

REPORT ON  
MARKET CONDUCT EXAMINATION

of the

FEDERAL INSURANCE COMPANY  
PACIFIC INDEMNITY COMPANY  
VIGILANT INSURANCE COMPANY

Warren, New Jersey

BY REPRESENTATIVES OF THE  
NORTH CAROLINA DEPARTMENT OF INSURANCE

as of

August 13, 2013

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Raleigh, North Carolina  
August 13, 2013

Honorable Wayne Goodwin  
Commissioner of Insurance  
Department of Insurance  
State of North Carolina  
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Raleigh, North Carolina 27603

Honorable Stephen W. Robertson  
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Honorable Ted Nickel  
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Honorable Benjamin M. Lawsky  
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New York, New York 10004-1151

Honorable Commissioners and Honorable Superintendent:

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

**FEDERAL INSURANCE COMPANY (NAIC #20281)**  
**PACIFIC INDEMNITY COMPANY (NAIC #20346)**  
**VIGILANT INSURANCE COMPANY (NAIC #20397)**  
NAIC Exam Tracking System Exam Number: NC299-M27  
Warren, New Jersey

hereinafter generally referred to as the Companies, 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 Federal Insurance Company, Pacific Indemnity Company, and Vigilant 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 compliance examination commenced on April 22, 2013, and covered the period of January 1, 2011, through December 31, 2011, with analyses of certain operations of the Companies being conducted through August 12, 2013. This action was taken due to previous examination findings referenced in the Market Conduct Report of May 12, 2010.

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 underwriting practices and terminations.

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.

### Previous Examination Findings

A general examination covering the period January 1, 2006, through December 31, 2008, was performed on the Companies and a report dated May 12, 2010, was issued. The

general examination report identified concerns in the areas of underwriting practices and terminations. Specific previous violations relating to these areas are listed within the appropriate sections of the report. Deficiencies noted in the previous examination report that did not exceed the Department's error tolerance thresholds were cited as reminders and may not appear as specific violations in this examination report. Any reminders which have not been sufficiently addressed by the Companies, may be cited again in this examination report and thus may not appear in the "previous findings" as related to that particular section, but were an overall concern in the previous examination.

### **EXECUTIVE SUMMARY**

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

*Underwriting Practices* – Private Passenger Automobile: application accepted from a producer who was not appointed and rating errors. Homeowners: applications accepted from producers who were not appointed and incorrect installment fee charged. Commercial Automobile: applications accepted from producers who were not appointed. Workers' Compensation: applications accepted from producers who were not appointed.

*Terminations* – Commercial Automobile Cancellations: failure to issue the North Carolina Notice of Termination form (FS-4) to the Division of Motor Vehicles (DMV). Private Passenger Automobile Nonrenewals: failure to offer automobile liability coverage ceded to the North Carolina Reinsurance Facility when nonrenewing voluntary liability coverage and failure to issue the FS-4 to the DMV. Commercial Automobile Nonrenewals: incomplete file documentation and failure to issue the FS-4 to the DMV. Workers' Compensation Nonrenewals: incomplete file documentation. Declinations/rejections: applicants were not sent written notice of an adverse underwriting decision and no evidence that applicants were offered coverage ceded to the North Carolina Reinsurance Facility when they did not meet guidelines for the voluntary market.

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](http://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.

## **UNDERWRITING PRACTICES**

### Private Passenger Automobile

The Companies' underwriting practices and procedures for active private passenger automobile policies were reviewed to determine adherence to Company guidelines and compliance with applicable North Carolina statutes and rules, policy provisions, and the applicable rules of the North Carolina Personal Automobile Manual.

#### **The previous examination revealed the following:**

- The Companies were deemed to be in violation of the provisions of NCGS 58-33-40 as 10.0 percent of the private passenger automobile applications reviewed were accepted from a producer who was not appointed.
- The Companies were deemed to be in violation of the provisions of NCGS 58-36-30(a) as 24.0 percent of the active private passenger automobile policies reviewed were rated incorrectly.

