

No. 4639

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

**Date:** AUG 30 2016

**Subjects Considered:**

OLD AMERICAN COUNTY MUTUAL FIRE INSURANCE COMPANY  
PO Box 793747  
Dallas, Texas 75379

AUTOTEX MGA, INC.  
7920 Belt Line Road, Suite 800  
Dallas, Texas 75254

**CONSENT ORDER**  
TDI ENFORCEMENT FILE NOS. 10976 and 11085

**General remarks and official action taken:**

The commissioner of insurance considers whether disciplinary action should be taken against Old American County Mutual Fire Insurance Company and AutoTex MGA, Inc.

**WAIVER**

Old American County Mutual Fire Insurance Company and AutoTex MGA, Inc. acknowledge that the Texas Insurance Code and other applicable law provide certain rights. Old American County Mutual Fire Insurance Company and AutoTex MGA, Inc. waive all of these rights, and any other applicable procedural rights, in consideration of the entry of this consent order.

**FINDINGS OF FACT**

1. Old American County Mutual Fire Insurance Company (OACM) is a county mutual insurance company holding a certificate of authority to transact business in Texas.
2. AutoTex MGA, Inc. holds a managing general agent license.
3. OACM has a managing general agent agreement with AutoTex MGA, Inc.
4. On December 31, 2013, OACM, on behalf of AutoTex, made a rate filing with TDI (SERFF OAMF-129357799; TDI Filing 131980) with an effective date of January 1, 2014 for both new and renewal business. The filing included two tables related to

symbol relativity factors by coverage and model-year factors that were not used by AutoTex and/or OACM to rate policyholders beginning on January 1, 2014.

5. On April 8, 2015, OACM, on behalf of AutoTex, made a rate filing with TDI (SERFF OAMF-130021517; TDI Filing S19541) with an effective date of April 9, 2015 for new business and May 19, 2015 for renewal business. The filing was intended, in part, to update their December 2013 filed rate manual to accurately describe how policyholders were being rated.
6. From January 1, 2014 through May 19, 2015, OACM and AutoTex charged policyholders rates not on file with TDI.
7. OACM and AutoTex estimate approximately 16,000 policyholders were affected.

## CONCLUSIONS OF LAW

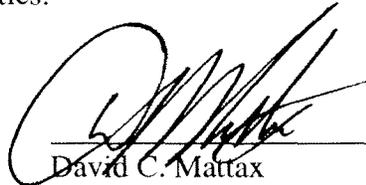
1. The commissioner has jurisdiction over this matter pursuant to TEX. INS. CODE §§ 82.051 – 82.055, 84.021– 84.044, 912.001-912.804, 4053.001-4053.152.
2. The commissioner has the authority to informally dispose of this matter as set forth in TEX. GOV'T CODE § 2001.056; TEX. INS. CODE §§ 36.104 and 82.055; and 28 TEX. ADMIN. CODE § 1.47.
3. OACM and AutoTex have 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. OACM and AutoTex violated TEX. INS. CODE § 2251.101 by using an unfiled rate from January 1, 2014 through May 19, 2015.

The commissioner orders OACM and AutoTex to comply with the following:

- a. OACM and AutoTex must pay restitution in the form of a credit or company check to each policyholder identified as having an overcharge (the "Qualifying Policyholders"). The restitution 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. OACM and AutoTex must apply all credits and mail all restitution checks to the Qualifying Policyholders, on or before October 15, 2016.

- c. Any restitution checks that are returned to OACM or AutoTex 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.* OACM and AutoTex must copy the department on any correspondence pertaining to abandoned funds that is sent to the comptroller.
- d. On or before January 31, 2017, OACM and AutoTex 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:
  - 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 or application of credit;
  - 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. OACM and AutoTex must send all submissions required under the terms of this order by email to: [mandy.meeseey@tdi.texas.gov](mailto:mandy.meeseey@tdi.texas.gov), and [catherine.bell@tdi.texas.gov](mailto:catherine.bell@tdi.texas.gov), or their successors.

This consent order pertains solely to the resolution of the department's allegations with respect to OACM and AutoTex's use of an unfiled rate as specifically outlined in Finding of Fact Nos. 4-7. This consent order does not address or impact other department actions, proceedings, examinations, investigations, or duties.



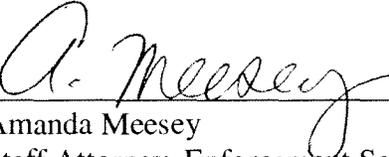
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David C. Mattax  
Commissioner of Insurance

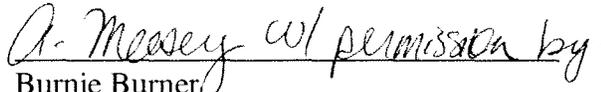
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COMMISSIONER'S ORDER  
Old American County Mutual Fire Insurance Company  
AutoTex MGA, Inc.  
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APPROVED AS TO FORM AND CONTENT:

  
\_\_\_\_\_  
Amanda Meesey  
Staff Attorney, Enforcement Section  
Texas Department of Insurance

COUNSEL FOR RESPONDENTS:

  
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