

**DEPARTMENT OF INSURANCE, FINANCIAL
INSTITUTIONS AND PROFESSIONAL REGISTRATION**

P.O. Box 690, Jefferson City, Mo. 65102-0690

In Re:)
) **Market Conduct Exam**
VICTORIA AUTOMOBILE) **No. 0810-15-TGT**
INSURANCE COMPANY (NAIC # 10644))

ORDER OF THE DIRECTOR

NOW, on this 5TH day of DECEMBER, 2012, Director John M. Huff, after consideration and review of the market conduct examination report of Victoria Automobile Insurance Company (NAIC #10644), (hereafter referred to as “the Company”) report numbered 0810-15 -TGT, prepared and submitted by the Division of Insurance Market Regulation pursuant to §374.205.3(3)(a), RSMo, and the Stipulation of Settlement (“Stipulation”), does hereby adopt such report as filed. After consideration and review of the Stipulation, report, relevant workpapers, and any written submissions or rebuttals, the findings and conclusions of such report is deemed to be the Director’s findings and conclusions accompanying this order pursuant to §374.205.3(4), RSMo.

This order, issued pursuant to §§374.205.3(4) and 374.280, RSMo and §374.046.15. RSMo (Cum. Supp. 2011), is in the public interest

IT IS THEREFORE ORDERED that, the Company and the Division of Insurance Market Regulation having agreed to the Stipulation, the Director does hereby approve and agree to the Stipulation.

IT IS FURTHER ORDERED that the Company shall not engage in any of the violations of law and regulations set forth in the Stipulation and shall implement procedures to place the Company in full compliance with the requirements in the Stipulation and the statutes and regulations of the State of

Missouri and to maintain those corrective actions at all times

IT IS FURTHER ORDERED that the Company shall pay, and the Department of Insurance, Financial Institutions and Professional Registration, State of Missouri, shall accept, the Voluntary Forfeiture of \$60,908.00, payable to the Missouri State School Fund.

IT IS SO ORDERED.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the seal of my office in Jefferson City, Missouri, this 5th day of DECEMBER, 2012.



John M. Huff
Director

**IN THE DEPARTMENT OF INSURANCE, FINANCIAL
INSTITUTIONS AND PROFESSIONAL REGISTRATION
STATE OF MISSOURI**

In Re:)
)
VICTORIA AUTOMOBILE) **Market Conduct Exam**
INSURANCE COMPANY (NAIC # 10644)) **No. 0810-15-TGT**
)
)

**STIPULATION OF SETTLEMENT
AND VOLUNTARY FORFEITURE**

It is hereby stipulated and agreed by the Division of Insurance Market Regulation (hereinafter "the Division") and Victoria Automobile Insurance Company (NAIC #10644) (hereinafter referred to as "Victoria"), as follows:

WHEREAS, the Division is a unit of the Missouri Department of Insurance, Financial Institutions and Professional Registration (hereinafter, "the Department"), an agency of the State of Missouri, created and established for administering and enforcing all laws in relation to insurance companies doing business in the State in Missouri; and

WHEREAS, Victoria has been granted a certificate of authority to transact the business of insurance in the State of Missouri; and

WHEREAS, the Division conducted a Market Conduct Examination of Victoria and prepared report number 0810-15-TGT; and

WHEREAS, the report of the Market Conduct Examination revealed that:

1. Victoria failed to comply with the examiners' request for documentation pertaining to its advertising material, agent training procedure manuals, sales presentations, and other materials used to sell a particular endorsement, in violation of §374.205¹ and 20 CSR 100-8.040.
2. In 24 instances, Victoria's personal auto policies indicated that the policyholders were receiving a discount for airbags, although the declaration page provided to the policyholders failed to show that discount, thereby misrepresenting the benefits, advantages,

¹ All references, unless otherwise noted, are to Missouri Revised Statutes 2000, as amended.

conditions and terms of the policy, in violation of §§375.144(3) and 375.936(4) and (6)(a).

3. In 61 instances, the cancellation declarations provided to the insureds by Victoria failed to provide the consumer with a sufficiently clear and specific reason for the cancellation, in violation of §379.118.1(3).

4. In six instances, the personal auto cancellation files failed to include a copy of the SR-26 form, in violation of §303.210, and 20 CSR 2.300(4)(A) and (5)(A).

5. In five instances, the commercial auto termination declaration provided by Victoria failed to provide the consumer with a sufficiently clear and specific reason for the cancellation, in violation of §379.118.1(3).

6. In two instances, Victoria failed to send a denial letter to the insured with specific references to the policy provision, condition and/or exclusion for the action, in violation of §375.1007(12) and 20 CSR 100-1.050(1)(A)3.

7. In 25 instances, Victoria failed to maintain a copy of the sales tax affidavit in the claim file, in violation of §§144.027 and 374.205 and 20 CSR 300-2.200(3)(B)3 (as replaced by 20 CSR 100-8.040(3)(B)3, effective 7/30/08).

8. In three instances, Victoria's failure to provide the estimate of damages for the insureds' losses prevented the examiner from determining the inception, handling and disposition of the claims, in violation of §374.205 and 20 CSR 300-2.200(3)(B) (as replaced by 20 CSR 100-8.040(3)(B), effective 7/30/08).

9. In 15 instances, Victoria failed to pay the title fee, thereby failed to effectuate prompt, fair, and equitable settlement of the claims, in violation of §§375.1007(4), and 408.020.

10. In six instances, Victoria failed to obtain and retain a copy of the salvage title once it determined that the vehicles were total losses, in violation of §§301.227 and 374.205, RSMo, 20 CSR 300-2.200 (as replaced by 20 CSR 100-8.040, effective 7/30/08) and Nationwide Materials Best Claims Practices section: Subrogation and Salvage (page 11).

11. In one instance, Victoria failed to adequately and accurately ensure that the claimant was advised of the relevant facts or the policy provision relating to coverage issues, in violation of §375.1007(1).

12. In one instance, Victoria misrepresented to the claimant or insured relevant facts or policy provisions relating to coverage issues and attempt in good faith to effectuate prompt,

fair and reasonable settlement of claim by improperly denying a bodily injury claim, in violation of §§375.1007(1) and (4) and 408.020, and the Company's Automobile Insurance Policy MO76GEP0010606-Auto Liability-Coverage Exclusions # 15 a, b, c, d (page 15-16).

