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September 1, 2020

David Herrera-Perera
The Hadi Law Firm
7100 Regency Square Blvd., Ste. 140
Houston, TX 77036

Via email: david.h@thehadilawfirm.com
CMRRR: 9214 8901 9403 8320 0054 28

Re: TDI Enforcement File No. 14473; GEICO County Mutual Insurance Company
TDI PRI number 175018
Your Client: Nguyen

Dear Mr. Herrera-Perera:

The commissioner of insurance issued an order against GEICO County Mutual Insurance Company. A copy is enclosed.

Thank you for bringing this matter to our attention and aiding our regulatory efforts.

Please contact me if you have any questions.

Sincerely,

A handwritten signature in black ink, appearing to read "Amanda Atkinson Cagle".

Amanda Atkinson Cagle
Staff Attorney, Enforcement Division
Texas Department of Insurance
P.O. Box 149104, MC110-1A
Austin, Texas 78714-9104
O: 512.676.6342 | F: 512.490.1020
amanda.cagle@tdi.texas.gov

Encl.

No. 2020-6453

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

Date: 08/28/2020

Subjects Considered:

GEICO County Mutual Insurance Company
2280 N. Greenville Ave.
Richardson, Texas 75082-4412

GEICO Advantage Insurance Company
GEICO Choice Insurance Company
GEICO General Insurance Company
GEICO Indemnity Company
GEICO Secure Insurance Company
Government Employees Insurance Company
One GEICO Plaza
Washington, DC 20076-0001

Consent Order

TDI Enforcement File Nos. 14473, 22610, 22614, 22617, 22620, 22621, 22625

General remarks and official action taken:

The GEICO companies¹ failed to timely pay certain personal automobile claims and failed to pay statutory interest when they paid certain claims late. To address these allegations, the GEICO companies have implemented systems, monitoring, and process changes, hired compliance personnel, paid approximately \$2,178,963 in claims and statutory interest, agreed to pay additional restitution and statutory interest to consumers, and agreed to jointly and severally pay a \$3,000,000 administrative penalty.

¹ GEICO County Mutual Insurance Company, GEICO Advantage Insurance Company, GEICO Choice Insurance Company, GEICO General Insurance Company, GEICO Indemnity Company, GEICO Secure Insurance Company, and Government Employees Insurance Company (collectively the "GEICO companies").

Waiver

The GEICO companies acknowledge that the Texas Insurance Code and other applicable law provide certain rights. The GEICO companies waive all 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), the GEICO companies agree to this consent order with the express reservation that they do not admit to a violation of the Texas Insurance Code or of a rule and that the existence of a violation is in dispute.

Findings of Fact

1. GEICO County Mutual Insurance Company (GEICO County Mutual) is a domestic county mutual company holding a certificate of authority to transact business in Texas.
2. GEICO Advantage Insurance Company, GEICO Choice Insurance Company, and GEICO Secure Insurance Company are foreign casualty insurance companies holding certificates of authority to transact business in Texas.
3. GEICO General Insurance Company, GEICO Indemnity Company, and Government Employees Insurance Company are foreign fire and casualty insurance companies holding certificates of authority to transact business in Texas.
4. The GEICO companies are affiliated and commonly-owned entities writing personal automobile insurance in Texas.

Failure to Pay Statutorily Required Interest

5. TDI received a complaint that GEICO County Mutual had accepted a claim for a totaled vehicle, but then failed to acknowledge communications with the consumer with reasonable promptness, failed to timely pay that claim, and failed to pay statutory interest on the claim.
6. As a result, TDI investigated the GEICO companies' claim handling practices of first-party physical damage claims.
7. During the investigation, the GEICO companies reviewed first-party Texas claims filed from January 1, 2016, through April 1, 2019, and represent they found approximately 8,330 late-paid claims where statutory interest was due. These claims included catastrophe claims but excluded business-to-business payments.

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8. The GEICO companies represent that during this same time period, they also properly adjusted approximately 1,226,700 first-party claims in Texas.
9. TDI's investigation found that the GEICO companies had failed to pay statutory interest due on certain late-paid claims and did not have any risk management or audit mechanisms in place to ensure that statutory interest was paid to Texas consumers. The GEICO companies dispute this allegation.

