

No. 2018- 5506

**OFFICIAL ORDER  
of the  
TEXAS COMMISSIONER OF INSURANCE**

Date: MAY 23 2018

**Subject Considered:**

STATE AUTO PROPERTY & CASUALTY INSURANCE COMPANY  
1300 Woodland Avenue  
West Des Moines, Iowa 50265

**CONSENT ORDER**  
TDI ENFORCEMENT FILE NO. 14746

**General remarks and official action taken:**

The commissioner of insurance considers whether disciplinary action should be taken against State Auto Property & Casualty Insurance Company (State Auto).

**WAIVER**

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

**FINDINGS OF FACT**

1. State Auto is a foreign property and casualty company holding a certificate of authority to transact business in Texas.
2. The Texas Department of Insurance conducted a market conduct examination for the period of January 1, 2015, through December 31, 2015. The examination reviewed the sales, advertising and marketing, underwriting and rating, claims practices, and consumer complaints/inquiries of State Auto's private passenger automobile business.
3. The purpose of the examination was to verify compliance with the Texas Insurance Code, Title 28 of the Texas Administrative Code, and the Texas Automobile Rules and Rating Manual.
4. During the exam, the department found violations of the Texas Insurance Code and Texas Administrative Code in the sample of policies and claims reviewed.

**Sales, Advertising, and Marketing Review**

5. State Auto issued several policies that were sold by unlicensed or unappointed agents.

**Underwriting and Rating Practices Review**

6. The examination reviewed State Auto's issued policies 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, and compliance with Texas law.
7. State Auto failed to receive several written rejections for Uninsured or Underinsured Motorist coverage and Personal Injury Protection coverage.

**Claims Practices**

8. The examination reviewed State Auto's claim files for compliance with policy provisions, timeliness and accuracy of payments, supporting documentation, general claim handling, and legal compliance. Sampled claims included pending claims, paid claims, denied claims, and claims closed without payment.
9. A review of claims found that State Auto:
  - failed to timely notify a claimant in writing of the acceptance or rejection of a claim;
  - failed to adopt and implement reasonable standards for the prompt investigation of claims;
  - allowed a person to represent himself as an adjuster in this state without holding the appropriate license;
  - failed to send claimants the required Notice of Rights Regarding Repair of Motor Vehicle;
  - failed to timely notify the insured of a settlement offer and a settlement in writing;
  - did not attempt in good faith to effect a prompt, fair, and equitable settlement for a claim submitted in which liability had become reasonably clear; and
  - failed to timely pay claims.
10. On February 16, 2017 and April 12, 2017, State Auto paid interest in accordance with TEX. INS. CODE § 542.060(a) for the three claims State Auto failed to timely pay.

**Consumer Complaints/Inquiries**

11. The examination reviewed State Auto's complaint files for legal compliance. State Auto received a total of 21 complaints during the timeframe of the examination. All 21 complaints were reviewed, and seven (33 percent) were considered confirmed.

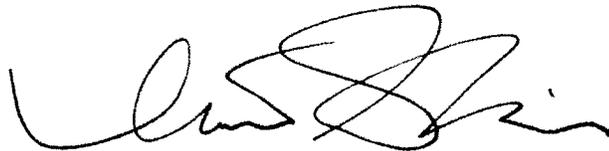
12. A review of the complaints revealed State Auto failed to send the claimant the required Notice of Rights of Repair Motor Vehicle, and failed to notify the insured of a settlement offer and settlement in writing.

