

Report on

Market Conduct Examination

of the

Peak Property and Casualty Insurance Corporation

Stevens Point, Wisconsin

by Representatives of the

North Carolina Department of Insurance

as of

September 13, 2013

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Raleigh, North Carolina
September 13, 2013

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Honorable Ted Nickel
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Honorable Commissioners:

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

Peak Property and Casualty Insurance Corporation (NAIC #18139)
NAIC Exam Tracking System Exam Number: NC299-M22
Stevens Point, Wisconsin

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 Peak Property and Casualty Insurance Corporation. 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 concerns were omitted.

SCOPE OF EXAMINATION

This examination commenced on December 31, 2012, and covered the period of January 1, 2007, through December 31, 2011, with analyses of certain operations of the Company being conducted through August 14, 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 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 a 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 area:

Consumer Complaints – response time to Departmental inquiries.

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 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 Company was incorporated in North Carolina on August 16, 1985, as General Electric Residential Mortgage Corporation and commenced business on August 29, 1985. The Company’s name was changed to Peak Property and Casualty Insurance Corporation (Peak) on July 10, 1991. On November 16, 1993, the Company was acquired from GE Capital Mortgage Corporation by Guaranty National Insurance Company (GNIC) and was redomiciled

in the state of Colorado. On November 16, 1999, Royal & Sun Alliance Insurance Group (RSA) purchased Orion Auto, Inc. and all of its subsidiaries, including GNIC and its subsidiaries. In March 2005, RSA transferred the direct ownership of Peak from GNIC to Viking Insurance Company of Wisconsin (Viking).

On November 1, 2005, Sentry Insurance, a Mutual Company (Sentry), acquired 100% indirect ownership of Peak in connection with an acquisition of Viking from Royal & Sun Alliance USA, Inc. On December 15, 2006, Peak redomesticated from the state of Colorado to the state of Wisconsin.

Under an administrative services agreement, Sentry furnishes the Company underwriting, policy issuance, financial reporting, tax compliance, customer service, agent support, marketing, legal, claims, actuarial, and other services. The Company's home office is located at 1800 North Point Drive, Stevens Point, Wisconsin.

Company Operations and Management

The Company writes private passenger automobile insurance. It is licensed in 39 states and the District of Columbia, and distributes its products through an independent agency force using standard contract forms and commission schedules.

Direct written premium for the Company's 2011 countrywide property and casualty operations was \$229,802,466. North Carolina's production for the same period was \$46,054,716. Premiums written in North Carolina between 2007 and 2011 increased approximately 35.6 percent. The charts below outline the Company's mix of business for selected lines in 2011 and loss ratios in North Carolina for the examination period.

Line of Business	Written Premium	Percentage
Private Passenger Automobile Liability	\$28,171,598	61.2
Private Passenger Automobile Physical Damage	\$17,883,118	38.8
Total	\$46,054,716	100.0

Year	Written Premium	Earned Premium	Incurred Losses	Loss Ratio
2007	\$ 33,960,452	\$ 34,519,625	\$ 29,941,673	86.7
2008	\$ 32,830,935	\$ 33,144,274	\$ 28,830,833	87.0
2009	\$ 38,104,287	\$ 36,579,031	\$ 36,811,477	100.6
2010	\$ 44,268,087	\$ 43,157,227	\$ 42,742,132	99.0
2011	\$ 46,054,716	\$ 45,464,159	\$ 39,087,262	86.0

Certificate of Authority

The Certificate of Authority issued to the Company was reviewed for the period under examination. The certificate was 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

The purpose of business continuity/disaster recovery is to enable the business to continue providing critical services to their customers in the event of a disaster and to recover from any interruption to their information systems.

The overall disaster recovery goal at Sentry is to minimize system downtime and loss of data by maintaining a disaster recovery site and print-to-mail recovery site. These sites can be fully configured and ready to operate in a minimal amount of time. They provide redundancy for all hardware platforms, data storage, network, telecommunications infrastructure, and print operations.

In addition to recovery of critical technical operations, a business continuity strategy is in place that includes development and maintenance of business and technical plans to ensure the continuance of critical business functions at the time of disaster.

Rate Evasion Procedures

The Company has established procedures to address nonfleet private passenger automobile insurance rate evasion fraud by identifying any ineligible risk as defined in NCGS

58-37-1(4a) and verifying residency of the policyholder who owns a motor vehicle registered or principally garaged in North Carolina. The Company was found to be in compliance with the provisions of NCGS 58-2-164.

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 provided by the Consumer Services Division of the Department. The Company's complaint register was in compliance with provisions of Title 11 of the North Carolina Administrative Code, (NCAC), Chapter 19, Section 0103.

Fifty of the 263 complaints from the Department's listing were randomly selected for review. The distribution of complaints requiring a response to the Department is shown in the chart below.

Type of Complaint	Total
Claims	41
Underwriting	6
Administrative	3
Total	50

The Company's response to each complaint was deemed to be appropriate to the circumstances. The Company was deemed to be in violation of the provisions of 11 NCAC 1.0602 as two of the complaints reviewed (4.0 percent error ratio) were responded to in excess of the seven calendar day requirement of this rule.

