

No. **2022-7581**

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

**Date: 11/01/2022**

**Subject Considered:**

American Access Casualty Company  
2211 Butterfield Rd, Ste 200  
Downers Grove, Illinois 60515-1493

Consent Order  
TDI Enforcement File No. 30282

**General remarks and official action taken:**

This is a consent order with American Access Casualty Company (American Access). The department conducted a market conduct examination and found violations of Texas law. American Access has agreed to an administrative penalty of \$130,000.

**Waiver**

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

**Findings of Fact**

1. American Access is a general casualty company holding a certificate of authority to transact business in the state of Texas.
2. The department conducted a targeted market conduct examination that covered activity between January 1, 2020, and December 31, 2020, on American Access's private passenger automobile line of business.

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3. The purpose of the examination was to determine American Access's compliance with Texas statutes and regulations related to sales, advertising, marketing; underwriting and rating; claims practices; and consumer complaints.
4. During the examination, the department found violations of the Texas Insurance Code and the Texas Administrative Code.

### Agents' Licensing and Appointments

5. In 2% (2 of 100) of the policies staff reviewed, American Access used agents listed on the declarations page that were not licensed to issue or service policies.
6. In 23% (23 of 100) of the policies staff reviewed, American Access used agents listed on the declarations page who bound the policy that were not appointed to issue or services policies. In the previous examination, 54% (27 of 50) of the policies staff reviewed were in violation.

### Underwriting and Rating

7. Staff randomly sampled policies American Access issued in 2020 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.
8. In 1% (1 of 100) of the policies staff reviewed, American Access did not apply the correct Motor Vehicle Crime Prevention Authority Fee.
9. In 1% (1 of 100) of the policies of staff reviewed, American Access did not apply the correct policy factor.
10. American Access refunded \$52 to the policyholder that was overcharged due to applying the incorrect policy factor.
11. In 1% (1 of 100) of the policies staff reviewed, American Access issued an insurance policy without personal injury protection coverage and did not obtain a completed rejection in writing from the insured prior to issuing the policy.

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12. In 64% (16 of 25) of the policies staff reviewed, American Access failed to mail the written notice of non-renewal not later than the 30th day before the date on which the insurance policy expires.

### Claims

13. Staff conducted stratified sampling to include all policy and coverage types for claims American Access processed in 2020 to determine compliance with policy provisions, timeliness and accuracy of payment, supporting documentation, general claims handling, adjuster licensing, and compliance with statutes and regulations.
14. In 50% (50 of 100) of the claims staff reviewed, American Access failed to provide the claimant with the required Notice of Rights Regarding the Repair of Motor Vehicle.
15. In 1% (1 of 100) of the claims staff reviewed, American Access failed to notify the claimant of the acceptance of the claim not later than the 15th business day.
16. In 3% (3 of 100) of the claims staff reviewed, American Access failed to pay a claim not later than the fifth business day. In the previous examination, 2% (1 of 50) of the claims staff reviewed were in violation.
17. In 14% (14 of 100) of the claims staff reviewed, American Access failed to notify the insured in writing of the initial offer to settle a claim against the insured's policy.
18. In 10% (10 of 100) of the claims staff reviewed, American Access failed to notify the insured in writing of the settlement of a claim against the insured's policy. In the previous examination, 6% (3 of 50) of the claims staff reviewed were in violation.

### Complaints

19. Staff sampled the complaints the company received in 2020 to determine compliance with TEX. INS. CODE § 38.001 and § 542.005; 28 TEX. ADMIN. CODE § 21.203(6); 28 TEX. ADMIN. CODE §§ 21.2501-21.2507; and other statutes and regulations.
20. Staff reviewed 34 complaints and 13 (38%) were considered confirmed.

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21. American Access's complaint log did not contain the line type.
22. American Access's complaint log did not contain the company disposition after receipt.
23. American Access's complaint log did not contain the date received.
24. American Access's complaint log did not contain the date closed.
25. In 3% (1 of 34) of the complaints staff reviewed, American Access failed to respond to a department inquiry not later than the 15th day after the date the inquiry was received.
26. In 12% (4 of 34) of the complaints staff reviewed, American Access failed to adopt and implement reasonable standards for the prompt investigation of claims arising under the insurer's policy. American Access delayed investigation of the claims.
27. In 3% (1 of 34) of the complaints staff reviewed, American Access failed to attempt in good faith to affect a prompt, fair, and equitable settlement of a claim submitted in which liability has become reasonably clear. American Access delayed payment of the claim.
28. In 3% (1 of 34) of the complaints staff reviewed, American Access failed to notify the insured in writing of the acceptance of the claim not later than the 15th business day.
29. In 3% (1 of 34) of the complaints staff reviewed, American Access failed to provide the claimant with the required Notice of Rights Regarding Repair of Motor Vehicle.

