

No. 2019- 6125

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

**Date:** OCT 30 2019

**Subject Considered:**

Hallmark County Mutual Insurance Company  
777 Main Street, Suite 1000  
Fort Worth, Texas 76102

Consent Order  
TDI Enforcement File No. 17212

**General remarks and official action taken:**

This is a consent order with Hallmark County Mutual Insurance Company (Hallmark). TDI conducted an examination of Hallmark that focused on its private passenger automobile business. The exam found that Hallmark violated Texas laws relating to claims payments, use of unlicensed agents and adjusters, contract requirements, and forms. Hallmark has agreed to pay a \$90,000 administrative penalty for these violations.

**Waiver**

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

**Findings of Fact**

1. Hallmark is a county mutual insurance company holding a certificate of authority to transact business in the state of Texas.
2. The Texas Department of Insurance conducted a targeted market conduct examination of Hallmark covering the period of January 1, 2015, through

December 31, 2015, pursuant to Chapter 751 of the Insurance Code. The exam focused on Hallmark's private passenger automobile line of business written through managing general agent, American Hallmark General Agency, Inc. (Hallmark MGA), and reviewed sales, advertising and marketing, underwriting and rating, claims practices, and consumer complaints and inquiries.

3. The purpose of the examination was to verify compliance with the Texas Insurance Code, Title 28 of the Texas Administrative Code, and the Texas Automobile Rules and Rating Manual.
4. Prior Examination: The department had previously conducted a market conduct examination on the private passenger automobile line of business as of December 31, 2012.
  - a. The 2012 market conduct exam found 31 agents/agencies were not appointed to act as agents for Hallmark or as subagents for an appointed general property and casualty agent in violation of TEX. INS. CODE §§ 4001.201 and 4001.205.
  - b. The 2012 market conduct exam also found that Hallmark had charged premiums that were not in accord with its filed rates, in violation of TEX. INS. CODE § 2251.101.
  - c. To address the instances where policyholders were overcharged by \$5 or more, in June 2013, Hallmark issued refunds of \$35,444 to 2,632 policyholders.

#### Agreements with Affiliates

5. Effective July 1, 2009, Hallmark entered into a managing general agent (MGA) agreement with Hallmark MGA to produce its private passenger automobile insurance business. The MGA agreement and semi-annual audit report were reviewed to ensure compliance with TEX. INS. CODE § 4053.102 and 28 TEX. ADMIN. CODE § 19.204.
6. Hallmark's MGA agreement did not specify that the records be maintained separately for each insurer, in violation of 28 TEX. ADMIN. CODE § 19.1204(b)(16).

Sales, Advertising, and Marketing

7. The examination reviewed 100 of Hallmark's issued policies to determine compliance with agent licensing and appointment requirements under Chapters 4001, 4051, and 4053 of the Insurance Code.
8. In five instances, Hallmark issued policies where the agent, as named on Hallmark's declarations page, was neither licensed nor appointed, in violation of TEX. INS. CODE §§ 4001.101 and 4001.201.
9. In eight instances, Hallmark issued policies where the agency listed on the declarations page was neither licensed nor appointed, in violation of TEX. INS. CODE §§ 4001.101 and 4001.201.
10. In four instances, Hallmark issued policies where the agent was not appointed to Hallmark, not appointed as a subagent to a Hallmark agent, or listed as an officer/director or designated licensed person of a Hallmark agent, in violation of TEX. INS. CODE § 4001.201.
11. In three instances, Hallmark issued policies where the agency, as listed on the declarations page, was not appointed to Hallmark, in violation of TEX. INS. CODE § 4001.201.

Underwriting and Rating Practices

12. The examination reviewed 100 of Hallmark's issued policies to determine use of proper forms and endorsements, accuracy of underwriting and rating as filed with the department, timely handling of transactions and policy service requests, adherence to consistent and nondiscriminatory underwriting practices, compliance with mandatory uninsured or underinsured and personal injury protection coverages, and compliance with Texas law.
13. In 24 instances, Hallmark did not provide coverage or obtain written rejections from the insureds for uninsured or underinsured motorists and personal injury protection coverage, in violation of TEX. INS. CODE §§ 1952.101 and 1952.152.
14. Hallmark's PTS4 Policy System produced Notice of Toll-Free Telephone Numbers, Information, and Complaint Procedures that did not provide the department's

correct fax number, web address, and email-address after June 1, 2015, in violation of 28 TEX. ADMIN. CODE § 1.601(b)(6) and Figure: 28 TEX. ADMIN. CODE § 1.601(a)(3).

