

Report on

Market Conduct Examination

of

Builders Mutual Insurance Company
Builders Premier Insurance Company

Raleigh, North Carolina

by Representatives of the
North Carolina Department of Insurance

as of

October 3, 2013

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Raleigh, North Carolina
October 3, 2013

Honorable Wayne Goodwin
Commissioner of Insurance
Department of Insurance
State of North Carolina
Dobbs Building
430 N. Salisbury Street
Raleigh, North Carolina 27603

Honorable Commissioner:

Pursuant to your instructions and in accordance with the provisions of North Carolina General Statute (NCGS) 58-2-131 through 58-2-134, a general examination has been made of the market conduct activities of

Builders Mutual Insurance Company (NAIC #10844)
Builders Premier Insurance Company (NAIC #13036)
NAIC Exam Tracking System Exam Number: NC299-M28
Raleigh, North Carolina

hereinafter generally referred to as the Companies, located at the North Carolina Department of Insurance (Department) office located at 11 S. Boylan Avenue, Raleigh, North Carolina. A report thereon is respectfully submitted.

FOREWORD

This examination reflects the North Carolina insurance activities of Builders Mutual Insurance Company and Builders Premier Insurance Company. The examination is, in general, a report by exception. Therefore, much of the material reviewed will not be contained in this written report, as reference to any practices, procedures, or files that manifested no concerns were omitted.

SCOPE OF EXAMINATION

This examination commenced on June 3, 2013, and covered the period of January 1, 2008, through December 31, 2012, with analyses of certain operations of the Companies being conducted through September 23, 2013. All comments made in this report reflect conditions observed during the period of the examination.

The examination was arranged and conducted by the Department. It was made in accordance with Market Regulation standards established by the Department and procedures established by the National Association of Insurance Commissioners (NAIC) and accordingly included tests of policyholder treatment, marketing, underwriting practices, terminations, and claims practices.

It is the Department's practice to cite companies in violation of a statute or rule when the results of a sample show errors/noncompliance at or above the following levels: 0 percent for consumer complaints, sales and advertising, producers who were not appointed and/or licensed, and the use of forms and rates/rules that were neither filed with nor approved by the Department; 7 percent for claims; and 10 percent for all other areas reviewed. When errors are detected in a sample, but the error rate is below the applicable threshold for citing a violation, the Department issues a reminder to the company.

EXECUTIVE SUMMARY

This market conduct examination revealed concerns with Company procedures and practices in the following areas:

Consumer Complaints - NAIC company code was not included on Company response.

Appointment and Termination of Producers - failure to perform background checks on appointed producers, notification of termination sent in excess of the 15-day requirement, and incomplete file documentation.

Underwriting Practices – Commercial General Liability: use of unfiled new business application and applications accepted from producers who were not appointed. Workers' Compensation: use of unfiled new business application, applications accepted from producers who were not appointed, files did not contain a copy of the schedule rating worksheet, and incorrect rate used to calculate the terrorism premium. Commercial Automobile: applications accepted from producers who were not appointed and rating errors.

Terminations – Commercial General Liability cancellations: proof of mailing was not provided. Workers' Compensation cancellations: proof of mailing was not provided. Commercial Automobile cancellations: incomplete file documentation. Commercial General Liability nonrenewals: notice did not state the specific reason for termination. Workers' Compensation nonrenewals: notice did not state the specific reason for termination and proof of mailing was not provided.

Claims – Total Loss: incomplete file documentation.

Specific violations related to each area of concern are noted in the appropriate section of this report. All North Carolina General Statutes and rules of the North Carolina Administrative Code cited in this report may be viewed on the North Carolina Department of Insurance Web site www.ncdoi.com by clicking "INSURANCE DIVISIONS" then "Legislative Services".

This examination identified various non-compliant practices, some of which may extend to other jurisdictions. The Companies are directed to take immediate corrective action to demonstrate their ability and intention to conduct business in North Carolina according to its insurance laws and regulations. When applicable, corrective action for other jurisdictions should be addressed.

All unacceptable or non-compliant practices may not have been discovered or noted in this report. Failure to identify improper or non-compliant business practices in North Carolina or in other jurisdictions does not constitute acceptance of such practices. Examination report findings that do not reference specific insurance laws, regulations, or bulletins are presented to improve the Companies' practices and ensure consumer protection.

COMPANY OVERVIEW

History and Profile

The North Carolina Home Builders Self Insurers Fund, Inc. (NCHBSIF) was first formed as a business trust in 1984 to meet the workers' compensation insurance needs of the members of the North Carolina Home Builders Association. It was converted to a North Carolina nonprofit corporation on January 1, 1995. The NCHBSIF merged into a mutual insurance company effective January 1, 1998, and changed the name to Builders Mutual Insurance Company (BMIC). All assets and liabilities were transferred on that date.

The Company was incorporated on September 4, 1997. The conversion to a mutual insurance company was approved by the North Carolina Department of Insurance effective October 28, 1997. Effective January 1, 1998, the company was authorized to transact business in North Carolina for fire, extended property coverage, personal injury liability, property damage liability, workers' compensation, and inland marine coverage. Effective April 15, 1999, authorization was expanded to include 19 additional lines of business.

