

No. 2018- 5577

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

Date: JUL 1 6 2018

Subject Considered:

WESTFIELD INSURANCE COMPANY
P.O. Box 5001
Westfield Center, Ohio 44251-5001

CONSENT ORDER
TDI ENFORCEMENT FILE NO. 10916

General remarks and official action taken:

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

WAIVER

Westfield acknowledges that the Texas Insurance Code and other applicable law provide certain rights. Westfield 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), Westfield agrees to this consent order with the express reservation that it does not admit to a violation of the code or of a rule and that the existence of a violation is in dispute.

FINDINGS OF FACT

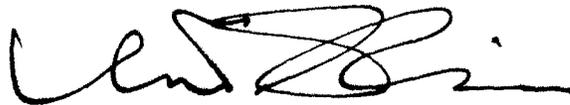
1. Westfield is a foreign fire and casualty company currently holding a certificate of authority to transact business in Texas.
2. Westfield filed a rate filing on June 30, 2008 (SERFF Tracking Number WSFG-125607881; State Tracking Number 97621) ("2008 Filing"). In the 2008 Filing, Westfield adopted the Surety Association of America's manual of rules, procedures, and classifications for surety bonds (SAA Reference No. TX-SM-8) and loss costs (TX-SLC-4 through TX-SLC-8).
3. Westfield submitted another rate filing on July 23, 2015 (SERFF Tracking Number WSFG-130176072; State Tracking Number S611315) ("2015 Filing") for rates related to surety bonds. In the filing, Westfield notified TDI that the 2008 Filing should have referred to the TX-SLC-3 loss costs.

4. Westfield contends that the reference to TX-SLC-8 was a technical error that was subsequently discovered and corrected in all states where this error was made in a filing document. Westfield's 2015 Filing corrected the error.
5. Westfield issued performance and payment bonds for construction projects in Texas from 2008 to 2015.
6. The use of the loss costs not on file with TDI affected premiums charged to principals on bonds issued by Westfield from August 1, 2008 to July 22, 2015. The bond premium is ultimately paid by a bonded project's obligee, as the bond premium, along with other costs, are included in a principal's bids for projects. Westfield contends that no principal or obligee was harmed.
7. Westfield discovered the error through self-audit and self-reported the error to TDI in the 2015 Filing.

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. Westfield 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. Westfield violated TEX. INS. CODE § 2251.101 by using a rate different than that on file with TDI from August 1, 2008 to July 22, 2015.

Westfield Insurance Company is ordered to pay an administrative penalty of \$15,000. The administrative penalty must be paid within 30 days from the date of this order. The administrative penalty may be paid by a 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
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APPROVED AS TO FORM AND CONTENT:


Mandy Meesey
Director, Enforcement Section
Texas Department of Insurance

