

REPORT ON

MARKET CONDUCT EXAMINATION

of the

THE MEMBERS INSURANCE COMPANY

Charlotte, North Carolina

BY REPRESENTATIVES OF THE

NORTH CAROLINA DEPARTMENT OF INSURANCE

as of

January 28, 2013

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Raleigh, North Carolina
January 28, 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 MEMBERS INSURANCE COMPANY (NAIC #12617)
NAIC Exam Tracking System Exam Number: NC170-M111
Charlotte, 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 Members 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 June 20, 2011 and covered the period of January 1, 2008 through December 31, 2010 with analyses of certain operations of the Company being conducted through January 28, 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:

Consumer Complaints – incomplete complaint log, files not provided for review, response time to Departmental inquiries, NAIC company code not included on Company response, and incomplete file documentation.

Policy Forms and Filings – use of unfiled new business application, declarations page, and consent-to-rate form for private passenger automobile. Use of unfiled declarations page and notice of adverse underwriting decision for homeowners.

Appointment and Termination of Producers – failure to perform background checks on appointed producers, failure to notify the Department of termination, failure to provide confirmation of termination, and failure to notify the producers of termination.

Underwriting Practices – Private Passenger Automobile: use of unfiled premium payment installment charge, rating errors, and applications accepted from producers who were not appointed. Homeowners: applications accepted from producers who were not licensed in North Carolina and rating errors.

Terminations – Homeowners cancellations: proof of mailing was not provided. Private passenger automobile nonrenewals: insufficient notice sent and failure to issue the North Carolina Notice of Termination form (FS-4) to the Division of Motor Vehicles (DMV).

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 Members Insurance Company (TMIC) was incorporated on June 9, 2006 in the State of North Carolina and commenced business on October 1, 2006. TMIC is a stock casualty insurance company created by Carolina Motor Club, Inc. (AAA Carolinas). The stock is held 100 percent by TMIC Holding Company, LLC which is managed by the ultimate parent, Carolina Motor Club, Inc.

Company Operations and Management

The Company is a writer of private passenger automobile insurance and homeowners insurance and is licensed in North Carolina only.

Direct written premium for the Company's 2010 property and casualty operations was \$9,235,037. Premiums written in North Carolina between 2008 and 2010 increased approximately 152.7 percent. The charts below outline the Company's mix of business for selected lines in 2010 and loss ratios in North Carolina for the examination period.

Line of Business	Written Premium	Percentage
Private Passenger Automobile	\$8,719,966	94.4
Homeowners	\$ 515,071	5.6
Total	\$9,235,037	100.0

Year	Written Premium	Earned Premium	Incurred Losses*	Loss Ratio
2008	\$3,654,076	\$3,444,812	\$2,278,390	66.1
2009	\$5,189,565	\$4,788,912	\$3,657,013	76.4
2010	\$9,235,037	\$8,126,263	\$5,439,249	66.9
*Does not include IBNRs				

Certificates 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

AAA Carolinas uses a disaster recovery (DR) site in Providence, Rhode Island. Insurance data is replicated in near real time to redundant servers in the DR location. All servers are virtual servers for fast recovery and high availability. The hardware platforms are fully redundant for processor, memory and power for high availability. All circuits and network infrastructure is fully redundant. Data is backed up daily with weekly backups stored offsite. Backup data is restored on a regular basis into a test environment. All branch offices can access the disaster recovery site via virtual private network connections.

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 furnished by the Consumer Services Division of the Department. All complaints from the Department's listing of 22 were selected for review.

The Company was deemed to be in apparent violation of the provisions of Title 11 of the North Carolina Administrative Code, (NCAC), Chapter 19, Section 0103 as 1 complaint (4.5 percent error ratio) was not listed on the Company's complaint register.

The Company was deemed to be in apparent violation of the provisions of 11 NCAC 19.0102(a), 19.0103, and 19.0106(a)(2) as 4 complaint files (18.2 percent error ratio) were not provided for review.

The distribution of complaints requiring a response to the Department is shown in the chart below.

Type of Complaint	Total
Underwriting	11
Claims	9
Administrative	2
Total	22

The Company's response to each complaint was deemed to be appropriate to the circumstances. The Company was deemed to be in apparent violation of the provisions of 11 NCAC 1.0602 as 4 of the complaints reviewed (18.2 percent error ratio) were responded to in excess of the 7 calendar day requirement of this rule.

