



LOUISIANA DEPARTMENT OF INSURANCE

JAMES J. DONELON
COMMISSIONER

NOTICE OF FINE NAIC #10051 AND LDI # 6611

November 19, 2021

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Regulatory Compliance
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WHEREAS, IT HAS COME TO MY ATTENTION, as Commissioner of Insurance (Commissioner) of the Louisiana Department of Insurance (LDI), that Lyndon Southern Insurance Company (LSIC or Company) has violated certain provisions of the Louisiana Insurance Code, Title 22, La. R.S. 22:1 et. seq. As used hereinafter, "you" and "your" refer to Lyndon Southern Insurance Company. Accordingly, pursuant to the power and authority vested in me as the Commissioner, I issue this Notice of Fine based on the following to wit:

Lyndon Southern Insurance Company is an admitted insurer (NAIC Company Code #10051 and LDI #6611) licensed in the State of Louisiana since September 19, 1997, and the status of your Certificate of Authority is active.

As you are aware, the Louisiana Department of Insurance (LDI) conducted a comprehensive Market Conduct Examination (Examination) of LSIC's insurance activities in Louisiana covering the examination period of January 1, 2015 through July 31, 2018, pursuant to La. R.S. 22:1967 and La. R.S. 22:1981-1995. The Examination commenced on October 23, 2018. All records were provided by the Company. The Examiners submitted Information and Data Requests (IDRs) to which the Company provided responses, and interviews were conducted of the Company's management and personnel 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 LSIC the opportunity to respond as it deemed appropriate. The Company responded thereto, and the Examination Report was issued on July 2, 2021, documenting the practices found to be noncompliant with the Louisiana Insurance Code (Code). An Order Adopting Report of Examination of Lyndon Southern Insurance Company as of July 31, 2018, was entered on July 7, 2021.

The Examination disclosed a totality of thirty-two (32) instances of improper activity and/or business practices which were noncompliant with the Louisiana Insurance Code in the areas of: a) operations and management, b) complaint handling, c) underwriting and rating, and d) claims handling, and these violations are discussed below. The Company disagreed with some of the findings but did not appeal the report. The report recommended that the Company address the violations and mitigate future reoccurrences. To date, your implementation of a Corrective Action Plan to correct the violations to enhance your future compliance with the Louisiana Insurance Code remains pending.

Operations and Management: LSIC contracted two (2) third-party administrators to administer the Company's underwriting and claims processing operations for its non-standard auto business, Multi-State Insurance Services, LLC (MSIS) and Affirmative Agencies, Inc., dba USAgencies Management Services (Affirmative). In September 2015, MSIS became the exclusive MGA for the purpose of underwriting, issuing and delivering binders and policies of private passenger automobile liability and automobile physical damage in the states of Alabama and Louisiana. Affirmative was employed to perform claims adjustment and administrative services for certain claims and losses arising from policies issued through MSIS in the Alabama and Louisiana program.

- 1) The Company did not conduct a periodic on-site review, at least semi-annually, of the underwriting and claims processing operations of its two Third-Party Administrators (TPAs) or managing general agents (MGAs), as required under La. R.S. 22:1625(C).

Complaint Handling: A random sample of 50 complaints were selected from the Company's complaint logs to test for compliance with the Code.

- 2) The Company denied 9 of the 50 sample complaints based upon policy applications having material misrepresentations, but in all 9 instances, the Company did not rescind the policies due to the alleged material misrepresentations and did not refund premiums paid by policyholders. Consequently, this equated to the Company misrepresenting pertinent facts or insurance policy provisions relating to coverages at issue, and is deemed an unfair claims settlement practice, pursuant to La. R.S. 22:1964(14)(a).
- 3) In one (1) of the 50 sample complaints, the Company did not record the complaint disposition in the complaint file as required, and is deemed to have inadequate complaint handling procedures, in violation of La. R.S. 22:1963 and La. R.S. 22:1964(17).
- 4) In two (2) of 50 complaints, where the Company refunded premiums later than 30 days after the refunds were due, it did not refund interest on the premium refunds as required by La. R.S. 22:1268(A).

Underwriting and Rating: During the Examination Period, LSIC issued Louisiana private passenger automobile policies using three (3) separate underwriting and rating products. The initial change in private passenger automobile rate and form filings were approved by the LDI and became effective August of 2015. The Company's LL-PPA-RATES/RULES 1.0 and LL-PPA-RATES/RULES 3.0 (credit scoring) filings were approved by the LDI and became effective December of 2015. LSIC did not obtain authorization to reduce or eliminate the statutory 45-day waiting period that would have been required before using the new forms prior to their effective dates.

The Examiners sampled fifteen (15) private comments and highlights passenger automobile policies issued in each of the three product programs during the Examination Period. The Examiners sampled 116 private passenger automobile policies to review transactions of new and renewal policies, policy cancellations and non-renewals, policy declinations, and policy rescissions, including rescissions and cancellations for alleged material misrepresentations by policyholders. Noncompliance with Code requirements are noted. Rescissions relating to unfair claims practices are reported under the Claims Handling section of violations.