Failure to Pay Accepted First-Party Physical Damage Claims

10. During the GEICO companies' review of claims in that same time period from January 1, 2016, through April 1, 2019, the GEICO companies self-reported they also found approximately 1,992 claims, including approximately 329 catastrophe claims, which had been accepted, but closed without payment, totaling approximately \$3,160,032.
11. The GEICO companies represent that approximately 25% of these unpaid claims were not paid because the claimant elected to forgo payment. The GEICO companies represent they have documentation to demonstrate that the claimant made this election for one of the following reasons:
 - a. did not want to incur a deductible;
 - b. did not want an at-fault claim payment on their policy;
 - c. was seeking a damage estimate only; or
 - d. another insurer paid the claim.
12. The GEICO companies represent that an additional 25% of the unpaid claims have since been paid on or about June 26, 2020, totaling approximately \$1,153,978 in claim payments and \$568,449 in statutory interest.
13. For the remaining 50% of the unpaid claims, the GEICO companies did not pay for four reasons, including:
 - a. the claimant did not identify a repair shop;
 - b. the claimant did not provide title or lienholder information;
 - c. the company failed to issue the check for no valid reason; or
 - d. the claimant did not pursue payment or respond to the company's recent outreach.

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Disciplinary History Involving Three GEICO Companies' Failure to Timely Pay First-Party Physical Damage Claims

14. Commissioner Order No. 4347 was entered on March 10, 2016, against three of the GEICO companies: GEICO Secure Insurance Company, GEICO Choice Insurance Company, and GEICO Advantage Insurance Company.
15. The order found those three companies had failed to timely issue claims payments after accepting liability. Specifically, they were withholding payments from claimants who did not confirm information about co-payees, including repair shops and lienholders.
16. The companies agreed to the order, paid an administrative penalty, and represented in the order that as of May 27, 2015, they had updated policies and procedures throughout all GEICO companies, not only those included within the order, to correct this issue.
17. During TDI's present investigation, the GEICO companies self-reported that in at least 349 of the unpaid claims, they failed to pay the claim due to the lack of repair shop, title, or lienholder information.
18. Although the GEICO companies represent they implemented corrective procedures after the 2016 Commissioner Order, and processed most claims in accordance with those procedures, those procedures fell short. As a result, the GEICO companies did not fully adhere to their representations in the 2016 Commissioner Order.

Scope of Restitution and Corrective Measures

19. The GEICO companies consent to the terms of this order in an effort to settle all allegations against them, to avoid the expense and uncertainty of litigation, and to otherwise achieve compliance.
20. The GEICO companies agree to pay statutory interest on the 8,330 late-paid claims referenced above filed from January 1, 2016, through April 1, 2019, and on any additional late-paid claims after this time period until the date of this order (the "late-paid" claims).
21. The GEICO companies further agree to pay the 1,992 claims improperly closed without payment referenced above and any additional claims accepted but improperly closed for any one of the reasons listed in Finding of Fact No. 13, from

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January 1, 2016, until the date of this order, together with statutory interest (the "unpaid claims"), unless GEICO has records to demonstrate either fraud or that the claimant affirmatively declined payment.

22. The GEICO companies have provided documentation to TDI showing that as of June 26, 2020, that they have paid a total of approximately \$2,178,963 in restitution to Texas consumers, comprised of:
 - a. \$456,536 in statutory interest for the late-paid claims, including payment to the initial consumer complainant who was paid in 2018; and
 - b. \$1,153,978 in claim payments and \$568,449 in statutory interest for the unpaid claims identified in Finding of Fact No. 12.

23. The GEICO companies represent that they have taken or will take the following additional steps to address the issues set forth above:
 - a. In November 2018, they implemented a system control to lessen their risk of failing to pay statutory interest, specifically, they run a daily automated report to identify claims where payment was not issued at the time of inspection.
 - b. In December 2018, they implemented updated claim procedures to improve timely handling of first-party physical damage claim payments, by increasing the documentation in the claim file, increasing claim management oversight, and developing an escalation process to increase prompt resolution when a customer is unable to reach an adjuster or supervisor after reasonable attempts.
 - c. In January and February 2019, all GEICO claims adjusters completed training on the updated claim handling procedures.
 - d. In February 2019, they implemented a system control to lessen their risk of failing to timely pay total loss claims. Specifically, they run a daily automated report identifying total loss claims where a payment was not issued at the time of inspection. At that time, they also established a performance monitoring supervisor and team with responsibility to track claims that have not been paid within five business days of acceptance of the claim.
 - e. In August 2019, they hired a regional compliance manager and four compliance analysts.
 - f. In September 2019, they automated a report to track payments issued outside of five business days to monitor whether the payment was properly issued with statutory interest.

