

REPORT ON  
MARKET CONDUCT EXAMINATION

of the

THE OHIO CASUALTY INSURANCE COMPANY  
OHIO SECURITY INSURANCE COMPANY  
WEST AMERICAN INSURANCE COMPANY  
AMERICAN FIRE AND CASUALTY COMPANY

Fairfield, Ohio

BY REPRESENTATIVES OF THE  
NORTH CAROLINA DEPARTMENT OF INSURANCE

as of

August 2, 2010

---

---



TABLE OF CONTENTS

SALUTATION ..... 1

FOREWORD ..... 2

SCOPE OF EXAMINATION..... 2

    Previous Examination Findings .....3

EXECUTIVE SUMMARY..... 3

POLICYHOLDER TREATMENT ..... 4

    Consumer Complaints.....4

UNDERWRITING AND RATING..... 5

    Private Passenger Automobile .....5

    Commercial Multiple Peril.....6

TERMINATIONS..... 6

    Commercial Multiple Peril Nonrenewals .....6

SUMMARY..... 7

TABLE OF STATUTES AND RULES..... 8

CONCLUSION ..... 8

Raleigh, North Carolina  
August 2, 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 Joseph G. Murphy  
Commissioner of Insurance  
State of Massachusetts  
1000 Washington Street, 8<sup>th</sup> Floor  
Boston, Massachusetts 02118-2218

Honorable Mary Jo Hudson  
Director of Insurance  
Ohio Department of Insurance  
50 West Town Street, Suite 300  
Columbus, Ohio 43215

Honorable Carol Cutter  
Commissioner of Insurance  
Department of Insurance  
State of Indiana  
311 West Washington Street, Suite 300  
Indianapolis, Indiana 46204

Honorable Commissioners:

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

**THE OHIO CASUALTY INSURANCE COMPANY (NAIC # 24074)**  
**OHIO SECURITY INSURANCE COMPANY (NAIC # 24082)**  
**WEST AMERICAN INSURANCE COMPANY (NAIC # 44393)**  
**AMERICAN FIRE AND CASUALTY COMPANY (NAIC #24066)**  
NAIC Exam Tracking System Exam Number: NC170-M66  
Fairfield, Ohio

hereinafter generally referred to as the Company, at the North Carolina Department of Insurance (Department) office located at 11 S. Boylan Raleigh, North Carolina. A report thereon is respectfully submitted.

## **FOREWORD**

This examination reflects the North Carolina insurance activities of The Ohio Casualty Insurance Company, Ohio Security Insurance Company, West American Insurance Company, and American Fire and Casualty 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 April 19, 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 26, 2010. This action was taken due to previous examination findings referenced in the Market Conduct Report of April 24, 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, 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 compliance examination covering the period January 1, 2005 through December 31, 2005 was performed on the Company and a report dated April 24, 2008 was issued. The compliance examination report identified concerns in the areas of policyholder treatment, 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 area:

*Underwriting and Rating* – Private passenger automobile: incorrect recoupment surcharge. Commercial multiple peril: received applications from producers not appointed by the Company.

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).

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 again deemed to be in apparent violation of the provisions of 11 NCAC 1.0602 as the response time to 9.5 percent of the Departmental inquiries reviewed exceeded the 7 calendar day requirement of this rule.
- The Company was again deemed to be in apparent violation of the provisions of 11 NCAC 4.0123 as the response to 19.0 percent of the Departmental inquiries reviewed did not include its NAIC company code.

The Company's complaint register was reconciled with a listing furnished by the Consumer Services Division of the Department. All 10 consumer complaints contained in the Department's listing were 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 1.0602 as the response time to all Departmental inquiries was within the 7 calendar day requirement of this rule.
- The Company was deemed to be in compliance with the provisions of 11 NCAC 4.0123 as the response to all of the Departmental inquiries reviewed included its NAIC company code.

The average service time to respond to a Departmental inquiry was 5.2 calendar days.

A chart of the Company's response time follows:

Service Days	Number of Files	Percentage of Total
1 - 7	10	100
<b>Total</b>	<b>10</b>	<b>100</b>

## UNDERWRITING AND RATING

### Private Passenger Automobile

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

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

- The Company was again deemed to be in apparent violation of the provisions of NCGS 58-36-30(a) as 74.0 percent of the policies reviewed contained rating errors.

