



State of Wisconsin / OFFICE OF THE COMMISSIONER OF INSURANCE

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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

Hartford Underwriters Insurance Company
Hartford Plaza
Hartford CT 06115

dated February 10-21, 2003, and served upon the company on March 11, 2004, 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 28th day of May, 2004.

Jorge Gomez
Commissioner of Insurance

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

MARKET CONDUCT EXAMINATION

OF

**HARTFORD UNDERWRITERS INSURANCE COMPANY
HARTFORD, CONNECTICUT**

FEBRUARY 10-21, 2003

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June 24, 2003

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Honorable Jorge Gomez
Commissioner of Insurance
Madison, WI 53702

Commissioner:

Pursuant to your instructions and authorization, a targeted market conduct examination was conducted February 10 to February 21, 2003 of:

HARTFORD UNDERWRITERS INSURANCE COMPANY
HARTFORD, CONNECTICUT

and the following report of the examination is respectfully submitted.

I. INTRODUCTION

Hartford Underwriters Insurance Company (the company) was incorporated under the laws of Connecticut on December 23, 1987, to service as the vehicle for redomestication of New York Underwriters Insurance Company from the state of New York to the state of Connecticut. The change became effective December 31, 1987. New York Underwriters Insurance Company was licensed in Wisconsin on December 12, 1925, and was merged into Hartford Underwriters Insurance Company and licensed on July 1, 1988. The Hartford Group serves its customers through independent agents, financial institutions, and via the Internet. The corporate headquarters are located in Hartford, Connecticut.

The company was licensed in all 50 states plus the District of Columbia in 2000 and 2001. In 2000 and 2001, the company reported written premium in all 50 states and the District of Columbia. The following table summarizes the total direct national premium written in 2001 and 2000 as compared it to the total direct premium written in Wisconsin.

National Direct Premium Earned to Wisconsin Direct Premium Written

Year	National Direct Premium Written	Wisconsin Direct Premium Written
2001	\$1,016,804,655	\$16,674,717
2000	\$944,622,130	\$17,631,992

The majority of the Wisconsin premium written by the company in 2001 was personal passenger automobile, worker's compensation, and homeowners. In 2001, the company ranked as the 27th largest writer of personal passenger automobile, 77th largest writer of worker's compensation, and 115th largest writer of homeowners.

The majority of the premium written by the company in 2000 was personal passenger automobile and worker's compensation. In 2000, the company ranked as the 24th largest writer of personal passenger automobile and 76th largest of worker's compensation.

The following tables summarize the premium written and incurred losses in Wisconsin for 2001 broken down by line of business.

Line of Business	Premium Earned	Losses Incurred
Fire & Allied Lines	\$49,917	\$35,306
Homeowners/Farmowners	\$203,804	\$176,397
Commercial Multiple Peril	\$103,009	\$18,511
Worker's Compensation	\$2,504,744	\$860,232
Private Passenger Auto	\$13,638,559	\$8,846,130
Commercial Auto	\$21,671	\$6,942
All Others	\$153,013	\$112,663
Total	\$16,674,717	\$10,056,181

The Office of the Commissioner of Insurance (OCI) received 21 complaints against the company between January 1, 2002, through December 31, 2002. A complaint is defined as "a written communication received by the Commissioner's Office that indicates dissatisfaction with an insurance company or agent." The following table categorizes 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. The company received 17 complaints in 2002; 13 involved underwriting, 6 involved claims, and 4 involved policyholder service. Sixteen of the complaints involved automobile insurance and one involved homeowners insurance.

Complaints Received

Coverage Type	Marketing		Policyholder		
	Underwriting	& Sales	Claims	Service	Other
Personal Auto	12	1	6	3	0
Commercial Vehicle					
Com Prop & Liability					
Home/Farmowners	1		0	1	
Commercial Liability					
Worker's Comp					
Fidelity & Surety					
All Others					
Total	13	1	6	4	0

II. PURPOSE AND SCOPE

A targeted in-office desk examination was conducted to determine whether the company's practices and procedures comply with the Wisconsin insurance statutes and rules. The examination focused on the period from June 1, 2001, through September 30, 2002. In addition, the examination included a review of any subsequent events deemed important by the examiner-in-charge during the examination.

The scope of the examination was limited to, a review of claim procedures, marketing, sales and advertising, electronic commerce, policyholders service and complaints procedures, company operations and management, privacy procedures, all personal and commercial lines policy forms, underwriting, and producer licensing.

Throughout the report, the term "the commissioner" refers to the Office of the Commissioner of Insurance (OCI) and the acronym 'WCRB' refers to the Wisconsin Compensation Rating Bureau.