- g. In August 2020, they represent and agree they will implement additional automated functionality into the claims data system which will establish an escalating series of alerts and work items for adjusters, supervisors, and managers for any claim which does not show a corresponding claim payment.

Conclusions of Law

1. The commissioner has jurisdiction over this matter under TEX. INS. CODE §§ 82.051-82.055 84.021-84.051, 801.051-801.053, 912.002, 912.101 – 912.152, 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. The GEICO companies have knowingly and voluntarily waived all procedural rights to which they 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. GEICO County Mutual violated TEX. INS. CODE § 542.003(b)(2) by failing to acknowledge with reasonable promptness pertinent communications relating to a claim arising under the insurer's policy.
5. GEICO County Mutual violated TEX. INS. CODE § 542.003(b)(3) by failing to adopt and implement reasonable standards for the prompt investigation of claims arising under the insurer's policies.
6. The GEICO companies violated TEX. INS. CODE § 542.057(a) by failing to timely pay claims after notifying the claimants of acceptance of those claims.
7. The GEICO companies violated TEX. INS. CODE §§ 542.058 and 542.060 by failing to pay statutory interest on late paid claims.

Order

It is ordered that GEICO County Mutual Insurance Company, GEICO Advantage Insurance Company, GEICO Choice Insurance Company, GEICO General Insurance Company, GEICO Indemnity Company, GEICO Secure Insurance Company, and Government Employees Insurance Company must contract with a third party, at their expense, to perform an independent audit beginning in September 2020 of their claims handling software, systems, and practices to verify and confirm compliance with the commitments made in this order and TEX. INS. CODE §§ 542.003 – 542.060. The auditor's report must be submitted to TDI no later than January 15, 2021.

It is further ordered that the GEICO companies will fully implement the systems change described in Finding of Fact No. 23(g) on or before October 12, 2020. Beginning August 27, 2020, the GEICO companies must submit weekly progress reports to TDI identifying any obstacles preventing full implementation of the systems change and the GEICO companies' plans to address those obstacles. Submission of this weekly progress report ceases after the GEICO companies notify TDI in a final progress report that they have fully implemented the systems change.

It is further ordered that the GEICO companies make and pay restitution to all claimants in the form of a company check or account credit for all of the late-paid and unpaid claims plus statutory interest, as described and agreed upon in Findings of Fact Nos. 20 and 21.

It is further ordered that the GEICO companies comply with the following:

- a. Not later than 30 days after the date of this order, the GEICO companies must pay the interest on all late-paid claims and report the payments to TDI.
- b. Not later than 30 days after the date of this order, the GEICO companies must pay all unpaid claims, including statutory interest, and report the payments to TDI.
- c. Both reports above must be submitted as a complete and sortable electronic spreadsheet to TDI. The spreadsheet must contain the following information:
 - i. company name;
 - ii. policy number;
 - iii. claim number;
 - iv. date of loss;
 - v. type of coverage;
 - vi. amount agreed to pay;

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- vii. date agreed to pay;
 - viii. date paid;
 - ix. number of days of interest due;
 - x. amount of interest paid;
 - xi. date interest paid;
 - xii. subtotal of all claims payments;
 - xiii. subtotal of all interest payments; and
 - xiv. grand total paid.
- d. Any payments that are returned to the GEICO companies with an address correction must be promptly resent to the correct address. Funds from any payments that are returned thereafter for incorrect addresses and from any 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.*
- e. All information required to be submitted to TDI under the terms of this order must be sent electronically to EnforcementReports@tdi.texas.gov.

It is further ordered that the GEICO companies must pay, jointly and severally, an administrative penalty of \$3,000,000 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 transmitted to the Texas Department of Insurance, Attn: Enforcement Division 60851, MC 9999, P.O. Box 149104, Austin, Texas 78714-9104.

DocuSigned by:

Kent Sullivan

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Kent C. Sullivan
Commissioner of Insurance

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Recommended and reviewed by:



Leah Gillum, Deputy Commissioner
Enforcement Division



Amanda Atkinson Cagle, Staff Attorney
Enforcement Division

