

No. **2023-8084**

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

Date: 7/18/2023

Subject Considered:

The Hanover Insurance Company
440 Lincoln Street
Worcester, Massachusetts 01653-0002

Consent Order
TDI Enforcement File No. 26197

General remarks and official action taken:

This is a consent order with The Hanover Insurance Company (Hanover). For five years, Hanover used an inland marine policy form to provide musical instrument coverage to Texans, without filing the form for approval with the Texas Department of Insurance (TDI). Hanover agrees to a run-off of the policies insuring personal risks under the form, to cease and desist from using policy forms which have not been filed and approved by the commissioner, and to pay an administrative penalty of \$30,000.

Waiver

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

Findings of Fact

1. Hanover is a fire and casualty insurance company holding a certificate of authority to transact business in the state of Texas.

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Prior Disciplinary History

2. In Official Order No. 2019-5829, entered on January 3, 2019, the commissioner previously ordered Hanover to pay an administrative penalty of \$20,000 for failing to file and using an unapproved ISO policy form.

Use of Unapproved Forms

3. Starting in 2017, Hanover began to write inland marine policies in Texas which provided coverage for musical instruments, electronic equipment, and musical scores. The coverage has been and continues to be provided on both a personal and commercial basis.
4. Hanover did not file the policy forms with TDI before using them.
5. Between 2017 and 2019, Hanover wrote at least 1,500 personal and commercial policies in Texas.
6. The unfiled forms included a "Certificate Declarations Coverage" page that was referenced in the policy forms as the "certificate of insurance."
7. Hanover represents that coverage was not provided on a group basis, and the "Certificate Declarations Coverage" page was an ordinary declarations page it issued with each individual policy. Hanover further represents that each policy was individually issued with a unique policy number and declarations page, and none of the insureds over the past five years were constrained by or subject to the terms of any master group policy.
8. Effective September 1, 2021, S.B. 1367 (87th R.S.) excepted certain lines of insurance, including commercial inland marine coverage, from form and rate filing requirements under the Insurance Code. The changes in the law made by that Act apply only to policies delivered, issued for delivery, or renewed on or after September 1, 2021, and any policies delivered, issued for delivery, or renewed before September 1, 2021, are governed by the law as it existed before that Act.
9. In August 2022, Hanover represented to TDI it had: stopped writing new business for personal risks with the unfiled forms; was continuing to write new commercial policies with the unfiled forms; and would only renew existing commercial risks.

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10. However, in February 2023, Hanover then informed TDI it had continued to renew and had not yet run off the existing policies that insured personal risks.
11. Hanover represents that it has 70 policies in force using the unfiled forms which insure personal risks, comprised of policies with one and three-year term lengths.

Conclusions of Law

1. The commissioner has jurisdiction over this matter under TEX. INS. CODE §§ 82.051–82.055, 84.021–84.044, and 801.051-801.053.
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. Hanover 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. Hanover violated TEX. INS. CODE § 2301.006 and 28 TEX. ADMIN. CODE § 5.5002(5)(T) by failing to file and using an unapproved form.

Order

The Hanover Insurance Company is ordered to cease and desist from using policy forms which have not been filed and approved by the commissioner, as contemplated in TEX. INS. CODE § 2301.006, unless such forms are statutorily excepted from filing.

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It is further ordered that The Hanover Insurance Company will comply with the following run-off plan regarding all of the inland marine policies written using the unapproved form and which are insuring personal risks, regardless of the term length of each policy (the "Remaining Policyholders"):