The Company was deemed to be in apparent violation of the provisions of 11 NCAC 4.0123 as 2 responses to Departmental inquiries (9.1 percent error ratio) did not contain the Company's NAIC company code. The Company was deemed to be in apparent violation of the provisions of 11 NCAC 19.0102(a), 19.0103, and 19.0106(a)(2) as 4 complaint files (18.2 percent error ratio) did not contain a copy of the inquiry letter from the Department and/or a copy of the consumer complaint.

The average service time to respond to a Departmental complaint was 8 calendar days.

A chart of the Company's response time follows:

Service Days	Number of Files	Percentage of Total
1 - 7	18	81.9
8 - 14	1	4.5
15 - 21	0	0.0
22 - 30	1	4.5
31 - 60	2	9.1
Total	22	100.0

Privacy of Financial and Health Information

The Company provided privacy of financial and health information documentation for the examiners' review. The Company 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 Company was 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 Company were reviewed to determine compliance with appropriate North Carolina statutes and rules. Emphasis of the review was placed on the following lines of business:

1. Private Passenger Automobile
2. Homeowners

Filings for the private passenger automobile and homeowners lines of business were made by the North Carolina Rate Bureau on behalf of the Company. Deviations for these lines of business were made to the Department by the Company.

The Company was deemed to be in apparent violation of the provisions of NCGS 58-3-150 and 11 NCAC 10.1201(c) as the Private Passenger Automobile Policy new business application, declarations page, and consent-to-rate form had not been filed with and approved by the Department.

The Company was deemed to be in apparent violation of the provisions of NCGS 58-3-150 and 11 NCAC 10.1201(c) as the Homeowners Policy Declarations page had not been filed with and approved by the Department.

The Company was deemed to be in apparent violation of the provisions of NCGS 58-3-150 and 58-39-55(a) as the notice of adverse underwriting decision used for homeowners terminations had not been filed with and approved by the Department.

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 sells its products through independent insurance agents. Advertising materials are approved by the President and the material is maintained in the headquarters in Charlotte, North Carolina. No unfair or deceptive trade practices were noted in this segment of the examination.

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. Fifty appointed and 50 terminated producer files were randomly selected and received for review from populations of 150 and 99, respectively.

The Company was reminded of the provisions of 11 NCAC 19.0102(a), and 19.0106 (a)(3) as it was unable to provide confirmation of appointment for 1 appointed producer reviewed (2.0 percent error ratio). 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 31 of the appointed producers reviewed (62.0 percent error ratio).

The Company was deemed to be in apparent violation of the provisions of NCGS 58-33-56(b) as it failed to notify the Department of the termination within 30 days for 24 terminated producers reviewed (48.0 percent error ratio). The Company was deemed to be in apparent violation of the provisions of 11 NCAC 19.0102(a) and 19.0106(a)(3) as it was unable to provide confirmation of termination for 10 terminated producers reviewed (20.0 percent error ratio). 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 to any of the 50 terminated producers reviewed (100 percent error ratio).

Agency Management

The marketing effort is under the direction of the President, located in the home office in Charlotte, North Carolina. The Company has 26 active agencies with approximately 153 producers appointed in North Carolina as well as 1 field marketing representative. The president, marketing representative and underwriting and claim managers are responsible for the activities of the agency force and licensing. Meetings are conducted monthly for the largest agency and every 2 to 3 months for smaller agencies/agents.

UNDERWRITING PRACTICES

Overview

The Company's marketing philosophy in North Carolina focuses on personal lines coverages. The Company provided the examiners with listings of the following types of active policies for the period under examination:

1. Private Passenger Automobile
2. Homeowners

A random selection of 150 policies was made from a total population of 16,419. 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 Company provided a listing of 15,336 active private passenger automobile policies issued during the period under examination. One hundred policies were randomly selected and received for review.

The Company's private passenger automobile policies were written on a 6 month basis. Liability coverages were written utilizing manual and deviated rates. Physical damage coverages were written using manual, deviated, or on a consent to rate basis. 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 58-36-30(a) and Rule 22 of the North Carolina Rate Bureau Personal Automobile Manual for a \$2.00 installment fee charge or the waiver of installment fee for premiums paid by electronic funds transfer without being filed with and approved by the Department.

