

No. 2018- 5502

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

Date: MAY 17 2018

Subject Considered:

INTEGON INDEMNITY CORPORATION
PO Box 3199
Winston Salem, North Carolina 27102-3199

CONSENT ORDER
TDI ENFORCEMENT FILE NO. 15552

General remarks and official action taken:

The subject of this order is whether disciplinary action should be taken against Integon Indemnity Corporation (Integon).

WAIVER

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

FINDINGS OF FACT

1. Integon is a foreign fire and casualty insurance company holding a certificate of authority to transact business in Texas.
2. Pursuant to 28 TEX. ADMIN. CODE § 5.401(b), insurers may not use an applicant's lack of prior insurance in determining the rate for private passenger automobile liability insurance when the applicant has not been operating an uninsured vehicle for more than 30 days during the preceding 12 months.
3. Integon made a personal automobile rate filing with the department in August of 2017. The Credit Factor table in the rate filing included increased rate factors for policy lapses of 1 to 30 days compared to the factors for no policy lapse.
4. After objection from department staff, Integon agreed to correct its rating plan, and made a filing with the department on February 6, 2018, effective February 12, 2018 for new business and March 20, 2018 for renewal business.

5. Integon estimates at least 430 policies were affected.

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. Integon 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. Integon violated 28 TEX. ADMIN. CODE § 5.401(b) by using an applicant's lack of prior insurance in determining the rate for private passenger automobile liability insurance when the applicant has not been operating an uninsured vehicle for more than 30 days during the preceding 12 months.

Integon is ordered to comply with the following:

- a. Integon must identify all personal automobile insurance policies issued by it in Texas with effective dates from February 15, 2015 to March 20, 2018 (the "Review Period").
- b. For each policy in the Review Period, Integon must calculate the Corrected Premium, on an annual basis, using the credit factor associated with no policy lapse.
- c. For each policy in the Review Period, Integon must calculate and determine whether the dollar amount of the annual premium charged for each policy is less than or more than the Corrected Premium. If the premium charged is more than the Corrected Premium, the difference constitutes the Overcharge.
- d. Integon must pay restitution in the form of a credit or company check to each policyholder identified as having an overcharge (the "Qualifying Policyholders"). The restitution must include both the dollar amount of the overcharge, plus simple interest due on the overcharge. The rate of interest shall be 5 percent per annum.
- e. Integon must apply all credits and mail all restitution checks to the Qualifying Policyholders, on or before July 1, 2018.
- f. Any restitution checks that are returned to Integon 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 prior to one year after the date of the issuance of the check will be presumed abandoned and delivered to the comptroller pursuant to the procedures set forth in TEX. PROP. CODE §§ 72.001 *et. seq.* Integon must copy the department on any correspondence pertaining to abandoned funds that is sent to the comptroller.

g. On or before August 1, 2018, Integon must report the restitution paid to the Qualifying Policyholders by submitting a complete and sortable electronic spreadsheet to the department. 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. line of insurance;
- vii. amount of overcharge;
- viii. dollar amount of simple interest;
- ix. date(s) of mailing of restitution check or application of 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).

h. Integon must send all submissions required under the terms of this order by email to: mandy.meeseey@tdi.texas.gov, and catherine.bell@tdi.texas.gov, or their successors.

Integon is further ordered to pay an administrative penalty of \$35,000. 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 60851, MC 9999, P.O. Box 149104, Austin, Texas 78714-9104.

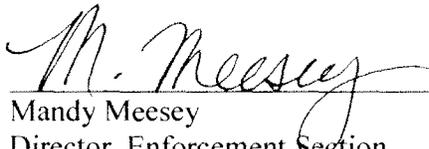


Kent C. Sullivan
Commissioner of Insurance

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COMMISSIONER'S ORDER
Integon Indemnity Corporation
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APPROVED AS TO FORM AND CONTENT:

A handwritten signature in cursive script, appearing to read "M. Meesey", is written over a horizontal line.

Mandy Meesey
Director, Enforcement Section
Texas Department of Insurance

