

No. 2017-5182

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

Date: AUG 14 2017

Subjects Considered:

CANAL INSURANCE COMPANY
PO Box 7
Greenville, SC 29602

CONSENT ORDER
TDI ENFORCEMENT FILE NO. 13793

General remarks and official action taken:

This order is in consideration of whether disciplinary action should be taken against Canal Insurance Company.

WAIVER

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

FINDINGS OF FACT

1. Canal Insurance Company is a foreign fire and casualty insurance company 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 August 13, 2015, Canal Insurance Company made a rate filing with TDI (SERFF CNLC-130201675; TDI Filing S612385) with an effective date of October 1, 2015, for new business and December 1, 2015, for renewal business ("August 2015 Filing").
4. On September 2, 2015, in response to objections sent by TDI, Canal Insurance Company specifically confirmed that their rating plan complied with TEX. INS. CODE § 1953.051.

5. On September 14, 2015, in response to additional objections sent by TDI, Canal Insurance Company stated that it revised its manuals to reflect that it was not charging for non-chargeable traffic violations and provided revised exhibits for calculating "Liability Average Driver Factor" and "Physical Damage Average Driver Factor."
6. On November 16, 2015, Canal Insurance Company made a rate filing with TDI (SERFF CNLC-130313432; TDI Filing S616666) with an effective date of February 1, 2016, for new business and April 1, 2016, for renewal business ("November 2015 Filing").
7. On December 11, 2015, in response to objections sent by TDI, Canal Insurance Company stated that it revised its "Auto Liability Schedule Rating" and "Auto Physical Damage Schedule Rating" tables to reflect that it was not charging for non-chargeable traffic violations.
8. On March 10, 2017, Canal Insurance Company made a rate filing with TDI (SERFF CNLC-130953897; TDI Filing S638081) with an effective date of May 1, 2017, for new business and July 1, 2017, for renewal business ("March 2017 Filing").
9. In June 2017, Canal Insurance Company responded that it had been charging for certain non-chargeable violations.
10. Since at least October 1, 2015, Canal Insurance Company has considered certain non-chargeable traffic violations within the "Liability Average Driver Factor," "Physical Damage Average Driver Factor," "Auto Liability Schedule Rating," and "Auto Physical Damage Schedule Rating" components of its rating plan.

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. Canal Insurance Company 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. Canal Insurance Company 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 Canal Insurance Company to make complete restitution to each policyholder harmed by the violation.

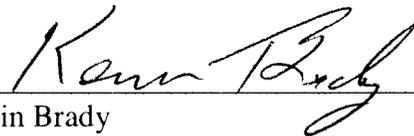
Canal Insurance Company is ordered to comply with the following:

- a. Not later than 60 days from the date of this order, the Canal Insurance Company must make a new rate filing which removes from its rating plan any rate consequence or premium increase because of non-chargeable traffic violation, with the removal to be effective no later than October 1, 2017. The Canal Insurance Company must also update any applicable underwriting guidelines or manual rule filings filed with TDI no later than October 1, 2017.
- b. Canal Insurance Company must identify all commercial automobile insurance policies issued by Canal Insurance Company in Texas with effective dates from October 1, 2015 through October 1, 2017 (the "Review Period").
- c. For each policy in the Review Period, Canal Insurance Company must calculate the Corrected Premium without assigning a rate consequence or premium increase because of a non-chargeable violation.
- d. For each policy in the Review Period, Canal Insurance Company 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.
- e. Canal Insurance Company 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 credit must include both the dollar amount of the overcharge, plus simple interest due on the overcharge. The rate of interest shall be 5% per annum.
- f. Canal Insurance Company must mail the restitution checks and/or apply the account credits to the Qualifying Policyholders on or before November 1, 2017.
- g. Any restitution checks that are returned to Canal Insurance Company 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.* Canal Insurance Company must copy the department on any correspondence pertaining to abandoned funds that is sent to the comptroller.
- h. On or before January 1, 2018, Canal Insurance Company 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).
- i. Canal Insurance Company 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.

Canal Insurance Company 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 40111, MC 9999, P.O. Box 149104, Austin, Texas 78714-9104.



Kevin Brady
Deputy Commissioner For Agency Affairs
Texas Department of Insurance
Delegation Order 4506

APPROVED AS TO FORM AND CONTENT:



Amanda Meeseey
Director, Enforcement Section
Texas Department of Insurance

