

No. 2018 - 5549

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

Date: JUN 18 2018

Subject Considered:

UNITRIN COUNTY MUTUAL INSURANCE COMPANY
P.O. Box 223687
Dallas, TX 75222-3687

CONSENT ORDER
TDI ENFORCEMENT FILE NO. 11760

General remarks and official action taken:

The subject of this order is whether disciplinary action should be taken against Unitrin County Mutual Insurance Company (Unitrin).

WAIVER

Unitrin acknowledges that the Texas Insurance Code and other applicable law provide certain rights. Unitrin waives all of these rights, and any other applicable procedural rights, in consideration of the entry of this consent order. Pursuant to TEX. INS. CODE § 82.055(b), Unitrin agrees to this consent order with the express reservation that it does not admit to a violation of the Texas Insurance Code or of a rule and that the existence of a violation is in dispute.

FINDINGS OF FACT

1. Unitrin is a county mutual insurance company holding a certificate of authority to transact business in the state of Texas.
2. Section 1952.0545 of the Insurance Code [S.B. 1567 (83rd Leg. R.S., Davis), eff. Sept. 1, 2013], requires insurers and agents to make written and oral disclosures to the applicant or insured, and obtain contemporaneous written confirmation of the oral disclosure, of the nature and limitations of named driver automobile insurance policies. Disclosures must be made before accepting any premium or fee for the named driver policy. S.B. 1567 applies only to named driver policies delivered, issued for delivery, or renewed on or after January 1, 2014.
3. On May 18, 2014, the Texas Department of Insurance (department) adopted amendments to 28 TEX. ADMIN. CODE § 5.204, to partially implement provisions of S.B. 1567 requiring liability insurers that write named driver policies to include the named driver disclosure in

the standard proof of motor vehicle liability insurance form, i.e. the "Texas Liability Insurance Card."

4. On January 28, 2015, the department adopted 28 TEX. ADMIN. CODE § 5.208 to implement the remaining disclosure requirements in S.B. 1567 for both new and renewal named driver policies, and to clarify the definition of a named driver policy.

Named Driver Policy Forms

5. From 2010 – 2012, the department approved three different Unitrin named driver endorsement forms: TX-45 (08/10); TX-45 (04/12); and, TX-45 (12/12). Unitrin used only the latter form after January 1, 2014.
6. The department alleges Unitrin's personal automobile policy is a named driver policy when it is endorsed by any of its above approved endorsements. However, these endorsement forms do not contain the named driver disclosure required by TEX. INS. CODE § 1952.0545.
7. In August 2014, Unitrin filed TX-45 (10/14) as an amended version of its named driver endorsement form to include the requisite disclosure. After corresponding with the department, that filing was withdrawn.
8. The department alleges that on and after January 28, 2015, Unitrin should have then filed, but did not file, revised policy or endorsement forms for approval by the department to specifically include the requisite disclosure in its named driver policies.

Named Driver Underwriting Practices

9. Prior to January 28, 2015, Unitrin had chosen to cease writing new named driver policies.
10. Unitrin had 203 named driver policies in force as of January 28, 2015, all of which consisted of its personal automobile policy endorsed by form TX-45 (12/12).
11. On and after January 28, 2015, Unitrin renewed these named driver policies in 6-month and 12-month terms.
12. Before Unitrin accepted premium or fees for those renewals, Unitrin failed to: make the requisite oral disclosure; receive a signed copy of the requisite written disclosure; and confirm contemporaneously in writing the provision of the oral disclosure.
13. Unitrin's declarations pages and Texas Liability Insurance Cards for the named driver policies it renewed on and after January 28, 2015, contained the requisite disclosure.
14. Aside from inclusion of the requisite disclosure in the declarations pages and in the Texas Liability Insurance Cards, Unitrin had no other policies, procedures, or practices in place

to comply with the insurance laws applicable to renewals of named driver policies on and after January 28, 2015.

15. Unitrin began non-renewing its named driver policies beginning December 31, 2016, at which time it had 33 named driver policies in force. The last such policy expired October 31, 2017.

CONCLUSIONS OF LAW

1. The commissioner has jurisdiction over this matter pursuant to TEX. INS. CODE §§ 82.051 – 82.055, 84.021– 84.044, 801.051-801.053, 912.002, and 912.101 – 912.152.
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. Unitrin 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. Unitrin violated TEX. INS. CODE § 1952.0545 and 28 TEX. ADMIN. CODE § 5.208 by accepting a premium or fee for renewals of named driver policies without making the oral disclosure, without receiving a signed copy of the written disclosure, and failing to confirm contemporaneously in writing the provision of the oral disclosure, on and after January 28, 2015.
5. Unitrin violated TEX. INS. CODE § 1952.0545(d) and 28 TEX. ADMIN. CODE § 5.208(c)(5)(A) by failing to specifically include the requisite disclosure in its named driver personal automobile insurance policy.

It is ordered that Unitrin County Mutual Insurance Company notify the department in writing, not later than ten days after the date of this order, that it withdraws from use its named driver endorsement forms TX-45 (08/10), TX-45 (04/12), and TX-45 (12/12) from their respective SERFF tracking numbers UTRN-126516982, UTRN-127774742, and UTRN-128693380.

It is further ordered that Unitrin pay an administrative penalty of \$25,000 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" and transmitted to the Texas Department of Insurance, Attn: Enforcement Section, Division 60851, MC 9999, P.O. Box 149104, Austin, Texas 78714-9104.

It is further ordered that if it is found after a public hearing that Unitrin has failed to comply with any of the terms of this Order, Unitrin may be subject to further action by the commissioner under the provisions of TEX. INS. CODE § 82.054.

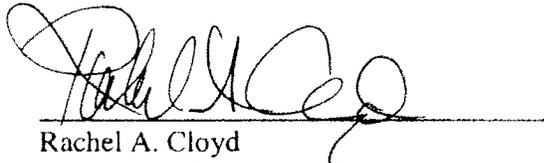
COMMISSIONER'S ORDER
Unitrin County Mutual Insurance Company
Page 4 of 5

This consent order pertains solely to the resolution of the department's allegations against Unitrin regarding named driver policies. 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, 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.



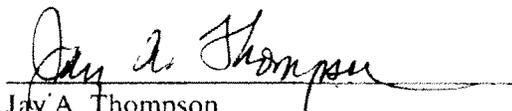
Kent C. Sullivan
Commissioner of Insurance

APPROVED AS TO FORM AND CONTENT:



Rachel A. Cloyd
Director, Enforcement Section
Texas Department of Insurance

COUNSEL FOR RESPONDENT:



Jay A. Thompson
Thompson, Coe, Cousins & Irons, L.L.P.