In June 2000, the Company submitted license applications to the insurance departments in South Carolina, Tennessee, and Virginia and began writing business in those states in 2001. More recently, the Company sought admission in the neighboring jurisdictions of Georgia, Maryland, the District of Columbia, and Mississippi. BMIC received an approved Georgia license on September 30, 2008, and began writing business there in January, 2009. Licenses were approved for the District of Columbia and Mississippi on December 1, 2008, and in

Maryland on March 12, 2009. The Company sought admission in the state of Florida, and its Certificate of Authority in Florida was approved on July 27, 2011.

In 2007, BMIC established Builders Premier Insurance Company (BPIC) which is positioned as a preferred risk company to work in unison with BMIC.

Company Operations and Management

The Companies primarily write commercial lines insurance coverages. The Companies are licensed in the District of Columbia, Florida, Georgia, Maryland, Mississippi, North Carolina, South Carolina, Tennessee, and Virginia.

Direct written premium for the Companies' 2012 countrywide property and casualty operations was \$164,421,985. North Carolina's production for the same period was \$94,311,866. Premiums written in North Carolina between 2008 and 2012 decreased approximately 5.9 percent. The charts below outline the Companies' mix of business for selected lines in 2012 and loss ratios in North Carolina for the examination period.

Line of Business	Written Premium	Percentage
Workers' Compensation	\$67,788,530	71.9
Commercial Multiple Peril	\$14,735,092	15.6
Commercial Automobile	\$ 5,994,591	6.3
Products Liability	\$ 3,637,451	3.9
Other	\$ 2,156,202	2.3
Total	\$94,311,866	100.0

Year	Written Premium	Earned Premium	Incurred Losses	Loss Ratio
2008	\$100,221,242	\$101,798,270	\$ 29,895,173	29.4
2009	\$ 65,904,701	\$ 68,795,224	\$ 19,974,045	29.0
2010	\$ 68,990,397	\$ 67,400,029	\$ 34,292,881	50.9
2011	\$ 80,361,319	\$ 76,583,832	\$ 39,654,853	51.8
2012	\$ 94,311,866	\$ 91,162,099	\$ 43,422,590	47.6

Certificates of Authority

The Certificates of Authority issued to the Companies were reviewed for the period under examination. These certificates were reviewed to determine compliance with the provisions of NCGS 58-7-15. The Companies' writings in North Carolina were deemed to be in compliance with the authority granted.

Disaster Recovery Procedures

The Companies have developed a business recovery plan to ensure swift recovery of its business in the event of a disaster by utilizing widely available commercial products, which they would be able to purchase from any source and restore from backup tapes to get their systems back online. The Companies are also developing additional plans to expand their current disaster recovery capabilities to include hot-site functionality (recovery at an alternate location).

All media that contains policy information, images or data is stored on enterprise class SAS (Serial Attached Storage) hard drives, which may be stored on individual servers or SAN's. All paper records that are received in the mail or through various other transportation methods are scanned directly into their ImageRight system and stored on their SAN's for an indefinite amount of time. The procedures for backing up the windows servers are as followed:

- File Servers – Selected files are backed up incrementally every night (Monday – Thursday) to disks on a backup server. On Friday evening, a full backup is performed for all of the same files as the incremental backup job. This backup is stored on the disks of the backup server and a duplicate job is run to copy the full back-up series onto LTO-4 tapes. These tapes are transported to a safety deposit box and kept for one month. The month end tapes are stored indefinitely off-site at the same safety deposit box location at the bank.

- Database Servers – Full back ups to LTO-4 tapes of selected databases are taken Monday – Friday with the prior week’s tapes stored in a fire proof safe in the server room. Month End is the actual last day of the month and those LTO-4 tapes are placed in the safety deposit box at the bank and kept there indefinitely.
- ImageRight Device – The images directory is backed up incrementally every night Monday – Friday to the disks on the backup server. A month end job is run on the 21st of every month. That job backs up all files on the images drive to LTO-5 tapes which are stored in the Service Desk indefinitely.

POLICYHOLDER TREATMENT

Consumer Complaints

The Companies’ complaint handling procedures were reviewed to determine compliance with applicable North Carolina statutes and rules.

The Companies’ complaint register was reconciled with a listing provided by the Consumer Services Division of the Department. The Companies’ complaint register was in compliance with provisions of Title 11 of the North Carolina Administrative Code, (NCAC), Chapter 19, Section 0103. All complaints from the Department’s listing of 31 were selected for review. The distribution of complaints requiring a response to the Department is shown in the chart below.

Type of Complaint	Total
Claims	17
Underwriting	12
Administrative	2
Total	31

The Companies’ response to each complaint was deemed to be appropriate to the circumstances. One complaint was responded to in excess of seven calendar days; however, an extension was requested and granted for the complaint. The Companies were deemed to

be in violation of the provisions of 11 NCAC 4.0123 as four responses to Departmental inquiries (12.9 percent error ratio) did not contain the Company's NAIC company code.

The average service time to respond to a Departmental complaint was three calendar days. A chart of the Companies' response time follows:

Service Days	Number of Files	Percentage of Total
1 - 7	30	96.8
8 - 14	1	3.2
Total	31	100.0

MARKETING

Policy Forms and Filings

Policy forms and filings for the Companies were reviewed to determine compliance with appropriate North Carolina statutes and rules. The review was based on the following lines of business:

1. Commercial General Liability
2. Workers' Compensation
3. Commercial Automobile

Filings for the workers' compensation line of business were made by the North Carolina Rate Bureau on behalf of the Companies. Filings for the commercial automobile and commercial general liability lines of business were made by the Insurance Services Office on behalf of the Companies. The Companies filed deviations with the Department for these lines of business

Sales and Advertising

The Companies' sales and advertising practices were reviewed to determine compliance with the provisions of NCGS 58-63-15.

