



State of Wisconsin / OFFICE OF THE COMMISSIONER OF INSURANCE

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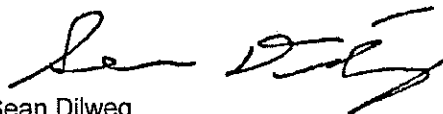
Notice of Adoption and Filing of Examination Report

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

GENERAL CASUALTY COMPANY OF WISCONSIN  
ONE GENERAL DRIVE  
SUN PRAIRIE WI 53596

dated November 14, 2008, and served upon the company on October 28, 2009, 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 2nd day of December, 2009.

  
Sean Dilweg  
Commissioner of Insurance

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

**MARKET CONDUCT EXAMINATION**

**OF**

**GENERAL CASUALTY COMPANY OF WISCONSIN  
SUN PRAIRIE, WISCONSIN**

**NOVEMBER 3-14, 2008**

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November 14, 2008

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Honorable Sean Dilweg  
Commissioner of Insurance  
Madison, WI 53702

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 November 3, 2008 to November 14, 2008 of:

GENERAL CASUALTY COMPANY OF WISCONSIN  
Sun Prairie, Wisconsin

and the following report of the examination is respectfully submitted.

#### I. INTRODUCTION

General Casualty Company of Wisconsin is a property and casualty insurer. It was incorporated under its present name and commenced business in May 1925. In 1956, the company was sold to Reliance Insurance Company. In 1990, it was sold to Winterthur US Holdings, Inc., (a subsidiary of Winterthur Swiss Insurance Company) who, in turn, was sold to Australian-based QBE Insurance Group in 2007. All outstanding shares of General Casualty Company of Wisconsin are currently owned by QBE Regional Companies (N.A.), Inc.

Effective December 31, 2007, MassWest Insurance Company, Inc. merged with General Casualty Company of Wisconsin. The accounts of both companies were combined into

General Casualty Company of Wisconsin and MassWest Insurance Company, Inc. ceased to exist at the date of the merger.

The following table summarizes how the total direct premium written in Wisconsin in 2006 and 2007 compares to the total direct premium written by the company in all jurisdictions where premium was reported for these years.

<b>Year</b>	<b>National Direct Premium Written</b>	<b>Wisconsin Direct Premium Written</b>	<b>WI As a Percentage of the National Premium</b>
2007	\$466,538,270	\$163,131,879	34.97%
2006	\$525,936,939	\$176,916,767	33.64%

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 2006 and 2007 broken down by line of business.

<b>Line of Business</b>	<b>2007</b>	
	<b>Premium Earned</b>	<b>Losses Incurred</b>
Fire & Allied Lines	\$ 1,797,784	\$ 607,539
Homeowners/Farmowners	\$ 23,836,068	\$ 14,317,915
Commercial Multiple Peril	\$ 32,223,778	\$ 13,356,328
Worker's Compensation	\$ 14,522,229	\$ 5,130,030
Private Passenger Auto	\$ 47,566,385	\$ 29,816,544
Commercial Auto	\$ 27,023,364	\$ 7,486,791
All Others	\$ 20,605,711	\$ 11,515,934
<b>Total</b>	<b>\$167,575,319</b>	<b>\$ 82,231,081</b>

<b>Line of Business</b>	<b>2006</b>	
	<b>Premium Earned</b>	<b>Losses Incurred</b>
Fire & Allied Lines	\$ 1,931,719	\$ 1,443,205
Homeowners/Farmowners	\$ 23,934,516	\$ 45,541,244
Commercial Multiple Peril	\$ 34,304,977	\$ 23,371,199
Worker's Compensation	\$ 16,459,874	\$ 8,040,186
Private Passenger Auto	\$ 49,014,326	\$ 38,000,766
Commercial Auto	\$ 29,854,795	\$ 13,551,132
All Others	\$ 20,966,353	\$ 12,422,310
<b>Total</b>	<b>\$176,466,560</b>	<b>\$142,370,042</b>

The company ranked as the 4th largest writer of homeowners insurance, 9th largest writer of private passenger auto insurance and 40th largest writer of worker's compensation insurance in Wisconsin in 2007. In 2006, the company ranked as the 4th largest writer of

homeowners insurance, 7th largest writer of private passenger auto insurance and 29th largest writer of worker's compensation insurance in Wisconsin.

The Office of the Commissioner of Insurance received 75 complaints against the company from January 1, 2007 through August 12, 2008, inclusively. A complaint is defined as 'a written communication received by the Commissioner's Office that indicates dissatisfaction with an insurance company or agent.'

A total of 45 complaints were received against the company in 2007, a decrease of 8.2% from the number of complaints received in 2006. The number of complaints received increased to 48 or by 6.7% in 2008 from the number received in 2007. The majority of the complaints against the company are related to claim handling issues.

For the years 2007 and 2006, the company appeared on the homeowner's above-average complaint-to-premium list with rankings of 8th and 7th, respectively. The company newly appeared on the 2007 private passenger auto's above-average complaint-to-premium list with a ranking of 17th.

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.

2008		Reason				
Coverage Type	Total.	Under-writing.	Marketing & Sales	Claims	Policyholder Service	Other
Personal Auto	20	1	1	15	3	0
Commercial Vehicle	0	0	0	0	0	0
Com Prop & Liability	6	1	1	4	0	0
Home/Farmowners	18	4	1	11	2	0
Commercial Liability	1	0	0	1	0	0
Worker's Comp	3	0	0	3	0	0
Fidelity & Surety	0	0	0	0	0	0
All Others	0	0	0	0	0	0
Total	48	6	3	34	5	0

2007		Reason				
Coverage Type	Total.	Under-writing.	Marketing & Sales	Claims	Policyholder Service	Other
Personal Auto	19	3	2	12	3	0
Commercial Vehicle	1	0	0	1	0	0
Com Prop & Liability	4	0	0	4	0	0
Home/Farmowners	16	3	3	10	1	1
Commercial Liability	2	0	0	2	0	0
Worker's Comp	3	0	0	3	0	0
Fidelity & Surety	0	0	0	0	0	0
All Others	0	0	0	0	0	0
Total	45	6	5	32	4	1

2006		Reason				
Coverage Type	Total.	Under-writing.	Marketing & Sales	Claims	Policyholder Service	Other
Personal Auto	17	0	0	16	1	0
Commercial Vehicle	2	0	0	1	1	0
Com Prop & Liability	6	0	0	4	2	0
Home/Farmowners	14	1	0	13	0	0
Commercial Liability	4	0	0	5	0	0
Worker's Comp	6	0	0	6	0	0
Fidelity & Surety	0	0	0	0	0	0
All Others	0	0	0	0	0	0
Total	49	1	0	45	4	0

## II. PURPOSE AND SCOPE

A targeted examination was conducted to determine compliance with recommendations made in the previous market conduct examination adopted November 7, 2002, 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, 2007 through June 30, 2008. 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, homeowners and worker's compensation business in Wisconsin and was limited to a review of claims, policy forms & rates, policyholder service & complaints, marketing & sales, producer licensing, and underwriting & rating and company operations & management, including privacy.