The Company was deemed to be in apparent violation of the provisions of NCGS 58-37-40(f) as it did not include agent compensation in the calculation of the recoupment surcharge for 21 policies (21.0 percent error ratio) resulting in an undercharge of the recoupment surcharge.

The Company was deemed to be in apparent violation of the provisions of NCGS 58-33-40 as the producer was not properly appointed by the Company for 7 of the private passenger automobile active files reviewed (7.0 percent error ratio).

The Company was reminded of the provisions of 11 NCAC 19.0102(a), 19.0104, and 19.0106(a)(4) as 2 files reviewed (2.0 percent error ratio) did not contain a signed consent to rate form.

The Company was reminded of the provisions of 11 NCAC 10.0602(a)(2) as it did not comply with consent to rate procedures on 4 policies reviewed (4.0 percent error ratio) because the standard rate that would be charged for towing and labor and/or extended transportation coverage, without application of consent to rate, was not indicated on the application.

The Company was deemed to be in apparent violation of the provisions of NCGS 58-37-35(l) and NCGS 58-36-30(a) as 26 policies reviewed (26.0 percent error ratio) contained a total of 32 rating errors. The rating errors consisted of the following:

- Incorrect base rate for motorcycle applied on 1 policy.
- Incorrect inexperienced operator surcharge on 2 policies.

- Incorrect deviations applied on 7 policies.
- Airbag discount not applied to med pay coverage on 1 policy.
- Incorrect physical damage base rates for 15 policies.
- Incorrect Safe Driver Incentive Plan points applied on 5 policies.
- Incorrect territory was used to rate 1 policy.

The rating errors resulted in 21 premium overcharges and 5 premium undercharges to the insureds. At the request of the examiners, refunds in the amount of \$1,892.71 were issued by the Company for the overcharges. The remaining 74 premiums charged were deemed correct.

As a result of the incorrect physical damage base rates, the examiners requested the Company conduct a self audit. The Company identified 3,383 policies resulting in overcharges in the amount of \$171,875.98. All overcharges were returned to the policyholders prior to the conclusion of the examination.

Homeowners

The Company provided a listing of 1,083 active homeowners policies issued during the period under examination. Fifty policies were randomly selected and received for review.

The Company's homeowners coverages were written utilizing manual and deviated rates. Policies were written on an annual basis. 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. All policy files contained sufficient documentation to support the Company's classification of the risk.

The Company was deemed to be in apparent violation of the provisions of NCGS 58-33-5 and 58-33-26 as 2 of the applications reviewed (4.0 percent error ratio) were 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) as 3 files reviewed (6.0 percent error ratio) did not contain proper file documentation.

The Company was deemed to be in apparent violation of the provisions of NCGS 58-36-30(a) as 29 policies reviewed (58.0 percent error ratio) contained a total of 42 rating errors. The rating errors consisted of the following:

- The Company failed to charge for Refrigerated Property coverage on 22 policies.
- Various company filed deviations were applied incorrectly on 11 policies.
- Four policies were rated using an incorrect construction factor.
- Incorrect premiums were charged for Water Back-Up coverage on 3 policies.
- An incorrect territory was used to rate 2 policies.

The rating errors resulted in 26 premium undercharges and 2 premium overcharges to the insureds. At the request of the examiners, refunds in the amount of \$103.00 were issued by the Company for the overcharges. The remaining 22 premiums charged were deemed correct.

TERMINATIONS

Overview

The Company's 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 focused on the following lines of business:

1. Private Passenger Automobile
2. 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 11,474 policies were terminated during the period under examination. The examiners randomly selected 158 terminations for review.

Private Passenger Automobile Cancellations

One hundred cancelled private passenger automobile policies were randomly selected and received for review from a population of 11,306.

