

No. 2018-5699

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

Date: NOV 05 2018

Subject Considered:

AMERICAN MILLENNIUM INSURANCE COMPANY
1011 Route 22 W
Bridgewater, New Jersey 08807

CONSENT ORDER
TDI ENFORCEMENT FILE NO. 16589

General remarks and official action taken:

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

WAIVER

American Millennium acknowledges that the Texas Insurance Code and other applicable law provide certain rights. American Millennium waives all of these rights, and any other applicable procedural rights, in consideration of the entry of this consent order. Pursuant to TEX. INS. CODE § 82.055(b), American Millennium agrees to this consent order with the express reservation that it does not admit to a violation of the Texas Insurance Code or of a rule and that the existence of a violation is in dispute.

FINDINGS OF FACT

1. American Millennium is a foreign casualty company currently holding a certificate of authority to transact business in Texas.
2. Section 1953.051(a) of the Texas Insurance Code prohibits a rating plan for automobile insurance from assigning a rate consequence to, or otherwise causing premiums to be increased because of, a charge or conviction for a violation of Subtitle C, Title 7, Transportation Code ("non-chargeable traffic violations").
3. On January 13, 2015, American Millennium made a commercial automobile rate filing with TDI (SERFF MWSG-129869203; TDI Filing S14565) with an effective date of February 15, 2015, for new and renewal business. On February 20, 2018, American Millennium made a subsequent filing with TDI (SERFF MWSG-131388099; TDI Filing S651691) with an effective date of April 1, 2018, for new and renewal business.

4. The rate filings considered certain non-chargeable traffic violations via the Unsafe Driving component of the Safety Measurement System (SMS) scores, which was used to either surcharge or credit the policyholder.
5. After recent correspondence with the department, American Millennium updated rate filing S651691 in compliance with TEX. INS. CODE § 1953.051(a) on April 6, 2018.

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 1953.051.
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. American Millennium has 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. American Millennium violated TEX. INS. CODE § 1953.051(a) by assigning a rate consequence to a non-chargeable traffic violation.
5. Pursuant to TEX. INS. CODE § 82.053, the commissioner is authorized to direct American Millennium to make complete restitution to each policyholder impacted by the violations.

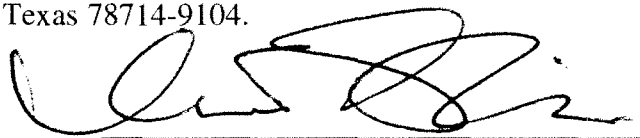
American Millennium is ordered to comply with the following:

- a. American Millennium must identify all commercial automobile insurance policies issued by American Millennium in Texas with effective dates from April 1, 2016, through April 6, 2018, (the "Review Period").
- b. For each policy in the Review Period, American Millennium must calculate the Corrected Premium without assigning a rate consequence or premium increase because of a non-chargeable violation.
- c. For each policy in the Review Period, American Millennium 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. American Millennium 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.

- e. American Millennium must mail the restitution checks and/or issue the account credits to the Qualifying Policyholders on or before February 15, 2019.
- f. Any restitution checks that are returned to American Millennium 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.* American Millennium must copy the department on any correspondence pertaining to abandoned funds that is sent to the comptroller.
- g. On or before March 15, 2019, American Millennium 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).
- h. American Millennium must send all submissions required under the terms of this order by email to: mandy.meese@tdi.texas.gov, and catherine.bell@tdi.texas.gov, or their successors.

American Millennium is further ordered to pay an administrative penalty of \$15,000. The administrative penalty must be paid within 30 days from the date of this order. The administrative penalty must be paid by cashier's check or money order made payable to the "State of Texas." Mail the administrative penalty to the Texas Department of Insurance, Attn: Enforcement Section, Division 60851, MC 9999, P.O. Box 149104, Austin, Texas 78714-9104.

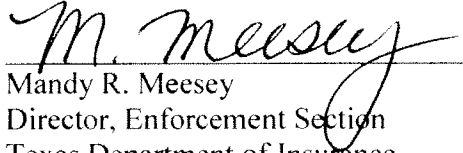


Kent C. Sullivan
Commissioner of Insurance

2018- 5699

COMMISSIONER'S ORDER
American Millennium Insurance Company
Page 4 of 5

APPROVED AS TO FORM AND CONTENT:



Mandy R. Meesey
Director, Enforcement Section
Texas Department of Insurance

2018- 5699

COMMISSIONER'S ORDER
American Millennium Insurance Company
Page 5 of 5

AFFIDAVIT

STATE OF NJ §

COUNTY OF Somerset §

Before me, the undersigned authority, personally appeared Arthur P. Coleman, who being by me duly sworn, deposed as follows:

“My name is Arthur P. Coleman. 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 American Millennium Insurance Company. I am duly authorized by said organization to execute this statement.

American Millennium Insurance Company 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.”

Arthur P. Coleman
Affiant

SWORN TO AND SUBSCRIBED before me on September 14, 2018.

(NOTARY SEAL)

Alvin Block
Signature of Notary Public
ALVIN BLOCK
NOTARY PUBLIC OF NEW JERSEY
Comm. # 2093343
My Commission Expires 9/27/2021