



State of Wisconsin / OFFICE OF THE COMMISSIONER OF INSURANCE

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Theodore K Nickel, Commissioner

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Notice of Adoption and Filing of Examination Report

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

Erie Insurance Exchange
100 Erie Insurance Place
Erie PA 16530

dated May 20, 2011, and served upon the company on April 27, 2012, 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 May, 2012.



Theodore K Nickel
Commissioner of Insurance

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

MARKET CONDUCT EXAMINATION

OF

**ERIE INSURANCE EXCHANGE
ERIE, PENNSYLVANIA**

MAY 9 – 20, 2011

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May 20, 2011

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Honorable Theodore Nickel
Commissioner of Insurance
Madison, WI 53702

Commissioner:

Pursuant to your instructions and authorization, a compliance market conduct examination was conducted May 9, 2011 to May 20, 2011 of:

ERIE INSURANCE EXCHANGE
Erie, Pennsylvania

and the following report of the examination is respectfully submitted.

I. INTRODUCTION

Erie Insurance Exchange is a member of the Erie Insurance Group which was founded in 1925 in Erie, Pennsylvania. The Erie Insurance Group is comprised of the following five property and casualty companies:

- Erie Insurance Company (CoCode 26263)
- Erie Insurance Company Of NY (CoCode 16233)
- Erie Insurance Exchange (CoCode 26271)
- Erie Insurance Property and Casualty Company (CoCode 26830)
- Flagship City Insurance Company (CoCode 35585).

All of the above companies are licensed and write business in Wisconsin except for Erie Insurance Company of NY.

The Erie Insurance Exchange (hereafter referred to as the company) operates as a regional property and casualty insurance company that underwrites both personal and

commercial business. The core products for the group of insurance companies include private passenger automobile, homeowners, and commercial multi-peril insurance, marketed through independent agents.

The Company has operations in Illinois, Indiana, Maryland, New York, North Carolina, Ohio, Pennsylvania, Tennessee, Virginia, West Virginia, and Wisconsin. It obtained its license in Wisconsin in October of 2000 and began writing business in 2001. The Company maintains a branch office in Brookfield, Wisconsin.

The following table summarizes the states and jurisdictions where the company was licensed to write during 2009 and 2010

Licensed States and Jurisdictions

| Jurisdiction | 2009 | 2010 |
|----------------|------|------|
| Connecticut | X | X |
| Dist. Columbia | X | X |
| Illinois | X | X |
| Indiana | X | X |
| Kentucky | X | X |
| Maine | X | X |
| Maryland | X | X |
| Minnesota | X | X |

| Jurisdiction | 2009 | 2010 |
|----------------|------|------|
| North Carolina | X | X |
| Ohio | X | X |
| Pennsylvania | X | X |
| Rhode Island | X | X |
| Tennessee | X | X |
| Virginia | X | X |
| West Virginia | X | X |
| Wisconsin | X | X |

In 2009 the company reported written premium in the District of Columbia, Illinois, Indiana, Maryland, North Carolina, Ohio, Pennsylvania, Tennessee, Virginia, West Virginia, and Wisconsin. In 2010 the company reported written premium in the same eleven jurisdictions. The following table summarizes the total direct national premium written in 2010 and 2009 as it compares to the total direct premium written in Wisconsin.

National Direct Premium Written to Wisconsin Direct Premium Written

| Year | National Direct Premium Written | Wisconsin Direct Premium Written |
|------|---------------------------------|----------------------------------|
| 2010 | \$3,320,347,260 | \$76,103,075 |
| 2009 | \$3,185,091,201 | \$63,507,030 |

The majority of the premium earned by the company in 2009 was for homeowners and private passenger automobile insurance. In 2010, the majority of the premium earned by the

company was in the same lines of business as in 2009. The following tables summarize the premium earned and incurred losses in Wisconsin for 2010 and 2009 broken down by line of business.