The Companies utilize Independent producers, and as such do not review their agency advertising materials. The Companies have a Co-op program, where producers can receive funds to share qualifying advertising expenses which must be pre-approved. The form is

maintained in the marketing department and shared with all territory managers. There are also pre-approved flyers and brochures on the Companies' website for producers to download and use for prospecting new clients.

The examiners reviewed advertisements, bulletins, and brochures that are provided for promotional use. The Companies also maintain an internet website: www.buildersmutual.com. The website provides background information relative to their operations, as well as products and services offered.

No unfair or deceptive trade practices were noted in this segment of the examination.

Social Media

BMIC is actively involved on Facebook and YouTube and uses social media to promote local community involvement, safety resources, and free-value added resources like Builders University classes.

The Companies' Social Media Acceptable-Use Policy is designed to outline the guidelines BMIC will use to determine what appropriate online conduct is and to avoid the misuse of social media. Two employees in the marketing department monitor all activity on Facebook.

Producer Licensing

The Companies' procedures for appointment and termination of their producers were reviewed to determine compliance with the appropriate North Carolina statutes and rules. Fifty appointed and 50 terminated producer files were randomly selected for review from populations of 3,266 and 1,054, respectively.

All appointment forms reviewed were submitted to the Department in accordance with the timetables stipulated under the provisions of NCGS 58-33-40. The Companies were deemed to be in violation of the provisions of 11 NCAC 6A.0412(2) as background checks were not performed on seven of the appointed producers reviewed (14.0 percent error ratio).

The Companies were deemed to be in violation of the provisions of NCGS 58-33-56(d) as notification of termination was sent in excess of the 15-day requirement for 31 of the terminated producers reviewed (62.0 percent error ratio). The Companies were deemed to be in violation of the provisions of 11 NCAC 19.0102(a) and 19.0106(a)(3)(g) as nine terminated producer files reviewed (18.0 percent error ratio) did not contain proper file documentation. The missing documentation consisted of:

- Seven files did not contain a copy of the termination letter to the producer.
- Two files did not contain confirmation of the producer termination.

Agency Management

The marketing effort in North Carolina is under the direction of the Director of Marketing and the AVP of Business Development, located at the home office in Raleigh, North Carolina. The Companies have 362 active agencies with approximately 2,239 producers appointed in North Carolina as well as three territory managers that work with the producers. The AVP of Business Development and the three territory managers are responsible for the activities of the agency force in North Carolina. The Agency Relations Department processes all appointments, terminations, and licensing information, and reports to the Director of Marketing.

UNDERWRITING PRACTICES

Overview

The Companies' marketing philosophy in North Carolina is directed to commercial lines of coverage. The Companies provided the examiners with listings of the following types of active policies for the period under examination:

1. Commercial General Liability
2. Workers' Compensation
3. Commercial Automobile

A random selection of 200 policies was made from a population of 12,695. Each policy was reviewed for adherence to underwriting guidelines, file documentation, and premium determination. Additionally, the policies were examined to determine compliance with the

appropriate North Carolina statutes and rules, policy provisions, and the applicable policy manual rules.

Commercial General Liability

The Companies provided a listing of 4,413 active commercial general liability policies issued during the period under examination. Fifty policies were randomly selected for review.

The Companies' commercial general liability coverages were written utilizing manual and deviated rates. Policies were written on an annual basis. Risk placement was determined by the Companies' underwriting guidelines and the underwriter. No discrepancies were noted in the Companies' use of their underwriting guidelines. All policy files contained sufficient documentation to support the Companies' classification of the risk.

The Companies were deemed to be in violation of the provisions of NCGS 58-41-50(a) and 11 NCAC 10.1201(c) as the new business application used for ten policies reviewed (20.0 percent error ratio) was not filed with and approved by the Department.

The Companies were deemed to be in violation of the provisions of NCGS 58-33-26 and 58-33-40 as the producer was not properly appointed by the Company for one of the active files reviewed (2.0 percent error ratio).

The Companies were reminded of the provisions of 11 NCAC 19.0102(a), 19.0104, and 19.0106(a)(4)(g) as two files reviewed (4.0 percent error ratio) did not contain a copy of the schedule rating worksheet.

The Companies were reminded of the provisions of NCGS 58-41-50(f) as three policies reviewed (6.0 percent error ratio) were rated with the incorrect loss cost multiplier.

The rating errors resulted in three premium undercharges to the insureds. The remaining premiums charged were deemed correct.

Workers' Compensation

The Companies provided a listing of 7,459 active workers' compensation policies issued during the period under examination. One hundred policies were randomly selected for review.

The Companies' workers' compensation coverages were written utilizing manual and deviated rates. Policies were written on an annual basis. Risk placement was determined by the Companies' underwriting guidelines and the underwriter. No discrepancies were noted in the Companies' use of their underwriting guidelines. All policy files contained sufficient documentation to support the Companies' classification of the risk.

The Companies were deemed to be in violation of the provisions of NCGS 58-3-150 and 11 NCAC 10.1201(c) as the new business application used for 28 policies reviewed (28.0 percent error ratio) was not filed with and approved by the Department.

The Companies were deemed to be in violation of the provisions of NCGS 58-33-26 and 58-33-40 as the producers were not properly appointed by the Company for 11 of the active files reviewed (11.0 percent error ratio).