The report is prepared on an exception basis and comments on those areas of the company's operations where adverse findings were noted.

III. EXAMINATION FINDINGS

Claim Procedures

The company handles Wisconsin personal lines claims through its Indianapolis Personal Lines Claim Service Center (PLCSC). The PLCSC adjusts, supervises, and processes claim payments on a case-by-case basis. Claim handler reserve and settlement authority is limited to a specified dollar authority. Requests for reserves and settlements in excess of the authority are evaluated by Home Office Personal Lines Claim, located in Hartford, Connecticut. The Customer Care Team (CCT) is the primary point of first notice and acknowledgment of claims. The company indicated that the same day a loss is received it is electronically routed to a claim handler, based on jurisdiction and the type of claim.

The examiners reviewed the company's written claims processes and procedures. No exceptions were noted.

Marketing & Sales

The company is a direct writer of the personal passenger automobile program written for the American Association of Retired Persons (AARP). The AARP program is marketed through direct mail, publication advertising and new and renewal membership kits. There is also the ability for AARP customers to receive a quote and buy insurance online via the Internet. In-office sales agents handle in-coming requests for quotes and the Operations Mail Team processes the requests for quotes and mails them to the requesters.

Except for the AARP Internet marketing described above, the company does not maintain its own Internet homepage, however, the Hartford group of companies does. The group website contains information on the history of the Hartford Group, products and services available for individuals and families and businesses, and the group's financial information. A customer can perform the following activities online: get a quote, update his/her policy, report an accident, and locate a nearby repair shop. Applications cannot be submitted electronically.

The examiners reviewed the company's home page, brochures published by the company, and general information related to the marketing and sales tactics of the company. No exceptions were found.

Policyholder Service & Complaints

The policyholder service department responds to consumer inquiries via the telephone, mail, or Internet. Requests are handled in the order in which they are received. Mail requests are date stamped to monitor service tracking. Policyholder service information is contained within a computer based on-line reference system. Written and telephone information, inquiries, and/or policy service requests are received either in the home office or directly in the field or home office operating unit. Telephone calls are either handled by the receiving unit, if it is the appropriate unit to respond, or the caller is transferred to or given a toll free number for the correct area. Written inquiries are received by or directed to customer relations. Inquiries and complaints are entered into the complaint tracking and monitoring system known as COMPTRAK. The customer relations department is a focal point for the administration of the system and facilitating proper handling and monitoring of inquiries and timely resolution of complaints. The company has adopted the NAIC's definition of a complaint:

"A written communication primarily expressing a grievance."

The examiners reviewed the company's procedures for handling complaints. No exceptions were noted.

Operations & Management

The examiners reviewed what the company submitted about its operations/management plans and procedures, including the company's policy and procedures regarding privacy of consumer information. No exceptions were noted.

Policy Forms & Filings

The examiners reviewed a sample from a total of 1,222 commercial lines forms, excluding worker's compensation and including inland marine, general liability, automobile,

multi-peril, and umbrella, submitted by the company. The examiners also reviewed 61 personal passenger automobile forms. In addition, the examiners reviewed a list of worker's compensation forms to ensure that they were forms that had been filed by the WCRB. The following exceptions were noted.

The examiners found that the automobile endorsement, Form A-4832-0 (Ed. 6/83), Lifetime Continuation Agreement - Auto, unfairly discriminates by age and physical condition. The endorsement provides that after the policy has been in effect sixty (60) days and if the insured is age 50 or over, the company will continue the policy for as many additional policy periods as the insured wishes provided: 1) the premium is paid when due, 2) the insured's license or the license of any customary operator of the insured's covered auto has not been suspended or revoked, 3) the insured furnishes, within forty-five (45) days of the company's request, acceptable certification by a licensed physician that the insured or any other driver who customarily operates the insured's covered auto are physically and mentally capable of safely operating an automobile, and 4) the insured or any customary operator of the covered auto are not convicted of driving while under the influence of alcohol. Section 632.35, Wis. Stat., provides that no insurer may cancel or refuse to issue or renew a policy wholly or partially because of age. Section Ins 6.54 (3) (a) 4, Wis. Adm. Code, provides that no insurance company shall refuse, cancel, or deny insurance coverage to a class of risks solely on the basis of the applicant's or insured's age. The endorsement unfairly discriminates because of age by guaranteeing a renewal for those insureds age 50 or older and not guaranteeing renewal for those insureds under age 50. The endorsement prohibits nonrenewing a person 50 years of age or older for the same reasons that will allow the company to nonrenew or cancel an auto policy for an insured under age 50. Section Ins 6.54 (3) (a) 2 and 3, Wis. Adm. Code, provides that no insurance company shall refuse, cancel, or deny insurance coverage to a class of risks solely on the basis of the applicant's or insured's physical condition or developmental disability, or the applicant's or insured's past mental disability. The rule also provides that no insurance