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 General Casualty Company of Wisconsin, adopted November 7, 2002, consisted of a review of agent monitoring, policy forms, private passenger automobile and homeowners claims, and the company's underwriting procedures for private passenger automobile, homeowners and worker's compensation insurance. The recommendations contained in the previous examination report related to the market conduct portion of the examination and the company's actions therein follow:

#### Prior Examination Recommendations

1. Page 07- It is again recommended that the company revise its procedures and require that electronically transmitted applications contain sufficient information to identify the individual intermediary submitting the application in order to ensure compliance with s. Ins 6.57 (5), Wis. Adm. Code.

**Action:** Compliance

#### Claims

2. Page 09- In order to document compliance and avoid the unfair claim settlement practices described in ss. Ins 6.11 (3), (a), 7 and (3) (b) 2, Wis. Adm. Code, it is recommended that the company implement procedures that ensure a written claim denial is sent promptly after the claim is verbally denied and/or it has become reasonable clear that the company is not liable for the payment of a claim under the terms of the contract.

**Action:** Compliance

3. Page 10- In order to avoid the unfair claims settlement practice described in ss. Ins 6.11 (3) (a) 1. and 3., Wis. Adm. Code, it is recommended that the company establish a procedure requiring that a second request for claim information and/or documentation be sent to the claimant prior to closing the claim file.

**Action:** Compliance

4. Page 11- It is recommended that the company develop and implement a procedure to make certain interest is paid on all overdue claims, in order to ensure compliance with s. 628.46, Wis. Stat.

**Action:** Non-compliance

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

## Operations & Management

5. Page 11- It is recommended that the company enter into a contractual agreement with the third party vendor retained to dispose of company records and that such contract impose a duty on the vendor to comply with ss. 610.70 and 895.505, Wis. Stats.

**Action:** Compliance

## Producer Licensing

6. Page 12- It is recommended that the company revise its notification of a person's right to file a complaint with the commissioner [form number Und. 385 (1-93)] to include the company's toll free phone number to ensure compliance with s. Ins 6.85 (4) (b), Wis. Adm. Code.

**Action:** Compliance

7. Page 13- To ensure compliance with s. Ins 6.57, Wis. Adm. Code, it is recommended that the company develop and implement written procedures detailing the process to be followed in appointing and/or terminating an individual agent and what documentation should be maintained in each producer file.

**Action:** Non-compliance

Refer to the Producer Licensing section of the Current Examination Findings. (Recommendation #16)

8. Page 13- To ensure compliance with s. Ins 6.57 (2), Wis. Adm. Code, it is recommended that when an agent listing has been terminated with the company, that the company send written notice directly to the agent that he or she is no longer to be listed as a representative of the company and that he or she may not act as its representative directly to all agents terminated.

**Action:** Compliance

9. Page 14- In order to comply with s. Ins 6.57 (2), Wis. Adm. Code, it is recommended that the company include a formal demand for the return of all indicia of agency in the written notice to the agent advising that he/she is no longer to be listed as a representative of the company and that he or she may not act as its representative due to the revocation of his/her agent license.

**Action:** Compliance

10. Page 14- To ensure compliance with s. Ins 6.57, Wis. Adm. Code, it is recommended that the company carefully review and compare the Annual Renewal Billing sent by OCI to the company records, promptly initiate an investigation into the reason(s) an agent does not appear on the Annual Renewal Billing when the company shows as an active agent appointed to represent the company and take the appropriate action to rectify the situation.

**Action:** Compliance

## Underwriting & Rating

11. Page 15- It is recommended that the company amend the Program Eligibility requirements of the Wisconsin Generations and Generations II Automobile Manual to comply with s. 632.35, Wis. Stat.

**Action:** Non-compliance

Refer to the Underwriting & Rates section of the Current Examination Findings. (Recommendation #18)

12. Page 15- It is recommended that the company eliminate the language in the Binder Period section of the Wisconsin Personal Lines Manual for Boat owners insurance that limits the coverage to 30 days after the effective date if no policy is issued, in order to avoid a binder form that misrepresents coverage and is misleading and deceptive with reference to s. 631.20 (2) (a), Wis. Stat. and ensure compliance with s. 632.36 (2), Wis. Stat. and the Wisconsin Court of Appeals decision, Terry v. Mongin Insurance Agency, 102 Wis. 2d 239.

**Action:** Compliance

13. Page 16- To ensure compliance with s. 631.36 (4), Wis. Stat., it is recommended that the company revise its notice and procedures to provide at least 60 days notice of its intention to nonrenew a policy assigned to the company by the Wisconsin Automobile Insurance Plan because the company's obligation to provide the coverage under the Plan has ended.

**Action:** Compliance

14. Page 17- To avoid confusion on the part of policyholders, it is recommended that the company remove language regarding a policyholder's right to make a written request for the reason(s) for termination from all notices of termination as the language is obsolete.

**Action:** Non-compliance

Refer to the Underwriting & Rating section of the Current Examination Findings. (Recommendation #17)

15. Page 18- To ensure compliance with s. Ins 6.57 (5), Wis. Adm. Code, it is recommended that the company develop and implement a procedure to verify that all intermediaries submitting business to the company are listed with the company in accordance with s. Ins 6.57 (1), Wis. Adm. Code. It is further recommended that the company not accept an application until such time as it is determined that the intermediary submitting the application is a licensed intermediary listed with the company in accordance with s. Ins 6.57 (1), Wis. Adm. Code.

**Action:** Non-compliance

Refer to the Producer Licensing section of the Current Examination Findings. (Recommendation #15)

16. Page 18- In order to comply with s. Ins 6.54 (3) (a) 1, Wis. Adm. Code, it is recommended that the company not use non-driving related violations to underwrite or rate an automobile insurance policy. It is further recommended that, before using possible non-driving related violations to underwrite or rate an automobile insurance policy, the company investigate whether the violation is driving related, in order to ensure compliance with s. Ins 6.54 (3) (a) 1, Wis. Adm. Code.

