



LOUISIANA DEPARTMENT OF INSURANCE

JAMES J. DONELON
COMMISSIONER

CEASE AND DESIST ORDER
AND NOTICE OF FINE
NAIC #10182

June 9, 2022

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Article #: 7021 2720 0002 0321 3439

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WHEREAS, IT HAS COME TO MY ATTENTION, as Commissioner of Insurance (Commissioner) of the Louisiana Department of Insurance (LDI), that GeoVera Specialty Insurance Company (Company) has violated certain provisions of the Louisiana Insurance Code (Code), Title 22, La. R.S. 22:1 *et. seq.* As used hereinafter, “you” and “your” and “Company” refer to GeoVera Specialty Insurance Company. Accordingly, pursuant to the power and authority vested in me as the Commissioner, I issue this Cease and Desist Order and Notice of Fine based on the following to wit:

GeoVera Specialty Insurance Company is an approved unauthorized insurer (NAIC #10182) permitted to do business in the state of Louisiana through licensed surplus line brokers, and your status as an approved unauthorized insurer is active.

As you are aware, the LDI conducted a targeted Market Conduct Examination (Examination) of the Company, examining your insurance activities in Louisiana covering the examination period of August 27, 2020, through June 30, 2021, pursuant to La. R.S. 22:1967 and Chapter 8 of the Louisiana Insurance Code, Title 22, La. R.S. 22:1981-1995. The Examination commenced on July 1, 2021. All records that were provided were provided by the Company. The LDI retained Risk & Regulatory Consulting, LLC (Examiners) to assist with the Examination. The Examiners submitted Information and Data Requests (IDRs), to which the Company provided responses, and interviews were conducted of the Company’s management knowledgeable in the areas of concern. The Examiners prepared criticisms, i.e., potential violations identified during the

Examination, which were communicated to the Company, affording the Company the opportunity to respond as it deemed appropriate. Violations or areas of non-compliance were cited as findings, to which the Company could either agree or disagree. The Company responded thereto, and the Examination Report was issued on April 1, 2022, documenting the practices found to be noncompliant with the Code. On April 1, 2022, the LDI sent a letter via certified mail to the Company requesting any written submissions or rebuttals be received by the Department no later than April 8, 2022. The Examination Report was adopted on April 11, 2022.

The Examination disclosed a totality of nine (9) findings of improper activity and/or business practices which were noncompliant with the Code in the areas of complaint and claim handling, and these findings are discussed below.

Complaint Handling: The Examiners reviewed samples of 48 complaints selected from the Company's complaint logs to test for compliance with the Code.

- 1) The Company was deemed to be in violation of La. R.S. 22:1973. In three of the 48 complaints, or 6.3% of the sample, a claim associated with the complaint was not paid within 60 days after satisfactory proof of loss was submitted.
- 2) The Company was deemed to be in violation of La. R.S. 22:1892. In three of the 48 complaints, or 6.3% of the sample, a claim associated with the complaint was not paid within 30 days after satisfactory proof of loss was submitted.

Claims Handling: The Examiners reviewed samples of 26 claims closed with payment and 35 claims closed without payment during the Examination Period.

- 1) The Company was deemed to be in violation of La. R.S. 22:1973. In one of 26 claims with payment during the Examination Period, or 3.9% of the sample, the Company failed to make a payment within 60 days after satisfactory proof of loss was submitted.
- 2) The Company was deemed to be in violation of La. R.S. 22:1892. In two of 26 claims with payment during the Examination Period, or 7.7% of the sample, the Company failed to make a payment within 30 days after satisfactory proof of loss was submitted.
- 3) The Company was deemed to be in violation of La. R.S. 22:1964(14)(b), (c) and (f). In six of 26 claims with payment during the Examination Period, or 23.1% of the sample, the Company's utilization of multiple desk adjusters delayed the claim investigation and settlement of the claim.
- 4) The Company was deemed to be in violation of La. R.S. 22:1990. In 23 of 35 claims without payment during the Examination Period, or 65.7% of the sample, the Company did not maintain complete and accurate records and/or did not provide records/documentation.
- 5) The Company was deemed to be in violation of La. R.S. 22:1990. In one of 26 claims with payment during the Examination Period, or 3.9% of the sample, the Company did not maintain complete and accurate records and/or did not provide records/documentation.
- 6) The Company was deemed to be in violation of La. R.S. 22:1984. In 23 of 35 claims without payment during the Examination Period, or 65.7% of the sample, the Company

did not maintain complete and accurate records and/or did not provide records/documentation.

- 7) The Company was deemed to be in violation of La. R.S. 22:1984. In one of 26 claims with payment during the Examination Period, or 3.9% of the sample, the Company did not maintain complete and accurate records and/or did not provide records/documentation.

