



REPORT ON

MARKET CONDUCT EXAMINATION

of

THE BURLINGTON INSURANCE COMPANY

Burlington, North Carolina

BY REPRESENTATIVES OF THE
NORTH CAROLINA DEPARTMENT OF INSURANCE

as of

February 14, 2013

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Raleigh, North Carolina
February 14, 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

THE BURLINGTON INSURANCE COMPANY
(NAIC #23620)
NAIC Exam Tracking System Exam Number: NC299-M17
Burlington, North Carolina

hereinafter generally referred to as the Company, 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 The Burlington 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 improprieties were omitted.

SCOPE OF EXAMINATION

This examination commenced on August 27, 2012 and covered the period of January 1, 2007 through December 31, 2011 with analyses of certain operations of the Company being conducted through January 16, 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 apparent 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 an apparent 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:

Underwriting Practices – Commercial General Liability: producers not properly appointed and premium calculation errors.

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 Company is directed to take immediate corrective action to demonstrate its 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 or criticize 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 Company’s practices and ensure consumer protection.

COMPANY OVERVIEW

History and Profile

The Burlington Insurance Company was formed by West Point Insurance Holdings Incorporated, a Delaware corporation, and was incorporated in the state of North Carolina on September 18, 1986. The Company was licensed as a property and casualty insurer on September 29, 1986.

On June 19, 1989, The Burlington Insurance Company merged with First Financial Insurance Company, an Illinois domiciled stock property and casualty insurer. On December 31, 1990, The Burlington Insurance Company became a wholly-owned subsidiary of First Financial Insurance Company through a stock transfer. On December 29, 1998, The Burlington Insurance Company became a wholly-owned subsidiary of Guilford Insurance Company, an Illinois domiciled stock property and casualty insurer, through a stock transfer.

Company Operations and Management

The Company is primarily a specialty lines insurer, concentrating on monoline and multiple peril packages for small to mid-sized commercial risks and commercial garage coverage. The Company is an authorized excess line insurer in 43 states and the District of Columbia, and is an admitted insurer in 7 states, including North Carolina.

Direct written premium for the Company in North Carolina in 2011 was \$291,841. Premium writings in North Carolina between 2007 and 2011 decreased approximately 74.6 percent. The charts below outline the Company's mix of business for selected lines in 2011 and loss ratios for the examination period.

Line of Business	Written Premium	Percentage
Other Liability	\$ 280,495	96.1
Other Liability-claims made	\$ 9,479	3.3
Fire	\$ 1,201	0.4
Commercial Multiple Peril	\$ 666	0.2
Total	\$ 291,841	100.0

Year	Written Premium	Earned Premium	Incurred Losses	Loss Ratio
2007	\$ 1,146,487	\$ 1,389,216	-\$ 93,860	- 6.8
2008	\$ 801,625	\$ 889,435	-\$ 212,793	- 23.9
2009	\$ 457,344	\$ 620,320	\$ 313,941	50.6
2010	\$ 331,165	\$ 362,313	-\$ 679,695	- 187.6
2011	\$ 291,841	\$ 294,403	\$ 86,881	29.5

*Negative Incurred Losses and Loss Ratios were due to settlements which were lower than the combined case reserves and Incurred But Not Reported anticipated losses.

Certificate of Authority

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

Disaster Recovery Procedures

The Company has a Disaster Management Plan in place that details the backup and recovery of its critical business functions and operations in the event of business interruptions that could affect the Company's information systems processing. This plan covers disaster pre-planning, general disaster recovery procedures, implementation of the disaster plan, and conducting normal operations. Each of the areas covered is assigned to an individual responsible for completing Plan tasks along with a back-up individual. The Plan also includes an employee notification call tree, employee vendor contact list, and a critical items list.

POLICYHOLDER TREATMENT

Consumer Complaints

The Company's complaint handling procedures were reviewed to determine compliance with applicable North Carolina statutes and rules.

The Company's complaint register was reconciled with a listing provided by the Consumer Services Division of the Department. The Company's complaint register was in compliance with the provisions of Title 11 of the North Carolina Administrative Code, (NCAC), Chapter 19, Section 0103. The 2 complaints contained in the Department's listing were selected and received for review. The distribution of complaints requiring a response to the Department is shown in the chart below.

