



State of Wisconsin / OFFICE OF THE COMMISSIONER OF INSURANCE

Scott Walker, Governor
Ted Nickel, Commissioner

Wisconsin.gov

125 South Webster • P.O. Box 7873
Madison, Wisconsin 53707-7873
Phone: (608) 266-3585 • Fax: (608) 266-9935
E-Mail: information@oci.state.wi.us
Web Address: oci.wi.gov

Notice of Adoption and Filing of Examination Report

Take notice that the proposed report of the market conduct examination of the

AUTO CLUB INSURANCE ASSOCIATION
1 AUTO CLUB DR
DEARBORN MI 48126

dated SEPTEMBER 24, 2010, and served upon the company on JUNE 22, 2011, has been adopted as the final report, and has been placed on file as an official public record of this Office.

Dated at Madison, Wisconsin, this 15th day of JANUARY, 2013.

A handwritten signature in black ink, appearing to read 'Ted Nickel', written in a cursive style.

Theodore K Nickel
Commissioner of Insurance

**STATE OF WISCONSIN
OFFICE OF THE COMMISSIONER OF INSURANCE**

MARKET CONDUCT EXAMINATION

OF

**AUTO CLUB INSURANCE ASSOCIATION
SOUTHFIELD, MICHIGAN**

SEPTEMBER 13-24, 2010

TABLE OF CONTENTS

I.	INTRODUCTION.....	2
II.	PURPOSE AND SCOPE.....	6
III.	PRIOR EXAMINATION RECOMMENDATIONS	7
IV.	CURRENT EXAMINATION FINDINGS	10
	CLAIMS.....	10
	COMPANY OPERATIONS & MANAGEMENT	11
	POLICY FORMS & RATES	13
	POLICYHOLDER SERVICE & COMPLAINTS.....	24
	UNDERWRITING & RATING	25
V.	CONCLUSION	31
VI.	SUMMARY OF RECOMMENDATIONS	33
VII.	ACKNOWLEDGEMENT.....	37



State of Wisconsin / OFFICE OF THE COMMISSIONER OF INSURANCE

Scott Walker, Governor
Theodore K. Nickel, Commissioner

Wisconsin.gov

September 24, 2010

Bureau of Market Regulation
125 South Webster Street • P.O. Box 7873
Madison, Wisconsin 53707-7873
(608) 266-3585 • (800) 236-8517
Fax: (608) 264-8115
E-Mail: information@oci.state.wi.us
Web Address: oci.wi.gov

Honorable Theodore K Nickel
Commissioner of Insurance
Madison, WI 53703

Commissioner:

Pursuant to your instructions and authorization, a targeted market conduct examination that included a review of compliance with the prior examination recommendations was conducted September 13 to September 24, 2010 of:

AUTO CLUB INSURANCE ASSOCIATION
Southfield, Michigan

and the following report of the examination is respectfully submitted.

I. INTRODUCTION

The company began business March 1, 1922, under the laws of Michigan as the Detroit Automobile Inter-Insurance Exchange. The present name was adopted on July 1, 1981. The company was licensed in Wisconsin September 3, 1996. It is a reciprocal interinsurance exchange and has four wholly owned property and casualty insurance subsidiaries: MemberSelect Insurance Company (MSIC), Auto Club Group Insurance Company (ACGIC), Auto Club Property-Casualty Insurance Company (ACPCIC) and MEEMIC Insurance Company (MEEMIC). On April 2, 2009, the company purchased the common stock of MEEMIC and MEEMIC Insurance Services from Motors Insurance Company and GMAC Insurance Holdings, Inc., respectively. The company is the lead company in an intercompany pooling arrangement that consists of ACIA, MSIC, ACGIC, ACPCIC (effective January 1, 2009) and MEEMIC (effective April 2, 2009). All premiums, losses and underwriting expenses incurred by each subsidiary, excluding accident and health business, net of certain ceded reinsurance contracts with external companies, are ceded to the company who in turn, retains 90% of the total pool and cedes 5% to both MSIC and ACGIC.

The following table summarizes how the total direct premium written in Wisconsin in 2008 and 2009 compares to the total direct premium written by the company in all jurisdictions where premium was reported for these years.

Year	National Direct Premium Written	Wisconsin Direct Premium Written	WI As a Percentage of the National Premium
2009	\$281,705,412	\$64,211,722	22.8%
2008	\$302,053,848	\$61,995,065	20.5%

In each of these two years, the majority of the premium earned by the company in Wisconsin was for private passenger auto. The following table summarizes the premium earned and incurred losses in Wisconsin for 2009 and 2008 broken down by line of business.

2009		
Line of Business	Premium Earned	Losses Incurred
Fire & Allied Lines	0	0
Homeowners/Farmowners	\$16,557,361	\$11,431,541
Commercial Multiple Peril	0	0
Worker's Compensation	0	0
Private Passenger Auto	\$23,361,296	\$22,469,173
Commercial Auto	0	0
All Others	\$23,493,240	\$13,166,332
Total	\$63,411,897	\$47,067,046

2008		
Line of Business	Premium Earned	Losses Incurred
Fire & Allied Lines	0	0
Homeowners/Farmowners	\$14,635,910	\$14,828,037
Commercial Multiple Peril	0	0
Worker's Compensation	0	0
Private Passenger Auto	\$23,142,397	\$16,255,236
Commercial Auto	0	0
All Others	\$22,504,475	\$14,620,859
Total	\$60,282,782	\$45,704,132

In 2009, the company ranked as the 10th largest writer of private passenger auto in Wisconsin, 9th in 2008 and 11th in 2007. In 2009, the company ranked as the 7th largest writer of homeowners in Wisconsin, 8th in 2008 and 13th in 2007.

The Office of the Commissioner of Insurance received 58 complaints against the company from January 1, 2009 through May 31, 2010, inclusively. A complaint is defined as 'a written communication received by the Commissioner's Office that indicates dissatisfaction with an insurance company or agent.' During the year of 2009, OCI received 38 complaints against the company compared to 49 complaints received in 2008. Although the total number of complaints received in 2009, decreased by 22% from the number of complaints received in 2008, 23 complaints had already been received against this company for 2010, as of May 31, 2010. The majority of the complaints against the company are related to claim handling issues. Overall, underwriting complaints ranked second. Marketing and sales complaints ranked third and policyholder service complaints ranked fourth. The pattern for underwriting complaints

versus marketing and sales complaints appears to be opposite for 2009 through May 31, 2010 versus 2008.

Since at least 2005, the company has consistently been found on the Complaint Summary List for an above-average complaint ratio for private passenger auto and homeowners. The 2009 and 2008 complaint ratio rankings for private passenger auto policies were 11th and 16th, respectively. The 2009 and 2008 complaint ratio rankings for homeowners policies were 7th both years.

The following tables categorize the complaints received against the company by type of policy and complaint reason. There may be more than one type of coverage and/or reason for each complaint.

