

No. 2021-6971

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

Date: 08/26/2021

Subject Considered:

ASI Lloyds
1 ASI Way N
Saint Petersburg, Florida 33702-2514

Consent Order
TDI Enforcement File No. 24754

General remarks and official action taken:

This is a consent order with ASI Lloyds (ASI). ASI used claims not paid or payable to assign a premium consequence. ASI has agreed to pay restitution to the affected policyholders and a \$30,000 administrative penalty.

Waiver

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

Findings of Fact

1. ASI is a domestic Lloyds plan that holds a certificate of authority to transact business in Texas.

Use of Claims Not Paid or Payable

2. Effective April 23, 2006, Section 21.1004(c)(2) in Title 28 of the Texas Administrative Code prohibits a rating plan regarding residential insurance from assigning any

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- premium consequence through a premium surcharge or claims free program based on claims occurring on or after September 1, 2005, in whole or in part, due to a claim that is filed but not paid or payable under a residential property policy.
3. During a review of a dwelling fire rate filing made by ASI, the department found that ASI was using claims not paid or payable to increase policyholders' rates at renewal.
 4. ASI assigned a premium consequence to claims not paid or payable through tier placement by using classifications to place policyholders into tiers at policy inception which resulted in a particular rate factor.
 5. When making the tier placement, ASI used claims not paid or payable which occurred prior to policy inception. The exclusion of such claims would have resulted in the policyholder's classification into a different tier.
 6. Once an applicant was classified, the classification was not changed at any subsequent renewal unless the applicant requested to be re-tiered.
 7. ASI represents that from June 24, 2018 through June 24, 2020, 146 policies were affected by a premium consequence based on ASI's use of claims not paid or payable. The estimated overcharges are \$54,119.06.
 8. ASI made underwriting guidelines filing UG-2020-04-012 to address the above referenced violations effective as of April 24, 2020, for new business.
 9. ASI was cooperative and responsive to the department during its investigation.

Conclusions of Law

1. The commissioner has jurisdiction over this matter pursuant to TEX. INS. CODE §§ 82.051 – 82.055, 84.021 – 84.044, 551.102(2), 801.051 – 801.053, and 941.001 – 941.103.
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. ASI 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. ASI violated 28 TEX. ADMIN. CODE § 21.1004 by assigning a premium consequence for claims that were not paid or payable through tier placement by using classifications to place policyholders into tiers at policy inception which resulted in a particular rate factor.
5. Pursuant to TEX. INS. CODE § 82.053, the commissioner is authorized to direct ASI to make complete restitution to each policyholder harmed by the violations.

Order

It is ordered that ASI Lloyds comply with the following:

- a. ASI must identify all dwelling fire policies renewed by ASI with effective dates from June 24, 2018, through June 24, 2020 (the "Review Period").
- b. For each policy in the Review Period, ASI must calculate the Corrected Premium without using claims not paid or payable in its rating. If the premium charged is more than the Corrected Premium, the difference constitutes the "Overcharge."
- c. For each policy in the Review Period, ASI must pay 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 and/or account credit must include both the dollar amount of the Overcharge, plus simple interest due on the Overcharge. The rate of interest shall be a five percent per annum.
- d. ASI must mail restitution checks and/or issue the account credits to Qualifying Policyholders on or before November 1, 2021.
- e. Any restitution checks that are returned to ASI 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

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et. seq. ASI must copy the department on any correspondence pertaining to presumed abandoned funds that is sent to the comptroller.

- f. On or before December 15, 2021, ASI must report the restitution paid to the Qualifying Policyholders by submitting a 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).
- g. ASI must send all submissions under the terms of this order by email to: EnforcementReports@tdi.texas.gov

It is further ordered that ASI Lloyds pay an administrative penalty of \$30,000 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.

Commissioner of Insurance

DocuSigned by:

By: _____
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Doug Slape
Chief Deputy Commissioner
TEX. GOV'T CODE § 601.002
Commissioner's Order No. 2018-5528

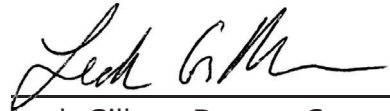
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Recommended and reviewed by:



Leah Gillum, Deputy Commissioner
Enforcement Division



Sarah White, Staff Attorney
Enforcement Division

Affidavit

STATE OF Florida §
 §
COUNTY OF Pinellas §

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

"My name is Kathleen Sundberg. 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 VP / Secretary, and am the authorized representative
of ASI Lloyds. I am duly authorized by said organization to execute this statement.

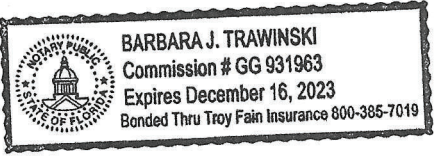
ASI Lloyds has knowingly and voluntarily entered into the foregoing consent order and
agrees with and consents to the issuance and service of the same by the commissioner of
insurance of the state of Texas."



Affiant

SWORN TO AND SUBSCRIBED before me on 8-18, 2021.

(NOTARY SEAL)





Signature of Notary Public

Printed Name of Notary Public