company shall place a risk in a rating classification on the basis of physical condition or past mental disability without credible information supporting such a classification and demonstrating that it equitably reflects differences in past or expected losses and expenses. Section Ins 6.54 (3) (c), Wis. Adm. Code, states that nothing in paragraphs (a) or (b), shall be interpreted in any way as limiting the prohibitions contained in s. 106.52 (3) (a) 4 and 632.35, Wis. Stat. Section 106.52 (3) (a) 4, Wis. Stat., in part, provides that no person may refuse to furnish automobile insurance because of a handicap. Requiring a certification by a licensed physician that the insured or any other driver who customarily operates the insured's covered auto is physically and mentally capable of safely operating an automobile is contrary to the rule and statute. It should be noted that the form had been approved by the commissioner on December 1, 1983.

- 1. Recommendation:** It is recommended that the company amend endorsement Form A-4832-0 (Ed. 6/83), Lifetime Continuation Agreement - Auto, in order to not violate s. 632.35 and 106.52 (3) (a) 4, Wis. Stat.; and s. Ins 6.54 (3) (a) 2, 3, and 4, Wis. Adm. Code.

The company has not submitted a dividend plan to the commissioner for worker's compensation insurance. In order to meet the filing requirements of s. 631.51, Wis. Stat., the company must file with the commissioner any schedule of distribution, board declarations, effective and expiration dates of policies considered, the date the dividend payments will be issued, and any other information necessary to determine which policies were considered in the declaration.

- 2. Recommendation:** It is recommended that the company file a schedule of dividend distribution for worker's compensation policies with the Commissioner after the Board of Directors declares a dividend, but prior to the distribution of any dividend in order to comply with s. 631.51, Wis. Stat.

The company currently uses 12 worker's compensation forms (WC 99 00 05; WC 99 00 06 A; WC 99 00 09 A; WC 99 00 13; WC 99 00 14; WC 99 00 15; WC 99 00 17; WC 99 00 20; WC 99 00 37 B; WC 99 00 43; WC 99 00 94 A; WC 99 02 77) that are not approved for use in Wisconsin. All companies writing worker's compensation insurance must be

members of the WCRB. Accordingly, the Workers Compensation Rating Bureau (WCRB), on behalf of its members, submits all filings (except dividends submitted pursuant to s. 631.51, Wis. Stat.) to the Commissioner. Deviations from the approved forms are not permitted.

- 3. Recommendation:** It is recommended that the company use only approved worker's compensation forms in order to avoid violations of s. 631.20 (1), Wis. Stat.

The company was asked to provide a copy of all personal lines policy forms being used in Wisconsin. The company provided a copy of form A-5106-O, titled "Countersignature of Personal Umbrella Liability Supplemental Contract". The company could not provide a copy of an approval by our office of this form. The company explained that the language in this form had been approved for use in another form, A-5031-0, titled "Personal Umbrella Liability Supplemental Contract". The company's automated policy writing system could not produce the A-5031-0 policy with all the language included in it. Therefore, the company created form A106-0, containing the language that could not be produced, to be manually inserted in each policy issued. However, the company did not file form A-5106-0 with or receive approval from the commissioner. Section 631.20 (1), Wis. Stat., states, in part, that no form subject to s. 631.01 (1), Wis. Stat., may be used unless it has been filed with and approved by the commissioner.

- 4. Recommendation:** It is recommended that the company establish a procedure to require that forms be re-filed if the automated policy writing system requires modification to an approved form and receive approval to use the modified form, in order to comply with s. 631.20 (1), Wis. Stat.

Underwriting & Rating

Question 18 of the examiner's Underwriting Interrogatories asked the company the following:

- Describe how the company calculates return premium if an insured requests cancellation because of a misquote.
- Under what circumstances would the return premium be pro-rated?
- Do you use the quoted premium or the correct premium as the basis for the calculation?

The company indicated it would calculate a return premium on a short rate basis using the corrected premium. Section 628.34 (1) (a), Wis. Stat., states, in part, that no person who is or should be licensed under ch. 600 to 646, Wis. Stat., may make or cause to be made any communication relating to an insurance contract which contains false or misleading information. The act of misquoting a premium is a misrepresentation. In the case of a misquote based on an agent's error, the refund must be calculated pro rata based on the quoted premium. In this way, the insured is paying the amount represented to him/her and the company is not profiting by its agent's error.

- 5. Recommendation:** It is recommended that the company revise its procedures to calculate refund premiums, requested by insureds whose premiums were misquoted resulting in an increased premium, pro rata based on the quoted premium in order to remain in compliance with s. 628.34, Wis. Stat.

