

No. 2020-6365

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

Date: 06/16/2020

Subjects Considered:

Nationwide Lloyds
9903 Nationwide Drive
San Antonio, Texas 78251-3583

Nationwide Property and Casualty Insurance Company
One West Nationwide Blvd.
Columbus, Ohio 43215-2220

Nationwide General Insurance Company
One West Nationwide Blvd.
Columbus, Ohio 43215-2220

Consent Order
TDI Enforcement File Nos. 17213, 17652, and 20044

General remarks and official action taken:

This is a consent order with Nationwide Property and Casualty Insurance Company (Nationwide P&C), Nationwide Lloyds, and Nationwide General Insurance Company (Nationwide General) (collectively "Nationwide Companies"). The Texas Department of Insurance (TDI) conducted examinations of the Nationwide Companies that focused on each company's homeowners line of business. The examinations found that the Nationwide Companies violated Texas laws relating to rate filing requirements, disclosure of deductibles, claims practices, and cancellations and non-renewals. The Nationwide Companies have made a new product filing, paid restitution to consumers, agreed to pay additional restitution, and have agreed to jointly and severally pay a \$300,000 administrative penalty.

Waiver

The Nationwide Companies acknowledge that the Texas Insurance Code and other applicable law provide certain rights. The Nationwide Companies 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), the Nationwide Companies 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

1. Nationwide Lloyds is a domestic Lloyd's plan holding a certificate of authority to transact business in Texas.
2. Nationwide P&C and Nationwide General are foreign fire and casualty insurers holding certificates of authority to transact business in Texas.
3. The Nationwide Companies are commonly owned and affiliated entities.
4. TDI conducted targeted market conduct examinations of each of the Nationwide Companies covering the period of January 1, 2015, through December 31, 2015, pursuant to Chapter 751 of the Insurance Code. The examinations focused on a review of sales, advertising and marketing, underwriting and rating, claims practices, and consumer complaints and inquiries for each company's homeowners line of business.
5. During the examinations, TDI found violations of the Texas Insurance Code and Texas Administrative Code in the samples of policies and claims reviewed.

Underwriting and Rating Practices

6. The examinations reviewed each of the Nationwide Companies' issued policies to determine use of proper forms and endorsements, accuracy of rating, timely handling of transactions and policy service requests, adherence to consistent and nondiscriminatory underwriting practices, and compliance with Texas Law.
7. The Nationwide Companies made the following misrepresentations on declarations pages:

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- a. The Nationwide Companies printed "Claims Free Discount" on declarations pages when they do not use claims frequency to create a rate consequence.
 - b. Nationwide P&C printed "Home Purchase" discount on declarations pages after the discount was no longer applicable.
 - c. Nationwide General printed a combined deductible amount for hurricane and wind/hail perils on declarations pages instead of stating each amount separately.
8. The Nationwide Companies calculated premium in a manner that differed from their filed rates. There were six, four, and seven instances of these miscalculations by Nationwide Lloyds, Nationwide P&C, and Nationwide General, respectively. The Nationwide Companies represent that no policyholders were harmed by these errors.
 9. In two instances and one instance respectively, Nationwide Lloyds and Nationwide P&C calculated premium in a manner that differed from their filed rates and overcharged policyholders. They represent that they corrected the errors following the examinations and paid restitution, including interest, to all overcharged policyholders.
 10. Nationwide General calculated premium in a manner that differed from its filed rates and overcharged policyholders in at least two instances. Nationwide General represents that it corrected the errors following its examination and paid restitution, including interest, to most of the overcharged policyholders, except to 174 policyholders who were overcharged appreciable amounts and to whom restitution is due.

Claims Practices

11. The examinations reviewed each of the Nationwide Companies' claims files for compliance with policy provisions, timeliness and accuracy of payments, supporting documentation, general claims handling, and compliance with Chapter 542, Subchapters A, B and D of the Texas Insurance Code.
12. In four instances and one instance respectively, Nationwide Lloyds and Nationwide P&C failed to timely issue payment after the insurer notified the claimant in writing of the acceptance or rejection of the claim.

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13. Nationwide P&C failed to timely notify a claimant in writing of the acceptance or rejection of a claim after the insurer received all items, statements, and forms required to secure final proof of loss in one instance.
14. Nationwide Lloyds failed to implement reasonable standards for the prompt investigation of claims arising under its policies in one instance.

Cancellations and Non-renewals

15. The examinations reviewed each of the Nationwide Companies' cancellations and non-renewals to determine compliance with policy termination provisions, accuracy of prompt and proper premium refunding, and to verify compliance with Chapters 551 and 558 of the Texas Insurance Code and 28 TEX. ADMIN. CODE §§ 5.7001-5.7016.
16. In two instances and one instance respectively, Nationwide Lloyds and Nationwide General failed to timely refund unearned premium after the cancellation or termination of the policy.

