

No. 2018 - 5548

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

Date: JUN 12 2018

Subject Considered:

IDS PROPERTY CASUALTY INSURANCE COMPANY
3500 Packerland Drive
De Pere, Wisconsin 54115

CONSENT ORDER
TDI ENFORCEMENT FILE NO. 14950

General remarks and official action taken:

The subject of this order is whether disciplinary action should be taken against IDS Property Casualty Insurance Company (IDS).

WAIVER

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

FINDINGS OF FACT

1. IDS is a foreign fire and casualty company holding a certificate of authority to transact business in Texas.
2. The Texas Department of Insurance conducted a market conduct examination for the period of January 1, 2015, through December 31, 2015. The examination reviewed the sales, advertising and marketing, underwriting and rating, claims practices, and consumer complaints/inquiries of IDS for its private passenger automobile business.
3. The purpose of the examination was to verify compliance with the Texas Insurance Code, the Texas Administrative Code, and with the Texas Automobile Rules and Rating Manual.
4. During the exam, the department found violations of the Texas Insurance Code and Texas Administrative Code.

Sales, Advertising, and Marketing Review

5. A review of marketing and advertisement materials found that IDS:
- used a substitute name without first disclosing the full licensed name of the insurer;
 - failed to clearly and conspicuously disclose the underwriter;
 - failed to conspicuously disclose each insurer had sole financial responsibility for its own product;
 - failed to format and use content that was not sufficiently complete and clear to avoid deception or have the capacity or tendency to mislead or deceive;
 - failed to disclose paid endorsements;
 - failed to disclose a particular coverage was a company practice and not a contractual benefit, causing the omission to be misleading;
 - failed to disclose the source of its statistics;
 - failed to disclose whether the average savings referenced were nationally or regionally based;
 - failed to cite the correct footnote that properly identified the source of a statistic;
 - failed to include the publication date of a cited source;
 - failed to disclose that compared policies had the same benefits in order to make the comparisons fair and complete;
 - included the prominent appearance and reference to certain programs that were not available to residents in Texas;
 - failed to include the full name of the entity offering insurance;
 - failed to correctly disclose which company provided insurance coverage;
 - represented certain affinity partners as an agent, leading potential applicants to be misled; and
 - failed to disclose the charitable contribution program had no bearing on the purchase of insurance.

Underwriting and Rating Practices Review

6. The examination reviewed IDS's issued policies to determine accuracy of rating, use of proper forms and endorsements, timely handling of transactions and policy service requests, adherence to consistent and nondiscriminatory underwriting practices, and compliance with the Texas law.
7. A review of private passenger automobile policies found that IDS:
 - failed to provide Uninsured or Underinsured Motorist Coverage for Property Damage in one instance;
 - failed to receive the written rejection for Uninsured or Underinsured Motorist Coverage in one instance;
 - failed to provide Personal Injury Protection Coverage in two instances;
 - failed to receive the written rejection for Personal Injury Protection Coverage in two instances;
 - failed to include a clarification of rounding to the hundredth place in its rate filing; and
 - failed to correctly apply a Late Payment Factor on file with the department and overcharged insureds due to the incorrect application.
8. On June 1, 2017, IDS provided the department with proof that IDS had refunded all 13 insureds identified by IDS that were overcharged due to the incorrect application of the Late Payment Factor.
9. On August 22, 2017, IDS filed the rounding clarification with the department. The filing had an effective date of August 23, 2017 for both new and renewal business.

Claims Practices Review

10. The examination reviewed IDS's claim files for compliance with policy provisions, timeliness and accuracy of payments, supporting documentation, general claim handling, and legal compliance.
11. A review of claims found that IDS:
 - applied a reduction in the deductible for use of a direct repair shop, indirectly limiting coverage of those that did not use a direct repair facility in five instances.

Consumer Complaints/Inquiries

12. The examination reviewed IDS's complaint files for legal compliance. All complaints received during the timeframe of the examination were reviewed, and 12 percent were considered confirmed.
13. A review of the complaints revealed IDS failed to adopt and implement reasonable standards for the prompt investigation of a claim arising under the insurer's policy in one instance.

