

No. 2019-5885

**Official Order
of the
Texas Commissioner of Insurance**

Date: MAR 04 2019

Subject Considered:

Delaware Life Insurance Company
1601 Trapelo Road
Waltham, Massachusetts 02415

Consent Order
TDI Enforcement File No. 16328

General remarks and official action taken:

The subject of this order is whether disciplinary action should be taken against Delaware Life Insurance Company (DLIC).

Waiver

DLIC acknowledges that the Texas Insurance Code and other applicable laws provide certain rights. DLIC 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), DLIC agrees to the entry of this consent order with the express reservation that DLIC does not admit to a violation of the Texas Insurance Code or of a rule, and the existence of a violation is in dispute.

Findings of Fact

1. The Texas Department of Insurance (TDI) issued DLIC life, accident, and health insurance license number 80355, effective October 15, 1973.

Market Conduct Examination

2. TDI conducted a market conduct examination for the period beginning January 1, 2016, and ending December 31, 2016. DLIC accepted the examination report on May 16, 2018.
3. TDI reviewed a random sample of 136 files and found violations which are detailed below.
4. August 2013, DLIC was the subject of a corporate change of ownership and, following such change, began to transition the issuance and administration of its annuities and certain life insurance policies to a new third-party administrator.
5. Insurers that use administrators to administer benefits for more than 100 policyholders must semiannually conduct a review of the operations of the administrator. While comprehensive, DLIC's oversight of its administrator during the examination period failed to meet the technical requirements for semiannual review of the operations of its administrator.
6. A person who obtains a license may not engage in business as an agent unless appointed to act as an agent by an insurer authorized to engage in business in this state. DLIC, through its administrator, issued nine policies where the agent was not appointed to act as an agent for it.
7. Insurers must comply with certain notice requirements for toll free telephone numbers and obtaining information and filing complaints. DLIC, through its administrator, issued 20 policies that failed to provide toll-free telephone number information and complaint procedures.
8. Insurers must provide a clear and conspicuous notice that accurately reflects its privacy policies and practices. DLIC, through its administrator, issued 40 policies that failed to provide an initial privacy notice.
9. Insurers must adopt and implement reasonable standards for the prompt investigation of claims arising under the insurer's policies and must timely communicate with claimants concerning the disposition of such claims. In 6 instances, DLIC, through its administrator, failed to adhere to timeliness standards in certain instances.

10. In 12 instances, DLIC failed to acknowledge receipt of a claim not later than the 15th day after the date the insurer received notice of the claim.
11. In nine instances, DLIC failed to notify a claimant in writing of the acceptance or rejection of a claim not later than the 15th business day after the date it received all items, statements, and forms required to secure final proof of loss.
12. DLIC took prompt remedial action to rectify the above noted findings, many of which were addressed prior to and independent of the market conduct examination.

Conclusions of Law

1. The commissioner has jurisdiction over this matter pursuant to TEX. INS. CODE §§ 31.002; 82.051-82.055, 84.021-84.022, 401.055, Chapter 542, 4001.201 and 4151.1042; 28 TEX. ADMIN. CODE § 1.601, 7.1611, and 22.8; and TEX. GOV'T CODE §§ 2001.051-2001.178.
2. The commissioner has authority to informally dispose of this matter as set forth under TEX. GOV'T CODE § 2001.056, TEX. INS. CODE §§ 36.104 and 82.055 , and 28 TEX. ADMIN. CODE § 1.47.
3. DLIC 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. DLIC violated TEX. INS. CODE § 4151.1042(c) and 28 TEX. ADMIN. CODE § 7.1611 because it failed to conduct a semiannual review of the operations of its administrator.
5. DLIC violated TEX. INS. CODE § 4001.201 because it issued policies where the agent was not appointed to act as an agent for DLIC.
6. DLIC violated 28 TEX. ADMIN. CODE § 1.601 because it failed to provide toll-free telephone number information and complaint procedures in issued policies.

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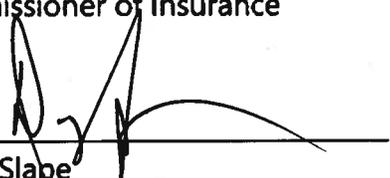
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7. DLIC violated 28 TEX. ADMIN. CODE § 22.8 because it issued policies that failed to provide an initial privacy notice in issued policies.
8. DLIC violated TEX. INS. CODE § 542.003(b)(3) because it failed to adopt and implement reasonable standards for the prompt investigation of claims arising under its policies.
9. DLIC violated TEX. INS. CODE § 542.055(a)(1) because it failed to acknowledge receipt of a claim not later than the 15th day after the date it received notice of the claim.
10. DLIC violated TEX. INS. CODE § 542.056(a) because it failed to notify a claimant in writing of the acceptance or rejection of a claim not later than the 15th business day after the date it received all items, statements, and forms required to secure final proof of loss.

Order

It is ordered that Delaware Life Insurance Company pay an administrative penalty of \$50,000 within 30 days from the date of this order. The administrative penalty must be paid by company check, 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

By: 
Doug Slape
Chief Deputy Commissioner
Commissioner's Order No. 2018-5528

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Recommended and reviewed by:

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Leah Gillum, Associate Commissioner
Enforcement Section

A handwritten signature in blue ink, appearing to read "Bev Rosendahl", written over a horizontal line.

Bev Rosendahl, Director
Enforcement Section

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Affidavit

STATE OF Massachusetts §
§
COUNTY OF Middlesex §

Before me, the undersigned authority, personally appeared the affiant, who being by me duly sworn, deposed as follows:

"My name is Michael S. Bloom. 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 Senior Vice President and General Counsel, and am the authorized representative of Delaware Life Insurance Company and I am duly authorized by said organization to execute this statement.

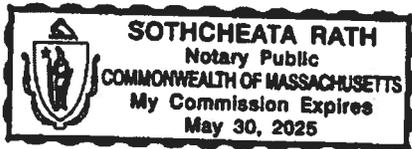
Delaware Life Insurance Company waives rights provided by the Texas Insurance Code and other applicable laws and acknowledges the jurisdiction of the Texas commissioner of insurance.

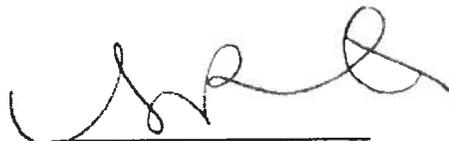
Delaware Life Insurance Company is voluntarily entering into this consent order. Delaware Life Insurance Company consents to the issuance and service of this consent order."


Affiant

SWORN TO AND SUBSCRIBED before me on 1/29, 2019.

(NOTARY SEAL)




Signature of Notary Public