The company stated that it uses worker's compensation dividends to offset premiums due the company regardless of the type of policy. Premium payments for, refunds from, or dividends payable from a specific policy may not be unilaterally applied to other debts or policy premiums due to either the agent or the company unless the insured agrees to the specific transaction. Failure to receive the insured's approval prior to applying premiums, refunds, or dividends to other policies is a violation of s. 628.34 (1), Wis. Stat.

- 6. Recommendation:** It is recommended that the company amend its procedure of applying premiums, refunds, or dividends to premiums owed on other policies without first obtaining the written approval of the transaction from the insured in order to avoid violations of s. 628.34 (1), Wis. Stat.

The examiners asked the company to explain what underwriting authority it gives its agents for worker's compensation insurance. The company responded that they do not consider the actions that an agent takes in binding the company to a risk, as underwriting. The company has no written guidelines for agents that differentiate what sort of risks the company wants to insure or does not want to insure. By failing to supply agents with clear, written underwriting guidelines to determine eligibility of risks, the company cannot ensure that its

agents are uniformly applying its underwriting criteria. Failing to uniformly apply underwriting criteria leaves the company open to allegations of misrepresentation under s. 628.34 (1), Wis. Stat.

- 7. Recommendation:** It is recommended, in order to avoid potential misrepresentations by its agents regarding what dividend plans, if any, the applicants are eligible for and, thereby, violating s. 628.34 (1) (a), Wis. Stat., the company should provide its agents with written eligibility guidelines. The guidelines are to be submitted within 60 days of adopting this report and implemented upon approval.

In addition, the company's response to the aforementioned question regarding agents' underwriting authority stated:

"In the unlikely event that an agent was to place a poor quality risk or otherwise misuse underwriting authority, we would honor the binder (which is generally no longer than 60 days)."

The Wisconsin Court of Appeals decision, Terry v. Mongin Insurance Agency, 102 Wis. 2d 239, supports that binders are subject to the same terms and conditions of the policy. The company's worker's compensation policies are actually issued for a coverage period of one year. To bind coverage for a different period of time from what is provided by the actual policy misrepresents coverage. Section 628.34 (1) (a), Wis. Stat., states, in part, that no person who is or should be licensed under ch. 600 to 646, Wis. Stat., may make or cause to be made any communication relating to an insurance contract which contains false or misleading information. In addition, s. Ins 21.01 (4), Wis. Adm. Code, requires that a notice of termination must be provided to the policyholder in order to effectively terminate coverage. Therefore, a binder does not expire on its own terms and is subject to the same terms and conditions of the policy ordinarily used by the company.

- 8. Recommendation:** It is recommended that the company include in its underwriting guidelines given to its agents that a binder be issued for the same period of time as the policy will be issued in order to avoid misrepresenting coverage and violating s. 628.34 (1) (a) Wis. Stat., and ensure compliance with s. Ins 21.01 (4) (c), Wis. Adm. Code, and the Wisconsin Court of Appeals decision, Terry v. Mongin Insurance Agency, 102 Wis. 2d 239.

The company's Wisconsin Worker's Compensation Filings Manual (page 3 of 6)

under Renewals indicates:

“Allow 67 (60+7) days before non-renewal becomes effective. If the nonrenewal is not submitted within 67 (60+7) days before the nonrenewal, the term should be extended for no more than 16 days or a short term policy should be issued (using the intended nonrenewal date as the expiration date).”

In addition to the language in the manual, the examiners found 2 notices; one where a short term policy was issued to the policyholder in order to meet the 60 day notice requirement for nonrenewal and one that did not give the insured 60 days prior notice of nonrenewal. Issuing short term policies or extending a policy term to meet a 60 day nonrenewal notice requirement is not allowed in Wisconsin. Section Ins 21.01 (6), Wis. Adm. Code, provides that a policyholder has a right to have the worker's compensation policy renewed, on the terms then being applied by the insurer to similar risks, for an additional period of time equivalent to the expiring term if the agreed term is one year or less, or for one year if the term is longer than one year, unless at least 60 days prior to the date of expiration provided in the policy a notice of intention not to renew the policy beyond the agreed expiration date is mailed or delivered to the policyholder. Extending the current term to meet the requirement would improperly alter the current contract. Issuing a short term policy would be in direct conflict with the aforementioned rule. In their response, the company agreed that the procedure of lengthening the policy term or issuing a short term policy in order to meet the 60 day nonrenewal notice requirement is improper and it has amended its procedures.

9. Recommendation: It is recommended that the company eliminate its procedure of extending policies or issuing short term renewals which violates s. Ins 21.01 (6), Wis. Adm. Code.