CONCLUSIONS OF LAW

1. The commissioner of insurance has jurisdiction over this matter pursuant to TEX. INS. CODE chs. 751, 861, 862, and 982; TEX. INS. CODE §§ 82.051-82.055, 84.021-84.051, and 801.052-801.053; and TEX. GOV'T CODE §§ 2001.051-2001.178.
2. The commissioner of insurance has authority to informally dispose of this matter under TEX. GOV'T CODE § 2001.056; TEX. INS. CODE §§ 36.104 and 82.055; and 28 TEX. ADMIN. CODE § 1.47.
3. IDS 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. IDS violated 28 TEX. ADMIN. CODE § 21.104(a)(1) by failing to disclose the full licensed name of the insurer at or before the first appearance of the substitute name in all advertisements.
5. IDS violated 28 TEX. ADMIN. CODE § 21.103(c) by failing to clearly and conspicuously disclose the underwriter in all advertisements.
6. IDS violated 28 TEX. ADMIN. CODE § 21.104(i) by failing to clearly and conspicuously disclose each insurer that had sole financial responsibility for its own product in all advertisements.
7. IDS violated 28 TEX. ADMIN. CODE § 21.103(b) by failing to have the format and content of all advertisements sufficiently complete and clear, and failing to avoid deception or the capacity or tendency to mislead or deceive.
8. IDS violated 28 TEX. ADMIN. CODE § 21.107(g) by failing to disclose the paid endorsements of affinity partners in advertisements distributed by IDS and its affinity partners.

9. IDS violated 28 TEX. ADMIN. CODE § 21.112 by failing to disclose a particular coverage was a company practice and not a contractual benefit in advertisements distributed by IDS and its affinity partners. The omission of the disclosure was misleading.
10. IDS violated 28 TEX. ADMIN. CODE § 21.108(b) by failing to disclose the source of its statistics, failing to properly identifying the source of its statistics, and by failing to include the publication date of its sources in advertisements distributed by IDS and its affinity partners.
11. IDS violated 28 TEX. ADMIN. CODE § 21.108(c) by failing to disclose whether the average savings referenced were nationally or regionally based in advertisements distributed by IDS and an affinity partner.
12. IDS violated 28 TEX. ADMIN. CODE § 21.111(a) by failing to include complete information of policies comparisons to make them fair and complete in advertisements distributed by IDS and all affinity partners.
13. IDS violated TEX. INS. CODE § 1952.101(b) by failing to provide the Uninsured or Underinsured Motorist Coverage for Property Damage in a policy or in a supplemental to the policy in one instance.
14. IDS violated TEX. INS. CODE § 1952.101(c) by failing to receive the written rejection for Uninsured or Underinsured Motorist Coverage in one instance.
15. IDS violated TEX. INS. CODE § 1952.152(a) by failing to provide the Personal Injury Protection Coverage in the policy or in a supplemental to the policy in two instances.
16. IDS violated TEX. INS. CODE § 1952.152(b) by failing to receive the signed notice of rejection for Personal Injury Protection Coverage in two instances.
17. IDS violated TEX. INS. CODE § 2251.101 and 28 TEX. ADMIN. CODE § 5.9334 by failing to properly disclose a rating rule that was filed with the department on and after the date of the filing, and by failing to use rates, rating manuals, and rating rules filed with the department on and after the date of the filing.
18. IDS violated TEX. INS. CODE § 1952.301(a)(2) by indirectly limiting the insurer's coverage under a policy covering damage to a motor vehicle by limiting the beneficiary of the policy from selecting a repair person or facility to repair damage to the vehicle, in five instances.
19. IDS violated TEX. INS. CODE § 542.003(b)(3) by failing to adopt and implement reasonable standards for the prompt investigations of claims arising under the insurer's policy in one instance.

It is ordered that IDS must bring their sales, marketing, and advertising materials into compliance with Texas law by July 1, 2018, if IDS has not already done so.

It is furthered ordered that IDS pay an administrative penalty of \$60,000 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

APPROVED AS TO FORM AND CONTENT:



Natalie Olvera
Staff Attorney, Enforcement Section
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