Wisconsin Direct Premium and Loss Summary

| 2010 | Premium | Losses | Pure Loss |
|---------------------------|---------------------|---------------------|------------------|
| Line of Business | Earned | Incurred | Ratio |
| Fire & Allied Lines | \$635,384 | \$445,675 | 70% |
| Homeowners | \$18,343,824 | \$20,720,835 | 113% |
| Commercial Multiple Peril | \$9,741,695 | \$10,789,499 | 111% |
| Workers Compensation | \$3,357,246 | \$1,761,723 | 52% |
| Private Passenger Auto | \$17,964,607 | \$13,133,775 | 73% |
| Commercial Auto | \$3,038,168 | \$2,404,220 | 79% |
| All Others | \$17,057,125 | \$9,246,054 | 54% |
| Total | \$70,138,049 | \$58,501,781 | 83% |

| 2009 | Premium | Losses | Pure Loss |
|---------------------------|---------------------|---------------------|------------------|
| Line of Business | Earned | Incurred | Ratio |
| Fire & Allied Lines | \$469,822 | \$353,202 | 75% |
| Homeowners | \$15,618,037 | \$10,702,058 | 69% |
| Commercial Multiple Peril | \$7,837,610 | \$5,063,669 | 65% |
| Workers Compensation | \$1,394,433 | \$690,274 | 50% |
| Private Passenger Auto | \$14,637,775 | \$12,154,174 | 83% |
| Commercial Auto | \$2,701,775 | \$2,598,190 | 96% |
| All Others | \$14,779,527 | \$8,227,238 | 56% |
| Total | \$57,438,979 | \$39,788,805 | 69% |

In 2010, the company ranked as the 14th largest writer of private passenger automobile insurance in Wisconsin with 1.4% of the market share. In addition, the company ranked as the 7th largest writer of homeowners insurance in Wisconsin with 2.0% of the market share.

During the year of 2008, OCI received 25 complaints against the company. In 2009, 24 complaints were received and in 2010, 33 complaints were received against this company. The total number of complaints received in 2010, increased by 32% from the number of complaints received in 2008.

In 2010, the majority of the 33 complaints received against the company were related to private passenger automobile insurance (57%). The second highest number of complaints were related to homeowners insurance (24%). This accounted for 81% of the total number

of complaints against the company in 2010. By comparison, in 2009 automobile and homeowner complaints accounted for 70% of the complaints against the company and 84% in 2008:

Of the 33 complaints received against the company in 2010, 15 complaints were related to claims handling and nine were related to underwriting which accounts for 72% of the complaints received against the company. Likewise, in 2009, claims and underwriting accounted for 95% of the complaints received against the company and 83% of the complaints in 2008.

The following table summarizes the complaints received broken down by coverage type and reason type.

Complaints Received

| Year 2010 Coverage | Claims Handling | Underwriting | Marketing & Sales | Policyholder Service |
|---------------------------------|--------------------|--------------|----------------------|-------------------------|
| Private Passenger Auto | 5 | 6 | 5 | 3 |
| Homeowner & Farmowners | 4 | 3 | 1 | 0 |
| Commercial Property & Liability | 3 | 0 | 0 | 0 |
| Commercial Liability | 2 | 0 | 0 | 0 |
| Worker's Compensation | 1 | 0 | 0 | 0 |
| Total | 15 | 9 | 6 | 3 |

| Year 2009 Coverage | Claims Handling | Underwriting | Marketing & Sales | Policyholder Service |
|---------------------------------|--------------------|--------------|----------------------|-------------------------|
| Private Passenger Auto | 7 | 1 | 1 | 0 |
| Homeowner & Farmowners | 3 | 5 | 0 | 0 |
| Commercial Property & Liability | 3 | 0 | 0 | 0 |
| Commercial Liability | 2 | 0 | 0 | 0 |
| Worker's Compensation | 2 | 0 | 0 | 0 |
| Total | 17 | 6 | 1 | 0 |

| Year 2008 Coverage | Claims Handling | Underwriting | Marketing & Sales | Policyholder Service |
|---------------------------------|--------------------|--------------|----------------------|-------------------------|
| Private Passenger Auto | 0 | 2 | 0 | 1 |
| Homeowner & Farmowners | 3 | 0 | 0 | 0 |
| Commercial Property & Liability | 0 | 0 | 0 | 0 |
| Commercial Liability | 0 | 0 | 0 | 0 |
| Worker's Compensation | 0 | 0 | 0 | 0 |
| Total | 3 | 2 | 0 | 1 |

II. PURPOSE AND SCOPE

A targeted examination was conducted to determine compliance with recommendations made in the previous market conduct examination adopted July 23, 2008, 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 July 1, 2009 through December 31, 2010. In addition, the examination included a review of any subsequent events deemed important by the examiner-in-charge during the examination.

The compliance examination covered private passenger automobile and homeowners business in Wisconsin and included a review of company operations/management, complaint handling, marketing/sales, policy forms and rates, producer licensing, underwriting and rating and claims handling practices and procedures.

