

Report on

Market Conduct Examination

of

The Members Insurance Company
Universal Insurance Company

Charlotte, North Carolina

by Representatives of the
North Carolina Department of Insurance

as of

July 30, 2024

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Raleigh, North Carolina
July 30, 2024

Honorable Mike Causey
Commissioner of Insurance
Department of Insurance
State of North Carolina
3200 Beechleaf Court
Raleigh, North Carolina 27604

Honorable Commissioner:

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 following entities:

The Members Insurance Company (NAIC# 12617)
Universal Insurance Company (NAIC# 32972)
NAIC Exam Tracking System Exam Number: NC-HOWENC-5
Charlotte, North Carolina
(hereinafter generally referred to as the Companies)

The examination was conducted at the North Carolina Department of Insurance (Department) offices located at 325 N. Salisbury Street, Raleigh, North Carolina and 3200 Beechleaf Court, Raleigh, North Carolina. A report thereon is respectfully submitted.

SCOPE OF EXAMINATION

This examination commenced on May 16, 2023, and covered the period of July 1, 2019, through June 30, 2022. Analyses of certain operations of the Companies were concluded during the Wrap-Up Conference which was held on May 2, 2024. All comments made in this report reflect conditions observed during the period of the examination.

The examination was performed in accordance with auditing standards established by the Department and procedures established by the National Association of Insurance Commissioners (NAIC). The scope of this examination consisted of an examination of the Companies' practices and procedures in policyholder treatment, marketing, underwriting and rating, terminations, and claims. The findings and conclusions contained within the report are based solely on the work performed and are referenced within the appropriate sections of the examination report.

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 that fall outside certain tolerance levels. The Department applied a 0 percent tolerance level for consumer complaints, producers/adjusters 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 the Companies' practices and procedures in the following areas:

Policyholder Treatment – Consumer Complaints: Response time.

Marketing – Producer Terminations: Failure to provide notification to producer.

Underwriting and Rating – Private Passenger Automobile: Producer not appointed. Homeowners: Incorrect rating; Consent-to-Rate notification not provided to insured; producers not licensed and not appointed.

Claims – Paid Third-Party Property Damage: Excessive amount of time taken to issue payment. Medical Payments: Adjuster not licensed. Bodily Injury: Adjuster not licensed. Closed Without Payment: Adjuster not licensed; failure to notify the Commissioner about apparent fraud.

Specific violations 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 <https://www.ncdoi.gov/insurance-industry/market-regulation>.

This examination identified various statutory violations. 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.

All statutory violations may not have been discovered or noted in this report. Failure to identify statutory violations in North Carolina does not constitute acceptance of such violations.

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 for the period under examination was in compliance with the provisions of 11 NCAC 19.0103. Fifty

complaints from the Department's listing of 138 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	31
Underwriting	13
Administrative	6
Total	50

The Companies were deemed to be in violation of 11 NCAC 01.0602 as they did not provide a response to the Department within seven calendar days of receipt for one complaint file reviewed (2.0% error ratio). The average service time to respond to a Departmental complaint was six calendar days. A chart of the Companies' response time follows:

Service Days	Number of Files	Percentage of Total
1 - 7	49	98.0
8 - 14	0	0.0
15 - 21	0	0.0
22 - 30	1	2.0
Total	50	100.0

Privacy of Financial and Health Information

The Companies provided privacy of financial and health information documentation for the examiners' review. The Companies exhibited policies and procedures in place so that nonpublic personal financial or health information is not disclosed unless the customer or consumer has authorized the disclosure. The Companies were found to be compliant with the provisions of NCGS 58-39-25, 58-39-26, and 58-39-27.

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:

Private Passenger Automobile
Homeowners

Filings for the private passenger automobile and homeowners lines of business were made by the North Carolina Rate Bureau on behalf of the Companies. The Companies filed deviations with the Department for these lines of business. All forms reviewed were approved forms.

Producer Licensing

The Companies' procedures for termination of its producers were reviewed to determine compliance with the appropriate North Carolina statutes and rules.

The Companies provided the examiners with listings of 424 terminated producers for the period under examination. Fifty terminated producer files were randomly selected for review.

