

No. 08-1012

OFFICIAL ORDER
of the
COMMISSIONER OF INSURANCE
of the
STATE OF TEXAS
AUSTIN, TEXAS

Date: DEC 11 2008

Subject Considered:

RATES OF ASSESSMENT FOR EXPENSES OF EXAMINATION
OF FOREIGN AND DOMESTIC INSURANCE COMPANIES AND SELF-INSURANCE
GROUPS PROVIDING WORKERS' COMPENSATION INSURANCE

General remarks and official action taken:

On this day the Commissioner of Insurance (the "Commissioner") considered the rate of assessment necessary to ensure that the Texas Department of Insurance (the "Department") has sufficient funds to cover the expenses of all examinations of foreign and domestic insurance companies and self-insurance groups conducted by or under the authority of the Department and to cover all expenses and disbursements necessary for the Department to comply with the provisions of TEX. INS. CODE ANN. §§ 401.151-401.152 and 401.155-401.156, 401.103-401.104, and 401.105-401.106 and TEX. LABOR CODE ANN. § 407A.252.

TEX. INS. CODE ANN. §§ 401.151-401.152 require the Commissioner to establish rates of assessment to be levied against and collected from each domestic insurance company based on admitted assets and gross premium receipts for the 2008 calendar year, and from each foreign insurance company examined during the 2009 calendar year based on a percentage of the gross salary paid to an examiner for each month or part of a month during which the examination is made. TEX. INS. CODE ANN. § 401.152 requires a foreign insurer to bear the cost of Texas' participation in an examination, whether such examination is made by Texas alone or jointly with another state or states. Additionally, TEX. LABOR CODE ANN. § 407A.252 authorizes the Commissioner to recover the expenses of examinations of workers' compensation self-insurance groups under TEX. INS. CODE ANN. §§ 401.151-401.152 and 401.155-401.156 to the extent the maintenance tax under TEX. LABOR CODE ANN. § 407A.302 does not cover those expenses. The Commissioner has determined that maintenance taxes paid by self-insurance groups do not cover their expenses.

Based upon available information, the Department Staff's recommendations, and in accordance with the applicable requirements in the Texas Insurance Code, the Commissioner has determined that the following rates of assessment are just and reasonable for a domestic insurance company and workers' compensation self-insurance group.

A domestic insurance company and a workers' compensation self-insurance group that is being examined shall pay the expenses attributable directly to a specific examination including employees' salaries and expenses and expenses provided by TEX. INS. CODE ANN. Ch. 803. In calculating the actual salaries and expenses, the Commissioner shall divide the annual salary of each examiner by the total number of working days in a year, and shall assess the company that is being examined that part of the examiner's annual salary that is attributable to each working day the examiner examines the company during 2009. The expenses assessed shall be those actually incurred by the examiner to the extent permitted by law. The Commissioner will present the company being examined with an itemized written statement of amounts due for such cost at the time of examination.

A domestic insurance company shall pay an overhead assessment to cover the Department's administrative expenses attributable to examination of companies. The overhead assessment shall be calculated based on the assets and premium receipts reported in the previous year's annual statement, except where the company has understated assets and/or premium receipts.

This overhead assessment shall be .00242 of 1.0% of the admitted assets of the company as of December 31, 2008, taking into consideration the annual admitted assets that are not attributable to 90% of pension plan contracts as defined in Section 818(a) of the Internal Revenue Code of 1986 (26 U.S.C. Section 818(a)) and .00814 of 1.0% of the gross premium receipts of the company for the year 2008 taking into consideration the annual premium receipts that are not attributable to 90% of pension plan contracts as defined in Section 818(a) of the Internal Revenue Code of 1986 (26 U.S.C. Section 818(a)). If by using the rate of assessment described above the overhead assessment calculation produces an amount that is less than \$25 total, the Commissioner shall levy and collect a minimum overhead assessment of \$25 from a domestic insurance company. The Department intends to present domestic companies with a written statement of amounts due for the overhead assessment before August 2009.