**Action:** Compliance

17. Page 19- It is recommended that the company provide notification directly to the policyholder when issuing a policy on terms other than applied for by the applicant to avoid unfair marketing practices defined by s. 628.34 (1), Wis. Stat.

**Action:** Compliance

18. Page 19- It is recommended that the company revise the Submission Guidelines for the Applicant of the Wisconsin Personal Lines - Homeowners manual to comply with s. Ins. 6.68 (3) (c), Wis. Adm. Code.

**Action:** Compliance

19. Page 20- In order to effectively terminate coverage and to ensure compliance with ss. 631.36 (6), Wis. Stat. and Ins 21.01 (8), Wis. Adm. Code, 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.

**Action:** Non-compliance

Refer to the Underwriting & Rating section of the Current Examination Findings. (Recommendation #20)

20. Page 20- In order to ensure compliance with s. Ins 21.01 (9), Wis. Adm. Code, and s. 631.36 (7) (a), Wis. Stat., it is recommended that the company amend all cancellation, termination, and nonrenewal notices to include the correct and current address of the Wisconsin Worker's Compensation Insurance Plan and/or the Wisconsin Automobile Insurance Plan.

**Action:** Compliance

21. Page 22- To ensure compliance with s. 626.25 (1), Wis. Stat., it is recommended that the company amend its procedures so that all worker's compensation cancellations are processed in accordance with the approved cancellation rules or pursue a change to the rules that govern worker's compensation insurance through the Wisconsin Compensation Rating Bureau so that the company may pro rate policies cancelled by the insured prior to the agreed upon expiration date for reasons other than retiring from business without violating s.626.25 (1), 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 offices located in Sun Prairie, Appleton and Brookfield, Wisconsin. The company also maintains a toll free number for its policyholders to report claims 24 hours a day, 365 days a year. The company also utilizes designated independent adjusters, as needed.

The examiners reviewed 328 closed homeowners, private passenger automobile and worker's compensation claims. Of these claims, 50 were paid homeowners claims, 88 were paid private passenger automobile claims, 50 were homeowners claims closed without payment, 50 were private passenger automobile claims closed without payment, 65 were paid worker's compensation medical payments claims and 25 were worker's compensation claims disputed through the Department of Workforce Development's hearing process. The company's claims handling practices and procedures were also reviewed. The following exceptions were noted:

The examiners found four homeowners claim files where the company failed to promptly provide written notice of the claim denial. The denial letters generated for each of the four claim files were mailed more than thirty days after the adjuster's notes in the file first indicated the claim should be denied and/or verbal denial was given to the claimant. Section Ins 6.11 (3) (a) 7, Wis. Adm. Code, provides that failure to affirm or deny coverage of claims within a reasonable time, if committed by any person without just cause and performed with such frequency as to indicate general business practice, shall constitute unfair methods and practices in the business of insurance. Promptly sending a written claim denial letter verifies the precise decision of the company and documents compliance with claim settlement practices.

1. **Recommendation:** In order to document compliance and avoid the unfair claim settlement practices described in s. Ins 6.11 (3) (a) 7, Wis. Adm. Code, it is recommended that the company promptly send a written claim denial

after the claim is verbally denied and/or it has become reasonably clear that the company is not liable for the payment of a claim under the terms of the contract.

The company advised that it does not have written procedures specifically dealing with payment of interest to ensure compliance with s. 628.46, Wis. Stat., as requested under Prior Examination Recommendation #4. Section 628.46, Wis. Stat. states, in part, that a claim shall be overdue if not paid within 30 days after the insurer is furnished written notice of the facts of a covered loss and of the amount of the loss. All overdue payments shall bear simple interest at the rate of 12% per year.

2. **Recommendation:** It is again recommended that the company develop and implement a written procedure to make certain interest is paid on all overdue claims, in order to ensure compliance with s. 628.46, Wis. Stat.

### **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. No exceptions were noted.

### **Policy Forms & Rates**

The company provides coverage to its personal lines and commercial lines policyholders using a combination of Insurance Services Office, Inc. (ISO) policy forms and endorsements and independently filed company policy forms and endorsements, along with ACORD applications. However, the company is required to use only worker's compensation rates, rules, and policy forms and endorsements which have been filed by the Wisconsin Compensation Rating Bureau and approved for use on behalf of its member companies.

From all of the company's personal and commercial forms, the examiners randomly selected and reviewed 74 policy forms (2 private passenger automobile forms, 25 homeowners forms including personal umbrella and boat owners forms, 26 commercial lines forms and 21 worker's compensation forms) 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 examiners also reviewed all worker's compensation forms currently used by the company to verify that they have, in fact, been approved for use in Wisconsin. The following exceptions were noted:

The examiners found the company is using, or readily has available for its intended use, four policy forms and endorsements which were not filed by the Wisconsin Compensation Rating Bureau (WCRB) on behalf of its members and approved for use when issuing Wisconsin workers compensation policies.

- IL 7001 (03/92 revised) Wisconsin Changes Interline Endorsement
- WC 166 (12/97) Large Deductible Option Endorsement
- WC 00 03 12 Voluntary Compensation & Employers Liability Coverage For Residence Employees Endorsement
- WC 00 03 14 Worker's Compensation & Employers Liability Coverage For Residence Employees Endorsement

The company is a member of the WCRB. From January 1, 2006 to November 14, 2008, the company issued 23,140 policies with policy endorsement IL 7001 (03/92 revised) Wisconsin Changes and although zero policies were issued with the other three policy endorsements, the company indicated that they are considered active policy endorsements in Wisconsin which are readily available for the company's use. Pursuant to s. 631.20, Wis. Stat. and the rules filed by the WCRB under s. 626.13, Wis. Stat., members of the WCRB shall issue worker's compensation policies only with policy forms that have been filed with OCI by the WCRB and approved.

- 3. Recommendation:** It is recommended that the company issue policies using, or make available for its intended use, only worker's compensation policy forms and endorsements that have been filed by the WCRB and approved for use in Wisconsin, in order to comply with ss. 631.20 and 626.13, Wis. Stat.

The examiners found that Professional Liability Form CG 70 01 09 02 and Professional Liability Form CG 70 31 09 02 contain language that states 'no person or organization has a right to join us as a party or bring us into a suit asking for damages from an insured.' Section 803.04, Wis. Stat., addresses permissive joinder of parties under civil procedure law which states, in part, that the insurer can be joined in a court action against the insured.

4. **Recommendation:** It is recommended that the company revise the language in Professional Liability Form CG 70 01 09 02 and Professional Liability Form CG 70 31 09 02 to allow for a person or organization to join the company as a party or bring the company into a suit asking for damages from an insured, in order to comply with s. 803.04, Wis. Stats.