The examiners requested that the company provide data containing terminations of worker's compensation policies between January 1, 2002 and December 31, 2002, inclusive.

The examiners also requested that the Wisconsin Compensation Rating Bureau (WCRB)

provide data containing terminations of worker's compensation policies reported to it by the company for the same time period. The data provided by both was compared and a number of discrepancies were noted.

The examiners asked the company to provide copies of 16 nonrenewal notices that the WCRB had reported in its data that the company had not reported in its data. The company was able to find all of the notices except one.

The examiners found 164 instances where the company's data showed a worker's compensation policy had been cancelled, but the WCRB's data did not show the cancellation being received.

The examiners asked the company to provide copies of 33 worker's compensation notices of nonrenewal that were reported on the company's data, but not reported to the WCRB. Of the 33 notices requested, there were 8 notices the company stated it could not locate because it could not find the number in its electronic system. The policy numbers in the sample were provided by the company. The examiners also asked the company to produce 15 worker's compensation nonrenewal notices where the company sent the nonrenewal notice to the WCRB much later than they allegedly sent notice to the policyholder. The company's regular written procedure states that it notifies the WCRB of terminations at the same time it notifies policyholders. Section 102.31 (2), Wis. Stat. says that when an insurance company does not renew a policy upon expiration, the nonrenewal is not effective until 60 days after the insurance company has given written notice of the nonrenewal to the insured employer and the Department of Workforce Development through the WCRB.

10. Recommendation: It is recommended that the company follow its written procedure by notifying the Wisconsin Compensation Rating Bureau of all worker's compensation terminations to ensure that the company is no longer legally responsible pursuant to s. 102.31 (2), Wis. Stat., for a risk for which it no longer collects premium.

The examiners asked the company to explain why it had reported 22 policies as midterm cancelled to the WCRB when the notices to the policyholders indicated they were nonrenewed. The company responded that when the insureds had replaced coverage, gone out of business, etc., carriers consider this a nonrenewal, yet the WCRB considers this a cancellation. Filing an incorrect report and making a false entry in a record or not making a proper entry are “communications” within the meaning of s. 628.34 (1), Wis. Stat. No company licensed under ch. 600, Wis. Stat., may make or cause to be made any communication relating to an insurance contract, the insurance business, any insurer or any intermediary which contains false or misleading information.

11. Recommendation: It is recommended that the company amend its procedures to ensure that it communicates substantially the same reason for termination to the WCRB that it gives to its policyholder in order to avoid violations of s. 628.34 (1), Wis. Stat.

While reviewing the notices sent to the insureds and to the WCRB, the examiners found that three of the policies that were listed as midterm cancelled by the company revealed that the company had nonrenewed the policies, but submitted the termination notices to the WCRB using an incorrect form. As a member of the Wisconsin Compensation Rating Bureau, all companies must adhere to the WCRB's By-Laws. The company, by failing to use the approved form, violated the WCRB's By-Laws, specifically Article XII. Failing to report on the proper form would cause the WCRB to reject the termination notice and make the termination ineffective until 30 days after the company provided the correct notice to the WCRB or the WCRB received replacement information. After conferring with the WCRB, it was learned that for each of these 18 policies, the company had failed to notify the WCRB of the nonrenewals and the WCRB contacted the company because they had not received a renewal policy or a nonrenewal from the company. Had the company properly notified the WCRB, the legal cancellation date would have been substantially the same as intended.

12. Recommendation: It is recommended that the company use the WCRB designated form to report all worker's compensation terminations to the WCRB in order to comply with Article XII of the WCRB's By-Laws.

While analyzing the company's worker's compensation termination data compared to the data given to the commissioner by the WCRB, it was discovered that the company would often either give no reason for termination to the policyholder or, in some cases the company would not state with reasonable precision the facts on which they based their decision to nonrenew the policy. Also, in reviewing nonrenewal notices provided by the company, the examiners found 20 nonrenewal notices that failed to state with reasonable precision the facts on which the company's decision was based. Section Ins. 21.01 (8), Wis. Adm. Code, states, in part, that a notice of nonrenewal shall state with reasonable precision the facts on which the insurer's decision is based and that no such notice is effective unless it so states the facts.

13. Recommendation: It is recommended that the company state with reasonable precision the facts on which the insurer's decision is based for nonrenewal in order to comply with s. Ins. 21.01 (8), Wis. Adm. Code.