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 EXAM RECOMMENDATIONS

The previous market conduct examination of the company, as adopted July 23, 2008 contained 34 recommendations. Following are the recommendations and the examiners' findings regarding the company's compliance with each recommendation.

Claims

1. In order to avoid the unfair claim settlement practices contained in s. Ins 6.11 (3), Wis. Adm. Code, it is recommended that the company implement procedures that ensure a written claim denial is sent promptly, including in those instances where the claim is initially verbally denied.

Action: Compliance

Company Operations & Management

2. It is recommended that the company revise its Authorization to Obtain Medical, Insurance and/or Employment Information [form number c-820 05/06] to comply with s. 610.70 (2) (a) 8, Wis. Stat.

Action: Compliance

3. It is recommended that the company develop and implement a quality control program to ensure that the Market Conduct Annual Statement contains accurate and complete data in order to avoid an unfair marketing practices defined by s. 628.34 (1) (a), Wis. Stat.

Action: Compliance

Policy Forms & Rates

4. It is recommended that the company file with the Commissioner and obtain approval from the Commissioner (if required) prior to using policy forms and endorsements, including applications, in order to comply with s. 631.20, Wis. Stat.

Action: Compliance

5. It is recommended that, prior to making forms available for use in Wisconsin, the company re-file all previously approved forms when changes to non-hypothetical data or other appropriate variable material on the form are made to ensure compliance with s. 631.20, Wis. Stat., and s. Ins 6.05 (4) (a) 5, Wis. Adm. Code.

Action: Compliance

6. It is recommended that the company review all notices used to notify a person of their right to file a complaint with the Commissioner and to amend said notices to comply with s. Ins 6.85, Wis. Adm. Code.

Action: Compliance

7. It is recommended that the company eliminate the language related to penalties imposed by the State of Wisconsin for failure to maintain liability insurance on registered vehicles and random verification programs on the Wisconsin -- Notice to Policyholders sent to private passenger automobile policyholders to ensure compliance in order to avoid an unfair marketing practice pursuant to s. 628.34, Wis. Stat.

Action: Compliance

8. It is recommended that the company revise all policy forms providing property insurance to comply with s. 631.95 (2) (f), Wis. Stat.

Action: Compliance

9. It is recommended that the company revise its uninsured/underinsured motorist's coverage endorsement to comply with Wisconsin Supreme Court's decision in Welin v. American Family Mut. Ins. Co., 202 Wis. 2d 73, 717 N.W.2d 690 (2006).

Action: Compliance

10. It is recommended that the company clarify the Market Value Loss Settlement Coverage Endorsement [form number HP-MV (1/97) UF-5551] to reflect its actual claims settlement practice in order to avoid misleading and deceptive policy form language and to avoid noncompliance with s. 631.20 (2) (a) 1, Wis. Stat.

Action: Compliance

11. It is recommended that the company revise all policy forms providing property coverage to comply with s. Ins 6.76 (3) (e) 2, Wis. Adm. Code.

Action: Compliance

12. It is recommended that the company revise all homeowners policy forms comply with s. 631.81 (1), Wis. Stat.

Action: Compliance

13. It is recommended that the company revise the paper version of the Wisconsin HomeProtector Application [form number UF-2179 5/06] to remove the question 'Has any member of the household been arrested for any reason?' to ensure compliance with s. Ins 6.54 (3), Wis. Adm. Code.

Action: Compliance

Producer Licensing

14. It is recommended that the company develop and implement a procedure to ensure that the correct reason for an agent termination is reported to the Commissioner in order to avoid an unfair marketing practice as defined by s. 628.34 (1), (a), Wis. Stat.

Action: Compliance

15. It is recommended that the company include a formal demand for the return of all indicia of agency at the time that the final notice of the termination of the agency relationship is provided to its Contracted Agents and that said notice include the specific name of the company or companies to which the termination applies and advise the individual that he or she may not act as the company's representative in order to comply with s. Ins 6.57 (2), Wis. Adm. Code.

Action: Compliance

16. It is recommended that the company include a formal demand for the return of all indicia of agency at the time that the notice of the termination of the individuals appointment is provided to the Subagents representing the company and that said notice include the specific name of the company or companies to which the termination applies and advise the individual that he or she may not act as the company's representative in order to comply with s. Ins 6.57 (2), Wis. Adm. Code.