The examiner found that Participation Provision Endorsement #Und 380 (1-85) states 'The insured shall participate in the earnings of the company represented by the surplus to such extent and upon such condition as...the insured shall have complied with the terms of the policy payment of premium.' Also, the policy endorsement did not disclose that dividends cannot be guaranteed and must be declared by the Board of Directors. Section 631.51, Wis. Stat., prohibits the distribution of a dividend from being contingent on the continuation of the policy and the payment of premium. Also pursuant to s. 631.51, Wis. Stat., dividends cannot be guaranteed and must be declared by the Board of Directors. As such, all dividend plan materials and documents should clearly and conspicuously disclose such to avoid being misleading, pursuant to s. 628.34, Wis. Stat. which states, in part, that no person who is licensed under chs. 600 to 646 may make or cause to be made any communication relating to an insurance contract, the insurance business, any insurer or intermediary which contains false or misleading information, including information misleading because of incompleteness.

5. **Recommendation:** It is recommended that the company revise Participation Provision Endorsement #Und 380 to comply with ss. 631.51 & 628.34, Wis. Stat.

The examiners found the company's policy forms and endorsements used during the period of review contained an exclusion for loss or damage to property caused intentionally by



an insured but did not contain an exception to the exclusion for intentional acts resulting from an act, or pattern, of abuse or domestic abuse. Section 631.95 (2) (f), Wis. Stat. states, 'Except as provided in sub. (3), an insurer may not do any of the following: (f) Under property insurance coverage that excludes coverage for loss or damage to property resulting from intentional acts, 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.'

6. **Recommendation:** It is recommended that the company revise their personal lines and commercial lines policy forms containing property insurance, including automobile, 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, Wis. Stat.

### **Policyholder Service & Complaints**

The examiners reviewed the procedures used by the company for handling policyholder and consumer complaints. 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 who 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. The 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 100 files where the agent was appointed to represent the company and/or the relationship with the company was terminated during the examination period to determine if the company's practices and

procedures related to the appointment and termination of its representatives comply with Wisconsin insurance statutes and rules. The following exceptions were noted:

The examiners found 22 files where the company failed to terminate the producer's appointment to represent the company within 30 days of the effective date of the termination. The company advised that its agencies are not always providing timely notification when producers leave the agency therefore, it terminates its producers within 30 days of being notified by its agencies. 'Agencies' mean the principal or principals of each agency of which the company enters into a contractual relationship. (hereinafter 'Contract Agents'.)

The examiners found 27 files where the company failed to send the notice of termination within 15 days of filing the notice of termination with the Commissioner. The company advised that its Contract Agents are not always providing timely notification when producers leave the agency so it sends the notice of termination to its producers within 15 days of being notified by its Contract Agents.

Section Ins 6.57 (2), Wis. Adm. Code, provides that notice of termination of appointment of an individual intermediary shall be filed prior to or within 30 calendar days of the termination date with the office of the commissioner of insurance. Prior to or within 15 days of filing this termination notice, the insurer shall provide the agent written notice that the agent is no longer to be appointed as a representative of the company and that he or she may not act as its representative. 'Termination date' means the date on which the insurer effectively severs the agency relationship with its intermediary-agent and withdraws the agent's authority to represent the company in any capacity.

7. **Recommendation:** 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 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 its representative, to ensure compliance with s. Ins 6.57 (2), Wis. Adm. Code.

8. **Recommendation:** It is recommended that the company remind all Contract Agents to notify the company as soon as reasonably possible when a Subagent is no longer employed by or affiliated with the Contract Agent, to ensure compliance with s. Ins 6.57 (2), Wis. Adm. Code.

The examiners found seven files that did not contain a copy of the company's notice of termination to agents whose appointment to represent the company in accordance with s. In 6.57 (1), Wis. Adm. Code had been terminated by the company. This notice shall also include a formal demand for the return of all indicia of the agency. The examiners found one agent file that that did not contain a record of termination, a termination application, a copy of a termination letter or a date of termination. The company advised that it was never provided notification from the agency that this producer was terminated. Section Ins. 6.57 (2), Wis. Adm. Code, requires an insurer to provide written notice of termination of appointment of individual intermediary to the agent advising the agent that the agent is no longer to be appointed as a representative of the company and that he or she may not act as its representative. This notice shall also include a formal demand for the return of all indicia of the agency. Section Ins 6.80 (4), Wis. Adm. Code states, in part, records of insurance company operations shall be maintained for the preceding three years and be available to the commissioner.

9. **Recommendation:** 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, and to retain a copy of the agent termination records for the preceding three years in order to comply with s. Ins 6.80 (4), Wis. Adm. Code and in order to demonstrate the company's compliance with s. Ins 6.57 (2), Wis. Adm. Code.

The examiners found the company inaccurately reported 27 agent termination dates to our office during the period of review. The company uses the received date of the Contract Agent's termination application, instead of the actual termination date shown on the termination application, when it notifies the commissioner. Section Ins 6.57 (2), Wis. Adm. Code, provides that notice of termination of appointment of an individual intermediary shall be filed prior to or within 30 calendar days of the termination date with the office of the commissioner of insurance. Prior to or within 15 days of filing this termination notice, the insurer shall provide the agent

written notice that the agent is no longer to be appointed as a representative of the company and that he or she may not act as its representative. 'Termination date' means the date on which the insurer effectively severs the agency relationship with its intermediary-agent and withdraws the agent's authority to represent the company in any capacity. Section 628.34 (1) (a), Wis. Stat., states in part, that no person who is or should be licensed under chs. 600 to 646, no employee or agent of any such person, no person whose primary interest is as a competitor of a person licensed under chs. 600 to 646, and no person on behalf of any of the foregoing persons 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, including information misleading because of incompleteness. Filing a report and, with intent to deceive a person examining it, making a false entry in a record or willfully refraining from making a proper entry, are 'communications' within the meaning of this paragraph.

**10. Recommendation:** It is recommended that the company develop and implement a procedure to ensure that the correct termination date for an agent termination is reported to the commissioner, in order to comply with s. Ins 6.57 (2), Wis. Adm. Code and to avoid an unfair marketing practice as defined by s. 628.34 (1), (a), Wis. Stat.

The examiners found the company incorrectly reported that three agents had voluntarily surrendered their appointments although the agent files contained documentation identifying two of the agents as deceased and one agent was found to have had her licensed revoked. The examiners also found that of 50 terminated agent files reviewed, the most reported reason code for termination was 'VS: Voluntary Surrender per Agent Request' although there was no documentation supporting the VS reason contained in these files. In all cases, the company advised it has taken a very conservative posture with producer terminations whereby the company uses the 'VS: Voluntary Surrender' reason code unless the company has initiated disciplinary action against a producer.