The examiners questioned the company regarding two midterm cancellations for substantial changes in risk. One of the policies was cancelled midterm after the WCRB completed an inspection of the business. This exposure existed prior to the renewal of the policy, yet the company renewed the risk. The second policy was midterm cancelled 3 days after the policy renewed. The company learned that the employer utilized volunteers in its business prior to the renewal, but since it had already sent the renewal offer, waited until 3 days after the renewal to cancel. The company should develop and implement procedures to complete its underwriting prior to renewing risks. If an aspect of a risk exists at the time the company is underwriting or reunderwriting a risk, then the company should have reasonably foreseen the change or contemplated the risk in writing or renewing the contract. The failure to properly perform the task of underwriting does not mean that a company can assert a right to underwrite during the policy period. Section Ins. 21.01 (4), Wis. Adm. Code, allows an insurer to midterm cancel a policy if the reason for cancellation can be comprehended within the

acceptable reasons for midterm cancellation. Underwriting reasons that are foreseeable during the prior period and in time to give a proper nonrenewal notice are not one of the acceptable reasons for midterm cancellation.

14. Recommendation: It is recommended that the company cease canceling worker's compensation policies midterm for underwriting reasons that are reasonably foreseeable or contemplated in order to comply with s. Ins. 21.01 (4), Wis. Adm. Code.

In response to a request from the examiners, the company provided a copy of the notice of nonrenewal it uses for worker's compensation policies. The notice did not contain any instructions to the policyholder for obtaining insurance through the Wisconsin worker's compensation insurance pool. Section Ins. 21.01 (9), Wis. Adm. Code, states that notice of cancellation or nonrenewal is not effective unless the notice contains adequate instructions to the policyholder for obtaining insurance through the Wisconsin worker's compensation insurance pool.

15. Recommendation: It is recommended that the company amend its cancellation notices and nonrenewal notices to provide adequate instructions to policyholders for obtaining insurance through the Wisconsin worker's compensation insurance pool in order to comply with s. Ins. 21.01 (9), Wis. Adm. Code.

The examiners found 2 nonrenewal notices that stated the reason for nonrenewal was that the agent no longer represented the company. The notices failed to contain an offer to continue or renew the policy with the insurer if the insurer receives a written request from the policyholder prior to the cancellation or renewal date. Section Ins. 21.01 (7), Wis. Adm. Code, states, in part, that an insurer may refuse to renew a worker's compensation policy because of the termination of an insurance marketing intermediary's contract with the insurer only if the notice of nonrenewal contains an offer to continue or renew the policy with the insurer if the insurer receives a written request from the policyholder prior to the cancellation date.

16. Recommendation: It is recommended that the company's notice of nonrenewal, when nonrenewing because of the termination of an insurance intermediary's listing, contain an offer to continue or renew the policy with the insurer if the insurer receives a written request from the policyholder prior to the cancellation or renewal date in order to comply with s. Ins. 21.01 (7), Wis. Adm. Code.

Producer Licensing

To review the company's obligation to notify the commissioner of agents that are appointed or terminated, the examiners requested the company provide a list consisting of each individual representing the company in Wisconsin as of December 31, 2002. The list produced by the company was then compared to the commissioner's list of agents for the company. The following exceptions were noted.

The examiners found 49 agents that the company indicated were appointed for the company that did not appear on the commissioner's appointment list and showed were terminated in the past. The company responded that 1 agent had changed her name, 1 agent's license number had changed, and 47 agents should not have appeared as listed. The company did not show that any business had been written for the company by any of the agents as of their terminations dates.

The company explained that prior to September 2002, appointments and terminations required double entry; one entry to update the state's database and another entry to update the company's system. For the 47 agents, the entry had been made for the state but not for the company's system. As of September 2002, the company implemented a new single entry vendor system. The entry is made into the company's system and is electronically sent to the state database on a nightly basis.

The examiners found 13 agents that the company indicated were listed for the company that did not appear on the commissioner's list and did not show as ever being appointed to the company. It was discovered that 3 of the agents had been appointed for an affiliate company, Property and Casualty Insurance Company of Hartford, but not for this company. The examiners asked how many pieces of business had been accepted by the company from each of the agents. The company provided a list showing 3 agents had not sold

any business and that 8 agents sold a total of 313 policies. Section Ins 6.57 (5), Wis. Adm. Code, states, in part, that no insurer shall accept business directly from any intermediary unless that intermediary is a licensed agent appointed with that insurer.

17. Recommendation: It is recommended that the company develop and implement a program to verify that the agents submitting applications are duly listed with the company in order to ensure compliance with s. Ins 6.57 (5), Wis. Adm. Code, and submit a summary of the program to the Commissioner within 90 days of the adoption of the report.

