

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

In Re:)
) **Case No. 09-0430514C**
Universal Casualty Company.)
)
Serve at:)
)
Universal Casualty Company)
c/o Marc Romanz, President & CEO)
150 Northwest Point Boulevard)
Elk Grove Village, Illinois 60007)

STATEMENT OF CHARGES,
SUMMARY CEASE AND DESIST ORDER & ORDER TO SHOW CAUSE

COMES NOW, the Director of the Department of Insurance, Financial Institutions and Professional Registration (“Director”) to initiate administrative enforcement proceedings against Universal Casualty Company (“UCC”) pursuant to §§374.046 and 374.047, RSMo (Supp. 2008),¹ based on the following Statement of Charges:

JURISDICTION & RELEVANT STATUTES

1. Section 375.881 states, in part,

The director may revoke or suspend the certificate of authority of a foreign insurance company under section 374.047, RSMo, or issue such administrative orders as appropriate under section 374.046, RSMo, whenever he finds that the company

* * *

(6) Has violated any law of this state or has in this state violated its charter or exceeded its corporate powers;

2. Section 375.144 states:

It is unlawful for any person, in connection with the offer, sale, solicitation or negotiation of insurance, directly or indirectly, to:

(1) Employ any deception, device, scheme, or artifice to defraud;

¹ All statutory references are to RSMo (Supp. 2008) unless otherwise indicated.

- (2) As to any material fact, make or use any misrepresentation, concealment, or suppression;
- (3) Engage in any pattern or practice of making any false statement of material fact; or
- (4) Engage in any act, practice, or course of business which operates as a fraud or deceit upon any person.

Pursuant to §375.145, the Director may issue such administrative orders as authorized under §374.046 if he determines “that a person has engaged, is engaging in, or has taken a substantial step toward engaging in an act, practice or course of business constituting a violation of section 375.012 to 375.144.” Moreover, a violation of §375.144 is a level four violation under §374.049.

3. Section 375.445 states, in part:

1. It is unlawful for any insurance company transacting business under the laws of this state to:

- (1) Conduct its business fraudulently;
- (2) Fail to carry out its contracts in good faith; or
- (3) Habitually and as a matter of business practice compelling claimants under policies or liability judgment creditors of the insured to either accept less than the amount due under the terms of the policy or resort to litigation against the company to secure payment of the amount due.

2. If the director determines that a person has engaged, is engaging in, or has taken a substantial step toward engaging in an act, practice or course of business constituting a violation of this section or a rule adopted or order issued pursuant thereto, or that a person has materially aided or is materially aiding an act, practice, omission, or course of business constituting a violation of this section or a rule adopted or order issued pursuant thereto, the director may issue such administrative orders as authorized under section 374.046, RSMo. Each practice in violation of this section is a level two violation under section 374.049, RSMo. Each act as a part of a practice does not constitute a separate violation under section 374.049, RSMo. The director may also suspend or revoke the license or certificate of authority of such person for any willful violation.

4. Section 375.1005 states:

It is an improper claims practice for any domestic, foreign or alien insurer transacting business in this state to commit any of the acts defined in section 375.1007 if:

(1) It is committed in conscious disregard of sections 375.1000 to 375.1018 or any rules promulgated under sections 375.1000 to 375.1018;
or

(2) It has been committed with such frequency to indicate a general business practice to engage in that type of conduct.

5. Section 375.1007 states that any of the following acts by an insurer, if committed in violation of §375.1005, constitutes an improper claims practice:

(2) Failing to acknowledge with reasonable promptness pertinent communications with respect to claims arising under its policies;

(3) Failing to adopt and implement reasonable standards for the prompt investigation and settlement of claims arising under its policies;

(4) Not attempting in good faith to effectuate prompt, fair and equitable settlement of claims submitted in which liability has become reasonably clear;

* * *

(6) Refusing to pay claims without conducting a reasonable investigation;

(7) Failing to affirm or deny coverage of claims within a reasonable time after proof of loss statements have been completed and communicated to the insurer;

(8) Attempting to settle a claim for less than the amount to which a reasonable person would believe the insured or beneficiary was entitled by reference to written or printed advertising material accompanying or made part of an application;

* * *

(11) Unreasonably delaying the investigation or payment of claims by requiring both a formal proof of loss form and subsequent verification that would result in duplication of information and verification appearing in the formal proof of loss form;

* * *

6. 20 CSR 100-1.030 Failure to Acknowledge Pertinent Communications aids in the interpretation of §375.1007(2), and states as follows:

(1) Every insurer, upon receiving notification of claim from any first-party claimant within ten (10) working days, shall acknowledge the receipt of the notification unless payment is made within the period of time. If an acknowledgment is made by means other than writing, an appropriate notation of this acknowledgment shall be made in the claim file of the insurer and dated. Notification given to an agent of an insurer shall be notification to the insurer.