13. In five instances, Victoria failed to attempt in good faith to effectuate prompt, fair and equitable settlement of its private passenger auto property damage claims, in violation of §§144.027 and 375.1007(4), 20 CSR 300-2.200(B)(3) (as replaced by 20 CSR 100-8.040, effective 7/30/08), and 20 CSR 100-8.040(3)(B).

14. In 13 instances, Victoria did not utilize an OEM part in the repair of the claimants' vehicles as is required by the policies' endorsement, thereby misrepresenting to the claimants the relevant fact or policy provision relating to the available OEM endorsement, in violation of §§375.1007(1) and (4), and 408.020, and 20 CSR 100-1.020 (1)(A) and (B).

WHEREAS, the Division and Victoria have agreed to resolve the issues raised in the Market Conduct Examination Report as follows:

A. **Scope of Agreement.** This Stipulation of Settlement and Voluntary Forfeiture embodies the entire agreement and understanding of the signatories with respect to the subject matter contained herein. The signatories hereby declare and represent that no promise, inducement or agreement not herein expressed has been made, and acknowledge that the terms and conditions of this agreement are contractual and not a mere recital.

B. **Remedial Action.** Victoria agrees to take remedial action bringing it into compliance with the statutes and regulations of Missouri and agrees to maintain those remedial actions at all times, to reasonably assure that the errors noted in the above-referenced market conduct examination report do not recur. Such remedial actions shall include, but not be limited to, the following:

1. Victoria agrees to develop a survey to be sent to the following claimants who were eligible for receiving the sales tax affidavit, as required by §144.027.1, RSMo, to ascertain whether or not they actually received the sales tax affidavit within 180 days of the date of payment by Victoria on the claim:

- a. Private passenger total loss auto comprehensive claims;
- b. Private passenger total loss auto collision claims;

- c. Private passenger total loss auto total loss claims; and
- d. Private passenger total loss auto property damage claims.

The above-described survey must include a blank copy of Missouri sales tax affidavit that would have been issued or sent to the claimant and request information including, but not limited to, the following:

- (a) Whether the claimant received the sales tax affidavit;
- (b) If the claimant did receive one, the date upon which they received it;
- (c) Whether the claimant replaced the total loss vehicle;
- (d) Whether the claimant used the sales tax affidavit; and
- (e) If the claimant used the affidavit, the following additional information:
 - (i) The date on which it was used;
 - (ii) The number of days the affidavit provided to the claimant to claim the credit after the date of the total loss determination to the date of the purchase of a replacement auto; and
 - (iii) The amount of credit provided to the claimant on the affidavit.

Once the survey is completed and responses are received by Victoria, Victoria must submit a report including information on who received the survey, who responded, copies of responses, who it paid, how much it paid the individual, the date paid, and the aggregate amount paid out. This detailed information should be included in a report to the Division within 120 days after the Director enters a final Order closing this exam.

2. Victoria agrees to review its Personal Auto policy reviewed during the exam time-frame to determine the identity of every policyholder who remained with Victoria at least four months and whose vehicle(s) were equipped with airbags and did not get the airbag discount on their Personal Auto policies. For those policyholders, Victoria agrees to send each such individual who would be entitled to a refund of at least \$5.00 a refund check in the amount of \$20.00. A letter shall be included with the payments, indicating that "as a result of a Missouri

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Market Conduct examination,” it was found that the policyholder is entitled to a refund of premium that represents the discount they should have received had the airbag discount been applied to their Personal Auto policy.

C. **Compliance.** Victoria agrees to file documentation with the Division within 90 days of the entry of a final order of all remedial action taken to implement compliance with the terms of this stipulation and to document payment of any restitution required by this Stipulation.

D. **Voluntary Forfeiture.** Victoria agrees, voluntarily and knowingly, to surrender and forfeit the sum of \$60,908, such sum payable to the Missouri State School Fund, in accordance with §374.280.

E. **Other Penalties.** The Division agrees that it will not seek penalties against Victoria, other than those agreed to in this Stipulation, for the conduct found in Market Conduct Examination 0810-15-TGT.

F. **Waivers.** Victoria, after being advised by legal counsel, does hereby voluntarily and knowingly waive any and all rights for procedural requirements, including notice and an opportunity for a hearing, and review or appeal by any trial or appellate court, which may have otherwise applied to the above referenced Market Conduct Examination.

G. **Changes.** No changes to this stipulation shall be effective unless made in writing and agreed to by all signatories to the stipulation.

H. **Governing Law.** This Stipulation of Settlement and Voluntary Forfeiture shall be governed and construed in accordance with the laws of the State of Missouri.


I. **Authority.** The signatories below represent, acknowledge and warrant that they are authorized to sign this Stipulation of Settlement and Voluntary Forfeiture.

J. **Effect of Stipulation.** This Stipulation of Settlement and Voluntary Forfeiture shall become effective only upon entry of a Final Order by the Director of the Department of Insurance, Financial Institutions and Professional Registration (hereinafter the “Director”) approving this Stipulation.

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FINANCIAL INSTITUTIONS &
PROFESSIONAL REGISTRATION

K. **Request for an Order.** The signatories below request that the Director issue an Order approving this Stipulation of Settlement and Voluntary Forfeiture and ordering the relief agreed to in the Stipulation, and consent to the issuance of such Order.

DATED: 11-29-12



Carolyn H. Kerr
Legal Counsel
Division of Insurance Market Regulation

DATED: 11-12-2012



President
Victoria Automobile Insurance Company

STATE OF MISSOURI
DEPARTMENT OF INSURANCE, FINANCIAL INSTITUTIONS
AND
PROFESSIONAL REGISTRATION



FINAL MARKET CONDUCT EXAMINATION REPORT
Of the Property and Casualty Business of

Victoria Automobile Insurance Company
NAIC # 10644

MISSOURI EXAMINATION # 0810-15-TGT

NAIC EXAM TRACKING SYSTEM # MO268-M85

October 30, 2012

Home Office
1 Nationwide Plaza DSPF - 76
Columbus, Ohio, 43215

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FOREWORD

This is a targeted market conduct examination report of the Victoria Automobile Insurance Company, (NAIC Code # 10644). This examination was conducted at the office of the Missouri Department of Insurance, Financial Institutions and Professional Registration (DIFP).