Section 628.34 (1) (a), Wis. Stat., states in part, that no person who is or should be licensed under chs. 600 to 646, no employee or agent of any such person, no person whose primary interest is as a competitor of a person licensed under chs. 600 to 646, and no person on behalf of any of the foregoing persons 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, including information misleading because of incompleteness. Filing a report and, with intent to deceive a person examining it, making a false entry in a record or willfully refraining from making a proper entry, are 'communications' within the meaning of this paragraph.

**11. Recommendation:** It is recommended that the company develop and implement a written 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.

The examiners found that for a brief time period, the template used for the company's notice of termination to agents whose appointment to represent the company in accordance with s. Ins 6.57 (1), Wis. Adm. Code had been terminated by the company due to the agent's retirement, did not advise the agent that he or she could no longer act as the company's representative. Section Ins 6.57 (2), Wis. Adm. Code, states in part, that prior to or within 15 days of filing this termination notice, the insurer shall provide the agent written notice that the agent is no longer to be appointed as a representative of the company and that he or she may not act as its representative. This notice shall also include a formal demand for the return of all indicia of agency.

The examiners found that all of the templates used for the company's notice of termination to agents whose appointment to represent the company in accordance with s. Ins 6.57 (1), Wis. Adm. Code had been terminated by the company did not list the specific names of the company or companies to which the termination applied.

**12. Recommendation:** It is recommended that the company include a notice that the agent may not act as the company's representative at the same time the

notice of the termination of the individual's appointment is provided to the agent representing the company and that said notice include the specific name of the company or companies to which the termination applies and a formal demand for the return of all indicia of agency, in order to comply with s. Ins 6.57 (2), Wis. Adm. Code.

The examiners found that the company sends a letter to agents whose licenses have been suspended due to failure to comply with the continuing education requirements and/or failure to pay the licensing biennial fee. The letter states: "We have also been advised that if you do not comply within 60 days of your renewal date, your license will be revoked as provided in Sec. 628.10 (2) (B) Wis. Stats. Prior to June 30, 2008, s. 628.10 (2) (b), Wis. Stat. applied to license suspensions or revocations or limitations due to reasons other than the reasons stated in s. 628.10 (2) (a) & (am), Wis. Stat. Section 628.10 (2) (a) & (am), Wis. Stat. stated that agents whose license has been suspended due to failure to comply with the continuing education requirements and/or failure to pay the licensing biennial fee will have 60 days to produce evidence of compliance or else have his or her license revoked. Therefore, the company's letter referenced the wrong statute. On and after June 30, 2008, s. 628.10 (2) (a) & (am), Wis. Stat. was revised to state that the license of agents who fail to comply with the continuing education requirements and/or fail to pay the licensing biennial fee will automatically be revoked effective the date on which the evidence of compliance is due. The period of license suspension was removed from the statute. Section 628.10 (2) (b), Wis. Stat. remains unchanged.

**13. Recommendation:** It is recommended that the company revise its letter to agents whose license has been revoked due to failure to comply with the continuing education requirements and/or failure to pay the licensing biennial fee to comply with s. 628.10 (2) (a) & (am), Wis. Stat. and to cite the proper statutory reference.

The examiners found 19 individual intermediaries that no longer represented the company where the appointment of the individual made in accordance with s. Ins 6.57 (1), Wis. Adm. Code, had not been terminated. The termination effective dates of these individuals

ranged from May 10, 2000 to October 31, 2008. Pursuant to s. Ins 6.57 (2), Wis. Adm. Code, an insurer is required to file a notice of termination of appointment of individual intermediary prior to or within 30 calendar days of the termination date with the office of the commissioner of insurance. In addition, prior to or within 15 days of filing this termination notice, the insurer shall provide the agent written notice that the agent is no longer to be appointed as a representative of the company and that he or she may not act as its representative.

**14. Recommendation:** It is recommended that upon the termination of an individual intermediary, the company file a notice of termination of appointment of individual intermediary prior to or within 30 calendar days of the termination date with the commissioner, in order to comply with s. Ins 6.57 (2), Wis. Adm. Code.

The examiners found that the company accepted at least 40 pieces of business during the period under review from two producers, the same individuals noted in the finding for Prior Examination Recommendation #15, for lines of business for which the producers did not hold a valid license nor listing with the company. One of the producers obtained a valid property license during the period of review but still was not listed for that line of business with the company. The company indicated that the software it has used since 2003 to list agents with the company does not specify line of business and the two producers were listed prior to 2003. Section 628.03 (1), Wis. Stat., provides that 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. Section Ins 6.57 (5), Wis. Stat., provides that no insurer shall accept business directly from any intermediary unless that intermediary is a licensed agent listed with that insurer.

**15. Recommendation:** To ensure compliance with s. Ins 6.57 (5), Wis. Adm. Code, it is again recommended that the company develop and implement a procedure to verify that all intermediaries submitting business to the company are listed with the company for those lines business for which the individual will be representing the company, in accordance with s. Ins 6.57 (1), Wis. Adm. Code. It is also recommended again, that the company not accept any business from an intermediary until such time as it is determined that the intermediary submitting the business holds a valid license, as required by law, for those lines of business for which the individual will be representing

the company and is listed for the specified lines of business with the company, in accordance with s. Ins 6.57 (1) & (5), Wis. Adm. Code and s. 628.03 (1), Wis. Stat.

The examiners found the above findings to indicate the company's written procedures detailing the process to be followed in appointing and/or terminating an individual agent in order to ensure and demonstrate compliance and to accurately report the insurer's business in response to s. Ins 6.57 (2), Wis. Adm. Code, as was requested under Prior Examination Recommendation #7, to be deficient. Section Ins 6.57 (2), Wis. Adm. Code, provides that notice of termination of appointment of an individual intermediary shall be filed prior to or within 30 calendar days of the termination date with the office of the commissioner of insurance. Prior to or within 15 days of filing this termination notice, the insurer shall provide the agent written notice that the agent is no longer to be appointed as a representative of the company and that he or she may not act as its representative. 'Termination date' means the date on which the insurer effectively severs the agency relationship with its intermediary-agent and withdraws the agent's authority to represent the company in any capacity.

**16. Recommendation:** It is again recommended the company develop, document and implement written procedures detailing the process to be followed in appointing and/or terminating an individual agent and what documentation should be maintained in each producer file, in order to ensure and demonstrate compliance and to accurately report the insurer's business in response to s. Ins 6.57 (2), Wis. Adm. Code.

