

No. **2022-7305**

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

Date: 04/22/2022

Subject Considered:

American Claims Management, Inc.
701 B St., Ste. 2100
San Diego, CA 92101-8197

Consent Order
TDI Enforcement File No. 24801

General remarks and official action taken:

For over ten years, American Claims Management, Inc. (ACM) has operated as an adjusting firm handling property and casualty insurance claims on Texas risks for multiple insurers without any authority to do so. ACM acted outside the scope of its third-party administrator (TPA) authority over the last seven years. ACM has used both licensed and unlicensed persons to adjust claims. ACM agrees to take corrective measures as outlined in this order and pay an administrative penalty of \$350,000. This order suspends ACM's TPA authority subject to a two-year probation period and grants ACM's all-lines adjuster license application subject to a concurrent two-year probated suspension.

Waiver

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

Findings of Fact

Licensure and Background

1. ACM is a non-resident TPA domiciled in California. It has held a Texas TPA certificate of authority under license number 13764888 since July 29, 2014.
2. Under Texas law, a TPA is defined in part as an entity which, in connection with annuities or life benefits, health benefits, accident benefits, pharmacy benefits, or workers' compensation benefits, collects premiums or contributions from or adjusts or settles claims for Texas residents.
3. Texas law defines an adjuster to include a business entity which: investigates or adjusts losses on behalf of an insurer as an independent contractor or as an employee of an insurer or a managing general agent; supervises the handling of claims; or, investigates, adjusts, supervises the handling of, or settles workers' compensation claims.
4. Under H.B. 2699 (82nd Leg.), since September 1, 2011, business entities have been required to hold an adjuster's license in order to perform the acts of an adjuster.
5. ACM does not hold an adjuster license in Texas and is not exempt from licensure.
6. In May 2020, the department received a complaint showing that ACM acted as an adjuster on behalf of a Texas-admitted insurer, by handling a third-party personal automobile insurance claim in Texas. The complaint included a status notification letter to the claimant written on ACM letterhead and dated in April 2020, from an unlicensed person claiming to be an auto adjuster. As a result, the department investigated ACM.

Unauthorized Claims Adjusting

7. ACM entered into a claims administration service agreement with the Texas insurer in December 2019, under which ACM began adjusting that insurer's Texas personal automobile claims. ACM's services included the investigation, evaluation, and resolution of claims.

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8. ACM also adjusts property and casualty insurance claims for numerous other insurers in Texas, including five other unaffiliated insurers and two large insurer groups.
9. ACM contracted with each insurer or group to provide claims administration services on its behalf.
10. ACM began adjusting automobile, property, and general liability claims for these insurers in July 2014 or thereafter, with one exception. For one of the insurers, ACM began adjusting property claims earlier, in March 2010.
11. In the last six years, ACM has handled more than 30,000 claims for these insurers in total.
12. For more than ten years and without holding an adjuster's license in Texas, ACM investigated and adjusted property and casualty losses on behalf of multiple insurers in Texas. Additionally, ACM supervised the handling of claims on automobile, property, and general liability policies issued by those insurers.

Use of Unlicensed Adjusters

13. ACM informed the department that on June 2, 2020, it transferred all pending claims with the insurer named in the complaint and which were assigned to unlicensed persons, to its Texas licensed adjusters.
14. ACM then reviewed the insurer's claims it had handled through June 12, 2020, and found that approximately 40% of the claims for that insurer were adjusted by unlicensed employees.
15. On October 29, 2020, ACM represented to the department that it had ceased using unlicensed persons to adjust claims, and that going forward it would only use Texas licensed adjusters to adjust property and casualty insurance claims in Texas.
16. ACM's present claims system does not expressly identify the individual adjuster handling each claim. ACM did not manually review all claims in that system, but ACM represents a search showed that at least two unlicensed persons made entries in eight claim files for two other insurers, indicative of the acts of an adjuster. However, ACM was unable to establish the licensure status of those persons,

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admitting it contracts with third-party entities to supply ACM with adjusters and had difficulty getting information from those entities.

17. Since 2014, ACM has contracted with four different entities to provide ACM with adjusters, on either a temporary or permanent basis. However, ACM did not perform its own due diligence to verify whether the adjusters supplied by these third parties were Texas licensed.