- 5) The Company used unfiled LL-PPA Rates/Rules 3.0 financial responsibility codes for eight (8) of 15 private passenger automobile policies issued during the examination period, in violation of La. R.S. 22:1464(A)(1).
- 6) The Company used the newly filed, but unapproved, base rates in one (1) of the eight (8) of 15 private passenger automobile policies issued using the 3.0 program prior to the expiration of the 45-day waiting period and without first obtaining authorization to reduce or eliminate the 45-day waiting period, in violation of La. R.S. 22:1451(C)(1).
- 7) The Company issued one (1) of the eight (8) of 15 policies using expired base rates, which is the equivalent of using unapproved base rates, pursuant to La. R.S.22:1464(A)(1).
- 8) The Company applied an incorrect tier code, resulting in a premium undercharge in one (1) of the 15 policies issued. You stated that 3,530 policies were rolled over from Affirmative during the Examination Period and that an additional 123 policies not included in the sample were issued with the incorrect tier code and premium undercharge due to the programming error of not accurately applying an approved rating tier factor. All affected policyholders were undercharged, but none were required to pay the undercharge. Ultimately, the quoted premium for the policy did not include all charges as required by La. R.S. 22:855(C).
- 9) The Company issued policies using forms that were not filed with and approved by the LDI in 86 of the 116 samples, or 74% of the sample, of private passenger automobile new business, renewal or declined policies during the Examination Period. The 86 sample policies included a total of 118 instances of the use of an unapproved form, in violation of La. R.S. 22:861(A)(1) and LAC 37:XIII §10107(B)(1).
- 10) In three (3) of the 116 samples of private passenger automobile new business, renewal or declined policies issued or declined during the Examination Period, the Company did not provide LDI Examiners with copies of the new business automobile policy applications that attaches to and forms a part of the policies. With those forms missing, you were unable to show that the new business policy was issued with the application attached as required by the Company's filings with the LDI. A policy issued without the application attached constitutes use of an unfiled and unapproved form, pursuant to La. R.S. 22:861(A)(1) and LAC 37:XIII §10107(B)(1).
- 11) In three (3) of the 116 samples of new business, renewal or declined passenger automobile policies reviewed during the Examination Period, policy declaration pages showed that uninsured motorist coverage was not provided, but the Company did not produce valid uninsured motorist coverage rejection forms as required by the Code. Pursuant to La. R.S. 22:1295(1), the Company is required under Louisiana law to provide uninsured motorists

coverage at limits not less than the bodily injury liability limits provided by the policy unless the named insured rejects the coverage, selects lower limits, or selects economic-only coverage using a form prescribed by the Commissioner. Pursuant to La. R.S. 22:1964(16), the Company must maintain those records and make the data retrievable and accessible for examination by the insurance commissioner.

- 12) In one (1) of the first fifteen (15) sample policies in the randomly selected sample of 116 new, renewal and declined policies, the Company did not retain an underwriting record—which in this case, was the vehicle history report used to determine the vehicle history rating factor for the policy. The Company is required by Louisiana law to maintain underwriting records so they may be retrieved for examination purposes, pursuant to La. R.S. 22:1963 and La. R.S. 22:1964(16).
- 13) The Company's general procedures for handling nonpayment cancellation requests from premium finance companies and returned for insufficient funds appear to not be compliant with the Code. Company procedures for handling nonpayment cancellation requests sent by the premium finance company (PFC) and returned for insufficient funds do not: (a) notify the named insured by certified mail that the policy was cancelled from the date the premium was due; and (b) advise the named insured that the policy would be reinstated effective from the date the premium payment was due for the term of the policy only if the named insured or his legal representative presented payment by cashier's check or money order within 10 days of the date the notice of cancellation was mailed.

The Company does not follow procedures for: (a) assuring the cancellation notice is mailed to the named insured by certified mail immediately and in no case later than 10 days after the producer or PFC has notified the Company; (b) returning all funds paid by the producer; (c) returning funds directly to the PFC when the PFC has funded an insured's policy; (d) requiring the funds to be returned by check or other negotiable instrument instead of returned to the producer or PFC's account current; (e) requiring the producer to notify the Company within 10 days of payment by the insured of the dishonored check; and (f) requiring the Company to return the funds within 0 days of the expiration of the 10-day notice of cancellation in the event the policy was cancelled back to the date inception or payment due date. These deficient procedures did not comply with the requirements of La. R.S. 22:1266(D)(3)(b)(ii), La. R.S. 22:1266(D)(3)(d)(i), and La. R.S. 22:1266(D)(3)(b)(iii).

- 14) The Company did not apply the Preferred Risk Discount rating factor to approximately 1,293 policies (totaling 3,317 policy terms), resulting in overcharges to 856 policies affecting 2,345 policy terms with a net aggregate of overcharges in the amount of \$37,613.00. To date, said overcharges appear to have not been refunded to policyholders. Documentation indicates that on October 24, 2016, you first discovered there was a system issue in applying the Preferred Risk Discount rating factor, resulting in a premium overcharge to policyholders. A fix was created in January of 2017, but not released into production until after the examination period. On November 12, 2020, you advised the Examiners that, of the policies written as new business or renewals during the Examination Period, 1,293 policies were affected by this problem and of those policies affected, 2,345 policy terms were overcharged. You calculated the net aggregate amount of the overcharges to be \$37,613.00. You stated that the policy corrections were not processed in the system until May 1, 2020, and to date, you have not provided documentation confirming that refunds were issued to the affected policyholders. As

a result, the Company is deemed to be in violation of La. R.S. 22:1464(A)(1) and La. R.S. 22:855(C).

