



Texas Department of Insurance

Financial, General Management, Mail Code 305-2A
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February 28, 2011

Jim Oliver, General Manager
Texas Windstorm Insurance Association
5700 S. Mopac, Bldg. E, Suite 530
Austin, TX 78749

Via Hand Delivery

Re: Administrative Oversight of the Texas Windstorm Insurance Association

Dear Mr. Oliver:

The Texas Legislature has determined that it is a proper concern of this state and proper policy to attempt to correct or remedy misconduct, ineptness, or misfortune of any person, organization, or company engaging in the business of insurance and has declared that the substance and procedure of Chapter 441 of the Texas Insurance Code are the public policy of this state and necessary to the public welfare. This public policy and welfare require the application of Chapter 441 whenever circumstances warrant, and it is, therefore, a condition of engaging in the business of insurance in Texas.

The Commissioner of Insurance has determined that the Texas Windstorm Insurance Association ("TWIA") is in a condition that makes its continuation in business hazardous to the public or to its policyholders, as it appears that its management does not have the experience, competence, or trustworthiness to operate TWIA in a safe and sound manner, and that TWIA should be placed under administrative oversight. This opinion is based, in part, upon information gathered by or submitted to staff of the Texas Department of Insurance (the "Department"), indicating that: (a) in multiple instances, an outside claims adjuster was paid for adjusting work that appears not to have been performed and that TWIA paid claims based on that outside adjuster's recommendation; (b) TWIA management was aware of this and failed to report it in writing to the Department's insurance fraud unit not later than the 30th day after the date of making the determination or reasonably suspecting that a fraudulent insurance act had been committed; and (c) TWIA has failed to adequately address issues identified through the recent financial examination and subsequent financial analysis indicating a lack of adequate controls over accounting, personnel, and material decisions affecting day-to-day operations, as well as communications with staff, the board of directors, and the Department.

As a result, the Commissioner of Insurance is placing TWIA under administrative oversight in accordance with the terms of § 441.053 of the Texas Insurance Code and in conjunction with all applicable law, including Chapter 401, subchapter B, of the Texas Insurance Code. The Commissioner and the Department also retain all authority under Texas law, including authority set out in the Texas Insurance Code and the Texas Government Code. This administrative oversight will continue until the Commissioner determines that TWIA has satisfied the specified requirements. Nevertheless, this letter is not intended to prohibit TWIA from continuing its intended operations.

The commissioner has determined that TWIA must meet the following requirements in order to abate the conditions on which the determination is based:

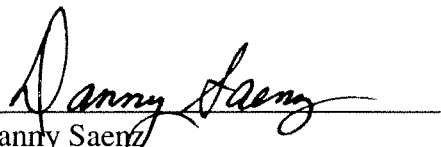
1. TWIA management must submit all senior or executive level personnel decisions to the Commissioner's Representative for prior review and approval;
2. TWIA management must, as requested by the Commissioner's Representative, submit expenditures for prior review and approval; and
3. TWIA management must develop a plan acceptable to the Commissioner's Representative to ensure complete, accurate, and timely communications with its board of directors to ensure that the board of directors can meet its primary objectives, as set out in § 2210.201 of the Texas Insurance Code, and any and all other responsibilities.

The Texas Insurance Code and other applicable laws give the Department complete authority to examine and monitor TWIA's business and operations. Pursuant to this authority, TWIA must allow the Department's examiners, actuaries, consultants, employees, and other representatives immediate and complete access to any books, records, materials, information, or documents, in any format, that are directly or indirectly under or subject to TWIA's control. TWIA must also provide any information and materials requested, as required by § 38.001 of the Texas Insurance Code.

Angel Garrett, the Department's Director of Rehabilitation and Liquidation Oversight, will serve as the Commissioner's Representative while TWIA is under administrative oversight. Please direct communications related to the administrative oversight to Ms. Garrett, or her staff, as she directs. Any communication from an attorney should be directed to Elizabeth Fuller.

Sincerely,

Mike Geeslin
Commissioner of Insurance

By: 
Danny Saenz
Senior Associate Commissioner
Financial Program
Commissioner's Order No. 10-1088

c: Alice Gannon
Richard Clifton Craig
William David Franklin Sr.
Mike Gerik
Peter Kelly
Joseph Minor
Craig Nadziejka
Robert Shepard
Angel Garrett
Elizabeth Fuller