(2) An appropriate reply shall be made within ten (10) working days on all communications from any claimant which reasonably suggests that a response is expected.

(3) Every insurer, upon receiving notification of claim, promptly shall provide necessary claim forms, instructions and reasonable assistance so that first-party claimants can comply with the policy conditions and the insurer's reasonable requirements. Compliance with this section within ten (10) working days of notification of a claim shall constitute compliance with section (1) of this rule.

7. 20 CSR 100-1.050 Standards for Prompt, Fair and Equitable Settlement of Claims effectuates and aids in the interpretation of §375.1007(4), and states as follows, in part:

(1) Standards for Prompt, Fair and Equitable Settlements Applicable to All Insurers.

(A) Within fifteen (15) working days after the submission of all forms necessary to establish the nature and extent of any claim, the first-party claimant shall be advised of the acceptance or denial of the claim by the insurer. No insurer shall deny any claim on the grounds of a specific policy provision, condition or exclusion unless reference to that provision, condition or exclusion is included in the denial. The denial must be given to the claimant in writing and the claim file of the insurer shall contain a copy of the denial.

* * *

(C) If the insurer needs more time to determine whether a claim should be accepted or denied, it shall so notify the first-party claimant within the time otherwise allotted for acceptance or denial, giving the reasons more time is needed. If the investigation remains incomplete, the insurer, within forty-five (45) days from the date of the initial notification and every forty-five (45) days after, shall send the claimant a letter setting forth the reasons additional time is needed for investigation.

(D) No insurer shall fail to settle any first-party claim on the basis that responsibility for payment should be assumed by others except as otherwise may be provided by policy provisions.

* * *

(2) Standards for Prompt, Fair and Equitable Settlements Applicable to Automobile Insurance.

(A) Where liability and damages are reasonably clear, insurers shall not recommend that third-party claimants make claim under their own policies to avoid paying claims under the insurer's insurance policy or insurance contract.

(B) Insurers shall not require a claimant to travel unreasonably either to inspect a replacement automobile, to obtain a repair estimate or to have the automobile repaired at a specific repair shop.

* * *

(4) Standards for Prompt Investigations of Claims. Every insurer shall complete an investigation of a claim within thirty (30) days after notification of the claim, unless the investigation cannot reasonably be completed within this time.

8. Section 375.1010 states, in part:

If the director determines that a person has engaged, is engaging in, or has taken a substantial step toward engaging in an act, practice or course of business constituting a violation of sections 375.1000 to 375.1018 or a rule adopted or order issued pursuant thereto, or that a person has materially aided or is materially aiding an act, practice, omission, or course of business constituting a violation of sections 375.1000 to 375.1018 or a rule adopted or order issued pursuant thereto, the director may issue such administrative orders as authorized under section 374.046, RSMo. Each practice in violation of section 375.1005 is a level two violation under section 374.049, RSMo. Each act as part of a claims settlement practice does not constitute a separate violation under section 374.049, RSMo. The director may also suspend or revoke the license or certificate of authority of an insurer for any willful violation.

9. Section 375.1012 states, in part:

If, after such hearing, the director determines that the insurer charged had engaged in an improper claims practice prohibited by sections 375.1000 to 375.1018, he shall reduce his findings to writing and shall issue and cause to be served upon the person charged with the violation a copy of such findings and an order requiring such person to cease and desist from engaging in such improper claims practice, and thereafter the director may, at his discretion order one or more of the following:

(1) Payment of a monetary penalty of not more than one thousand dollars for each violation but not to exceed an aggregate penalty of one hundred thousand dollars in any twelve-month period unless the violation was committed flagrantly and in conscious disregard of sections 375.1000 to

375.1018, in which case the penalty shall be not more than twenty-five thousand dollars for each violation but not to exceed an aggregate penalty of two hundred fifty thousand dollars in any twelve-month period;

(2) Suspension or revocation of the insurer's license if such insurer knew or reasonably should have known it was in violation of sections 375.1000 to 375.1018.

