



Report on

Market Conduct Examination

of the

Occidental Fire and Casualty Company of North Carolina
Raleigh, North Carolina

by Representatives of the
North Carolina Department of Insurance

as of

December 5, 2023

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Raleigh, North Carolina
December 5, 2023

Honorable Mike Causey
Commissioner of Insurance
Department of Insurance
State of North Carolina
Albemarle Building
325 N. Salisbury Street
Raleigh, North Carolina 27603

Honorable Commissioner:

In accordance with the provisions of North Carolina General Statutes (NCGS) 58-2-131 through 58-2-134, a general examination has been made of the market conduct activities of the following entity.

Occidental Fire and Casualty Company of North Carolina (NAIC #23248)

NAIC Exam Tracking System Exam Number: NC-HOWENC-1

Raleigh, North Carolina

(hereinafter generally referred to as the Company)

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

SCOPE OF EXAMINATION

This examination commenced on November 21, 2022, and covered the period of January 1, 2019, through December 31, 2021. All comments made in this report reflect conditions observed during the period of examination.

This 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 focused on the Company's 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 and adjusters who were not properly 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.

EXECUTIVE SUMMARY

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

Marketing Practices – Did not perform background checks on appointed producers; did not send termination letters to producers whose appointments had been terminated.

Underwriting and Rating – Commercial Automobile: Policies rated incorrectly and did not obtain at least two forms of proof of residency or eligible risk status. Homeowners: Policies rated incorrectly.

Terminations – Commercial Automobile Cancellations: Did not provide precise reason for cancellation. Homeowner Nonrenewals: did not maintain proof of mailing.

Claims Practices – Undue delays in settlement; individuals functioning as adjusters without being duly licensed as adjusters.

Specific violations are noted in the appropriate section of this report. All North Carolina General Statutes and North Carolina Administrative Code rules 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, 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.

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

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 for the period under examination was in compliance with provisions of 11 NCAC 19 .0103.

The Company's complaint register was reconciled with a listing provided by the Consumer Services Division of the Department. All twelve complaints from the Department's listing 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	4
Underwriting	3
Total	7

The Company's response to each complaint was deemed to be appropriate to the circumstances. Three complaints were responded to in excess of 7 calendar days, however extensions were requested and granted. All 3 responses were received by the due date.

The average service time to respond to a Departmental complaint was 7.6 calendar days.

A chart of the Company's response time follows:

Service Days	Number of Files	Percentage of Total
1 - 7	4	57.1
8 - 14	1	14.3
15 - 21	2	28.6
Total	7	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 PRACTICES

Policy Forms and Filings

Policy forms and filings for the Company were reviewed to determine compliance with appropriate North Carolina statutes and rules. The following lines of business were reviewed:

1. Commercial Automobile
2. Homeowners

Filings for the commercial automobile line of business were made by the Company. Filings for the homeowner line of business were made by the Company. All homeowner policies are marketed, bound, and serviced by SageSure Insurance Managers LLC (SageSure) on behalf of the Company. SageSure is recognized as the only agent of record for the Company's entire book of homeowners' business in North Carolina.

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 Company provided the examiners with listings of 618 appointed and 38 terminated producers for the period under examination. Fifty appointed producers were randomly selected, and all 38 terminated producers were selected for review.

The Company was deemed to be in violation of 11 NCAC 06A.0412 because the Company did not perform a background check for any of the 50 appointed producers (100 percent error ratio)

The Company was deemed to be in violation of NCGS 58-33-56(d) for not sending a termination of appointment letter all 38 producers (100 percent error ratio).

UNDERWRITING AND RATING

Overview

The Company's marketing in North Carolina is directed to the homeowners' line of business and the commercial auto line of business. The Company provided the examiners with listings of the following types of active policies for the period under examination:

1. Commercial Automobile
2. Homeowners

A random selection of 100 homeowners policies was made from a total population of 9,352. The entire population of 27 commercial automobile policies was selected for review. 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.

Commercial Automobile

The Company's commercial automobile policies are written on an annual basis. Coverages were written utilizing manual rates and deviated rates. Risk placement was determined by the Company's underwriting guidelines and the underwriter.

The Company was deemed to be in violation of NCGS 58-2-164 as all 27 commercial automobile files (100 percent error ratio) did not have at least two forms of proof of residency or eligible risk status.

