

REPORT ON

MARKET CONDUCT EXAMINATION

of the

KEY RISK INSURANCE COMPANY

Greensboro, North Carolina

BY REPRESENTATIVES OF THE

NORTH CAROLINA DEPARTMENT OF INSURANCE

as of

July 23, 2010

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Raleigh, North Carolina  
July 23, 2010

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, a compliance examination has been made of the market conduct activities of

**KEY RISK INSURANCE COMPANY (NAIC #10885)**  
NAIC Exam Tracking System Exam Number: NC170-M70  
Greensboro, 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 Key Risk 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 compliance examination commenced on June 21, 2010 and covered the period of January 1, 2009 through December 31, 2009 with analyses of certain operations of the Company being conducted through July 23, 2010. This action was taken due to previous examination findings referenced in the Market Conduct Report of July 2, 2008.

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 and rating, and terminations.

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.

### Previous Examination Findings

A general examination covering the period January 1, 2005 through December 31, 2007 was performed on the Company and a report dated July 2, 2008 was issued. The general examination report identified concerns in the areas of policyholder treatment, marketing, underwriting and rating, 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 Company, 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:

*Policyholder Treatment* – response time to Departmental inquiries.

*Marketing* – background checks not performed prior to producer appointment, failure to properly notify producer of termination.

*Underwriting and Rating* – application accepted from a producer who was not licensed in North Carolina, applications accepted from a producer who was not appointed.

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 "Helpful Links."

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.

## **POLICYHOLDER TREATMENT**

### Consumer Complaints

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

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

- The Company was deemed to be in apparent violation of the provisions of Title 11 of the North Carolina Administrative Code (NCAC), Chapter 4, Section 0123 as its responses to 71.4 percent of the Departmental inquiries reviewed did not include its NAIC company code.
- The Company was deemed to be in apparent violation of the provisions of 11 NCAC 1.0602 as the responses to 14.3 percent of the Departmental inquiries reviewed were in excess of the 7 calendar day requirement of this rule.

The entire population of 3 consumer complaints for the period under examination was reviewed. **The current examination revealed the following:**

- The Company was deemed to be in compliance with the provisions of 11 NCAC 4.0123 as its responses to 100 percent of the Departmental inquiries reviewed included its NAIC company code.
- The Company was again deemed to be in apparent violation of the provisions of 11 NCAC 1.0602 as the response to 1 Departmental inquiry (33.3 percent error ratio) was responded to in excess of the 7 calendar day requirement of this rule.

The Company's response to each complaint was deemed to be appropriate to the circumstances. The average service time to respond to a Departmental complaint was 12 calendar days. A chart of the Company's response time follows:

Service Days	Number of Files	Percentage of Total
1 - 7	2	67.0
22 - 30	1	33.0
<b>Total</b>	<b>3</b>	<b>100.0</b>

## MARKETING

### 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 previous examination revealed the following:**

- The Company was deemed to be in apparent violation of the provisions of NCGS 58-33-40(c) as 64.0 percent of the producer appointments reviewed were not submitted to the Department within 30 days of the appointment date.
- The Company was deemed to be in apparent violation of the provisions of 11 NCAC 6A.0412(2) as background checks were not performed on 100 percent of the producers reviewed.
- The Company was deemed to be in apparent violation of the provisions of NCGS 58-33-56(b) as 88.0 percent of the producer terminations reviewed were not submitted to the Department within 30 days of the termination date.
- The Company was deemed to be in apparent violation of the provisions of NCGS 58-33-56(d) as notification of termination was not sent for 88.0 percent of the terminated producers reviewed.

The Company provided listings of 164 producers that were appointed and 128 producers that were terminated during the period under examination. Fifty files were randomly selected and received from each listing. **The current examination revealed the following:**

- The Company was deemed to be in compliance with the provisions of NCGS 58-33-40(c) as all of the producer appointments reviewed were submitted to the Department within 30 days of the appointment date.
- The Company was again deemed to be in apparent violation of the provisions of 11 NCAC 6A.0412(2) as background checks were not performed prior to the appointment of 22 of the producers reviewed (44.0 percent error ratio).



- The Company was deemed to be in compliance with the provisions of NCGS 58-33-56(b) as all of the producer terminations reviewed were submitted to the Department within 30 days of the termination date.
- The Company was again deemed to be in apparent violation of the provisions of NCGS 58-33-56(d) as proper notification of termination was not sent to 34 of the terminated producers reviewed (68.0 percent error ratio).
  - Termination letters sent in excess of the 15 day requirement for 21 producers.
  - Termination letters not sent to 13 producers.

## **UNDERWRITING AND RATING**

### Workers' Compensation

The Company's underwriting and rating 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 Company was deemed to be in apparent violation of the provisions of NCGS 58-33-40 as 6.0 percent of the workers' compensation applications reviewed were accepted from an individual who was not appointed.