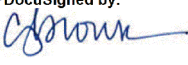
1. On or before the date of this order (the "Notice Date"), Hanover must send all Remaining Policyholders in Texas a uniform notice of cancellation or non-renewal of their policy, as appropriate to the policyholder. All such policies must be canceled or non-renewed no later than 63 days from the Notice Date, allowing at least 60 days' notice to the policyholder, plus three additional days for delivery by mail.
2. For policy terms scheduled to end less than 63 days from the Notice Date, a uniform notice of non-renewal must be sent on or before entry of this order. For policy terms ending more than 63 days from the Notice Date, a uniform notice of cancellation must be sent on or before entry of this order.
3. For any policyholder whose policy will be canceled before the end of its term, Hanover must make pro rata refunds to those policyholders for the difference in premium paid for the term after the cancellation date to the scheduled expiration date of the policy. The pro rata refund must be sent to the policyholder together with the uniform notice of cancellation.
4. A letter of explanation of this run-off plan must also be sent together with the uniform notices of cancellation or non-renewal and the pro rata refund payments. The letter of explanation must be in the form shown in Exhibit A or Exhibit B, as appropriate to the policyholder.
5. Hanover shall immediately cease and desist from any collection efforts related to premium due under the policies providing personal coverage.
6. Not later than 70 days after the entry of this order, Hanover must send the department a report in the form of a sortable electronic spreadsheet, identifying the Remaining Policyholders and providing the following information: the policy number, policyholder's name, address, telephone number, policy effective date, term length, term end date, date the notice of cancellation or non-renewal was mailed, date of cancellation/nonrenewal, and the amount of any pro rata refund sent.

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7. All submissions required under the terms of this order must be sent by email to:
EnforcementReports@tdi.texas.gov.

It is further ordered that The Hanover Insurance Company must 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.

DocuSigned by:

FC5D7EDDFB4F8...
Cassie Brown
Commissioner of Insurance

Recommended and reviewed by:


Leah Gillum, Deputy Commissioner
Fraud and Enforcement Division


Anna Kalapach, Staff Attorney
Enforcement

Affidavit

COMMONWEALTH OF MA §
§
COUNTY OF WORCESTER §

Before me, the undersigned authority, personally appeared Kim M. Brown, who being by me duly sworn, deposed as follows:

"My name is Kim M. Brown. 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 Vice President & Chief Compliance Officer and am the authorized representative of The Hanover Insurance Company. I am duly authorized by said organization to execute this statement.

The Hanover 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."

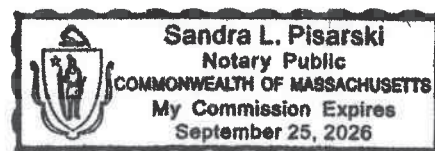
Kim M. Brown
Affiant: Kim M. Brown, VP & Chief Compliance Officer

SWORN TO AND SUBSCRIBED before me on July 10, 2023.

(NOTARY SEAL)

Sandra L. Pisarski
Signature of Notary Public

Sandra L. Pisarski
Printed Name of Notary Public



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Exhibit A

[For use with any policy term ending less than 63 days after the Notice Date]

The Texas Department of Insurance (TDI) determined that The Hanover Insurance Company is using an unapproved policy form to provide personal, or non-commercial, insurance coverage for your musical instrument, electronic equipment, and musical scores. Your inland marine policy with The Hanover Insurance Company will be non-renewed and expire on _____, 2023, at __:___ a.m./p.m.

If you wish to obtain replacement coverage, you should start shopping for that coverage. To find a licensed agent or insurance company visit TDI's website at www.tdi.texas.gov or call TDI's Consumer Helpline at 800-252-3439.

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Exhibit B

[For use with policy term ending more than 63 days after the Notice Date]

The Texas Department of Insurance (TDI) determined that The Hanover Insurance Company is using an unapproved form to provide personal, or non-commercial, insurance coverage for your musical instrument, electronic equipment, and musical scores. Your inland marine policy with The Hanover Insurance Company will be canceled earlier than its expiration date. It will be canceled effective _____, 2023, at __:___ a.m./p.m.

The enclosed refund of \$_____ represents a pro rata refund of the premium you paid for the remainder of your policy's term after the above cancellation date.

If you wish to obtain replacement coverage, you should start shopping for that coverage. To find a licensed agent or insurance company, visit TDI's website at www.tdi.texas.gov or call TDI's Consumer Helpline at 800-252-3439.