May 31, 2010 YTD		Reason				
Coverage Type	Total.	Under-writing.	Marketing & Sales	Claims	Policyholder Service	Other
Personal Auto	11	4	3	4	0	0
Commercial Vehicle	0	0	0	0	0	0
Com Prop & Liability	0	0	0	0	0	0
Home/Farmowners	11	3	3	5	0	0
Commercial Liability	0	0	0	0	0	0
Worker's Comp	0	0	0	0	0	0
Fidelity & Surety	0	0	0	0	0	0
All Others	1	1	0	0	0	0
Total	23	8	6	9	0	0

2009		Reason				
Coverage Type	Total.	Under-writing.	Marketing & Sales	Claims	Policyholder Service	Other
Personal Auto	22	5	1	13	3	0
Commercial Vehicle	0	0	0	0	0	0
Com Prop & Liability	0	0	0	0	0	0
Home/Farmowners	16	5	2	9	0	0
Commercial Liability	0	0	0	0	0	0
Worker's Comp	0	0	0	0	0	0
Fidelity & Surety	0	0	0	0	0	0
All Others	0	0	0	0	0	0
Total	38	10	3	22	3	0

2008		Reason				
Coverage Type	Total.	Under-writing.	Marketing & Sales	Claims	Policyholder Service	Other
Personal Auto	32	3	6	20	2	1
Commercial Vehicle	0	0	0	0	0	0
Com Prop & Liability	0	0	0	0	0	0
Home/Farmowners	17	2	3	11	1	0
Commercial Liability	0	0	0	0	0	0
Worker's Comp	0	0	0	0	0	0
Fidelity & Surety	0	0	0	0	0	0
All Others	0	0	0	0	0	0
Total	49	5	9	31	3	1

II. PURPOSE AND SCOPE

A targeted examination was conducted to determine compliance with recommendations made in the previous market conduct examination adopted December 21, 2006, and to determine whether the company's practices and procedures comply with the Wisconsin insurance statutes and rules. The examination focused on the period from January 1, 2009 through May 31, 2010. In addition, the examination included a review of any subsequent events deemed important by the examiner-in-charge during the examination.

The examination covered private passenger automobile and homeowners business in Wisconsin and was limited to a review of company operations and management, privacy, policyholder service, complaints, marketing and sales, producer licensing, underwriting and rating, claims including subrogation, policy forms and rate filings, and e-commerce. The report is prepared on an exception basis and comments on those areas of the company's operations where adverse findings were noted.

III. PRIOR EXAMINATION RECOMMENDATIONS

The prior examination of Auto Club Insurance Association, adopted December 21, 2006, consisted of a review of underwriting, marketing and sales, including eCommerce, policyholder service and complaints, producer licensing, policy forms and rates, claims and company operations and management and privacy for private passenger automobile and homeowners. The recommendations contained in the previous examination report related to the market conduct portion of the examination and the company's actions therein follow:

Operations & Management

1. Page 06- It is recommended that the company revise the language in its cover letters that accompanies its form to authorize release of medical/employment information so it does not imply that a third party claimant must first seek reimbursement from its own insurers before seeking reimbursement from the company, in order to comply with Ins. 6.11 (3) (a) 4, Wis. Adm. Code.

Action: Compliance

Claims

2. Page 07- It is recommended that the company promptly pay claims and reimburse its insureds' deductibles and, if payment is not made within 30 days of receiving proof of loss or equivalent evidence, pay interest as required by s. 628.46 (1), Wis. Stat.

Action: Compliance

3. Page 07- It is recommended that the company document all communications with claimants and follow its claim handling guidelines in order to document its compliance with s. Ins 6.11 (3) (a) 1, Wis. Adm. Code.

Action: Non-compliance

Refer to the Claims section of the Current Examination Findings. (Recommendation #2)

4. Page 08- It is recommended that the company ensure its claims representatives adhere to the company's claims handling guidelines by promptly acknowledging pertinent communications with respect to claims arising under its policies as required by s. Ins 6.11, Wis. Adm. Code.

Action: Compliance

5. Page 08- It is recommended that the company enforce its current procedure to ensure a written claim denial is sent promptly after the claim is verbally denied or after sufficient documentation is received in order to comply with s. Ins 6.11 (3), Wis. Adm. Code.

Action: Compliance

Underwriting & Rating

6. Page 09- It is recommended that the company revise its procedure for calculating premium refunds requested by applicants whose premiums were misquoted resulting in a higher premium when the new policy was issued, by using the quoted premium rather than the written/corrected premium in order to comply with s. 628.34 (1) (a), Wis. Stat.

Action: Compliance

7. Page 10- It is recommended that the company re-confirm through testing its IPM system that its automobile policies contain medical payments coverage, unless rejected by the insured, and contain limits of at least \$1,000 to ensure compliance with s. 632.32 (4) (b), Wis. Stats.

Action: Compliance

8. Page 10- It is recommended that the company verify that information and coverage limits on the declarations page correspond to the information and coverage limits agreed to on the application and issue policies as they were applied for, in order to comply with s. 628.34 (1) (a), Wis. Stats.

Action: Compliance

9. Page 11- It is recommended the company continue with its new automated system instituted in August 2005, whereby agents are assigned individual numbers which ensures they must contact the company to establish an agent number prior to writing business, in order to comply with ss. 628.11, Wis. Stat., and Ins 6.57 (5), Wis. Adm. Code.

Action: Compliance

10. Page 11- It is recommended that the company re-confirm through testing its IPM system is recommended that the company change its application so that the bound date accurately reflects the effective date of the policy, in order to comply with s. 628.34 (1) (a), Wis. Stat.

Action: Compliance

11. Page 12- It that its automobile policies contain uninsured motorist coverage when the policies contain bodily injury liability coverage to ensure compliance with s. 632.32 (4) (a), Wis. Stats.

Action: Compliance

Policyholder Service & Complaints

12. Page 13- It is recommended that the company contact complainants within 10 days of receiving OCI complaint letters, in an effort to resolve the complaints and to allow the company to comply with s. 601.42, Wis. Stat. by responding to a request made by the commissioner.

Action: Compliance

13. Page 14- It is recommended that the company implement a procedure to document contacts made with a complainant and resolutions reached through a review of the complaint, to include OCI complaints and complaints received directly by the company over the phone or in writing.

Action: Compliance

14. Page 14- It is recommended that the company submit a plan to OCI and implement the planned procedures to assure that responses to OCI complaints are prepared and sent to OCI within the timeframes described in the OCI complaint letter, and the plan is to include a procedure to document extensions granted by OCI to the company for responding to the exceptional complaint where additional time is needed. This is recommended in order to assure compliance with s. 601.42, Wis. Stat.

Action: Compliance

IV. CURRENT EXAMINATION FINDINGS

Claims

In settling claims under policies issued to Wisconsin insureds, the company primarily uses employee representatives based out of the regional office located in Southfield, Michigan. The company also maintains online claim reporting and a toll free number for its policyholders to report claims 24 hours a day, 7 days a week. The company also utilizes designated independent adjusters, as needed.

The examiners reviewed 300 closed homeowners and private passenger automobile claim files. Of these claims, 50 were paid homeowners claims, 100 were paid private passenger automobile claims, 50 were homeowners claims closed without payment, 50 were private passenger automobile claims closed without payment and 50 were subrogated private passenger automobile claims. The company's claims handling practices and procedures were also reviewed. The following exceptions were noted:

The examiners found 5 private passenger automobile claim files and 3 homeowners claim files where the company failed to send a written notice to the insured and/or claimant after the company closed the claim file due to a lack of response from the insured and due to the company being notified the claim was being withdrawn or not pursued. Section Ins 6.11 (3) (a) 2, Wis. Adm. Code, provides that failure to initiate and conclude a claim investigation with all reasonable dispatch is an unfair claim settlement practice.

- 1. Recommendation:** It is recommended the company send a closure letter whenever a claim is closed for reasons other than settlement or denial, in order to avoid the unfair claim settlement practice set forth in s. Ins 6.11 (3) (a) 2, Wis. Adm. Code.

