

No. **2024-8547**

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

Date: 2/27/2024

Subject Considered:

Hallmark County Mutual Insurance Company
5420 Lyndon B Johnson Fwy, Suite 1100
Dallas, Texas 75240-2345

Consent Order
TDI Enforcement File No. 32475

General remarks and official action taken:

This is a consent order with Hallmark County Mutual Insurance Company (Hallmark). The department conducted a targeted market conduct examination and found violations of Texas law. Hallmark has agreed to pay restitution and an administrative penalty of \$135,000.

Waiver

Hallmark acknowledges that the Texas Insurance Code and other applicable law provide certain rights. Hallmark 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. Hallmark is a county mutual insurance company holding a certificate of authority to transact business in the state of Texas.

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2. TDI conducted a targeted market conduct examination of Hallmark on its private passenger automobile line of business for the period of January 1, 2020, through December 31, 2020.
3. The purpose of the examination was to determine Hallmark's compliance with the Texas Insurance Code and Title 28 of the Texas Administrative Code related to sales, advertising, marketing, underwriting and rating, claims practices, and consumer complaints.
4. During the period of the examination, Hallmark produced standard and non-standard private passenger automobile and commercial automobile policies through three agencies, affiliates American Hallmark General Agency, Inc. (AHGA), and Hallmark Specialty Underwriters, Inc., and a non-affiliated managing general agent (MGA), American Bankers General Agency, Inc. (American Bankers).
5. The examination focused solely on Hallmark's private passenger business produced through American Bankers.
6. During the examination, TDI found violations of the Texas Insurance Code and the Texas Administrative Code.

Disciplinary History

7. The commissioner has entered two prior orders against Hallmark related to its business produced through its affiliate AHGA, specifically:
 - a. On December 16, 2016, the commissioner entered Order No. 2016-4856 imposing a \$60,000 joint and several administrative penalty for failing to properly renew named driver policies, failing to provide all requisite disclosures at renewal, and using an unregistered trade-style; and,
 - b. On October 30, 2019, the commissioner entered Order No. 2019-6125 imposing a \$90,000 administrative penalty for violations found during a 2015 market conduct examination of its AHGA private passenger automobile business.

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Sales, Advertising, and Marketing

8. The examination reviewed a random sample of 100 policies issued during the exam period to determine compliance with agents' licensing and appointment requirements.
9. In 13% (13 of 100) of the policies reviewed, Hallmark used agents listed on the declaration page that were not appointed to issue or service Hallmark policies. This finding was repeated from the 2015 examination and increased in percentage.
10. The examination reviewed two advertisements to determine compliance with statutes and rules.
11. In 50% (1 of 2) of the advertisements reviewed, Hallmark's full licensed name did not appear at or before the first appearance of any shortened or substitute name in the body of the text of the mobile advertisement.

Underwriting and Rating

12. TDI reviewed randomly sampled policies to determine accuracy of rating, use or proper forms and endorsements, timely handling of transactions and policy service requests, adherence to consistent and nondiscriminatory underwriting practices, mandatory coverages, and compliance with statutes and rules.
13. Hallmark did not provide notice of its mailing address and email address in the required policy attachment, Notice of Toll-Free Telephone Numbers and Information and Complaint Procedures. This finding was repeated from the 2015 examination, but with different information omitted from the Notice.

Claims

14. Staff conducted stratified sampling to include all policy and coverage types for claims Hallmark processed in 2020 to determine compliance with policy provisions, timeliness and accuracy of payment, supporting documentation, general claims handling, adjuster licensing, and compliance with statutes and rules.
15. In 1% (1 of 100) of the paid claims reviewed, Hallmark failed to pay the claim not later than the 5th business day after the date it notified the claimant it would pay

