

No. **2024-8759**

**Official Order
of the
Texas Commissioner of Insurance**

Date: 8/5/2024

Subject Considered:

Spinnaker Insurance Company
1 Pluckemin Way Ste 102
Bedminster, New Jersey 07921-1541

Consent Order
TDI Enforcement File No. 34725

General remarks and official action taken:

This is a consent order with Spinnaker Insurance Company (Spinnaker) for violations found in a market conduct examination performed by the Texas Department of Insurance (TDI). Spinnaker has agreed to an administrative penalty of \$90,000.

Waiver

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

Findings of Fact

1. Spinnaker is a fire and casualty company holding a certificate authority to transact business in the state of Texas.
2. Spinnaker is a wholly owned, indirect subsidiary of Hippo Holdings, Inc.
3. Hippo Analytic, Inc. dba Hippo Insurance Services (Hippo), is also a wholly owned, indirect subsidiary of Hippo Holdings, Inc.

2024-8759

Commissioner's Order
Spinnaker Insurance Company
Page 2 of 11

4. TDI conducted a targeted market conduct examination in accordance with the Texas Insurance Code Chapter 751 that covered activity between January 1, 2022, and December 31, 2022, on Spinnaker's homeowners line of business.
5. The purpose of the examination was to determine Spinnaker's compliance with Texas statutes and regulations related to sales; advertising and marketing; underwriting and rating; claims practices; and consumer complaints.
6. During the examination, TDI found violations of the Texas Insurance Code and Texas Administrative Code.

Agreements with Affiliates

7. Effective September 28, 2020, Spinnaker entered into a program and claims administration agreement with Hippo. As a managing general agent (MGA), Hippo performed marketing, agency producer management, underwriting, premium accounting, policy administration, and claims handling activities.
8. Spinnaker conducted an annual audit completed on March 15, 2022.
9. The agreement with Hippo did not state that the insurer must keep the account on file for at least three years.
10. The agreement with Hippo did not provide that the MGA shall not be required to return, as commission or return commission, money greater than the total commission paid or otherwise payable to the MGA.
11. The agreement with Hippo did not specify the frequency with which insurer shall cause to be conducted examinations of MGAs with which it is doing business.
12. The agreement with Hippo did not specify that the examination must be made available to the commissioner for review and must remain on file with the insurer for at least three years.
13. The agreement with Hippo did not specify that the examinations required above must adequately provide the commissioner with, at a minimum, information on claims procedures, timeliness of claims payments, timeliness of premium reporting

2024-8759

and collection, compliance with underwriting guidelines, and reconciliation of policy inventory.

14. The agreement with Hippo did not state that the MGA must notify the insurer in writing within 30 days if there is a change in ownership of 10% or more of the outstanding stock of the MGA, a principal officer of the MGA, or any director of the MGA.

Agreements with Non-Affiliates

15. Effective January 1, 2018, Spinnaker entered into a program administration agreement with Millennial Specialty Insurance, LLC (MSI). Spinnaker appointed MSI as its agent for the purpose of underwriting, issuing and delivering binders, policies or contracts of insurance and amendments and endorsements. MSI was also appointed as an agent for underwriting guidelines, procedures, and instructions as may be provided in writing. Spinnaker conducted an annual audit completed on December 22, 2022.
16. The agreement with MSI did not state that all amendments and changes to the contract must be in writing and specify the effective date.
17. The agreement with MSI did not state that the insurer must keep the account on file for at least three years and must make the account available to the commissioner for review.
18. The agreement with MSI did not provide that the MGA shall not be required to return, as commission or return commission, money greater than the total commission paid or otherwise payable to the MGA.
19. The agreement with MSI did not specify that the separate records of business for each insurer must be maintained for at least five years or until the completed financial examination by the insurance department of the state in which the insurer is domiciled, whichever is longer.
20. The agreement with MSI did not specify the frequency with which insurer shall cause to be conducted examinations of MGAs with which it is doing business.