### **Underwriting & Rating**

The examiners randomly selected and reviewed 100 new business personal lines underwriting files (50 private passenger automobile and 50 homeowners), 100 personal lines termination files (50 private passenger automobile and 50 homeowners), and 54 worker's compensation termination files 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, except for worker's compensation. The examiners reviewed the company's homeowners and private passenger



automobile rate and rule filings, as well as the rating of 17 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 examiners also reviewed the company's private passenger automobile and homeowners underwriting procedures and manuals. The following exceptions were noted:

The company advised the examiners in its response to Prior Examination Recommendation #14 that the language regarding a policyholder's right to make a written request for the reason(s) for termination was removed from all of the company's notices of termination, except the Homeowners cancellation notice PPC4801 (1006) and nonrenewal notice PPN4801 (1006) which still state that if the reason for the termination of the policy is not stated in the notice, the insured may obtain the reason for the termination by mailing or delivering to the company a written request for such reason. For policies issued or renewed prior to December 1, 1990, the insurance laws provided that if the notice of termination did not state with reasonable precision the facts on which the insurer's decision was based, the insurer had to mail or deliver the information to the policyholder within five days of receipt of a written request from the policyholder and that no such notice was effective unless it contained adequate information about the policyholder's right to make the request. For policies issued or renewed on or after December 31, 1990, s. 631.36 (6), Wis. Stat., provides that that a notice of cancellation or 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. As such, termination notices that contain information about a policyholder's rights to make a written request for the reason a policy was terminated are obsolete.

- 17. Recommendation:** It is again recommended, in order to avoid confusion on the part of policyholders, that the company remove language regarding a policyholder's right to make a written request for the reason(s) for termination from all notices of termination as the language is obsolete under s. 631.36 (6), Wis. Stat. as of December 31, 1990.

The examiners found the company's Driver Eligibility requirements of the Wisconsin FlexAuto program, which replaced the Generations and Generations II programs effective June 24, 2008, states drivers who are professional entertainers or professional athletes are ineligible for insurance. This eligibility requirement is virtually identical to the eligibility requirement noted in the finding for Prior Examination Recommendation #11 which was determined to be in violation of s. 632.35 Wis. Stat. The examiners also found the company's Driver Eligibility requirements of the Wisconsin FlexAuto program states 'individuals employed in illegal enterprises or occupations' are ineligible for insurance. Section 632.35, Wis. Stat prohibits, in part, the rejection, cancellation and nonrenewal of an automobile insurance policy wholly or partially because of any person's occupation.

**18. Recommendation:** It is again recommended that the company amend the Driver Eligibility requirements of the Wisconsin FlexAuto program regarding professional entertainers and/or professional athletes and also regarding individuals employed in illegal enterprises and/or occupations, in order to comply with s. 632.35, Wis. Stat.

The examiners found the company's Driver Eligibility requirements of the Wisconsin FlexAuto program states 'any driver or member of the household who: Is an excessive user of intoxicants; or Is a user of drugs or controlled substances, except under medical supervision' must be referred for underwriting consideration. The company indicated it relies on the agent to provide this information and to discuss it with the underwriter prior to submission of the risk. Sections Ins 6.54 (3) (a) 1. and 7., Wis. Adm. Code, prohibits an insurer from refusing, canceling, or denying insurance coverage based solely on the applicant's or insured's past criminal record or 'moral' character.

**19. Recommendation:** It is recommended that the company amend the Driver Eligibility requirements of the Wisconsin FlexAuto program regarding excessive users of intoxicants, drugs or controlled substances, in order to comply with ss. Ins 6.54 (3) (a) 1. and 7., Wis. Adm. Code.

The examiners again found two worker's compensation 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, as was noted under Prior Examination Recommendation #19. Sections 631.36 (6), Wis. Stat., and Ins 21.01 (8), Wis. Adm. Code, provide 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. OCI's position is that generic reasons, such as but not limited to, claim activity, claims history, the motor vehicle record of an insured, underwriting reasons or does not meet underwriting guidelines, do not state with reasonable precision the facts on which the insurer's decision was based.

**20. Recommendation:** It is again 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 ss. 631.36 (6), Wis. Stat., and Ins 21.01 (8), Wis. Adm. Code.

The examiners found four worker's compensation files where the insured requested cancellation of the policy prior to the agreed upon expiration date and the company used a short-rate calculation for determining the unearned premium. Section 626.25 (1), Wis. Stat. states, in part, that no insurer may use a rate, rating plan or classification nor an expense loading not approved by the commissioner. The Wisconsin Worker's Compensation and Employers Liability Insurance Manual ('WI Basic Manual') has been approved for use by all insurers authorized to write worker's compensation insurance in Wisconsin. Rule X.D.4. of the WI Basic Manual provides that a carrier may elect to use the pro-rate premium calculation method for all cancellations by advising the Wisconsin Compensation Rating Bureau ('WCRB') in writing, at least ten days in advance of the date that such election is to become effective. Such election shall be revocable after at least one year has elapsed since it became effective and shall not again be made for a period of at least one year after revocation. In August 2004, the company notified the WCRB of its election to use the pro-rate premium calculation method for all cancellations.

**21. Recommendation:** It is recommended that the company process all cancellations of worker's compensation policies, including policies cancelled by the insured prior to the agreed upon expiration date, using the pro-rate premium calculation method, in order to comply with s. 626.25 (1), Wis. Stat. It is also recommended that, within 90 days of the adoption of this report, the company refund the difference between the pro-rated unearned premium and the short-rated unearned premium to affected policyholders.

The examiners found one homeowners new business policy which had been in effect more than 60 days at the time a notice of cancellation was mailed. The reason given for the mid-term cancellation of one policy was 'Does not meet underwriting requirements: condition of dwelling & detached garage, upper level doorway without platform/railings & soffits are damaged'. The reason given does not fall within one of the permissible grounds for cancellation under s. 631.36 (2) (a), Wis. Stat. which states, in part, that no insurance policy may be canceled by the insurer prior to the expiration of the agreed term except for failure to pay a premium when due or on grounds stated in the policy, which must be comprehended within one of the following classes: 1. material misrepresentation; 2. substantial change in the risk assumed, except to the extent that the insurer should reasonably have foreseen the change or contemplated the risk in writing the contract; 3. substantial breaches of contractual duties, conditions or warranties; or 4. attainment of the age specified as the terminal age for coverage.

**22. Recommendation:** It is recommended that the company not cancel policies mid-term unless the reason for cancellation falls within one of the permissible grounds set forth in s. 631.36 (2) (a), Wis. Stat.