The Company was deemed to be in violation of NCGS 58-40-30(a) and NCGS 58-41-50(f) as 13 files (48.1 percent error ratio) contained a policy issued with an incorrect premium. Rating errors included:

- Charging the wrong uninsured motorist (UM) or wrong underinsured motorist (UIM) premium
- Assigning an incorrect territory or zone
- Applying an incorrect increased limits factor (ILF)
- Failure to document credits or debits
- Charging an improper premium for "spare" trailers
- Failure to apply the correct driver modification factor
- Failure to establish the proper garaging location

All rating errors resulted in an undercharge in premium.

Homeowners

The Company's homeowner policies are written on an annual basis. Coverages were written utilizing manual rates and deviated rates. Risk placement was determined by the

Company's underwriting guidelines and SageSure, the Company's sole MGA (managing general agent) for its entire North Carolina homeowners' book of business.

The Company was deemed to be in violation of NCGS 58-36-30(a) as 30 files (30.0 percent error ratio) contained a policy that was issued with an incorrect premium. Rating errors included:

- Failure to apply the correct Prime Time factor (Mature Homeowner Deviation)
- Assignment of an incorrect protection class
- Use of an incorrect deductible factor
- Use of an incorrect base rate
- Applying an incorrect protective device credit.

The rating errors resulted in 21 overcharges and nine undercharges in premium. The examiners directed the Company to issue refunds (including statutory interest) totaling \$1,008.98. The refunds were issued prior to the conclusion of the examination.

Due to the incorrect Prime Time factor (Mature Homeowner Deviation), the Company voluntarily initiated steps to conduct a self-audit for the purpose of identifying all policies effective January 1, 2019, and after that were affected by this error. Once the self-audit is completed, the Company will issue any additional refunds to the insureds and report to the Department the total dollar amount refunded (including statutory interest).

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 was based on the following lines of business:

1. Commercial 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 random selection of 50 homeowner cancellations was made from a total population of 2,270. The entire population of 8 commercial automobile cancellations, 4 commercial automobile nonrenewals, and 10 homeowner nonrenewals were selected for review.

Commercial Automobile Cancellations

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	4	50.0
Nonpayment of premium	3	37.5
Underwriting	1	12.5
Total	8	100.0

The Company was not required to issue cancellation notices for four of the cancelled policies reviewed as these policies were cancelled at the request of the insured. Cancellation notices for three of the four remaining policies stated the specific reason for cancellation. The Company was deemed to be in violation of the provisions of NCGS 58-41-15(b) and policy form CA 01 26 10 13, paragraph F.1.2.b., as one commercial automobile policy (12.5 percent error ratio) did not give the precise reason for the cancellation. That cancellation occurred more than 59 days into the policy period for a reason other than what is allowed in the coverage form.

The Company was reminded of the provisions of NCGS 58-41-50(f) as one commercial automobile policy (12.5 percent error ratio) cancellation resulted in the wrong return premium. The examiners directed the Company to issue a refund (including statutory interest) for \$38.64. The refund was issued prior to the conclusion of the examination.

Homeowners Cancellations

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	26	52.0
Nonpayment of premium	8	16.0
Adverse Underwriting Decision	8	16.0
Rewrite	8	16.0
Total	50	100.0

The Company was not required to issue cancellation notices for 26 of the cancelled policies reviewed as these policies were cancelled at the request of the insured. Cancellation notices for the remaining 24 policies stated the specific reason for cancellation.

The Company was reminded of the provisions of 11 NCAC 19 .0102 and 11 NCAC 19 .0104 as two homeowner files (4.0 percent error ratio) did not include proof-of-mailing.

The Company was reminded of the provisions of Form HO 00 03 05 11, SECTIONS I and II – CONDITIONS as one homeowner file (2.0 percent error ratio) included a cancellation notice that did not provide the minimum 30-day notice.

Commercial Automobile Nonrenewal

The reasons for nonrenewal were deemed valid for all four policies reviewed. The review revealed the following reasons for nonrenewal:

Reason for Nonrenewal	Number of Policies	Percentage
Underwriting reasons	2	50.0
Agent No Longer Represents Company	2	50.0
Total	4	100.0

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

Homeowners Nonrenewal

The reason for nonrenewal was deemed valid for all policies reviewed. The review revealed the following reasons for nonrenewal:

Reason for Nonrenewal	Number of Policies	Percentage
Underwriting reasons	10	100.0
Total	10	100.0

The Company was deemed to be in violation of 11 NCAC 19 .0102 and 11 NCAC 19 .0104 as two homeowner files (20.0 percent error ratio) did not include proof-of-mailing.