2024-8759

Commissioner's Order

Spinnaker Insurance Company

Page 4 of 11

21. The agreement with MSI did not specify that the examination must be made available to the commissioner for review and must remain on file with insurer for at least three years.
22. The agreement with MSI did not specify that the examinations required above must adequately provide the commissioner with, at a minimum, information on claims procedures, timeliness of claims payments, timeliness of premium reporting and collection, compliance with underwriting guidelines, and reconciliation of policy inventory.
23. The agreement with MSI did not state that the MGA must notify the insurer in writing within 30 days if there is a change in ownership of 10% or more of the outstanding stock of the MGA, a principal officer of the MGA, or any director of the MGA.
24. The agreement with MSI did not state that it prohibits the MGA from offsetting balances due under any contract with any offset due under any other contract.
25. Spinnaker did not conduct a semiannual examination of MSI, a non-affiliated MGA.
26. Effective August 14, 2018, Spinnaker entered into an MGA agreement with Atlas General Agency, LLC (Atlas) located in Grand Prairie, Texas. Atlas had the authority to perform the functions of a MGA of Spinnaker, including, but not limited to, recruiting and supervising agents and brokers, underwriting, policy issuance, accounting, billing, and claims handling, all subject to the terms and conditions. The Atlas Program is in runoff with no active policy as of the examination. Spinnaker conducted audits completed on October 31, 2022.

Underwriting and Rating

27. TDI staff randomly sampled policies Spinnaker issued in 2022 to determine accuracy of rating, use of proper forms and endorsements, timely handling of transactions and policy service requests, adherence to consistent and nondiscriminatory underwriting practices, mandatory coverages, and compliance with statutes and regulations.
28. In 100% (100 of 100) of the issued policies staff reviewed, the Notice of Toll-Free Telephone Numbers and Information and Complaint procedure was not on the first, second, or third page of the set of documents.

2024-8759

Commissioner's Order
Spinnaker Insurance Company
Page 5 of 11

29. In 35% (35 of 100) of the issued policies staff reviewed, Hippo, on behalf of Spinnaker, did not issue the revised version of the Notice of Toll-Free Telephone Numbers and Information and Complaint Procedures.
30. In 35% (35 of 100) of the issued policies staff reviewed, Hippo, on behalf of Spinnaker, did not include the disclosure regarding flood coverage with the policy documents.

Issued Policies

31. Staff reviewed a sample of issued policies to determine the accuracy of underwriting and rating as filed with TDI under TEX. INS. CODE §§ 38.002, 2251.101, and 29 TEX. ADMIN. CODE §§ 5.9332-5.9342.
32. The three-year period to recoup FAIR plan surcharges on property policies expired on June 24, 2021. Insurers applying a premium surcharge to recover a 2018 FAIR plan assessment must stop the surcharges by that date and update any applicable filings.
33. Hippo, on behalf of Spinnaker, did not stop the recoupment by June 24, 2021, for surcharging a policy with an effective date outside the prescribed three-year period, which begins 90 days after the date of assessment. Hippo's recoupment period ended in the second quarter of 2023.
34. Spinnaker represented that 110,047 policies (73,767 insureds) were impacted. Spinnaker provided evidence that as of June 10, 2024, it had refunded a total amount of \$230,553 to impacted insureds.

Claims

35. Staff conducted stratified sampling to include all policy and coverage types for claims Spinnaker processed in 2022 to determine compliance with policy provisions, timeliness and accuracy of payment, supporting documentation, general claims handling, adjuster licensing, and compliance with TEX. INS. CODE §§ 541.060, 4101.051, Chapter 542, and 28 TEX. ADMIN. CODE Chapter 21, Subchapter C.