The examiners found 7 private passenger automobile claim files that did not contain proper documentation to explain the amount of the claim payment made by the company. The examiners also found 2 homeowner claim files in which the paper communications received by the company did not contain date stamps to verify and validate the date of receipt notated in the

claim adjuster's electronic claim notes. One of the documents was received on a facsimile machine that was programmed with an incorrect date. The examiners noted that there were a number of claim files that contained date stamps with respect to pertinent communication received, however date stamping all pertinent communications does not appear to be a general practice. Without complete and proper documentation in the claim file, it is difficult to determine whether the company is promptly acknowledging pertinent communications. Section Ins. 6.11 (3) 1., Wis Adm. Code provides that it is unfair claim settlement practice to fail to promptly acknowledge pertinent communication with respect to claims arising under insurance policies.

2. **Recommendation:** It is again recommended that the company document all communications with claimants and follow its claim handling guidelines in order to document its compliance with the unfair claim settlement practices described in s. Ins 6.11 (3) 1., Wis. Adm. Code.
3. **Recommendation:** It is also recommended that the company establish, document and implement written procedures that accurately identify the receipt date of paper communications in order to document its compliance with ss. Ins. 6.11 (3) (a) 1. and (4), Wis. Adm. Code.

Company Operations & Management

The examiners reviewed the company's operations/management plans by reviewing responses to interrogatories and statements and action of the company throughout the examination preparation process and on-site review. The examiners also reviewed the company's policy and procedures regarding privacy of consumer information, communications to employees regarding treatment of personally identifiable information, and the company's privacy disclosure notices for financial information and protected health information. The following exceptions were noted:

The examiners found that the company had various system issues with its former print vendor. In two related issues, either a policyholder's change of address did not transfer to the billing address or the system did not display the full billing address. As a result of both issues, the policyholders did not receive their bills and policies were improperly cancelled. In addition to a previous complaint file that resulted in an administrative action, the examiners

found two private passenger automobile policies affected by these issues. The company acknowledged there may have been multiple occurrences of affected policies yet no procedures were put in place to identify the affected policies or to address the issues pro-actively. In a third printing issue, the company was informed on February 5, 2009 that no homeowners or umbrella policyholder documents were produced on January 3, 2009. The company did not have a breakdown by state of the types of documents and the number of Wisconsin policyholders affected but in total, the following document types and the number of each type were identified:

- Homeowners – 91 cancellation billing notices, 79 confirmation of cancellation notices, 123 nonrenewal notices, 46 reinstatement notices, 48 earned premium notices, 48 billing notices, 812 EFT billing schedules, 51 amended declaration certificates, 672 renewal declaration certificates, 15 revised renewal declaration certificates, 360 renewal bills, 334 renewal declaration certificate and renewal bill packages, 6 revised renewal declaration certificates and renewal bill packages, 201 EFT renewal declaration certificates, 2 EFT revised renewal declaration certificates.
- Umbrella – 39 renewal bills, 41 renewal declaration certificates, 41 renewal declaration certificate and renewal bill packages, 5 amended declaration certificates.

The company advised that it remedied all issues caused by the print failure and made its agents aware of the situation so they could properly address customer inquiries. However, the examiners found one Wisconsin homeowners cancellation billing notice that was 'remedied' by resending the notice on February 10, 2009 with an original cancellation effective date of January 24, 2009. Although the company ultimately changed print vendors in late 2009, the company's failure to proactively implement any procedures to work around the address issues and to effectively remedy the print failure issue raises operations and management concerns.

- 4. Recommendation:** It is recommended that should the company discover any compliance-related problems, it should proactively implement work around procedures and effective remedies that ensure compliance with Wisconsin insurance laws and regulations.

Policy Forms & Rates

The company provides coverage to its personal lines policyholders using independently filed company policy forms and endorsements. From all of the company's homeowners, personal umbrella and private passenger automobile forms, the examiners reviewed 28 policy forms (10 homeowners, 11 personal umbrella and 7 private passenger automobile) currently used by the company in Wisconsin in order to verify that the provisions of the policy forms comply with the Wisconsin insurance laws and regulations. The following exceptions were noted:

The company advised that the following application forms are the only private passenger automobile and homeowners application forms filed for use by the company during the exam period:

- WI Automobile Application Addendum & Authorization Form Numbers: 6500-22550-WI-07 Eff 10/1/07 and 6500-22550-WI-N9 Eff 11/1/09
- WI Homeowners Application Addendum & Authorization Form Numbers: 6500-42157-WI-07 Eff 10/1/07 and 6500-42157-WI-59 Eff 5-24-09

There are no application forms to which the above forms are addendums. The aforementioned Application Addendum & Authorization forms contain sections for coverage rejections for automobile, a certification of group affiliation (for automobile), a vehicle condition certification, prior automobile insurance information, a power of attorney, a notice of insurance information practices, a notice of consumer reports, a fraud notice, a notice of premium determination and attestments by the applicant's signature including a statements about the 'application'. The company also advised that its agents use the company's Sales and Service Portal to complete the automobile and homeowners application electronically. At the time coverage is bound, the Sales and Service Portal cannot generate a copy of an electronic application form containing the questions asked on the Sales and Service Portal's electronic application, the answers/representations made by the insured, and the coverages offered to the insured. Therefore, the insured is not provided with a copy of the electronic application form containing

the questions asked by the company, the answers/representations made by the insured, and the coverages offered to the insured. Instead, at the insured's request, a signed copy of the Application Addendum & Authorization form is provided to the insured. Also, the insured has the option of having a copy of the New Business Declaration Certificate printed immediately, faxed, mailed or emailed to the insured. The examiners found that failing to provide a copy of the electronic application form that contains the questions asked on the application, the answers/representations made by the insured, and the coverages offered to the insured presented multiple compliance issues:

- The examiners found that the attestation on the Automobile Application Addendum & Authorization Forms states that 'By my signature below, I hereby represent that all statements made in the application for insurance were true and correct. I accept the stated notices and agree to the indicated coverage selections on the Declaration Certificate.' In addition, the Fraud Notice states, in part 'Any person who knowingly and with intent to defraud any insurance company or another person files an application for insurance containing any materially false information.' The examiners also found that Car Insurance policy form 6500-41960-WI-O6 edition 10/9/2006, General Policy Condition – 15. Declaration states in part, 'By accepting this Policy the Named Insured agrees that the statements on the Declaration Certificate and in the application for this Policy are his/her own.' Since a copy of the electronic application form is not generated for the insured to review, the insured cannot attest to all statements in the application by him/her. Section 628.34 (1), Wis. Stat. states in part, that no insurer may make or cause to be made any communication relating to an insurance contract which contains false or misleading information.
- The electronic application on the Sales and Service Portal that includes the usual information found on an application form as prepared for general use, including but not limited to: the questions asked by the company, the answers/representations made by the

insured, and the coverages offered to the insured, constitutes an application form. Section 631.20, Wis. Stat. requires all insurance policy forms to be filed at least 30 days prior to its use. Section 600.03 (21), Wis. Stat., defines a form as a policy, group certificate, or application prepared for general use. Also, since a hard copy of the electronic application form is not filed with the commissioner, the company cannot verify that the questions on its electronic application are not prohibited or unfairly discriminatory. Sections Ins 6.54 (3) (a) & (b), Wis. Adm. Code prohibit applications from asking about criminal convictions unless the crime relates to the risk being insured and prohibits asking about physical or mental impairments.