Action: Compliance

17. It is recommended that the company file notice of the termination of an individual intermediary's appointment with the Commissioner prior to or within 30 calendar days of the termination date and within 15 days of filing this termination notice, provide the agent written notice that the agent is no longer appointed as a representative of the company and that he or she may not act as its representative to ensure compliance with s. Ins 6.57 (2), Wis. Adm. Code.

Action: Non-Compliance

Refer to the Producer Licensing Section of the Current Examination Findings.

18. It is recommended that the company remind all Contract Agents to notify the company as soon as reasonably possible when a Subagent is longer employed by or affiliated with the Contract Agent to ensure compliance with s. Ins 6.57 (2), Wis. Adm. Code.

Action: Compliance

19. It is recommended that the company send a notice of termination to all agents it terminates in order to comply with s. Ins 6.57 (2), Wis. Adm. Code.

Action: Compliance

Underwriting & Rating

20. It is recommended that the company implement a more thorough and accurate procedure to verify that an agent is appointed to represent the company in accordance with s. Ins 6.57 (1), Wis. Adm. Code, prior to accepting business from the agent in order to ensure compliance with s. 628.03, Wis. Stat., and Ins 6.57 (5), Wis. Adm. Code.

Action: Compliance

21. It is recommended that the company conduct training for its Wisconsin agents on the need to obtain applicant signatures to ensure that the information contained on an application is provided and/or verified by the applicant and to ensure that a properly executed Subscribers Agreement is obtained from each policyholder as required by the company's procedures.

Action: Compliance

22. It is recommended that the company enforce its current procedure of conducting periodic agency audits to ensure that the required applicant signatures are obtained and that agents are retaining documentation related to the company's operations in Wisconsin on behalf of the company to ensure compliance with s. Ins 6.80 (5), Wis. Adm. Code.

Action: Compliance

23. It is recommended that the company provide written notice directly to the policyholder when issuing a policy on terms other than applied for by the applicant in order to avoid an unfair marketing practice as defined by s. 628.34 (1), Wis. Stat.

Action: Compliance

24. It is recommended that the company obtain documentation from the applicant to support any requested changes in coverage at the time the request is made in order to avoid potential coverage disputes and an unfair marketing practice as defined by s. 628.34 (1), Wis. Stat.

Action: Compliance

25. It is recommended that every policy of insurance that insures with respect to any motor vehicle registered or principally garaged in this state against loss resulting from liability arising out of the ownership, maintenance, or use of a motor vehicle contain medical payments coverage in the amount of at least \$1,000 per person, unless the insured rejects the coverage, in order to comply with s. 632.32 (4) (b), Wis. Stat.

Action: Compliance

26. It is recommended that the company implement a procedure that documents that medical payments coverage was offered and/or rejected by the applicant or policyholder for policies that insure with respect to any motor vehicle registered or principally garaged in this state against loss resulting from liability arising out of the ownership, maintenance, or use of a motor vehicle, in order to comply with s. 632.32 (4) (b), Wis. Stat.

Action: Compliance

27. It is recommended that when cancelling or nonrenewing a policy under s. 632.36 (2) (b) or (4), Wis. Stat., that the company include in the notice adequate instructions to the policyholder for applying for insurance through a risk-sharing plan under s. 619, Wis. Stat, if a risk-sharing plan exists under s. 619, Wis. Stat. for the kind of coverage being canceled or nonrenewed, in order to ensure compliance with s. 631.36 (7), Wis. Stat.

Action: Compliance

28. It is recommended that the company revise the eligibility guidelines in the new business section of the private passenger automobile underwriting guidelines related to participation in Probation Before Judgment (PBJ), Accelerated Rehabilitative Disposition (ARD) or any similar deferred prosecution programs, to ensure compliance with s. Ins 6.54 (3) (a), Wis. Adm. Code.

Action: Compliance

29. It is recommended that the company revise its underwriting guidelines to remove broad characteristics such as the moral character of an applicant or insured that make risk ineligible for coverage, to ensure compliance with s. Ins 6.54 (3) (a), Wis. Adm. Code.

Action: Compliance

30. It is recommended that the company revise its underwriting guidelines to remove the broad characteristics related to an applicant's or insured's past criminal record that make risks ineligible for coverage, to ensure compliance with s. Ins 6.54 (3) (a), Wis. Adm. Code.

