

No. 2021-6696

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

Date: 02/26/2021

Subject Considered:

Hudson Insurance Company
100 William Street, 5th Floor
New York City, New York 10038-5044

Consent Order
TDI Enforcement File Nos. 18678 and 26546

General remarks and official action taken:

For six years, Hudson Insurance Company (Hudson) used unapproved forms for its commercial package policies and personal umbrella policies. Hudson also failed to comply with rate filing requirements for policies issued to purchasing groups. For nearly five years, Hudson also failed to file rules and fees for recoupment of state motor vehicle crime prevention authority fees in commercial automobile policies. Hudson has taken corrective measures, including filing policy forms, rates for purchasing groups, and the fees it recoups from policyholders for motor vehicle crime prevention. Hudson also agrees to pay a \$625,000 administrative penalty.

Waiver

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

Findings of Fact

Licensure and Background

1. Hudson is a foreign fire and casualty insurance company and has held a certificate of authority to transact business in Texas since 2003.

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2. Hudson writes both commercial and personal insurance.
3. Since 2003, the Texas Insurance Code has required insurers to file insurance policy forms with the Texas Department of Insurance (TDI) for approval and to file rates before use. For policies effective on and after September 1, 2015, insurers providing policies through purchasing groups are required to comply with these requirements.

Use of Unfiled Forms

4. From 2014 through 2020, Hudson issued policies in Texas using 157 unfiled forms. Approximately 148 of these forms were included in 1,435 commercial package policies issued to Texas policyholders. The other nine unfiled forms were included in 2,626 personal umbrella polices issued to Texas policyholders.
5. The unfiled forms included forms for risk purchasing groups (26%), Insurance Services Office (ISO) forms (32%), and other altered and unfiled forms (41%). Some states do not require insurers to file ISO forms for review and approval, but Texas does.
6. Hudson represents that the alterations included editing exclusion forms for "clarity" and removing from previously approved forms coverage that Hudson was not offering. Two of the personal umbrella policy forms had never been filed, while the remaining seven were altered versions of forms that had been filed in the past.

Use of Unfiled Rates for Purchasing Groups

7. From September 1, 2015 through 2020, Hudson used unfiled rates for four different purchasing groups covering approximately 2,088 Texas insureds.

Failure to Indicate Rate Filings Apply to Coverage to Purchasing Groups

8. In a rate filing in 2019, Hudson answered "No" to the question of whether the rate filing would be used for risk purchasing groups. This filing was inaccurate and incomplete because the filing was used for risk purchasing groups.

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Background on the ABTPA/MVCPA Fee

9. Before September 1, 2019, the Automobile Burglary and Theft Prevention Authority (ABTPA) was statutorily authorized to collect a fee of \$2 per motor vehicle each year from each insurer.
10. The state increased the annual fee from \$2 to \$4 for automobile insurance policies delivered, issued, or renewed on or after September 1, 2019. H.B. 2048 (86th R.S.)
11. The state also changed the name of the ABTPA to the Motor Vehicle Crime Prevention Authority (MVCPA) and moved the statutory language for the MVCPA to the Transportation Code. S.B. 604 (86th R.S.)
12. Texas law allows an insurer to recoup the fee from policyholders if it is properly disclosed to each policyholder in the policy, and if the insurer has submitted a rate and rule filing with the amount of the fee collected from policyholders.
13. All insurers are required to file certain rating information, including fees, manuals, and supplementary rating information under Texas law. These filings must include fees and amounts other than premium collected by an insurer in connection with a policy, such as ABTPA and MVCPA fees.

Failure to Disclose ABTPA/MVCPA Fee Recoupment

14. From December 1, 2014, through September 4, 2019, Hudson recouped the ABTPA and MVCPA fees from approximately 2,600 commercial automobile policyholders without having any rules or fees on file disclosing this recoupment to TDI.
15. Hudson represents that it disclosed the recoupment of these fees to its policyholders on the policy declaration pages.
16. Hudson filed updated rate and rule filings for its commercial automobile insurance business that described the recoupment of the MVCPA fees. These filings became effective in September 2019.