This examination report is generally a report by exception. However, failure to criticize specific practices, procedures, products or files does not constitute approval thereof by the DIFP.

During this examination, the examiners cited errors made by the Company. Statutory citations were as of the examination period unless otherwise noted.

When used in this report:

- “Company” refers to Victoria Automobile Insurance Company;
- “CSR” refers to the Missouri Code of State Regulation;
- “DIFP” refers to the Missouri Department of Insurance, Financial Institutions and Professional Registration;
- “Director” refers to the Director of the Missouri Department of Insurance, Financial Institutions and Professional Registration;
- “NAIC” refers to the National Association of Insurance Commissioners;
- “RSMo” refers to the Revised Statutes of Missouri.

SCOPE OF EXAMINATION

The DIFP has authority to conduct this examination pursuant to, but not limited to, §§374.110, 374.190, 374.205, 375.445, 375.938, and 375.1009, RSMo.

The purpose of this examination was to determine if the Company complied with Missouri statutes and DIFP regulations and to consider whether the Company's operations are consistent with the public interest. The primary period covered by this review is January 1, 2007, through August 31, 2009, unless otherwise noted. Errors outside of this time period discovered during the course of the examination, however, may also be included in the report.

The examination was a targeted examination involving the following business functions and lines of business: Company Complaints, Personal and Commercial Auto Underwriting, Personal and Commercial Auto Terminations, and Personal and Commercial Auto Paid and Non-Paid Claims.

The examination was conducted in accordance with the standards in the NAIC's *Market Regulation Handbook*. As such, the examiners utilized the benchmark error rate guidelines from the *Market Regulation Handbook* when conducting reviews that applied a general business practice standard. The NAIC benchmark error rate for claims practices is seven percent (7%) and for other trade practices is ten percent (10%). Error rates exceeding these benchmarks are presumed to indicate a general business practice. The benchmark error rates were not utilized, however, for reviews not applying the general business practice standard.

In performing this examination, the examiners only reviewed a sample of the Company's practices, procedures, products and files. Therefore, some noncompliant practices, procedures, products, and files may not have been discovered. As such, this report may not fully reflect all of the practices and procedures of the Company. As indicated previously, failure to identify or criticize improper or noncompliant business practices in this state or other jurisdictions does not constitute acceptance of such practices.

COMPANY PROFILE

The following company profile was provided to the examiners by the Company.

Victoria Automobile Insurance Company (VAIC) was formed February 18, 1994, to serve the property and casualty market in the State of Indiana by Victoria Fire and Casualty Company.

It was acquired by Nationwide Mutual Insurance Company in August, 2003, as part of the Victoria Financial Corporation acquisition which included all the Victoria insurance group of entities and the Titan Insurance Group of entities.

EXECUTIVE SUMMARY

The DIFP conducted a targeted market conduct examination of Victoria Automobile Insurance Company. The examiners found the following principal areas of concern:

- The examiners found one violation in the Company's private passenger advertising.
- The examiners found a total of 24 errors in the Company's private passenger automobile underwriting.
- The examiners found a total of 64 errors in the Company's private passenger automobile terminations.
- The examiners found a total of five errors in the Company's commercial automobile terminations.
- The examiners found a total of 36 errors in the Company's private passenger paid claims.

The examiners requested that the Company make refunds concerning underwriting premium overcharges and claim underpayments found for amounts greater than \$5.00 during the examination if any were found.

Various non-compliant practices were identified, 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 according to the Missouri insurance laws and regulations. When applicable, corrective action for other jurisdictions should be addressed.

EXAMINATION FINDINGS

I. UNDERWRITING AND RATING PRACTICES

This section of the report is designed to provide a review of the Company's underwriting and rating practices. These practices included the use of policy forms, adherence to underwriting guidelines, assessment of premium, and procedures to decline or terminate coverage. Examiners reviewed how the Company handled new and renewal policies to ensure that the Company underwrote and rated risks according to their own underwriting guidelines, filed rates, and Missouri statutes and regulations.

Because of the time and cost involved in reviewing each policy/underwriting file, the examiners utilize sampling techniques in conducting compliance testing. A policy/underwriting file is determined in accordance with 20 CSR 100-8.040 and the NAIC Market Regulation Handbook. Error rates are established when testing for compliance with laws that apply a general business practice standard (e.g., §§375.930 – 375.948 and §375.445) and compared with the NAIC benchmark error rate of ten percent (10%). Error rates in excess of the NAIC benchmark error rate are presumed to indicate a general business practice contrary to the law. Errors indicating a failure to comply with laws that do not apply the general business practice standard are separately noted as errors and are not included in the error rates.

The examiners requested the Company's underwriting and rating manuals for the line of business under review. This included all rates, guidelines, and rules that were in effect on the first day of the examination period and at any point during that period to ensure that the examiners could properly rate each policy reviewed.

The examiners also reviewed the Company's procedures, rules, and forms filed by or on behalf of the Company with the DIFP. The examiners randomly selected the policies for review from a listing furnished by the Company.

The examiners also requested a written description of significant underwriting and rating changes that occurred during the examination period for underwriting files that were maintained in an electronic format.

An error can include, but is not limited to, any miscalculation of the premium based on the information in the file, an improper acceptance or rejection of an application, the misapplication of the company's underwriting guidelines, incomplete file information preventing the examiners from readily ascertaining the company's rating and underwriting practices, and any other activity indicating a failure to comply with Missouri statutes and regulations.

A. Company Advertising

The Company failed to comply with the examiners' request for documentation pertaining specifically to how the Company's Original Equipment Manufacturer Parts Loss Settlement Endorsement (MO76GEE640606) was being sold by their agents to Missouri consumers. The examiners requested the Company's advertising material, the Company's agent training procedure materials, sales presentations and any other material the Company used to sell this endorsement to a potential insured. The Company only complied by sending their underwriting guides which the examiners already had.

Reference: §374.205, RSMo, and 20 CSR 100-8.040

B. Forms and Filings

The examiners reviewed the Company's policy and contract forms to determine compliance with filing, approval, and content requirements to ensure the contract language is not ambiguous or misleading and is adequate to protect those insured.

The examiners found no errors.

C. Personal Auto Underwriting and Rating

The examiners reviewed applications for coverage that were issued, modified, or declined by the Company to determine the accuracy of rating and adherence to prescribed and acceptable underwriting criteria.