Subsequent Actions and Mitigating Circumstances

17. Due to an affiliate transfer of business which was completed in October 2019, Nationwide Lloyds has no homeowners policies in force.
18. The Nationwide Companies represent that the misrepresentations in their declarations pages were unintentional and were promptly corrected following the examinations. The Nationwide Companies also represent that they mailed explanatory notifications to policyholders, modified language in declarations pages, and improved automation during the course of the examination.
19. The Nationwide Companies represent that the errors in their policy rating system have been addressed in their new policy rating system, Nationwide One Product, filed with TDI and effective October 15, 2018.
20. Nationwide General agrees to pay all restitution, including interest, to the 174 policyholders who were overcharged appreciable amounts and to whom restitution is due.

Conclusions of Law

1. The commissioner has jurisdiction over this matter pursuant to TEX. INS. CODE §§ 82.051-82.055, 84.021-84.051, 801.051-801.053, and 941.101-941.103.
2. The commissioner has the authority to dispose of this matter informally, 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. The Nationwide Companies 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. The Nationwide Companies violated:
 - a. TEX. INS. CODE § 541.061(1) and (3) by misrepresenting the terms of an insurance policy by including inapplicable discounts in declarations pages;
 - b. TEX. INS. CODE § 2251.101 and 28 TEX. ADMIN. CODE § 5.9342 by failing to file all rates, applicable rating manuals, supplementary rating information, and additional information as required by the commissioner; and
 - c. TEX. INS. CODE § 2251.101 by failing to calculate premiums in accordance with rates on file with TDI.
5. Nationwide P&C also violated:
 - a. TEX. INS. CODE § 542.056(a) by failing to timely accept or reject a claim after the insurer received all items, statements, and forms required by the insurer to secure final proof of loss; and
 - b. TEX. INS. CODE § 542.057(a) by failing to timely pay a claim after the insurer notified the claimant it would pay the claim.
6. Nationwide Lloyds also violated:
 - a. 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;

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- b. TEX. INS. CODE § 542.057(a) by failing to timely pay a claim after the insurer notified the claimant it would pay the claim; and
 - c. TEX. INS. CODE § 558.002(d) by failing to timely refund unearned premium after cancellation or termination of the policy.
7. Nationwide General also violated TEX. INS. CODE § 558.002(d) by failing to timely refund unearned premium after cancellation or termination of the policy.

Order

It is ordered that Nationwide Lloyds, Nationwide Property and Casualty Insurance Company, and Nationwide General Insurance Company must pay, jointly and severally, an administrative penalty of \$300,000 within 30 days from the date of this order. The 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 60851, MC 9999, P.O. Box 149104, Austin, Texas 78714-9104.

Nationwide General is further ordered to make restitution to its policyholders, and comply with its representations and agreement made in Finding of Fact Nos. 10 and 20 and with the following:

- a. Nationwide General must pay restitution with interest in the form of a company check or account credit to each policyholder who was appreciably overcharged and identified in Finding of Fact Nos. 10 and 20. The restitution check and/or account credit must include both the amount overcharged plus simple interest on that overcharge. The rate of interest is five percent per annum.
- b. To the extent it has not already done so, Nationwide General must mail the restitution checks and/or issue the account credit to policyholders on or before July 1, 2020.
- c. Any restitution checks that are returned to Nationwide General with an address correction must be promptly resent to the correct address. Funds from any restitution checks that are returned thereafter for incorrect addresses and from checks that are not negotiated must be reported and delivered to the comptroller pursuant to the procedures and deadlines set forth in TEX. PROP. CODE §§ 72.001 *et. seq.*, 73.001 *et. seq.*, and 74.001 *et. seq.*

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- d. On or before August 1, 2020, Nationwide General must report all restitution paid by submitting a complete and sortable electronic spreadsheet to TDI. The spreadsheet must contain the following information:
- i. policy number,
 - ii. policyholder name,
 - iii. policyholder address,
 - iv. effective date of the policy,
 - v. expiration date of the policy,
 - vi. amount overcharged,
 - vii. dollar amount of simple interest,
 - viii. total of amount overcharged plus interest,
 - ix. date(s) of mailing of restitution check or credit,
 - x. the total sum of all overcharges,
 - xi. the total sum of all simple interest, and
 - xii. the total sum of all restitution paid (total overcharges plus the total of the simple interest).
- e. Nationwide General must send all submissions required under the terms of this order by email to: EnforcementReports@tdi.texas.gov.

Kent C. Sullivan
Commissioner of Insurance

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By: _____

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

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Recommended and reviewed by:



Leah Gillum, Deputy Commissioner
Enforcement Division



Amanda Atkinson Cagle, Staff Attorney
Enforcement Division

Affidavit

STATE OF OHIO §

§

COUNTY OF FRANKLIN §

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

"My name is MARK BERVEN. 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 / COO and am the authorized representative of Nationwide Property and Casualty Insurance Company. I am duly authorized by said organization to execute this statement.

Nationwide Property and Casualty 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."

Mark Berven
Affiant

SWORN TO AND SUBSCRIBED before me on the 5TH of June, 2020.

(NOTARY SEAL)



Carrie Searle
Notary Public, State of Ohio
My Commission Expires 03-31-2023

Carrie Searle
Signature of Notary Public

Carrie Searle
Printed Name of Notary Public