

No. 2017 - 5180

**OFFICIAL ORDER  
of the  
TEXAS COMMISSIONER OF INSURANCE**

**Date:** AUG 14 2017

**Subjects Considered:**

UTICA MUTUAL INSURANCE COMPANY  
PO Box 530  
Utica, NY 13503

**CONSENT ORDER**  
TDI ENFORCEMENT FILE NO. 12333

**General remarks and official action taken:**

This order is in consideration of whether disciplinary action should be taken against Utica Mutual Insurance Company.

**WAIVER**

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

**FINDINGS OF FACT**

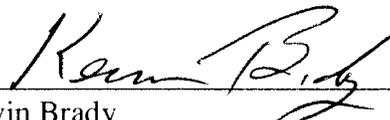
1. Utica Mutual Insurance Company is a foreign fire and casualty insurance company holding a certificate of authority to transact business in Texas.
2. Pursuant to TEX. INS. CODE § 2251.101, each insurer shall file with the commissioner all rates, applicable rating manuals, supplementary rating information, and additional information as required by the commissioner. An insurer may use a rate filed on and after the date the rate is filed.
3. Utica failed to timely file its professional liability rates for cemetery workers.
4. On October 20, 2016, Utica submitted a rate filing for its cemetery workers professional liability policies.

5. Each year from 2011 to 2016, Utica issued one policy using the cemetery workers professional liability rates not on file with the department. Utica represents that it acted in good faith and without knowledge that it was in violation.

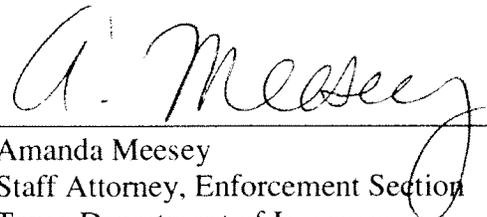
**CONCLUSIONS OF LAW**

1. The commissioner has jurisdiction over this matter pursuant to TEX. INS. CODE §§ 82.051 – 82.055, 84.021– 84.044, and 801.052-801.053.
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. Utica 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. Utica violated TEX. INS. CODE § 2251.101 by using a rate not on file with the department.

Utica Mutual Insurance Company is ordered to pay an administrative penalty of \$3,600. The administrative penalty must be paid 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 Section, Division 40111, MC 9999, P.O. Box 149104, Austin, Texas 78714-9104.

  
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Kevin Brady  
Deputy Commissioner For Agency Affairs  
Texas Department of Insurance  
Delegation Order 4506

APPROVED AS TO FORM AND CONTENT:

  
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Amanda Meesey  
Staff Attorney, Enforcement Section  
Texas Department of Insurance

