

No. 2017- 5192

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

Date: AUG 22 2017

Subjects Considered:

SOUTHERN COUNTY MUTUAL INSURANCE COMPANY
P.O. BOX 809076
Dallas, Texas 75380

CONSENT ORDER
TDI ENFORCEMENT FILE NO. 13837

General remarks and official action taken:

The commissioner of insurance considers whether disciplinary action should be taken against Southern County Mutual Insurance Company.

WAIVER

Southern County Mutual Insurance Company acknowledges that the Texas Insurance Code and other applicable law provide certain rights. Southern County Mutual 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. Southern County Mutual Insurance Company is a domestic county mutual insurance company holding a certificate of authority to transact business in Texas.
2. Effective, September 1, 2015, Section 1953.051(b) of the Texas Insurance Code prohibits a rating plan regarding personal automobile insurance from (1) assigning a rate consequence solely to a consumer inquiry made by an applicant or insured or a claim filed by an insured under a personal automobile insurance policy that is not paid or payable under the policy or (2) otherwise causing premium for personal automobile insurance to be increased solely because of an inquiry or claim not paid or payable under the policy.
3. On and after September 1, 2015, Southern County Mutual Insurance Company used claims that were not paid or payable under the policy to determine what tier within which to place a policyholder for new and renewal policies. The policyholder's placement in a specific tier may have resulted in a rate consequence and/or premium increase.

4. In an effort to achieve compliance, on May 16-18, 2017, Southern County Mutual Insurance Company submitted revised directions for calculating its tiers for its business written through Hartford Casualty General Agency, Inc. (S641040; SERFF TRGR-131042596), Hartford Fire General Agency, Inc. (S641116; SERFF TRGR-131045946), Hartford of Texas General Agency, Inc. (S641014; SERFF TRGR-131039117), and Hartford Underwriters General Agency, Inc. (S641108; SERFF TRGR-131044335). All revisions were effective May 20, 2017 for new business and July 9, 2017 for renewal business.
5. Southern County Mutual Insurance Company estimates that 1,699 policies were charged a rate or premium that was increased solely because of a claim not paid or payable. The estimated premium amount charged is over \$1.2 million.
6. Southern County Mutual Insurance Company was cooperative and responsive to the department during its investigation.

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, 912.002, 912.101-912.102, and 941.001-941.054, 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. Southern County Mutual 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. Southern County Mutual Insurance Company violated TEX. INS. CODE § 1953.051(b) by assigning a rate consequence for claims that were not paid or payable since September 1, 2015.
5. Pursuant to TEX. INS. CODE § 82.053, the Commissioner is authorized to direct Southern County Mutual Insurance Company to make complete restitution to each policyholder harmed by the violations.

Southern County Mutual Insurance Company is ordered to comply with the following:

- a. Southern County Mutual Insurance Company must identify all personal automobile insurance policies issued by it in Texas with effective dates from September 1, 2015 through July 9, 2017 (the "Review Period").
- b. For each policy in the Review Period, Southern County Mutual Insurance Company must calculate the Corrected Premium without using consumer inquiries or claims not paid or payable in consideration of tier placement.
- c. For each policy in the Review Period, Southern County Mutual 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.
- d. Southern County Mutual 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 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% per annum.
- e. Southern County Mutual Insurance Company must mail the restitution checks and/or issue the account credits to the Qualifying Policyholders on or before January 1, 2018.
- f. Any restitution checks that are returned to Southern County Mutual 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.* Southern County Mutual Insurance Company must copy the department on any correspondence pertaining to abandoned funds that is sent to the comptroller.
- g. On or before February 1, 2018, Southern County Mutual 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. name of the Southern County Mutual Insurance Company managing general agent 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. Southern County Mutual 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.

Southern County Mutual Insurance Company is further ordered to pay an administrative penalty of \$100,000. 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