The Companies provided a listing of 56 active private passenger automobile policies issued during the period under examination. Fifty policies were randomly selected and received for review. **The current examination revealed the following:**

- The Companies were again deemed to be in violation of the provisions of NCGS 58-33-40 as the producer was not properly appointed by the Company for 1 of the files reviewed (2.0 percent error ratio).
- The Companies were again deemed to be in violation of the provisions of NCGS 58-36-30(a) as 7 policies reviewed (14.0 percent error ratio) were rated with the incorrect physical damage symbols.

The rating errors resulted in 4 premium overcharges and 2 premium undercharges to the insureds. One policy's premium was not affected. At the request of the examiners, refunds in the amount of \$99.76 were issued by the Companies for the overcharges. The remaining premiums charged were deemed correct.

### Homeowners

The Companies' underwriting practices and procedures for active homeowners policies were reviewed to determine adherence to Company guidelines and compliance with applicable North Carolina statutes and rules, policy provisions, and the applicable rules of the North Carolina Homeowners Manual.

#### **The previous examination revealed the following:**

- The Companies were deemed to be in violation of the provisions of NCGS 58-33-40 as 12.0 percent of the homeowners applications reviewed were accepted from a producer who was not appointed.
- The Companies were deemed to be in violation of the provisions of NCGS 58-33-5 and 58-33-26 as 2.0 percent of the homeowners applications reviewed were accepted from an individual who was not licensed as a producer in North Carolina.

The Companies provided a listing of 289 active homeowners policies issued during the period under examination. Fifty policies were randomly selected and received for review. **The**

#### **current examination revealed the following:**

- The Companies were deemed to be in violation of the provisions of NCGS 58-36-30(a) and Rule A2.C. of the North Carolina Homeowners Policy Program Manual as it charged \$1.00 per installment rather than the \$3.00 specified in the manual.
- The Companies were again deemed to be in violation of the provisions of NCGS 58-33-40 as the producer was not properly appointed by the Company for 3 of the active files reviewed (6.0 percent error ratio).



- The Companies were deemed to be in compliance with the provisions of NCGS 58-33-5 and 58-33-26 as all of the homeowners applications reviewed were accepted from producers who were properly licensed in North Carolina.
- The Companies were reminded of the provisions of NCGS 58-36-30(a) as the key factor applied on 1 active homeowners policy reviewed (2.0 percent error ratio) was incorrect.

The rating error resulted in 1 premium overcharge to the insured. At the request of the examiners, a refund in the amount of \$21.00 was issued by the Companies for the overcharge.

The remaining premiums charged were deemed correct.

#### Commercial Automobile

The Companies' underwriting practices and procedures for active commercial automobile policies were reviewed to determine adherence to Company guidelines and compliance with applicable North Carolina statutes and rules, policy provisions, and the applicable rules of the Commercial Automobile Manual.

#### **The previous examination revealed the following:**

- The Companies were deemed to be in violation of the provisions of NCGS 58-41-50(a) as the Schedule of Loss Payees and Schedule of Forms and Endorsements used with the commercial automobile policy had not been filed with and approved by the Commissioner.
- The Companies were deemed to be in violation of the provisions of NCGS 58-41-50(f) as unfiled rates and/or factors were used to calculate the premium on 8.0 percent of the active commercial automobile policies reviewed.
- The Companies were deemed to be in violation of the provisions of 11 NCAC 10.0105(a)(d) and Rule 15.C. of the Commercial Automobile Manual as it failed to submit an individual risk rate filing for 2.0 percent of the active commercial automobile policies reviewed.
- The Companies were deemed to be in violation of the provisions of NCGS 58-33-40 as 4.0 percent of the commercial automobile applications reviewed were accepted from a producer who was not appointed.
- The Companies were deemed to be in violation of the provisions of 11 NCAC 10.0603(a)(b) as it failed to obtain a signed consent to rate form when the premium charged was in excess of the manual premium for 14.0 percent of the active commercial automobile policies reviewed.