15. Hallmark's Credit Information Disclosure Form did not provide the department's correct division name, direct phone number, 1-800 number, and mailing address, in violation of 28 TEX. ADMIN. CODE § 5.9940.

#### Claims Practices

16. Hallmark's claims practices were reviewed for compliance with policy provisions, timeliness and accuracy of payment, supporting documentation, general claims handling, and compliance with Texas Insurance Code Chapter 542 and related rules.
17. In one instance, a person acted as and was represented as an adjuster without an adjuster license, in violation of TEX. INS. CODE § 4101.051.
18. In one instance, Hallmark failed to send a rejection notice to the claimant, in violation of TEX. INS. CODE § 542.056.

#### Subsequent Actions

19. On August 11, 2017, Hallmark filed an amendment of their American Hallmark MGA agreement with the department.
20. On November 7, 2017, Hallmark filed the rate change factor tables that it had intended to file on August 3, 2014, under SERFF filing ID PHXN-129664384.

#### **Conclusions of Law**

1. The commissioner has jurisdiction over this matter pursuant to Texas Insurance Code chapters 751, 801, and 941; TEX. INS. CODE §§ 82.051-82.055, 84.021-84.051; 801.051-801.053 and TEX. GOV'T CODE §§ 2001.051-2001.178.
2. The commissioner has the authority to dispose of this matter informally, 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. Hallmark 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. Hallmark violated 28 TEX. ADMIN. CODE § 19.1204(b)(16) by entering into a MGA agreement that failed to require that records be maintained separately for each insurer.
5. Hallmark violated TEX. INS. CODE §§ 4001.101 and 4001.201 by issuing policies where the agent or agency named on Hallmark's declarations page was neither licensed nor appointed.
6. Hallmark violated TEX. INS. CODE § 4001.201 by issuing policies where the agent or agency named on Hallmark's declarations page was not appointed.
7. Hallmark violated TEX. INS. CODE §§ 1952.101 and 1952.152 by failing to provide coverage or obtain written rejections from the insureds for uninsured or underinsured motorists and personal injury protection coverage.
8. Hallmark violated 28 TEX. ADMIN. CODE §§ 1.601(b)(6) and 1.601(a)(3) (Figure) by producing a Notice of Toll-Free Telephone Numbers, Information, and Complaint Procedures that did not provide the department's correct fax number, web address, and e-mail address after June 1, 2015.
9. Hallmark violated 28 TEX. ADMIN. CODE § 5.9940 by promulgating a Credit Information Disclosure form that did not provide the department's correct Division name, direct phone number, 1-800 number, and mailing address.
10. Hallmark violated TEX. INS. CODE § 4101.051 by allowing a person to act as and be represented as an adjuster without an adjuster license.
11. Hallmark violated TEX. INS. CODE § 542.056 by failing to notify a claimant in writing of the rejection of a claim.

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Commissioner's Order

Hallmark County Mutual Insurance Company

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**Order**

It is ordered that Hallmark County Mutual Insurance Company must pay an administrative penalty of \$90,000 within 30 days from the date of this order. The penalty must be paid by cashier's check or money order made payable to the "State of Texas" and sent to the Texas Department of Insurance, Attn: Enforcement Section, Division 60851, MC 9999, P.O. Box 149104, Austin, Texas 78714-9104.

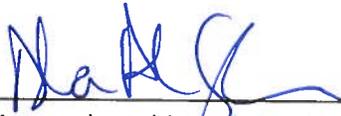
Kent C. Sullivan  
Commissioner of Insurance

By: \_\_\_\_\_

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

Recommended and reviewed by:

  
\_\_\_\_\_  
Leah Gillum, Associate Commissioner  
Enforcement Section

  
\_\_\_\_\_  
Amanda Atkinson Cagle, Staff Attorney  
Enforcement Section

**Affidavit**

STATE OF TEXAS

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COUNTY OF Dallas

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

"My name is Naveen Anand. 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 Hallmark County Mutual Insurance Company. I am duly authorized by said organization to execute this statement.

Hallmark County Mutual Insurance Company waives rights provided by the Texas Insurance Code and other applicable law and acknowledges the jurisdiction of the commissioner of insurance.

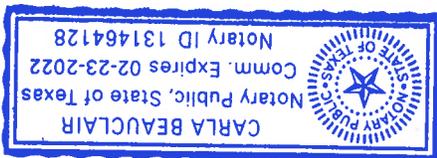
Hallmark County Mutual Insurance Company voluntarily enters into this consent order and consents to the issuance and service of this consent order."



Affiant

SWORN TO AND SUBSCRIBED before me on July 15, 2019.

(NOTARY STAMP)

  
Signature of Notary Public