

No. 2018- 5698

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

Date: NOV 0 5 2018

Subject Considered:

THE CINCINNATI INSURANCE COMPANY
6200 S. Gilmore Road
Fairfield, Ohio 45014

CONSENT ORDER
TDI ENFORCEMENT FILE NO. 16355

General remarks and official action taken:

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

WAIVER

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

FINDINGS OF FACT

1. Cincinnati Insurance is a foreign fire and casualty company currently holding a certificate of authority to transact business in Texas.
2. Section 1953.051(a) of the Texas Insurance Code prohibits a rating plan for automobile insurance from assigning a rate consequence to, or otherwise causing premiums to be increased because of, a charge or conviction for a violation of Subtitle C, Title 7, Transportation Code ("non-chargeable traffic violations").
3. On January 2, 2018, Cincinnati Insurance made a private passenger automobile rate filing with TDI (SERFF CNNB-131305587; TDI Filing S649908) with an effective date of September 1, 2018, for new business and October 1, 2018, for renewal business.
4. The rate filing considered certain non-chargeable traffic violations in the calculation of premiums through multiple rating factors.

5. The company determined that it used non-chargeable traffic violations in its private passenger automobile rating plan since February 1, 2017, for new business, and April 1, 2017, for renewal business.
6. After correspondence with the department, Cincinnati Insurance amended its current rate filing in compliance with TEX. INS. CODE § 1953.051(a) and began making refunds during the same policy period.

CONCLUSIONS OF LAW

1. The commissioner has jurisdiction over this matter pursuant to TEX. INS. CODE §§ 82.051 – 82.055, 84.021– 84.044, 801.052–801.053, and 1953.051.
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. Cincinnati Insurance has knowingly and voluntarily waived all procedural rights to which they 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. Cincinnati Insurance violated TEX. INS. CODE § 1953.051(a) by assigning a rate consequence to a non-chargeable traffic violation.
5. Pursuant to TEX. INS. CODE § 82.053, the commissioner is authorized to direct Cincinnati Insurance to make complete restitution to each policyholder impacted by the violations.

Cincinnati Insurance is ordered to comply with the following:

- a. Cincinnati Insurance must identify all personal automobile insurance policies issued by Cincinnati Insurance in Texas with effective dates from February 1, 2017, through October 1, 2018, (the "Review Period").
- b. For each policy in the Review Period, Cincinnati Insurance must calculate the Corrected Premium without assigning a rate consequence or premium increase because of a non-chargeable violation.
- c. For each policy in the Review Period, Cincinnati Insurance must calculate and determine whether the dollar amount of the 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. Cincinnati Insurance must pay restitution in the form of a company check or account credit to each policyholder identified in the Review Period as having an Overcharge (the "Qualifying Policyholders").
- e. Cincinnati Insurance must mail the restitution checks and/or issue the account credits to the Qualifying Policyholders on or before January 1, 2019.
- f. Any restitution checks that are returned to Cincinnati Insurance 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 must be delivered to the comptroller pursuant to the procedures set forth in TEX. PROP. CODE §§ 72.001 *et. seq.* Cincinnati Insurance must copy the department on any correspondence pertaining to abandoned funds that is sent to the comptroller.
- g. On or before February 1, 2019, Cincinnati Insurance 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. amount of Overcharge;
 - vii. date(s) of mailing of restitution check or credits; and
 - viii. the total sum of all Overcharges.
- h. Cincinnati Insurance 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.

Cincinnati Insurance is further ordered to pay an administrative penalty of \$30,000. 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.

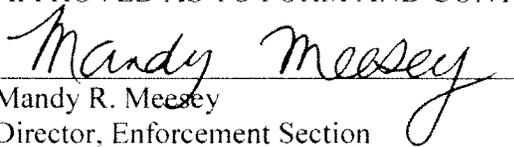


Kent C. Sullivan
Commissioner of Insurance

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APPROVED AS TO FORM AND CONTENT:



Mandy R. Meesey
Director, Enforcement Section
Texas Department of Insurance