- The examiners found 2 homeowners nonrenewal notices that were returned to the company undeliverable. The file notes on one of the policies indicated that all correspondence to the insured had been returned undeliverable. The company's policy contract states the company will mail notice of nonrenewal to the insured's last known address. The address for both policies had not changed since the policies were written. Since a copy of the electronic application form was not generated and retained, the company could not verify that the notices were sent to the insured's last known address. Section Ins 6.80 (5) (a), Wis. Adm. Code, provides that the company maintain records with regard to insurance company operations in the state of Wisconsin for the preceding 3 years and that these records be available to the commissioner, or the insurance regulatory agency of the insurer's state of domicile. Section Ins 6.80 (5) (b), Wis. Adm. Code, provides that the requirements of this rule pertaining to an insurer's operations in the state of Wisconsin may be met by compliance with the record retention law of its state of domicile. If no such law or regulation exists, an insurer may comply with this rule by presenting a statement attesting to the fact that its record retention system is acceptable to its state of domicile.

5. Recommendation: It is recommended that the company generate a copy of the electronic application form that contains the questions asked on the application, the answers/representations made by the insured, and the

coverages offered to the insured which is available for the insured's review prior to attesting to its truthfulness and accuracy and retain a signed copy of the electronic application, in order to ensure and demonstrate compliance with ss. 628.34 (1) & 631.20, Wis. Stat., and s. Ins 6.80 (5) Wis. Adm. Code. It is also recommended that the company file the hard copy of its electronic application form with the commissioner at least 30 days prior to its use, in order to comply with s. 631.20, Wis. Stat. and to ensure compliance with ss. Ins 6.54 (3) (a) & (b), Wis. Adm. Code.

The examiners found that Wisconsin Amendatory Endorsement forms 6500-42318-WI99 edition 9-14-09 and 6500-42346-WI-0310 edition 3-28-10, General Policy Condition - 8. Cancellation And Conditional Reinstatement provision states in part, 'However, reinstatement of the policy is conditioned upon the following and any Notice of Reinstatement is void if: ... (2) there is a claim under the policy arising from an event that occurred between the policy cancellation date and the date and time we received your payment to reinstate the policy.' While the company can consider a claim that occurred during a lapse in coverage when making an underwriting decision whether to reinstate the policy with a lapse, the reinstatement cannot be voided due to a claim that occurred during the lapse since it does not meet the requirements of ss. 631.11 (1) (b) and (3), Wis. Stats. which establishes the elements necessary to entitle an insurance company to rescind an insurance contract for misrepresentations or breach of affirmative warranty in the negotiation for or procurement of an insurance contract.

6. Recommendation: It is recommended that the company revise all automobile policy forms to remove any conditional reinstatement provision that allows voiding the reinstatement due to conditions occurring during a lapse in coverage, in order to comply with ss. 631.11 (1) (b) and (3), Wis. Stats. and refile the revised policy form with the commissioner.

Car Insurance policy form 6500-41960-WI-O6 edition 10/9/2006, General Policy Condition 13. Change of Address or Rating Conditions, states in part, 'The Principal Named Insured must inform us within 30 days of any changes related to the following: your address; where your car is principally garaged; your car or how it is used, including driving distance to work or annual mileage; the operators who regularly drive your car, including newly licensed family members; the ownership or registration of your car.' However, the examiners found that

Wisconsin Amendatory Endorsement forms 6500-42318-WI99 edition 9-14-09, General Policy Condition 13. Change of Address or Rating Conditions and 6500-42346-WI-0310 edition 3-28-10, General Policy Condition 12. Change of Address or Rating Conditions revise this provision to add another paragraph which states 'If you fail to inform us of these changes within 30 days, we may void coverage as provided under Condition 18. 'Representations.' The 'Representations' provision of the Car Insurance policy pertains in part to s. 631.11 (1) (b), Wis. Stat. which establishes the elements necessary to entitle an insurance company to rescind an insurance contract for misrepresentations or breach of affirmative warranty in the negotiation for or procurement of an insurance contract. The conditions outlined in the 13./12. Change of Address or Rating Conditions provision occur after the negotiation of or the procurement of the policy. As such, the policy cannot be voided for the policyholder's failure to notify the company within 30 days of any changes listed in the Change of Address or Rating Conditions provision.

- 7. Recommendation:** It is recommended that the company revise all automobile policy forms to amend or remove the voiding language in the Change of Address or Rating Conditions provision, in order to comply with s. 631.11 (1) (b), Wis. Stat. and refile the revised policy form with the commissioner.

The examiners found Car Insurance policy form 6500-41960-WI-O6 edition 10/9/2006, General Policy Condition - 18. Representations provision appears to be intended to address ss. 631.11 (1) (b) and (3), Wis. Stats. However, the policy language improperly splices together these statutes to alter them and also omits a critical requirement. (e.g. If a misrepresentation, the person knew or should have known that the representation was false.) Section 631.11 (1) (b), Wis. Stat., provides that no misrepresentation, and no breach of an affirmative warranty, that is made by a person other than the insurer or an agent of the insurer in the negotiation for or procurement of an insurance contract constitutes grounds for rescission of, or affects the insurer's obligations under, the policy unless, if a misrepresentation, the person knew or should have known that the representation was false, and unless any of the following applies: 1. the insurer relies on the misrepresentation or affirmative warranty and the

misrepresentation or affirmative warranty is either material or made with intent to deceive; 2. the fact misrepresented or falsely warranted contributes to the loss. Section 631.11 (3), Wis. Stat., provides no failure of a condition prior to a loss and no breach of a promissory warranty constitutes grounds for rescission of, or affects an insurer's obligation under, an insurance policy unless it exists at the time of the loss and either increases the risk at the time of the loss or contributes to the loss. This subsection does not apply to failure to tender payment of premium.

- 8. Recommendation:** It is recommended that the company revise all automobile policy forms regarding misrepresentations, breach of affirmative warranty and the effect of failure of a condition prior to loss, in order to comply with ss. 631.11 (1) (b) and (3), Wis. Stat. and refile the revised policy form with the commissioner.

The examiners found that Personal Umbrella Policy form #6500-41986-WI-06 Ed. 10/2006 and Ed. 11/2009 contained language in the 'Suit Against Us' section which stated that the company could not be sued until the obligation of the insured was determined by judgment or written agreement. This language is not in compliance with s. 632.24, Wis. Stat. which allows that direct action can be made irrespective of whether the liability is established by judgment or trial. The language is also not in compliance with s. 803.04, Wis. Stat. which provides that the insured can be joined in a court action against the insured. The company agreed that the policy language was not in compliance with the cited Statutes and agreed to amend the policy language.

- 9. Recommendation:** It is recommended that the company revise the 'Suit Against Us' language in Personal Umbrella policy to allow for direct action against the insurer in order to comply with ss. 632.24 and 803.04, Wis. Stat. and refile the revised policy form with the commissioner.

The examiners found that Umbrella policy form 6500-41986-WI-N9 Ed. 11/2009: Part III General Policy Conditions, provision 1. Limit of Liability contains language requiring a ruling from a court of competent jurisdiction prior to allowing stacking of Uninsured Motorist (UM) or Underinsured Motorist (UIM) limits. The examiners also found that the company's 'WI Pricing &

Product Development News' bulletin 09-7 announced the changes to its VIP Umbrella Program due to Public Act 28. With regard to Uninsured Motorist (UM) and Underinsured Motorist (UIM) coverages, it states in part, that a new provision has been added to the Umbrella policy to allow stacking of UM and/or UIM limits but only if a court of competent jurisdiction rules that the stacking provisions also apply to umbrella and excess liability policies. Sections 632.32 (6) (d) and (e), Wis. Stats. allow for stacking of UM & UIM limits, up to 3 vehicles, without a court order. However, 2011 WI Act 14 repealed ss. 632.32 (6) (d) and (e), Wis. Stat. which is effective for newly issued and renewed policies on or after November 1, 2011.