### CONCLUSIONS OF LAW

1. The commissioner of insurance has jurisdiction over this matter pursuant to TEX. INS. CODE chs. 751, 861, 862, and 982; TEX. INS. CODE §§ 82.051-82.055 and 84.021-84.051; and TEX. GOV'T CODE §§ 2001.051-2001.178.
2. The commissioner of insurance has authority to informally dispose of this matter under TEX. GOV'T CODE § 2001.056; TEX. INS. CODE §§36.104 and 82.055; and 28 TEX. ADMIN. CODE § 1.47.
3. State Auto 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. State Auto violated TEX. INS. CODE § 4001.101(a) by having an agent issue one policy when the agent was not licensed by the Department.
5. State Auto violated TEX. INS. CODE § 4001.201 by issuing three policies when the agent was not appointed to act as an agent for the company.
6. State Auto violated TEX. INS. CODE § 1952.101(c) by failing to receive the written rejection for Uninsured or Underinsured Motorist coverage in two instances.
7. State Auto violated TEX. INS. CODE § 1952.152(b) by failing to receive the written rejection for Personal Injury Protection in seven instances.
8. State Auto violated TEX. INS. CODE § 542.057(a) by failing to pay the claim not later than the fifth business day after the insurer notified the claimant that the insurer would pay the claim in three instances.
9. State Auto violated TEX. INS. CODE § 542.153(a) by failing to notify the insured of the offer in writing not later than the 10th day after the date an initial offer to settle a claim against a named insured under a casualty insurance policy issued to the insured was made in 19 instances.
10. State Auto violated TEX. INS. CODE § 542.153(b) by failing to notify the insured of the settlement in writing not later than the 30th day after the date a claim against the named insured under a casualty insurance policy issued to the insured was settled in 31 instances.

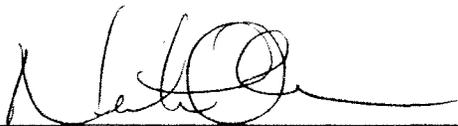
11. State Auto violated TEX. INS. CODE § 1952.305 and 28 TEX. ADMIN. CODE § 5.501 by failing to send claimants the required Notice of Rights Regarding Repair of Motor Vehicle in five instances.
12. State Auto violated TEX. INS. CODE § 4101.051 by allowing a person to act or represent that the person was an adjuster in this state without the person holding a license in this state in one instance.
13. State Auto violated TEX. INS. CODE § 542.056(a) by failing to notify a claimant in writing of the acceptance or rejection of a claim not later than the 15th business day after the date the insurer received all items, statements, and forms required by the insurer to secure final proof of loss in three instances.
14. State Auto violated TEX. INS. CODE § 542.003(b)(3) by failing to adopt and implement reasonable standards for the prompt investigations of claims arising under the insurer's policies in two instances.
15. State Auto violated TEX. INS. CODE § 542.003(b)(4) by failing to attempt in good faith to effect a prompt, fair, and equitable settlement for a claim submitted in which liability had become reasonably clear in one instance.

It is ordered that State Auto pay an administrative penalty of \$80,000 within 30 days of the date of this order. The administrative penalty must be paid by cashier's check or money order made payable to the "State of Texas." Mail the administrative penalty to the Texas Department of Insurance, Attn: Enforcement Section, Division 60851, MC 9999, P.O. Box 149104, Austin, Texas 78714-9104.



Kent C. Sullivan  
Commissioner of Insurance

APPROVED AS TO FORM AND CONTENT:



Natalie Olvera  
Staff Attorney, Enforcement Section  
Texas Department of Insurance

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COMMISSIONER'S ORDER  
State Auto Property & Casualty Insurance Company  
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Affidavit

THE STATE OF OHIO §  
COUNTY OF FRANKLIN §  
§

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

"My name is Paul Stachura 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 SVP, Chief Care Officer and am the authorized representative of State Auto Property & Casualty Insurance Company. I am duly authorized by the organization to execute this statement.

State Auto Property & Casualty 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."

Paul Stachura  
Affiant

SWORN TO AND SUBSCRIBED before me on March 8, 2018.

(NOTARY STAMP)



Kimberly A. Allmon  
Signature of Notary Public

KIMBERLY A. ALLMON  
Notary Public, State of Ohio  
My Commission Expires 09-22-2022