The review revealed the following reasons for cancellation:

Reason for Cancellation	Number of Policies	Percentage
Nonpayment of premium	69	69.0
Insured's request	25	25.0
Rewritten	3	3.0
Underwriting reasons	2	2.0
Risk no longer eligible	1	1.0
Total	100	100.0

The Company was not required to issue cancellation notices for 28 of the cancellations reviewed as these policies were cancelled at the request of the insured or coverage was rewritten. Cancellation notices for the remaining 72 policies stated the specific reason for cancellation. The Company was reminded of the provisions of NCGS 58-36-85(b) and 11 NCAC 4.0422 as an ineligible reason for cancellation was used to terminate 2 policies reviewed (2.0 percent error ratio). The Company was reminded of the provisions of NCGS 58-36-85(c) as it failed to provide sufficient notice of cancellation for 7 policies reviewed (7.0 percent error ratio).

The Company was reminded of the provisions of NCGS 58-36-30(a) and Rule 10 of the Personal Auto Manual as the return premium was calculated incorrectly for 8 policies reviewed (8.0 percent error ratio). One of the errors resulted in an understatement of refund to the insured. At the request of the examiners, an additional refund was issued in the amount of \$3.94. The remaining premium refunds were deemed correct. The Company issued the refunds in a timely manner.

The Company was reminded of the provisions of NCGS 58-36-85(b)(3) as it did not send a written termination notice for 2 files reviewed (2.0 percent error ratio) for which there

was no written request from the insured to terminate the policy. The Company was reminded of the provisions of NCGS 20-309.2 as the FS-4 was not submitted to the DMV when liability coverages were cancelled for 3 policies reviewed (3.0 percent error ratio).

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

Homeowners Cancellations

Fifty cancelled homeowners policies were randomly selected and received for review from a population of 160.

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	24	48.0
Nonpayment of premium	18	36.0
Underwriting reasons	5	10.0
Coverage rewritten	3	6.0
Total	50	100.0

The Company was not required to issue cancellation notices for 27 of the cancellations reviewed as these policies were cancelled at the request of the insured or the coverage was rewritten. Cancellation notices for the remaining 23 policies stated the specific reason for cancellation. All insureds and mortgagees were given proper and timely notification of cancellation.

The Company was reminded of the policy conditions as the return premium was calculated incorrectly for 2 policies reviewed (4.0 percent error ratio) resulting in understatement of refund to the insureds. At the request of the examiners, the Company

issued additional refunds in the amount of \$67.40. The remaining premium refunds were deemed correct. The Company issued the refunds in a timely manner.

The final area of this review encompassed documentation of the policy file. 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) as 18 files did not contain proof of mailing of the cancellation notice (36.0 percent error ratio).

Private Passenger Automobile Nonrenewals

All nonrenewed private passenger automobile policies were selected and received for review from a population of 7.

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
Risk no longer eligible	6	85.7
Producer no longer represents company	1	14.3
Total	7	100.0

The nonrenewal notices for the policies reviewed stated the specific reason for nonrenewal. The Company was deemed to be in apparent violation of the provisions of NCGS 58-36-85(c) as the notice of nonrenewal was not sent at least 60 days prior to the termination date for 2 policies reviewed (28.6 percent error ratio).

The Company was deemed to be in apparent violation of the provisions of NCGS 20-309.2 as the FS-4 was not submitted to the DMV when liability coverages were nonrenewed for 7 policies reviewed (100 percent error ratio).

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

Homeowners Nonrenewals

All nonrenewed homeowners policies were selected and received for review from a population of 1.

The reason for nonrenewal was deemed valid for the policy reviewed. The review revealed the following reason for nonrenewal:

Reason for Nonrenewal	Number of Policies	Percentage
Underwriting reasons	1	100.0
Total	1	100.0

The nonrenewal notice for the policy reviewed stated the specific reason for nonrenewal. The insured and mortgagee were given proper and timely notification of nonrenewal.

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

Rejected/Declined

The Company reported there were no rejected or declined applications as coverage was bound at point of sale.

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, automobile medical payment, first and third party bodily injury, closed without payment, subrogated, total loss settlement, and litigated claims.

Claims service in North Carolina is under the direction of the Claim Manager and is provided from the corporate office located in Charlotte, North Carolina. The staff is comprised of the Claim Manager, 1 Team Leader/Claim Adjuster, 4 Liability Claim Adjusters and 1 Material Damage Claim Adjuster. The Company has 6 staff adjusters for claim investigation and

settlement. Independent appraisers are used for automobile and homeowners appraisals. Independent adjusters have no check or draft authority. With regard to total losses, a salvage log is maintained and managed on a daily basis by a claim assistant. The Company also uses their salvage vendor website to help with salvage inventory.

