

No. 2018- 5509

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

Date: MAY 23 2018

Subjects Considered:

ROCKWOOD CASUALTY INSURANCE COMPANY
654 Main Street
Rockwood, Pennsylvania 15557

CONSENT ORDER
TDI ENFORCEMENT FILE NO. 15821

General remarks and official action taken:

The subject of this order is whether disciplinary action should be taken against Rockwood Casualty Insurance Company (Rockwood).

WAIVER

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

FINDINGS OF FACT

1. Rockwood is a foreign fire and casualty insurance company holding a certificate of authority to transact business in Texas.
2. Rockwood writes workers' compensation and employers' liability insurance in Texas.
3. In May 2016, the department issued order number 4466, *Amendments to the National Council on Compensation Insurance Basic Manual for Workers Compensation and Employers Liability Insurance, NCCI Filing Item No. 02-TX-2015*. Pursuant to Item 02-TX-2015, insurers were required to file a terrorism rate effective for policies issued on and after July 1, 2016.
4. In April 2018, Rockwood notified the department that it had failed to make the required rate filing and therefore charged workers' compensation policyholders terrorism rates not on file with the department. The company submitted a new rate filing to correct these errors.

5. The rating error occurred from July 1, 2016 through April 14, 2018, and affected eight 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 2053.003.
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. Rockwood 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. Rockwood violated TEX. INS. CODE § 2053.003 by using unfiled and unapproved terrorism rates from July 1, 2016 through April 14, 2018.
5. Pursuant to TEX. INS. CODE § 82.053, the commissioner is authorized to direct Rockwood to make complete restitution to each policyholder harmed by the violations.

Rockwood is ordered to comply with the following:

- a. Rockwood must identify all workers' compensation and employers' liability insurance policies issued by it in Texas with effective dates from July 1, 2016 through April 14, 2018 (the "Review Period").
- b. For each policy in the Review Period, Rockwood must determine the amount of premium attributable to the unfiled terrorism rate, which constitutes the Overcharge.
- c. Rockwood 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 5 percent per annum.
- d. Rockwood 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 Rockwood 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.* Rockwood must copy the department on any correspondence pertaining to abandoned funds that is sent to the comptroller.

f. On or before September 15, 2018, Rockwood 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:

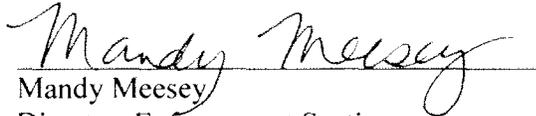
- i. policy number;
- ii. policyholder name;
- iii. policyholder address;
- iv. effective date of the policy;
- v. expiration date of the policy;
- vi. amount of Overcharge;
- vii. dollar amount of simple interest;
- viii. amount of Overcharge and interest;
- ix. date(s) of mailing of restitution check or credits;
- 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. Rockwood 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