It was discovered that the company's list of agents submitted to the commissioner was not a complete list of all active Wisconsin agents. The company indicated they did not provide the commissioner with a complete list of active agents as of 12/31/2002 in February 2003 because they understood that the exam was only for personal lines. The company limited the producer ID codes to in-house employee agents only. The company then realized it had inadvertently excluded 1 or 2 producer codes and ran another report. However, it still did not include all active agents. The company then submitted another list on June 24, 2003. The list produced by the company was again compared to the commissioner's list of agents for the company. The following exceptions were noted and the company was asked to explain the differences.

The examiners found 554 agents that the commissioner showed as appointed and the company did not show as appointed. The company was asked to explain the differences. The company indicated there were 73 agents included in the data call submission to our office that the commissioner indicated was not included. The examiners checked 10 of the 73 agents and found that all 10 did appear on the data submitted by the company. The company indicated 4 agents showed differences either in the agent's name and/or social security number. The examiners found that there were differences in the social security numbers of 3 agents and the names of 2 agents. The commissioner's system showed that the agents' had changed their names in 1991. The company indicated 232 agents' appointments were terminated in 2003. The company explained that its CAPIS database did not hold historical data. Therefore, any

listing terminated in 2003, which was active on 12/31/2002, would not have appeared on the data submission to the Commissioner. The company indicated 29 agents showed as active on the company's CAPIS database. The company indicated the CAPIS database was utilized for the data call. The examiners checked 10 of the agents to see if they were included in the data sent to us by the company and 8 of the agents did not appear on the data sent to us. The company indicated 87 agents were terminated on various dates prior to December 31, 2002. The examiners checked 10 of the 87 agents and found that all 10 are still currently listed with the commissioner. The company indicated it did not have any agent record in its files for 79 agents. The examiners checked 10 of the 79 agents and found that all 10 agents are currently listed with the company. The company indicated various other reasons for the remaining 50 agents, including, but not limited to the following: no Hartford Underwriters appointment, pending, no Wisconsin appointment or license on file, and no license/application. The examiners checked 5 of the agents and found that all 5 agents are currently listed.

The examiners found 168 individuals where the company system indicated that each individual was an active agent currently representing the company. The commissioner's records show that the individuals were not appointed with the company on December 31, 2002. The company advised the examiners that its CAPIS database showed these individuals as appointed for the company and that it appeared that a majority of the individuals have not placed a significant amount of Wisconsin business with the company, if any, as they are either internal employees or non-resident agents. The company indicated it reconciles the Annual Renewal Billing sent by the commissioner to its database and that exceptions are noted. However, the examiners found that the company failed to notice that 168 individuals did not appear on one or more billings. As such, the company did not investigate the reason(s) the individuals were not included on the annual billing and promptly appoint the agents in accordance with s. Ins 6.57 (1), Wis. Adm. Code. The company also failed to notice that 247 agents appeared on OCI's billing but did not appear on its database. As such, the company did

not investigate the reason(s) the agents were included on the annual billing and promptly terminate the agents in accordance with s. Ins 6.57 (2), Wis. Adm. Code.

18. Recommendation: It is recommended that the company carefully review and compare the Annual Renewal Billing sent by the commissioner to the company's agents database, promptly initiate an investigation into the reason(s) an agent either does not appear on the Annual Renewal Billing when the company shows an active agent appointed to represent the company or appears on the Annual Renewal Billing when the company does not show the agent as appointed to represent the company and take the appropriate action to rectify the situation, to ensure compliance with s. Ins 6.57 (1) and (2), Wis. Adm. Code.

IV. CONCLUSION

A total of 18 recommendations were made relating to the need for Hartford Underwriters Insurance Company to modify certain policy forms and filing, underwriting, and producer licensing procedures.

The company must amend its forms procedures to ensure it uses only approved forms in Wisconsin and amends its noncomplying form. The company must also file its schedule of dividend distribution for worker's compensation policies in accordance with the filing requirements of s. 631.51, Wis. Stat.

In addition, the company must revise its refund procedures for worker's compensation insurance and its refund calculation methods involving agent misquotes for automobile insurance.

The company must also amend its termination procedures for worker's compensation insurance to comply with s. Ins 21.01 (4), (6), (7), (8), and (9), Wis. Adm. Code, ensure that it notifies the WCRB of all terminations, properly states the reason for the termination, and uses the correct form for notifying the WCRB of terminations.

The company must reconcile the Annual Renewal Billing of agents sent to it from the commissioner and take appropriate action and must implement a program to ensure that all intermediaries submitting business are listed with the company.