Three hundred sixty-three claims were randomly selected for review from a population of 4,028.

Paid Claims

The examiners randomly selected and received 127 of the 1,839 first party automobile physical damage, first party property damage, and third party property damage claims paid during the period under examination. The claim files were reviewed for timeliness of payment, supporting documentation and accuracy of payment.

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

Type of Claim	Payment Time
Automobile physical damage	9.0
First party (excluding automobile physical damage)	15.0
Third party property damage	11.0

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.

First party automobile physical damage claims were not acknowledged in a timely manner for 1 claim (2.0 percent error ratio) and were not appraised in a timely manner for 1 claim (2.0 percent error ratio).

First party property damage claims were not acknowledged in a timely manner for 4 claims (14.8 percent error ratio), were not investigated in a timely manner for 1 claim (3.7 percent error ratio) and were not paid in a timely manner for 1 claim (3.7 percent error ratio).

Third party property damage claims were not acknowledged in a timely manner for 1 claim (2.0 percent error ratio), were not appraised in a timely manner for 2 claims (4.0 percent error ratio) and were not investigated in a timely manner for 1 claim (2.0 percent error ratio). These matters could result in an apparent violation of the provisions of NCGS 58-63-15(11) if the occurrence is of such frequency as to be considered a general business practice.

Automobile Medical Payment Claims

Fifty automobile medical payment claims were randomly selected and received for review from a population of 332. The claim files were reviewed to determine if the Company had engaged in any unfair claims practices. The review of automobile medical payment 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 291. The claim files were reviewed to determine whether the Company had engaged in any unfair claims practices.

Claims were not investigated in a timely manner for 3 claims (6.0 percent error ratio). This matter could result in an apparent violation of the provisions of NCGS 58-63-15(11) if the occurrence is of such frequency as to be considered a general business practice.

Closed Without Payment Claims

Fifty closed without payment claims were randomly selected and received for review from a population of 1,261. The claim files were reviewed to determine if the Company's reasons for closing the claims without payment were valid.

Claims were not denied in a timely manner for 1 claim (2.0 percent error ratio). This matter could result in an apparent violation of the provisions of NCGS 58-63-15(11) if the occurrence is of such frequency as to be considered a general business practice.

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 14 calendar days for the 3-year period.

Subrogated Claims

All subrogated claims were selected and received for review from a population of 32. The claim files were reviewed to determine if the insured's deductible was properly reimbursed by the Company when subrogation was successful.

The insured's deductible was not reimbursed for 3 claims (9.4 percent error ratio). This matter could result in an apparent violation of the provisions of NCGS 58-63-15(11) if the occurrence is of such frequency as to be considered a general business practice. At the request of the examiners, the Company issued checks totaling \$709.75 to the insureds for their deductibles. The remaining reimbursements were deemed to be correct and were issued on a 3-year average of 1 calendar day from the date the Company collected the monies.

Total Loss Settlement Claims

Fifty total loss settlement claims were randomly selected and received for review from a population of 269. The claim files were reviewed to determine if the settlements were equitable and timely.

The Company primarily used CCC Information Services, Inc. in addition to on-site independent adjusters to establish the actual cash value of totaled vehicles. All settlements were deemed equitable.

Claims were not appraised in a timely manner for 5 claims (10.0 percent error ratio). This matter could result in an apparent violation of the provisions of NCGS 58-63-15(11) if the occurrence is of such frequency as to be considered a general business practice.

The Company settled the remaining claims in a timely manner. The payments were issued on a 3-year average of 17 calendar days. No apparent violations of the provisions of NCGS 58-63-15(11), 11 NCAC 4.0418, or 4.0421 were noted during this review.

Litigated Claims

All litigated claims were selected and received for review from a population of 4. 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 violation of the provisions of NCGS 58-63-15.