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- all or part of the claim and did not pay statutory interest at the rate of 18% on the late-paid claim.
16. In 36% (36 of 100) of the paid claims reviewed, Hallmark failed to notify the insured in writing of the initial offer to settle a claim not later than the 10th day after the initial offer was made to settle a claim against the named insured under a casualty policy.
 17. In 3% (3 of 100) of the paid claims reviewed, Hallmark did not send to the insured the required written notice not later than the 30th day after the date a claim against the named insured was settled.
 18. In 3% (3 of 100) of the paid claims and in 4% (1 of 25) of the total loss claims reviewed, Hallmark used an unlicensed adjuster. This finding was repeated from the 2015 examination, and overall, has increased in percentage.
 19. In 4% (1 of 25) of the total loss claims reviewed, Hallmark failed to pay the claim not later than the fifth business day after the date it notified the claimant it would pay all or part of the claim and did not pay statutory interest at the rate of 18% on the late-paid claim.
 20. In 52% (13 of 25) of the total loss claims reviewed, Hallmark failed to notify the insured in writing of the initial offer to settle a claim not later than the 10th day after the initial offer was made to settle a claim against the named insured under a casualty policy.
 21. In 2% (1 of 50) of the denied and closed claims reviewed, Hallmark failed to adopt and implement reasonable standards for the prompt investigation of a claim by failing to follow up on the claim.
 22. In 2% (1 of 50) of the denied and closed claims reviewed, Hallmark failed to notify the claimant of the rejection of the claim not later than the 15th business day after receiving all items, statements, and forms required by the insurer to secure final proof of loss. This finding was repeated from the 2015 examination, without a change in percentage.
 23. In 4% (1 of 25) of the pending claims reviewed, Hallmark used an unlicensed adjuster.

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Complaints

24. TDI sampled complaints Hallmark received for compliance with statutes and rules. TDI reviewed a total of 14 complaints, including 13 sent to TDI and the other sent directly to Hallmark.
25. In 15% (2 of 13) of the TDI complaints reviewed, Hallmark failed to respond to a reasonable request for information from TDI not later than the 15th day after Hallmark received the request.

Subsequent Events

26. On June 9, 2023, Hallmark submitted a corrective action plan (CAP) to TDI.
27. Hallmark provided TDI with a revised and updated Notice of Toll-Free Telephone Numbers and Information and Complaint Procedures.
28. In the CAP, Hallmark represented that it implemented the following corrective measures:
 - a. a process to confirm agents are appointed;
 - b. a process to confirm adjusters are licensed prior to any claims handling;
 - c. inclusion of Hallmark's senior compliance director in the final approval process for all mobile application advertising;
 - d. procedures to make extension requests and timely respond to TDI; and,
 - e. several process changes to ensure prompt payment of claims, including:
 - i. calendaring payments;
 - ii. leadership review and tracking of late payments to ensure interest is paid;
 - iii. automation of notices to insureds for initial offers and settlements; and,
 - iv. monthly leadership review of open claims.

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29. The CAP did not confirm whether Hallmark reviewed or audited its late-paid claims or whether it paid statutory interest on its late-paid and total loss claims.

Conclusions of Law

1. The commissioner has jurisdiction over this matter pursuant to TEX. INS. CODE §§ 82.051 – 82.055, 84.021 – 84.044, 542.002(13), 542.052(16), 542.151(1), 751.001 *et seq.*, 801.051 – 801.053, 912.002, and 912.101 – 912.152; and TEX. GOV'T CODE §§ 2001.051 – 2001.178.
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. 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 § 1.601(b)(2) by failing to include its mailing and email addresses in the required policy attachment, Notice of Toll-Free Telephone Numbers and Information and Complaint Procedures.
5. Hallmark violated 28 TEX. ADMIN. CODE § 21.104(a)(1) by failing to state its full licensed name at or before the first appearance of any shortened or substitute name in the body of the text in an advertisement.
6. Hallmark violated TEX. INS. CODE § 38.001 by failing to respond in writing to reasonable requests for information from TDI not later than the 15th day after receipt of the requests.
7. Hallmark violated TEX. INS. CODE § 542.003(b)(3) by failing to adopt and implement reasonable standards for the prompt investigation of claims arising under Hallmark's policies.
8. Hallmark violated TEX. INS. CODE § 542.056(a) by failing to notify a claimant in writing of the rejection of a claim not later than the 15th business day after the date it received all items, statements, and forms required to secure the final proof of loss.