It is the duty of the Commissioner of Insurance to administer the provisions of the Louisiana Insurance Code. On April 11, 2022, a Notice of Proposed Regulatory Action and Wrongful Conduct was sent to your addresses of record via certified mail in accordance with La. R.S. 49:961 and La. R.S. 22:2195. On May 2, 2022, the Company submitted a response to the aforesaid Notice stating they elect not to submit an objection. Following an assessment of your response and the findings cited in the Examination Report adopted on April 11, 2022, this department determined to move forward with the proposed regulatory action. Pursuant to La. R.S. 22:1969, the Commissioner of Insurance finds that the Company has engaged in an unfair method of competition or an unfair or deceptive act or practice.

AUTHORITY OF THE COMMISSIONER

The Louisiana Insurance Code, Title 22, R.S. §22:1 *et seq.* states as follows:

§2. Insurance regulated in the public interest

A. (1) Insurance is an industry affected with the public interest and it is the purpose of this Code to regulate that industry in all its phases....It shall be the duty of the commissioner of insurance to administer the provisions of this Code.

La. R.S. 22:18 maintains in pertinent part:

§18. Suspension or revocation of insurers' licenses; fines; orders

A. The commissioner of insurance may, as a penalty, in accordance with R.S. 49:961, refuse to renew, or may suspend, or revoke the certificate of authority or license of any insurer, person, or entity violating any of the provisions of this Code, or in lieu of suspension or revocation of a certificate or license duly issued, the commissioner may levy a fine not to exceed one thousand dollars for each violation per insurer, person, or entity, up to one hundred thousand dollars aggregate for all violations in a calendar year per insurer, person, or entity, when such violations warrant the refusal, suspension, or revocation of such certificate or license, or the imposition of the fine. The commissioner is also authorized to order any insurer, person, or entity to cease and desist any such action that violates any provision of this Code.

La. R.S. 22:1964 maintains in pertinent part:

§ 1964. Methods, acts and practices which are defined as unfair or deceptive

(14) Unfair claims settlement practices. Committing or performing with such frequency as to indicate a general business practice any of the following:

(b) Failing to acknowledge and act reasonably promptly upon communications with respect to claims arising under insurance policies.

(c) Failing to adopt and implement reasonable standards for the prompt investigation of claims arising under insurance policies.

(f) Not attempting in good faith to effectuate prompt, fair, and equitable settlements of claims in which liability has become reasonably clear.

La. R.S. 22:1973 maintains in pertinent part:

§ 1973. Good faith duty; claims settlement practices; cause of action; penalties

A. An insurer, including but not limited to a foreign line and surplus line insurer, owes to his insured a duty of good faith and fair dealing. The insurer has an affirmative duty to adjust claims fairly and promptly and to make a reasonable effort to settle claims with the insured or the claimant, or both. Any insurer who breaches these duties shall be liable for any damages sustained as a result of the breach.

B. Any one of the following acts, if knowingly committed or performed by an insurer, constitutes a breach of the insurer's duties imposed in Subsection A of this Section:

(5) Failing to pay the amount of any claim due any person insured by the contract within sixty days after receipt of satisfactory proof of loss from the claimant when such failure is arbitrary, capricious, or without probable cause.

§ 1892. Payment and adjustment of claims, policies other than life and health and accident; vehicle damage claims; extension of time to respond to claims during emergency or disaster; penalties; arson-related claims suspension

A. (1) All insurers issuing any type of contract, other than those specified in R.S. 22:1811, 1821, and Chapter 10 of Title 23 of the Louisiana Revised Statutes of 1950, shall pay the amount of any claim due any insured within thirty days after receipt of satisfactory proofs of loss from the insured or any party in interest. The insurer shall notify the insurance producer of record of all such payments for property damage claims made in accordance with this Paragraph.

B. (1)(a) Except as provided in Subparagraph (b) of this Paragraph, failure to make such payment within thirty days after receipt of such satisfactory written proofs and demand thereof or failure to make a written offer to settle any property damage claim, including a third-party claim, within thirty days after receipt of satisfactory proofs of loss of that claim, as provided in Paragraphs (A)(1) and (4) of this Section, respectively, or failure to make such payment within thirty days after written agreement or settlement as provided in Paragraph (A)(2) of this Section when such failure is found to be arbitrary, capricious, or without probable cause, shall subject the insurer to a penalty, in addition to the amount of the loss, of fifty percent damages on the amount found to be due from the insurer to insured, or one thousand dollars, whichever is greater, payable to the insured, or in the event a partial payment or tender has been made, fifty percent of the difference between the amount paid or tendered and the amount found to be due as well as reasonable attorney fees and costs. Such penalties, if awarded, shall not be used by the insurer in computing either past or prospective loss experience for the purpose of setting rates or making rate filings.

La. R.S. 22:1984 maintains in pertinent part:

§ 1984. Commissioner of insurance to conduct financial and market analysis of insurers and regulated entities.

C. Failure by an insurer or regulated entity to supply information requested by the Department of Insurance during the course of financial or market analysis may subject the insurer or regulated entity to revocation or suspension of its license, or, in lieu thereof, a fine not to exceed ten thousand dollars per occurrence. Every insurer or regulated entity shall produce and make freely accessible to the commissioner of insurance the accounts, records, documents, and files in its possession or control.