Corrective Measures

17. Hudson began making filings during TDI's investigation and represents it has since filed all forms and rates it presently uses in Texas.
18. Hudson represents that it hired a consultant in 2019 to audit its personal umbrella and commercial auto lines of business. Additional lines were audited and completed before November 30, 2020.
19. Hudson investigated all claims made on both the commercial package policies and the personal umbrella policies containing the unfiled forms and represents it found that no policyholders were harmed by its use of the unfiled forms.
20. For all Texas policyholders who were issued altered personal umbrella policy forms, Hudson represents it has replaced those altered forms with approved forms.
21. Hudson further represents it has hired three additional staff to implement an improved, ongoing internal audit process and assist with monitoring, filing, and implementing rates and forms.
22. Hudson further represents it has contracted with third party vendors and implemented two programs, FilingRamp and ISO's Mozart Form Composer, to better manage and track filings and approved forms.

Conclusions of Law

1. The commissioner has jurisdiction over this matter under TEX. INS. CODE §§ 82.051–82.055, 84.021–84.051, and 801.051–801.053.
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 §§ 36.104 and 82.055, and 28 TEX. ADMIN. CODE § 1.47.
3. Hudson 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.

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4. Hudson violated TEX. INS. CODE § 2301.006 and Title 28, Chapter 5, Subchapter M, Division 5 of the Texas Administrative Code, by delivering or issuing for delivery in this state, forms for use in writing insurance that had not been filed with and approved by the commissioner.
5. Hudson violated TEX. INS. CODE § 2251.101 and 28 TEX. ADMIN. CODE § 5.9337 by failing to fully comply with the rate and rule filing requirements described in Title 28, Chapter 5, Subchapter M, Division 6 of the Texas Administrative Code, when providing coverage through purchasing groups.
6. Hudson violated 28 TEX. ADMIN. CODE § 5.9334(b), by failing to file with TDI its rules and fees for the recoupment of the \$2 ABTPA fee or \$4 MVCRA fee from policyholders per motor vehicle each year.

Order

It is ordered that Hudson Insurance Company must contract with a third party, at its own expense, to perform an independent audit to be completed by April 30, 2021, of its issued policies and form and rate filings to verify and confirm compliance with TEX. INS. CODE §§ 2301.006 and 2251.101, applicable rules, and all of the commitments made in this order. The auditor's report must be submitted to TDI no later than May 1, 2021, and must be sent electronically to EnforcementReports@tdi.texas.gov.

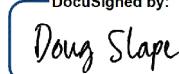
It is further ordered that Hudson must pay an administrative penalty of \$625,000 within 30 days from the date of this order. The penalty must be paid by cashier's check or money order made payable to the "State of Texas," or by electronic wire transfer as instructed by TDI in the penalty invoice. Mail the administrative penalty to the Texas Department of Insurance, Attn: Enforcement Division 60851, MC 9999, P.O. Box 149104, Austin, Texas 78714-9104.

This consent order pertains solely to the resolution of the department's allegations against Hudson specifically described in this order. 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,

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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.

Commissioner of Insurance

DocuSigned by:

By: _____
Doug Slape
Chief Deputy Commissioner
TEX. GOV'T CODE § 601.002
Commissioner's Order No. 2018-5528

Recommended and reviewed by:



Leah Gillum, Deputy Commissioner
Enforcement Division



Amanda Atkinson Cagle, Staff Attorney
Enforcement Division

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Affidavit

STATE OF New York §
§
COUNTY OF New York §

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

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

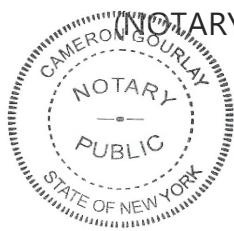
I hold the office of Hudson Insurance Company and am the authorized representative of Hudson Insurance Company. I am duly authorized by said organization to execute this statement.

Hudson 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."

Karin L. Zimmerly

Affiant

SWORN TO AND SUBSCRIBED before me on February 17, 2021.



CAMERON GOURLAY
Notary Public, State of New York
No. 01GO6372305
Qualified in New York County
Commission Expires June 4, 2022

Cameron Gourlay
Signature of Notary Public

Cameron Gourlay
Printed Name of Notary Public