- The Companies were deemed to be in violation of the provisions of 11 NCAC 19.0102(a), 19.0104, and 19.0106(a)(4)(h) as 30.0 percent of the active commercial automobile files reviewed did not contain proper file documentation.
- The Companies were deemed to be in violation of the provisions of NCGS 58-36-30(a) and Rule 31 of the Commercial Automobile Manual as incorrect rates were used to calculate the premium for non-fleet private passenger automobiles for 22.0 percent of the active commercial automobile policies reviewed.

The entire population of 12 active commercial automobile policies was selected and received for review. **The current examination revealed the following:**

- The Companies were deemed to be in compliance with the provisions of NCGS 58-41-50(a) as the Schedule of Loss Payees and Schedule of Forms and Endorsements used with the commercial automobile policy had been filed with and approved by the Commissioner.
- The Companies were deemed to be in compliance with the provisions of NCGS 58-41-50(f) as all rates and/or factors used to calculate the premium for the active commercial automobile policies reviewed were filed with and approved by the Commissioner.
- The Companies were deemed to be in compliance with the provisions of 11 NCAC 10.0105(a)(d) and Rule 15.C. of the Commercial Automobile Manual as individual risk rate filings were made for all of the active commercial automobile policies reviewed where applicable.
- The Companies were again deemed to be in violation of the provisions of NCGS 58-33-40 as the producer was not properly appointed by the Company for 2 of the active commercial automobile files reviewed (16.7 percent error ratio).
- Consent to rate did not apply to any of the active commercial automobile policies reviewed.
- The Companies were deemed to be in compliance with the provisions of 11 NCAC 19.0102(a), 19.0104, and 19.0106(a)(4)(g) as all of the active commercial automobile policies reviewed contained proper file documentation.
- The Companies were reminded of the provisions of NCGS 58-36-30(a) and Rule 31 of the Commercial Automobile Manual as incorrect rates were used to calculate the premium for non-fleet private passenger automobiles on 1 policy reviewed (8.3 percent error ratio).

The rating error resulted in 1 premium undercharge to the insured. The remaining premiums charged were deemed correct.

### Workers' Compensation

The Companies' underwriting practices and procedures for active workers' compensation policies were reviewed to determine adherence to Company guidelines and compliance with applicable North Carolina statutes and rules, policy provisions, and the applicable rules of the National Council on Compensation Insurance Manual.

#### **The previous examination revealed the following:**

- The Companies were deemed to be in violation of the provisions of NCGS 58-33-40 as 10.0 percent of the workers' compensation applications reviewed were accepted from a producer who was not appointed.
- The Companies were deemed to be in violation of the provisions of NCGS 58-36-100 as an incorrect Increased Limits Factor was applied to Employers Liability coverage on 96.0 percent of the active workers' compensation policies reviewed.
- The Companies were deemed to be in violation of the provisions of 11 NCAC 19.0102(a), 19.0104, and 19.0106(a)(4)(h) as 20.0 percent of the active workers' compensation files reviewed did not contain documentation supporting the schedule rating factor applied.

The entire population of 17 active workers' compensation policies was selected and received for review. **The current examination revealed the following:**

- The Companies were again deemed to be in violation of the provisions of NCGS 58-33-40 as the producer was not properly appointed by the Company for 4 of the active workers' compensation files reviewed (23.5 percent error ratio).
- The Companies were deemed to be in compliance with the provisions of NCGS 58-36-100 as the correct Increased Limits Factor was applied to Employers Liability coverage on all of the active workers' compensation policies reviewed.
- The Companies were deemed to be in compliance with the provisions of 11 NCAC 19.0102(a), 19.0104, and 19.0106(a)(4)(g) as all of the active workers' compensation files reviewed contained documentation supporting the schedule rating factor applied.

### **TERMINATIONS**

#### Private Passenger Automobile Cancellations

The Companies' cancellation procedures for private passenger automobile policies were reviewed to determine adherence to Company guidelines and compliance with applicable North Carolina statutes and rules, policy provisions, and the applicable rules of the North Carolina Personal Automobile Manual.