The Companies were deemed to be in violation of the provisions of 11 NCAC 19.0102(a), 19.0104, and 19.0106(a)(4)(g) as 14 files reviewed (14.0 percent error ratio) did not contain a copy of the schedule rating worksheet.

The Companies were deemed to be in violation of the provisions of NCGS 58-36-100 as an incorrect rate was used to calculate the terrorism premium on 26 policies reviewed (26.0 percent error ratio).

The errors resulted in premium undercharges to the insureds. The remaining premiums charged were deemed correct.

Commercial Automobile

The Companies provided a listing of 823 active commercial automobile policies issued during the period under examination. Fifty policies were randomly selected for review.

The Companies' commercial automobile coverages were written utilizing manual and deviated rates. Policies were written on an annual basis. Risk placement was determined by the Companies' underwriting guidelines and the underwriter. No discrepancies were noted in the Companies' use of their underwriting guidelines.

The Companies were deemed to be in violation of the provisions of NCGS 58-33-26 and 58-33-40 as the producers were not properly appointed by the Company for two of the active files reviewed (4.0 percent error ratio).

The Companies were reminded of the provisions of 11 NCAC 19.0102(a) and 19.0106(a)(3)(g) as they were unable to provide the individual producer information for one file reviewed (2.0 percent error ratio).

The Companies were deemed to be in violation of the provisions of NCGS 58-41-50(f) as six policies reviewed (12.0 percent error ratio) were rated incorrectly. The rating errors consisted of the following:

- Four policies were rated with an incorrect territory.
- Fleet rates were applied in error to one policy reviewed.
- An incorrect territory was used to rate Drive Other Car Coverage on one policy reviewed.

The rating errors resulted in two premium overcharges and four premium undercharges to the insureds. At the request of the examiners, refunds in the amount of \$117.00 were issued by the Companies for the overcharges. The remaining premiums charged were deemed correct.

TERMINATIONS

Overview

The Companies' termination procedures were reviewed to determine compliance with the appropriate North Carolina statutes and rules, policy provisions, and the applicable policy manual rules. The review was based on the following lines of business:

1. Commercial General Liability
2. Workers' Compensation

3. Commercial Automobile

Special attention was placed on the validity and reason for termination, timeliness in issuance of the termination notice, policy refund (where applicable), and documentation of the policy file. A total of 9,364 policies were terminated during the period under examination. The examiners randomly selected 300 terminations for review.

Commercial General Liability Cancellations

Fifty cancelled commercial general liability policies were randomly selected for review from a population of 3,923.

The reason for cancellation was deemed valid for all policies reviewed. The review revealed the following reasons for cancellation:

Reason for Cancellation	Number of Policies	Percentage
Nonpayment of premium	36	72.0
Insured's request	10	20.0
Underwriting reasons	3	6.0
Rewritten	1	2.0
Total	50	100.0

The Companies were not required to issue cancellation notices for 11 of the cancellations reviewed as these policies were cancelled at the request of the insured or coverage was rewritten. Cancellation notices for the remaining 39 policies stated the specific reason for cancellation.

The Companies were reminded of the provisions of NCGS 58-41-50(f) and Rule 11 of the Commercial Lines Manual as the return premium was calculated incorrectly for one policy reviewed (2.0 percent error ratio). The error resulted in an overstatement of refund to the insured. The remaining premium refunds were deemed correct. The Companies issued the refunds in a timely manner.

The final area of this review encompassed documentation of the policy file. The Companies were deemed to be in violation of the provisions of 11 NCAC 19.0102(a), 19.0104, and 19.0106(a)(4)(g) as 12 files reviewed (24.0 percent error ratio) did not contain proof of mailing of the cancellation notice. The remaining files reviewed contained sufficient documentation to support the action taken by the Companies.

Workers' Compensation Cancellations

Fifty cancelled workers' compensation policies were randomly selected for review from a population of 4,464.

The reason for cancellation was deemed valid for all policies reviewed. The review revealed the following reasons for cancellation:

Reason for Cancellation	Number of Policies	Percentage
Nonpayment of premium	35	70.0
Insured's request	10	20.0
Underwriting reasons	4	8.0
Rewritten	1	2.0
Total	50	100.0

The Companies were not required to issue cancellation notices for 11 of the cancellations reviewed as these policies were cancelled at the request of the insured or coverage was rewritten. Cancellation notices for the remaining 39 policies stated the specific reason for cancellation. The Companies were reminded of the provisions of NCGS 58-36-105(b) as the notice of cancellation was not sent at least 15 days prior to the termination date for three policies reviewed (6.0 percent error ratio).

The Companies were reminded of the provisions of NCGS 58-36-100 and Rule 3 of the National Council on Compensation Insurance Manual as the return premium was calculated incorrectly for one policy reviewed (2.0 percent error ratio). The error resulted in overstatement of refund to the insured. The remaining premium refunds were deemed correct. The Companies issued the refunds in a timely manner.

The final area of this review encompassed documentation of the policy file. The Companies were deemed to be in violation of the provisions of NCGS 58-36-105(b) as eight files reviewed (16.0 percent error ratio) did not contain proof of mailing of the cancellation notice. The remaining files reviewed contained sufficient documentation to support the action taken by the Companies.

Commercial Automobile Cancellations

Fifty cancelled commercial automobile policies were randomly selected for review from a population of 637.