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 license status for each claim adjuster was reviewed to determine if the adjuster was properly licensed at the time of the claim handling. A random selection of 50 homeowners and commercial automobile closed without payment claims were selected for review from a total population of 102. A random selection of 50 first party homeowner property damage claims were selected for review from total population of 190. The entire population of 8 commercial automobile first party physical damage claims, 24 commercial automobile third party property damage claims, six commercial automobile total loss claims, and five commercial automobile subrogated claims were selected for review.

Paid Claims

The claim files were reviewed to determine compliance with NCGS 58-63-15(11) for timeliness of payment, supporting documentation, and accuracy of payment.

For the claims reviewed, the average payment time is noted in calendar days:

Type of Claim	Payment Time
Commercial Automobile physical damage	15.0
Commercial Automobile third party property damage	15.0
Homeowner First party property damage	32.0

Documentation consisted of appraisals, estimates, repair bills, and adjusters' notes. Each file reviewed contained documentation necessary to support the Company's payments. Deductibles were correctly applied, and depreciation taken was reasonable.

The review of the commercial automobile physical damage claims and the commercial automobile third party property damage claims disclosed no violations.

In review of the homeowner first party property damage claims, the Company was deemed to be in violation of NCGS 58-3-130 and NCGS 58-33-120 as one file (2.0 percent error ratio) had a person functioning as a claims adjuster without being duly licensed as an adjuster.

The Company was deemed to be in violation of NCGS 58-63-15 as 13 homeowners first party property damage claims files (26.0 percent error ratio) reflected an undue delay in handling/settling the claim.

Closed Without Payment

The claim files were reviewed to determine compliance with NCGS 58-63-15(11) for timeliness of handling, valid reason for denial, and supporting documentation.

The Company was deemed to be in violation of NCGS 58-3-130 and NCGS 58-33-120 as one file (2.0 percent error ratio) had a person functioning as a claims adjuster without being duly licensed as an adjuster.

The Company was also deemed to be in violation of NCGS 58-63-15 as 10 files (20.0 percent error ratio) reflected undue delay in the handling of the claim.

Total Loss Settlements

The claim files were reviewed to determine compliance with NCGS 58-63-15(11) for timeliness of handling, valid total loss offers, and supporting documentation.

The review of the total loss settlement claims disclosed no violations.

Subrogation

The claim files were reviewed to determine compliance with NCGS 58-63-15(11) for timeliness of handling, return of deductible (if applicable), and supporting documentation.

The review of the subrogation claims disclosed no violations.

COMMENTS, RECOMMENDATIONS, AND DIRECTIVES

The Company is directed to obtain background checks on producers prior to appointing them with the Company. The Company must send a termination of appointment notice to all terminated producers. The Company must be sure to obtain and retain in the file at least two forms of proof of residency or eligible risk status for all commercial automobile policies. The Company must calculate and charge the correct premiums for commercial auto policies by using the correct base rates, territories/zones, radius, garaging locations, and other rating factors. The Company must calculate and charge the correct premiums for homeowner policies by using the correct protection class, deductible factor, base rate, protective device factor, Prime Time factor, and other rating factors. The Company is directed to provide the precise reason for cancelling commercial automobile policies. The Company must maintain proof of mailing for all homeowner nonrenewal notices. The Company must ensure that all persons functioning as an adjuster are duly licensed. The Company must settle claims without an undue delay.

Upon acceptance of the Report the Company shall provide the Department with a statement of corrective actions to address the violations identified during the examination. The Department will conduct a future investigation, if warranted, to determine if the Company successfully implemented its statement of corrective actions.

CONCLUSION

An examination has been conducted on the market conduct affairs of Occidental Fire and Casualty Company of North Carolina for the period January 1, 2019, through December 31, 2021.

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 Company's operations in the areas of marketing, underwriting, terminations, and claims practices.

In addition to the undersigned, Jeffrey O'Bannon, MCM, North Carolina Market Conduct Examiner II, participated in this examination.

Respectfully submitted,



Larry R. Cook, CPCU, AU, ARe, ARM, AIM, AMIM,
AIAF, AIC, ARC, AAI, 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