10. The jurisdiction of the Director to initiate and administer this proceeding is found in §374.046, which provides, in part:

1. If the director determines based upon substantial and competent evidence that a person has engaged, is engaging in or has taken a substantial step toward engaging in an act, practice, omission, or course of business constituting a violation of the laws of this state relating to insurance in this chapter, chapter 354, RSMo, and chapters 375 to 385, RSMo, or a rule adopted or order issued pursuant thereto or that a person has materially aided or is materially aiding an act, practice, omission, or course of business constituting a violation of the laws of this state relating to insurance in this chapter, chapter 354, RSMo, and chapters 375 to 385, RSMo, or a rule adopted or order issued pursuant thereto, the director may order the following relief:

(1) An order directing the person to cease and desist from engaging in the act, practice, omission, or course of business;

(2) A curative order or order directing the person to take other action necessary or appropriate to comply with the insurance laws of this state;

(3) Order a civil penalty or forfeiture as provided in section 374.049; and

(4) Award reasonable costs of the investigation.

* * *

3. Unless the director determines that a summary order is appropriate under subsection 4 of this section, the director shall provide notice of the intent to initiate administrative enforcement by serving a statement of the reasons for the action upon any person subject to the proceedings. A statement of reasons, together with an order to show cause why a cease and desist order and other relief should not be issued, shall be served either personally or by certified mail on any person named therein. The director shall schedule a time and place at least ten days thereafter for hearing, and after notice of and opportunity for hearing to each person subject to the order, the director may issue a final order under subsection 6 of this section.

4. If the director determines that sections 375.014, 375.144, or 375.310, RSMo, are being violated and consumers are being aggrieved by the violations, the order issued under subdivision (1) of subsection 1 of this section may be summary and be effective on the date of issuance. Upon issuance of the order, the director shall promptly serve each person subject to the order with a copy of the order and a notice that the order has been entered.

11. Further jurisdiction to initiate this proceeding is found in §374.047, which provides:

1. If the director determines, based on substantial and competent evidence, that a corporation or insurer with a certificate of authority under the laws relating to insurance willfully has engaged in an act, practice, omission, or course of business constituting a level three, four, or five violation of the laws of this state relating to insurance in this chapter, chapter 354 and chapters 375 to 385, RSMo, or been convicted of any felony or misdemeanor under any state or federal law, the director may, after hearing, issue an order suspending or revoking the certificate of authority.

2. Prior to issuance of the order under this section, the director shall give at least thirty days' notice with a statement of reasons for the action and afford such corporation or insurer the opportunity for a hearing upon written request. If such corporation or insurer requests a hearing in writing, a final order of suspension or revocation may not be issued unless the director makes findings of fact and conclusions of law in a record in accordance with the contested case provisions of chapter 536, RSMo, and procedural rules promulgated by the director.

3. The enforcement authority of the director under this section is cumulative to any other statutory authority of the director.

12. Sections 374.049 and 374.280 authorize the Director to impose a monetary penalty or forfeiture depending on the level of the violation payable to the state of Missouri.

13. This proceeding is in the public interest.

14. For all times relevant herein, UCC is an insurance company organized pursuant to the laws of the state of Illinois and transacting insurance business in the state of Missouri pursuant to a Certificate of Authority issued by the Director.

COUNT I

Failure to Acknowledge Receipt of Notification of Claim and/or Failure to Send Claim Forms, Instructions within 10 Working Days in violation of §375.1005 and 20 CSR 100-1.030(1)

15. UCC failed to acknowledge within 10 working days receipt of notification of claims and/or failed to send claim forms, instructions and reasonable assistance so that first-party claimants could comply with policy conditions and UCC's reasonable requirements. UCC's failures are evidenced by the following Consumer Affairs Division consumer complaint files:

- a. 08J003664 – Gerald Roberts
- b. 09J000138 – Tiffany Sims
- c. 09J000142 – Craig Fairchild
- d. 09J000592 – Donald Coleman
- e. 09J000781 – Kuiana Davis
- f. 09J000852 – Ann Roth
- g. 09J001078 – Julia Newby
- h. 09J001417 – Karen Woodland

16. UCC's conduct constitutes an improper claims practice prohibited by §375.1005 as defined by §375.1007(2) and 20 CSR 100-1.030(1).