2024-8759

Commissioner's Order

Spinnaker Insurance Company

Page 6 of 11

36. In 2% (1 of 50) of the claims staff reviewed, Hippo, on behalf of Spinnaker, did not notify a claimant in writing of the rejection of a claim not later than the 15th business day after the date the insurer received all items, statements, and forms required by the insurer to secure final proof of loss.
37. In 1% (1 of 100) of the claims payments staff reviewed, Hippo, on behalf of Spinnaker, did not make payment on a claim within the fifth business day after the date notice was made. Spinnaker has represented that they complied with TEX. INS. CODE § 542.060 by paying the penalties on the late claim payment.
38. In 2% (1 of 50) of the claims staff reviewed, not later than the 10th day after the date an initial offer to settle a claim against a named insured under a casualty insurance policy issued to the insured is made, Atlas, on behalf of Spinnaker, did not notify the insured in writing of the offer.

Complaints

39. Staff sampled the complaints Spinnaker received in 2022 to determine compliance with TEX. INS. CODE §§ 38.001, 541.005, TEX. ADMIN. CODE §§ 21.203(6), 21.2501-21.2507, and other Texas statutes and rules where applicable.
40. Of the complaints staff reviewed, 28% (11 of 40) were considered confirmed.
41. In 5% (2 of 40) of the complaints staff reviewed, Hippo, on behalf of Spinnaker, did not respond within 15 days to a complaint inquiry by TDI.
42. In 20% (8 of 40) of the complaints staff reviewed, Hippo, on behalf of Spinnaker, did not notify a claimant in writing of the acceptance or rejection of a claim not later than the 15th business day after the date the insurer received all items, statements, and forms required by the insurer to secure final proof of loss.
43. In 15% (6 of 40) of the complaints staff reviewed, Hippo, on behalf of Spinnaker, did not make payment on a claim within the fifth business day after the date notice is made. Spinnaker represented that they paid interest on the claims in accordance with TEX. INS. CODE § 542.058(a) and 542.060(a).
44. Spinnaker accepted TDI's final market conduct exam report and has provided a corrective action plan.

Conclusions of Law

1. The commissioner has jurisdiction over this matter under TEX. INS. CODE §§ 82.051–82.055, 84.021–84.044, 751.001 *et seq.*, 801.051-801.053, 861.101 *et seq.*, 862.051, and 982.052.
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. Spinnaker 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. Spinnaker violated 28 TEX. ADMIN. CODE § 19.1204(b)(5) because affiliate and non-affiliate agreements did not state that the insurer must keep the account on file for at least three years.
5. Spinnaker violated 28 TEX. ADMIN. CODE § 19.201(b)(12) because affiliate and non-affiliate agreements did not provide that the MGA shall not be required to return, as commission or return commission, money greater than the total commission paid or otherwise payable to the MGA.
6. Spinnaker violated 28 TEX. ADMIN. CODE § 19.1204(b)(19) because affiliate and non-affiliate agreements did not specify the frequency with which insurer shall cause to be conducted examinations of MGAs with which it is doing business.
7. Spinnaker violated 28 TEX. ADMIN. CODE § 19.1204(b)(20) because affiliate and non-affiliate agreements did not specify that the examination must be made available to the commissioner for review and must remain on file with the insurer for at least three years.
8. Spinnaker violated 28 TEX. ADMIN. CODE § 19.1204(b)(20)(A-E) because affiliate and non-affiliate agreements did not specify that the required examinations must adequately provide the commissioner with, at a minimum, information on claims procedures, timeliness of claims payments, timeliness of premium reporting and

2024-8759

Commissioner's Order

Spinnaker Insurance Company

Page 8 of 11

collection, compliance with underwriting guidelines, and reconciliation of policy inventory.

