

No. 2017- 5205

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

Date: AUG 3 1 2017

Subjects Considered:

LIBERTY COUNTY MUTUAL INSURANCE COMPANY
175 Berkeley Street
Boston, MA 02116

CONSENT ORDER
TDI ENFORCEMENT FILE NO. 11410

General remarks and official action taken:

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

WAIVER

Liberty County Mutual Insurance Company acknowledges that the Texas Insurance Code and other applicable law provide certain rights. Liberty County Mutual Insurance Company 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), Liberty County Mutual Insurance Company agrees to this consent order with the express reservation that it does not admit to a violation of the code or of a rule and that the existence of a violation is in dispute.

FINDINGS OF FACT

1. Liberty 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. From September 1, 2015 through July 3, 2016, Liberty County Mutual Insurance Company assigned a rate consequence or otherwise caused premium to be increased based solely on claims that were not paid or payable under the policy in determining 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. On March 17, 2016, Liberty County Mutual Insurance Company submitted revised directions for calculating its tiers in its filing (\$618763; SERFF LBPM-130396185) which eliminated consumer inquiries and claims that are not paid or payable from consideration in tier placement. The revision was effective April 9, 2016 for new business and July 3, 2016 for renewal business.
5. Liberty County Mutual Insurance Company represents that it does not and has not assigned a rate consequence or otherwise caused premium to be increased based solely on claims that were not paid or payable in any other aspects of its rating plan on and after September 1, 2015.
6. Liberty 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 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. Liberty 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. Liberty 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 Liberty County Mutual Insurance Company to make complete restitution to each policyholder harmed by the violations.

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

- a. Liberty County Mutual Insurance Company must identify all personal automobile insurance policies issued by Liberty County Mutual Insurance Company in Texas with effective dates from September 1, 2015 through July 3, 2016 (the "Review Period").
- b. For each policy in the Review Period, Liberty 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, Liberty 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. Liberty County Mutual Insurance Company must pay restitution in the form of a company check and/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. Liberty County Mutual Insurance Company must mail the restitution checks and/or apply the account credits to the Qualifying Policyholders on or before March 1, 2018.
- f. Any restitution checks that are returned to Liberty 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.* Liberty 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 April 1, 2018, Liberty 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. policy number;
 - ii. policyholder name;

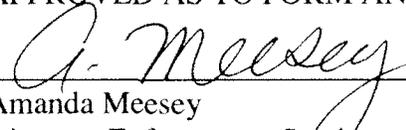
- iii. policyholder address;
 - iv. effective date of the policy;
 - v. expiration date of the policy;
 - vi. amount of Overcharge;
 - vii. dollar amount of simple interest;
 - viii. amount of Overcharge and interest;
 - ix. date(s) of mailing of restitution check or credits;
 - x. the total sum of all 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. Liberty 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.

Liberty 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