- 15) In one (1) of the first 15 sample policies listed in the randomly selected sample of 116 new, renewal and declination policies, the Company issued an automobile policy with the policy declarations page showing a total premium and fees of \$700.00, while the sum of individual premiums and fees displayed on the policy declaration page equaled \$680.00. The correct premium of \$690.00 was displayed in the policy application that attaches to the policy. Your policy premium disclosures did not comply with the requirements of La. R.S. 22:855(C).
- 16) In 65 of 71 private passenger automobile policies cancelled or non-renewed during the Examination Period, the Company processed a policy cancellation upon the request of a premium finance company (PFC) under the provisions of R.S. 22:885(A) before obtaining the notices of cancellation from the PFC that are required under La. R.S. 9:3550(G)(3)(a). Based upon the 92% error rate observed in the sample, the LDI finds that the Company engaged in said violation as a general business practice, in violation of La. R.S. 22:855(A).
- 17) The Company did not furnish the Examiner requested copies of accounting records and refund premium checks for 26 of the 31 sampled private passenger automobile policies rescinded or cancelled by the Company for material misrepresentation. Based upon the 84% error rate observed in the sample, the Company is in violation of its duty to facilitate the examination, pursuant to La. R.S. 22:1990.
- 18) The Company did not maintain and/or did not provide the necessary books, records, accounting records, premium refund checks, documents, and other business records for 16 of the 31 policies, or 52% of the sample, of private passenger automobile policies reviewed as being rescinded or cancelled by the Company for material misrepresentation, in violation of Louisiana R.S. 22:1964(16).
- 19) In three (3) of the 31 sample private passenger automobile policies rescinded or cancelled by the Company for material misrepresentations associated with filing fraudulent claims, the files had no documentation in the underwriting or claim files showing that material application misrepresentation was a factor in the rescission decision or denial. This is deemed an unfair or deceptive act or practice under the Code for misrepresenting the benefits, advantages, conditions, or terms of the policy, pursuant to La. R.S. 22:1964(1)(a).
- 20) In (3) of the 31 sample private passenger automobile policies rescinded or cancelled by the Company for material misrepresentations associated with filing fraudulent claims, it failed to notify the LDI of these suspected fraudulent insurance acts as required by the Code. Moreover, the Examiners found no documentation in the three underwriting or claim files showing policy application material misrepresentation was a factor in the decision to rescind the policies or deny the claims. The Company is in violation of La. R.S. 1926(A).
- 21) The Examiners reviewed a sample of 31 private passenger automobile policies rescinded or cancelled during the Examination Period, with 27 of the 31 policies being rescissions and four (4) being cancellations. The Company was deemed to be in violation of La. R.S. 22:1964(1)(a) because one (1) of the rescissions should not have been denied since there was no documentation in the file to support that any material misrepresentation regarding the garaging address was made by the insured—and therefore, the reason for rescission was not

valid. The Company's claim denial to the insured misrepresented that the premium had increased when it had not increased. A claim file note reflects that the premium was "re-run," resulting in a decrease in premium. The company committed an unfair or deceptive act or practice in the business of insurance when it rescinded a private passenger automobile policy for material misrepresentation of the garaging address and misrepresented to the policyholder that the premium had increased, where the file did not contain any documentation to support the finding of a garaging misrepresentation, and the file noted that the premium was "re-run," resulting in a decrease in premium.

Claims Handling: The Examiners reviewed samples of claims closed with payment and claims closed without payment during the Examination Period. The samples of claims also included claims identified by the Company claim handlers as potentially associated with a material misrepresentation by the insured or denied due to a material misrepresentation to test for compliance with the Louisiana Insurance Code. Claims that did not contain terms associated with material misrepresentation ("MMR") are referred to as the "Non-MMR" claims. A random sample 90 MMR claims closed with payment and claims closed without payment and a sample of 90 Non-MMR claims closed with payment and claims closed without payment were reviewed.

- 22) In one (1) of the 90 sample Non-MMR claims, the Company failed to timely adjust a property damage claim for loss when it did not initiate a loss adjustment of a non-material misrepresentation claim within fourteen (14) days after notification of loss by the claimant. According to your claim file notes, the claim which included a claim for reasonable medical expenses, was reported to the Company on May 12, 2017, and the claim adjustment was initiated May 31, 2017, nineteen (19) days later. This is deemed a violation of La. R.S. 22:1892(A)(3).
- 23) In one (1) of the 90 sample Non-MMR paid and closed without payment claims, the Company's accident claim handler told an insured that in most cases, when an accident is not the insured's fault, it is best to file the claim with the adverse carrier because then the insured's rate would not go up. The statement was false because the Company's filed rating plan did not assign driver points for not-at-fault accidents. This false statement is deemed an unfair method of competition and an unfair or deceptive act or practice in the business of insurance, pursuant to La. R.S. 22:1964(1)(a) and La. R.S. 22:1964(2).
- 24) In one (1) of the 90 sample Non-MMR claims, the Company failed to reimburse an insured for three days of covered rental car taxes incurred during the period of April 28, 2017 through May 1, 2017, in violation of La. R.S. 22:1892(A)(1).
- 25) The Examiners reviewed 31 property damage claim files within the random sample of 90 Non-MMR paid and closed without payment claims to ensure that the Company appraised damaged vehicles timely. In one (1) of the 31 sample claims, a collision claim was reported by an insured who notified the Company that the damaged vehicle was located within a storage facility, the Company failed to appraise the vehicle located within the storage facility within ten (10) days of notification, in violation of La. R.S. 22:1297(A). The Company had a responsibility to appraise the vehicle and pay the claim under collision coverage, absent any independent effort to confirm liability, obtain the police report, and contact the adverse carrier. The file was void of any documentation that the insured filed the claim with the adverse carrier or cancelled the collision claim.