10. Recommendation: In lieu of revising the Umbrella policy forms to comply with 2009 Act 28, it is recommended that the company identify all umbrella policies with reported claims involving UM and/or UIM coverage which were subject to Act 28 and provide the results to the commissioner for further review.

The examiners found that Car Insurance policy form 6500-41960-WI-O6 edition 10/9/2006, WI Amendatory Endorsement forms 6500-42327-WI-N9 edition 11/1/09 and 6500-42346-WI-0310 edition 3/28/10, General Policy Condition - 1. Policy Term, Territory, Use provision contains paragraph c. which states 'This policy applies only to accidents and losses that occur while the insured car is being used for the purposes stated in the application for this policy.' The company does not generate an application that displays the vehicle usage and the company recognizes that the vehicle usage stated in an application and/or the Declaration Certificate actually reflects the principal usage of the vehicle, not the sole usage of the vehicle. This language would allow the company to deny a claim for a loss while the insured vehicle is used other than for the principal usage stated in an application and/or the Declaration Certificate. This language violates s. 631.20 (2) (a) 1., Wis. Stat. which states a form may be disapproved upon finding that it is misleading because its benefits are too restricted to achieve the purposes for which the policy is sold. The company advised that it has not and does not intend to deny a claim or rescind a policy based on the premise that the principal usage of a vehicle is the sole usage of that vehicle.

The examiners found that Car Insurance policy form 6500-41960-WI-O6 edition 10/9/2006 contains language under the following provisions which refer to Wisconsin's minimum liability limits as being specified by 'Wis. Stat. Section 344.15' and which indicate such minimum liability limits are \$25,000 for each person/\$50,000 for each accident for bodily injury and \$10,000 for property damage.

- Part I - Bodily Injury And Property Damage Liability Coverage: Exclusion 3.a.(iv)
- Part I - Bodily Injury And Property Damage Liability Coverage: Exclusion 3.b.
- Part III - Uninsured Motorist And Underinsured Motorist Coverage: Definition of uninsured motor vehicle
- Part III - Uninsured Motorist And Underinsured Motorist Coverage: Arbitration provision

Pursuant to 2009 WI Act 28, effective January 1, 2010, Wisconsin's minimum liability limits became specified by s. 344.01, Wis. Stat. instead of s. 344.15 Wis. Stat. and increased to \$50,000 for each person/ \$100,000 for each accident for bodily injury and \$15,000 for property damage. However, 2011 WI Act 14 repeals s. 344.01 (2) (am), Wis. Stat., in its entirety and reverts the minimum liability limits back to \$25,000 for each person/\$50,000 for each accident for bodily injury and \$10,000 for property damage under s. 344.15, Wis. Stat. 2011 WI Act 14 is effective for newly issued and renewed policies on or after November 1, 2011.

11. Recommendation: In lieu of revising all automobile policy forms to comply with 2009 Act 28, it is recommended that the company develop and implement a written procedure to ensure claims for automobile policies newly issued or renewed on or after November 1, 2009 and before November 1, 2011 are adjusted based on the correct minimum liability limits, in order to comply with s. 344.01, Wis. Stat.

The examiners found that Car Insurance policy form 6500-41960-WI-O6 edition 10/9/2006, Part III - Uninsured Motorists And Underinsured Motorists Coverage part contains a definition for an uninsured motor vehicle and an underinsured motor vehicle which exempts the following motor vehicles from the definition: 'owned by or furnished or available for the regular use of you or any resident relative', 'owned by any governmental unit or agency', 'operated on rails or crawler treads', or 'while located for use as a residence or premises'. By excluding these motor vehicles, the company is narrowing the definition as provided by statute.

Section 632.32 (2) (g), Wis. Stat., as modified by 2009 WI Act 342 effective May 27, 2010, defines an uninsured motor vehicle as a motor vehicle that is involved in an accident with a person who has uninsured motorist coverage and with respect to which, at the time of the accident, a bodily injury liability policy is not in effect and the owner or operator has not furnished proof of financial responsibility for the future under subch. III of ch. 344 and is not a self-insurer under any other applicable motor vehicle law. 'Uninsured motor vehicle' also includes any of the following motor vehicles involved in an accident with a person who has uninsured motorist coverage: 1. an insured motor vehicle, or a motor vehicle with respect to which the owner or operator is a self-insurer under any applicable motor vehicle law, if before or after the accident the liability insurer of the motor vehicle, or the self-insurer, is declared insolvent by a court of competent jurisdiction; 2. Except as provided in subd. 3., an unidentified motor vehicle, provided that an independent 3rd party provides evidence in support of the unidentified motor vehicle's involvement in the accident; 3. an unidentified motor vehicle involved in a hit-and-run accident with the person. However, 2011 WI Act 14 revises 632.32 (2) (g), Wis. Stat. to specifically exempt a motor vehicle owned by a governmental unit from the definition of an uninsured motor vehicle. It further revises the definition of an uninsured motor vehicle regarding unidentified motor vehicles by replacing s. 632.32 (2) (g) 2., Wis. Stat. in its entirety to read: 2. A phantom motor vehicle, if all of the following apply: a. The facts of the accident are corroborated by competent evidence that is provided by someone other than the insured or any other person who makes a claim against the uninsured motorist coverage as a result of the accident; b. Within 72 hours after the accident, the insured or someone on behalf of the insured reports the accident to a policy, peace, or judicial office or to the department of transportation or, if the accident occurs outside of Wisconsin, the equivalent agency in the state where the accident occurs; c. Within 30 days after the accident occurs, the insured or someone on behalf of the insured files with the insurer a statement under oath that the insured or a legal representative of the insured has a cause of action arising out of the accident for damages

against a person whose identity is not ascertainable and setting forth the facts in support of the statement. Section 632.32 (2) (e), Wis. Stat., as modified by 2009 WI Act 342 effective May 27, 2010, defines an underinsured motor vehicle as a motor vehicle to which all of the following apply: 1. the motor vehicle is involved in an accident with a person who has underinsured motorist coverage; 2. at the time of the accident, a bodily injury liability insurance policy applies to the motor vehicle or the owner or operator of the motor vehicle has furnished proof of financial responsibility for the future under subch. III of ch. 344 and it is in effect or is a self-insurer under another applicable motor vehicle law; 3. the limits under the bodily injury liability insurance policy or with respect to the proof of financial responsibility or self-insurance are less than the amount needed to fully compensate the insured for his or her damages. However, 2011 WI Act 14 repeals s. 632.32 (2) (e), Wis. Stat., in its entirety. Section 632.32 (2) (at), Wis. Stat., as modified by 2009 WI Act 342 effective May 27, 2010, defines a 'motor vehicle' as a self-propelled land motor vehicle designed for travel on public roads and subject to motor vehicle registration under ch 341. A trailer or semitrailer that is designed for use with and connected to a motor vehicle shall be considered a single unit with the motor vehicle. 'Motor vehicle' does not include farm tractors, well drillers, road machinery, or snowmobiles.' Section 340.01 (35), Wis. Stat., defines a 'motor vehicle' as a vehicle, including a combination of two or more vehicles or an articulated vehicle, which is self-propelled, except a vehicle operated exclusively on a rail. 2011 WI Act 14 is effective for newly issued and renewed policies on or after November 1, 2011.