The Companies were deemed to be in violation of the provisions of NCGS 58-33-56(d) as they failed to properly notify 30 producers of the termination of their appointment (60.0% error ratio). The Companies were reminded of the provisions of 11 NCAC 19.0102(a), 19.0106(a)(3) and 19.0106(e) as documentation supporting the Companies' electronic submission and the Department's electronic confirmation of termination was not maintained for two terminated producers reviewed (4.0% error ratio).

UNDERWRITING AND RATING

Overview

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

Private Passenger Automobile
Homeowners

A random selection of 200 policies was made from a population of 47,212. 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.

Private Passenger Automobile

The Companies provided a listing of 33,279 active policies issued during the period under examination. One hundred policies were randomly selected for review.

The Companies' private passenger automobile policies were written on a semi-annual and annual basis. Coverages were written utilizing manual and deviated rates. Risk placement was determined by the underwriter using the Companies' underwriting guidelines. 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 reminded of the provisions of NCGS 58-37-40(f) as a portion of the recoupment surcharge was displayed incorrectly for a non-liability premium bearing vehicle (1.0% error ratio).

The Companies were reminded of the provisions of NCGS 58-36-65(e) as motor vehicle reports for listed drivers were not obtained or were incorrect for six files reviewed (6.0% error ratio).

The Companies were deemed to be in violation of the provisions of NCGS 58-33-26(i), and NCGS 58-33-40 as the producer was not properly appointed at the time of application for ten files reviewed (10.0% error ratio).

The Companies were reminded of the provisions of NCGS 58-36-30(a) as the premiums charged for eight policies reviewed were incorrect (8.0% error ratio), because of nine rating errors. The rating errors consisted of the following:

- Four policies were rated using incorrect comprehensive rates.
- Deviations were applied to liability premium ceded to the NCRF on one policy.
- An incorrect class factor was used to rate two policies.
- An incorrect territory deviation was used to rate two policies.

The rating errors resulted in two premium undercharges and six premium overcharges. At the request of the examiners, the companies issued refunds in the amount of \$475.05, including interest, for the overcharges. The remaining premiums charged were deemed correct.

As a result of the incorrect comprehensive rates, the examiners directed the Companies to conduct a self-audit. The Companies identified 6,241 policies that were rated using incorrect comprehensive rates, and issued additional refunds totaling \$393,719.73, including interest.

Homeowners

The Companies provided a listing of 13,933 active homeowners policies issued during the period under examination. One hundred policies were randomly selected for review.

The Companies' homeowners 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. Risk placement was determined by the underwriter using the Companies' underwriting guidelines. 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 58-36-30(a) and Rules 301, A5, 403.F and 404 of the Homeowners Rating Manual as the premiums charged for 60 policies reviewed were incorrect (60.0% error ratio), because of 68 rating errors.

The rating errors consisted of the following:

- The premium for the increase in Coverage C limits was not included in the premium calculation for the Replacement Cost Contents endorsement for 47 policies.
- The maximum premium credit allowed for protective devices was exceeded for 14 policies.
- Two policies were rated using an incorrect Financial Responsibility deviation.
- Two policies were rated using an incorrect territory.
- One policy was rated without a Zip Code deviation.
- A Loss History deviation was applied to a home located in an invalid territory for one policy.
- The Replacement Cost Contents endorsement was included on one policy that did not carry the minimum limits required for that coverage.

The rating errors resulted in 56 undercharges and four overcharges. At the request of the examiners, the Companies issued refunds totaling \$183.97, including interest, for the overcharges. The remaining premiums charged were deemed correct.

The Companies were deemed to be in violation of the provisions of NCGS 58-33-5 and 58-33-26 as the producer was not licensed at the time of application for three files reviewed (3.0% error ratio). The Companies were deemed to be in violation of the provisions of NCGS 58-33-26(i) and 58-33-40 as the producer was not appointed with the Companies at the time of application for six files reviewed (6.0% error ratio).

The Companies were reminded of the provisions of NCGS 58-36-30(b1) as the wording contained in the Consent-to-Rate notice was incorrect for five policies reviewed (5.0% error ratio).

The Companies were deemed to be in violation of the provisions of NCGS 58-36-30(b1) as the insured was not notified that the rates used to calculate the premium for the policy were greater than those rates that were applicable in the State of North Carolina for 30 policies reviewed (30.0% error ratio), resulting in 30 overcharges. At the request of the examiners, the Companies issued refunds totaling \$13,000.08, including interest, for the overcharges.