- 26) Eight (8) of the 90 sample Non-MMR claims paid and closed without payment did not contain statements setting forth the coverage under which a first party claim payment was being made that is required under La. R.S. 22:1964(14)(j).
- 27) In one (1) of the 90 sample Non-MMR paid and closed without payment claims, the Company did not make a written offer to settle the property damage claim within thirty (30) days after receipt of satisfactory proof of loss, in violation of La. R.S. 22:1892(a)(4). The Company's underwriting file notes stated that pictures of the damaged vehicle were attached to the file on September 20, 2017, but no offer to settle a covered collision claim was made.
- 28) The Examiners found that in one (1) of the 90 sample Non-MMR paid and closed without payment claims, the Company did not notify the LDI of the suspicion that a fraudulent claim occurred as required by the Code, which is deemed a violation of La. R.S. 22:1926(A).
- 29) In a random sample of 90 MMR paid and closed without payment claims, the Examiners found in three (3) of the samples that the Company failed to maintain records of policy rescission decisions, claim denial letters, and/or policy cancellation notices, as required under La. R.S. 22:1964(16). The data for at least the current calendar year and the two preceding years are required to be maintained.
- 30) In one (1) of the sample of 90 MMR paid and closed without payment claims, the Company improperly denied the claim. It processed a policy cancellation requested by the PFC under La. R.S. 22:885(A) prior to obtaining a copy of the notice of cancellation from the PFC as required by La. R.S. 9:3550(G)(3)(a). Subsequently, the Company denied a claim for the reason of "no coverage". The cancellation was invalid, and therefore, the denial of the claim was deemed to be a violation of La. R.S. 22:1964(1)(a).
- 31) The Examiners reviewed a sample of 90 MMR claims paid and closed without payment which had 76 claims denied for alleged application material misrepresentation but did not rescind the policies under which the claims were made and did not refund the premiums to the insureds. The Company also provided a sample of 90 non-MMR claims which had one (1) claim denied for an alleged application misrepresentation but did not rescind the policy under which the claim was made and did not refund the premium to the insured. In those 77 instances, the Company collected the premiums, issued the policies, retained earned premiums, but did not provide the coverage promised in the policy. The Company's failure to rescind the policies and refund the premiums paid in the wake of denying the claims based upon alleged material misrepresentations resulted, effectively, in a misrepresentation of the benefits, conditions, and terms of the policy, pursuant to La. R.S. 22:1964(14)(a).
- 32) The Company engaged in unfair settlement practices by conducting post claim underwriting activities that served as the basis for claim denials. A sample of 31 policies rescinded for material misrepresentation contained 22 policies rescinded based upon activity performed by the Company's claims unit during claims investigations conducted after claims were filed. The claims unit sought to verify statements made in the policy applications and/or change requests submitted by policyholders. The Vice-President of Claims made the determination of the validity of the statements made in the applications and/or changes requests and whether a material misrepresentation was made for the 22 policies. In 21 of the 22 instances, the Vice-President of Claims denied the claims because of the alleged material misrepresentations. In the remaining one (1) instance, the claim amount was below the deductible.

Verification of statements made in a policy application or a change request is ordinarily performed by the underwriting unit at the time the policy application or change request is submitted. Here, the Vice-President of Underwriting and Policy Service rescinded the 22 policies due to alleged material misrepresentations in the applications or in the change requests after the Claims Unit's investigations and determinations, which is post claim underwriting, and, effectively, an unfair claims settlement practice that violates the Code, pursuant to La. R. S. 22:1964(14)(f).

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 phase. ... It shall be the duty of the commissioner of insurance to administer the provisions of this Code.

Section 18. A. 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.

Section 337. A. maintains in pertinent part:

§337. Refusal, suspension, and revocation of certificate of authority

- A. The commissioner of insurance may refuse, suspend, or revoke the certificate of authority of a foreign or alien insurer whenever he shall find that such insurer:
- (5) Has violated any law of this state or has in this state violated its charter or exceeded its corporate powers;
- (6) Has refused to submit its books, papers, accounts, records, or affairs to the reasonable inspection or examination of the commissioner of insurance, his actuaries, supervisors, deputies, or examiners.

La. R.S. 22:855 maintains in pertinent part:

§855. Quoted premium shall include all charges; dollar amount required

C. Each policy delivered to the insured shall have the full and accurate dollar amount of the premium disclosed on the policy, which shall be inclusive of all fees, charges, premiums, or other consideration charged for the insurance or for the procurement thereof, except that, in any subsequent modification of the policy, the insurer may require that evidence of insurability be furnished at the insured's expense, and except that the premium tax on the surplus lines policy shall be separately state, and except for reimbursement of expenses and agency fees as authorized in Paragraph (B)(2) of this Section.

La. R.S. 22:861 maintains in pertinent part:

§861. Approval of forms

- A. (1) No basic insurance policy form, other than fidelity or surety bond forms, or application form where written application is required and is to be attached to the policy, or be a part of the contract or printed life, annuity, or health and accident rider or endorsement form shall be issued, delivered, or used unless it has been filled with and approved

La. R.S. 22:885 maintains in pertinent part:

§885. Cancellation by the insured; surrender

- A. Cancellation by the insured of any policy which by its terms may be cancelled at the insured's option or any binder based on the policy shall be effected only by written notice thereof to the insurer.

La. R.S. 22:1266 maintains in pertinent part:

§1266. Automobile, property, casualty, and liability insurance policies; cancellations

- D. (3)(b)(ii) The insurer shall immediately, and in no case later than ten days after the producer or premium finance company has notified the insurer, notify the named insured, by certified mail or delivering to the named insured a written notice that the policy is canceled from the date the premium payment was due. The insurer shall advise the named insured that the policy shall be reinstated effective from the date the premium payment was due for the term of the policy only if the named insured or his legal representative presents to the insurer a cashier's check or money order for the full amount of the returned check or other negotiable instrument within ten days of the date that the notice of cancellation was mailed.

(d)(i) Within ten days of the expiration of the ten-day notice, the insurer shall return all funds paid by the producer to the insurer on behalf of the insured, except that when an insurance premium finance company has funded an insured's policy the insurer shall return those funds directly to the insurance premium finance company. These funds shall be returned by check or other negotiable instrument and shall not be placed on the producer's or premium finance company's account currents unless the producer or

premium finance company and the insurer have agreed to other methods for handling these funds. Funds received by the insurance premium finance company in excess of the amount funded by the insurance premium finance company shall be forwarded to the producer. When funds are returned to the premium finance company by an insurer, the insurer shall also mail a copy of the check or other negotiable instrument to the insured at the insured's last-known address.