COUNT II

Failure to Acknowledge Pertinent Communications in violation of §375.1005 and 20 CSR 100-1.030(2)

17. UCC failed to acknowledge within 10 working days pertinent communications with respect to claims arising under its policies. UCC's failures are evidenced by the following Consumer Affairs Division consumer complaint files:

- a. 08J003664 – Gerald Roberts
- b. 09J000118 – Harold Holliday
- c. 09J000138 – Tiffany Sims
- d. 09J000188 – Thad Yount
- e. 09J000289 – Daniel Roddy
- f. 09J000379 – Rodney Creed
- g. 09J000500 – Mohamed Chawdhry
- h. 09J000592 – Donald Coleman
- i. 09J000645 – Ryan Overstreet

- j. 09J000852 – Ann Roth
- k. 09J001159 – Drew Hilpert
- l. 09J001297 – Darin Sorrell

18. UCC's failure to acknowledge with reasonable promptness pertinent communications with respect to claims arising under its policies constitutes an improper claims practice pursuant to §375.1005 as defined by §375.1007(2) and 20 CSR 100-1.030(2).

COUNT III

Failure to Notify First-Party Claimant When Investigation Remains Incomplete in violation of §375.1005 and 20 CSR 100-1.050(1)(C)

19. UCC failed to provide notice to the insured within 45 days of the initial notification setting forth the reasons additional time was needed for investigation when the investigation remained incomplete. UCC's conduct is evidenced by the following Consumer Affairs Division consumer complaint files:

- a. 08J002963 - Mark Boland
- b. 08J003065 – Barbara Barton
- c. 08J003512 – Crystal Williams
- d. 08J003664 – Gerald Roberts
- e. 08J003667 – April Kimbel
- f. 09J000038 – Janet Finley
- g. 09J000075 – Timothy Godfrey
- h. 09J000138 – Tiffany Sims
- i. 09J000142 – Craig Fairchild
- j. 09J000191 – Christina Hicks
- k. 09J000436 – Alford Bland
- l. 09J000480 - Marilyn Welty
- m. 09J000495 – Norma Edgar
- n. 09J000592 – Donald Coleman
- o. 09J000645 – Ryan Overstreet
- p. 09J000852 – Ann Roth
- q. 09J000973 – Mary Grigsby
- r. 09J001186 – Jennifer Hinton
- s. 09J001187 - Victoria Ulrey
- t. 09J001255 – Michael Orlando
- u. 09J001280 – Michael Roach
- v. 09J001297 – Darin Sorrell
- w. 09J001468 - Zachariah Fox

20. UCC's conduct constitutes an improper claims practice prohibited by §375.1005 as defined by §375.1007(2) and 20 CSR 100-1.050(1)(C).

COUNT IV

Failure to adopt and implement reasonable standards for the prompt investigation and settlement of claims arising under its policies in violation of §375.1005

21. UCC refused and continues to refuse to send claim adjusters to review claimants' damaged automobiles. Instead, UCC requires claimants to effectively investigate their own claims by providing photographs and police reports. UCC's failure to implement reasonable standards for the prompt investigation and settlement of claims is evidenced by the following Consumer Affairs Division consumer complaint files:

- a. 08J002963 – Mark Boland
- b. 08J003226 – Melissa Weathers
- c. 08J0003662 – Tommie Brooks
- d. 09J000137 – Lisa Schwarz
- e. 09J000138 – Tiffany Sims
- f. 09J000188 – Thad Yount
- g. 09J000553 – Steven Jamerson
- h. 09J000646 – Martin Weiss
- i. 09J000914 – Melissa Bay
- j. 09J000934 – James Stoll
- k. 09J000978 – Michael Edwards
- l. 09J001128 – Jessica Baker. In addition to requiring the claimant to supply pictures, UCC did not utilize proper mileage when evaluating the claim, even though UCC requested and received a picture of the odometer.
- m. 09J001186 – Jennifer Hinton
- n. 09J001256 – Jeanne Parker
- o. 09J001429 – Connie Jacobs
- p. 09J001553 – Vladimir Dilber
- q. 09J001570 - Jessica Knox
- r. 09J001610 - Patrick Oxler

22. UCC's reliance upon claimants' provision of automobile photos and police reports is unreasonable because such documentation may be altered by claimants. UCC has no evidence in the documentation supplied to the Consumer Affairs Division that indicates such information is regularly verified.