La. R.S. 22:1990 maintains in pertinent part:

§ 1990. Production of books and records

Every insurer being examined, its officers, employees, and representatives, shall produce and make freely accessible to the commissioner of insurance the accounts, records, documents and files in its possession or control relating to the subject of the examination, and shall otherwise facilitate the examination.

VIOLATIONS:

In accordance with the above stated findings, your failure to timely pay the amount of claims due any person insured after receipt of satisfactory proof of loss from the claimant are violations of La. R.S. 22:1973 and La. R.S. 22:1892, your delay in the claim investigation and settlement of claims is a violation of La. R.S. 22:1964(14)(b)(c)(f), your failure to make records freely accessible relative to the subject of a financial analysis or market analysis or regulatory review is a violation of La. R.S. 22:1984, and failure to produce and make freely accessible records in your possession or control relating to the subject of an examination is a violation of La. R.S. 22:1990.

BE ADVISED:

COMMISSIONER'S ACTION:

As a result of the investigation and documentation in the possession of the LDI, and in accordance with La. R.S. 22:18, La. R.S. 22:1969 and La. R.S. 49:961, determination has been rendered that you are in violation of the statutes listed above and that a general business practice of unfair claims settlement practices exists and the Louisiana Commissioner of Insurance hereby orders you, the approved unauthorized insurer **GeoVera Specialty Insurance Company (LDI #9031 and NAIC #10182)**, to **CEASE AND DESIST** from the aforementioned violations. Any violation of the cease and desist order or other violations of the Louisiana Insurance Code may result in further regulatory actions taken by the LDI. Further, you are hereby **FINED \$183,000.00**, for violations of the Louisiana Insurance Code, payable immediately upon receipt of this Notice.

YOUR ACTION:

Be advised that this constitutes an administrative action and that it will be reported to the National Insurance Producer Registry (NIPR). Be further advised that all actions taken on licenses, in accordance with La. R.S. 49:961 (C) and Regulation 120, shall take effect (10) calendar days from the date of issuance of the notice of regulatory action, unless otherwise provided in Title 22, and that cease and desist orders and summary suspension actions take effect immediately upon issuance. Please also take note that you may need to report this administrative action to other states in which you hold an active license. Contact that state's insurance department if you are unsure of the requirements.

Please remit your **\$183,000.00** fine payment and a copy of this notice to:

Louisiana Department of Insurance
Attention: Accounts Receivable
P.O. Box 94214
Baton Rouge, LA 70804-9214

Pursuant to La. R.S. 22:2191(A)(2), any person aggrieved by an act of the Commissioner may request a hearing. You must make a written demand for an appeal within thirty (30) days from the date of this notice. Failure to file a written demand for an appeal within thirty (30) days from this notice will preclude your right to an administrative hearing.

Pursuant to La. R.S. 22:2191(B), your written demand for an appeal (1) shall reference the particular sections of the statutes and rules involved; (2) shall provide a short and plain statement of the matters asserted for review; and (3) shall attach a copy of the order or decision that you are appealing. Appealing this notice does not stay the action of the Commissioner of Insurance. Pursuant to La. R.S. 22:2204, you must request and be granted a stay of this action by the Division of Administrative Law. Your request for a stay may be included in your appeal. Your written demand for an appeal shall be filed with the Louisiana Department of Insurance at the addresses below:

Louisiana Department of Insurance
Attn: David Caldwell, Executive Counsel
P.O. Box 94214
Baton Rouge, LA 70804-9214

Telephone: (225) 342-4673
Fax: (225) 342-1632

File in Person at:
1702 N. Third Street
Baton Rouge, LA 70802

Signed in Baton Rouge, Louisiana this 9th day of June, 2022.

JAMES J. DONELON
COMMISSIONER OF INSURANCE
STATE OF LOUISIANA

BY:



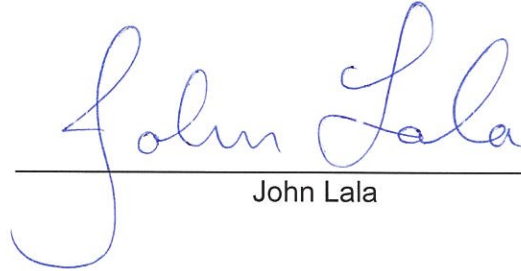
Nathan Strebeck
Deputy Commissioner
Division of Insurance Fraud
Louisiana Department of Insurance
Telephone: (225) 219-5819

CERTIFICATE OF SERVICE

Article # 7021 2720 0002 0321 3439

Article # 7021 2720 0002 0321 3446

I hereby certify that I have this day served the foregoing document upon **GeoVera Specialty Insurance Company**, by mailing a copy thereof properly addressed with postage prepaid, this 9th day of June 2022.



John Lala