Action: Compliance

31. It is recommended that the company remove from its private passenger auto underwriting guidelines the requirement that operators must be a resident of the United States or Canada for at least three years to be eligible for coverage to ensure compliance with s. 632.35, Wis. Stat.

Action: Compliance

32. It is recommended that the company remove from its Wisconsin Private Passenger Auto Exchange Underwriting Guidelines - New Business the guideline making risks ineligible for coverage if there are 'operators who are currently excluded on any personal auto policy, ERIE or otherwise' to ensure compliance with s. 632.35, Wis. Stat. and Ins 6.54 (3) (a), Wis. Adm. Code.

Action: Compliance

33. It is recommended that the company give clergymen the same rating considerations as any other occupation group to ensure compliance with s. 625.11, Wis. Stat.

Action: Compliance

34. It is recommended that the company revise its procedures and policy forms to comply with ss. 631.11 and 631.13, 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 Brookfield, Wisconsin. The company has also implemented an electronic claims system. As a result, the examiners were able to review claims from the home office in Erie, Pennsylvania.

The examiners reviewed a total of 250 closed homeowners and private passenger automobile claims. Of these claims, 50 were paid homeowners claims, 100 were paid private passenger automobile claims, 50 were homeowners claims closed without payment and 50 were private passenger automobile claims closed without payment. The company's claims handling practices and procedures were also reviewed. No exceptions were noted.

Policy Forms & Rates

The company provides coverage to its policyholders using independently filed company policy forms and endorsements. The examiners selected and reviewed 31 policy forms [21 private passenger automobile (PPA) forms and 10 homeowners forms] currently used by the company in Wisconsin in order to verify that the provision of the policy forms comply with the Wisconsin insurance laws. In addition, the examiners reviewed 49 PPA policy forms to verify that they have, in fact, been approved for use in Wisconsin. No exceptions were noted.

Producer Licensing

The company markets its insurance products using an independent agency system. To review the company's obligation to notify the Commissioner of producers that are appointed or terminated, the examiners requested that the company provide a list consisting of all producers appointed to represent the company as of the end of the period under review. This company's list was then compared to the Commissioner's database of producers appointed to represent the company as of that date. In addition, the examiners reviewed 50

files where the agent relationship with the company was terminated during the examination period to determine if the company's practices and procedures related to the termination of its representatives comply with Wisconsin insurance statutes and rules. The following exception was noted:

EX.65 - BLH050 The examiners found two (2) agents that were terminated where the company did not provide the agent written notice prior to or within 15 days of filing the notice of termination with the Commissioner. Section Ins 6.57 (2), Wis. Adm. Code states the company shall file notice of termination of an individual intermediary's appointment with the Commissioner prior to or within 30 calendar days of the termination date and within 15 days of the filing this termination notice, provide the agent written notice that the agent is no longer appointed as a representative of the company and that he or she may not act as its representative.

1. **Recommendation:** It is again recommended that the company file notice of the termination of an individual intermediary's appointment with the Commissioner prior to or within 30 calendar days of the termination date and within 15 days of filing this termination notice, provide the agent written notice that the agent is no longer appointed as a representative of the company and that he or she may not act as its representative to ensure compliance with s. Ins 6.57 (2), Wis. Adm. Code.

Underwriting & Rating

The examiners randomly selected and reviewed 200 new business personal lines underwriting files (100 private passenger automobile and 100 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 examiners also reviewed the company's homeowners and private passenger automobile rate and rule filings and the rating of 25 new business private passenger automobile policies to verify that the company is issuing policies using rates and rate-related rules that have been filed for use in Wisconsin. The following exceptions were noted.

EX.1 - GCM # 1 The examiners found one cancellation notice with the incorrect address and phone number for the risk sharing plan. Subsequent inquiries to the company revealed an additional 1,758 cancellations during the period of review in which also contained an incorrect address and phone number for the risk sharing plan. Section 631.36 (7), Wis. Stat., provides that a notice of cancellation or nonrenewal is not effective unless the notice contains adequate instructions to the policyholder for applying for insurance through a risk-sharing plan under s. 619, Wis. Stats. for the kind of insurance coverage being canceled or nonrenewed.

2. **Recommendation:** It is recommended that the company review and update all notices of cancellation to ensure that the notices contain the correct contact information for the applicable risk-sharing plans in order to comply with s. 631.36 (7), Wis. Stat.