The examiners found that the company filed two different sets of Uninsured Motorists (UM) and Underinsured Motorists (UIM) rates for its Premier Auto policyholders effective 1/1/07. The company issued Wisconsin policies using the lower set of UM and UIM rates from 1/1/07-2/7/08. However, the corresponding lower set of rates which were filed with the commissioner did not contain rates for UM or UIM coverage limits of 30/60, 100/200, 100/500, 300/300, 300/500, 500/500 and 1M/1M. Therefore, any policies with these coverage limits were issued with unfiled rates. The examiners found one policy issued with 500/500 UM and UIM coverage limits which resulted in an undercharge of \$16 for two vehicles. 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 state within 30 days after they become effective.

The examiners found the company also issued Wisconsin policies using unfiled rates for Premier Auto policyholders from 2/8/08-6/24/08 when:

- the company's rate filing contained a 1.05 usage/mileage rate factor for comprehensive coverage on excess vehicles but the company issued policies using a 1.00 rate factor. The examiners found one policy issued with the 1.00 rate factor which resulted in an undercharge of \$1.
- the company transposed the filed rate factors of 1.70 for the 250/500 UM limit and 1.84 for the 300/300 UM limit in its computerized rating system, resulting in overcharging policyholders with 250/500 UM limits and undercharging policyholders with 300/300 UM limits. The examiners found two policies with 250/500 UM limits who were overcharged \$3 and \$4 respectively.
- the company's rate filing indicated that the multi-policy discount factor of .90 applied to Towing coverage and Rental coverage. However, the company did not program their computerized rating system to apply the discount factor to these coverages. The examiners found one policy issued without the discount which resulted in an overcharge of \$2 (\$1 per coverage).

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 state within 30 days after they become effective.

**23. Recommendation:** It is recommended that the company issue policies using only rates that have been filed with the commissioner within 30 days after they become effective, in order to comply with s. 625.13 (1), Wis. Stat.

**24. Recommendation:** It is recommended that, within 90 days of the adoption of this report, the company refund the overcharge to Premier Auto policyholders with a multi-policy discount and Towing and/or Rental coverages, and also refund the overcharge to Premier Auto policyholders with 250/500 UM limits.

The examiners found that the company's Homeowners rate and rule filing (OCI Filing No. 145932, SERFF Filing No. GNCA-125299664) effective 12/30/07 was missing pages 1-19 of the General Rules section. Page 19 contained supplementary rate information regarding the company's (annual) policy term length and premiums, waiver of premium rule and whole dollar premium rule. The examiners found the company also submitted an incomplete rate filing for its AutoFlex private passenger automobile program effective 6/24/08 when:

- the company filed the Symbol Adjustment Factors without the corresponding symbol codes.
- the company filed three possible rate factors for its multi-policy discount without submitting a corresponding rule for determining which rate factor(s) applied to Wisconsin policyholders.
- the company filed vehicle annual mileage groupings which contain gaps for 3001-3999, 6001-6999, 9001-9999, 12,001-12,999, 15,001-15,999, 18,001-18,999, 21,001-21,999 and 24,001-24,999 without indicating how policies with these mileage groups should be rated.

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 state within 30 days after they become effective.

**25. Recommendation:** It is recommended that the company submit rate and rule filings to the commissioner within 30 days after they become effective which contain all rates and supplementary rate information, in order to comply with s. 625.13 (1), Wis. Stat.

The company advised that when one policy on an insured's Customer Account Billing System (CABS) is cancelled, the unearned premium is applied on an account level to any balance remaining from the insured's other policies on CABS. The company does not obtain prior approval of the transaction from the insured. 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.

**26. Recommendation:** It is recommended that the company amend its procedure of unilaterally 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.

## V. CONCLUSION

A total of 26 recommendations were made as a result of this targeted examination relating to the company's need to modify claims, underwriting and rating, producer licensing, and policy forms. Of these 26 recommendations, six recommendations are the result of the company's failure to comply with market conduct recommendations contained in the prior examination report.

The company needs to ensure written claim denials are sent promptly, including in those instances where the claim is initially verbally denied to document compliance with s. Ins 6.11 (3) (a) 7, 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 use only worker's compensation policy forms that have been filed and approved for use in Wisconsin. The company needs to revise various commercial and personal lines policy forms to comply with Wisconsin insurance laws.

The company needs to develop and implement a more thorough and accurate procedure to ensure that the correct termination reason and date for an agent termination is reported to the commissioner, that agent appointments are promptly terminated, and that all agents are provided proper notice of termination to ensure compliance with ss. 628.34 (1), (a), Wis. Stat., and Ins 6.47 (2), Wis. Adm. Code. The company needs to revise its letter to agents with a revoked license to comply with s. 628.10 (2) (a) & (am), Wis. Stat. The company must also properly retain agent termination records to comply with s. Ins 6.80 (4), Wis. Adm. Code and to demonstrate compliance with s. Ins 6.57 (2), Wis. Adm. Code.

In addition, the company must implement a more thorough and accurate procedure to verify that an agent is licensed and appointed for the appropriate lines of business 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 ss. 628.03 (1), Wis. Stat., and Ins 6.57 (1) & (5), Wis. Adm. Code.

The company needs to revise the eligibility requirements for its FlexAuto program to comply with ss. 632.35, Wis Stat., and Ins 6.54 (3) (a) 1 & 7, Wis. Adm. Code. In addition, the company needs to file all rates and supplementary rate information and use only rates that have been filed in order to comply with ss. 625.13 (1), Wis. Stat. and refund overcharges resulting from unfiled rates.

The company needs to mid-term cancel policies using only the permissible grounds, remove language regarding a policyholder's right to make a written request for the reason(s) for termination, issue notices of nonrenewal which state with reasonable precision the facts on which the insurer's decision is based, and cancel worker's compensation policies based on pro-rated unearned premium, in order to effectively terminate coverage and to ensure compliance with ss. 626.25 (1) and 631.36 (2) (a) & (6), Wis. Stat., and Ins 21.01 (8), Wis. Adm. Code

The company needs to amend its procedure of applying premiums, refunds or dividends to premiums owed on other policies unless it first receives written approval from the insured to avoid violations of s. 628.34 (1), Wis. Stat.



## VI. SUMMARY OF RECOMMENDATIONS

### Claims

- Page 10 1. In order to document compliance and avoid the unfair claim settlement practices described in s. Ins 6.11 (3) (a) 7, Wis. Adm. Code, it is recommended that the company promptly send a written claim denial after the claim is verbally denied and/or it has become reasonably clear that the company is not liable for the payment of a claim under the terms of the contract.
- Page 11 2. It is again recommended that the company develop and implement a written procedure to make certain interest is paid on all overdue claims, in order to ensure compliance with s. 628.46, Wis. Stat.