1. Personal Auto Underwriting (New and Renewal)

Field Size:	20,593 5,648 files dated pre-8/28/07 14,945 files dated post-8/28/07
Sample Size:	100 total 28 files dated pre-8/28/07 72 files dated post-8/28/07
Type of Sample:	Random
Number of Errors:	24 total 7 files dated pre-8/28/07 17 files dated post-8/28/07
Error Ratio:	24 % total 25% files dated pre-8/28/07 24% files dated post- 8/28/07

Within DIFP Guidelines: No

The following policies indicated that the policy-owner was receiving a discount for a driver side air bag or a discount for both driver/passenger side air bags. However, according to the Company's underwriting manual, the policy-owner must purchase the Medical Payment Coverage in order for the discount to apply. Because the policies did not have Medical Payment Coverage, no discount was actually provided to the insureds. However, once the Company's system "caught" the mistake, the discount was removed from the declaration sheet and an amended declaration sheet was provided to the insured. Nevertheless, the Company's initial communication with the insured in terms of providing an inaccurate declaration page misrepresented the benefits, advantages, conditions, and terms of the policy for the rating period 11-7-06 to 9-16-07 (20% or 30% discount), rating period 9-17-07 to 9-7-08 (10% or 20% discount).

Policy Numbers:

Pre 8/28/07: 3619105 3789288 3864030 3945741
3742289 5243039 5264288

Post 8/28/07: 5299675 5316629 5334764 5374284 5459698 5615739
5483473 3674440 5544327 5568904 3484358 5502657
5176610 6593852 5715645 5634400 5394483

References: §§375.144(3), and 375.936(4) and (6)(a), RSMo.

D. Personal Auto Terminations

The examiners reviewed policies that the carrier terminated at or before the scheduled expiration date of the policies and policies that were rescinded by the Company after the effective date of the policy.

1. Personal Auto Terminations

Field Size: 1,058 total
316 files dated pre-8/28/07
742 files dated post-8/28/07

Sample Size: 100 total
38 files dated pre-8/28/07
62 files dated post-8/28/07

Type of Sample: Random

Number of Errors: 64 total
26 files dated pre-8/28/07
38 files dated post-8/28/07

Error Ratio: 64 % total
68% files dated pre-8/28/07
61% files dated post- 8/28/07

Within DIFP Guidelines: No

The following errors were noted:

The cancellation declaration that was provided to the insured gave the reason of "Unacceptable Drivers" for the cancellation of the policy. For the policies listed below, the cancellation declarations failed to provide the consumer a sufficiently clear and specific reason for the cancellations.

Policy Numbers:

<u>Pre 8/28/07:</u>	3816190	3892102	3912140	3779557	3903603	3822935
	3882079	3877730	5041623	3890934	5213965	3756892
	3833842	3759490	3848452	3822255		
<u>Post 8/28/07:</u>	6099521	5324994	5379319	8498560	6373433	5321887
	8280938	6085383	8084861	8193437	8421285	6351700
	6066424	6216249	8279517	5957114		

Reference: §379.118.1(3), RSMo.

The cancellation declaration that was provided to the insured gave the reason of "Not all drivers listed" for the cancellation of the policies. The cancellation declaration failed to provide the consumers a sufficiently clear and specific reason for the cancellation.

Policy Numbers:

Pre 8/28/07: 3874709 3937412 3976430 3921489

Post 8/28/07: 5205656 5894211 3511767 5639952 5457545 5696973

Reference: §379.118.1(3), RSMo.

The cancellation declaration that was provided to the insured gave the reason “Valid MVR not received” for the cancellation of the policies. The cancellation declaration failed to provide the consumers a sufficiently clear and specific reason for the cancellation.

Policy Numbers:

Pre 8/28/07: 3736659 3684957 5056573

Post 8/28/07: 5358894 5646585 6027035 5984446

Reference: §379.118.1(3), RSMo.

When an insurance carrier has certified a motor vehicle liability policy under §303.170 or 303.180 RSMo, the insurance shall not be canceled or terminated until at least 10 days after a notice or termination of insurance has been filed with the office of the Director of Revenue by means of an SR-26 form. The following files did not contain a copy of the SR-26 form.

Policy Numbers:

Post 8/28/07: 8257579 6063083 8211372

References: §303.210, RSMo, and 20 CSR 500-2.300(4)(A) and (5)(A).

The cancellation declarations that were provided to the insured gave the reason of “Details on Spouse not Received” for the cancellation of the policies. The cancellation declarations failed to provide the consumers a sufficiently clear and specific reason for the cancellations.

The cancellation declaration also gave the reason “Substantial change in risk assumed” for the cancellation of the policy. The cancellation declaration failed to provide the consumer a sufficiently clear and specific reason for the cancellation.

Policy Number:

Post 8/28/07: 8393666

Reference: §379.118.1(3), RSMo.

The cancellation declaration that was provided to the insured gave the reason of “Details on Spouse not Received” for the cancellation of the policies. The cancellation declaration failed to provide the consumer a sufficiently clear and specific reason for the cancellation.

Policy Numbers:

Post 8/28/07: 5453395

Reference: §379.118.1(3), RSMo.

The cancellation declaration that was provided to the insured gave the reason of “Per Previous Cancel Notice” for the cancellation of the policy. The cancellation declarations failed to provide the consumers a sufficiently clear and specific reason for the cancellations.

Policy Numbers:

Pre 8/28/07: 3963321

Post 8/28/07: 5700025 3346709 8238300 3597810 5437917 3979804

Reference: §379.118.1(3), RSMo.

The cancellation declaration that was provided to the insured gave a reason of “Valid MVR not Received” for the cancellation of the policy. The cancellation declaration failed to provide the consumer a sufficiently clear and specific reason for the cancellation.

When an insurance carrier has certified a motor vehicle liability policy under §303.170, RSMo, or 303.180, RSMo, the insurance shall not be canceled or terminated until at least 10 days after a notice of cancellation or termination of the insurance has been filed with the office of the director of revenue by means of an SR-26 form. The file did not contain a copy of the SR-26 form.

Policy Number:

Pre 8/28/07: 3763989

References: §§303.210 and 379.118.1(3), RSMo, and 20 CSR 500-2.300(4)(A) and (5)(A).