The average service time to respond to a Departmental complaint was seven calendar days. A chart of the Company's response time follows:

Service Days	Number of Files	Percentage of Total
1 - 7	48	96.0
8 - 14	1	2.0
15 - 28	1	2.0
Total	50	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. Filings for the private passenger automobile line of business were made by the Insurance Services Office (ISO) on the Company's behalf. Deviations for this line of business were made to the Department by the Company.

Sales and Advertising

The Company's sales and advertising practices were reviewed to determine compliance with the provisions of NCGS 58-63-15.

The examiners reviewed bulletins and brochures that are provided to producers for their own informational purposes. The Company reported it does not actively advertise in North Carolina.

No unfair or deceptive trade practices were noted in this segment of the examination.

Social Media

The Company reported it does not currently use social media outlets for marketing or advertising purposes. However, the parent Company, Sentry, utilizes Facebook, WordPress Blog, Twitter, LinkedIn, and GooglePlus to promote the corporate name and brands. The Company does not specifically advertise products via social media. In addition, the Company's producer agreement prohibits the agent from using the Company's name or logo in any advertisement or advertising without advance written permission.

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 for review from populations of 2,219 and 2,925, respectively.

All appointment and termination forms reviewed were submitted to the Department in accordance with the timetables stipulated under the provisions of NCGS 58-33-40 and 58-33-56.

Agency Management

The marketing effort in North Carolina is under the direction of the Regional Agency Sales Manager located at the regional office in Virginia. The Company has 694 active agencies with approximately 4,098 appointed producers in North Carolina.

There are three Agency Sales Managers in North Carolina that are responsible for discussing agency performance with producers. Formal agency reviews are not conducted annually by the Agency Sales Managers, but agency performance is discussed on a regular basis.

UNDERWRITING PRACTICES

Overview

The Company's marketing philosophy in North Carolina is directed to the private passenger automobile line of business. The Company's private passenger automobile policies were 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 173,472 active private passenger automobile policies issued during the period under examination. One hundred policies were randomly selected for review.

The Company's private passenger automobile policies were written on a six or twelve month basis. Liability coverages were written utilizing manual rates. Physical damage coverages were written using both manual rates and 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 reminded of the provisions of 11 NCAC 19.0102(a) and 19.0106(a)(3)(g) as the Company was not able to identify the producer for two policy files reviewed (2.0 percent error ratio).

The Company was reminded of the provisions of NCGS 58-36-30(a), 58-37-35(l), and 58-41-50(f) as the premiums on five policy files reviewed were calculated incorrectly (5.0 percent error ratio). The rating errors consisted of the following:

- Inexperienced Operator Surcharge was not correctly applied on three policies.
- Liability premiums were calculated incorrectly on two policies.

The rating errors resulted in four premium undercharges and one premium overcharge to the insureds. A refund in the amount of \$32.00 was issued by the Company for the overcharge. The remaining premiums charged were deemed correct.

TERMINATIONS

Overview

The Company's termination procedures for its private passenger automobile policies were reviewed to determine compliance with the appropriate North Carolina statutes and rules, policy provisions, and the applicable policy manual rules. 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 132,590 policies were terminated during the period under examination. The examiners randomly selected 150 terminations for review.

Private Passenger Automobile Cancellations

One hundred cancelled private passenger automobile policies were randomly selected for review from a population of 131,314.

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	82	82.0
Finance company request	8	8.0
Insured's request	7	7.0
Rewritten	2	2.0
Underwriting reasons	1	1.0
Total	100	100.0

The Company was not required to issue cancellation notices for 17 of the cancellations reviewed as these policies were cancelled at the request of the insured or finance company, or coverage was rewritten.

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

The final area of this review encompassed documentation of the policy file. All policy files reviewed contained sufficient documentation to support the action taken by the Company. The Company sent the North Carolina Notice of Termination Form (FS-4) to the North Carolina Division of Motor Vehicles (DMV) when liability coverages were cancelled. The Company was deemed to be in compliance with the provisions of NCGS 20-309.

Private Passenger Automobile Nonrenewals

Fifty nonrenewed private passenger automobile policies were randomly selected for review from a population of 1,276. 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	44	88.0
Underwriting reasons	5	10.0
Risk no longer eligible	1	2.0
Total	50	100.0

The nonrenewal notices for the policies reviewed stated the specific reason for nonrenewal.

The final area of this review encompassed documentation of the policy file. The Company sent the FS-4 to the DMV when liability coverage was nonrenewed. The Company was deemed to be in compliance with the provisions of NCGS 20-309.

Declinations/Rejections

The Company reported that no applications were declined/rejected during the period under examination.

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 Senior Director - Claims located in Stevens Point, Wisconsin. Claims services are provided by Company adjusters located in the Goldsboro, North Carolina branch office.

Company and independent adjusters provide the claims service. Independent adjusters have no check or draft authority. The Company agency force does not adjust any claims and does not have claims draft authority.

Seven hundred claims were randomly selected for review from a population of 65,087.