### Policy Forms & Rates

- Page 12 3. It is recommended that the company issue policies using, or make available for its intended use, only worker's compensation policy forms and endorsements that have been filed by the WCRB and approved for use in Wisconsin, in order to comply with ss. 631.20 & 626.13, Wis. Stat.
- Page 13 4. It is recommended that the company revise the language in Professional Liability Form CG 70 01 09 02 and Professional Liability Form CG 70 31 09 02 to allow for a person or organization to join the company as a party or bring the company into a suit asking for damages from an insured, in order to comply with s. 803.04, Wis. Stats.
- Page 13 5. It is recommended that the company revise Participation Provision Endorsement #Und 380 to comply with ss. 631.51 & 628.34, Wis. Stat.
- Page 14 6. It is recommended that the company revise their personal lines and commercial lines policy forms containing property insurance, including automobile, 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, Wis. Stat.

### Producer Licensing

- Page 15 7. 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 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 its representative, to ensure compliance with s. Ins 6.57 (2), Wis. Adm. Code.
- Page 16 8. It is recommended that the company remind all Contract Agents to notify the company as soon as reasonably possible when a Subagent is no longer

employed by or affiliated with the Contract Agent, to ensure compliance with s. Ins 6.57 (2), Wis. Adm. Code.

- Page 16 9. 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, and to retain a copy of the agent termination records for the preceding three years in order to comply with s. Ins 6.80 (4), Wis. Adm. Code and in order to demonstrate the company's compliance with s. Ins 6.57 (2), Wis. Adm. Code.
- Page 17 10. It is recommended that the company develop and implement a procedure to ensure that the correct termination date for an agent termination is reported to the commissioner, in order to comply with s. Ins 6.57 (2), Wis. Adm. Code and to avoid an unfair marketing practice as defined by s. 628.34 (1), (a), Wis. Stat.
- Page 18 11. It is recommended that the company develop and implement a written 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.
- Page 18 12. It is recommended that the company include a notice that the agent may not act as the company's representative at the same time the notice of the termination of the individual's appointment is provided to the agent representing the company and that said notice include the specific name of the company or companies to which the termination applies and a formal demand for the return of all indicia of agency, in order to comply with s. Ins 6.57 (2), Wis. Adm. Code.
- Page 19 13. It is recommended that the company revise its letter to agents whose license has been revoked due to failure to comply with the continuing education requirements and/or failure to pay the licensing biennial fee to comply with s. 628.10 (2) (a) & (am), Wis. Stat. and to cite the proper statute reference.
- Page 20 14. It is recommended that upon the termination of an individual intermediary, the company file a notice of termination of appointment of individual intermediary prior to or within 30 calendar days of the termination date with the commissioner, in order to comply with s. Ins 6.57 (2), Wis. Adm. Code.
- Page 20 15. To ensure compliance with s. Ins 6.57 (5), Wis. Adm. Code, it is again recommended that the company develop and implement a procedure to verify that all intermediaries submitting business to the company are listed with the company for those lines of business for which the individual will be representing the company, in accordance with s. Ins 6.57 (1), Wis. Adm. Code. It is also recommended again, that the company not accept any business from an intermediary until such time as it is determined that the intermediary submitting the business holds a valid license, as required by law, for those lines business for which the individual will be representing the company and is listed for the specified lines of business with the company, in accordance with s. Ins 6.57 (1) & (5), Wis. Adm. Code and s. 628.03 (1), Wis. Stat.

Page 21 16. It is again recommended the company develop, document and implement written procedures detailing the process to be followed in appointing and/or terminating an individual agent and what documentation should be maintained in each producer file, in order to ensure and demonstrate compliance and to accurately report the insurer's business in response to s. Ins 6.57 (2), Wis. Adm. Code.

### **Underwriting & Rating**

Page 22 17. It is again recommended, in order to avoid confusion on the part of policyholders, that the company remove language regarding a policyholder's right to make a written request for the reason(s) for termination from all notices of termination as the language is obsolete under s. 631.36 (6), Wis. Stat. as of December 31, 1990.

Page 23 18. It is again recommended that the company amend the Driver Eligibility requirements of the Wisconsin FlexAuto program regarding professional entertainers and/or professional athletes and also regarding individuals employed in illegal enterprises and/or occupations, in order to comply with s. 632.35, Wis. Stat.

Page 23 19. It is recommended that the company amend the Driver Eligibility requirements of the Wisconsin FlexAuto program regarding excessive users of intoxicants, drugs or controlled substances, in order to comply with ss. Ins 6.54 (3) (a) 1 & 7, Wis. Adm. Code.

Page 24 20. It is again 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 ss. 631.36 (6), Wis. Stat. and Ins 21.01 (8), Wis. Adm. Code.

Page 25 21. It is recommended that the company process all cancellations of worker's compensation policies, including policies cancelled by the insured prior to the agreed upon expiration date, using the pro-rate premium calculation method, in order to comply with s. 626.25 (1), Wis. Stat. It is also recommended that, within 90 days of the adoption of this report, the company refund the difference between the pro-rated unearned premium and the short-rated unearned premium to affected policyholders.

Page 25 22. It is recommended that the company not cancel policies mid-term unless the reason for cancellation falls within one of the permissible grounds set forth in s. 631.36 (2) (a), Wis. Stat.

Page 26 23. It is recommended that the company issue policies using only rates that have been filed with the commissioner within 30 days after they become effective, in order to comply with s. 625.13 (1), Wis. Stat.

Page 26 24. It is recommended that, within 90 days of the adoption of this report, the company refund the overcharge to Premier Auto policyholders with a multi-policy discount and Towing and/or Rental coverages, and also refund the overcharge to Premier Auto policyholders with 250/500 UM limits.

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25. It is recommended that the company submit rate and rule filings to the commissioner within 30 days after they become effective which contain all rates and supplementary rate information, in order to comply with s. 625.13 (1), Wis. Stat.

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26. It is recommended that the company amend its procedure of unilaterally 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.

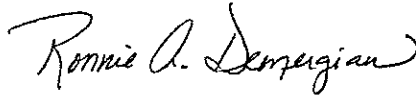
## VII. ACKNOWLEDGEMENT

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>
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Drew Hunkins, MCM	Insurance Examiner
Katherine Otis, MCM	Insurance Examiner

Respectfully submitted,



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Examiner-in-Charge