The Company provided a listing of 152 active workers' compensation policies issued during the period under examination. Fifty policies were randomly selected and received for review. **The current examination revealed the following:**

- The Company was again deemed to be in apparent violation of the provisions of NCGS 58-33-40 as 2 applications reviewed (4.0 percent error ratio) were accepted from a producer who was not appointed.
- The Company was deemed to be in apparent violation of the provisions of NCGS 58-33-5 and 58-33-26(a) as 1 application reviewed (2.0 percent error ratio) was accepted from a producer who was not licensed in North Carolina.
- The Company was reminded of the provisions of 11 NCAC 19.0102(a), 19.0104, and 19.0106(a)(4)(g) as 2 files reviewed (4.0 percent error ratio) did not contain a copy of the Drug Free Workplace certification.

All premiums charged were deemed correct.

## TERMINATIONS

### Workers' Compensation Nonrenewals

The Company's 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 policy manual rules.

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

- The Company was deemed to be in apparent violation of the provisions of 11 NCAC 19.0102(a), 19.0104 and 19.0106(a)(4)(h) as proof of mailing of the nonrenewal notice was not provided for 100 percent of the nonrenewed workers' compensation files reviewed.

The Company provided a listing of 83 workers' compensation policies that were nonrenewed during the period under examination. Fifty policies were randomly selected and received for review. **The current examination revealed the following:**

- The Company was deemed to be in compliance with the provisions of 11 NCAC 19.0102(a), 19.0104 and 19.0106(a)(4)(h) as proof of mailing of the nonrenewal notice was provided for all the nonrenewed workers' compensation files reviewed.

### **SPECIAL REVIEW OF WORKERS' COMPENSATION VIP POLICIES**

A VIP account is one with ownership or management that has a valuable business relationship to Key Risk, or to another insured or TPA client of Key Risk's affiliate, Key Risk Management Services. The purpose is to heighten internal awareness by the Company associates of the special relationships in providing customer service. All procedures for underwriting, policy processing, billing, etc. are the same with the additional customer service of courtesy calls.

A review was made of the process the Company follows when installment payments are past due on VIP policies. The Company identified 17 North Carolina policies as VIP policies and provided documentation from their Database and Remarks Tracking System (DARTS) for each of these policies. Of the 17 policies, 8 had late payments at some point. Based on the documentation provided, none of the 8 policies were cancelled for nonpayment of premium nor

was a cancellation notice issued. Instead, the producer or insured was contacted to follow-up on the payment status. All payments were received and coverage remained in force with no lapse in coverage.

### **SUMMARY**

This compliance examination was undertaken to review and update the status of issues referenced in the Market Conduct Report of July 2, 2008. The current examination revealed the following:

1. Policyholder Treatment

- a. The Company was again deemed to be in apparent violation of the provisions of 11 NCAC 1.0602 as the responses to 33.3 percent of the Departmental inquiries reviewed were in excess of the 7 calendar day requirement of this rule.

2. Marketing

- a. The Company was again deemed to be in apparent violation of the provisions of 11 NCAC 6A.0412(2) as background checks were not performed prior to the appointment of 44.0 percent of producers reviewed.
- b. The Company was again deemed to be in apparent violation of the provisions of NCGS 58-33-56(d) as proper notification of appointment termination was not sent to 68.0 percent of terminated producers reviewed.

3. Underwriting and Rating

- a. The Company was again deemed to be in apparent violation of the provisions of NCGS 58-33-40 as 4.0 percent of the workers' compensation applications reviewed were accepted from a producer who was not appointed.
- b. The Company was deemed to be in apparent violation of the provisions of NCGS 58-33-5 and 58-33-26(a) as 2.0 percent of the workers' compensation applications reviewed were accepted from a producer who was not licensed in North Carolina.
- c. The Company was 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 workers' compensation files reviewed did not contain a copy of the Drug Free Workplace certification.

## 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 58-33-5	License required.
NCGS 58-33-26	General license requirements.
NCGS 58-33-40	Appointment of agents.
NCGS 58-33-56	Notification to Commissioner of termination.
11 NCAC 1.0602	Insurance Companies' Response to Departmental Inquiries.
11 NCAC 4.0123	Use of Specific Company Name in Responses.
11 NCAC 6A.0412	Appointment of Agent: Responsibility of Company.
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 Key Risk Insurance Company for the period January 1, 2009 through December 31, 2009 with analyses of certain operations of the Company being conducted through July 23, 2010. The Company's response to this report, if any, is available upon request.

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 and rating, and terminations.

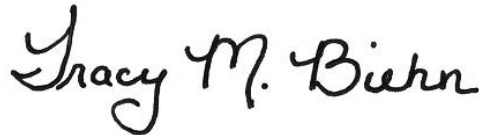
In addition to the undersigned, James P. McQuillan, CPCU and Letha Lombardi, North Carolina Market Conduct Examiners, participated in this examination.

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