Misleading Advertising

18. ACM has a publicly available website advertising that it is "licensed to provide claims services in 48 states, depending on the line of business." The website includes a map, showing one of those states is Texas.
19. ACM's website also declares that it offers claims handling services in the following lines of insurance: personal and commercial automobile, general liability, professional liability, commercial and residential property, and workers' compensation. ACM's website also states it provides multi-line field adjusting and investigative services, including surveillance, special investigative unit (SIU) services, and catastrophe handling expertise.
20. These public representations are misleading and deceptive because ACM is not and has not been licensed in Texas to provide any of the advertised property and casualty claims handling services, except for provision of workers' compensation claims adjusting services authorized under its TPA certificate of authority.

License Application and Mitigation

21. On July 24, 2020, ACM applied to the department for an all-lines adjuster license. That application, identification number 2110159, is being resolved through this consent order.
22. On August 31, 2020, the insurer named in the complaint terminated its agreement with ACM, transitioning ACM's claims handling responsibilities to a Texas licensed adjusting firm.
23. ACM represents it erroneously believed a TPA license was sufficient to adjust property and casualty claims in Texas and that its conduct was due to human error. Further, ACM represents it did not intentionally use unlicensed adjusters, but that

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it improperly relied upon third party entities to confirm licensure of the adjusters supplied to it.

24. ACM represents it is unaware of any direct harm to Texas consumers caused by its lack of an adjuster license, use of unlicensed persons to adjust claims, and its misleading advertising.
25. To achieve compliance, ACM agrees to:
 - a. immediately cease and desist from using unlicensed persons to adjust claims involving Texas risks, to the extent it has not already done so;
 - b. confirm the licensure status of all persons ACM uses to adjust claims involving Texas risks, regardless of whether those persons are ACM employees or not;
 - c. revise its website to expressly disclose its Texas licensure and remove any misleading or deceptive assertions about its authority to operate in Texas; and
 - d. voluntarily consent to a two-year probated suspension of its TPA authority.

Conclusions of Law

1. The commissioner has jurisdiction over this matter under TEX. INS. CODE §§ 82.051–82.055, 84.021–84.044, 101.001 *et seq.*, 541.001 *et seq.*, 4001.002, 4005.101–4005.102, 4101.051–4101.053, 4101.152, 4101.201, 4151.051, 4151.056, and 4151.301–4151.308.
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. ACM 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. ACM violated TEX. INS. CODE §§ 101.102 and 4101.051, by acting as an adjuster and representing it was an adjuster in this state, without holding an adjuster license, and further, by assisting unlicensed persons with engaging in unauthorized acts.

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5. ACM violated TEX. INS. CODE § 4151.0051(b) by referring claims or losses for adjustment to unlicensed persons without ascertaining whether the individual selected to perform the adjustment holds a license under Chapter 4101.
6. ACM violated TEX. INS. CODE §§ 541.003, 541.052, and 541.061(1)-(3) by making, publishing, and otherwise placing before the public advertisements and statements containing untrue, deceptive, or misleading assertions, representations, and statements in its conduct of insurance business.
7. As contemplated in TEX. INS. CODE §§ 4151.301-4151.302, ACM has committed acts that are grounds for discipline as a TPA.
8. As contemplated in TEX. INS. CODE § 4101.053, ACM has committed acts that are grounds to deny an adjuster's license under TEX. INS. CODE §§ 4101.201 and 4005.101-4005.102.

Order

It is ordered that American Claims Management, Inc. must comply with the following:

- a. ACM must immediately cease and desist from using unlicensed persons to adjust claims involving Texas risks, to the extent it has not already done so;
- b. ACM must independently confirm the licensure status of all persons ACM uses to adjust claims involving Texas risks, regardless of whether those persons are ACM employees or not;
- c. Within 30 days from the date of this order, ACM must provide the department with a detailed, written explanation of its processes, procedures, and controls it has implemented to independently confirm licensure status of all persons ACM uses to adjust claims involving Texas risks, regardless of whether those persons are ACM employees or not;
- d. Within 30 days from the date of this order, ACM must revise its website to:
 - i. clearly and unequivocally identify which licenses it holds in Texas;
 - ii. remove any misleading or deceptive assertions or statements about its authority to operate in Texas;

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- e. Within 30 days from the date of this order, ACM must confirm to the department in writing it has made the above website revisions; and
- f. All information required to be submitted to the department under the terms of this order must be sent electronically to EnforcementReports@tdi.texas.gov.

