

No. **4174**

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

Date: NOV 04 2015

Subjects Considered:

CYPRESS TEXAS LLOYDS
13901 Sutton Park Drive South, Suite 310
Jacksonville, Florida 32224

CONSENT ORDER
TDI ENFORCEMENT FILE NO. 10161

General remarks and official action taken:

The commissioner of insurance considers whether disciplinary action should be taken against Cypress Texas Lloyds.

WAIVER

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

FINDINGS OF FACT

1. Cypress Texas Lloyds is a domestic Lloyds' plan currently holding a certificate of authority to transact business in Texas. Cypress Texas Management, Inc. is the attorney-in-fact for Cypress Texas Lloyds.
2. In June 2009, the department received a rating plan for homeowners insurance from Cypress Texas Lloyds that included an increase in the policy fee from \$60 to \$80. The filing's link number is 102877.
3. Cypress Texas Lloyds did not make a similar rate filing to increase the policy fee for its dwelling fire policies. However, due to a programming error, Cypress Texas Lloyds charged an increased policy fee for dwelling fire policies from June 2009 to August 2015.
4. The overcharges occurred from June 15, 2009, through July 1, 2015, for new business and from July 9, 2009, through August 15, 2015, for renewal business.

5. Cypress Texas Lloyds self-reported the overcharges to the department in October 2015. Cypress Texas Lloyds estimates 20,685 policyholders were affected.

CONCLUSIONS OF LAW

1. The commissioner has jurisdiction over this matter pursuant to TEX. INS. CODE §§ 82.051 – 82.055, 84.021– 84.044, 801.052-801.053, and 941.001-941.054.
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. Cypress Texas Lloyds 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. Cypress Texas Lloyds violated TEX. INS. CODE § 2251.101 by using an unfiled rate from June 15, 2009, through August 15, 2015.

The commissioner orders Cypress Texas Lloyds to comply with the following:

- a. Cypress Texas Lloyds must pay restitution in the form of a company check to each policyholder identified as having an overcharge (the "Qualifying Policyholders"). The restitution check must include both the dollar amount of the overcharge, plus simple interest due on the overcharge. The rate of interest shall be 5% per annum.
- b. Cypress Texas Lloyds must mail the restitution checks to the Qualifying Policyholders with the notice attached as Exhibit A, on or before November 22, 2015.
- c. Any restitution checks that are returned to Cypress Texas Lloyds 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 prior to one year after the date of the issuance of the check will be presumed abandoned and delivered to the comptroller pursuant to the procedures set forth in TEX. PROP. CODE §§ 72.001 *et. seq.* Cypress Texas Lloyds must copy the department on any correspondence pertaining to abandoned funds that is sent to the comptroller.
- d. On or before January 1, 2016, Cypress Texas Lloyds must report the restitution paid to the Qualifying Policyholders by submitting a complete and sortable electronic spreadsheet to the department. The spreadsheet must contain the following information:

4174

COMMISSIONER'S ORDER

Cypress Texas Lloyds

Page 3 of 6

- 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. date(s) of mailing of restitution check;
 - ix. the total sum of all overcharges;
 - x. the total sum of all simple interest; and,
 - xi. the total sum of all restitution paid (total overcharges plus the total of the simple interest) .
- e. Cypress Texas Lloyds must send all submissions required under the terms of this order by email to: mandy.meesey@tdi.texas.gov, and catherine.bell@tdi.texas.gov, or their successors.



David C. Mattax
Commissioner of Insurance

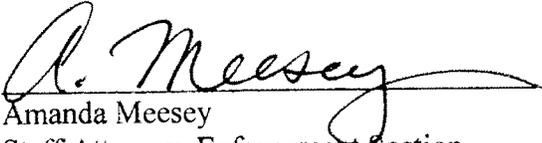
4174

COMMISSIONER'S ORDER

Cypress Texas Lloyds

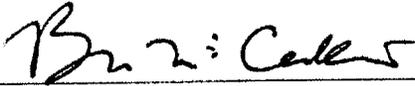
Page 4 of 6

APPROVED AS TO FORM AND CONTENT:



Amanda Meesey
Staff Attorney, Enforcement Section
Texas Department of Insurance

COUNSEL FOR RESPONDENT:



Bruce McCandless III
Mitchell, Williams, Selig, Gates & Woodyard, PLLC

4174

COMMISSIONER'S ORDER

Cypress Texas Lloyds

Page 5 of 6

AFFIDAVIT

STATE OF FLORIDA §

§

COUNTY OF DUVAL §

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

“My name is Enda McDonnell. 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, Cypress Texas Management, Inc., and am the authorized representative of Cypress Texas Lloyds. I am duly authorized by said organization to execute this statement.

Cypress Texas 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.”

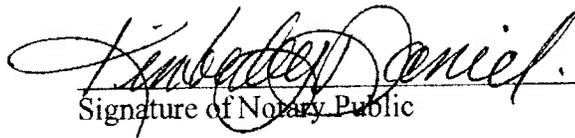

Affiant

SWORN TO AND SUBSCRIBED before me on October 29, 2015.

(NOTARY SEAL)



KIMBERLEY DANIEL
NOTARY PUBLIC
STATE OF FLORIDA
Comm# EE218277
Expires 7/22/2016


Signature of Notary Public

4174

COMMISSIONER'S ORDER
Cypress Texas Lloyds
Page 6 of 6

EXHIBIT A

Dear _____:

We recently determined that the policy fee charged on the dwelling fire insurance policy you bought from us for the period(s) from _____ to _____ was more than required.

We are enclosing a refund of the excess policy fee for the entire period, including simple interest calculated at the rate of 5% per annum.

We regret this oversight and appreciate your business. If you have any questions, please call us at 1-866-805-5800.

Sincerely,

Cypress Texas Lloyds