As a result of the notification failure, the examiners directed the Companies to conduct a self-audit. The Companies identified 6,996 policies that did not include the proper notification to the applicant, and issued additional refunds totaling \$2,270,353.92, including interest.

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:

Private Passenger Automobile
Homeowners

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 37,592 policies were terminated during the period under examination. The examiners randomly selected 300 terminations for review.

Private Passenger Automobile Cancellations

One hundred cancelled private passenger automobile policies were randomly selected for review from a population of 29,099.

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	61	61.0
Insured's request	39	39.0
Total	100	100.0

The Companies were not required to issue cancellation notices for 39 of the cancelled policies reviewed as these policies were cancelled at the request of the insured. Cancellation notices for the remaining 61 policies stated the specific reason for cancellation.

The Companies were reminded of the provisions of 11 NCAC 19.0102(a), 19.0104, 19.0106(a)(4), and 19.0106(e) as six files did not contain the insured's request to cancel (6.0% error ratio). The remaining policy files reviewed contained sufficient documentation to support the action taken by the Companies.

All premium refunds were deemed correct. The Companies issued refunds in a timely manner.

Homeowners Cancellations

One hundred cancelled homeowners policies were randomly selected for review from a population of 7,872.

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	57	57.0
Nonpayment of premium	33	33.0
Policy rewritten	8	8.0
Underwriting decision	2	2.0
Total	100	100.0

The Companies were not required to issue cancellation notices for 65 of the cancelled policies reviewed as these policies were cancelled at the request of the insured or rewritten. Cancellation notices for the remaining 35 policies stated the specific reason for cancellation.

All premium refunds were deemed correct. The Companies issued refunds in a timely manner.

The Companies were reminded of the policy termination provisions as five cancellations for nonpayment of premium did not provide at least 15 days' notice to the insured (5.0% error ratio).

The Companies were reminded of the provisions of 11 NCAC 19.0102(a), 19.0104, 19.0106(a)(4), and 19.0106(e) as one file did not contain proof of mailing of the cancellation

notice (1.0% error ratio), five files did not contain the insured's request to cancel (5.0% error ratio), and one file did not contain the notice of cancellation provided to the insured (1.0% error ratio). The remaining policy files reviewed contained sufficient documentation to support the action taken by the Companies.

Private Passenger Automobile Nonrenewals

Fifty nonrenewed private passenger automobile policies were selected for review from a population of 311.

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
Agent no longer appointed	48	96.0
Adverse underwriting decision	1	2.0
Risk no longer eligible	1	2.0
Total	50	100.0

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

Homeowners Nonrenewals

Fifty nonrenewed homeowners policies were randomly selected for review from a population of 310.

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
Adverse underwriting decision	48	96.0
Agent no longer appointed	2	4.0
Total	50	100.0

The Companies were reminded of the provisions of NCGS 58-39-55 as the specific reason for nonrenewal was not provided to the insured for four nonrenewed policies reviewed (8.0% error ratio).

The final area of this review encompassed documentation of the policy file. All policy files 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 license status for each claim adjuster was reviewed to determine if the adjuster was properly licensed at the time of the claim handling. The review encompassed paid, automobile medical payments, first-and third-party bodily injury, closed without payment, subrogated, total loss settlement, and litigated claims. Six hundred fifty claims were randomly selected for review from a population of 47,204.

Paid Claims

One hundred first-party automobile physical damage claims were randomly selected from a total population of 10,168. Fifty first-party property damage claims were randomly selected from a total population of 1,000. One hundred third-party property damage claims were randomly selected from a total population of 7,124. 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	17.2
First-party property damage (non-Auto)	18.0
Third-party property damage	20.4

The Companies were reminded of the provisions of NCGS 58-63-15(11)b. as an excessive amount of time was taken to acknowledge four third-party property damage claims (4.0% error ratio), investigate four third-party property damage claims (4.0% error ratio) and appraise six third-party property damage claims (6.0% error ratio).

The Companies were deemed to be in violation of the provisions of NCGS 58-63-15(11)f. as an excessive amount of time was taken to issue payment for eight third-party property damage claims (8.0% error ratio).

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.

Automobile Medical Payment Claims

Fifty automobile medical payment claims were randomly selected for review from a population of 2,030. The claim files were reviewed to determine if the Companies had engaged in any unfair claims practices. No unfair practices were noted.