**The previous examination revealed the following:**

- The Companies were deemed to be in violation of the provisions of NCGS 58-36-30(a) and Rule 10 of the North Carolina Personal Automobile Manual as the return premium was calculated incorrectly on 16.0 percent of the cancelled private passenger automobile policies reviewed.
- The Companies were deemed to be in violation 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 for 44.0 percent of the cancelled private passenger automobile policies reviewed.

The entire population of 15 private passenger automobile policies cancelled during the period under examination was selected and received for review. **The current examination revealed the following:**

- The Companies were deemed to be in compliance of the provisions of NCGS 58-36-30(a) and Rule 10 of the North Carolina Personal Automobile Manual as the return premium was calculated correctly for all of the cancelled private passenger automobile policies reviewed.
- 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 coverages were cancelled for 1 policy reviewed (6.7 percent error ratio).

**Commercial Automobile Cancellations**

The Companies' cancellation procedures for commercial automobile policies were reviewed to determine adherence to Company guidelines and compliance with applicable North Carolina statutes and rules, policy provisions, and the applicable rules of the Commercial Automobile Manual.

**The previous examination revealed the following:**

- The Companies were deemed to be in violation of the provisions of NCGS 58-41-50(f) and Rule 11 of the Commercial Automobile Manual as the return premium was

calculated incorrectly on 16.3 percent of the cancelled commercial automobile policies reviewed.

- The Companies were deemed to be in violation 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 for all of the cancelled commercial automobile policies reviewed.

The entire population of 1 commercial automobile policy cancelled during the period under examination was selected and received for review. **The current examination revealed**

**the following:**

- The Companies were deemed to be in compliance with the provisions of NCGS 58-41-50(f) and Rule 11 of the Commercial Automobile Manual as the return premium was calculated correctly on the cancelled commercial automobile policy reviewed.
- The Companies were again deemed to be in violation 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 for the 1 cancelled commercial automobile policy reviewed (100 percent error ratio).

Workers' Compensation Cancellations

The Companies' cancellation procedures for workers' compensation cancellation policies were reviewed to determine adherence to Company guidelines and compliance with applicable North Carolina statutes and rules, policy provisions, and the applicable rules of the National Council on Compensation Insurance Manual.

**The previous examination revealed the following:**

- The Companies were deemed to be in violation of the provisions of NCGS 58-36-100(l) and Rule 3 of the National Council on Compensation Insurance Manual as the return premium was calculated incorrectly on 10.0 percent of the cancelled workers' compensation policies reviewed.

The entire population of 5 workers' compensation policies cancelled during the period under examination was selected and received for review. **The current examination revealed**

**the following:**

- The Companies were deemed to be in compliance with the provisions of NCGS 58-36-100(l) and Rule 3 of the National Council on Compensation Insurance Manual as the return premium was calculated correctly for all of the cancelled workers' compensation policies reviewed.

### Private Passenger Automobile Nonrenewals

The Companies' nonrenewal procedures for private passenger automobile policies were reviewed to determine adherence to Company guidelines and compliance with applicable North Carolina statutes and rules, policy provisions, and the applicable rules of the North Carolina Personal Automobile Manual.

#### **The previous examination revealed the following:**

- The Companies were deemed to be in violation of the provisions of NCGS 58-37-25(a) as 43.3 percent of the insureds nonrenewed when the policy no longer met the Company's voluntary guidelines were not offered liability coverage ceded to the North Carolina Reinsurance Facility.
- The Companies were deemed to be in violation 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 for 96.7 percent of the nonrenewed private passenger automobile policies reviewed.

The entire population of 5 private passenger automobile policies nonrenewed during the period under examination was selected and received for review. **The current examination revealed the following:**

- The Companies were again deemed to be in violation of the provisions of NCGS 58-37-25(a) as 2 insureds (40.0 percent error ratio) were not offered liability coverage ceded to the North Carolina Reinsurance Facility when the policy no longer met the Company's voluntary guidelines.
- The Companies were again deemed to be in violation 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 nonrenewed for 1 policy reviewed (20.0 percent error ratio).