It is further ordered that American Claims Management, Inc.'s TPA authority is suspended for two years, with the suspension being probated, and the terms and conditions stated in this order apply.

It is further ordered that an all-lines adjuster license is granted to American Claims Management, Inc. That license is suspended for two years, with the suspension being concurrently probated, and the terms and conditions stated in this order apply.

If, during the concurrent probation period imposed by this order, the department issues any additional licenses or authorizations to American Claims Management, Inc., those additional licenses or authorizations will be suspended until the probation period imposed by this order has ended. The suspension will be probated, and the same terms and conditions stated in this order will apply.

Beginning on the date of this order and continuing through the probation period, American Claims Management, Inc. must submit a written report to the department, on or before the 15th day of each month on a quarterly basis, for the third, sixth, ninth, and twelfth months after the date of this order. The report must be emailed to EnforcementReports@tdi.texas.gov, and must include the following information:

- a. ACM's current mailing address, business location (physical) address, telephone number, and email address;
- b. the name, mailing address, telephone number, and Texas adjuster license number for all persons who adjusted claims involving Texas risks for ACM on behalf of any insurer in any line of business during the previous quarter;
- c. the name, mailing address, and telephone number for any unlicensed persons who were involved in handling claims involving Texas risks for ACM on behalf of any insurer in any line of business during the previous quarter, and a detailed description of each such person's duties and responsibilities related to those claims;

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- d. the name and address of any insurer or managing general agent (MGA) that enters into a contract, agreement, or other arrangement with ACM, in which ACM agrees to act as either a TPA or an adjusting firm on Texas risks for the insurer or MGA; and
- e. the name and address of any insurer or MGA that terminated its contract, agreement, or arrangement with ACM to act as either a TPA or an adjusting firm on Texas risks, and a description of the reason for that termination.

American Claims Management, Inc. must notify the department immediately of the following by emailing EnforcementReports@tdi.texas.gov:

- a. any change to its mailing address, business location (physical) address, telephone number, or email address;
- b. any state or regulatory actions taken against it, including formal and informal actions;
- c. any state or regulatory actions taken against any of ACM's individual officers, directors, or shareholders holding 10% or more of the voting stock or voting rights in ACM, including formal and informal actions;
- d. any criminal charges or indictments filed (excluding traffic offenses and Class C misdemeanors) against any of ACM's individual officers, directors, or shareholders holding 10% or more of the voting stock or voting rights in ACM;
- e. any complaint made against ACM concerning its acts as either a TPA or an adjuster on Texas risks, as well as a written explanation detailing the steps taken to resolve it; and
- f. any complaint made against any person adjusting claims involving Texas risks for ACM, where the subject matter concerns his or her acts as an adjuster, as well as a written explanation detailing the steps taken to resolve it.

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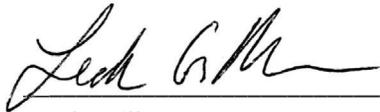
It is further ordered that American Claims Management, Inc. pay an administrative penalty of \$350,000 within 30 days from the date of this order. The administrative penalty must be paid as instructed in the invoice, which the department will send after entry of this order.

DocuSigned by:

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Cassie Brown
Commissioner of Insurance

Recommended and reviewed by:



Leah Gillum, Deputy Commissioner
Fraud and Enforcement Division



Rachel A. Cloyd, Director
Enforcement

Affidavit

STATE OF California §

§

COUNTY OF San Diego §

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

"My name is Dhara Patel. 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 Claims Management, Inc. I am duly authorized by said organization to execute
this statement.

American Claims Management, Inc. 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."

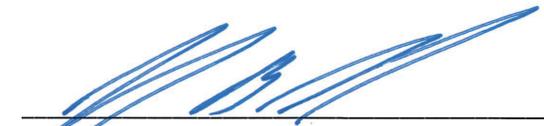


Affiant

A notary public or other officer completing
this certificate verifies only the identity of
the individual who signed the document to
which this certificate is attached, and not
the truthfulness, accuracy, or validity of that
document.

SWORN TO AND SUBSCRIBED before me on April 15, 2022

(NOTARY SEAL)



Signature of Notary Public



Printed Name of Notary Public