The reason for cancellation was deemed valid for all policies reviewed. The review revealed the following reasons for cancellation:

Reason for Cancellation	Number of Policies	Percentage
Nonpayment of premium	29	58.0
Insured's request	15	30.0
Underwriting Reasons	5	10.0
Rewritten	1	2.0
Total	50	100.0

The Companies were not required to issue cancellation notices for 16 of the cancellations reviewed as these policies were cancelled at the request of the insured or coverage was rewritten. The Companies were reminded of the provisions of 11 NCAC 19.0102(a), 19.0104, and 19.0106(a)(4)(g) as two files reviewed (4.0 percent error ratio) did not contain a copy of the cancellation notice. Cancellation notices for the remaining 32 policies stated the specific reason for cancellation.

The Companies were reminded of the provisions of NCGS 58-41-50(f) and Rule 11 of the Commercial Automobile Manual as the return premium was calculated incorrectly for two policies reviewed (4.0 percent error ratio). The errors resulted in overstatement of refund to the

insureds. The remaining premium refunds were deemed correct. The Companies issued the refunds in a timely manner.

The Companies were reminded of the provisions of NCGS 20-309.2 as the North Carolina Notice of Termination form (FS-4) was not submitted to the Division of Motor Vehicles (DMV) when liability coverage was cancelled on four policies reviewed (8.0 percent error ratio). The Companies were reminded of the provisions of NCGS 20-309.2(b) as the FS-4 was submitted to the DMV in excess of the required 20 days when liability coverage was cancelled on one file reviewed (2.0 percent error ratio).

The final area of this review encompassed documentation of the policy file. The Companies were deemed to be in violation of the provisions of 11 NCAC 19.0102(a), 19.0104, and 19.0106(a)(4)(g) as 16 files reviewed (32.0 percent error ratio) did not contain proof of mailing of the cancellation notice. The remaining files reviewed contained sufficient documentation to support the action taken by the Companies.

Commercial General Liability Nonrenewals

Fifty nonrenewed commercial general liability policies were randomly selected for review from a population of 77.

The reason for nonrenewal was deemed valid for all policies reviewed. The review revealed the following reasons for nonrenewal:

Reason for Nonrenewal	Number of Policies	Percentage
Underwriting reasons	44	88.0
Agent no longer represents company	6	12.0
Total	50	100.0

The Companies were deemed to be in violation of the provisions of NCGS 58-41-20(e) as the notice of nonrenewal did not state the specific reason for termination for five policies reviewed (10.0 percent error ratio). The Companies were reminded of the provisions of NCGS

58-41-20(b) as the notice of nonrenewal was not sent at least 45 days prior to the termination date for two policies reviewed (4.0 percent error ratio).

The final area of this review encompassed documentation of the policy file. The Companies were reminded of the provisions of 11 NCAC 19.0102(a), 19.0104, and 19.0106(a)(4)(g) as four files reviewed (8.0 percent error ratio) did not contain proof of mailing of the nonrenewal notice. The remaining files reviewed contained sufficient documentation to support the action taken by the Companies.

Workers' Compensation Nonrenewals

Fifty nonrenewed workers' compensation policies were randomly selected for review from a population of 171.

The reason for nonrenewal was deemed valid for all policies reviewed. The review revealed the following reasons for nonrenewal:

Reason for Nonrenewal	Number of Policies	Percentage
Underwriting reasons	45	90.0
Producer no longer represents company	5	10.0
Total	50	100.0

The Companies were deemed to be in violation of the provisions of NCGS 58-36-110(e) as the notice of nonrenewal did not state the specific reason for termination for six policies reviewed (12.0 percent error ratio). The Companies were reminded of the provisions of NCGS 58-36-110(b) as the notice of nonrenewal was not sent at least 45 days prior to the termination date for two policies reviewed (4.0 percent error ratio).

The final area of this review encompassed documentation of the policy file. The Companies were deemed to be in violation of the provisions of NCGS 58-36-110(g) as 17 files reviewed (34.0 percent error ratio) did not contain proof of mailing of the nonrenewal notice.

The remaining files reviewed contained sufficient documentation to support the action taken by the Companies.

Commercial Automobile Nonrenewals

Fifty nonrenewed commercial automobile policies were randomly selected for review from a population of 92.

The Companies were reminded of the provisions of NCGS 58-41-20(e) as the notice of nonrenewal did not state the specific reason for termination for three policies reviewed (6.0 percent error ratio). The review revealed the following reasons for nonrenewal:

Reason for Nonrenewal	Number of Policies	Percentage
Underwriting reasons	47	94.0
No reason stated	3	6.0
Total	50	100.0

The nonrenewal notices for the remaining 47 policies reviewed stated the specific reason for nonrenewal. The Companies were reminded of the provisions of NCGS 58-41-20(b) as the notice of nonrenewal was not sent at least 45 days prior to the termination date for four policies reviewed (8.0 percent error ratio).

The Companies were reminded of the provisions of NCGS 20-309.2 as the FS-4 was not submitted to the DMV when liability coverage was nonrenewed for two policies reviewed (4.0 percent error ratio).

The final area of this review encompassed documentation of the policy file. The Companies were reminded of the provisions of 11 NCAC 19.0102(a), 19.0104, and 19.0106(a)(4)(g) as four files reviewed (8.0 percent error ratio) did not contain proof of mailing of the nonrenewal notice. The remaining files reviewed contained sufficient documentation to support the action taken by the Companies.

CLAIMS PRACTICES

Overview

The Companies' claims practices were reviewed to determine compliance with the appropriate North Carolina statutes and rules and policy provisions. The review encompassed paid, automobile medical payment, first and third party bodily injury, closed without payment, subrogated, total loss settlement, and litigated claims.