23. UCC's reliance upon claimants' supplying automobile photos and police reports is unreasonable because it unfairly places the responsibility and expense of claim investigation on the claimant, rather than on the insurance company. Such conduct creates an unjustified burden upon the claimant. In at least one instance, when a claimant requested an adjuster inspect the claimant's automobile, a UCC employee said "We don't do that." In another instance, UCC required the claimant to supply digital photographs when the claimant did not have ready access to a digital camera or the internet.

24. UCC's conduct constitutes an improper claims practice prohibited by §375.1005 as defined by §375.1007(3).

COUNT V

Where liability and damages were reasonably clear, UCC recommended that third-party claimants make claim under their own policies to avoid paying claims under the insurer's insurance policy or insurance contract in violation of §375.1005 and 20 CSR 100-1.050(2)(A)

25. Where liability and damages were reasonably clear, UCC recommended that third-party claimants make claim under their own policies to avoid paying claims under the insurer's insurance policy or insurance contract. UCC's conduct is evidenced by the following Consumer Affairs Division consumer complaint file:

a. 09J001159 – Drew Hilpert

26. UCC's conduct constitutes an improper claims practice prohibited by §375.1005 as defined by §375.1007(4) and 20 CSR 100-1.050(2)(A).

COUNT VI

Failure to complete an investigation of a claim unless the investigation cannot be reasonably completed in that time in violation of §375.1005 and 20 CSR 100-1.050(4)

27. UCC failed to complete claim investigations within 30 days after notification of the claim, or failed to document that the investigation could not reasonably be completed within

thirty (30) days. Such failure is evidenced by the following Consumer Affairs Division consumer complaint files:

- a. 08J003664 – Gerald Roberts
- b. 09J000075 – Timothy Godfrey
- c. 09J001553 – Vladimir Dilber

28. UCC's failure to complete investigations of claims within 30 days after notification of the claim, or failure to document that the investigation could not reasonably be completed within thirty (30) days, constitutes an improper claims practice prohibited by §375.1005 as defined by §375.1007(4) and 20 CSR 100-1.050(4).

COUNT VII

Refusing to pay claims without conducting a reasonable investigation in violation of §375.1005

29. UCC refused to pay claims without conducting a reasonable investigation. UCC's conduct is evidenced by the following Consumer Affairs Division consumer complaint files:

- a. 09J001553 – Vladimir Dilber

30. UCC's denial of claims without first conducting a reasonable investigation is an improper claims practice prohibited by §375.1005 as defined by §375.1007(6).

COUNT VIII

Failure to respond to Consumer Affairs Division Inquiries in violation of 20 CSR 100-4.100

31. UCC failed to respond adequately to Consumer Affairs Division inquiries within twenty (20) days from the date the Consumer Affairs Division mailed the inquiries for the following Consumer Affairs Division consumer complaint files:

- a. 08J003512 – Crystal Williams
- b. 08J003662 – Tommie Brooks
- c. 08J003664 – Gerald Roberts
- d. 08J003667 – April Kimbel
- e. 09J000038 – Janet Finley
- f. 09J000118 – Harold Holliday
- g. 09J000137 – Lisa Schwarz

- h. 09J000138 – Tiffany Sims
- i. 09J000188 – Thad Yount
- j. 09J000347 – Neal Powell
- k. 09J000379 – Rodney Creed
- l. 09J000480 - Marilyn Welty
- m. 09J000495 – Norma Edgar
- n. 09J000500 – Mohamed Chawdhry
- o. 09J000645 – Ryan Overstreet
- p. 09J000852 – Ann Roth
- q. 09J001078 – Julia Newby
- r. 09J001159 – Drew Hilpert
- s. 09J001187 - Victoria Ulrey
- t. 09J001256 – Jeanne Parker
- u. 09J001417 – Karen Woodland
- v. 09J001552 - Lawrence Brooks

32. Pursuant to the investigatory authority granted by §§374.190 and 375.1009, 20 CSR 100-

4.100(2)(A) Required Response to Inquiries by the Consumer Affairs Division provides:

Upon receipt of any inquiry from the division, every person shall mail to the division an adequate response to the inquiry within twenty (20) days from the date the division mails the inquiry. An envelope's postmark shall determine the date of mailing. When the requested response is not produced by the person within twenty (20) days, this nonproduction shall be deemed a violation of this rule, unless the person can demonstrate that there is reasonable justification for that delay.