The cancellation declaration that was provided to the insured gave a reason of “Not All Drivers Listed” for the cancellation of the policy. The cancellation declaration failed to provide the consumer a sufficiently clear and specific reason for the cancellation.

When an insurance carrier has certified a motor vehicle liability policy under §303.170, RSMo, or 303.180, RSMo, the insurance shall not be canceled or terminated until at least 10 days after a notice of cancellation or termination of the insurance has been filed with the office of the director of revenue by means of an SR-26 form. The file did not contain a copy of the SR-26 form.

Policy Number:

Post 8/28/07: 5831986

References: §§303.210 and 379.118.1(3), RSMo, and 20 CSR 500-2.300(4)(A) and (5)(A).

The cancellation declaration that was provided to the insured gave a reason of “Per Previous Cancel Notice” for the cancellation of the policy. The cancellation declaration failed to provide the consumer a sufficiently clear and specific reason for the cancellation.

If any insurer proposes to cancel or to refuse to renew a policy of automobile insurance delivered or issued for delivery in this state except at the request of the named insured or for non-payment of premium, it shall, on or before 30 days prior to the proposed effective date of the action, send written notice by certificate of mailing of its intended action to the named insured at his last known address. The Company failed to notify the insured 30 days prior to the effective date of the cancellation.

Policy Number:

Pre 8/28/07: 5117618

References: §§303.210 and 379.118.1(3), RSMo, and 20 CSR 500-2.300(3)(B).

E. Commercial Auto Underwriting and Rating

Commercial Auto Underwriting (New and Renewal)

Field Size:	1,200
Type of Sample:	Census
Number of Errors:	0
Error Ratio:	0%
Within DIFP Guidelines:	Yes

The examiners discovered no general business practice issues in this review.

F. Commercial Auto Terminations

Commercial Auto Terminations

Field Size:	137 total 21 files dated pre-8/28/07 116 files dated post-8/28/07
Type of Sample:	Census
Number of Errors:	5 total 1 files dated pre-8/28/07 4 files dated post-8/28/07
Error Ratio:	4 % total 4.7% files dated pre-8/28/07 3.4% files dated post- 8/28/07
Within DIFP Guidelines:	Yes

The following errors were noted:

The termination declaration that was provided to the insured's failed to provide the consumer a sufficiently clear and specific reason for the cancellations.

Policy Numbers:

Pre 8/28/07: 3819981

Post 8/28/07: 6084234 5276917 3880553 6164915

Reference: §379.118.1(3), RSMo.

G. Practices Not in the Best Interest of Consumers

The examiners also looked for items that were not in the best interest of consumers. Not only could these practices be harmful to the insured, they may expose the company to potential liability.

The examiners discovered no general business practice issues in this review.

II. CLAIMS PRACTICES

This section of the report is designed to provide a review of the Company's claims handling practices. Examiners reviewed how the Company handled claims to determine the timeliness of handling, accuracy of payment, adherence to contract provisions, and compliance with Missouri statutes and regulations.

To minimize the duration of the examination, while still achieving an accurate evaluation of claim practices, the examiners reviewed a statistical sampling of the claims processed. The examiners requested a listing of claims paid and claims closed without payment during the examination period for the line of business under review. The review consisted of Missouri claims selected from a listing furnished by the Company with a date of closing from January 1, 2007, through August 31, 2009.

A claim file is determined in accordance with 20 CSR 100-8.040 and the *NAIC Market Regulation Handbook*. Error rates are established when testing for compliance with laws that apply a general business practice standard (e.g., §§375.1000 – 375.1018 and §375.445) and compared with the NAIC benchmark error rate of seven percent (7%). Error rates in excess of the NAIC benchmark error rate[s] are presumed to indicate a general business practice contrary to the law. Errors indicating a failure to comply with laws that do not apply the general business practice standard are separately noted as errors and are not included in the error rates.

A claim error includes, but is not limited to, any of the following:

- An unreasonable delay in the acknowledgement of a claim,
- An unreasonable delay in the investigation of a claim,
- An unreasonable delay in the payment or denial of a claim,
- A failure to calculate claim benefits correctly; and
- A failure to comply with Missouri law regarding claim settlement practices.

The examiners reviewed the claim files for timeliness. In determining timeliness, examiners looked at the duration of time the Company used to acknowledge the receipt of the claim, the time for investigation of the claim, and the time to make payment or provide a written denial.

Missouri statutes require the Company to disclose to first-party claimants all pertinent benefits, coverage or other provisions of an insurance policy under which a claim is

presented. Claim denials must be given to the claimant in writing, and the Company must maintain a copy in its claim files.

A. Claims Time Studies

To test for compliance with timeliness standards, the examiners reviewed claim records and calculated the amount of time taken by the Company for claims processing. They reviewed the Company's claims processing practices relating to (1) the acknowledgement of receipt of notification of claims; (2) the investigation of claims; and (3) the payment of claims or the providing of an explanation for the denial of claims.

DIFP regulations require companies to abide by the following parameters for claims processing:

- Acknowledgement of the notification of a claim must be made within 10 working days;
- Completion of the investigation of a claim must be made within 30 calendar days after notification of the claim. If more time is needed, the Company must notify the claimant and send follow-up letters every 45 days; and
- Payment or denial of a claim must be made within 15 working days after investigation of the claim is complete.

The examiners discovered no issues or concerns.

B. Unfair Settlement and General Handling Practices

In addition to the Claim Time Studies, examiners reviewed the Company's claim handling processes to determine compliance with contract provisions and adherence to unfair claims statutes and regulations. Whenever a claim file reflected that the Company failed to meet these standards, the examiners cited it for noncompliance.

1. Private Passenger Auto Comprehensive Paid Claims

Field Size:	202 total 45 files dated pre-8/28/07 157 files dated post-8/28/07
Sample Size:	100 total 66 files dated pre-8/28/07 34 files dated post-8/28/07
Type of Sample:	Random

Number of Errors: 1 total
1 file dated pre-8/28/07
0 files dated post-8/28/07

Error Ratio: 1% total
1.5% files dated pre-8/28/07
0% files dated post- 8/28/07

Within DIFP Guidelines: Yes

The following error was noted:

The Company must send a written denial letter to the insured with specific references to the policy provision, condition and exclusion. On 2/18/08 the insured contacted the Company and requested rental coverage (Loss of Use). The Company advised the insured that the policy did not have Loss of Use coverage. The Company failed to provide a copy of the written denial letter in the file stating that the policy did not have Loss of Use coverage.

