

No. **2020-6592**

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

Date: 12/08/2020

Subject Considered:

Unitrin County Mutual Insurance Company
8360 LBJ Freeway, Suite 400
Dallas, Texas 75243

Consent Order
TDI Enforcement File No. 23357

General remarks and official action taken:

This is a consent order with Unitrin County Mutual Insurance Company (Unitrin). Unitrin violated several provisions of the Texas Insurance Code as found in a targeted market conduct examination. Unitrin has agreed to pay an \$80,000 administrative penalty for these violations.

Waiver

Unitrin acknowledges that the Texas Insurance Code and other applicable law provide certain rights. Unitrin waives 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), Unitrin agrees to this consent order with the express reservation that it does 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. Unitrin, company identification no. 1856, is a domestic county mutual insurer that has been licensed by TDI since 1949. Unitrin is a wholly owned subsidiary of Kemper, a Delaware Corporation.

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2. The Texas Department of Insurance (the department) conducted a market conduct examination for the period of January 1, 2016, through December 31, 2016. The examination reviewed the sales, advertising and marketing, underwriting and rating, claims practices, and consumer complaints/inquiries of Unitrin's private passenger automobile business.
3. The purpose of the examination was to verify compliance with the Texas Insurance Code and Title 28 of the Texas Administrative Code.
4. During the exam, the department found multiple violations of the Texas Insurance Code and Title 28 of the Texas Administrative Code.

Sales, Advertising and Marketing Review

5. The department reviewed a sample of issued policies to determine compliance with agent's licensing and appointment requirements under the Texas Insurance Code.
6. Unitrin issued 23 policies where the individual subagent was not individually appointed to act as an agent for the company or was not appointed as a subagent to the company's agent. Unitrin contends that the agents listed on the 23 policies were either employees or subagents of an agency appointed by Unitrin.
7. A Kemper Corporation brochure advertising Unitrin and other Kemper group companies, cited the A.M. Best rating source of Kemper group companies, including Unitrin. This brochure failed to include the publication date of said rating.

Underwriting and Rating Practices Review

8. The department reviewed a sample of issued policies to determine the accuracy of rating, use of proper forms and endorsements, timely handling of transactions and policy requests, and adherence to consistent and nondiscriminatory underwriting practices for compliance with the Texas Insurance Code and Texas Administrative Code.
9. In ten policies, Unitrin failed to provide evidence to support that Unitrin either supplied coverage or obtained written rejections for uninsured/underinsured motorists (UM) coverage. Unitrin contends that it has claims procedures in place to pay any UM motorists claim, if Unitrin determines that at the time the claim is made, a written rejection was not obtained or was not in the policy file. Unitrin

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further contends that of the ten policies identified in the examination, no UM claims were denied.

10. In thirteen policies, Unitrin failed to provide evidence to support that Unitrin either supplied coverage or obtained written rejections for personal injury protection (PIP). Unitrin contends that it has claims procedures in place to pay any PIP motorists claim, if Unitrin determines that at the time the claim is made, a written rejection was not obtained or was not in the policy file. Unitrin further contends that of the thirteen policies, no PIP claims were denied.
11. In two cases, Unitrin failed to return the premiums due the insureds not later than the 15th business day after the effective date of cancellation or termination of the policy.

Claims Practices

12. The department reviewed Unitrin's claim files for compliance with policy provisions, timeliness and accuracy of payments, supporting documentation, general claim handling, and legal compliance.
13. Unitrin failed to adopt and implement reasonable standards for the prompt investigation of a claim.
14. The examination report found that Unitrin failed to affect a prompt, fair, and equitable settlement of one claim submitted in which liability was reasonably clear. Unitrin contends it was acting in good faith at all times and that the claim in question was resolved with a verbal settlement and Unitrin timely paid the agreed claim amount.
15. Unitrin failed to provide written notification of the acceptance or rejection of two claims not later than the 15th business day after securing final proof of loss.
16. In one instance, Unitrin failed to provide written notification of the settlement to the insured under a casualty insurance policy not later than the 30th day after the date the claim was settled.

Conclusions of Law

1. The commissioner of insurance has jurisdiction over this matter pursuant to TEX. INS. CODE §§ 82.051-82.055, and 84.021-84.044, and chs. 912, 751, and 861.
2. The commissioner of insurance has authority to informally dispose of this matter under TEX. INS. CODE § 82.055, TEX. GOV'T CODE § 2001.056, and 28 TEX. ADMIN. CODE § 1.47.
3. Unitrin 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. Unitrin violated TEX. INS. CODE §§ 4001.201-4001.205 by allowing agent/subagents who were not appointed to act as an agent for Unitrin or were not appointed as a subagent to the Unitrin agent, to perform acts under Tex. Ins. Code § 4001.051 in 23 instances.
5. Unitrin violated 28 TEX. ADMIN. CODE § 21.108(b) by failing to include the publication date when citing the A.M. Best rating in the Kemper/Unitrin advertising brochure.
7. Unitrin violated TEX. INS. CODE § 1952.101 when it failed to provide coverage or obtain written rejections for uninsured/underinsured motorists coverage in ten instances.
8. Unitrin violated TEX. INS. CODE § 1952.152 when it failed to provide coverage or obtain written rejections for personal injury protection in thirteen instances.
9. Unitrin violated TEX. INS. CODE § 558.002(d) when it failed to return the unearned premium to policyholders not later than the 15th business day after the date of cancellation or termination in two instances.
10. Unitrin violated TEX. INS. CODE § 542.003(b)(3) when it failed to adopt and implement reasonable standards for the prompt investigation of a claim in one instance.
11. Unitrin violated TEX. INS. CODE § 542.003(b)(4) when it failed to affect a prompt, fair, and equitable settlement of a claim submitted in which liability was reasonably clear in one instance.

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Recommended and reviewed by:



Leah Gillum, Deputy Commissioner
Enforcement Division



Nancy Williams, Staff Attorney
Enforcement Division

Affidavit

THE STATE OF TENNESSEE

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COUNTY OF HAMILTON

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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 Timothy D Bruns. I am of sound mind, capable of making this statement, and personally acquainted with the facts stated herein.
2. I hold the office of President. I am the authorized representative of Unitrin County Mutual Insurance Company and am duly authorized to execute this affidavit.
3. Unitrin 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 foregoing consent order by the commissioner of insurance of the state of Texas."

T D B
Affiant

SWORN TO AND SUBSCRIBED before me on NOVEMBER 19TH, 2020.

(NOTARY SEAL)



[Signature]
Signature of Notary Public

ADAM D. NAMI
Printed Name of Notary Public