For the purpose of calculating this overhead assessment, the term "gross premium receipts" does not include insurance premiums for insurance contracted for by a state or federal government entity to provide welfare benefits to designated welfare recipients or contracted for in accordance with or in furtherance of the Texas Human Resources Code, Title 2, or the federal Social Security Act (42 U.S.C. §301 et seq.).

Based on Department staff recommendation, the Commissioner has determined that the following rates of assessment are just and reasonable for a foreign insurance company. In addition to all other payments required by law, including but not limited to payments required by TEX. INS. CODE ANN. §§ 401.151-401.152 and 401.155-401.156, foreign insurance companies examined by or under the authority of the Department during the 2009 calendar year shall pay

33% of the gross salary paid to each examiner for each month or partial month of the examination in order to cover the examiner's longevity pay, state contributions to retirement, social security, and the state-paid portion of insurance premiums, and vacation and sick leave accruals. The Commissioner will present the company being examined with an itemized written statement of amounts due for such cost.

The Commissioner published a notice in the Texas Register of an informal meeting to solicit comments on the proposed rate of assessment from interested persons, to provide an opportunity for interested persons to request a hearing, although a hearing is not required before the rate of assessment is imposed, and to provide instructions on obtaining the proposed rate of assessment from the Chief Clerk's office for review before the meeting. The Commissioner held the informal meeting on November 13, 2008. The Department did not receive a request for a hearing.

THEREFORE, the Commissioner ORDERS that the rates of assessment set out above be, and are, hereby adopted.

The Commissioner FURTHER ORDERS that a domestic insurance company or workers' compensation self-insurance group being examined shall pay expenses attributable directly to a specific examination to the Texas Department of Insurance, P.O. Box 149104, MC 108-3A, Austin, Texas 78714-9104, within 30 days of the date of the itemized written statement of amounts due.

The Commissioner FURTHER ORDERS that a domestic insurance company shall pay the overhead assessment to the Texas Department of Insurance, P.O. Box 149104, MC 108-3A, Austin, Texas 78714-9104, within 30 days of the date of the written statement from the Commissioner.

The Commissioner FURTHER ORDERS that a foreign insurance company being examined shall pay the assessment to the Texas Department of Insurance, P.O. Box 149104, MC 108-3A, Austin, Texas 78714-9104, upon presentation of an itemized written statement of amounts due.

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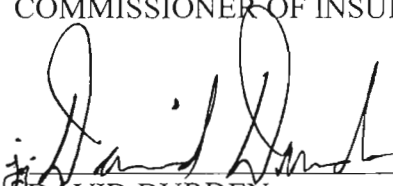
COMMISSIONER'S ORDER

RATES OF ASSESSMENT FOR EXPENSES OF EXAMINATION OF FOREIGN AND DOMESTIC INSURANCE COMPANIES

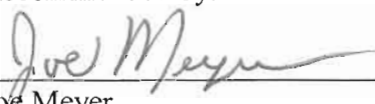
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The Commissioner FURTHER ORDERS that the assessments made under authority of this Order shall be in addition to, and not in lieu of, any other charge that may be made under law, including TEX. INS. CODE ANN. §§ 401.151-401.152 and 401.155-401.156 and TEX. LABOR CODE ANN. § 407A.252.

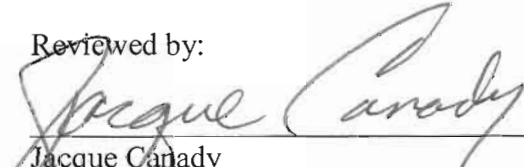
MIKE GEESLIN
COMMISSIONER OF INSURANCE


By: DAVID DURDEN
Temporary Acting Commissioner
Via Commissioner's Order No. 08-0999


Recommended by:


Joe Meyer
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