Claims are handled by a Third Party Administrator, Aegis Administrative Services. Aegis employees are located in the Companies' home office in Raleigh, North Carolina and are under the direction of the Claim Manager. The staff is comprised of the Claim Manager, two Supervisors, eight Adjusters, and two Clerical Personnel. Company adjusters provide the claim service with some assistance, at times, from independent adjusters. Independent adjusters have no check or draft authority. The Companies' agency force does not adjust any claims and does not have claims draft authority. With regard to total losses, a salvage log is maintained and managed by the claim supervisor.

Three hundred thirty-nine claims were randomly selected for review from a population of 2,208.

Paid Claims

The examiners randomly selected 100 of the 1,718 first party automobile physical damage and third party property damage claims paid during the period under examination. The claim files were reviewed for timeliness of payment, supporting documentation, and accuracy of payment.

The following types of claims were reviewed and the average payment time is noted in calendar days:

Type of Claim	Payment Time
Automobile physical damage	11.5
Third party property damage	14.0

All payments issued by the Companies were deemed to be accurate. Deductibles were correctly applied and depreciation taken was reasonable.

All claim files reviewed contained documentation to support the Companies' payments. The documentation consisted of appraisals, estimates, repair bills, or inventory listings. The review of paid claims disclosed no violations of the provisions of NCGS 58-63-15(11).

Automobile Medical Payment Claims

All medical payment claims were selected for review from a population of 13. The claim files were reviewed to determine if the Companies had engaged in any unfair claims practices. The review of the medical payment claims disclosed no violations of the provisions of NCGS 58-63-15(11).

First and Third Party Bodily Injury Claims

Fifty first and third party bodily injury claims were randomly selected for review from a population of 127. The claim files were reviewed to determine whether the Companies had engaged in any unfair claims practices. The review of the first and third party bodily injury claims disclosed no violations of the provisions of NCGS 58-63-15(11).

Closed Without Payment Claims

Fifty closed without payment claims were randomly selected for review from a population of 140. The claim files were reviewed to determine if the Companies' reasons for closing the claims without payment were valid.

The claim files reviewed contained documentation that supported the Companies' reasons for closing the claims without payment. All reasons for denial or closing the files without payment were deemed valid. The Companies were reminded of the provisions of 11

NCAC 19.0102(a), 19.0105, and 19.0106(a)(5)(g) as the file documentation was incomplete for one file reviewed (2.0 percent error ratio).

Claims were denied on an average of nine calendar days for the 5-year period. The review of closed without payment claims disclosed no violations of the provisions of NCGS 58-63-15(11).

Subrogated Claims

All subrogated claims were selected for review from a population of 26. The claim files were reviewed to determine if the insured's deductible was properly reimbursed by the Companies when subrogation was successful.

The insured's deductible was not reimbursed in a timely manner for one claim reviewed (3.8 percent error ratio). The insured's deductible was not reimbursed for one claim (3.8 percent error ratio) reviewed. These matters could result in a violation of the provisions of NCGS 58-63-15(11) if the occurrence is of such frequency as to be considered a general business practice. At the request of the examiners, the Companies issued a check in the amount of \$500.00 to the insured for the deductible. The remaining reimbursements were deemed to be correct and were issued on a 5-year average of five calendar days from the date the Companies collected monies.

Total Loss Settlement Claims

Fifty total loss settlement claims were randomly selected for review from a population of 57. The claim files were reviewed to determine if the settlements were equitable and timely.

The Companies primarily used CCC Information Services, Inc. in addition to on-site independent adjusters to establish the actual cash value of totaled vehicles. All settlements were deemed equitable. The Companies were deemed to be in violation of the provisions of 11 NCAC 19.0102(a), 19.0105, and 19.0106(a)(5)(g) as the file documentation was incomplete for six files reviewed (12.0 percent error ratio).

The Companies settled all claims in a timely manner. The payments were issued on a 5-year average of 19 calendar days. No violations of the provisions of NCGS 58-63-15(11), 11 NCAC 4.0418 or 4.0421 were noted during this review.

Litigated Claims

Fifty litigated claims were randomly selected for review from a population of 127. The claim files were reviewed to determine if the Companies had engaged in any unfair claims practices.

The Companies were reminded of the provisions of 11 NCAC 19.0102(a), 19.0105, and 19.0106(a)(5)(g) as the file documentation was incomplete for two files reviewed (4.0 percent error ratio).

The review of litigated claims disclosed no violations of the provisions of NCGS 58-63-15(11).

SUMMARY

The Market Conduct examination revealed the following:

1. Policyholder Treatment

a. The Companies were deemed to be in violation of the provisions of 11 NCAC 4.0123 as 12.9 percent of the responses to a Departmental inquiry did not include their NAIC company code.

2. Marketing

a. The Companies were deemed to be in violation of the provisions of 11 NCAC 6A.0412(2) as background checks were not performed on 14.0 percent of the appointed producers reviewed.

b. The Companies were deemed to be in violation of the provisions of NCGS 58-33-56(d) as notification of termination was sent in excess of the 15-day requirement for 62.0 percent of the terminated producers reviewed.

c. The Companies were deemed to be in violation of the provisions of 11 NCAC 19.0102(a) and 19.0106(a)(3)(g) as 18.0 percent of the terminated producer files reviewed did not contain proper file documentation.

