

No. **2022-7380**

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

Date: 07/13/2022

Subject Considered:

Root Insurance Company
80 E Rich St Ste 500
Columbus, Ohio 43215

Consent Order
TDI Enforcement File No. 29519

General remarks and official action taken:

This is a consent order with Root Insurance Company (Root). The department conducted a market conduct examination and found violations of Texas law. Root has agreed to pay an administrative penalty of \$70,000.

Waiver

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

Findings of Fact

Licensure and Background

1. Root is a foreign property and casualty company that was licensed by the department on August 30, 2017.

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2. The department conducted a targeted market conduct examination of Root that covered activity between January 1, 2020, and December 31, 2020, on Root's private passenger automobile line of business.
3. The purpose of the examination was to determine Root'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.

Underwriting and Rating

5. Staff randomly sampled policies Root 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.
6. In 100% (50 of 50) of the new business issued policies staff reviewed, Root failed to provide a clear and conspicuous notice that accurately reflects its privacy policies and practices.
7. In 100% (50 of 50) of the renewal issued policies staff reviewed, Root failed to provide a clear and conspicuous notice to customers that accurately reflects its privacy policies and practices not less than annually during the continuation of the customer relationship.
8. In 100% (50 of 50) of the new business issued policies staff reviewed, Root failed to provide the consumer bill of rights with each new policy.
9. In 1% (1 of 100) of the policies staff reviewed, Root failed to disclose to the applicant for insurance coverage that the applicant's credit report may be used in the underwriting or rating of the applicant's policy.
10. In 2% (2 of 100) of the policies staff reviewed, Root issued an insurance policy without uninsured or underinsured motorist coverage and did not obtain a rejection in writing from the insured prior to issuing the policy.

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11. In 1% (1 of 100) of the policies staff reviewed, Root issued an insurance policy without personal injury protection coverage and did not obtain a rejection in writing from the insured prior to issuing the policy.
12. In 4% (2 of 50) of the policies staff reviewed, Root failed to mail a notice of the cancellation to the insured at least 10 days prior to the date of cancellation.

Claims

13. Staff conducted stratified sampling to include all policy and coverage types for claims Root 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 23% (23 of 100) of the claims staff reviewed, Root failed to notify the insured in writing of the settlement of a claim not later than the 30th day.
15. In 18% (18 of 100) of the claims staff reviewed, Root failed to provide the claimant with the required Notice of Rights Regarding Repair of Motor Vehicle.

Complaints

16. Staff reviewed 50 complaints and four (8%) were confirmed.
17. In 2% (1 of 50) of the complaints staff reviewed, Root failed to pay a claim not later than the fifth business day.
18. In 2% (1 of 50) of the complaints staff reviewed, Root issued an insurance policy without uninsured or underinsured motorist coverage and did not obtain a rejection in writing from the insured prior to issuing the policy.

Subsequent Remedial Action

19. Root has implemented new procedures to ensure proper notice of its privacy policy, the consumer bill of rights, and its use of applicant's credit report in underwriting and rating
20. Root has updated its process for issuing uninsured and underinsured motorist coverage and personal protection coverage to ensure compliance.

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21. Root has updated its process for issuing notices of cancellation and has developed re-training to ensure consistent notification of claims settlements and rights regarding repair of motor vehicle to ensure compliance.

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.*, 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. Root 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. Root violated 28 TEX. ADMIN. CODE § 22.8 by failing to provide an initial notice of its privacy policies and practices on new business policies issued.
5. Root violated 28 TEX. ADMIN. CODE § 22.9 by failing to provide an annual notice of its privacy policies and practices on renewal policies issued.
6. Root violated TEX. INS. CODE § 559.053 by failing to disclose that insurer uses credit report in underwriting and rating of the applicant's policy.
7. Root violated TEX. INS. CODE § 1952.101 by issuing an insurance policy without uninsured or underinsured motorist coverage and did not obtain a rejection in writing from the insured prior to issuing the policy.
8. Root violated TEX. INS. CODE § 1952.152 by issuing an insurance policy without personal injury protection coverage and did not obtain a rejection in writing from the insured prior to issuing the policy.

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9. Root violated TEX. INS. CODE § 551.104(e) by failing to mail a notice of the cancellation to the insured at least ten days prior to the date of cancellation.
10. Root violated TEX. INS. CODE § 542.057 by failing to pay a claim not later than the fifth business day.
11. Root violated 28 TEX. ADMIN. CODE § 5.9970 by failing to provide the consumer of bill of rights to new business policies issued.
12. Root violated TEX. INS. CODE § 542.153(b) by failing to notify named insureds of the settlement of a claim against the named insured in writing, not later than the 30th day after the date the claims were settled.
13. Root violated TEX. INS. CODE § 1952.305 and 28 TEX. ADMIN. CODE § 5.501 by failing to provide claimants, in connection with claims for damage repair, the Notice Regarding Motor Vehicle Repairs.

Order

It is ordered that Root Insurance Company pay an administrative penalty of \$70,000 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:

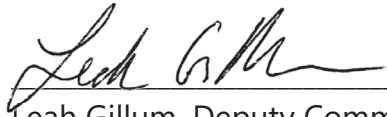
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Cassie Brown
Commissioner of Insurance

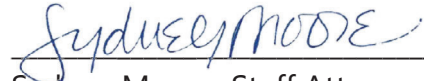
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Recommended and reviewed by:



Leah Gillum, Deputy Commissioner
Fraud and Enforcement Division



Sydney Moore, Staff Attorney
Enforcement

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Affidavit

STATE OF Ohio §

COUNTY OF Franklin §

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

"My name is David Fogarty. 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, Compliance and am the authorized representative of Root Insurance Company. I am duly authorized by said organization to execute this statement.

Root 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."

DocuSigned by:
David Fogarty
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Affiant

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

(NOTARY SEAL)



Olivia Tempel
Signature of Notary Public

Olivia Tempel
Printed Name of Notary Public