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

In Re:	)	
	)	
EMCASCO INSURANCE COMPANY (NAIC # 21407)	)	**Market Conduct Exam No. 1207-12-TGT**
	)	
EMPLOYERS MUTUAL CASUALTY COMPANY (NAIC #21415)	)	**Market Conduct Exam No. 1207-13-TGT**

ORDER OF THE DIRECTOR

NOW, on this 31st day of December, 2013, Director John M. Huff, after consideration and review of the market conduct examination reports of EMCASCO Insurance Company (NAIC #21407) (hereafter referred to as "EMCASCO"), report number 1207-12-TGT, and Employers Mutual Casualty Company (NAIC #21415) (hereafter referred to as "Employers Mutual"), report number 1207-13-TGT, prepared and submitted by the Division of Insurance Market Regulation pursuant to § 374.205.3(3)(a),[1] and the Stipulation of Settlement and Voluntary Forfeiture ("Stipulation"), does hereby adopt such reports as filed. After consideration and review of the Stipulation, reports, relevant work papers, and any written submissions or rebuttals, the findings and conclusions of such reports are deemed to be the Director's findings and conclusions accompanying this order pursuant to § 374.205.3(4).

This order, issued pursuant to §§ 374.205.3(4), 374.280, and 374.046.15 RSMo (Supp. 2013), is in the public interest.

IT IS THEREFORE ORDERED that EMCASCO, Employers Mutual, 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 EMCASCO and Employers Mutual shall not engage in any of the violations of law and regulations set forth in the Stipulation and shall implement procedures to place EMCASCO and Employers Mutual in full compliance with the requirements

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

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 EMCASCO shall pay, and the Department of Insurance, Financial Institutions and Professional Registration, State of Missouri, shall accept, the Voluntary Forfeiture of $140,850 payable to the Missouri State School Fund.

IT IS FURTHER ORDERED that Employers Mutual shall pay, and the Department of Insurance, Financial Institutions and Professional Registration, State of Missouri, shall accept, the Voluntary Forfeiture of $66,500 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 31st day of December, 2013.

John M. Huff
Director

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

DEC 2013
Received By
Bureau Statistics
Dept.

In Re:	)	
	)	
EMCASCO INSURANCE COMPANY (NAIC # 21407)	)	**Market Conduct Exam No. 1207-12-TGT**
	)	
EMPLOYERS MUTUAL CASUALTY INSURANCE COMPANY (NAIC #21415)	)	**Market Conduct Exam No. 1207-13-TGT**

STIPULATION OF SETTLEMENT AND VOLUNTARY FORFEITURE

It is hereby stipulated and agreed by the Division of Insurance Market Regulation (hereinafter referred to as the "Division") and EMCASCO Insurance Company (NAIC #21407) (hereinafter referred to as "EMCASCO") and Employers Mutual Casualty Insurance Company (NAIC #21415) (hereinafter referred to as "Employers Mutual"), 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, EMCASCO and Employers Mutual have been granted certificates of authority to transact the business of insurance in the State of Missouri; and

WHEREAS, the Division conducted a Market Conduct Examination of EMCASCO and Employers Mutual and prepared report numbers 1207-12-TGT and 1207-13-TGT; and

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

1. In ninety-nine (99) instances, EMCASCO failed to maintain adequate documentation for the reconstruction and determination of rates in violation of § 287.937.2;[1]

2. In forty (40) instances, EMCASCO's schedule rating plans included the category of "classification peculiarities" in violation of §§ 287.947 and 287.955.1;

3. In one (1) instances, EMCASCO's workers compensation policies used incorrect schedule debit or credit factors in violation of § 287.950 and 20 CSR 500-4.100(7)(D);

4. In two (2) instances, EMCASCO failed to complete, bill and return premium to an insured within 120 days in violation of § 287.310 and 20 CSR 500-6.500(2)(A);

5. In twenty-six (26) instances, EMCASCO failed to notify policyholders of their eligibility for a premium adjustment credit in violation of § 287.955.3;

6. In four (4) instances, EMCASCO used incorrect rates for class codes in violation of §§ 287.947 and 287.950 and 20 CSR 500-6.950;

7. In five (5) instances, EMCASCO used an incorrect experience modification factor in violation of § 287.950 and 20 CSR 500-6.950;

8. In one (1) instance, EMCASCO did not follow the NCCI algorithm in calculating the premium discount in violation of § 287.955.3;

9. In sixteen (16) instances, EMCASCO failed to file all rate and supplementary rate information for large deductibe, non-standard (negotiated) rated policies with the Department in violation of § 287.947;

10. In one (1) instance, EMCASCO did not apply the earned factor towards the expense constant fee in violation of § 287.947 and 20 CSR 500-6.950;

11. In four (4) instances, EMCASCO applied an endorsement that is not allowed for the group of code classifications in question in violation of § 287.955 and 20 CSR 500-6.950; and

12. In one (1) instance, EMCASCO failed to comply with the Missouri Schedule Rate requirements regarding the maximum debits and credits allowed in violation of § 287.947 and 20 CSR 500-4.100(7).