Claim Number:

Pre 8/28/07: 50008000106

References: §375.1007(12), RSMo, and 20 CSR 100-1.050(1)(A)3.

Violations Not Counted in Error Ratio:

In a total loss settlement, the Company shall ensure that the claimant was given a sales tax affidavit and a copy of it was placed in the file. The Company failed to maintain a copy of the sales tax affidavit in the file.

Claim Numbers:

Post 8/28/07: 500080004593 50008002917 50008001529
900090000600 90009000081

References: §§144.027 and 374.205, RSMo, and 20 CSR 300-2.200(3)(B)3 (as replaced by 20 CSR 100-8.040(3)(B)3, effective 7/30/08).

The claimant's vehicle was a total loss. A salvage title is required to be provided to the insured and a copy placed in the file. The Company retained the salvage on the claimant's vehicle, but the file did not contain a copy of the salvage title.

Claim Number:

Post 8/28/07: 50007002859

Reference: §301.027, RSMo, and Nationwide Materials Damage Best Claims Practices section: Subrogation and Salvage (page 11).

The Company shall ensure that the claim file was clearly documented showing the inception, handling and disposition of each claim. The Company did not provide the estimate of damages for the insured's loss; therefore the examiner was unable to determine the inception, handling and disposition of the claim.

Claim Numbers:

Pre 8/28/07: 77707002939

Post 8/28/07: 50008003307 50009000775

References: §374.205, RSMo, and 20 CSR 300-2.200(3)(B) (as replaced by 20 CSR 100-8.040(3)(B), effective 7/30/08).

2. Private Passenger Auto Collision Paid Claims

Field Size:	422 total 125 files dated pre-8/28/07 297 files dated post-8/28/07
Sample Size:	111 total 75 files dated pre-8/28/07 36 files dated post-8/28/07
Type of Sample:	Random
Number of Errors:	2 total 0 file dated pre-8/28/07 2 file dated post-8/28/07
Error Ratio:	1.8% total 0% files dated pre-8/28/07 5.5% files dated post- 8/28/07
Within DIFP Guidelines:	Yes

The following errors were noted:

The Company determined that the claimant's vehicle was a total loss; however, the Company did not pay the title fee in the amount of \$11.00. The claimant is due an \$11.00 refund plus nine percent interest for the amount of \$11.71.

Claim Number:

Post 8/28/07: 50009001276

Reference: §§375.1007(4), and 408.020 RSMo.

The Company shall ensure that a written denial letter was sent to the insured with specific reference to policy provisions, condition, and exclusion. On 9/8/08 the insured contacted the Company and requested rental coverage (Loss of Use). According to the Company, it advised the insured verbally that the policy did not have coverage. The Company failed to provide a copy of the written denial letter in the file indicating that the notice was sent to the claimant.

Claim Number:

Post 8/28/07: 50008003555

References: §§374.205 and 375.1007(12), RSMo, and 20 CSR 100-1.050(1)(A)3 and 20 CSR 300-2.200 (as replaced by 20 CSR 100-8.040, effective 7/30/08).

Violations Not Counted in Error Ratio:

The Company failed to ensure that the claimant was given a sales tax affidavit and that a copy of it was placed in the file.

Claim Numbers:

Post 8/28/07: 50008000552 50008005128

References: §§144.027 and 374.205, RSMo, and 20 CSR 300-2.200(3)(B)3 (as replaced by 20 CSR 100-8.040(3)(B)3, effective 7/30/08).

The Company failed to ensure that the claimant was given a sales tax affidavit and that a copy of it was placed in the file.

The Company shall ensure any total loss settlement values or reductions in values were documented in file. The Company determined the salvage value of \$2,063.98. The Company failed to document how that amount was determined and did not have a copy in the file.

Claim Number:

Pre 8/28/07: 50007000804

References: §§144.027 and 374.205, RSMo, and 20 CSR 300-2.200(3)(B)3, (as replaced by 20 CSR 100-8.040(3)(B)3, effective 7/30/08).

3. Private Passenger Auto Total Loss Paid Claims

Field Size: 365 total
61 files dated pre-8/28/07
304 files dated post-8/28/07

Sample Size: 111 total
69 files dated pre-8/28/07
42 files dated post-8/28/07

Type of Sample: Random

Number of Errors: 13 total
1 files dated pre-8/28/07
12 files dated post-8/28/07

Error Ratio: 12% total
1.4% files dated pre-8/28/07
29% files dated post- 8/28/07

Within DIFP Guidelines: No

The following errors were noted:

The Company shall attempt in good faith to effectuate prompt, fair and equitable settlement of claims. The Company settled the following 13 total loss claims, but did not pay the \$11.00 title fee that the insured and or the claimant incurred as a result of the total loss.

Claim Numbers:

Pre 8/28/07: 50008002130

Post 8/28/07: 50008001926 50090021117 90008002324 50008000662
50008003554 77708004768 90009000657 50008005266
50008004478 50009000741 90009000896 90009002483

References: §§375.1007(4), RSMo, and 408.020 RSMo.

Violations Not Counted in Error Ratio:

The Company failed to obtain a salvage title when the Company determined the vehicle to be a total loss. A copy of the salvage title was not in the file.

Claim Numbers:

<u>Post 8/28/07:</u>	90008002324	90009000896	50007003096
	50008003445	50007002645	

References: §§301.227 and 374.205, RSMo, 20 CSR 300-2.200 (as replaced by 20 CSR 100-8.040, effective 7/30/08) and Nationwide Materials Best Claims Practices section: Subrogation and Salvage (page 11).

The Company failed to maintain copies of the Missouri Sales Tax Affidavits for the following claim files. The examiners could not determine that they were provided to the claimants.

Claim Numbers:

<u>Pre 8/28/07:</u>	50007000094	50007000617	
<u>Post 8/28/07:</u>	50008004529	50009002786	50008005059
	88809006084	50008005189	50009001253
	5 0008001386	50007002815	50008002130
	50008002110	50007002040	50008000611
	50008000682		

References: §§144.027 and 374.205, RSMo, and 20 CSR 300-2.200(3)(B)3 (as replaced by 20 CSR 100-8.040(3)(B)3, effective 7/30/08).