12. Recommendation: In lieu of revising all automobile policy forms to comply with 2009 WI Act 28, as modified by 2009 WI Act 342, it is recommended that the company develop and implement a written procedure to ensure claims for automobile policies newly issued or renewed on or after November 1, 2009 and before November 1, 2011 are adjusted using the definitions of Uninsured motor vehicle and Underinsured motor vehicle in compliance with ss. 632.32 (2) (at), 632.32 (e), 632.32 (2) (g), and 340.01 (35), Wis. Stat., as modified by 2009 WI Act 342. It is also recommended that the company revise all automobile policy forms to amend its definitions of Uninsured motor vehicle and Underinsured motor vehicle for policies newly issued and renewed on or

after November 1, 2011, in order to comply with 2011 WI Act 14 and refile the revised policy forms with the commissioner.

The examiners found that Car Insurance policy form 6500-41960-WI-O6 edition 10/9/2006, Part III - Uninsured Motorists And Underinsured Motorists Coverage part contains an exclusion which states 'Coverages under this Part shall not apply to any insured person who does not exhaust all benefits available at the time of injury for the bodily injury under any workers' compensation, disability benefits or similar law.' This exclusion violates ss. 632.32 (6) (g) 2. and 3. Wis. Stat., which states no policy may provide that the limits under the policy for uninsured motorist coverage or underinsured motorist coverage for bodily injury or death resulting from any one accident shall be reduced by amounts paid or payable under any worker's compensation law or any disability benefits laws. However, 2011 WI Act 14 repeals s. 632.32 (6) (g), Wis. Stat., in its entirety. 2011 WI Act 14 is effective for newly issued and renewed policies on or after November 1, 2011.

13. Recommendation: In lieu of revising all automobile policy forms to comply with 2009 Act 28, as modified by 2009 WI Act 342, it is recommended that the company develop and implement a written claim procedure to ensure claims for automobile policies effective on or after November 1, 2009 and newly issued or renewed before November 1, 2011 do not make Uninsured Motorist and Underinsured Motorist coverages excess over any benefits paid or payable under any worker's compensation law or disability benefits laws, in order to comply with ss. 632.32 (6) (g) 2. and 3. Wis. Stat., as modified by 2009 WI Act 342.

The examiners found that Car Insurance policy form 6500-41960-WI-O6 edition 10/9/2006, Part IV - Car Damage part contains an exclusion which states 'We will not pay for loss intended or expected by, or caused at the direction of you or a resident relative.' The examiners also found that Car Insurance policy form 6500-41960-WI-O6 edition 10/9/2006, General Policy Condition - 20. Loss Payable provision contains an exclusion which states, in part, 'We agree that this Endorsement shall not be invalidated as to the interest of the Lienholder in the described vehicle by any act or neglect of any Named Insured or of any owner except when that vehicle is intentionally damaged, destroyed or concealed by or at the direction

of any Named Insured or by any owner.' These exclusions do not provide a clear exception for claims caused by intentional acts described in s. 631.95 (2) (f), Wis. Stat. which provides that under property insurance that excludes coverage for loss or damage to property resulting from intentional acts, no insurer may deny payment to an insured for a claim based on property loss or damage resulting from an act, or pattern, of abuse or domestic abuse if that insured did not cooperate in or contribute to the creation of the loss or damage and if the person who committed the act or acts that caused the loss or damage is criminally prosecuted for the act or acts. Payment to the innocent insured may be limited in accordance with his or her ownership interest in the property or reduced by payments to a mortgagee or other holder of a secured interest.

14. Recommendation: It is recommended that the company revise all automobile policy forms to provide coverage for intentional acts of the insured resulting from an act, or pattern, of abuse or domestic abuse, in order to comply with s. 631.95 (2) (f), Wis. Stat. and refile the revised policy form with the commissioner.

Policyholder Service & Complaints

The examiners reviewed the procedures used by the company for handling policyholder and consumer complaints. The examiners also reviewed 50 complaint files. The following exceptions were noted:

The company was asked how it had complied with the previous examination recommendation that it implement a procedure to document contacts made with a complainant and resolutions reached through the complaint review. The company responded that IRCR consultants are procedurally required to document within the complaint file all contacts made with the complainant as well as all resolutions reached. The IRCR manager conducts quality assurance reviews and, if proper documentation of contacts and resolutions are not documented, the file is returned to the consultant for appropriate documentation.

The examiners found 17 files where there was no documentation to show that the complainant had been contacted regarding the outcome of the complaint. The company

indicated that for complaints received from OCI, it provides a response to OCI and OCI provides a copy of its response to the complainant. No direct communication is made with the complainant by the company. This may cause an undue delay in the complainant receiving a response as to the resolution of his/her complaint.

15. Recommendation: It is recommended that the company contact the complainant directly regarding the resolution of the complaint and document its complaint file to show this contact in order to avoid undue delays in responding to the complainant.

Underwriting & Rating

Although the examination period was January 1, 2009 through May 31, 2010, the examiners discovered that the company's private passenger automobile new business data ended mostly by May 31, 2009. The company explained that the holding company implemented a new private passenger automobile product through an affiliated company in April 2009. As a result, they discontinued actively quoting new private passenger automobile policies through this company. The examiners randomly selected and reviewed 150 personal lines new business files (50 new business private passenger automobile limited to January 1, 2009 through May 31, 2009 and 100 new business homeowners) and 200 personal lines termination files (100 private passenger automobile and 100 homeowners), in order to verify that the issuance and termination of policies comply with the Wisconsin insurance laws and regulations.

The company uses independently filed company rates and rules. The examiners reviewed the company's private passenger automobile rate and rule filings, as well as the rating of 25 new business private passenger automobile policies (limited to January 1, 2009 through May 31, 2009) to verify that the company is issuing policies using rates and rate-related rules that have been filed for use in Wisconsin. The examiners also reviewed the company's private passenger automobile underwriting procedures and manuals. The following exceptions were noted:

The examiners found that the company's Manual of Rules and Rates effective 3-28-10, on page G-1 under the 'Binder' section, states that oral binders are not permitted. Section 631.05, Wis. Stat. states in part, no provision of chs. 600 to 646 and 655 may be interpreted to forbid an oral contract of insurance. The company believes s. 631.05, Wis. Stat., provides that oral binders are permitted by Wisconsin law and may be issued, but does not require that an insurer offer them. The insurer shall issue a policy as soon as reasonably possible after issuance of any binder or negotiation of an oral contract.

The examiners found that the quoted/converted policy information on the company's system does not always match the issued policy information. The company confirmed that they can differ because the motor vehicle record (MVR), undisclosed driver information, Comprehensive Loss Underwriting Exchange (C.L.U.E.) and/or insurance score is ordered after the conversion. Since the electronic application form is not generated and retained, the company cannot verify that the policy was issued as applied for. Section 628.34 (1) (a), Wis. Stat., states, in part, that no insurer may make or cause to be made any communication relating to an insurance contract which contains misleading information. It is misleading to issue a policy, other than as applied for, without notification to the applicant.

16. Recommendation: It is recommended that the company verify that information and coverage limits on the declarations page correspond to the information and coverage limits agreed to on the application and issue policies as they were applied for, in order to comply with s. 628.34 (1) (a), Wis. Stat.

The examiners found the company's appointed agents submitted 20 homeowners and 9 private passenger automobile new business submissions on application forms that were not filed with the commissioner. The application forms appeared to be ACORD forms however; the forms did not contain ACORD's name or any form number. Twelve of the homeowners submissions and two of the private passenger automobile submissions did include the company's Application Addendum & Authorization form. Section 631.20, Wis. Stat. requires all insurance policy forms to be filed at least 30 days prior to its use. Section Ins 6.05 (3) (c), Wis.

Adm. Code requires a form filing to include an insurance policy form transmittal to be completed which requires the form to have a form number.

17. Recommendation: It is recommended that the company file all application forms with the commissioner at least 30 days prior to its use and properly display the filed form number when using the form, in order to comply with s. 631.20, Wis. Stat. and s. Ins. 6.05 (3) (c), Wis. Adm. Code.