(iii) When an insured pays the dishonored check by delivery to the producer of cash or a certified check, the producer shall notify the insurer within ten days of the payment of the dishonored check.

La. R.S. 22:1268 maintains in pertinent part:

§1268. Interest on refund; exception

A. Any refund due an insured by an insurer writing or delivering insurance policies excluding health insurance, life insurance, and annuities in the state because of either cancellation elimination, or reduction of coverage by the insurer or the insured, shall be accompanied with interest at the rate of one and one-half percent per month of the amount of the refund due the customer, without the benefit of daily proration of this monthly interest, after thirty days of either of the following:

- (1) The delivery to the insured of the written notice of such cancellation, elimination, or Reduction.
- (2) Delivery to the insurer's state, regional, or home office, from which such refund would issue of the written request for such cancellation elimination, or reduction. An insurer shall be deemed in compliance with this Section and not subject to the further accrual of interest by furnishing timely evidence of the mailing of such refund to the last known address of the insured. However, when the insured continues to maintain a policy of insurance with the insurer, or an affiliated insurer, and the amount of the refund plus interest is twenty-five dollars or less, the insurer may credit the amount of the payment against future premiums. The insurer shall give written notice to the insured of the credit and the amount at policy renewal.

La. R.S. 22:1295 maintains in pertinent part:

§1295. Uninsured motorist coverage

The following provisions shall govern the issuance of uninsured motorist coverage in this state:

- (1) (a)(i) No automobile liability insurance covering liability arising out of the ownership, maintenance, or use of any motor vehicle shall be delivered or issued for delivery in this state with respect to any motor vehicle designed for use on public highways and required to be registered in this state or as provided in this Section unless coverage is provided therein or supplemental thereto, in not less than the limits of bodily injury liability provided by the policy, under provisions filed with and approved by the commissioner of insurance, for the protection of persons insured thereunder who are legally entitled to recover nonpunitive damages from owners or operators of uninsured or underinsured motor

vehicles because of bodily injury, sickness, or disease, including death resulting therefrom; however, the coverage required under this Section is not applicable when any insured named in the policy either rejects coverage, selects lower limits, or selects economic-only coverage, in the manner provided in Item (1)(a)(ii) of this Section. In no event shall the policy limits of an uninsured motorist policy be less than the minimum liability limits required under R.S. 32:900, unless economic-only coverage is selected as authorized in this Section. Such coverage need not be provided in or supplemental to a renewal, reinstatement, or substitute policy when the named insured has rejected the coverage or selected lower limits in connection with a policy previously issued to him by the same insurer or any of its affiliates. The coverage provided under this Section may exclude coverage for punitive or exemplary damages by the terms of the policy or contract. Insurers may also make available, at a reduced premium, the coverage provided under this Section with an exclusion for all noneconomic loss. This coverage shall be known as "economic-only" uninsured motorist coverage. Noneconomic loss means any loss other than economic loss and includes but is not limited to pain, suffering, inconvenience, mental anguish, and other noneconomic damages otherwise recoverable under the laws of this state.

(ii) Such rejection, selection of lower limits, or selection of economic-only coverage shall be made only on a form prescribed by the commissioner of insurance. The prescribed form shall be provided by the insurer and signed by the named insured or his legal representative. The form signed by the named insured or his legal representative which initially rejects such coverage, selects lower limits, or selects economic-only coverage shall be conclusively presumed to become a part of the policy or contract when issued and delivered, irrespective of whether physically attached thereto. A properly completed and signed form creates a rebuttable presumption that the insured knowingly rejected coverage, selected a lower limit, or selected economic-only coverage. The form signed by the insured or his legal representative which initially rejects coverage, selects lower limits, or selects economic-only coverage shall remain valid for the life of the policy and shall not require the completion of a new selection form when a renewal, reinstatement, substitute, or amended policy is issued to the same named insured by the same insurer or any of its affiliates. An insured may change the original uninsured motorist selection or rejection on a policy at any time during the life of the policy by submitting a new uninsured motorist selection form to the insurer on the form prescribed by the commissioner of insurance. Any changes to an existing policy, regardless of whether these changes create new coverage, except changes in the limits of liability, do not create a new policy and do not require the completion of new uninsured motorist selection forms. For the purpose of this Section, a new policy shall mean an original contract of insurance which an insured enters into through the completion of an application on the form required by the insurer.

(iii) This Subparagraph and its requirement for uninsured motorist coverage shall apply to any liability insurance covering any accident which occurs in this state and involves a resident of this state.

(iv) Notwithstanding any contrary provision of this Section and R.S. 22:1406, an automobile liability policy written to provide coverage for a school bus may limit the scope of uninsured motorist liability to only provide liability coverage for damages incurred by reason of an accident or incident involving the school bus, or a temporary substitute vehicle, and such limitation shall limit the uninsured motorist coverage of a named insured in the policy to only damages incurred by reason of such accident or incident.

La. R.S. 22:1297 maintains in pertinent part:

§1297. Damaged vehicle in storage facility; timely appraisal; penalties

- A. Whenever a property damage claim on a personal vehicle is made by an insured or a third party claimant, and the damaged vehicle is located in a storage facility, the insurer responsible for payment of the claim shall cause an appraisal of the damaged vehicle to be made within ten working days of the date of notification of the location and availability of the vehicle. In the event the property damage is caused by a natural disaster or catastrophe or unusual circumstances, the appraisal requirement in this Section shall be twenty working days.

