

REPORT ON  
MARKET CONDUCT EXAMINATION

of the

PROGRESSIVE AMERICAN INSURANCE COMPANY  
PROGRESSIVE SOUTHEASTERN INSURANCE COMPANY

Mayfield Village, Ohio

BY REPRESENTATIVES OF THE  
NORTH CAROLINA DEPARTMENT OF INSURANCE

as of

May 18, 2010

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Raleigh, North Carolina  
May 18, 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 Kevin McCarty  
Commissioner of Insurance  
Office of Insurance Regulation  
State of Florida  
J. Edwin Larson Building, Room 101A  
200 East Gaines Street  
Tallahassee, Florida 32399-0301

Honorable Carol Cutter  
Commissioner of Insurance  
Department of Insurance  
State of Indiana  
311 West Washington Street, Suite 300  
Indianapolis, Indiana 46204-2787

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

**PROGRESSIVE AMERICAN INSURANCE COMPANY (NAIC #24252)**  
**PROGRESSIVE SOUTHEASTERN INSURANCE COMPANY (NAIC #38784)**

NAIC Exam Tracking System Exam Number: NC170-M82  
Mayfield Village, 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 Progressive American Insurance Company and Progressive Southeastern 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 compliance examination commenced on April 5, 2010 and covered the period of January 1, 2009 through December 31, 2009 with analyses of certain operations of the Company being conducted through May 10, 2010. This action was taken due to previous examination findings referenced in the Market Conduct Report of July 17, 2007.

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 underwriting and rating.

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 target examination covering the period January 1, 2003 through December 31, 2005 was performed on the Company and a report dated July 17, 2007 was issued. The target

examination report identified concerns in the area of underwriting and rating. 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: rating errors and use of an unfiled deviation on comprehensive and collision coverages.

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.

## **UNDERWRITING AND RATING**

### Private Passenger Automobile

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

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

- The Company was deemed to be in apparent violation of the provisions of NCGS 58-36-30(a) and 58-37-35(l) as the premiums for 16.0 percent of the active private passenger automobile policies reviewed were calculated incorrectly.
- The Company was deemed to be in apparent violation of the provisions of NCGS 58-36-30(a) as the private passenger automobile comprehensive coverage premiums charged on 8.0 percent of the policies reviewed were below manual premium for which no downward deviation had been filed with the Department.

The Company furnished a listing of 16,913 active private passenger automobile policies issued during the period of time subject to this examination. The examiners randomly selected and received 100 policies for review. Each policy was reviewed for adherence to underwriting guidelines, premium determination, and policy file documentation. **The current examination revealed the following:**

- The Company was again deemed to be in apparent violation of the provisions of NCGS 58-36-30(a) and 58-37-35(l) as the premiums for 14 active private passenger automobile policies reviewed (14.0 percent error ratio) were calculated incorrectly and contained the following errors:
  - "clean rates" applied in error. (1 undercharge)
  - Inexperience operator charge not made. (13 undercharges)
- The Company was again deemed to be in apparent violation of the provisions of NCGS 58-36-30(a) as the comprehensive coverage premium (1 policy) and the collision coverage premium (2 policies) for 3 active private passenger automobile

policies reviewed (3.0 percent error ratio), were below manual premium for which no downward deviation had been filed with the Department.

### SUMMARY

This compliance examination was undertaken to review and update the status of issues referenced in the Market Conduct Report of July 17, 2007. The current examination revealed the following:

#### 1. Underwriting and Rating

- a. The Company was again deemed to be in apparent violation of the provisions of NCGS 58-36-30(a) and 58-37-35(l) as the premiums for 14.0 percent of the active private passenger automobile policies reviewed were calculated incorrectly.
- b. The Company was again deemed to be in apparent violation of the provisions of NCGS 58-36-30(a) as the comprehensive and collision coverage premiums for 3.0 percent of the active private passenger automobile policies reviewed were below manual premium for which no downward deviation had been filed with the Department.

### 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 58-36-30	Deviations.
NCGS 58-37-35	The Facility; functions; administration.

### CONCLUSION

A compliance examination has been conducted on the market conduct affairs of Progressive American Insurance Company and Progressive Southeastern Insurance Company for the period January 1, 2009 through December 31, 2009 with analyses of certain operations of the Company being conducted through May 10, 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 area of underwriting and rating.

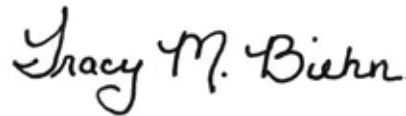
In addition to the undersigned, Gary Jones and Gina Abate, North Carolina Market Conduct Examiners, participated in this examination and in the preparation of this report.

Respectfully submitted,

A handwritten signature in black ink that reads "Bill George". The signature is written in a cursive, flowing style.

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, flowing style.

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