

No. 2019- 5985

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

Date: JUN 17 2019

Subjects Considered:

Old American County Mutual Fire Insurance Company
P.O. Box 793747
Dallas, Texas 75379-3747

21st Century General Agency Inc.
1761 International Parkway, Ste. 500
Richardson, Texas 75081

Connect MGA, LLC
P.O. Box 260599
Plano, Texas 75026-0599

Lonestar Managing General Agency, Inc.
6640 South Cicero Avenue
Bedford Park, Illinois 60638

United Group Underwriters, Inc.
1313 N.W. 167th St.
Miami, Florida 33169-5739

Venture General Agency, LLC
P.O. Box 1970
Marble Falls, Texas 78654

Consent Order
TDI Enforcement File Nos. 11488, 11489, 11495, 11497, 11532 and 11533

General remarks and official action taken:

The subject of this order is whether disciplinary action should be taken against Old American County Mutual Fire Insurance Company (Old American), and the following entities (collectively, the MGAs): 21st Century General Agency Inc. (21st Century); Connect MGA, LLC (Connect); Lonestar Managing General Agency, Inc. (Lonestar); United Group Underwriters, Inc. (United Group); and Venture General Agency, LLC (Venture).

Waiver

Old American and the MGAs acknowledge that the Texas Insurance Code and other applicable law provide certain rights. Old American and the MGAs waive all these rights, and any other applicable procedural rights, in consideration of the entry of this consent order. Pursuant to TEX. INS. CODE § 82.055(b), Old American and the MGAs 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.

Findings of Fact

License Information

1. Old American is a domestic domiciled county mutual insurance company holding a certificate of authority to transact business in Texas.
2. The MGAs have held active managing general agency licenses with the department since the effective dates and under the firm identification numbers identified in the table below:

MGA Name	Identification #	Licensure Date
21 st Century	8739	June 5, 1998
Connect	66424	July 25, 2012
Lonestar	29245	January 31, 2008
United Group	29134	January 11, 2008
Venture	86938	October 1, 2013

3. Old American is not affiliated with any of the MGAs. Old American entered into contracts with the MGAs authorizing each of the MGAs to act on its behalf and is ultimately responsible for the oversight of the MGAs' practices and conduct on its behalf.

Background on the 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 that liability insurers writing a named driver policy must 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, implementing disclosure requirements in S.B. 1567 applicable to both new and renewal named driver policies.

Past Practices for Named Driver Business

7. On and after January 28, 2015, the MGAs, on behalf of Old American, delivered, issued for delivery, and renewed named driver policies in varying term lengths as identified below. The MGAs wrote these named driver policies using Old American's Texas Personal Auto Policy, department filing number S20729, and endorsement forms which the department approved for use prior to the enactment of S.B. 1567. Specifically, the MGAs used these forms for these policy term lengths:
 - a. OACM.CP.013a and OACM.CP013c (the Covered Person Endorsement);
 - b. OACM.AuthDriv.003a (the Authorized Driver Endorsement); and
 - c. Filing Number 130330 (Important Notice-Named Driver Policy Warning).

MGA Name	Policy term lengths offered
21 st Century	6 and 12-month
Connect	6-month
Lonestar	6-month
United Group	1, 2, 3, 6, and 12-month
Venture	1, 2, 3, and 6-month