La. R. S. 22:1464 maintains in pertinent part:

§1464. Rate filing

- A. (1) Every insurer whose rates are subject to regulation under the provisions of this Subpart shall file with the commissioner, except as to individually rated excess insurance coverages which are not written according to manual rates or rating plans, every manual, minimum, class rate, rating schedule, or rating plan and every other rating rule and every modification of any of the foregoing which it proposes to use. Every such filing shall state the proposed effective date thereof and shall indicate the character and extent of the coverage contemplated.

La. R.S. 22:1451 maintains in pertinent part:

§1451. Systems for ratemaking.

- B. (1) Subject to the exception specified in Subsection D of this Section, each filing submitted to the commissioner shall be on file for a waiting period of forty-five days before it becomes effective. Upon written application by such insurer or rating organization, the commissioner may authorize a filing which he has reviewed to become effective before the expiration of the waiting period. A filing shall be deemed to meet the requirements of this Subpart unless disapproved in writing by the commissioner within the forty-five-day waiting period specified in this Subsection. For any filing that is disapproved, the insurer may appeal such disapproval to the Nineteenth Judicial District Court within fifteen days from the receipt of written notice of disapproval.

La. R.S. 22:1625 maintains in pertinent part:

§1625. Duties of Insurers

- C. The insurer shall periodically, but no less often than semi-annually, conduct an on-site review of the underwriting and claims processing operations of the MGA.

La. R.S. 22:1892 maintains in pertinent part:

§1892. Payment and adjustment of claims, policies other than life and health and accident; personal 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.

(3) Except in the case of catastrophic loss, the insurer shall initiate loss adjustment of a property damage claim and of a claim for reasonable medical expenses within fourteen days after notification of loss by the claimant. In the case of catastrophic loss, the insurer shall initiate loss adjustment of a property damage claim within thirty days after notification of loss by the claimant except that the commissioner may promulgate a rule for extending the time period for initiating a loss adjustment for damages arising from a presidentially declared emergency or disaster or a gubernatorially declared emergency or disaster up to an additional thirty days. Thereafter, only one additional extension of the period of time for initiating a loss adjustment may be allowed and must be approved by the Senate Committee on Insurance and the House Committee on Insurance, voting separately. Failure to comply with the provisions of this Paragraph shall subject the insurer to the penalties provided in R.S. 22:1973.

(4) All insurers shall make a written claim 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.

La. R.S. 22:1963 maintains in pertinent part:

§1963. Unfair methods and unfair or deceptive acts and practices prohibited

No person shall engage in this state in any trade practice which is defined in this Part to be an unfair method of competition or an unfair or deceptive act or practice in the conduct of the business of insurance, including unauthorized insurance as provided in R.S. 22:1902 et seq. or the failure to maintain professional liability insurance, if such coverage is required pursuant to R.S. 22:1570.1.

La. R.S. 22:1926 maintains in pertinent part:

§1926. Duties of companies and others

- A. Any person, company, or other legal entity including but not limited to those engaged in the business of insurance, including producers and adjusters, that suspects that a fraudulent insurance act will be, is being, or has been committed shall, within sixty days of the receipt of such notice, send to the division of insurance fraud, on a form prescribed by the commissioner, the information requested and such additional information relative to the insurance act and the parties claiming loss or damages because of an occurrence or accident as the commissioner may require. The division of insurance fraud shall review such reports and select such insurance acts as, in its judgment, may require further investigation. It shall then cause an independent examination of the facts surrounding such insurance act to be made to determine the extent, if any, to which fraud, deceit, or intentional misrepresentation of any kind exists in the submission of the insurance act.

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

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

The following are declared to be unfair methods of competition and unfair or deceptive acts or practices in the business of insurance:

- (1) Misrepresentations and false advertising of Insurance policies.** Making, issuing, circulating, or causing to be made, issued, or circulated any estimate, illustration, circular or statement, sales presentation omission, or comparison that does any of the following:
- (a) Misrepresents the benefits, advantages, conditions, or terms of any policy issued or to be issued.
- (2) False information and advertising generally.** Making, publishing, disseminating, circulating, or placing before the public, or causing, directly or indirectly, to be made, published, disseminated, circulated, or placed before the public, in a newspaper, magazine or other publication, or in the form of a notice, circular, pamphlet, letter or poster, or over any radio or television station, or in any other way, an advertisement, announcement or statement containing any assertion, representation or statement with respect to the business of insurance or with respect to any person in the conduct of his insurance business, which is untrue, deceptive or misleading.
- (12)** Any violation of any prohibitory law of this state.
- (14) Unfair claims settlement practices.** Committing or performing with such frequency as to indicate a general business practice any of the following:
- (a) Misrepresenting pertinent facts or insurance policy provisions relating to coverages at issue.
 - (f) Not attempting in good faith to effectuate prompt, fair, and equitable settlements of claims in which liability has become reasonably clear.
 - (j) Making claims payments to insureds or beneficiaries not accompanied by statement setting forth the coverage under which the payments are being made.

(16) Failure to maintain marketing and performance records. Failure of an insurer to maintain its books, records, documents, and other business records in such an order that data regarding complaints, claims, rating, underwriting, and marketing are accessible and retrievable for examination by the insurance commissioner. Data for at least the current calendar year and the two preceding years shall be maintained.

(17) Failure to maintain adequate complaint handling procedures. Failure of an insurer to maintain its books, records, documents, and other business records in such an order that data regarding complaints, claims, rating, underwriting, and marketing are accessible and retrievable for examination by the insurance commissioner. Data for at least the current calendar year and the two preceding years shall be maintained.