The examiners found that the company was unable to provide copies of any application forms, including its Application Addendum & Authorization form, for 9 private passenger automobile policies and 16 homeowners policies. Section Ins 6.80 (5) (a), Wis. Adm. Code, provides that the company maintain records with regard to insurance company operations in the state of Wisconsin for the preceding 3 years and that these records be available to the commissioner, or the insurance regulatory agency of the insurer's state of domicile. Section Ins 6.80 (5) (b), Wis. Adm. Code, provides that the requirements of this rule pertaining to an insurer's operations in the state of Wisconsin may be met by compliance with the record retention law of its state of domicile. If no such law or regulation exists, an insurer may comply with this rule by presenting a statement attesting to the fact that its record retention system is acceptable to its state of domicile.

18. Recommendation: It is recommended that the company establish a written procedure of conducting periodic agency audits to ensure that agents are retaining documentation related to the company's operations in Wisconsin on behalf of the company, in order to ensure compliance with s. Ins 6.80 (5), Wis. Adm. Code.

The examiners found one homeowners policy where the nonrenewal notice was not mailed at least 60 days prior to the expiration date of the policy. Section 631.36 (4), Wis. Stat., states in part, that a policy must be renewed unless a notice of intent to nonrenew is mailed at least 60 days prior to the expiration date and no such notice is effective unless at least 60 days notice is given.

19. Recommendation: It is recommended that the company mail nonrenewal notices at least 60 days prior to the expiration date of a policy, in order to comply with s. 631.36 (4), Wis. Stat.

The examiners found 13 homeowners files nonrenewed by the company where the notice for nonrenewal did not state with reasonable precision the facts on which the insurer's decision was based. Section 631.36 (6), Wis. Stat., provides that a notice of nonrenewal shall state with reasonable precision the facts on which the insurer's decision is based and no such notice is effective unless it so states the facts. OCI's position is that generic reasons, such as but not limited to, failure to correct a physical condition, claim activity, claims history, underwriting reasons or does not meet underwriting guidelines, do not state with reasonable precision the facts on which the insurer's decision was based. The company advised that effective May 21, 2010, the specific reasons for nonrenewal are included on its notices of nonrenewal.

20. Recommendation: It is recommended that the company's notice of nonrenewal to a policyholder state with reasonable precision the facts on which the insurer's decision is based, in order to effectively terminate coverage and to ensure compliance with s. 631.36 (6), Wis. Stat.

The examiners found 11 homeowners files in which the company issued a notice of cancellation for nonpayment. The notice voided coverage because the down payment or initial payment for a new policy of insurance was dishonored by the payor's bank. The notice stated that since the attempted payment was dishonored, it did not constitute a payment. Section 631.36 (2), Wis. Stat., states in part, that a notice of cancellation for nonpayment of premium is not effective unless at least 10 days notice is provided. A company may not void coverage for a dishonored payment submitted with or for a new policy of insurance when coverage has been bound.

21. Recommendation: In order to comply with s. 631.36 (2) (b), Wis. Stat., it is recommended that the company provide at least 10 days prior notice of cancellation for nonpayment of premium when a dishonored payment is submitted with or for a new policy of insurance when coverage has been bound.

The examiners found one private passenger automobile file and one homeowners file in which the notice of cancellation for nonpayment was not mailed at least 10 days prior to

the effective date of cancellation. Section 631.36 (2), Wis. Stats., states in part, that a notice of cancellation for nonpayment of premium is not effective unless at least 10 days notice is provided.

22. Recommendation: It is recommended that the company provide at least 10 days prior notice of cancellation for nonpayment of premium for those policies subject to s. 631.36 (2), Wis. Stat., in order to comply with this section.

The examiner found two policies where the Declaration Certificate incorrectly displayed discounts for which the driver and/or vehicle were ineligible for the discount and, in fact, were not receiving the discount. One of these policies displayed a Good Student discount on the Declaration Certificate as being applied for the parents as well as the student. The other policy displayed an Anti-Theft discount on the Declaration Certificate as being applied for a vehicle that did not have comprehensive coverage when that discount is only available for comprehensive coverage. Section 628.34 (1), Wis. Stat., states in part, that no insurer may make or cause to be made any communication relating to an insurance contract which contains false or misleading information. The company advised that the problem was associated with its former print vendor which has since been replaced.

23. Recommendation: It is recommended that the company only display discounts on the Declaration Certificate for which the driver and/or vehicle are eligible and for which the driver and/or vehicle is receiving the discount, in order to avoid unfair marketing practices described under s. 628.34 (1), Wis. Stat.

The company advised that it waives premiums owing or credit balances of less than \$5 for inactive and active policies except credit balances of less than \$5 for an active policy are applied to the policy at the next renewal. The examiners found that the company failed to file its premium waiver rule in any of its rate and rule filings. Section 625.13 (1), Wis. Stat., states in part, that every authorized insurer shall file with the commissioner all rates and supplementary rate information and all changes and amendments thereof made by it for use in this state within 30 days after they become effective.

24. Recommendation: It is recommended that the company file its premium waiver rule, in order to comply with s. 625.13 (1), Wis. Stat.

V. CONCLUSION

A total of 24 recommendations were made as a result of this targeted examination relating to the company's need to modify claims, company operations and management, policy forms and rates, policyholder service and complaints, and underwriting and rating. Of these 26 recommendations, one recommendation is the result of the company's failure to comply with market conduct recommendations contained in the prior examination report.

The company needs to accurately identify the receipt date of paper communications in order to document its compliance with the unfair claim settlement practices described in s. Ins 6.11 (3) 1. and (4), Wis. Adm. Code. The company must also pay interest on untimely claim payments and develop and implement a written procedure to make certain interest is paid on untimely claim payment to ensure compliance with s. 628.46, Wis. Stat.

The company needs to proactively implement work around procedures and effective remedies for known compliance-related problems to ensure compliance with Wisconsin insurance laws and regulations.

In order to ensure and demonstrate compliance with ss. 628.34 (1) & 631.20, Wis. Stat., and ss. Ins 6.80 (5) and Ins 6.54 (3) (a) & (b), Wis. Adm. Code, the company needs to generate a copy of an electronic application form, retain a copy of all application forms and file all application forms with the commissioner prior to use in Wisconsin. The company needs to revise various private passenger auto policy forms to comply with Wisconsin insurance laws.

The company needs to contact complainants directly regarding the resolution of the complaint.

The company needs to be able to verify that the policy was issued as applied for in order to comply with s. 628.34 (1) (a), Wis. Stat.

The company needs to issue notices of nonrenewal which state with reasonable precision the facts on which the insurer's decision is based and at least 60 days prior to the expiration date; and provide at least 10 days notice of cancellation for nonpayment of premium,

including dishonored payments for bound applications, in order to effectively terminate coverage and to ensure compliance with ss. 631.36 (2) (b) and (4), Wis. Stat.

The company needs to file its premium waiver rule, in order to comply with 625.13 (1), Wis. Stat.; and only display discounts on the Declaration which are actually being given, in order to avoid violations of s. 628.34 (1), Wis. Stat.

VI. SUMMARY OF RECOMMENDATIONS

Claims

- Page 10 1. It is recommended the company send a closure letter whenever a claim is closed for reasons other than settlement or denial, in order to avoid the unfair claim settlement practice set forth in s. Ins 6.11 (3) (a) 2, Wis. Adm. Code.
- Page 11 2. It is again recommend that the company document all communications with claimants and follow its claim handling guidelines in order to document its compliance with the unfair claim settlement practices described in s. Ins 6.11 (3) 1., Wis. Adm. Code.
- Page 11 3. It is also recommended that the company establish, document and implement written procedures that accurately identify the receipt date of paper communications in order to document its compliance with ss. Ins. 6.11 (3) (a) 1. and (4), Wis. Adm. Code.