V. SUMMARY OF RECOMMENDATIONS

Policy Forms & Filings

- Page 8 1. It is recommended that the company amend endorsement Form A-4832-0 (Ed. 6/83), Lifetime Continuation Agreement - Auto, in order to not violate s. 632.35 and 106.52 (3) (a) 4, Wis. Stat.; and s. Ins 6.54 (3) (a) 2, 3, and 4, Wis. Adm. Code.
- Page 8 2. It is recommended that the company file a schedule of dividend distribution for worker's compensation policies with the Commissioner after the Board of Directors declares a dividend, but prior to the distribution of any dividend in order to comply with s. 631.51, Wis. Stat.
- Page 9 3. It is recommended that the company use only approved worker's compensation forms in order to avoid violations of s. 631.20 (1), Wis. Stat.
- Page 9 4. It is recommended that the company establish a procedure to require that forms be re-filed if the automated policy writing system requires modification to an approved form and receive approval to use the modified form, in order to comply with s. 631.20 (1), Wis. Stat.

Underwriting & Rating

- Page 10 5. It is recommended that the company revise its procedures to calculate refund premiums, requested by insureds whose premiums were misquoted resulting in an increased premium, pro rata based on the quoted premium in order to remain in compliance with s. 628.34, Wis. Stat.
- Page 10 6. It is recommended that the company amend its procedure of applying premiums, refunds, or dividends to premiums owed on other policies without first obtaining the written approval of the transaction from the insured in order to avoid violations of s. 628.34 (1), Wis. Stat.
- Page 11 7. It is recommended, in order to avoid potential misrepresentations by its agents regarding what dividend plans, if any, the applicants are eligible for and, thereby, violating s. 628.34 (1) (a), Wis. Stat., the company should provide its agents with written eligibility guidelines. The guidelines are to be submitted within 60 days of adopting this report and implemented upon approval.
- Page 11 8. It is recommended that the company include in its underwriting guidelines given to its agents that a binder be issued for the same period of time as the policy will be issued in order to avoid misrepresenting coverage and violating s. 628.34 (1) (a) Wis. Stat., and ensure compliance with s. Ins. 21.01 (4) (c), Wis. Adm. Code, and the Wisconsin Court of Appeals decision, Terry v. Mongin Insurance Agency, 102 Wis. 2d 239.
- Page 12 9. It is recommended that the company eliminate its procedure of extending policies or issuing short term renewals which violates s. Ins. 21.01 (6), Wis. Adm. Code.

- Page 13 10. It is recommended that the company follow its written procedure by notifying the Wisconsin Compensation Rating Bureau of all worker's compensation terminations to ensure that the company is no longer legally responsible pursuant to s. 102.31 (2), Wis. Stat., for a risk for which it no longer collects premium.
- Page 14 11. It is recommended that the company amend its procedures to ensure that it communicates substantially the same reason for termination to the WCRB that it gives to its policyholder in order to avoid violations of s. 628.34 (1), Wis. Stat.
- Page 15 12. It is recommended that the company use the WCRB designated form to report all worker's compensation terminations to the WCRB in order to comply with Article XII of the WCRB's By-Laws.
- Page 15 13. It is recommended that the company state with reasonable precision the facts on which the insurer's decision is based for nonrenewal in order to comply with s. Ins. 21.01 (8), Wis. Adm. Code.
- Page 16 14. It is recommended that the company cease canceling worker's compensation policies midterm for underwriting reasons that are reasonably foreseeable or contemplated in order to comply with s. Ins. 21.01 (4), Wis. Adm. Code.
- Page 16 15. It is recommended that the company amend its cancellation notices and nonrenewal notices to provide adequate instructions to policyholders for obtaining insurance through the Wisconsin worker's compensation insurance pool in order to comply with s. Ins. 21.01 (9), Wis. Adm. Code.
- Page 16 16. It is recommended that the company's notice of nonrenewal, when nonrenewing because of the termination of an insurance intermediary's listing, contain an offer to continue or renew the policy with the insurer if the insurer receives a written request from the policyholder prior to the cancellation or renewal date in order to comply with s. Ins. 21.01 (7), Wis. Adm. Code.

Producer Licensing

- Page 18 17. It is recommended that the company develop and implement a program to verify that the agents submitting applications are duly listed with the company in order to ensure compliance with s. Ins 6.57 (5), Wis. Adm. Code, and submit a summary of the program to the Commissioner within 90 days of the adoption of the report.
- Page 20 18. It is recommended that the company carefully review and compare the Annual Renewal Billing sent by the commissioner to the company's agents database, promptly initiate an investigation into the reason(s) an agent either does not appear on the Annual Renewal Billing when the company shows an active agent appointed to represent the company or appears on the Annual Renewal Billing when the company does not show the agent as appointed to represent the company and take the appropriate action to rectify the situation, to ensure compliance with s. Ins 6.57 (1) and (2), Wis. Adm. Code.

VI. 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.

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