Section 1967 maintains in pertinent part:

§1967. Power of commissioner of Insurance

The commissioner of insurance shall have power to examine and investigate the affairs of every person engaged in the business of insurance, including violations of R.S. 22:1902 et seq., in order to determine whether such person has been or is engaged in any unfair method of competition or in any unfair or deceptive act or practice prohibited by this Part.

Section 1969 maintains in pertinent part:

§1969. Violations, penalties

A. If, after receiving the person's answer or response or no answer or response is received within twenty days of receipt of mailing, faxing, or delivery of the notice, the commissioner shall determine the person charged has engaged in in an unfair method of competition or an unfair or deceptive act or practice, he shall reduce his findings to writing and shall issue and cause to be served upon the person charged with the violation a copy of such findings and an order requiring such person to cease and desist from engaging in such method of competition, act, or practice and order any one or more of the following:

- (1) Payment of a monetary penalty of not more than one thousand dollars for each and every act or violation, but not to exceed an aggregate penalty of one hundred thousand dollars unless the person knew or should have known he was in violation of this Part, in which case the penalty shall be not more than twenty-five thousand dollars for each and every act or violation, but not to exceed an aggregate penalty of two hundred fifty thousand dollars in any six-month period.
- (2) Suspension or revocation of the license of the person if he knew or reasonably should have known he was in violation of this Part.

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.

LAC Title 37:XIII maintains in pertinent part:

LAC 37:XIII §10107. Filing and Review of Health Insurance Policy Forms and Related Matters

A. Filing Required

1. Pursuant to R.S. 22:861(A), no basic insurance policy form, other than fidelity or surety bond forms, or application form where written application is required and is to be attached to the policy or be a part of the contract, or printed rider or endorsement form, shall be issued, delivered, or used in this state unless and until it has been filed with and approved by the commissioner. This requirement also applies to any group health or accident insurance policy Title 37, Part XIII *Louisiana Administrative Code* 385 Code September 2021 covering residents of Louisiana, regardless of where issued or delivered. Every page of each such form including rider and endorsement forms filed with the department must be identified by a form number in the lower left corner of the page.

LAC 37:XIII § 10113. Filing and Review of Property and Casualty Policy Forms and Related Matters

B. Filing Required

1. Pursuant to R.S. 22:861(A), no basic insurance policy form, other than fidelity or surety bond forms, or application form where written application is required and is to be attached to the policy or be a part of the contract, or printed rider or endorsement form, shall be issued, delivered, or used in this state unless and until it has been filed with and approved by the commissioner. Every page of each such form including rider and endorsement forms filed with the department must be identified by a form number in the lower left corner of the page.

VIOLATIONS:

- 1) Failing to conduct a periodic on-site review of the underwriting and claims processing operations of your MGA and MSIS constitute violations of La. R.S. 1625(C);
- 2) Failing to rescind policies containing material misrepresentations and refunding premiums paid thereon then denying policyholder claims based upon the material misrepresentations constitute violations of La. R.S. 22:1964(14)(a);
- 3) Failing to record a complaint disposition in a complaint file constitutes a failure to maintain adequate complaint handling procedures and an unfair or deceptive act or practice, in violation of La. R.S. 22:1963 and La. R.S. 22:1964(17);
- 4) Failing to pay interest on premium refunds that were paid later than 30 days after they were due, constitutes violations of La. R.S. 1268(A);

- 5) Using financial responsibility codes in policy ratings that were not properly filed and approved by the LDI constitute violations of La. R.S. 22:1464(A)(1) and La. R. S. 22:1964(12);
- 6) Issuing a policy using unapproved base rates constitute violations of La. R.S. 1451(C)(1) and La. R.S. 1964(12);
- 7) Issuing a policy using expired base rates may be deemed the use of unapproved base rates, and thereby constitutes violation of La. R.S. 1451(C)(1);
- 8) Applying the incorrect tier codes resulting in premium undercharging constitutes violations of La. R.S. 1464(A)(1) and La. R.S. 22:855(C);
- 9) Issuing a policy using forms that were not filed with and approved by the LDI constitutes violations of La. R.S. 22:861(B)(1), LAC 37:XIII §10107(B)(1) and LAC 37:XIII §10113(B)(1);
- 10) Issuing a policy without the application attached may be deemed the use of an unfiled and unapproved form Not providing LDI Examiners with copies of the new business automobile policy and thereby constitutes violations of La. R.S. 22:861(B)(1), LAC 37:XIII §10107(B)(1) and LAC 37:XIII §10113(B)(1);
- 11) Failing to provide uninsured motorist coverage at limits not less than the bodily injury liability limits provided by the policy or produce a valid uninsured motorist coverage rejection form constitutes violations of La. R.S. 22:1964(16) and La. R.S. 22:1295(1);
- 12) Failing to maintain an underwriting record in the form of a vehicle history report used to determine a vehicle history rating factor constitutes a violation of La. R.S. 22:1963 and La. R.S. 22:1984(16);
- 13) Having deficient procedures for handling nonpayment cancellation requests from premium finance companies and for payments returned for insufficient funds constitutes violations of La. R.S. 22:1266(D)(3)(b)(ii), La. R.S. 22:1266(D)(3)(d)(i), and La. R.S. 22:1266(D)(3)(d)(iii);
- 14) Failing to apply the Preferred Risk Discount rating factor to private passenger automobile policies issued during the Examination Period, resulting in premium overcharges to policyholders then failing to refund said overcharges constitutes violations of La. R.S. 22:855(C) and La. R.S. 22:1464(A)(1);
- 15) Issuing inaccurate and/or inconsistent premium rates showing on the policy declarations page that differ from the amounts quoted in the application attached to the policies, which differ from the actual sum of the individual fees, charges, and premiums delineated in a quote constitutes violations of La. R.S. 22:855(C);
- 16) Processing several private passenger automobile policy cancellations requested by premium finance companies prior to obtaining the required written notices of cancellation from the PFC constitutes a prohibited general business practice of improperly processing policy, cancellations, which constitutes violations of La. R.S. 22:885(A);
- 17) Failing to furnish information requested by the Examiners constitutes violations of La. R.S. 22:1990;