### 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.*, 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.

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3. American Access 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. American Access violated TEX. INS. CODE § 4001.101 by using agents listed on the declaration pages that were not licensed to issue or service policies.
5. American Access violated TEX. INS. CODE § 4001.201 by using agents listed on the declarations page who bound the policy that were not appointed to issue or services policies.
6. American Access violated TEX. INS. CODE § 2251.101 by not applying the correct Motor Vehicle Crime Prevention Authority Fee.
7. American Access violated TEX. INS. CODE § 2251.101 by not applying the correct policy factor.
8. American Access violated TEX. INS. CODE § 1952.152 by issuing an insurance policy without personal injury protection coverage and did not obtain a completed rejection in writing from the insured prior to issuing the policy.
9. American Access violated TEX. INS. CODE § 551.105 by failing to mail the written notice of non-renewal not later than the 30th day before the date on which the insurance policy expires.
10. American Access violated TEX. INS. CODE § 1952.305 and 28 TEX. ADMIN. CODE § 5.501 by failing to provide the claimant with the required Notice of Rights Regarding the Repair of Motor Vehicle.
11. American Access violated TEX. INS. CODE § 542.056(a) by failing to notify the claimant of the acceptance of the claim not later than the 15th business day.
12. American Access violated TEX. INS. CODE § 542.057(a) by failing to pay a claim not later than the fifth business day.
13. American Access violated TEX. INS. CODE § 542.153(a) by failing to notify the insured in writing of the initial offer to settle a claim against the insured's policy.

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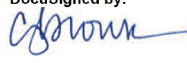
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14. American Access violated TEX. INS. CODE § 542.153(b) by failing to notify the insured in writing of the settlement of a claim against the insured's policy.
15. American Access violated 28 TEX. ADMIN. CODE § 21.2504(d) because the complaint log did not contain the line type.
16. American Access violated 28 TEX. ADMIN. CODE § 21.2504(e) because the complaint log did not contain the company disposition after receipt.
17. American Access violated TEX. INS. CODE § 38.001(c) by failing to respond to a department inquiry not later than the 15th day after the date the inquiry was received.
18. American Access violated TEX. INS. CODE § 542.003(b)(3) by failing to adopt and implement reasonable standards for the prompt investigation of claims arising under the insurer's policy.
19. American Access violated TEX. INS. CODE § 542.003(b)(4) by failing to attempt in good faith to affect a prompt, fair, and equitable settlement of a claim submitted in which liability has become reasonably clear.
20. American Access violated TEX. INS. CODE § 542.056(a) by failing to notify the insured in writing of the acceptance of the claim not later than the 15th business day.

## Order

It is ordered that American Access pay an administrative penalty of \$130,000 within 30 days from the date of this order. The administrative penalty must be paid as instructed in the invoice, which the department will send after entry of this order.

DocuSigned by:  
  
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Cassie Brown  
Commissioner of Insurance

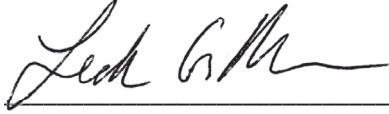
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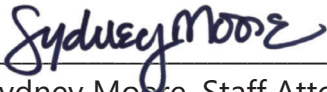
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Recommended and reviewed by:



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Leah Gillum, Deputy Commissioner  
Fraud and Enforcement Division



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Sydney Moore, Staff Attorney  
Enforcement

**Affidavit**

STATE OF Illinois §

§

COUNTY OF COOK §

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

"My name is Justin Korczak. 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 Compliance Manager and am the authorized representative of American Access Casualty Company. I am duly authorized by said organization to execute this statement.

American Access Casualty 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."

Justin Korczak  
Affiant

SWORN TO AND SUBSCRIBED before me on October 24, 2022.

(NOTARY SEAL)



Shelbi G Grant  
Signature of Notary Public

Shelbi G. Grant  
Printed Name of Notary Public