8. Old American, by and through its MGAs, had 66,504 named driver policies in force as of February 1, 2018, and 96,379 as of January 31, 2019.
9. Each of the MGAs had various processes and procedures for accepting premium or fees for new and renewal named driver business. The department alleges the violations of the named driver statute and rule varied in type and quantity depending upon the MGA in question, because each MGA's methods of attempted compliance on behalf of Old American differed from one another. Thus, the MGAs violated different aspects of the law applicable to named driver policies in different, but similar ways.
10. The department's allegations against Old American and the MGAs for their prior processes and procedures for named driver business include:
 - a. 21st Century, Connect, United Group, and Venture, on behalf of Old American, accepted premium or fees for new and renewal named driver policies without making or receiving the requisite disclosures;
 - b. 21st Century, on behalf of Old American, changed the terms of coverage without the insured's knowledge and/or failed to deliver a new insurance policy to disclose the change of coverage; and
 - c. Lonestar, on behalf of Old American, refused to renew named driver policies written for a term of less than one year, when the policy had not reached its annual anniversary.
11. In an effort to settle the named driver allegations, to avoid the expense and uncertainty of litigation, and to otherwise achieve compliance, Old American and the MGAs propose and voluntarily agree that to the extent they have not already done so, they will come into compliance with the named driver statute and rule, as set forth below.

New Practices for Named Driver Business

United Group

12. Beginning in August 2017, United Group only allowed renewal of named driver business either in person or via an online system that provides disclosures and confirmations in accordance with the rule. The notice of renewal sent to insureds clearly indicates these methods and informs that United Group will not accept premium for a named driver policy in any other way. As such, the revised procedures appear to comply with applicable laws as implemented and followed.

Lonestar

13. On April 1, 2019, Lonestar began writing new named driver business only in 12-month terms.
14. Insureds may only renew named driver policies in person. The notice of renewal sent to insureds clearly indicates that Lonestar will not accept premium for a named driver policy in any other way.

21st Century, Connect and Venture

15. 21st Century, Connect, and Venture will implement new processes and procedures for writing named driver business moving forward. Connect began implementation on May 1, 2019, 21st Century will do so on or before July 1, 2019, and Venture will begin implementation on or before September 1, 2019.
16. 21st Century, Connect, and Venture will place new and renewal named driver business only in person or via an online system that provides disclosures and confirmations in accordance with the rule. The notice of renewal sent to insureds will clearly indicate these methods and inform that the specific MGA will not accept premium for a named driver policy in any other way.
17. Old American and the MGAs expressly consent to the terms of this order on the condition that each reserves the right to change its business model for named driver policies if the Texas Legislature enacts any changes to TEX. INS. CODE § 1952.0545, and/or if the department adopts any changes to its rules related to named driver policies. Should Old American and/or the MGAs exercise this right, they also expressly agree and understand that any such revisions to their named

driver business models must conform and comply with all applicable Texas insurance laws.

18. Old American and the MGAs represent that they attempted in good faith to comply with the laws applicable to named driver policies. Some of the efforts they took included training and communication to individual agents on the importance of providing the oral and written named driver disclosures and receiving the written acknowledgement of the disclosures.

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 § 82.055, and 28 TEX. ADMIN. CODE § 1.47.
3. Old American and the MGAs 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 intent to institute disciplinary action, notice of hearing, a public hearing, a proposal for decision, rehearing by the commissioner, and judicial review.
4. 21st Century, Connect, United Group, and Venture, on behalf of Old American, violated TEX. INS. CODE § 1952.0545 and 28 TEX. ADMIN. CODE § 5.208 on and after January 28, 2015, by accepting a premium or fee for renewals of 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.
5. 21st Century violated TEX. INS. CODE § 525.002(a)(1)(A) and 28 TEX. ADMIN. CODE § 5.204(b)-(c) on and after September 1, 2015, by changing the terms of coverage at renewal without the insured's knowledge and/or failing to deliver a new insurance policy disclosing the change of coverage.
6. Lonestar violated TEX. INS. CODE § 551.106(b) by refusing to renew named driver policies written for a term of less than one year, when those policies had not reached any 12-month anniversary of the original effective dates of those policies.

Order

It is ordered that Old American and the MGAs must comply with their voluntary agreements described in Finding of Fact Nos. 12-17.

It is further ordered that Old American and the MGAs must pay, in total, an administrative penalty of \$87,500 within 30 days from the date of this order. The penalty will be assessed as follows:

Old American and 21st Century must pay, jointly and severally, an amount of \$5,000;

Old American and Connect must pay, jointly and severally, an amount of \$7,500;

Old American and Lonestar must pay, jointly and severally, an amount of \$25,000;

Old American and United Group must pay, jointly and severally, an amount of \$15,000;
and

Old American and Venture must pay, jointly and severally, an amount \$35,000.