4. Private Passenger Auto Medical Payment Paid Claims

Field Size:	44
Type of Sample:	Census
Errors:	1
Error Ratio:	2%
Within DIFP Guidelines:	Yes

The examiners found the following error:

The Company shall ensure that the claimant and the insured are advised of the relevant facts or the policy provision relating to coverage issues. The Company mailed a Medical Payments letter dated 12/29/09 to the insured's passenger which

stated that the policy provides a limited amount for payment of reasonable medical expenses incurred within two years of the accident. According to the Company's Missouri Private Passenger Automobile Policy MO76GEP0010606 (page 18) - Medical Payments - Coverage Agreement # 2, states it will pay for reasonable medical expenses incurred within one year after the accident. Therefore, the letter that was mailed to the insured's passenger, indicating two years, misrepresented the policy provision relating to the Medical Coverage.

Claim Number: 50008005069

Reference: §375.1007(1), RSMo.

5. Private Passenger Auto Subrogation Paid Claims

Field Size:	80
Sample Size:	80
Type of Sample:	Census
Errors:	0
Error Ratio:	0%
Within DIFP Guidelines:	Yes

The examiners discovered no issues or concerns relating to the Company's general business practices.

6. Private Passenger Auto Uninsured Motorist Bodily Injury Paid Claims

Field Size:	22
Sample Size:	22
Type of Sample:	Census
Errors:	0
Error Ratio:	0%
Within DIFP Guidelines:	Yes

The examiners discovered no issues or concerns relating to the Company's general business practices.

7. Private Passenger Auto Bodily Injury Paid Claims

Field Size:	185
Sample Size:	185
Type of Sample:	Census
Errors:	1
Error Ratio:	.5%
Within DIFP Guidelines:	Yes

The following error was noted:

The Company shall not misrepresent to the claimant or insured relevant facts or policy provisions relating to coverage issues and attempt in good faith to effectuate prompt, fair and reasonable settlement of claim. The Company mailed a Bodily Injury denial letter dated 3/25/09 that stated the reason for the denial. The examiners determined there was coverage up to policy limits required by the Missouri Financial Responsibility Law of \$25,000. The Company misrepresented the policy provision to the insured and did not effectuate prompt, fair and reasonable settlement by denying the son of the insured the bodily injury claim that was presented.

Claim Number: 90009000589

References: §§375.1007(1) and (4) and 408.020, RSMo, and the Company's Automobile Insurance Policy MO76GEP0010606-Auto Liability-Coverage Exclusions # 15 a, b, c, d (page 15-16).

8. Private Passenger Auto Property Damage Paid Claims

Field Size:	680 total 181 files dated pre-8/28/07 499 files dated post-8/28/07
Sample Size:	112 total 79 files dated pre-8/28/07 33 files dated post-8/28/07
Type of Sample:	Random
Number of Errors:	5 total 3 files dated pre-8/28/07 2 file dated post-8/28/07
Error Ratio:	5% total 3.8% files dated pre-8/28/07 6% files dated post- 8/28/07
Within DIFP Guidelines:	Yes

The following errors were noted:

On 5/7/09, the Company determined that the insured and the claimant were each 50% at fault. The claimant agreed to the liability decision. On 5/22/09, the Company determined that the actual cash value for the claimant's vehicle was \$4,892.00. The claimant agreed to retain the vehicle and accept full payment less

the salvage value of \$950.00. The file notes indicate the Company paid \$3,942.00 to the claimant for the total loss settlement. This amount does not reflect 50% of the property damage owed; therefore, the handling of the claim resulted in an over payment of \$1,971.00.

Claim Number:

Post 8/28/07: 50009001451

References: §375.1007(4), RSMo, and 20 CSR 100-8.040(3)(B).

The Company shall attempt in good faith to effectuate prompt, fair and equitable settlement of claims. The Company settled the total loss for the 1994 Oldsmobile Cutlass. The Company did not pay the \$11.00 title fee that the claimant incurred as a result of the total loss.

Claim Number:

Post 8/28/07: 50009000526

References: §§375.1007(4), RSMo and 408.020 RSMo.

The Company failed to ensure that the appropriate application of depreciation and betterment was done in the following files. The Company deducted depreciation on the property damage but failed to document how the depreciation amount was determined. The Company failed to provide a copy of the Company's depreciation guide or the outside adjusting company's depreciation guidelines that were used to settle claims.

Claim Numbers:

Pre 8/28/07: 50007001851 50008002669

References: §375.1007(4), RSMo, and 20 CSR 300-2.200(B)(3) (as replaced by 20 CSR 100-8.040, effective 7/30/08).

The Company failed to provide the claimant with a sales tax affidavit and failed to maintain a copy of it in the file.

The Company shall attempt in good faith to effectuate prompt, fair and equitable settlement of claims. The Company settled the total loss, but did not pay the \$11.00 title fee that the insured and or the claimant incurred as a result of the total loss.

Claim Number:

Pre 8/28/07: 77708001199

References: §§144.027, 375.1007(4) and 408.020, RSMo, and 20 CSR 300-2.200(B)(3) (as replaced by 20 CSR 100-8.040, effective 7/30/08).

Violations Not Counted in Error Ratio:

The Company failed to provide the examiners with a copy of the salvage title for the following claim file.

Claim Number:

Post 8/28/07: 50007002077

References: §301.227, RSMo, and 20 CSR 300-2.200(3)(B) (as replaced by 20 CSR 100-8.040(3)(B), effective 7/30/08), and Nationwide Material Damage Best Claims Practices, Section Subrogation and Salvage, Page 11.

The Company failed to provide a copy of the sales tax affidavit to the claimant and did not maintain a copy of it in the file.

Claim Numbers:

Post 8/28/07: 50008001925 50008000719

References: §§144.027 and 374.205, RSMo, 20 CSR 300-2.200 (as replaced by 20 CSR 100-8.040, eff. 7/30/08).

9. Private Passenger Auto Non-Paid Comprehensive Claims

Field Size:	38
Sample Size:	38
Type of Sample:	Census
Errors:	0
Error Ratio:	0%
Within DIFP Guidelines:	Yes

The examiners discovered no issues or concerns relating to the Company's general business practices.