3. Underwriting Practices

- a. The Companies were deemed to be in violation of the provisions of NCGS 58-41-50(a) and 11 NCAC 10.1201(c) as the new business application used for 20.0 percent of the active commercial general liability policies reviewed had not been filed with and approved by the Department.
- b. The Companies were deemed to be in violation of the provisions of NCGS 58-33-26 and 58-33-40 as the producer was not properly appointed by the Company for 2.0 percent of the active commercial general liability files reviewed.
- c. The Companies were reminded of the provisions of 11 NCAC 19.0102(a), 19.0104, and 19.0106(a)(4)(g) as 4.0 percent of the active commercial general liability files reviewed did not contain a copy of the schedule rating worksheet.
- d. The Companies were reminded of the provisions of NCGS 58-41-50(f) as 6.0 percent of the active commercial general liability policies reviewed were rated incorrectly.
- e. The Companies were deemed to be in violation of the provisions of NCGS 58-3-150 and 11 NCAC 10.1201(c) as the new business application used for 28.0 percent of the active workers' compensation policies reviewed had not been filed with and approved by the Department.
- f. The Companies were deemed to be in violation of the provisions of NCGS 58-33-26 and 58-33-40 as the producers were not properly appointed by the Company for 11.0 percent of the active workers' compensation files reviewed.
- g. The Companies were deemed to be in violation of the provisions of 11 NCAC 19.0102(a), 19.0104, and 19.0106(a)(4)(g) as 14.0 percent of the active workers' compensation files reviewed did not contain a copy of the schedule rating worksheet.
- h. The Companies were deemed to be in violation of the provisions of NCGS 58-36-100 as an incorrect rate was used to calculate the terrorism premium on 26.0 percent of the active workers' compensation policies reviewed.
- i. The Companies were deemed to be in violation of the provisions of NCGS 58-33-26 and 58-33-40 as the producers were not properly appointed by the Company for 4.0 percent of the active commercial automobile files reviewed.
- j. The Companies were reminded of the provisions of 11 NCAC 19.0102(a) and 19.0106(a)(3)(g) as they were unable to provide the individual producer information for 2.0 percent of the active commercial automobile files reviewed.
- k. The Companies were deemed to be in violation of the provisions of NCGS 58-41-50(f) as 12.0 percent of the active commercial automobile policies reviewed were rated incorrectly.

4. Terminations

- a. The Companies were reminded of the provisions of NCGS 58-41-50(f) and Rule 11 of the Commercial Lines Manual as the return premium was calculated incorrectly for 2.0 percent of the cancelled commercial general liability policies reviewed.
- b. The Companies were deemed to be in violation of the provisions of 11 NCAC 19.0102(a), 19.0104, and 19.0106(a)(4)(g) as 24.0 percent of the cancelled commercial general liability files reviewed did not contain proof of mailing of the cancellation notice.
- c. The Companies were reminded of the provisions of NCGS 58-36-105(b) as the notice of cancellation was not sent at least 15 days prior to the termination date for 6.0 percent of the cancelled workers' compensation policies reviewed.
- d. The Companies were reminded of the provisions of NCGS 58-36-100 and Rule 3 of the National Council on Compensation Insurance Manual as the return premium was calculated incorrectly for 2.0 percent of the cancelled workers' compensation policies reviewed.
- e. The Companies were deemed to be in violation of the provisions of NCGS 58-36-105(b) as 16.0 percent of the cancelled workers' compensation files reviewed did not contain proof of mailing of the cancellation notice.
- f. The Companies were reminded of the provisions of 11 NCAC 19.0102(a), 19.0104, and 19.0106(a)(4)(g) as 4.0 percent of the cancelled commercial automobile files reviewed did not contain a copy of the cancellation notice.
- g. The Companies were reminded of the provisions of NCGS 58-41-50(f) and Rule 11 of the Commercial Automobile Manual as the return premium was calculated incorrectly for 4.0 percent of the cancelled commercial automobile policies reviewed.
- h. The Companies were reminded of the provisions of NCGS 20-309.2 as the North Carolina Notice of Termination form was not submitted to the North Carolina Division of Motor Vehicles when liability coverage was cancelled for 8.0 percent of the cancelled commercial automobile files reviewed.
- i. The Companies were reminded of the provisions of NCGS 20-309.2(b) as the North Carolina Notice of Termination form was submitted to the North Carolina Division of Motor Vehicles in excess of the required 20 days when liability coverage was cancelled for 2.0 percent of the cancelled commercial automobile policies reviewed.
- j. The Companies were deemed to be in violation of the provisions of 11 NCAC 19.0102(a), 19.0104, and 19.0106(a)(4)(g) as 32.0 percent of the cancelled commercial automobile files reviewed did not contain proof of mailing of the cancellation notice.
- k. The Companies were deemed to be in violation of the provisions of NCGS 58-41-20(e) as the notice of nonrenewal did not state the specific reason for termination for 10.0 percent of the nonrenewed commercial general liability policies reviewed.