The Company provided a listing of 5,612 active private passenger automobile policies issued during the period under examination. One hundred policies were randomly selected and received for review. **The current examination revealed the following:**

- The Company was reminded of the provisions of NCGS 58-36-30(a) as the premiums on 3 of the active private passenger automobile policies reviewed (3.0 percent error ratio) were calculated incorrectly. Errors referenced:
  1. Reduction applied in error on collision coverage premium for a pre-1990 non-symbolized vehicle. (1) undercharge
  2. Incorrect physical damage base rates applied. (2) overcharges
- The Company was deemed to be in apparent violation of the provision of NCGS 58-37-40 as the recoupment surcharge applied on 30 active private passenger automobile policies reviewed (30.0 percent error ratio) was incorrect resulting in undercharges to the insureds.
- The Company was reminded of the provisions of NCGS 58-63-15(1) as 4 policy declarations pages (4.0 percent error ratio) inaccurately stated that the premium included a "pickup discount" that did not exist.



At the request of the examiners, refunds in the amount of \$96.00 were reimbursed to the insureds during the course of the examination.

### Commercial Multiple Peril

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

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

- The Company was deemed to be in apparent violation of the provisions of NCGS 58-41-50(b) as it applied commercial fire loss costs to 92.0 percent of the policies reviewed without a proper notification to the Department.

The Company provided a listing of 12 active commercial multiple peril policies issued during the period under examination. All policies were selected and received for review. **The**

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

- The Company was deemed to be in compliance with the provisions of NCGS 58-41-50(b) as the commercial fire loss costs were filed by the Company and approved by the Department.
- The Company was deemed to be in apparent violation of the provisions of NCGS 58-33-40(h) as 4 commercial multiple peril policy applications (33.3 percent error ratio) were accepted from producers not appointed by the Company.

## **TERMINATIONS**

### Commercial Multiple Peril Nonrenewals

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

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

- The Company was again deemed to be in apparent violation of the provisions of NCGS 58-41-20 as 14.0 percent of the commercial multiple peril nonrenewals reviewed did not state the precise reason for nonrenewal.

The Company provided a listing of 150 commercial multiple peril 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 NCGS 58-41-20 as all commercial multiple peril nonrenewals reviewed stated the precise reason for nonrenewal.

### **SUMMARY**

This compliance examination was undertaken to review and update the status of issues referenced in the Market Conduct Report of April 24, 2008. The current examination revealed the following:

1. Underwriting and Rating

- a. The Company was reminded of the provisions of NCGS 58-36-30(a) as the premiums on 3.0 percent of the active private passenger automobile policies reviewed were calculated incorrectly.
- b. The Company was deemed to be in apparent violation of the provisions of NCGS 58-37-40 as the recoupment surcharge applied on 30.0 percent of the active private passenger automobile policies reviewed was incorrect.
- c. The Company was reminded of the provisions of NCGS 58-63-15(1) as 4.0 percent of the declaration pages reviewed inaccurately reflected a discount that did not exist.
- d. The Company was deemed to be in apparent violation of the provisions of NCGS 58-33-40(h) as 33.3 percent of the commercial multiple peril policy applications reviewed were accepted from producers not appointed by the Company.

## 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 58-33-40	Appointment of agents.
NCGS 58-36-30	Deviations.
NCGS 58-37-40	Plan of operation.
NCGS 58-41-20	Notice of nonrenewal, premium rate increase, or change in coverage required.
NCGS 58-41-50	Policy form and rate filings; punitive damages; data required to support filings.
NCGS 58-63-15	Unfair methods of competition and unfair or deceptive acts or practices defined.
11 NCAC 1.0602	Insurance Companies' Response to Departmental Inquiries.
11 NCAC 4.0123	Use of Specific Company Name in Responses.

## CONCLUSION

A compliance examination has been conducted on the market conduct affairs of The Ohio Casualty Insurance Company, Ohio Security Insurance Company, West American Insurance Company, and American Fire and Casualty Company for the period January 1, 2009 through December 31, 2009 with analyses of certain operations of the Company being conducted through July 26, 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, underwriting and rating, and terminations.

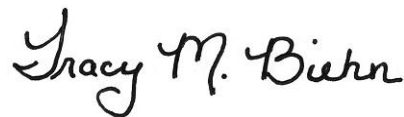
In addition to the undersigned, Gary Jones, North Carolina Market Conduct Examiner, participated in this examination and in the preparation of this report.

Respectfully submitted,

A handwritten signature in black ink that reads "Bill George". The signature is written in a cursive style with a large, prominent initial "B".

Bill George, AIS  
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.

A handwritten signature in black ink that reads "Tracy M. Biehn". The signature is written in a cursive style with a large, prominent initial "T".

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