SUMMARY

The Market Conduct examination revealed the following:

1. Policyholder Treatment

- a. The Company was deemed to be in apparent violation of the provisions of 11 NCAC 19.0103 as 4.5 percent of the consumer complaints reviewed were not listed on the Company's complaint register.
- b. The Company was deemed to be in apparent violation of the provisions of 11 NCAC 19.0102(a), 19.0103, and 19.0106(a)(2) as 18.2 percent of the consumer complaints requested were not provided for review.
- c. The Company was deemed to be in apparent violation of the provisions of 11 NCAC 1.0602 as the responses to 18.2 percent of the Departmental inquiries reviewed were in excess of the 7 calendar day requirement of this rule.
- d. The Company was deemed to be in apparent violation of the provisions of 11 NCAC 4.0123 as 9.1 percent of the responses to a Departmental inquiry did not include its National Association of Insurance Commissioners code.
- e. The Company was deemed to be in apparent violation of the provisions of 11 NCAC 19.0102(a), 19.0103, and 19.0106(a)(2) as 18.2 percent of the consumer complaints reviewed did not contain a copy of the inquiry letter from the Department and/or a copy of the consumer's complaint.

2. Marketing

- a. The Company was deemed to be in apparent violation of the provisions of NCGS 58-3-150 and 11 NCAC 10.1201(c) as the Private Passenger Automobile Policy new business application, declarations page, and consent-to-rate form had not been filed with and approved by the Department.
- b. The Company was deemed to be in apparent violation of the provisions of NCGS 58-3-150 and 11 NCAC 10.1201(c) as its homeowners declarations page had not been filed with and approved by the Department.
- c. The Company was deemed to be in apparent violation of the provisions of NCGS 58-3-150 and 58-39-55(a) as its notice of Adverse Underwriting Decision used for homeowners terminations had not been filed with and approved by the Department.
- d. The Company was reminded of the provisions of 11 NCAC 19.0102(a), and 19.0106(a)(3) as confirmation of appointment was not provided for 2.0 percent of the appointed producers reviewed.
- e. 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 62.0 percent of the producers reviewed.
- f. The Company was deemed to be in apparent violation of the provisions of NCGS 58-33-56(b) as it failed to notify the Department of termination within 30 days for 48.0 percent of the terminated producers reviewed.
- g. The Company was deemed to be in apparent violation of the provisions of 11 NCAC 19.0102(a), and 19.0106(a)(3) as confirmation of termination was not provided for 20.0 percent of the terminated producers reviewed.
- h. 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 to 100 percent of the terminated producers reviewed.

3. Underwriting Practices

- a. The Company was deemed to be in apparent violation of the provisions of NCGS 58-36-30(a) and Rule 22 of the North Carolina Rate Bureau Personal Automobile Manual for a \$2.00 installment fee charge or the waiver of installment fee for premiums paid by electronic funds transfer without being filed with and approved by the Department.
- b. The Company was deemed to be in apparent violation of the provisions of NCGS 58-37-40(f) as it did not include agent compensation in the calculation of the recoupment surcharge for 21.0 percent of the active private passenger automobile policies resulting in an undercharge of the recoupment surcharge.
- c. The Company was deemed to be in apparent violation of the provisions of NCGS 58-33-40 as the producer was not properly appointed by the Company for 7.0 percent of the active private passenger automobile files reviewed.

- d. The Company was reminded of the provisions of 11 NCAC 19.0102(a), 19.0104, and 19.0106(a)(4) as 2.0 percent of the active private passenger automobile files reviewed did not contain a signed consent to rate form.
- e. The Company was reminded of the provisions of 11 NCAC 10.0602(a)(2) as it did not comply with consent to rate procedures on 4.0 percent of the active private passenger automobile files reviewed because the standard rate that would be charged for towing and labor and/or extended transportation coverage, without application of consent to rate, was not indicated on the application.
- f. The Company was deemed to be in apparent violation of the provisions of NCGS 58-37-35(l) and NCGS 58-36-30(a) as 26.0 percent of the active private passenger automobile policies reviewed were rated incorrectly.
- g. The Company was deemed to be in apparent violation of the provisions of NCGS 58-33-5 and 58-33-26 as 4.0 percent of the homeowners applications reviewed were accepted from a producer who was not licensed in North Carolina.
- h. The Company was reminded of the provisions of 11 NCAC 19.0102(a), 19.0104, and 19.0106(a)(4) as 6.0 percent of the active homeowners files reviewed did not contain proper file documentation.
- i. The Company was deemed to be in apparent violation of the provisions of NCGS 58-36-30(a) as 58.0 percent of the active homeowners policies reviewed were rated incorrectly.