The administrative penalties 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 Old American and/or the MGAs have failed to comply with any of the terms of this Order, Old American and/or the MGAs may be subject to further action by the commissioner under the provisions of TEX. INS. CODE § 82.054.

This consent order pertains solely to the resolution of the department's allegations against Old American and the MGAs regarding named driver policies. This consent order does not: resolve any allegations or violations with respect to any other pending or anticipated Enforcement investigations; address or impact other department sections' and divisions' actions, proceedings, examinations, investigations, or duties; or, limit the authority of the commissioner or the department to initiate any action with respect to any other pending or anticipated Enforcement investigation.

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Commissioner's Order
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Kent C. Sullivan
Commissioner of Insurance

By: _____


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

Recommended and reviewed by:

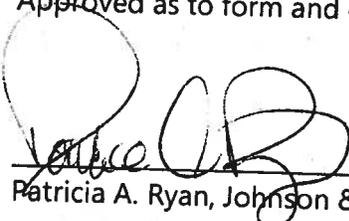


Leah Gillum, Associate Commissioner
Enforcement Section



Whitney Fraser, Staff Attorney
Enforcement Section

Approved as to form and content:



Patricia A. Ryan, Johnson & Bell

Old American County Mutual Fire Insurance Company
Affidavit

STATE OF Texas §
§
COUNTY OF Dallas §

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

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

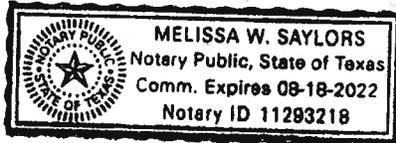
I hold the office of EVP - CFO, and am the authorized representative of Old American County Mutual Fire Insurance Company. I am duly authorized by said organization to execute this statement.

Old American County Mutual Fire 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."

Ronald J Ballard
Affiant

SWORN TO AND SUBSCRIBED before me on May 3rd 2019.

(NOTARY SEAL)



Melissa W Saylor
Signature of Notary Public

Melissa W Saylor
Printed Name of Notary Public

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Connect MGA, LLC
Affidavit

STATE OF Texas §

COUNTY OF Collin §

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

"My name is Bradley Smith. 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 Managing Partner, and am the authorized representative of Connect MGA, LLC. I am duly authorized by said organization to execute this statement.

Connect MGA, LLC. 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."

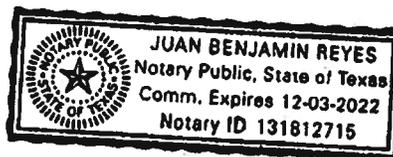

Affiant

SWORN TO AND SUBSCRIBED before me on 03 MAY, 2019.

(NOTARY SEAL)


Signature of Notary Public

Juan Benjamin Reyes
Printed Name of Notary Public



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Venture General Agency, Inc.
Affidavit

STATE OF Texas §
COUNTY OF Burnet §

Before me, the undersigned authority, personally appeared Terry L. Burnett who being by me duly sworn, deposed as follows:

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

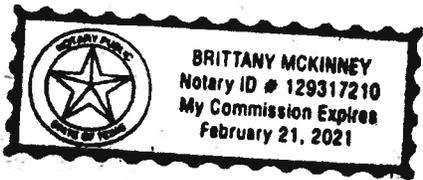
I hold the office of President/CEO, and am the authorized representative of Venture General Agency, Inc. I am duly authorized by said organization to execute this statement.

Venture General Agency, Inc. 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."


Affiant

SWORN TO AND SUBSCRIBED before me on May, 3rd, 2019.

(NOTARY SEAL)



Brittany McKinney
Signature of Notary Public

Brittany McKinney
Printed Name of Notary Public