9. Spinnaker violated 28 TEX. ADMIN. CODE § 19.1204(b)(21)(A-C) because affiliate and non-affiliate agreements did not state that the MGA must notify the insurer in writing within 30 days if there is a change in ownership of 10% or more of the outstanding stock of the MGA, an principal officer of the MGA, or any director of the MGA.
10. Spinnaker violated 28 TEX. ADMIN. CODE § 19.1204(b)(1) because a non-affiliate agreement did not state that all amendments and changes to the contract must be in writing and specify the effective date.
11. Spinnaker violated 28 TEX. ADMIN. CODE § 19.1204(b)(16) because a non-affiliate agreement did not specify that the separate records of business for each insurer must be maintained for at least five years or until the completion financial examination by the insurance department of the state in which the insurer is domiciled, whichever is longer.
12. Spinnaker violated 28 TEX. ADMIN. CODE § 19.1204(b)(22) because a non-affiliate agreement did not state that it prohibits the MGA from offsetting balances due under any contract with any offset due under any other contract.
13. Spinnaker violated 28 TEX. ADMIN. CODE § 19.1204(b)(19)(A) by failing to conduct a semiannual examination of a non-affiliated MGA.
14. Spinnaker violated 28 TEX. ADMIN. CODE § 1.601(a)(2)(A) by failing to include the Notice of Toll-Free Telephone Numbers and Information and Complaint procedure in the first, second, or third page of the set of documents in policies issued.
15. Spinnaker violated 28 TEX. ADMIN. CODE § 1.601(a)(2)(B) by failing to include the revised version of the Notice of Toll-Free Telephone Numbers and Information and Complaint Procedures in policies issued.
16. Spinnaker violated TEX. INS. CODE § 2002.103(c) by failing to include the disclosure regarding flood coverage with the policy documents in policies issued.
17. Spinnaker violated TEX. INS. CODE § 2211.104 and 28 TEX. ADMIN. CODE § 5.9923 by not stopping the recoupment of FAIR plan surcharges on policies by June 24, 2021.

2024-8759

Commissioner's Order
Spinnaker Insurance Company
Page 9 of 11

18. Spinnaker violated TEX. INS. CODE § 542.057(a) by failing to make payment on a claim within the fifth business day after the date notice.
19. Spinnaker violated TEX. INS. CODE § 542.056(a) by failing to notify a claimant in writing of the acceptance or rejection of a claim not later than the 15th business day after the date the insurer received all items, statements, and forms required by the insurer to secure final proof of loss.
20. Spinnaker violated TEX. INS. CODE § 542.153(a) by failing to notify the insured in writing of the offer not later than the 10th day after the date an initial offer to settle a claim against a named insured under a casualty insurance policy issued to the insured is made.
21. Spinnaker violated TEX. INS. CODE § 38.001(c) by failing to respond within 15 days to a complaint inquiry by TDI.

Order

It is ordered that Spinnaker Insurance Company pay an administrative penalty of \$90,000 within 30 days from the date of this order. The administrative penalty must be paid as instructed in the invoice, which TDI will send after entry of this order.

Signed by:

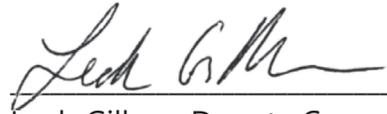
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Cassie Brown
Commissioner of Insurance

2024-8759

Commissioner's Order
Spinnaker Insurance Company
Page 10 of 11

Recommended and reviewed by:



Leah Gillum, Deputy Commissioner
Fraud and Enforcement Division



Sydney Moore, Staff Attorney
Enforcement

Affidavit

STATE OF New Jersey §
§
COUNTY OF Somerset §

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

"My name is Torben Nohr Ostergaard. 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 Chief Executive Officer and President and am the authorized representative of
Spinnaker Insurance Company. I am duly authorized by said organization to execute this
statement.

Spinnaker Insurance Company has knowingly and voluntarily entered into the foregoing
consent order and agrees with and consents to the issuance and service of the same by
the commissioner of insurance of the state of Texas."

Torben Ostergaard
Affiant

SWORN TO AND SUBSCRIBED before me on July 16, 2024.

(NOTARY SEAL)

Kadeidre N Screen
Notary Public, State of New Jersey
Commission # 50193272
My Commission Expires 5/3/2027

Kadeidre N. Screen
Signature of Notary Public
Kadeidre N. Screen
Printed Name of Notary Public