

No. 2018-5508

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

Date: MAY 23 2018

Subjects Considered:

DIAMOND STATE INSURANCE COMPANY
3 Bala Plz E, Suite 300
Bala Cynwyd, Pennsylvania 19004-3406

CONSENT ORDER
TDI ENFORCEMENT FILE NO. 15395

General remarks and official action taken:

The subject of this order is where disciplinary action should be taken against Diamond State Insurance Company (Diamond State).

WAIVER

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

FINDINGS OF FACT

1. Diamond State is a foreign fire and casualty insurance company holding a certificate of authority to transact business in Texas.
2. Diamond State notified the department that it had charged various fees not filed with the department in rating commercial farm and ranch owners' policies. Specifically, Diamond State charged policy fees, installment fees, and return check fees but failed to make the required filing with the department.
3. The rating error occurred from June 1, 2016 through February 23, 2018, and affected at least 1,196 policies.

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 2251.101.

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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. Diamond State 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. Diamond State violated TEX. INS. CODE § 2251.101 by using a rate not on file with the department.
5. Pursuant to TEX. INS. CODE § 82.053, the commissioner is authorized to direct Diamond State to make complete restitution to each policyholder harmed by the violations.

Diamond State is ordered to comply with the following:

- a. Diamond State must identify all commercial farm and ranch owners' policies issued by it in Texas with effective dates from June 1, 2016 through February 23, 2018 (the "Review Period").
- b. For each policy in the Review Period, Diamond State must calculate and determine whether the dollar amount of fees charged for each policy that were not on file with the department at the time of the charge. The amount constitutes the Overcharge.
- c. Diamond State must pay restitution in the form of a company check or account credit to each 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 five percent per annum.
- d. Diamond State must mail the restitution checks and/or issue the account credits to the Qualifying Policyholders on or before August 1, 2018.
- e. Any restitution checks that are returned to Diamond State 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.* Diamond State must copy the department on any correspondence pertaining to abandoned funds that is sent to the comptroller.
- f. On or before October 1, 2018, Diamond State must report the restitution paid to the Qualifying Policyholders by submitting a complete and sortable electronic

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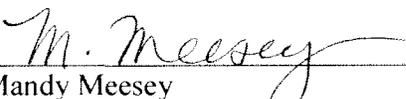
spreadsheet to the department. The spreadsheet must contain the following information:

- 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;
 - 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).
- g. Diamond State must send all submissions required under the terms of this order by email to: mandy.meeseey@tdi.texas.gov, and catherine.bell@tdi.texas.gov, or their successors.



Kent C. Sullivan
Commissioner of Insurance

APPROVED AS TO FORM AND CONTENT:


Mandy Meeseey
Director, Enforcement Section
Texas Department of Insurance

