

No. **2024-8620**

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

Date: 4/25/2024

Subject Considered:

Homesite Insurance Company
1 Federal St Ste 400
Boston, MA 02110-2003

Consent Order
TDI Enforcement File No. 33217

General remarks and official action taken:

This is a consent order with Homesite Insurance Company (Homesite). The Texas Department of Insurance (TDI) conducted a market conduct examination and found violations of Texas insurance laws. Homesite has agreed to an administrative penalty of \$90,000.

Waiver

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

Findings of Fact

1. Homesite is a foreign property and casualty company holding a certificate of authority to transact business in the state of Texas.
2. TDI conducted a targeted market conduct examination that covered activity between January 1, 2021, and December 31, 2021, on Homesite's homeowners line of business.

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

Agreements with Non-Affiliates

5. Effective January 1, 2020, Homesite entered into a managing general agent (MGA) agreement with Aegis General Insurance Agency, Inc (Aegis).
6. Under the terms of the MGA agreement, Aegis was allowed to appoint agents, underwrite policies, issue policies, and process cancellations and non-renewals.
7. Aegis acted as an MGA for Homesite without having an MGA license.
8. Homesite's MGA agreement with Aegis failed to include several provisions required by the Texas Administrative Code, including:
 - a. failing to state that all amendments and changes to the MGA contract must be in writing and specify the effective date;
 - b. failing to state that the insurer must keep the account on file for at least three years and must make the account available to the commissioner for review;
 - c. failing to state whether the MGA may terminate the appointment of agents;
 - d. failing to state that the MGA is prohibited from ceding reinsurance on behalf of the insurer to a company that would not qualify for reinsurance credit;
 - e. failing to provide that the MGA shall not be required to return, as commission or return commission, monies greater than the total commission paid or otherwise payable to the MGA;
 - f. failing to specify that the separate records of business for each insurer must be maintained for at least five years or until the completion of a financial examination by the insurance department of the state in which the insurer is domiciled, whichever is longer;

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- g. failing to specify the frequency that Homesite will conduct an examination of the MGAs it does business with;
- h. failing to specify that the examination of MGAs must be made available to the commissioner for review and must remain on file with the insurer for at least three years;
- i. failing to specify that required examinations of MGAs must adequately provide the commissioner with, at minimum, timeliness of premium reporting and collection, compliance with underwriting guidelines, and reconciliation of policy inventory;
- j. failing to state that the MGA must notify the insurer in writing within 30 days if there is a change in ownership of 10% or more of the outstanding stock of the MGA, any principal officer of the MGA, or any director of the MGA; and
- k. failing to state that the insurer retains final authority over disputes concerning claims settlement and setting of loss reserves.

Underwriting and Rating

- 9. TDI staff randomly sampled policies Homesite issued in 2021 to determine the 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.
- 10. Homesite utilized the Texas standard policy forms and endorsements as authorized by TEX. INS. CODE § 2301.008, and its own policy forms and endorsements as authorized under TEX. INS. CODE § 2301.006(a). The following errors were found:
 - a. Homesite did not provide the correct section of the Texas Insurance Code in its Credit Disclosure form; and
 - b. Homesite did not provide the correct contact information for TDI in its Consumer Bill of Rights form.

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11. TDI staff reviewed a sample of Homesite's issued policies to determine the accuracy of underwriting and rating as filed with TDI under TEX. INS. CODE § 38.002, 2251.101; and 28 TEX. ADMIN. CODE §§ 5.9332-5.9342.
12. Homesite did not initially file its rating algorithm with TDI, however the rating algorithm was later filed in November 2023. There was no premium or rate impact due to this violation.

Claims

13. TDI staff conducted a stratified sampling to include all policy and coverage types for claims Homesite processed in 2021 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 4% (4 of 100) of the claim payments reviewed, Homesite used adjusters that were not properly licensed.
15. In 2% (2 of 100) of the claim payments reviewed, Homesite failed to send written notice to the insured of offers to settle claims against the insured's policy.
16. In 11% (11 of 100) of the claim payments reviewed, Homesite failed to send written notice to the insured of claims settled against the insured's policy.
17. In 4% (2 of 50) of the claims closed without payment reviewed, Homesite used an adjuster who was not properly licensed.

Complaints

18. TDI staff sampled complaints Homesite received in 2021 to determine compliance with TEX. INS. CODE §§ 38.001 and 542.005; 28 TEX. ADMIN. CODE §§ 21.203(6), 21.2501-21.2507; and other applicable Texas statutes and rules.
19. TDI staff reviewed 39 complaints and five (13%) were considered confirmed.
20. Homesite's complaint record failed to include the following:
 - a. complaint identification information;

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- b. function code categories;
 - c. line types; and
 - d. disposition after receipt.
21. Homesite added the missing items to their complaint record during the examination.
22. In 5% (2 of 39) of the complaints reviewed, Homesite accepted claims in writing later than the 15th business day after receiving the items needed to secure final proof of loss.

Subsequent Remedial Action

23. On September 20, 2023, Homesite accepted the final market conduct examination report.
24. Homesite represents that Aegis is now properly licensed as an MGA. Homesite is in the process of revising its MGA agreement and policy forms to meet the requirements of Texas insurance laws. Finally, Homesite represents that it will conduct internal trainings to inform employees of the requirements of Texas insurance laws.