- l. The Companies were reminded of the provisions of NCGS 58-41-20(b) as the notice of nonrenewal was not sent at least 45 days prior to the termination date for 4.0 percent of the nonrenewed commercial general liability policies reviewed.
- m. The Companies were reminded of the provisions of 11 NCAC 19.0102(a), 19.0104, and 19.0106(a)(4)(g) as 8.0 percent of the nonrenewed commercial general liability files reviewed did not contain proof of mailing of the nonrenewal notice.
- n. The Companies were deemed to be in violation of the provisions of NCGS 58-36-110(e) as the notice of nonrenewal did not state the specific reason for termination for 12.0 percent of the nonrenewed workers' compensation policies reviewed.
- o. The Companies were reminded of the provisions of NCGS 58-36-110(b) as the notice of nonrenewal was not sent at least 45 days prior to the termination date for 4.0 percent of the nonrenewed workers' compensation policies reviewed.
- p. The Companies were deemed to be in violation of the provisions of NCGS 58-36-110(g) as 34.0 percent of the nonrenewed workers' compensation files reviewed did not contain proof of mailing of the nonrenewal notice.
- q. The Companies were reminded of the provisions of NCGS 58-41-20(e) as the notice of nonrenewal did not state the specific reason for termination for 6.0 percent of the nonrenewed commercial automobile files reviewed.
- r. The Companies were reminded of the provisions of NCGS 58-41-20(b) as the notice of nonrenewal was not sent at least 45 days prior to the termination date for 8.0 percent of the nonrenewed commercial automobile policies reviewed.
- s. The Companies were reminded of the provisions of NCGS 20-309.2 as the North Carolina Notice of Termination form was not submitted to the North Carolina Division of Motor Vehicles when liability coverage was terminated for 4.0 percent of the nonrenewed commercial automobile policies reviewed.
- t. The Companies were reminded of the provisions of 11 NCAC 19.0102(a), 19.0104, and 19.0106(a)(4)(g) as 8.0 percent of the nonrenewed commercial automobile files reviewed did not contain proof of mailing of the nonrenewal notice.

5. Claims Practices

- a. The Companies were reminded of the provisions of 11 NCAC 19.0102(a), 19.0105, and 19.0106(a)(5)(g) as the file documentation was incomplete for 2.0 percent of the closed without payment claim files reviewed.
- b. The Companies were deemed to be in violation of the provisions of 11 NCAC 19.0102(a), 19.0105, and 19.0106(a)(5)(g) as the file documentation was incomplete for 12.0 percent of the total loss claim files reviewed.
- c. The Companies were reminded of the provisions of 11 NCAC 19.0102(a), 19.0105, and 19.0106(a)(5)(g) as the file documentation was incomplete for 4.0 percent of the litigated claim files reviewed.

TABLE OF STATUTES AND RULES

<u>Statute/Rule</u>	<u>Title</u>
NCGS 58-2-131	Examinations to be made; authority, scope, scheduling, and conduct of examinations.
NCGS 58-2-132	Examination reports.
NCGS 58-2-133	Conflict of interest; cost of examinations; immunity from liability.
NCGS 58-2-134	Cost of certain examinations.
NCGS 58-3-150	Forms to be approved by the Commissioner.
NCGS 58-7-15	Kinds of insurance authorized.
NCGS 58-33-26	General license requirements.
NCGS 58-33-40	Appointment of producers.
NCGS 58-33-56	Notification to Commissioner of termination.
NCGS 58-36-100	Prospective loss costs filings and final rate filings for workers' compensation and employers' liability insurance.
NCGS 58-36-105	Certain workers' compensation insurance policy cancellations prohibited.
NCGS 58-36-110	Notice of nonrenewal, premium rate increase, or change in workers' compensation insurance coverage required.
NCGS 58-41-20	Notice of nonrenewal, premium rate increase, or change in coverage required.
NCGS 58-41-50	Policy form and rate filings; punitive damages; data required to support filings.
NCGS 58-63-15	Unfair methods of competition and unfair or deceptive acts or practices defined.

NCGS 20-309.2	Insurer shall notify Division of actions on insurance policies.
11 NCAC 4.0123	Use of Specific Company Name in Responses.
11 NCAC 4.0418	Total Losses on Motor Vehicles.
11 NCAC 4.0421	Handling of Loss and Claim Payments.
11 NCAC 6A.0412	Appointment of Agent: Responsibility of Company.
11 NCAC 10.1201	General Requirements.
11 NCAC 19.0102	Maintenance of Records.
11 NCAC 19.0103	Complaint Records.
11 NCAC 19.0104	Policy Records.
11 NCAC 19.0105	Claim Records.
11 NCAC 19.0106	Records Required for Examination.

CONCLUSION

An examination has been conducted on the market conduct affairs of Builders Mutual Insurance Company and Builders Premier Insurance Company for the period January 1, 2008, through December 31, 2012, with analyses of certain operations of the Companies being conducted through September 23, 2013.

This examination was conducted in accordance with the North Carolina Department of Insurance and the National Association of Insurance Commissioners Market Regulation Handbook procedures, including analyses of Company operations in the areas of policyholder treatment, marketing, underwriting practices, terminations, and claims practices.

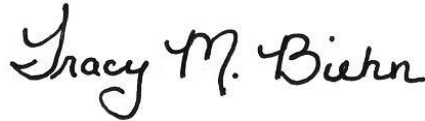
In addition to the undersigned, Kelvin A. Owens and Sharon O'Quinn, North Carolina Market Conduct Examiners, participated in this examination.

Respectfully submitted,

Handwritten signature of Norma M. Rafter in black ink.

Norma M. Rafter, CPCU
Examiner-In-Charge
Market Regulation Division
State of North Carolina

I have reviewed this examination report and it meets the provisions for such reports prescribed by this Division and the North Carolina Department of Insurance.

Handwritten signature of Tracy M. Biehn in black ink.

Tracy M. Biehn, LPCS, MBA
Deputy Commissioner
Market Regulation Division
State of North Carolina