

No. 2019- 6057

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

Date: AUG 23 2019

Subjects Considered:

National Union Fire Insurance Company of Pittsburgh, PA.
New Hampshire Insurance Company
Granite State Insurance Company
Illinois National Insurance Co.
175 Water Street, 18th Floor
New York City, New York 10038

Consent Order
TDI Enforcement File Nos. 21096, 21097, 21141, and 21143

General remarks and official action taken:

This is a consent order with National Union Fire Insurance Company of Pittsburgh, PA., New Hampshire Insurance Company, Granite State Insurance Company, and Illinois National Insurance Co. (collectively, the "Companies"). The Companies are all affiliated and self-reported rating errors which were discovered after the transition to a new operating system. The Companies have agreed to pay restitution with interest to the affected policyholders.

Waiver

The Companies acknowledge that the Texas Insurance Code and other applicable law provide certain rights. The 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 Companies are foreign fire and casualty insurance companies holding certificates of authority to transact business in Texas.

2. In June 2019, the Companies notified TDI that during an internal rate review, they discovered implementation and programming errors of certain ISO loss costs and loss cost multipliers within one of their policy writing operations systems. Specifically, the Companies' third-party vendor implemented filed rates on a date other than the effective date of the filing and programmed incorrect loss costs, loss cost multipliers, and experience modification factors.
3. These errors affected 602 Texas policyholders over multiple lines of business including commercial general liability, commercial automobile, and commercial property. The overcharges are estimated to be \$300,000.
4. The Companies represent they engaged in a process review to strengthen both internal and external controls, including centralizing certain functions, improving documentation and tracking of changes in the operations system, and testing for accuracy

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 2251.101.
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 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 Companies violated TEX. INS. CODE § 2251.101 by charging a rate different than that on file.
5. Pursuant to TEX. INS. CODE § 82.053, the commissioner is authorized to direct the Companies to make complete restitution to each policyholder impacted by the violations.

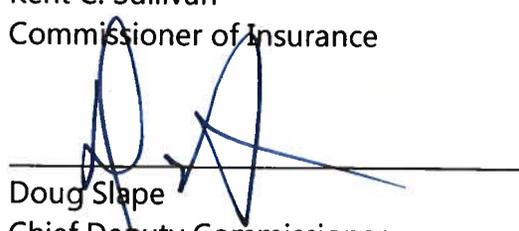
The Companies are ordered to comply with the following:

- a. The Companies must identify all commercial general liability, commercial property, and commercial automobile insurance policies issued by it in Texas with effective dates from March 1, 2015, through April 1, 2019 (the "Review Period").
- b. For each policy in the Review Period, the Companies must calculate the Corrected Premium using the rates on file with the department.
- c. For each policy in the Review Period, the 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 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 Companies must mail the restitution checks and/or issue the account credits to the Qualifying Policyholders on or before September 1, 2019.
- f. Any restitution checks that are returned to the 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.* By March 1, 2020, the Companies must provide the department a status on checks negotiated as of February 1, 2020.
- g. On or before November 1, 2019, the 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. 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. dollar amount of simple interest;
 - viii. amount of Overcharge and interest;
 - ix. date(s) of mailing of restitution check or credits;
 - x. the total sum of all Overcharges;
 - xi. the total sum of all simple interest; and,
 - xii. the total sum of all restitution paid (total Overcharges plus the total of the simple interest).
- h. The Companies must send all submissions required under the terms of this order by email to: EnforcementReports@tdi.texas.gov.

Kent C. Sullivan
Commissioner of Insurance

By:



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

Recommended and reviewed by:



Leah Gillum, Associate Commissioner
Enforcement Section



Mandy R. Meesey, Director
Enforcement Section

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Commissioner's Order
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AFFIDAVIT

STATE OF NEW YORK §

§

COUNTY OF NEW YORK §

Before me, the undersigned authority, personally appeared JOHN ARTESANI, who being by me duly sworn, deposed as follows:

"My name is JOHN ARTESANI. I am of sound mind, capable of making this statement, and have personal knowledge of these facts which are true and correct.

I hold the office of SENIOR VICE PRESIDENT, and am the authorized representative of National Union Fire Insurance Company of Pittsburgh, PA., New Hampshire Insurance Company, Granite State Insurance Company, and Illinois National Insurance Co. (collectively, the "Companies"). I am duly authorized by said organizations to execute this statement.

The Companies have knowingly and voluntarily entered into the foregoing consent order and agree with and consent to the issuance and service of the same by the commissioner of insurance of the state of Texas."

John M. Artesani
Affiant

SWORN TO AND SUBSCRIBED before me on July 29, 2019.

(NOTARY SEAL)

Vincent J. Patalano
Signature of Notary Public

VINCENT J. PATALANO
Notary Public, State of New York
No. 01PA4987423
Qualified in New York County
Commission Expires October 15, 2021