

No. 2019- 6031

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

**Date:** JUL 3 1 2019

**Subject Considered:**

Home State County Mutual Insurance Company  
P.O. Box 8036  
Waco, Texas 76714-8036

Consent Order  
TDI Enforcement File No. 16105

**General remarks and official action taken:**

The subject of this order is whether disciplinary action should be taken against Home State County Mutual Insurance Company (Home State).

**Waiver**

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

**Findings of Fact**

1. Home State is a county mutual insurance company holding a certificate of authority to transact business in Texas.
2. Home State writes personal automobile insurance through several managing general agents. Home State entered into contracts with the managing general agents authorizing each of the managing general agents to act on its behalf and is

ultimately responsible for the oversight of the managing general agents' practices and conduct on its behalf.

3. 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.
4. On and after September 1, 2015, Home State assigned a rate consequence to claims not paid or payable under the policy through several of its managing general agents.

Kemper Personal Insurance General Agency, Inc.

5. Home State made a rate filing for its business written through its managing general agent, Kemper Personal Insurance General Agency, Inc. (Kemper Personal), in SERFF Filing No. HMSG-131158296 effective December 8, 2017. The rate filing incorporated claims that were not paid or payable under the policy in its rating plans to determine which tier to place policyholders. The policyholder's placement in a specific tier may have resulted in a rate consequence and/or premium increase.
6. Effective June 1, 2018, for new business and June 30, 2018, for renewal business, Home State and Kemper Personal made a rate filing eliminating the use of claims not paid or payable in tier placement with SERFF Filing No. HMSG-131480933.
7. Home State represents that 67 policies written through Kemper Personal were charged a rate or premium that was increased due to the inclusion of a claim not paid or payable.

Kemper General Agency, Inc.

8. On August 19, 2016, managing general agent Kemper General Agency, Inc. (Kemper General) began applying accident chargeability criteria from new claims that were not paid or payable under the policy along with other factors to determine which tier to place policyholders. The policyholder's placement in a specific tier may have resulted in a rate consequence and/or premium increase.

9. In SERFF Filing No. HMSG-131513783, effective June 1, 2018, Kemper General eliminated the use of claims not paid or payable in tier placement for renewals.
10. Home State and Kemper General also filed a clarification to the underwriting guidelines in SERFF Filing No. HMSG-131628455 with an effective date of June 1, 2018.
11. Home State represents that 121 policies written through Kemper General were charged a rate or premium that was increased due to the inclusion of a claim not paid or payable.

#### MIC Insurance Agency, Inc.

12. Effective June 17, 2013, Home State made an underwriting filing and a rate filing (SERFF Filing No. HMSG-129064048) for its business written through its managing general agent, MIC Insurance Agency, Inc. (MIC). The rate filing incorporated the underwriting segments that included claims that were not paid or payable under the policy to determine the Market Factor variable.
13. Home State represents that 15 policies written through MIC were charged a rate or premium that was increased due to the inclusion of a claim not paid or payable. Home State and MIC made a corrective underwriting filing (SERFF Filing No. HMSG-131729055) eliminating the use of claims not paid or payable in its assignment of underwriting segments.

#### Remedial Actions

14. Home State identified all personal automobile insurance policies that it issued in Texas with effective dates from September 1, 2015, through February 1, 2019 ("Review Period") and calculated the premium without using claims not paid or payable in the rating plans ("Corrected Premium"). Home State paid restitution with interest in the amount of \$134,642.28 by mailing checks and/or issuing account credits to policyholders for all premiums charged to policies issued during the Review Period that exceeded the Corrected Premium amount.

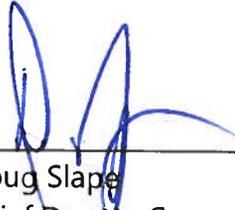
**Conclusions of Law**

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 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. Home State knowingly and voluntarily waives 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. Beginning on September 1, 2015, Home State violated TEX. INS. CODE § 1953.051(b) by assigning a rate consequence to claims that were not paid or payable.

Home State is ordered to pay an administrative penalty of \$40,000. 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 60851, MC 9999, P.O. Box 149104, Austin, Texas 78714-9104.

Kent C. Sullivan  
Commissioner of Insurance

By:

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

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Commissioner's Order  
Home State County Mutual Insurance Company  
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Recommended and reviewed by:



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Leah Gillum, Associate Commissioner  
Enforcement Section



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Mandy R. Meesey, Director  
Enforcement Section

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**AFFIDAVIT**

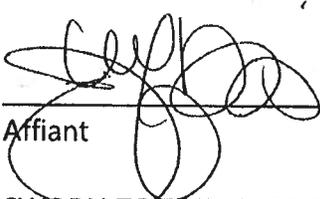
STATE OF Texas §  
§  
COUNTY OF Dallas §

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

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

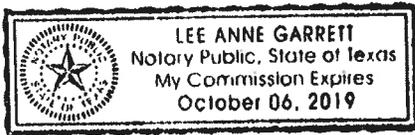
I hold the office of President, and am the authorized representative of Home State County Mutual Insurance Company. I am duly authorized by said organizations to execute this statement.

Home State County Mutual Insurance Company has 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."

  
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Affiant

SWORN-TO AND SUBSCRIBED before me on June 26, 2019.

(NOTARY SEAL)



  
Signature of Notary Public