the agent was not licensed by TDI.
 16. MGA Insurance violated TEX. INS. CODE § 4001.201 by issuing policies with an agent who was not appointed to act as an agent for MGA Insurance.

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Order

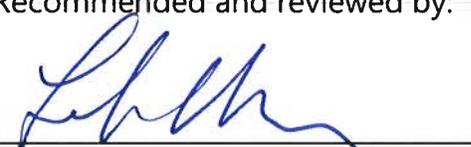
It is ordered that MGA Insurance Company, Inc. pay an administrative penalty of \$90,000 within 30 days from the date of this order. MGA Insurance Company, Inc. must pay the administrative penalty by cashier's check or money order payable to the State of Texas. MGA Insurance Company, Inc. must mail the payment to the Texas Department of Insurance, Attn: Enforcement Section, Division 60851, MC 9999, P.O. Box 149104, Austin, Texas 78714-9104.

Kent C. Sullivan
Commissioner of Insurance

By: _____


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

Recommended and reviewed by:



Leah Gillum, Associate Commissioner
Enforcement Section



Sarah White, Staff Attorney
Enforcement Section

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AFFIDAVIT

STATE OF Texas

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COUNTY OF Dallas

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

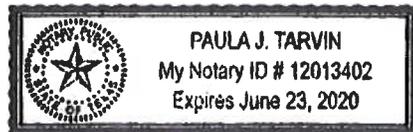
1. "My name is Brian Doser. I am of sound mind, capable of making this statement, and personally acquainted with the facts stated herein.
2. I hold the office of SVP, Product & UW, CEO. I am the authorized representative of MGA Insurance Company, Inc. and am duly authorized to execute this affidavit.
3. MGA Insurance Company, Inc. waives rights provided by the Texas Insurance Code and other applicable law and acknowledges the jurisdiction of the commissioner of insurance of the state of Texas.
4. MGA Insurance Company, Inc. 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."

Brian Doser

Affiant

SWORN TO AND SUBSCRIBED before me on this 20th day of March, 2019.

(NOTARY STAMP)



Paula J. Tarvin
Signature of Notary Public