EX.76 - KEB#6a The company's Wisconsin dwelling property/personal liability rule manual contained supplementary rate information regarding the premium computation for Rule 510, Theft Coverage (endorsement DP 04 72 Broad Theft Coverage) which stated that a burglar alarm discount and a deductible credit under Rule 406 should be applied if theft coverage was purchased. The examiners found fourteen (14) dwelling policies with Theft Coverage issued between August 2, 2006 and August 4, 2009 where applicable deductible discount to the theft coverage was not applied. In addition, the examiners found one (1) dwelling policy was issued without applying the deductible discount or the burglar alarm discount. The company did not make a filing with the Commissioner providing that the discount need not be applied to a certain class of policies within 30 days of the first instance when the discount was not applied. Section 625.13 (1), Wis. Stat. states, in part, every authorized insurer shall file with the commissioner all rates and supplementary rate information for use in this stated within 30 days after they become effective.

3. **Recommendation:** It is recommended that the company issue policies using rates and rules as filed with the commissioner in order to ensure compliance with s. 625.13 (1), Wis. Stat.

4. **Recommendation:** It is recommended that within 90 days of the adoption of this report, the company refund the overcharge to identified dwelling policyholders who purchased a Theft Coverage endorsement and should have had a deductible credit and/or a burglar alarm credit applied to their policy.

EX.80 - KO#12 The examiners found that the 'HomeProtector Application WI' [form numbers WI-HP-0409 and WI-HP-1010] contained the question 'Has any driver, boater or member of the household had a physical or mental impairment or disability or other medical infirmity?' Sections Ins 6.54 (3) (a) 2 and 3, Wis. Adm. Code, provide that no insurance company shall refuse, cancel or deny insurance coverage to a class or risks solely on the bases of any of the applicant's or insured's physical condition or developmental disability and/or the applicant's or insured's past mental disability, nor shall it place a risk in a rating classification on the basis of any of these factors without credible information supporting such a classification and demonstrating that it equitably reflects differences in past or expected losses.

5. **Recommendation:** It is recommended that the company revise all applications, applicable to policies affording coverage for loss or damage to real property as defined in s. Ins 6.54 (2), Wis. Adm. Code, to eliminate any questions regarding the applicant's or insured's physical condition or developmental disability and/or the applicant's or insured's past mental disability, in order to ensure compliance with ss. Ins 6.54 (3) (a) 2 and 3, Wis. Adm. Code.

EX.84 - KEB#8 The examiners found that the Private Passenger Auto - New Business Underwriting Guidelines – WI Guides [Effective 6/1/09], provide that risks with an operator "who in the last 5 years has refused to take a sobriety, blood or chemical test or engaged in underage drinking or excessive use of alcohol" do not qualify for coverage with the company. Section Ins 6.54 (3) (a) 7, Wis. Adm. Code, prohibits an insurer from refusing, canceling, or denying insurance coverage based solely on the applicant's or insured's "moral" character.

The examiners also found that the Private Passenger Auto - New Business Underwriting Guidelines – WI Guides [Effective 6/1/09], provide that an operator “with less than 3 years experience with an at-fault accident or any violation” do not qualify for coverage with the company. Section Ins 6.54 (3) (a) 1, Wis. Adm. Code, prohibits an insurer from refusing, canceling, denying, or placing a risk in a rating classification based solely on the applicant's or insured's past criminal record.

Violations appearing on a motor vehicle driving record may not be driving related. The company states it does not consider violations which are not driving related to determine acceptability for automobile insurance. Guidelines indicating that “any violation” should be used in determining the acceptability of a risk, could result in refusing, canceling, denying, or placing a risk in a rating classification based solely on the applicant's or insured's moral character and/or past criminal record.

6. **Recommendation:** It is recommended that the company revise its underwriting guidelines to clearly indicate that only driving related violations should be considered in the underwriting and rating of automobile insurance policy, in order to ensure compliance with ss. Ins 6.54 (3) (a) 1 and 7, Wis. Adm. Code.

EX.89 - KO#10A The examiners found one file where the company accepted business whereby the application submitted to the company was signed by a producer that did not hold a valid intermediary license at the time application was taken and/or submitted to the company.

Section 628.03 (1), Wis. Stat. provides that:

“No natural person may perform, offer to perform or advertise any service as an intermediary in this state, unless the natural person obtains a license under s. 628.04 or 628.09, and no person may utilize the services of another as an intermediary if the person knows or should know that the other does not have a license as required by law.”

