

No. 2018- 5761

OFFICIAL ORDER
of the
TEXAS COMMISSIONER OF INSURANCE

Date: DEC 1 2 2018

Subjects Considered:

PENNSYLVANIA MANUFACTURERS' ASSOCIATION INSURANCE COMPANY
MANUFACTURERS ALLIANCE INSURANCE COMPANY
PENNSYLVANIA MANUFACTURERS INDEMNITY COMPANY
PO Box 3031
Blue Bell, Pennsylvania 19422

CONSENT ORDER

TDI ENFORCEMENT FILE NOS. 17194, 17196, 17197

General remarks and official action taken:

The subject of this order is whether disciplinary action should be taken against Pennsylvania Manufacturers' Association Insurance Company, Manufacturers Alliance Insurance Company, and Pennsylvania Manufacturers Indemnity Company (collectively, "Pennsylvania Manufacturers Companies").

WAIVER

Pennsylvania Manufacturers Companies acknowledge that the Texas Insurance Code and other applicable law provide certain rights. Pennsylvania Manufacturers Companies waive all of these rights, and any other applicable procedural rights, in consideration of the entry of this consent order.

FINDINGS OF FACT

1. The Pennsylvania Manufacturers Companies are all foreign casualty companies currently holding certificates 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 19, 2016, the Pennsylvania Manufacturers Companies made commercial automobile rate and manual rule filings with TDI (Rate: SERFF REGU-130406238, TDI Filing S619034; Manual Rule: SERFF REGU-130406236, TDI Filing S619033) with an effective date of April 1, 2016.
4. The rate filing considered certain non-chargeable traffic violations via the driver age group to determine a driver factor for each vehicle. The Pennsylvania Manufacturers Companies rating plan was used by the companies nationwide but included a rule to address compliance with Texas law. However, the companies determined the rule was not programmed correctly and two policies were surcharged.
5. After recent correspondence with the department, the Pennsylvania Manufacturers Companies made a new rating filing effective June 10, 2018, to exclude the use of non-chargeable violations.

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. The Pennsylvania Manufacturers Companies have 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. The Pennsylvania Manufacturers Companies 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 the Pennsylvania Manufacturers Companies to make complete restitution to each policyholder impacted by the violations.

The Pennsylvania Manufacturers Companies are ordered to comply with the following:

- a. The Pennsylvania Manufacturers Companies must identify all personal automobile insurance policies issued by the Pennsylvania Manufacturers Companies in Texas with effective dates from April 1, 2016, through June 10, 2018 (the "Review Period").
- b. For each policy in the Review Period, the Pennsylvania Manufacturers Companies 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, the Pennsylvania Manufacturers Companies 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. The Pennsylvania Manufacturers Companies 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"). The restitution check and/or account credit 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. The Pennsylvania Manufacturers Companies 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 the Pennsylvania Manufacturers Companies 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.* The Pennsylvania Manufacturers Companies must copy the department on any correspondence pertaining to abandoned funds that is sent to the comptroller.

g. On or before February 1, 2019, the Pennsylvania Manufacturers Companies 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. name of company issuing the policy;
- ii. policy number;
- iii. policyholder name;
- iv. policyholder address;
- v. effective date of the policy;
- vi. expiration date of the policy;
- vii. amount of Overcharge;
- viii. dollar amount of simple interest;
- ix. amount of Overcharge and interest;
- x. date(s) of mailing of restitution check or credits;
- xi. the total sum of all Overcharges;
- xii. the total sum of all simple interest; and,
- xiii. the total sum of all restitution paid (total Overcharges plus the total of the simple interest).

h. The Pennsylvania Manufacturers Companies must send all submissions required under the terms of this order by email to: EnforcementReports@tdi.texas.gov.

Pennsylvania Manufacturers' Association Insurance Company, Manufacturers Alliance Insurance Company, and Pennsylvania Manufacturers Indemnity Company are further ordered to pay, jointly and severally, an administrative penalty of \$5,000. 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

Pennsylvania Manufacturers' Association Insurance Company, et al

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APPROVED AS TO FORM AND CONTENT:



Mandy R. Meesey

Director, Enforcement Section

Texas Department of Insurance

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PENNSYLVANIA INDIVIDUAL ACKNOWLEDGMENT

State of Pennsylvania

County of Bucks

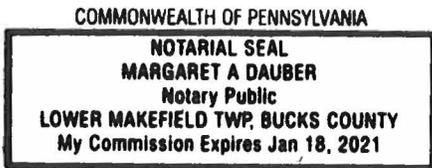
This record was acknowledged before me on October 12, 2018 by William P. Franchi
Date Name(s) of Individual(s)

Margaret A. Dauber
Signature of Notarial Officer

Margaret A. Dauber
Printed Name of Notarial Officer

Notary Public
Title of Office

My Commission Expires: January 18, 2021



Place Official Stamp/Notary Seal Above

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Title or Type of Document: Affidavit

Document Date: October 12, 2018 Number of Pages: 8

Signer(s) Other Than Named Above: Kent C. Sullivan, Mandy R. Meesey

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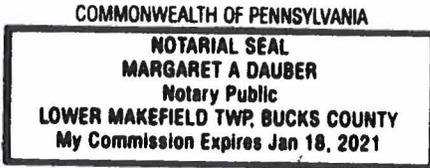
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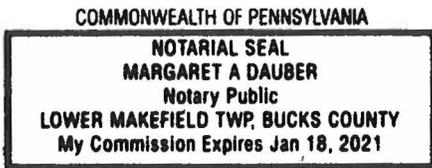
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