Type of Complaint	Total
Claims	2
Total	2

The Company's response to each complaint was deemed to be appropriate to the circumstances. Two complaints were responded to in excess of the seven calendar day requirement of 11 NCAC 1.0602. However, extensions were requested and granted for both complaints.

The average service time to respond to a Departmental complaint was 10.5 calendar days. A chart of the Company's response time follows:

Service Days	Number of Files	Percentage of Total
8 - 14	2	100.0
Total	2	100.0

MARKETING

Policy Forms and Filings

The Company's policy forms and filings for its commercial general liability policies were reviewed to determine compliance with appropriate North Carolina statutes and rules.

Policy form filings for the Company are independently filed as Guide (a) and Special Events Program rates/rules. Forms are filed by the Insurance Services Office (ISO) on the Company's behalf.

Sales and Advertising

Sales and advertising practices of the Company were reviewed to determine compliance with the provisions of NCGS 58-63-15. The Company does not conduct any form of advertising.

Social Media

The Company reported it does not currently use social media outlets for marketing or advertising purposes.

Producer Licensing

The Company's procedures for appointment and termination of its producers were reviewed to determine compliance with the appropriate North Carolina statutes and rules. The entire population of 22 appointed producer files and 12 terminated producer files were selected and received for review.

All appointment and termination forms reviewed were submitted to the Department in accordance with the timetables stipulated under the provisions of NCGS 58-33-40 and 58-33-56.

Agency Management

The Company conducts its business through licensed wholesale producers. The Company is currently represented by 13 wholesale agencies in North Carolina. The marketing effort in North Carolina is the responsibility of the Regional Director located in King of Prussia, Pennsylvania. The Regional Director is also responsible for producer appointments, terminations, and licensing.

The Regional Director is responsible for the activities of the wholesale agencies. Agency performance reviews are performed annually.

UNDERWRITING PRACTICES

Overview

The Company's marketing philosophy in North Carolina focuses on commercial lines of business. The Company's commercial general liability policies were 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 Company provided a listing of 3,279 active commercial general liability policies issued during the period under examination. Fifty policies were randomly selected and received for review.

The Company's commercial general liability policies were written on a short-term basis. Coverages were written utilizing the Company's independently filed as Guide (a) and Special Events Program rates/rules. Risk placement was determined by the Company's underwriting guidelines and the underwriter. No discrepancies were noted in the Company's use of its underwriting guidelines.

The Company was deemed to be in apparent 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 of the active files reviewed (8.0 percent error ratio).

The Company was deemed to be in apparent violation of the provisions of NCGS 58-41-50(f) as the premiums for 32 of the active files reviewed were calculated incorrectly (64.0 percent error ratio). The errors resulted in 19 overcharges and 13 undercharges. The overcharges, totaling \$1,750.40, were reimbursed to the insureds during the course of the examination.

All policy files contained sufficient documentation to support the Company's classification of the risk.

As a result of the premium calculation errors, the Company, on its own initiative, started an expanded self-audit prior to a formal request by the Department. The Company reviewed 3,539 policies, identifying 1,642 policies in error. Of the policies in error, 1,162 resulted in overcharges, and 480 resulted in undercharges. Overcharges for the self-audit totaling \$83,550.20 were reimbursed to the policyholders prior to the conclusion of the examination.

TERMINATIONS

Overview

The Company's termination procedures for its commercial general liability policies were reviewed to determine compliance with the appropriate North Carolina statutes and rules, policy provisions, and the applicable policy manual rules.

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 560 policies were terminated during the period under examination. The examiners randomly selected 100 terminations for review.

Commercial General Liability Cancellations

Fifty cancelled commercial general liability policies were randomly selected and received for review from a population of 171.

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
Insured's request	37	74.0
Underwriting reasons	5	10.0
Nonpayment of premium	4	8.0
Finance company request	3	6.0
Coverage rewritten	1	2.0
Total	50	100.0

The Company was not required to issue cancellation notices for 41 of the cancellations reviewed as these policies were cancelled at the request of the insured, the premium finance company, or the coverage was rewritten. Cancellation notices for the remaining 9 policies stated the specific reason for cancellation.

The final area of this review encompassed documentation of the policy file. All policy files reviewed contained sufficient documentation to support the action taken by the Company.

Commercial General Liability Nonrenewals

Fifty nonrenewed commercial general liability policies were randomly selected and received for review from a population of 389.