10. Private Passenger Auto Non-Paid Collision Claims

Field Size:	131
Sample Size:	131
Type of Sample:	Census
Errors:	0
Error Ratio:	0%
Within DIFP Guidelines:	Yes

The examiners discovered no issues or concerns relating to the Company's general business practices.

11. Private Passenger Non-Paid Medical Payment Claims

Field Size:	44
Sample Size:	44
Type of Sample:	Census
Errors:	0
Error Ratio:	0%
Within DIFP Guidelines:	Yes

The examiners discovered no issues or concerns relating to the Company's general business practices.

12. Private Passenger Auto Non-Paid Uninsured /Underinsured Motorists

Field Size:	26
Sample Size:	26
Type of Sample:	Census
Errors:	0
Error Ratio:	0%
Within DIFP Guidelines:	Yes

The examiners discovered no issues or concerns relating to the Company's general business practices.

13. Private Passenger Auto Paid OEM Collision

Field Size:	75
Sample Size:	75
Type of Sample:	Census
Errors:	13
Error Ratio:	17.33%
Within DIFP Guidelines:	No

The following errors were noted:

In the following 13 claims (all post-8/28/07), the claimants purchased an OEM endorsement on their policies. However, the Company did not utilize an OEM part in the repair of the claimant's vehicles as is required by the endorsement. Therefore, it misrepresented to claimants the relevant fact or policy provision relating to the available OEM endorsement on the policies. By failing to use the OEM part in the repair per the endorsement, it also failed to attempt in good faith to effectuate prompt, equitable, and fair settlement of the claims submitted.

The Company initially advised the Department that it had only sold four policies with the endorsement and had only one total loss claim where OEM parts were not utilized. When the examiners requested extra data from the field of 476 active policies, it was discovered that out of the entire field of 476 policies where the insured purchased the OEM endorsement, there were actually 75 claims for OEM parts presented to the Company for payment.

After several conference calls and discussions with the Department, the Company agreed to either replace the parts with OEM parts or issue refunds to the claimants.

<u>Claim Numbers:</u>	<u>Amount</u>	<u>Interest Paid</u>	<u>Total Paid</u>
50007000375	\$465.00	\$11.39	\$476.39
50007002762	\$1,297.27	\$25.71	\$1,322.98
50008001478	\$1,650.13	\$28.17	\$1,678.30
50009004171	\$64.75	\$4.31	\$69.06
88807000328	\$201.00	\$58.13	\$259.75
88807000862	\$1,747.11	\$42.69	\$1,789.80
90009000695	\$359.72	\$45.27	\$404.99
50006000568	\$452.00	\$44.35	\$496.35
50007000025	\$135.39	\$11.35	\$146.74
50007000581	\$349.34	\$55.65	\$460.64
88807000862	\$817.96	\$55.87	\$873.83

The body shops were paid directly by the Company in two of the 13 total claims in the amounts of \$872.65 and \$552.34 respectively.

Claim Numbers: 50009004171 and 50008000878

References: §§375.1007(1) and (4), and 408.020, RSMo, and 20 CSR 100-1.020 (1)(A) and (B).

C. Practices Not in the Best Interest of Consumers

The examiners also looked for items that were not in the best interest of consumers. Not only could these practices be harmful to the insured, they may expose the company to potential claims.

The examiners discovered no issues in this review.

III. COMPLAINTS

This section of the report is designed to provide a review of the Company's complaint handling practices. Examiners reviewed how the Company handled complaints to ensure it was performing according to its own guidelines and Missouri statutes and regulations.

Section 375.936(3), RSMo, requires companies to maintain a registry of all written complaints received for the last three years. The registry must include all Missouri complaints, including those sent to the DIFP and those sent directly to the company.

The examiners verified the Company's complaint registry, dated January 1, 2007, through August 31, 2009. The registry contained a total of nine complaints. They reviewed all nine complaints that went through DIFP and ones that went directly to the Company.

The review consisted of a review of the nature of each complaint, the disposition of the complaint, and the time taken to process the complaint as required by §375.936(3), RSMo, and 20 CSR 100-8.040(3)(D).

The examiners discovered no issues or concerns.

IV. CRITICISMS AND FORMAL REQUESTS TIME STUDY

This study is based upon the time required by the Company to provide the examiners with the requested material or to respond to criticisms. Missouri law requires companies to respond to criticisms and formal requests within 10 calendar days. Please note that in the event an extension was requested by the company and granted by the examiners, the response was deemed timely if it was received within the time frame granted by the examiners. If the response was not received within that time period, the response was not considered timely.

A. Criticism Time Study

<u>Calendar Days</u>	<u>Number of Criticisms</u>	<u>Percentage</u>
Received w/in time-limit, incl. any extensions	89	100%
Received outside time-limit, incl. any extensions	0	0 %
<u>No Response</u>	<u>0</u>	<u>0 %</u>
Total	89	100%

Reference: §374.205.2(2), RSMo, and 20 CSR 100-8.040.

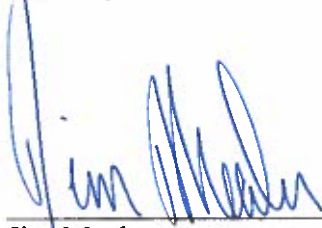
B. Formal Request Time Study

<u>Calendar Days</u>	<u>Number of Requests</u>	<u>Percentage</u>
Received w/in time-limit, incl. any extensions	25	100%
Received outside time-limit, incl. any extensions	0	0%
<u>No Response</u>	<u>0</u>	<u>0%</u>
Total	25	100%

Reference: §374.205.2(2), RSMo, and 20 CSR 100-8.040.

EXAMINATION REPORT SUBMISSION

Attached hereto is the Division of Insurance Market Regulation's Final Report of the examination of Victoria Automobile Insurance Company (NAIC #10644), Examination Number 0904-20-TGT. This examination was conducted by Gary T. Meyer, Gerald Michitsch, and Darren Jordan. The findings in the Final Report were extracted from the Market Conduct Examiner's Draft Report, dated January 25, 2011. Any changes from the text of the Market Conduct Examiner's Draft Report reflected in this Final Report were made by the Chief Market Conduct Examiner or with the Chief Market Conduct Examiner's approval. This Final Report has been reviewed and approved by the undersigned.



Jim Mealer
Chief Market Conduct Examiner

11/9/2012
Date