### Commercial Auto Nonrenewals

The Companies' nonrenewal procedures for commercial automobile policies were reviewed to determine adherence to Company guidelines and compliance with applicable North Carolina statutes and rules, policy provisions, and the applicable rules of the North Carolina Commercial Automobile Manual.

**The previous examination revealed the following:**

- The Companies were deemed to be in violation of the provisions of NCGS 58-41-20(e) as the nonrenewal notice for 100 percent of the nonrenewed commercial automobile policies reviewed did not state the precise reason for nonrenewal.
- The Companies were deemed to be in violation 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 for 100 percent of the nonrenewed commercial automobile policies reviewed.

The entire population of 2 commercial automobile policies nonrenewed during the period under examination was selected and received for review. **The current examination revealed the following:**

- The Companies were deemed to be in compliance with the provisions of NCGS 58-41-20(e) as the nonrenewal notice for all of the nonrenewed commercial automobile policies reviewed stated the precise reason for nonrenewal.
- The Companies were again deemed to be in violation 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 for 2 of the nonrenewed commercial automobile policies reviewed (100 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 1 of the nonrenewed commercial automobile files reviewed did not contain proof of mailing of the nonrenewal notice (50.0 percent error ratio).

**Workers' Compensation Nonrenewals**

The Companies' nonrenewal procedures for workers' compensation policies were reviewed to determine adherence to Company guidelines and compliance with applicable North Carolina statutes and rules, policy provisions, and the applicable rules of the National Council on Compensation Insurance Manual.

**The previous examination revealed the following:**

- The Companies were deemed to be in violation of the provisions of NCGS 58-36-110(b) as the nonrenewal notice for 33.3 percent of the nonrenewed workers' compensation policies reviewed did not state the precise reason for nonrenewal.

The entire population of 3 workers' compensation policies nonrenewed during the period under examination was selected and received for review. **The current examination revealed the following:**

- The Companies were deemed to be in compliance with the provisions of NCGS 58-36-110(b) as the nonrenewal notice for all of the nonrenewed workers' compensation policies reviewed stated the precise reason for nonrenewal.
- 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 1 of the nonrenewed workers' compensation files reviewed (33.3 percent error ratio) did not contain proper file documentation.

#### Declinations/Rejections

The Companies were requested to provide the examiners with a listing of declined/rejected applications for the period under examination.

#### **The previous examination revealed the following:**

- The Companies were deemed to be in violation of the provisions of NCGS 58-39-55(a) as the Companies were 100 percent of the rejected/declined applicants were not sent written notice of an adverse underwriting decision.

The entire population of 5 applications that were declined/rejected during the period under examination was selected and received for review. **The current examination revealed the following:**

- The Companies were again deemed to be in violation of the provisions of NCGS 58-39-55(a) as there was no evidence that 2 applicants (40.0 percent error ratio) were sent written notice of an adverse underwriting decision.
- The Companies were deemed to be in violation of the provisions of NCGS 58-37-25(a) as 3 of the declined/rejected files (60.0 percent error ratio) contained no evidence that coverage was offered in the North Carolina Reinsurance Facility when the applicant did not meet the Company guidelines for the voluntary market.



## SUMMARY

This compliance examination was undertaken to review and update the status of issues referenced in the Market Conduct Report of May 12, 2010. The current examination revealed the following:

