

No. 2018 - 5396

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

Date: FEB 07 2018

**Subjects Considered:**

OLD AMERICAN COUNTY MUTUAL FIRE INSURANCE COMPANY  
17304 Preston Road, Suite 1100  
Dallas, TX 75252

ACCC GENERAL AGENCY, INC.  
390 Benmar Drive  
Houston, TX 77060

**CONSENT ORDER**  
TDI ENFORCEMENT FILE NOS. 12128 & 15030

**General remarks and official action taken:**

The subject of this order is whether disciplinary action should be taken against Old American County Mutual Fire Insurance Company and ACCC General Agency, Inc.

**WAIVER**

Old American County Mutual Fire Insurance Company and ACCC General Agency, Inc. acknowledge that the Texas Insurance Code and other applicable law provide certain rights. Old American County Mutual Fire Insurance Company and ACCC General Agency, 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 is a domestic county mutual insurance company holding a certificate of authority to transact business in Texas.
2. ACCC General Agency, Inc. holds managing general agent license number 10797.
3. ACCC General Agency, Inc. is appointed by Old American County Mutual Fire Insurance Company to act as a managing general agent.
4. Pursuant to TEX. INS. CODE § 2251.101, each insurer shall file with the commissioner all rates, applicable rating manuals, supplementary rating information, and additional

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information as required by the commissioner. An insurer may use a rate filed on and after the date the rate is filed.

5. On June 17, 2016, Old American County Mutual Fire Insurance Company, on behalf of ACCC General Agency, Inc., made a rate filing with TDI (SERFF OACM-130619352; TDI Filing S625598) with an effective date of May 15, 2016 for new business and an effective date of June 15, 2016 for renewal business for its personal automobile line of insurance.
6. At the time of the June 2016 filing, Old American County Mutual Fire Insurance Company and ACCC General Agency, Inc. represented to TDI that a systems error on their end caused the failure to timely file the rate filing.
7. From May 15, 2016 through June 16, 2016, Old American County Mutual Fire Insurance Company and ACCC General Agency, Inc. charged policyholders rates different from those on file with TDI.

### 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, 912.001-912.804, and 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. Old American County Mutual Fire Insurance Company and ACCC General Agency, Inc. have knowingly and voluntarily waived all procedural rights to which they 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. Old American County Mutual Fire Insurance Company and ACCC General Agency, Inc. violated TEX. INS. CODE § 2251.101 by using a rate not on file with the department.

Old American County Mutual Fire Insurance Company and ACCC General Agency, Inc. are ordered to comply with the following:

- a. Not later than 60 days from the date of this order, Old American County Mutual Fire Insurance Company and ACCC General Agency, Inc. must identify all personal automobile insurance policies issued by them in Texas with effective dates from May 15, 2016 through June 16, 2016 that were charged a rate different than that on file with TDI (the "Review Period").

- b. For each policy in the Review Period, Old American County Mutual Fire Insurance Company and ACCC General Agency, Inc. must calculate the correct premium using the rate on file with TDI (the "Corrected Premium").
- c. For each policy in the Review Period, Old American County Mutual Fire Insurance Company and ACCC General Agency, Inc. must calculate and determine whether the dollar amount of the premium charged for each policy is less than or more than the Corrected Premium. If the premium charged is more than the Corrected Premium, the difference constitutes the Overcharge.
- d. Old American County Mutual Fire Insurance Company and ACCC General Agency, Inc. must pay restitution in the form of a company check or account credit to each current and former policyholder identified in the Review Period as having an Overcharge (the "Qualifying Policyholders"). The restitution check and/or account credit must include both the dollar amount of the overcharge, plus simple interest due on the overcharge. The rate of interest shall be 5 percent per annum.
- e. Old American County Mutual Fire Insurance Company and ACCC General Agency, Inc. must mail the restitution checks and/or issue the account credits to the Qualifying Policyholders not later than 90 days from the date of this order.
- f. Any restitution checks that are returned to Old American County Mutual Fire Insurance Company and ACCC General Agency, Inc. 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 must be delivered to the comptroller pursuant to the procedures set forth in TEX. PROP. CODE §§ 72.001 *et. seq.* Old American County Mutual Fire Insurance Company and ACCC General Agency, Inc. must copy the department on any correspondence pertaining to abandoned funds that is sent to the comptroller.
- g. On or before 120 days from the date of this order, Old American County Mutual Fire Insurance Company and ACCC General Agency, Inc. 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. amount of Overcharge and interest;
  - ix. date(s) of mailing of restitution check or credits;

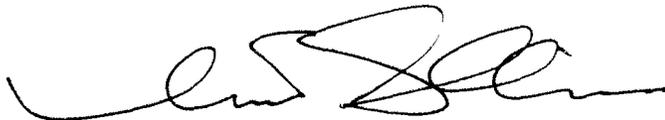
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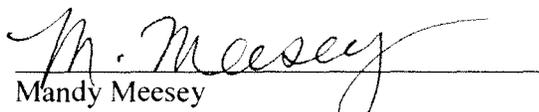
- x. the total sum of all Overcharges;
  - xi. the total sum of all simple interest; and,
  - xii. the total sum of all restitution paid (total Overcharges plus the total of the simple interest).
- h. Old American County Mutual Fire Insurance Company and ACCC General Agency, Inc. must send all submissions 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.



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Kent C. Sullivan  
Commissioner of Insurance

APPROVED AS TO FORM AND CONTENT:



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Mandy Meeseey  
Director, Enforcement Section  
Texas Department of Insurance



ACCC General Agency, Inc.

AFFIDAVIT

STATE OF TEXAS §

COUNTY OF HARRIS §

Before me, the undersigned authority, personally appeared DONALD S. BRILL, who being by me duly sworn, deposed as follows:

"My name is DONALD S. BRILL. 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 ACCC General Agency, Inc. I am duly authorized by said organization to execute this statement.

ACCC General Agency, Inc. has knowingly and voluntarily entered into the foregoing consent order and consents to the issuance and service of the same by the commissioner of insurance of the state of Texas."

[Handwritten Signature]  
Affiant

SWORN TO AND SUBSCRIBED before me on January 9, 2018.

(NOTARY SEAL)

[Handwritten Signature]  
Signature of Notary Public