The Companies were deemed to be in violation of the provisions of NCGS 58-33-26 as one claims adjuster was not licensed at the time of claim handling for one claim reviewed (2.0% error ratio).

First- and Third-Party Bodily Injury Claims

Fifty paid first- and third-party bodily injury claims were randomly selected for review from a population of 2,708. The claim files were reviewed to determine whether the Companies had engaged in any unfair claims practices. No unfair practices were noted.

The Companies were deemed to be in violation of NCGS 58-33-26 as one claims adjuster was not licensed at the time of claim handling for one claim reviewed (2.0% error ratio).

Claims Closed Without Payment Claims

One hundred closed without payment claims were randomly selected for review from a population of 17,707. 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 claims without payment were deemed valid. Claims were denied on an average of 23.7 days for the 3-year period.

The Companies were deemed to be in violation of the provisions of NCGS 58-33-26 as one claims adjuster was not licensed at the time of claim handling for one claim reviewed (1.0% error ratio).

The Companies were reminded of the provisions of NCGS 58-2-163 as they had reasonable cause to believe the claimant acted in a fraudulent manner and did not notify the Commissioner with a complete statement of all the relevant facts and circumstances for three claims reviewed (3.0% error ratio).

The Companies were reminded of the provisions of NCGS 58-63-15(11)a as one medical payments letter to the insured contained an incorrect statute of limitations date (1.0% error ratio).

Subrogated Claims

Fifty subrogated claims were randomly selected for review from a population of 984. The claim files were reviewed to determine if the insured's deductible was properly reimbursed by the Companies when subrogation was successful.

The Companies were reminded of the provisions of NCGS 58-63-15(11)b. as two claims reviewed had delays in reimbursing the insured's deductible (4.0% error ratio).

The remaining reimbursements were deemed to be correct and were issued on a 3-year average of two calendar days from the date the Companies collected the monies.

Total Loss Settlement Claims

One hundred total loss settlement claims were randomly selected for review from a population of 5,293. The claim files were reviewed to determine if the settlements were equitable and timely.

The Companies primarily used National Automobile Dealers Association (NADA) Used Car Guide to establish the actual cash value of totaled vehicles. All settlements were deemed equitable. The payments were issued on a 3-year average of 27 calendar days.

Litigated Claims

Fifty litigated claims were selected for review from a population of 190. The claim files were reviewed to determine if the Companies had engaged in any unfair claims practices. The review of litigated claims disclosed no violations of the provisions of NCGS 58-63-15(11).

COMMENTS, RECOMMENDATIONS, AND DIRECTIVES

The Companies are directed to provide a response within seven calendar days to Departmental requests for information regarding consumer complaints.

The Companies are directed to implement procedures to confirm all producers and claim adjusters are appropriately appointed and/or licensed. The Companies are directed to notify the producer of the termination of the producer's appointment, using a form prescribed by the Commissioner, within 15 days of notifying the Department.

For automobile third-party property damage, the Companies are directed to develop time standards acceptable to the Department for claim handling, especially related to the amount of time for payment to be issued. The Companies are directed to notify the Commissioner anytime they have reasonable cause to believe fraudulent behavior has occurred.

Upon acceptance of the Report the Companies shall provide the Department with a statement of corrective action plan to address the issues noted in the Executive Summary. The Department will conduct a future investigation, if warranted, to determine if the Companies successfully implemented their statement of corrective action.

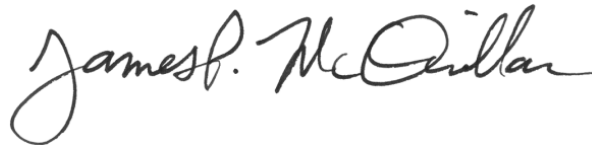
CONCLUSION

An examination has been conducted on the market conduct affairs of The Members Insurance Company and Universal Insurance Company for the period July 1, 2019, through June 30, 2022, with analyses of certain operations of the Companies being conducted through May 2, 2024.

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 the Companies' operations in the areas of policyholder treatment, marketing, underwriting, terminations, and claims.

In addition to the undersigned, Paula Posey, AINS, MCM and Alex Auman, CLCS, MCM, North Carolina Market Conduct Senior Examiners, participated in this examination.

Respectfully submitted,



James P. McQuillan, CPCU, AIT, MCM
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.



Teresa Knowles, MCM, ACS
Deputy Commissioner
Market Regulation Division
State of North Carolina