4. Terminations

- a. The Company was reminded of the provisions of NCGS 58-36-85(b) and 11 NCAC 4.0422 as an ineligible reason was used to terminate 2.0 percent of the cancelled private passenger automobile policies reviewed.
- b. The Company was reminded of the provisions of NCGS 58-36-85(c) as it failed to provide sufficient notice of cancellation for 7.0 percent of the cancelled private passenger automobile policies reviewed.
- c. The Company was reminded of the provisions of NCGS 58-36-30(a) and Rule 10 of the Personal Auto Manual as the return premium was calculated incorrectly for 8.0 percent of the cancelled private passenger automobile policies reviewed.
- d. The Company was reminded of the provisions of NCGS 58-36-85(b)(3) as it did not send a written termination notice for 2.0 percent of the cancelled private passenger automobile files reviewed for which there was no written request from the insured to terminate the policy.
- e. The Company was reminded of the provisions of NCGS 20-309.2 as 3.0 percent of the cancelled private passenger automobile files reviewed contained no evidence that the North Carolina Notice of Termination Form was submitted to the Division of Motor Vehicles when liability coverages were cancelled.

- f. The Company was reminded of the policy conditions as the return premium was calculated incorrectly for 4.0 percent of the cancelled homeowners policies reviewed.
- g. 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) as proof of mailing of the cancellation notice was not provided for 36.0 percent of the cancelled homeowners policies reviewed.
- h. The Company was deemed to be in apparent violation of the provisions of NCGS 58-36-85(c) as the notice of nonrenewal was not sent at least 60 days prior to the termination date for 28.6 percent of the nonrenewed private passenger automobile policies reviewed.
- i. The Company was deemed to be in apparent 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 private passenger automobile 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 58-3-150	Forms to be approved by the Commissioner.
NCGS 58-7-15	Kinds of insurance authorized.
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.
NCGS 58-36-30	Deviations.
NCGS 58-36-85	Termination of a nonfleet private passenger motor vehicle insurance policy.

NCGS 58-37-35	The Facility; functions; administration.
NCGS 58-37-40	Plan of operation.
NCGS 58-39-25	Notice of insurance information practices.
NCGS 58-39-26	Federal privacy disclosure notice requirements.
NCGS 58-39-27	Privacy notice and disclosure requirement exceptions.
NCGS 58-39-55	Reasons for adverse underwriting decisions.
NCGS 58-63-15	Unfair methods of competition and unfair or deceptive acts or practices defined.
NCGS 20-309.2	Insurer shall notify Division of actions on insurance policies.
11 NCAC 1.0602	Insurance Companies' Response to Departmental Inquiries.
11 NCAC 4.0123	Use of Specific Company Name in Responses.
11 NCAC 4.0418	Total Losses on Motor Vehicles.
11 NCAC 4.0421	Handling of Loss and Claim Payments.
11 NCAC 4.0422	Cancellation of Insurance.
11 NCAC 6A.0412	Appointment of Agent: Responsibility of Company.
11 NCAC 10.0602	Consent to Rate Procedures: Rate Bureau Coverages.
11 NCAC 10.1201	General Requirements.
11 NCAC 19.0102	Maintenance of Records.
11 NCAC 19.0103	Complaint Records.
11 NCAC 19.0104	Policy Records.
11 NCAC 19.0106	Records Required for Examination.

CONCLUSION

An examination has been conducted on the market conduct affairs of The Members Insurance Company for the period January 1, 2008 through December 31, 2010 with analyses of certain operations of the Company being conducted through January 28, 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.

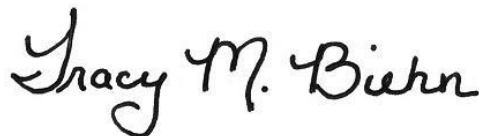
In addition to the undersigned, James P. McQuillan, CPCU, AIT, North Carolina Market Conduct Examiner, and Bill George, CPCU, AIS, North Carolina Market Conduct Assistant Chief Property & Casualty Examiner, participated in this examination.

Respectfully submitted,



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.



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