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	50	100.0
Total	50	100.0

The nonrenewal notices for the policies reviewed stated the specific reason for nonrenewal. The Company was reminded of the provisions of NCGS 58-41-20(b) as the notice of nonrenewal was not issued at least 45 days prior to the termination date for 2 policies reviewed (4.0 percent error ratio).

The final area of this review encompassed documentation of the policy file. All policy files reviewed contained sufficient documentation to support the action taken by the Company.

CLAIMS PRACTICES

Overview

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

The Regional Claim Manager located in Burlington, North Carolina oversees the Company's claims operations. Independent adjusters are engaged on an as-needed basis and do not hold any draft authority. The Company's agency force does not adjust any claims.

One hundred thirty-five claims were randomly selected for review from a population of 181.

Paid Claims

The entire population of 21 third party property damage claims was selected and received for review. The claim files were reviewed for timeliness of payment, supporting documentation, and accuracy of payment.

The following type of claim was reviewed and the average payment time is noted in calendar days:

Type of Claim	Payment Time
Third party property damage	14.8

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

All claim files reviewed contained documentation to support the Company's payments. The documentation consisted of appraisals, estimates, repair bills, or inventory listings. The review of paid claims disclosed no apparent 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 and received for review from a population of 65. The claim files were reviewed to determine whether the Company had engaged in any unfair claims practices. The review of first and third party bodily injury claims disclosed no apparent violations of the provisions of NCGS 58-63-15(11).

Closed Without Payment Claims

Fifty closed without payment claims were randomly selected and received for review from a population of 81. The claims were reviewed to determine if the Company's reasons for closing the claims without payment were valid.

The claim files reviewed contained documentation that supported the Company's reasons for closing the claims without payment. All reasons for denial or closing the files

without payment were deemed valid. Claims were denied on an average of 11.6 calendar days for the 5-year period. The review of closed without payment claims disclosed no apparent violations of the provisions of NCGS 58-63-15(11).

Subrogated Claims

The Company informed the examiners that it did not have any subrogated claims during the period under examination.

Litigated Claims

The entire population of 14 litigated claims was selected and received for review. The claim files were reviewed to determine if the Company had engaged in any unfair claims practices. The review of litigated claims disclosed no apparent violations of the provisions of NCGS 58-63-15(11).

SUMMARY

The Market Conduct examination revealed the following:

1. Underwriting Practices

- a. The Company was deemed to be in apparent violation of the provisions of NCGS 58-33-26 and 58-33-40 as the producers were not properly appointed by the Company on 8.0 percent of the active commercial general liability files reviewed.
- b. The Company was deemed to be in apparent violation of the provisions of NCGS 58-41-50(f) as the premiums for 64.0 percent of the active commercial general liability files reviewed were calculated incorrectly.

2. Terminations

- a. The Company was reminded of the provisions of NCGS 58-41-20(b) as the nonrenewal notice was not sent at least 45 days prior to the termination date for 4.0 percent of the nonrenewed commercial general liability policies 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 58-7-15	Kinds of insurance authorized.
NCGS 58-33-26	General license requirements.
NCGS 58-33-40	Appointment of agents.
NCGS 58-33-56	Notification to Commissioner of termination.
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.
11 NCAC 1.0602	Insurance companies' response to Departmental inquiries.
11 NCAC 19.0103	Complaint records.

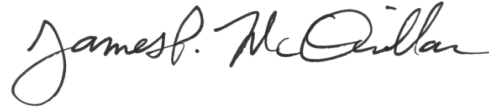
CONCLUSION

An examination has been conducted on the market conduct affairs of The Burlington Insurance Company for the period January 1, 2007 through December 31, 2011 with analyses of certain operations of the Company being conducted through January 16, 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.

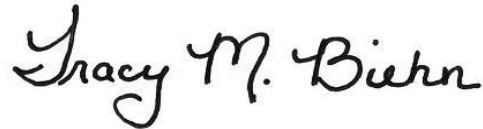
In addition to the undersigned, Gina Abate and Gary Jones, North Carolina Market Conduct Examiners, participated in this examination.

Respectfully submitted,

A handwritten signature in black ink that reads "James P. McQuillan". The signature is written in a cursive style with a large initial 'J' and a prominent 'P'.

James P. McQuillan, CPCU, AIT
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.

A handwritten signature in black ink that reads "Tracy M. Biehn". The signature is written in a cursive style with a large initial 'T' and a prominent 'M'.

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