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9. Hallmark violated TEX. INS. CODE § 542.057(a) by failing to pay claims not later than the fifth business day after the date Hallmark notified the claimant it would pay all or part of the claim.
10. Hallmark violated TEX. INS. CODE §§ 542.058(a) and 542.060(a) by failing to pay statutory interest on late-paid claims.
11. Hallmark violated TEX. INS. CODE § 542.153(a) by failing to notify insureds in writing of an offer, not later than 10 days after the date the initial offer was made to settle a claim against the named insured under a casualty policy.
12. Hallmark violated TEX. INS. CODE § 542.153(b) by failing to notify insureds in writing of a settlement, not later than the 30th day after the date of settlement of a claim against the named insured under a casualty policy.
13. Hallmark violated TEX. INS. CODE § 4001.201 by using agents to issue or service policies who are not appointed by Hallmark.
14. Hallmark violated TEX. INS. CODE § 4101.051 by using unlicensed persons to adjust claims.
15. Pursuant to TEX. INS. CODE § 82.053, the commissioner is authorized to direct Hallmark to make complete restitution to each claimant harmed by the above violations.

Order

The commissioner orders Hallmark County Mutual Insurance Company to comply with the following:

1. Not later than 90 days from the date of this order, Hallmark must identify all first-party, late-paid claims in its private passenger and commercial automobile lines of business in which Hallmark or any of its MGAs failed to pay statutory interest, as contemplated by TEX. INS. CODE § 542.060 (the "Qualifying Claimants") for the time period of January 1, 2020, to the date of this order (the "Review Period").
2. Hallmark must pay restitution in the form of a company check or account credit to each Qualifying Claimant identified in the Review Period.

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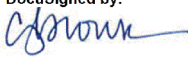
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3. Hallmark must mail the restitution checks and/or issue the account credits to the Qualifying Claimants within 120 days of the date of this order.
4. Any restitution checks that are returned to Hallmark with an address correction must be promptly re-sent 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 of Public Accounts 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.*
5. Within 180 days from the date of this order, Hallmark must report the restitution paid to the Qualifying Claimants by submitting a complete and sortable, electronic spreadsheet to TDI. The spreadsheet must contain the following information:
 - a. name of the MGA that produced the policy;
 - b. policy number;
 - c. claim number;
 - d. claimant name;
 - e. claimant address;
 - f. date of loss;
 - g. type of coverage;
 - h. date Hallmark or its MGA secured final proof of loss;
 - i. date liability was accepted;
 - j. total amount of original claim payment(s);
 - k. date(s) of original claim payment(s);
 - l. number of days of interest due;
 - m. dollar amount of statutory interest due;
 - n. date of mailing of restitution check or issuance of credit; and,
 - o. total of all statutory interest payments.
6. All submissions required under the terms of this order must be sent electronically to: EnforcementReports@tdi.texas.gov.
7. All submissions required under the terms of this order must be made solely by Hallmark. Any submissions made by or through individual MGAs will not be accepted by TDI and will not constitute compliance by Hallmark with the terms of this order.

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It is further ordered that Hallmark County Mutual Insurance Company pay an administrative penalty of \$135,000 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:

FC5D7EDDFFBB4F8... _____
Cassie Brown
Commissioner of Insurance

Recommended and reviewed by:



Leah Gillum, Deputy Commissioner
Fraud and Enforcement Division



Anna Kalapach, Staff Attorney
Enforcement

Affidavit

STATE OF Texas §

§

COUNTY OF Dallas §

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

"My name is Christopher Kenney. I am of sound mind, capable of making this statement, and have personal knowledge of these facts which are true and correct.

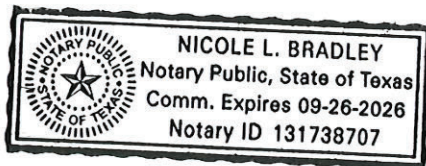
I hold the office of President and am the authorized representative of Hallmark County Mutual Insurance Company. I am duly authorized by said organization to execute this statement.

Hallmark County Mutual Insurance Company 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."

Chris Kenney
Affiant

SWORN TO AND SUBSCRIBED before me on 2/8, 2024.

(NOTARY SEAL)



Nicole Bradley
Signature of Notary Public

Nicole Bradley
Printed Name of Notary Public