

No. 2019- 5983

**Official Order
of the
Texas Commissioner of Insurance**

Date: JUN 17 2019

Subject Considered:

Western General Automobile Insurance Company
5230 Las Virgenes Road Suite 100
Calabasas, CA 91302

Consent Order
TDI Enforcement File No. 17315

General remarks and official action taken:

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

Waiver

Western General acknowledges that the Texas Insurance Code and other applicable law provide certain rights. Western General 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), Western General 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. Western General is a foreign property and casualty insurer and has been licensed by the Texas Department of Insurance (TDI) since August 20, 1997.
2. TDI conducted an examination of Western General for the period of January 1, 2015, through December 31, 2015. The examination focused on a review of

Western General's sales, advertising, marketing, underwriting, rating, claims practices, and consumer complaints and inquiries.

3. The purpose of the examination was to verify compliance with the Texas Insurance Code, Title 28 of the Texas Administrative Code, and the Texas Automobile Rules and Rating Manual.
4. The findings of the examination are set out in the Examination report dated July 30, 2018, which cited Western General for violations of the Texas Insurance Code and the Texas Administrative Code.

Sales, Advertising, and Marketing

5. The examination reviewed a sample of Western General's private passenger automobile policies to determine compliance with the agent's licensing and appointment requirements under Texas law.
6. A review of the claims found that Western General:
 - a. issued several policies listing an agency on the declaration page that was not appointed to act as an agent for Western General;
 - b. issued several policies listing an agent on the declaration page who was not licensed and not appointed to Western General; and
 - c. issued several policies where the agent or subagent was not properly licensed and not appointed to Western General.
7. Upon learning of the examination findings, Western General represents that it directed its general agent to immediately take steps to ensure that the agent who solicits and signs the application is a licensed and appointed agent. Western General's general agent has represented to Western General that it has identified any agents who were either not licensed and/or not appointed and either terminated such agents or confirmed that they were appointed and licensed.

Underwriting and Rating Practices

8. The examination reviewed Western General's issued policies to determine the 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 Texas Law.

9. A review of the policies found that Western General:
 - a. failed to include the rating algorithm in the rate filing and therefore failed to provide all supplementary rating information and additional information used by the insurer to determine the applicable premium for an insured. Western General represents that this resulted in an undercharge in premiums to the insureds but did not result in any consumer harm; and
 - b. failed to renew several personal automobile insurance policies that were written for a term of less than one year.
10. Western General represents that any supplemental information that was not included in its prior filings with TDI was due to human error. On August 17, 2017, shortly after learning of the deficiency asserted in the examination, Western General filed the previously unfiled rating algorithm and rating factor to address the issue.

Claims Practices

11. The examination reviewed Western General's claim files for compliance with policy provisions, timelines and accuracy of payments, supporting documentation, general claim handling, and legal compliance. Sampled claims included pending claims, paid claims, denied claims, and claims closed without payment.
12. A review of the claims found that Western General:
 - a. failed to adopt and implement reasonable standards for the prompt investigation of claims;
 - b. failed to timely accept or reject a claim in writing; and
 - c. failed to timely notify the insured of a settlement offer and a settlement in writing.
13. Since the TDI examination, Western General represents it has hired and trained additional staff to investigate and handle claims and is appropriately staffed to

timely process and respond to claims and ensure future claims practices compliance.

Conclusions of Law

1. The commissioner has jurisdiction over this matter pursuant to TEX. INS. CODE chs. 751, 861, and 862; TEX. INS. CODE §§ 38.001, 82.051-82.055, and 84.021-84.051; and TEX. GOV'T CODE §§ 2001.051-2001.178.
2. The commissioner has the authority to dispose of this matter informally, as set out in TEX. GOV'T CODE § 2001.056, TEX. INS. CODE §§ 36.104 and 82.055, and 28 TEX. ADMIN. CODE § 1.47.
3. Western General 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. Western General violated TEX. INS. CODE §§ 542.003(b)(3) by failing to adopt and implement reasonable standards for the prompt investigation of claims arising under the insurer's policies.
5. Western General violated TEX. INS. CODE § 542.056(a) by failing to notify a claimant in writing of the acceptance or rejection of a claim not later than the 15th business day after the date the insurer receives all items, statements, and forms required by the insurer to secure final proof of loss.
6. Western General violated TEX. INS. CODE § 542.153(b) by failing to notify the insured in writing of a settlement not later than the 30th day after the date a claim against the named insured under a casualty insurance policy issued to the insured is settled.
7. Western General violated TEX. INS. CODE § 551.106(b) by failing to renew a personal automobile insurance policy that was written for a term of less than one year.
8. Western General violated TEX. INS. CODE § 2251.101 and 28 TEX. ADMIN. CODE § 5.9334 by failing to file supplementary rating information, and additional information as required with the commissioner.

9. Western General violated TEX. INS. CODE § 4001.101 by issuing policies where the agent was not licensed by TDI.
10. Western General violated TEX. INS. CODE § 4001.201 by issuing policies with an agent who was not appointed to act as an agent for Western General.

Order

It is ordered that Western General Insurance Company pay an administrative penalty of \$75,000 within 30 days from the date of this order. Western General Automobile Insurance Company must pay the administrative penalty by cashier's check or money order payable to the State of Texas. Western General Automobile Insurance Company must mail the payment 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

By: _____


Doug Slape
Chief Deputy Commissioner
Commissioner's Order No. 2018-5528

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Commissioner's Order

Western General Automobile Insurance Company

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Recommended and reviewed by:



Leah Gillum, Associate Commissioner
Enforcement Section



Sarah White, Staff Attorney
Enforcement Section

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AFFIDAVIT

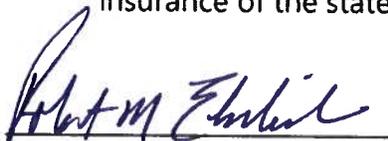
STATE OF CALIFORNIA §

§

COUNTY OF LOS ANGELES §

BEFORE ME, the undersigned authority, personally appeared the affiant, who being by me duly sworn, deposed as follows:

1. "My name is Robert M. Enrich. I am of sound mind, capable of making this statement, and personally acquainted with the facts stated herein.
2. I hold the office of CEO/President. I am the authorized representative of Western General Automobile Insurance Company and am duly authorized to execute this affidavit.
3. Western General Automobile Insurance Company waives rights provided by the Texas Insurance Code and other applicable law and acknowledges the jurisdiction of the commissioner of insurance of the state of Texas.
4. Western General Automobile Insurance Company has knowingly and voluntarily entered into the foregoing consent order and agrees with and consents to the issuance and service of the foregoing consent order by the commissioner of insurance of the state of Texas."



Affiant

SWORN TO AND SUBSCRIBED before me on this 25th day of April, 2019.

See attached notary certificate

Signature of Notary Public

(NOTARY STAMP)

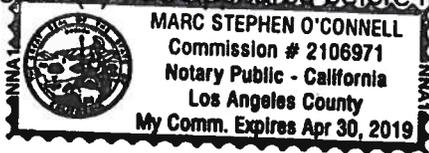
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A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California
County of Los Angeles

Subscribed and sworn to (or affirmed) before me on this 25th
day of April, 2019, by Robert M. Ehrlich

proved to me on the basis of satisfactory evidence to be the
person(s) who appeared before me.



(Seal)

Signature Marc Stephen O'Connell