Furthermore, s. Ins 6.57 (5), Wis. Adm. Code, provides that 'No insurer shall accept business directly from any intermediary or enter into an agency contract with an intermediary unless that intermediary is a licensed agent listed with that insurer.'

7. **Recommendation:** It is recommended that the company develop and implement procedures ensuring that the company accept business only from properly licensed and appointed insurance intermediaries in order to ensure compliance with s. 628.03, (1), Wis. Stat., and s. Ins 6.57 (5), Wis. Adm. Code.

IV. CONCLUSION

A total of seven (7) recommendations were made as a result of this targeted examination relating to the company's need to modify producer licensing procedures, underwriting and rating guidelines, and policy forms.

The company needs to ensure that prior to or within (15) day of filing an agent termination notice with the Commissioner that the company provide the agent written notice that the agent is no longer appointed as a representative of the company and that he or she may not act as its representative to ensure compliance with s. Ins 6.57 (2), Wis. Adm. Code. The above mentioned recommendation is a repeat recommendation as indicated from the previous market conduct examination report adopted on July 23, 2008.

The company needs to review and update all notices of cancellation to ensure that the most current and correct contact information for any applicable risk-sharing plan is correct in order to comply with s. 631.36 (7) (a) 2, Wis. Stat.

The company needs to issue policies using only rates and rules that have been filed with the commissioner within 30 days after they become effective in order to ensure compliance with s. 625.13 (1), Wis. Stat.

The company needs to review and update all applications affording coverage to real property eliminate questions regarding the insured's physical condition or developmental disability and/or the applicants past mental disability in order to ensure compliance with s. Ins 6.54 (3) (a) 2 and 3, Wis. Adm. Code.

The company needs to revise its eligibility guidelines for operator history and driving experience in the private passenger auto new business underwriting guidelines to reflect the stated company guideline or not considering violations which are not driving related to determine acceptability for auto insurance in order to comply s. Ins 6.54 (3) (a) 1, Wis. Adm. Code.

VI. SUMMARY OF RECOMMENDATIONS

Producer Licensing

- Page 13 1. It is again recommended that the company file notice of the termination of an individual intermediary's appointment with the Commissioner prior to or within 30 calendar days of the termination date and within 15 days of filing this termination notice, provide the agent written notice that the agent is no longer appointed as a representative of the company and that he or she may not act as its representative to ensure compliance with s. Ins 6.57 (2), Wis. Adm. Code.

Underwriting & Rating

- Page 14 2. It is recommended that the company review and update all notices of cancellation to ensure that the notices contain the correct contact information for the applicable risk-sharing plans in order to comply with s. 631.36 (7), Wis. Stat.
- Page 14 3. It is recommended that the company issue policies using rates and rules as filed with the commissioner in order to ensure compliance with s. 625.13 (1), Wis. Stat.
- Page 15 4. It is recommended that within 90 days of the adoption of this report, the company refund the overcharge to identified dwelling policyholders who purchased a Theft Coverage endorsement and should have had a deductible credit and/or a burglar alarm credit applied to their policy.
- Page 15 5. It is recommended that the company revise all applications, applicable to policies affording coverage for loss or damage to real property as defined in s. Ins 6.54 (2), Wis. Adm. Code, to eliminate any questions regarding the applicant's or insured's physical condition or developmental disability and/or the applicant's or insured's past mental disability, in order to ensure compliance with ss. Ins 6.54 (3) (a) 2 and 3, Wis. Adm. Code.
- Page 16 6. It is recommended that the company revise its underwriting guidelines to clearly indicate that only driving related violations should be considered in the underwriting and rating of automobile insurance policy, in order to ensure compliance with ss. Ins 6.54 (3) (a) 1 and 7, Wis. Adm. Code.
- Page 17 7. It is recommended that the company accept business only from properly licensed and appointed insurance intermediaries in order to ensure compliance with s. 628.03, (1), Wis. Stat., and s. Ins 6.57 (5), Wis. Adm. Code.

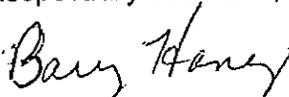
VII. ACKNOWLEDGEMENT

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> |
|-----------------|--------------------|
| Rhonda Peterson | P&C Section Chief |
| Karen Becker | Insurance Examiner |
| Gary Morris | Insurance Examiner |
| Katherine Otis | Insurance Examiner |

Respectfully submitted,



Barry Haney
Examiner-in-Charge