Conclusions of Law

1. The commissioner has jurisdiction over this matter under TEX. INS. CODE §§ 82.051–82.055, 84.021–84.044, and chapters 751, 861, and 982.
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. Homesite has knowingly and voluntarily waived all procedural rights to which it may have been entitled to 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.

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4. Homesite violated TEX. INS. CODE § 4053.051 by utilizing an MGA that did not have an MGA license.
5. Homesite violated 28 TEX. ADMIN. CODE § 19.1204(b)(1) because its MGA agreement failed to state that all amendments and changes to the MGA contract must be in writing and specify the effective date.
6. Homesite violated 28 TEX. ADMIN. CODE § 19.1204(b)(5) because its MGA agreement failed to state that the insurer must keep the account on file for at least three years and must make the account available to the commissioner for review.
7. Homesite violated 28 TEX. ADMIN. CODE § 19.1204(b)(6) because its MGA agreement failed to state whether the MGA may terminate the appointment of agents.
8. Homesite violated 28 TEX. ADMIN. CODE § 19.1204(b)(11) because its MGA agreement failed to state that the MGA is prohibited from ceding reinsurance on behalf of the insurer to a company that would not qualify for reinsurance credit.
9. Homesite violated 28 TEX. ADMIN. CODE § 19.1204(b)(12) because its MGA agreement failed to provide that the MGA shall not be required to return, as commission or return commission, monies greater than the total commission paid or otherwise payable to the MGA.
10. Homesite violated 28 TEX. ADMIN. CODE § 19.1204(b)(16) because its MGA agreement failed to specify that the separate records of business for each insurer must be maintained for at least five years or until the completion of a financial examination by the insurance department of the state in which the insurer is domiciled, whichever is longer.
11. Homesite's MGA agreement failed to specify the frequency that Homesite will conduct examinations of MGAs it does business with, in violation of 28 TEX. ADMIN. CODE § 19.1204(b)(19).
12. Homesite violated 28 TEX. ADMIN. CODE § 19.1204(b)(20) because its MGA agreement failed to specify that the examination of MGAs must be made available to the commissioner for review and must remain on file with the insurer for at least three years.

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13. Homesite violated 28 TEX. ADMIN. CODE § 19.1204(b)(20)(C-E) because its MGA agreement failed to specify that required examination of MGAs must adequately provide the commissioner with, at minimum, timeliness of premium reporting and collection, compliance with underwriting guidelines, and reconciliation of policy inventory.
14. Homesite violated 28 TEX. ADMIN. CODE § 19.1204(b)(21)(A-C) because its MGA agreement failed to state that the MGA must notify the insurer in writing within 30 days if there is a change in ownership of 10% or more of the outstanding stock of the MGA, any principal officer of the MGA, or any director of the MGA.
15. Homesite violated 28 TEX. ADMIN. CODE § 19.1204(b)(24) because its MGA agreement failed to state that the insurer retains final authority over disputes concerning claims settlement and setting of loss reserves.
16. Homesite's Credit Disclosure form references the wrong section of the Texas Insurance Code, in violation of 28 TEX. ADMIN. CODE § 5.9940.
17. Homesite's Consumer Bill of Rights form did not provide the correct contact information for TDI, in violation of 28 TEX. ADMIN. CODE § 5.9971.
18. Homesite failed to file its rating algorithm or premium determination steps and other required information, in violation of TEX. INS. CODE § 2251.101 and 28 TEX. ADMIN. CODE §§ 5.9333 and 5.9334.
19. Homesite violated TEX. INS. CODE § 4101.051 by using adjusters that were not properly licensed.
20. Homesite violated TEX. INS. CODE § 542.153(a) by failing to send written notice to an insured of offers to settle claims against the insured's policy.
21. Homesite violated TEX. INS. CODE § 542.153(b) by failing to send written notice to an insured of claims settled against the insured's policy.
22. Homesite violated 28 TEX. ADMIN. CODE § 21.2504(b) because its complaint record did not include required complaint identification information.
23. Homesite violated 28 TEX. ADMIN. CODE § 21.2504(c) because its complaint record did not include function code categories.

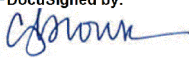
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24. Homesite violated 28 TEX. ADMIN. CODE § 21.2504(d) because its complaint record did not include line types.
25. Homesite violated 28 TEX. ADMIN. CODE § 21.2504(e) because its complaint record did not include company disposition after receipt.
26. Homesite violated TEX. INS. CODE § 542.056(a) by accepting claims in writing later than the 15th business day after receiving the items needed to secure final proof of loss.

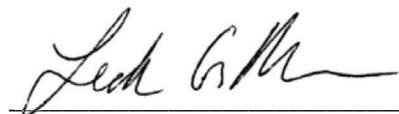
Order

It is ordered that Homesite Insurance Company pay an administrative penalty of \$90,000 within 30 days from the date of this order. The administrative penalty must be paid as instructed in the invoice, which TDI 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

/s/ Erik Huhn

Erik Huhn, Staff Attorney
Enforcement

Affidavit

STATE OF Massachusetts §

§

COUNTY OF Suffolk §

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

"My name is Michael Lorion. 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 President and am the authorized representative of Homesite Insurance Company. I am duly authorized by said organization to execute this statement.

Homesite 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."

Michael D. Lorion
Affiant

SWORN TO AND SUBSCRIBED before me on April 10, 2024.

(NOTARY SEAL)



Lauren J. Pacheco
Signature of Notary Public

Lauren J. Pacheco
Printed Name of Notary Public