33. UCC's failure to timely and completely respond to Consumer Affairs Division inquiries continues to impair the Consumer Affairs Division's ability to address consumer complaints and evaluate UCC's compliance with Missouri's insurance laws.

34. UCC's failure to timely and completely respond to Consumer Affairs Division inquiries constitutes a violation of 20 CSR 100-4.100.

COUNT IX

Conducting business fraudulently and failure to carry out contracts in good faith in violation of §375.445

35. The Director restates, alleges, and incorporates by reference, his allegations contained in paragraphs 1 through 34 as though fully set forth herein.

36. UCC refused to inspect vehicles, used dissimilar automobiles to determine the amount of loss, made “low ball” settlement offers, and made exclusive lien holder settlements. This conduct constitutes fraudulent business practices and failure to carry out contracts in good faith in violation of §375.445. UCC’s conduct is evidenced by the following Consumer Affairs Division consumer complaint files:

- a. 08J003065 – Barbara Barton
- b. 08J003664 – Gerald Roberts
- c. 09J000188 – Thad Yount
- d. 09J000289 – Daniel Roddy
- e. 09J000592 – Donald Coleman
- f. 09J000646 – Martin Weiss
- g. 09J000852 – Ann Roth
- h. 09J000914 – Melissa Bay
- i. 09J000934 – James Stoll
- j. 09J000978 – Michael Edwards
- k. 09J001128 – Jessica Baker
- l. 09J001186 – Jennifer Hinton
- m. 09J001280 – Michael Roach
- n. 09J001417 – Karen Woodland
- o. 09J001429 – Connie Jacobs
- p. 09J001468 - Zachariah Fox
- q. 09J001553 – Vladimir Dilber
- r. 09J001570 - Jessica Knox
- s. 09J001610 - Patrick Oxler

37. Section 375.445 states, in part:

1. It is unlawful for any insurance company transacting business under the laws of this state to:

- (1) Conduct its business fraudulently;
- (2) Fail to carry out its contracts in good faith;

* * *

2. If the director determines that a person has engaged, is engaging in, or has taken a substantial step toward engaging in an act, practice or course of business constituting a violation of this section or a rule adopted or order issued pursuant thereto, or that a person has materially aided or is materially aiding an act, practice, omission, or course of business constituting a violation of this section or a rule adopted or order issued pursuant thereto, the director may issue such administrative orders as

authorized under section 374.046, RSMo. Each practice in violation of this section is a level two violation under section 374.049, RSMo. Each act as a part of a practice does not constitute a separate violation under section 374.049, RSMo. The director may also suspend or revoke the license or certificate of authority of such person for any willful violation.

38. UCC's failure to carry out contracts in good faith and the fraudulent conduct of business constitutes violations of §375.445, which are level two violations. UCC's actions which violate the Unfair Claims Practices Act also constitute violations of §374.445.

COUNT X

Engaging in any act, practice, or course of business which operates as a fraud or deceit upon any person in violation of § 375.144(4)

39. The Director restates, alleges, and incorporates by reference, his allegations contained in paragraphs 1 through 38 as though fully set forth herein.

40. UCC's conduct constitutes engaging in any act, practice, or course of business which operates as a fraud or deceit upon any person in violation of §375.144(4), a level four (4) violation.

VIOLATIONS ARE CONTINUING IN NATURE

1. Fourteen consumers or consumer representatives filed complaints against UCC in 2008. Since the beginning of 2009, at least 63 consumers, or consumer representatives, have filed complaints against UCC. Complaining consumers have stated that UCC refuses to return calls, refuses to send adjusters to investigate their claims, forces consumers to provide pictures of damaged property, forces consumers to obtain police reports, forces consumers to provide the same documentation multiple times, uses dissimilar automobiles when settling claims resulting in "low ball" settlement offers, attempts to settle with lien holders without including consumers in settlement negotiations, and has such high turnover that consumers are unable to speak with the same person more than once. UCC's conduct unreasonably delays claim settlements,

frequently forcing third party claimants to file claims with their own carriers, and operates as a fraud upon both first party and third party claimants.

