

No. 2019- 6167

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

Date: NOV 26 2019

Subject Considered:

United Property & Casualty Insurance Company
800 2nd Ave S
Saint Petersburg, Florida 33701-4003

Consent Order
TDI Enforcement File No. 17305

General remarks and official action taken:

This is a consent order with United Property & Casualty Insurance Company (UPC). The Texas Department of Insurance conducted a market conduct examination and found violations of Texas law. UPC has agreed to pay a \$100,000 administrative penalty.

Waiver

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

Findings of Fact

1. UPC is a foreign fire and casualty insurance company that holds a certificate of authority to transact business in Texas.
2. The department conducted a market conduct examination of UPC for the period of January 1, 2016 through December 31, 2016. The examination focused on a review of UPC's sales, advertising, marketing, underwriting, rating, claims practices, and 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 Personal Lines Manual.
4. During the examination the department found violations of the Texas Insurance Code and Texas Administrative Code.

Managing General Agent (MGA) Agreement

5. UPC writes homeowners residential coverage policies through an MGA.
6. The MGA was not properly licensed at the time of the department's exam, but became properly licensed on July 27, 2018.
7. UPC executed a contract with the unlicensed MGA to allow the MGA to appoint agents, underwrite policies, issue policies, cancel policies, non-renew policies, and process claims.
8. UPC's contract with the MGA failed to include required provisions in its contract.
9. Additionally, UPC did not conduct the required annual MGA audit.

Sales, Advertising, and Marketing Review

10. A sample of 100 homeowner policies issued during the period under examination were reviewed to determine compliance with Texas law.
11. One policy was issued by an unappointed agent.
12. The unappointed agent and subagent performed the acts of an agent including soliciting insurance, receiving insurance applications, receiving insurance premiums, and binding coverage.

Underwriting and Rating Practices Review

13. The examination reviewed UPC's issued policies to determine 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.

14. UPC's supplementary rating information filed with the department failed to include a description of how to calculate a discount for policies that exceeded the maximum discount applicable and an explanation of rating information that resulted in specific return values.
15. UPC's Texas Homeowners Program Manual (Manual) describes UPC's premium calculation methodologies. An exhibit attached to the Manual, Rate Order of Calculation, incorrectly described the premium calculation methodologies. This violation did not result in an overcharge or undercharge as policies were properly calculated using the correct methodology described in the Manual.
16. UPC failed to timely return several insureds' premiums after cancellation or termination of a policy.

Claims Practices Review

17. The examination reviewed UPC's claim files for compliance with policy provisions, timeliness, 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.
18. A review of claims found that UPC:
 - a. failed to timely notify claimants in writing of acceptance or rejection of a claim;
 - b. failed to timely pay claims; and
 - c. failed to adopt and implement reasonable standards for the prompt investigation of a claim.

Consumer Complaints/Inquiries Review

19. The examination reviewed UPC's complaint files for legal compliance. UPC received a total of 17 complaints during the timeframe of the examination. All 17 complaints were reviewed, and four (23 percent) were considered confirmed.
20. A review of the complaints revealed that UPC:
 - a. failed to timely respond to the department's inquiries in writing; and
 - b. failed to timely pay claims.

Conclusions of Law

1. The commissioner has jurisdiction over this matter pursuant to TEX. INS. CODE §§ 82.001-82.055, 84.021-84.044, 801.052-801.053, 38.001, 542.003, 542.056-542.057, 558.002, 2251.101, 4001.201, 4001.205, and 4053.051, and 28 TEX. ADMIN. CODE §§ 5.9334, and 19.1204.
2. The commissioner has the authority to dispose of this case informally pursuant to TEX. GOV'T CODE § 2001.056; TEX. INS. CODE §§ 36.104 and 82.055; and 28 TEX. ADMIN. CODE § 1.47.
3. UPC 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. UPC violated 28 TEX. ADMIN. CODE § 19.1204(b) by failing to include required provisions in its contract with the MGA and by failing to conduct the required annual audit of the MGA.
5. UPC violated TEX. INS. CODE § 4053.051(a) by allowing the MGA to perform the acts of an MGA without holding the required license.
6. UPC violated TEX. INS. CODE § 4001.201 by having an unappointed agent issue a policy and perform the acts of an agent as described in TEX. INS. CODE §4001.051.
7. UPC violated TEX. INS. CODE § 4001.205 by having an unappointed subagent perform the acts of an agent as described in TEX. INS. CODE §4001.051.
8. UPC violated TEX. INS. CODE § 2251.101 and 28 TEX. ADMIN. CODE § 5.9334 by failing to include a description in its supplementary rating information of how to calculate a discount for policies that exceeded the maximum discount applicable and an explanation of rating information that resulted in specific return values. Additionally, UPC failed to describe the correct premium calculation methodologies in its Rate Order of Calculation exhibit.
9. UPC violated TEX. INS. CODE § 558.002(d) by failing to timely return an insured's premium after cancelation or termination of the policy.

- 10. UPC violated TEX. INS. CODE § 542.056(a) by failing to timely notify the claimant of acceptance or rejection of the claim.
- 11. UPC violated TEX. INS. CODE § 542.057(a) by failing to timely pay claims.
- 12. UPC violated TEX. INS. CODE § 542.003(b)(3) by failing to implement reasonable standards for the prompt investigation of claims.
- 13. UPC violated TEX. INS. CODE § 38.001 by failing to timely respond to the department's inquiries.

Order

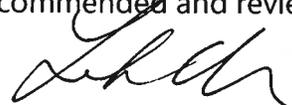
It is ordered that United Property & Casualty Insurance Company must pay an administrative penalty of \$100,000 within 30 days from the date of this order. The administrative penalty must be paid by cashier's check or money order made payable to the "State of Texas." Mail the administrative penalty to the Texas Department of Insurance, Attn: Enforcement Division, Division 60851, MC 9999, P.O. Box 149104, Austin, Texas 78714-9104.

Kent C. Sullivan
Commissioner of Insurance

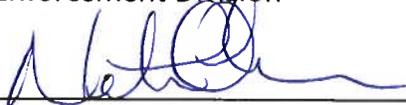
By: _____

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

Recommended and reviewed by:



Leah Gillum, Deputy Commissioner
Enforcement Division



Natalie Olvera, Staff Attorney
Enforcement Division