- 18) Failing to maintain the necessary books, records, documents, and other business records for policies rescinded or cancelled by the Company for material misrepresentation constitutes violations of La. R.S. 22:1964(16);
- 19) Failing to maintain documentation in the private passenger automobile policy files to support the rescission of policies or denial of claims based on material misrepresentations associated with fraudulent claims constitute an unfair or deceptive act or practice in violation of La. R.S. 22:1964(1)(a);
- 20) Failing to notify the LDI of suspected fraudulent insurance acts, including but not limited to the material misrepresentations associated with fraudulent claims that resulted in the Company's rescission of policies or denial of claims, constitutes violations of La. R.S. 22:1926(A);
- 21) Rescinding a private passenger automobile policy for an invalid reason, misrepresenting a premium increase, and improperly denying an associated claim constitutes violations of La. R.S. 22:1964(1)(a);
- 22) Failing to initiate the loss adjustment of a non-material misrepresentation property damage claim that included a claim for reasonable medical expenses within fourteen (14) days after notification of loss by the claimant, constitutes a violation of La. R.S. 22:1892(A)(3);
- 23) Making untrue statements or misrepresentations to an insured during the handling of an automobile accident claim where he was not at fault that his filing a claim with the insurer rather than with an adverse carrier would impact his premium rate, where the Company's rating plan filed with the LDI did not assign driver points for not-at-fault accidents, constitutes violations of La. R.S. 22:1964(1)(a) and La. R.S. 22:1964(2);
- 24) Failing to make timely payment of a claim for a covered loss within thirty (30) days after receipt of satisfactory proof of loss constitutes a violation of La. R.S. 1892(A)(1);
- 25) Failing to timely perform a physical damage appraisal of an insured's vehicle constitutes a violation of La. R.S. 22:1297(A);
- 26) Failing to include a statement identifying the coverage under which a first party claim was made constitutes a violation of La. R.S. 22:1964(14)(j);
- 27) Failing to make a timely written settlement offer to settle a property damage claim within thirty days after receipt of satisfactory proofs of loss constitutes a violation of La. R.S. 1892(A)(4);
- 28) Failing to notify the LDI of a suspected fraudulent insurance act regarding a claim that did not involve material misrepresentations constitutes a violation of La. R.S. 1926(A);
- 29) Failing to maintain the required claim records, such as a policy rescission decision associated with a claim, the claim denial letter, and/or policy cancellation letter constitutes a violation of La. R.S. 22:1964(16);

- 30) Cancelling a policy prematurely, i.e., prior to receipt of a notice of cancellation from the PFC, resulting in the denial of a claim for the reason of no coverage due to the improper cancellation of the policy, constitutes a violation of La. R.S. 22:1964(1)(a);
- 31) Misrepresenting policy provisions in the handling of claims, for example, the denial of a claim for application material misrepresentation without rescinding the policy and refunding premiums to the policyholder, is, effectively, an unfair or deceptive act or practice in the business of insurance and is an unfair claims settlement practice, which constitutes violations of La. R.S. 22:1964(1)(a) and (14)(a); and
- 32) Engaging in post claim underwriting of insurance policy applications or change requests, is deemed an unfair claims settlement practice, which constitutes violations of La. R.S. 22:1964(14)(f).

BE ADVISED:

COMMISSIONER'S ACTION:

As a result of the investigation and documentation in 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 the Louisiana Commissioner of Insurance hereby serves you notice that the Louisiana **Certificate of Authority** issued to **LYNDON SOUTHERN INSURANCE COMPANY (NAIC #10051 AND LDI # 6611)** is hereby **FINED TWO HUNDRED FIFTY THOUSAND DOLLARS (\$250,000.00)**, pursuant to La. R.S. 22:1969(A)(1) for its prohibited activity constituting unfair or deceptive acts and practices and **ONE HUNDRED THOUSAND DOLLARS (\$100,000.00)**, pursuant to La. R.S. 22:18(A), for all other violations of the Louisiana Insurance Code, for an aggregate fine totaling **THREE HUNDRED FIFTY THOUSAND DOLLARS (\$350,000.00)**, and you are further ordered to pay the full amount immediately.

YOUR ACTION:

Be advised that this constitutes an administrative action and that it will be reported to the National Insurance Producer Registry. You may need to report this administrative action to other states in which you hold an active license. Contact the state's insurance department if you are unsure of their requirements.

Please remit your \$350,000.00 fine payment and a copy of this notice to:

Louisiana Department of Insurance
Attn: 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 of 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 19th day of November 2021.

JAMES J. DONELON
COMMISSIONER OF INSURANCE
STATE OF LOUISIANA

BY:



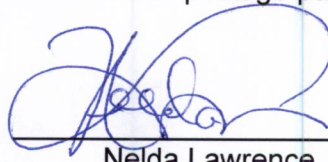
Matthew Stewart
Deputy Commissioner
Divisions of Fraud & Enforcement
Louisiana Department of Insurance
Telephone: (225)219-5819

CERTIFICATE OF SERVICE

Article No.: 7019 2280 0001 1504 4659

Article No.: 7019 2280 0001 1504 4666

I do hereby certify that I have this day served the foregoing document upon Lyndon Southern Insurance Company, properly addressed with postage paid, this 19th day of November 2021.



Nelda Lawrence