

No. 2018- 5697

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

Date: NOV 05 2018

Subjects Considered:

CONTINENTAL CASUALTY COMPANY
NATIONAL FIRE INSURANCE COMPANY OF HARTFORD
TRANSPORTATION INSURANCE COMPANY
AMERICAN CASUALTY COMPANY OF READING, PENNSYLVANIA
VALLEY FORGE INSURANCE COMPANY
333 South Wabash
Chicago, Illinois 60604

CONSENT ORDER

TDI ENFORCEMENT FILE NOS. 12942, 12943, 12944, 12945, 12947

General remarks and official action taken:

The subject of this order is whether disciplinary action should be taken against Continental Casualty Company; National Fire Insurance Company of Hartford; Transportation Insurance Company; American Casualty Company of Reading, Pennsylvania; and Valley Forge Insurance Company (collectively, "CNA Companies").

WAIVER

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

Small Business Owners Product ("Connect")

2. The CNA Companies notified the department that the companies had discovered rating issues with the Connect business owners product. Specifically, the issues resulted when implementing a new analytical system that impacted rating and company placement.

3. As a result, the CNA Companies charged rates different than those on file with the department from December 2015 through June 2017. The CNA Companies represent that 7,274 policies were affected.
4. The CNA Companies notified the department that they had taken actions to correct the error for all affected policyholders. Specifically, the CNA Companies identified all Connect business owners policies affected from December 2015 through June 2017 and calculated the correct premium. For all policies overcharged, the CNA Companies made restitution payments, in the form of a company check or account credit to each policyholder. The restitution payments included the dollar amount of the overcharge, plus interest in the amount of 4 percent per annum.
5. Restitution payments were made to the Connect business owners policyholders during August 2017 and the payments with interest totaled \$5,867,086.13.

Workers Compensation Product

6. The CNA Companies also notified the department that the companies had discovered rating issues with the small business workers' compensation product. Specifically, certain policyholders were placed in the wrong company.
7. The error affected an estimated 2,259 workers' compensation policies from March 1, 2014, through August 31, 2017.
8. The CNA Companies represent that the restitution payments to the affected workers' compensation product policyholders will be approximately \$4 million and the payments will be made as specified below.
9. The CNA Companies failed to follow the underwriting guidelines on file with the department from March 1, 2014, through November 30, 2017.

Commercial Auto Product

10. The CNA Companies also notified the department that the companies had discovered that certain commercial auto policyholders were placed with the wrong company.
11. The error affected an estimated 110 commercial auto policies from March 1, 2015, through March 31, 2017.
12. The CNA Companies identified all commercial auto policies affected in the date ranges identified above and calculated the correct premium. For all policies overcharged, the CNA Companies made restitution payments, in the form of a company check or account credit to each policyholder. The restitution payments included the dollar amount of the overcharge, plus interest in the amount of 6 percent per annum.

13. Restitution payments were made to the commercial auto product policyholders during December 2017 and the payments with interest totaled \$55,826.91.

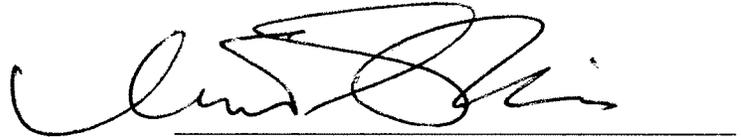
CONCLUSIONS OF LAW

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. The CNA 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 CNA Companies violated TEX. INS. CODE § 2251.101.
5. The CNA Companies violated TEX. INS. CODE § 2053.054 and 28 TEX. ADMIN. CODE § 5.9342.
6. Pursuant to TEX. INS. CODE § 82.053, the commissioner is authorized to direct the CNA Companies to make complete restitution to each policyholder harmed by the violations.

The CNA Companies are ordered to pay the restitution as outlined above in Finding of Fact Nos. 4, 5, 8, 12, and 13 and comply with the following:

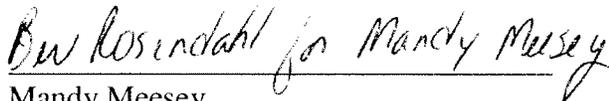
- a. Any restitution checks that are returned to the CNA Companies with an address correction must be promptly resent to the correct address. Funds from any restitution checks that are returned thereafter for incorrect addresses and from checks that are not negotiated must be delivered to the comptroller pursuant to the procedures set forth in TEX. PROP. CODE §§ 72.001 *et seq.* The CNA Companies must copy the department on any correspondence pertaining to abandoned funds that is sent to the comptroller.
- b. On or before January 15, 2019, the CNA Companies must report the restitution paid to the affected policyholders that has not already been reported by submitting complete and sortable electronic spreadsheets to the department. The spreadsheets 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. original premium charged;
 - vii. corrected premium;
 - viii. dollar amount of overcharge;
 - ix. dollar amount of simple interest;
 - x. date of mailing of restitution check or application of credit;
 - xi. whether the policyholder received a check or credit;
 - xii. the total sum of all overcharges;
 - xiii. the total sum of all simple interest; and,
 - xiv. the total sum of all restitution paid (total overcharges plus the total of the simple interest).
- h. The CNA 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

APPROVED AS TO FORM AND CONTENT:



Mandy Meesey
Director, Enforcement Section
Texas Department of Insurance