Paid Claims

The examiners randomly selected 200 of the 35,344 first party automobile physical 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	20.0
Third party property damage	23.0

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 claims were not investigated in a timely manner for two claims (2.0 percent error ratio). First party claims were not appraised in a timely manner for one claim (1.0 percent error ratio). First party claims were not paid in a timely manner for three claims (3.0 percent error ratio). Third party claims were not acknowledged in a timely manner for one claim (1.0 percent error ratio). Third party claims were not appraised in a timely manner for one claim (1.0 percent error ratio). This matter could result in a 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

One hundred automobile medical payment claims were randomly selected for review from a population of 5,669. The claim files were reviewed to determine if the Company had engaged in any unfair claims practices. Automobile medical payment claims were not investigated in a timely manner for one claim (1.0 percent error ratio). This matter could result in a 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.

First and Third Party Bodily Injury Claims

One hundred first and third party bodily injury claims were randomly selected for review from a population of 8,548. The claim files were reviewed to determine whether the Company had engaged in any unfair claims practices. First and third party bodily injury claims were not investigated in a timely manner for seven claims (7.0 percent error ratio). This matter could result in a 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

One hundred closed without payment claims were randomly selected for review from a population of 5,339. The claim files were reviewed to determine if the Company's reasons for closing the claims without payment were valid.

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 19 calendar days for the 5-year period. The review of closed without payment claims disclosed no violations of the provisions of NCGS 58-63-15.

Subrogated Claims

Fifty subrogated claims were randomly selected for review from a population of 2,104. The claim files were reviewed to determine if the insured's deductible was properly reimbursed by the Company when subrogation was successful.

All reimbursements were deemed to be correct and were issued on a 5-year average of one calendar day from the date the Company collected the monies. The review of subrogated claims disclosed no violations of the provisions of NCGS 58-63-15(11).

Total Loss Settlement Claims

One hundred total loss settlement claims were randomly selected for review from a population of 7,657. 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. The Company settled all claims in a timely manner. The payments were issued on a 5-year average of 21 calendar days. No violations of the provisions of NCGS 58-63-15(11)(h), 11 NCAC 4.0418 or 4.0421 were noted during this review.

Litigated Claims

Fifty litigated claims were randomly selected for review from a population of 426. The claim files were reviewed to determine if the Company had engaged in any unfair claims practices. The review of litigated claims disclosed no violations of the provisions of NCGS 58-63-15(11).

SUMMARY

The Market Conduct examination revealed the following:

1. Policyholder Treatment
 - a. The Company was deemed to be in violation of the provisions of 11 NCAC 1.0602 as the responses to 4.0 percent of the Departmental inquiries reviewed were in excess of the seven calendar day requirement of this rule.
2. Underwriting Practices
 - a. The Company was reminded of the provisions of 11 NCAC 19.0102(a) and 19.0106(a)(3)(g) as the Company was unable to identify the producer for 2.0 percent of the active private passenger automobile files reviewed.
 - b. The Company was reminded of the provisions of NCGS 58-36-30(a), 58-37-35(l), and 58-41-50(f) as 5.0 percent of the active private passenger automobile policies reviewed were rated incorrectly.

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 58-2-164	Rate evasion fraud; prevention programs
NCGS 58-7-15	Kinds of insurance authorized.
NCGS 58-33-40	Appointment of agents.

NCGS 58-33-56	Notification to Commissioner of termination.
NCGS 58-36-30	Deviations.
NCGS 58-37-1	Definitions.
NCGS 58-37-35	The Facility; functions; administration.
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 58-41-50	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.
NCGS 20-309	Motor vehicle registration.
11 NCAC 1.0602	Insurance Companies' Response to Departmental Inquiries.
11 NCAC 4.0418	Total Losses on Motor Vehicles.
11 NCAC 4.0421	Handling of Loss and Claim Payments.
11 NCAC 19.0102	Maintenance of Records.
11 NCAC 19.0103	Complaint Records.
11 NCAC 19.0106	Records Required for Examination.

CONCLUSION

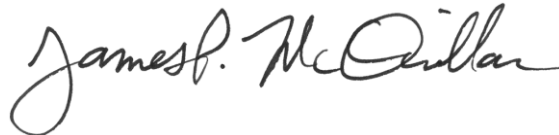
An examination has been conducted on the market conduct affairs of Peak Property and Casualty Insurance Corporation for the period January 1, 2007, through December 31, 2011, with analyses of certain operations of the Company being conducted through August 14, 2013.

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.

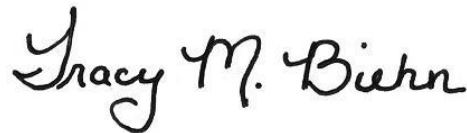
In addition to the undersigned, Gina Abate, North Carolina Market Conduct Examiner, participated in this examination and in the preparation of this report.

Respectfully submitted,

A handwritten signature in black ink that reads "James P. McQuillan". The signature is written in a cursive style with a large, looped initial "J".

James P. McQuillan, CPCU, AIT
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, looped initial "T".

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