

No. **2023-8332**

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

Date: 11/7/2023

Subject Considered:

Employers Insurance Company of Nevada
PO Box 539003
Henderson, Nevada 89053-9003

Consent Order
TDI Enforcement File No. 32467

General remarks and official action taken:

This is a consent order with Employers Insurance Company of Nevada (Employers). The department alleges that Employers failed to make the required workers' compensation rate filings and used inapplicable loss costs, which resulted in overcharges to its policy holders. Employers has agreed to pay restitution to the affected policyholders, and a \$20,000 administrative penalty.

Waiver

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

Findings of Fact

1. Employers is a foreign casualty company holding a certificate of authority to transact business in Texas.
2. Employers writes workers' compensation insurance in Texas.

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3. On February 28, 2023, the department issued Bulletin B-0001-23 (2023 Bulletin). Pursuant to the 2023 Bulletin, insurers were required to file new loss costs on or before June 1, 2023, with an effective date of July 1, 2023. The 2023 Bulletin stated that for workers' compensation policies with an effective date on or after July 1, 2023, insurers could not base their rates on NCCI loss costs from any prior year.
4. On May 16, 2023, Employers made the filing required by the 2023 Bulletin in filing CENR-133624167, adopting NCCI loss costs effective July 1, 2023. During review of that filing, department staff discovered Employers had not filed new loss costs for prior years. Specifically, Employers failed to make the required rate filings in 2021 and 2022 as instructed in Bulletins B-0011-21 and B-0001-22, respectively.
5. Employers represents it applied the correct, but unfiled, loss costs from July 1, 2021, through October 21, 2022, and therefore no policyholders were overcharged.
6. Employers represents it applied the 2021 loss costs beginning October 22, 2022. From October 22, 2022 through June 30, 2023, Employers applied those rates to 244 policies. Employers states that of those 244 policies, 169 are active, 54 have been cancelled but have not yet been finally audited, and 21 have cancelled and been finally audited.

Conclusions of Law

1. The commissioner has jurisdiction over this matter under TEX. INS. CODE §§ 82.051–82.055, 84.021–84.044, 801.052–801.053, and 2053.003.
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. Employers 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. Employers violated TEX. INS. CODE § 2053.003 by failing to make required rate filings in 2021 and 2022 and using inapplicable loss costs from October 22, 2022, through June 30, 2023.

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5. Pursuant to TEX. INS. CODE § 82.053, the commissioner is authorized to direct Employers to make complete restitution to each policyholder harmed by the violations.

Order

It is ordered that Employers pay an administrative penalty of \$20,000 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.

It is further ordered that Employers must comply with the following:

- a. Employers must identify all workers' compensation policies issued or renewed in Texas with effective dates from October 22, 2022, through June 30, 2023 (the Review Period).
- b. For each policy in the Review Period, Employers must calculate the Corrected Premium using the applicable 2022 NCCI loss costs. If the premium charged was more than the Corrected Premium, the difference constitutes the Overcharge.
- c. Employers must pay the restitution in the form of a company check or account credit to each policyholder identified in the Review Period as having an Overcharge (the Qualifying Policyholders). The restitution check or account credit must include both the dollar amount of the Overcharge plus simple interest due on the Overcharge. The rate of interest is 5 percent per annum.
- d. Employers must mail the restitution checks or issue the account credits to the Qualifying Policyholders by January 15, 2024.
- e. Any restitution checks that are returned to Employers 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 reported and delivered to the comptroller pursuant to the procedures and deadlines set forth in TEX. PROP. CODE §§ 72.001 *et. seq.*, 73.001 *et. seq.*, and 74.001 *et. seq.*

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- f. On or before April 15, 2024, Employers 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).

DocuSigned by:

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Cassie Brown
Commissioner of Insurance

Recommended and reviewed by:



Leah Gillum, Deputy Commissioner
Fraud and Enforcement Division



Mandy Meesey, Associate Commissioner
Enforcement

Affidavit

STATE OF FLORIDA §
§
COUNTY OF DUAL §

Before me, the undersigned authority, personally appeared ANN MARIE SMITH, who being by me duly sworn, deposed as follows:

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

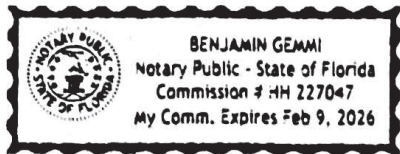
I hold the office of Chief Underwriting Officer and am the authorized representative of Employers Insurance Company of Nevada. I am duly authorized by said organization to execute this statement.

Employers Insurance Company of Nevada 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."

Ann Marie Smith
Affiant

SWORN TO AND SUBSCRIBED before me on OCTOBER 31ST, 2023.

(NOTARY SEAL)



[Handwritten Signature]
Signature of Notary Public

BENJAMIN GEMMI
Printed Name of Notary Public