### 1. Underwriting Practices

- a. The Companies were again deemed to be in violation of the provisions of NCGS 58-33-40 as the producer was not properly appointed by the Company for 2.0 percent of the active private passenger automobile files reviewed.
- b. The Companies were again deemed to be in violation of the provisions of NCGS 58-36-30(a) as 14 percent of the active private passenger automobile policies reviewed were rated incorrectly.
- c. The Companies were deemed to be in violation of the provisions of NCGS 58-36-30(a) and Rule A2.C. of the North Carolina Homeowners Policy Program Manual as active homeowners policies were charged \$1.00 per installment rather than the \$3.00 specified in the manual.
- d. The Companies were again deemed to be in violation of the provisions of NCGS 58-33-40 as the producer was not properly appointed by the Company for 6.0 percent of the active homeowners files reviewed.
- e. The Companies were reminded of the provisions of NCGS 58-36-30(a) as the key factor applied on 2.0 percent of the active homeowners policies reviewed was incorrect.
- f. The Companies were again deemed to be in violation of the provisions of NCGS 58-33-40 as the producer was not properly appointed by the Company for 16.7 percent of the active commercial automobile files reviewed.
- g. The Companies were reminded of the provisions of NCGS 58-36-30(a) and Rule 31 of the Commercial Automobile Manual as incorrect rates were used to calculate the premium for non-fleet private passenger automobiles for 8.3 percent of the active commercial automobile policies reviewed.
- h. The Companies were again deemed to be in violation of the provisions of NCGS 58-33-40 as the producer was not properly appointed by the Company for 23.5 percent of the active workers' compensation files reviewed.

### 2. Terminations

- a. 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 coverages were cancelled for 6.7 percent of the cancelled private passenger automobile policies reviewed.

- b. The Companies were again deemed to be in violation 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 for 100 percent of the cancelled commercial automobile policies reviewed.
- c. The Companies were again deemed to be in violation of the provisions of NCGS 58-37-25(a) as 40.0 percent of the insureds nonrenewed when the private passenger automobile policy no longer met the Company's voluntary guidelines were not offered liability coverage ceded to the North Carolina Reinsurance Facility.
- d. The Companies were again deemed to be in violation 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 for 20.0 percent of the nonrenewed private passenger automobile policies reviewed.
- e. The Companies were again deemed to be in violation 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 for 100 percent of the nonrenewed commercial automobile policies reviewed.
- f. 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 50.0 percent of the nonrenewed commercial automobile policies reviewed did not contain proof of mailing of the nonrenewal notice.
- 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 33.3 percent of the nonrenewed workers' compensation policies reviewed did not contain proper file documentation.
- h. The Companies were again deemed to be in violation of the provisions of NCGS 58-39-55(a) as there was no evidence that 40.0 percent of the declined/rejected applicants were sent written notice of an adverse underwriting decision.
- i. The Companies were deemed to be in violation of the provisions of NCGS 58-37-25(a) as 60.0 percent of the declined/rejected files contained no evidence that coverage was offered in the North Carolina Reinsurance Facility when the applicant did not meet the Company guidelines for the voluntary market.

#### **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 58-33-5	License required.
NCGS 58-33-26	General license requirements.
NCGS 58-33-40	Appointment of agents.
NCGS 58-36-30	Deviations.
NCGS 58-36-100	Prospective Loss costs filings and final rate filings for workers' compensation and employers' liability insurance.
NCGS 58-36-110	Notice of nonrenewal, premium rate increase, or change in workers' compensation insurance coverage required.
NCGS 58-37-25	General obligations of insurers.
NCGS 58-39-55	Reasons for adverse underwriting decisions.
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 20-309.2	Insurer shall notify Division of actions on insurance policies.
11 NCAC 10.0105	Manuscript or Individual risk filings.
11 NCAC 10.0603	Consent to rate procedures: commercial coverages.
11 NCAC 19.0102	Maintenance of Records.
11 NCAC 19.0104	Policy Records.
11 NCAC 19.0106	Records Required for Examination.

### **CONCLUSION**

An examination has been conducted on the market conduct affairs of Federal Insurance Company, Pacific Indemnity Company, and Vigilant Insurance Company for the period

January 1, 2011, through December 31, 2011, with analyses of certain operations of the Companies being conducted through August 12, 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 underwriting practices and terminations.

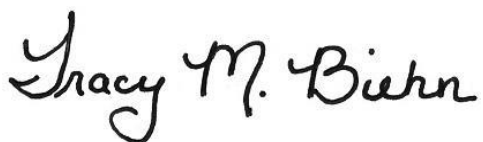
In addition to the undersigned, Kelvin A. Owens and Sharon O'Quinn, North Carolina Market Conduct Examiners, participated in this examination.

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