Company Operations & Management

- Page 12 4. It is recommended that should the company discover any compliance-related problems, it should proactively implement work around procedures and effective remedies that ensure compliance with Wisconsin insurance laws and regulations.

Policy Forms & Rates

- Page 15 5. It is recommended that the company generate a copy of the electronic application form that contains the questions asked on the application, the answers/representations made by the insured, and the coverages offered to the insured which is available for the insured's review prior to attesting to its truthfulness and accuracy and retain a signed copy of the electronic application, in order to ensure and demonstrate compliance with ss. 628.34 (1) & 631.20, Wis. Stat. and s. Ins 6.80 (5) Wis. Adm. Code. It is also recommended that the company file the hard copy of its electronic application form with the commissioner at least 30 days prior to its use, in order to comply with s. 631.20, Wis. Stat. and to ensure compliance with ss. Ins 6.54 (3) (a) & (b), Wis. Adm. Code.
- Page 16 6. It is recommended that the company revise all automobile policy forms to remove any conditional reinstatement provision that allows voiding the reinstatement due to conditions occurring during a lapse in coverage, in order to comply with ss. 631.11 (1) (b) and (3), Wis. Stats. and refile the revised policy form with the commissioner.
- Page 17 7. It is recommended that the company revise all automobile policy forms to amend or remove the voiding language in the Change of Address or Rating Conditions provision, in order to comply with s. 631.11 (1) (b), Wis. Stat. and refile the revised policy form with the commissioner.

- Page 18 8. It is recommended that the company revise all automobile policy forms regarding misrepresentations, breach of affirmative warranty and the effect of failure of a condition prior to loss, in order to comply with ss. 631.11 (1) (b) and (3), Wis. Stat. and refile the revised policy form with the commissioner.
- Page 18 9. It is recommended that the company revise the 'Suit Against Us' language in Personal Umbrella policy to allow for direct action against the insurer in order to comply with ss. 632.24 and 803.04, Wis. Stat. and refile the revised policy form with the commissioner.
- Page 19 10. In lieu of revising the Umbrella policy forms to comply with 2009 Act 28, it is recommended that the company develop and implement a written procedure to ensure claims for umbrella policies newly issued or renewed on or after November 1, 2009 and before November 1, 2011 do not require a court order for stacking of UM & UIM limits up to 3 vehicles. It is also recommended that the company revise the Limits of Liability language in its Umbrella policy for policies newly issued and renewed on or after November 1, 2011, in order to comply with 2011 WI Act 14 and refile the revised policy form with the commissioner.
- Page 20 11. In lieu of revising all automobile policy forms to comply with 2009 Act 28, it is recommended that the company develop and implement a written procedure to ensure claims for automobile policies newly issued or renewed on or after November 1, 2009 and before November 1, 2011 are adjusted based on the correct minimum liability limits, in order to comply with s. 344.01, Wis. Stat.
- Page 22 12. In lieu of revising all automobile policy forms to comply with 2009 WI Act 28, as modified by 2009 WI Act 342, it is recommended that the company develop and implement a written procedure to ensure claims for automobile policies newly issued or renewed on or after November 1, 2009 and before November 1, 2011 are adjusted using the definitions of Uninsured motor vehicle and Underinsured motor vehicle in compliance with ss. 632.32 (2) (at), 632.32 (e), 632.32 (2) (g), and 340.01 (35), Wis. Stat., as modified by 2009 WI Act 342. It is also recommended that the company revise all automobile policy forms to amend its definitions of Uninsured motor vehicle and Underinsured motor vehicle for policies newly issued and renewed on or after November 1, 2011, in order to comply with 2011 WI Act 14 and refile the revised policy forms with the commissioner.
- Page 23 13. In lieu of revising all automobile policy forms to comply with 2009 Act 28, as modified by 2009 WI Act 342, it is recommended that the company develop and implement a written claim procedure to ensure claims for automobile policies effective on or after November 1, 2009 and newly issued or renewed before November 1, 2011 do not make Uninsured Motorist and Underinsured Motorist coverages excess over any benefits paid or payable under any worker's compensation law or disability benefits laws, in order to comply with ss. 632.32 (6) (g) 2. and 3. Wis. Stat., as modified by 2009 WI Act 342.
- Page 24 14. It is recommended that the company revise all automobile policy forms to provide coverage for intentional acts of the insured resulting from an act, or

pattern, of abuse or domestic abuse, in order to comply with s. 631.95 (2) (f), Wis. Stat. and refile the revised policy form with the commissioner.

Policyholder Service & Complaints

Page 25 15. It is recommended that the company contact the complainant directly regarding the resolution of the complaint and document its complaint file to show this contact in order to avoid undue delays in responding to the complainant.

Underwriting & Rating

Page 26 16. It is recommended that the company verify that information and coverage limits on the declarations page correspond to the information and coverage limits agreed to on the application and issue policies as they were applied for, in order to comply with s. 628.34 (1) (a), Wis. Stat.

Page 27 17. It is recommended that the company file all application forms with the commissioner at least 30 days prior to its use and properly display the filed form number when using the form, in order to comply with s. 631.20, Wis. Stat. and s. Ins. 6.05 (3) (c), Wis. Adm. Code.

Page 27 18. It is recommended that the company establish a written procedure of conducting periodic agency audits to ensure that agents are retaining documentation related to the company's operations in Wisconsin on behalf of the company, in order to ensure compliance with s. Ins 6.80 (5), Wis. Adm. Code.

Page 27 19. It is recommended that the company mail nonrenewal notices at least 60 days prior to the expiration date of a policy, in order to comply with s. 631.36 (4), Wis. Stat.

Page 28 20. It is recommended that the company's notice of nonrenewal to a policyholder state with reasonable precision the facts on which the insurer's decision is based, in order to effectively terminate coverage and to ensure compliance with s. 631.36 (6), Wis. Stat.

Page 28 21. In order to comply with s. 631.36 (2) (b), Wis. Stat., it is recommended that the company provide at least 10 days prior notice of cancellation for nonpayment of premium when a dishonored payment is submitted with or for a new policy of insurance when coverage had been bound.

Page 29 22. It is recommended that the company provide at least 10 days prior notice of cancellation for nonpayment of premium for those policies subject to s. 631.36 (2), Wis. Stat., in order to comply with this section.

Page 29 23. It is recommended that the company only display discounts on the Declaration Certificate for which the driver and/or vehicle are eligible and for which the driver and/or vehicle is receiving the discount, in order to avoid unfair marketing practices described under s. 628.34 (1), Wis. Stat.

24. It is recommended that the company file its premium waiver rule, in order to comply with s. 625.13 (1), Wis. Stat.


VII. ACKNOWLEDGEMENT

The courtesy and cooperation extended to the examiners during the course of the examination by the officers and employees of the company is acknowledged.

In addition, to the undersigned, the following representatives of the Office of the Commissioner of Insurance, state of Wisconsin, participated in the examination.

<u>Name</u>	<u>Title</u>
Barry Haney	Insurance Examiner
Gary Morris	Insurance Examiner-Journey
Rebecca Rebholz	Insurance Examiner-Journey
Ellen Schwartz, MCM	Insurance Examiner- Journey

Respectfully submitted,



Ronnie A. Demergian, CPCU, MCM
Examiner-in-Charge