

No. **2024-8660**

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

Date: 5/17/2024

Subject Considered:

Falls Lake National Insurance Company
6641 W Broad St
Richmond, Virginia 23230-1723

Consent Order
TDI Enforcement File No. 33872

General remarks and official action taken:

This is a consent order with Falls Lake National Insurance Company (FLNIC). FLNIC considered non-chargeable violations in calculations of premiums. FLNIC agreed to pay restitution to the affected policyholders and a \$15,000 administrative penalty.

Waiver

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

Findings of Fact

1. FLNIC is a foreign fire and casualty company holding a certificate of authority to transact business in the state of Texas.

Use of Non-chargeable Violations in Calculations of Premiums

2. Section 1953.051(a) of the Texas Insurance Code prohibits a rating plan for automobile insurance from assigning a rate consequence to, otherwise causing

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- 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. During the review of its initial filings for its Connected Fleet Insurance and Safety Program for commercial auto, the department found that FLNIC was assigning a rate consequence, or otherwise causing premiums to be increased by using non-chargeable traffic violations.
 4. FLNIC began using minor moving violations as part of its Scorecard Factor when it submitted its initial filings for its Connected Fleet Insurance and Safety Program on October 7, 2022.
 5. FLNIC removed the unlawful factors from its manual on November 3, 2023.
 6. FLNIC represents that policyholders were affected by a premium consequence based on FLNIC's use of non-chargeable traffic violations from January 27, 2023, until January 26, 2024. Ten policyholders were affected and the estimated overcharges are \$ 214,185.
 7. FLNIC represents that it has begun the process of issuing refunds, with interest, to the impacted policyholders.
 8. FLNIC was cooperative and responsive to the department during this investigation.

Conclusions of Law

1. The commissioner has jurisdiction over this matter under TEX. INS. CODE §§ 82.051–82.055, 84.021–84.051, 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. FLNIC 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.

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4. FLNIC violated TEX. INS. CODE § 1953.051(a) by assigning a rate consequence for non-chargeable violations.
5. Pursuant to TEX. INS. CODE § 82.053, the commissioner is authorized to direct FLNIC to make complete restitution to each policyholder harmed by the rate violations.

Order

It is ordered that Falls Lake National Insurance Company must comply with the following:

- a. FLNIC must identify all automobile insurance policies with effective dates from January 27, 2023, through January 26, 2024 (the "Review Period").
- b. For each policy in the review period, FLNIC 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, FLNIC must calculate and determine whether the dollar amount of premium charged for each policy is less than or more than the Corrected Premium. If the premium charged was more than the Corrected Premium, the difference constitutes the Overcharge.
- d. FLNIC 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 company check or account credit must include the dollar amount of Overcharge, plus simple interest in the amount of five percent per annum.
- e. FLNIC must mail the checks or issue the account credits to the Qualifying Policyholders within 60 days from the date of this order.
- f. Any restitution checks that are returned to FLNIC 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 reported and delivered to the comptroller pursuant to the procedures and deadlines set forth in TEX. PROP. CODE §§ 72.001 *et. seq.*, 73.001 *et. seq.*, and 74.001 *et. seq.*
- g. FLNIC must report the restitution paid to the Qualifying Policyholders by submitting a sortable electronic spreadsheet to the department within 90 days

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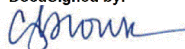
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from the date of this order. The spreadsheet must contain the following information:

- 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. FLNIC must send all submissions under the terms of this order by email to: EnforcementReports@tdi.texas.gov

It is further ordered that Falls Lake National Insurance Company pay an administrative penalty of \$15,000 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.

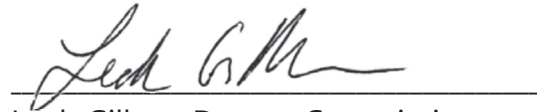
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Cassie Brown
Commissioner of Insurance

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Recommended and reviewed by:

A handwritten signature in black ink, appearing to read "Leah Gillum", written over a horizontal line.

Leah Gillum, Deputy Commissioner
Fraud and Enforcement Division

A handwritten signature in black ink, appearing to read "Sydney Moore", written over a horizontal line.

Sydney Moore, Staff Attorney
Enforcement

Affidavit

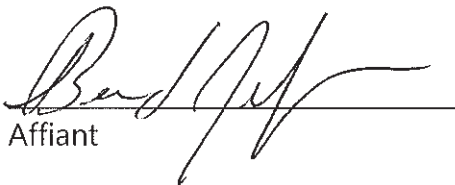
STATE OF North Carolina §
§
COUNTY OF Wake §

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

"My name is Benson Jeffress. 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 Assistant Secretary and am the authorized representative of Falls Lake National Insurance Company. I am duly authorized by said organization to execute this statement.

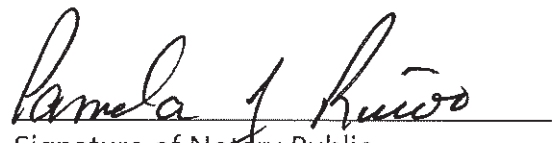
Falls Lake National Insurance Company has knowingly and voluntarily entered into the foregoing consent order and agrees with and consents to the issuance and service of the same by the commissioner of insurance of the state of Texas."


Affiant

SWORN TO AND SUBSCRIBED before me on May 2, 2024.

(NOTARY SEAL)

PAMELA J RUIVO
NOTARY PUBLIC
Johnston County
North Carolina
My Commission Expires Sept. 25, 2026


Signature of Notary Public
Pamela J Ruivo
Printed Name of Notary Public