2. Because §375.144 is being violated by UCC and consumers are being aggrieved by the violations, a summary order under §374.046.4 is necessary to stop further violations of the law and prevent further harm to consumers.

VERIFICATION

Mary Kempker, Director of the Division of Consumer Affairs, states that the factual allegations contained in this petition are true and accurate to her best knowledge, information and belief.



Mary Kempker
Director, Consumer Affairs Division
Department of Insurance, Financial
Institutions & Professional Registration.

CONCLUSIONS OF LAW

1. Universal Casualty Company has engaged in and is engaging in acts practices, omissions or courses of business constituting a violation of the laws this state relating to insurance in Chapters 374 to 375 and in violation of rules adopted pursuant to such chapters.

2. Sections 375.144, 375.445, and 375.1005 are being willfully violated by Universal Casualty Company and consumers are being aggrieved by the violations.

SUMMARY CEASE AND DESIST ORDER

IT IS HEREBY ORDERED THAT Universal Casualty Company shall:

- a. Cease writing new insurance business in Missouri until such time as Universal Casualty Company can prove to the Director that it has sufficient staff and resources to adequately investigate and respond to claims.
- b. Acknowledge pertinent communications from first-party claimants within 10 working days of receiving notification of a claim unless payment is made within that period of time. Universal Casualty Company shall appropriately reply to all claimant communications within 10 working days which reasonably suggest a response is expected.
- c. Attempt in good faith to effectuate prompt, fair, and equitable settlement of claims submitted in which liability has become reasonably clear.
- d. Conduct a reasonable investigation of all claims and shall not, when investigating a claim, rely exclusively upon claimant-provided or insured-provided police reports or photographs.
- e. Take appropriate and prompt action on all Consumer Affairs Division inquiries, as required by 20 CSR 100-4.100, by providing an adequate response to the Consumer Affairs Division within 20 days from the date the Consumer Affairs Division mails the inquiry.
- f. Not conduct business fraudulently, fail to carry out its contracts in good faith, or habitually and as a matter of business practice compel claimants under policies or liability judgment creditors of the insured to either accept less than the amount

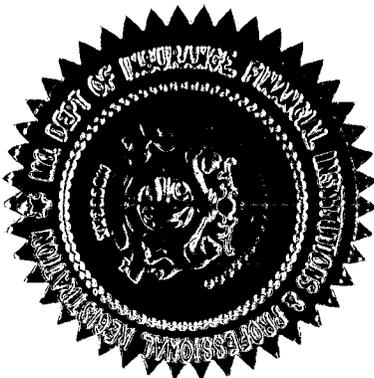
due under the terms of the policy or resort to litigation against the company to secure payment of the amount due.

- g. Not engage in any act, practice, or course of business which operates as a fraud or deceit upon any person.
- h. Not engage in any acts, practices, omissions and courses of business which violate §§375.144, 375.445, and 375.1005.

IT IS FURTHER ORDERED THAT Universal Casualty Company shall appear before me on August 5, 2009 at 9 a.m. at the 301 West High Street, Room 530, Jefferson City, Missouri to **SHOW CAUSE** why (1) the summary order issued against Universal Casualty Company should not be made final; (2) its certificate of authority should not be suspended or revoked pursuant to §§374.047 and 375.881; (3) a curative order or other orders should not be issued; and (4) other relief, including penalties and costs of investigation, should not be granted against Universal Casualty Company.

SO ORDERED.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the seal of my office in Jefferson City, Missouri, this 11th day of June, 2009.




John M. Huff
Director

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and correct copy of the foregoing, including all attachments, was sent by certified mail (Number 7007 0710 0002 2055, via the 0325 United States Postal Service on this 11th day of June, 2009 to:

Universal Casualty Company
c/o Marc Romanz, President & CEO
150 Northwest Point Boulevard
Elk Grove Village, Illinois 60007

Kimberly Gardner