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

1. In twelve (12) instances, Employers Mutual failed to maintain adequate documentation for the reconstruction and determination of rates in violation of § 287.937.2;

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

2. In thirteen (13) instances, Employers Mutual's schedule rating plans included the category of "classification peculiarities" in violation of §§ 287.947 and 287.955.1;

3. In one (1) instances, Employers Mutual's workers compensation policies used incorrect schedule debit or credit factors in violation of § 287.950 and 20 CSR 500-4.100(7)(D);

4. In two (2) instances, Employers Mutual failed to complete, bill and return premium to an insured within 120 days in violation of § 287.310 and 20 CSR 500-6.500(2)(A);

5. In thirty-one (31) instances, Employers Mutual failed to notify policyholders of their eligibility for a premium adjustment credit in violation of § 287.955.3;

6. In five (5) instances, Employers Mutual used incorrect rates for class codes in violation of §§ 287.947 and 287.950 and 20 CSR 500-6.950;

7. In four (4) instances, Employers Mutual used an incorrect experience modification factor in violation of § 287.950 and 20 CSR 500-6.950;

8. In one (1) instance, Employers Mutual used an incorrect earned factor in violation of § 287.947 and 20 CSR 500-6.950; and

9. In forty-four (44) instances, Employers Mutual failed to file all rate and supplementary rate information with the Department in violation of § 287.947.

WHEREAS, the Division, EMCASCO and Employers Mutual have agreed to resolve the issues raised in the Market Conduct Examination Reports 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.** EMCASCO and Employers Mutual agree 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. EMCASCO and Employers Mutual agree to reimburse the Second Injury Fund for underpayments identified in the EMCASCO and Employers Mutual examination reports;

2. EMCASCO and Employers Mutual agree not to use the category of "classification peculiarities" in their schedule rating plans for workers compensation insurance policies with premium or exposure in the State of Missouri.

3. EMCASCO and Employers Mutual agree to review all workers compensation insurance policies with premium or exposure in the State of Missouri issued from January 1, 2006 to the date of the Order closing this examination to determine if the correct rates were used and if the payments to the Second Injury Fund were correct. If the policyholder is entitled to a refund of premium, EMCASCO and Employers Mutual must issue any refund due to the insured, along with an additional payment of nine percent (9%) interest per annum that is also required, pursuant to § 408.020. A letter must be included with the payment, indicating that "as a result of a Missouri Market Conduct Examination," it was found that a refund was due to the insured. If the Second Injury Fund is owed additional payments, such payments shall be made to the fund with any applicable interest and penalties. Amended returns may also need to be filed with the Fund. Additionally, evidence must be provided to the Department that such refunds to the insured and payments to the Second Injury Fund have been made within 180 days after the date of the Order finalizing this examination.

4. EMCASCO and Employers Mutual agree to provide the Department with an itemized list of its refund payments to insureds, rather than just a total amount refunded, so that the Department can ensure that the correct amount was refunded to each insured.

5. EMCASCO and Employers Mutual agree to file all rate and supplementary rate information with the Department in compliance with § 287.947, particularly for large deductible, non-standard (negotiated) rated policies.

6. EMCASCO and Employers Mutual agree to review all workers compensation insurance policies with premium or exposure in the State of Missouri issued from January 1, 2006 to the date of the Order closing this examination to determine if the NCCI "Waiver of our Rights to

Recover From Others" endorsement was used on any policies where the employer was in the construction group of code classifications, which is not allowed in Missouri. If such policies are found and the policyholder is entitled to a refund of premium, EMCASCO and Employers Mutual must issue any refund due to the insured, along with an additional payment of nine percent (9%) interest per annum that is also required, pursuant to § 408.020. A letter must be included with the payment, indicating that "as a result of a Missouri Market Conduct Examination," it was found that a refund was due to the insured. Additionally, evidence must be provided to the Department that such refunds to the insured have been made within 180 days after the date of the Order finalizing this examination.

C. **Compliance.** EMCASCO and Employers Mutual agree to file documentation with the Division within 180 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 the payment of restitution required by this Stipulation.

D. **Voluntary Forfeiture.** EMCASCO agrees, voluntarily and knowingly, to surrender and forfeit the sum of $140,850, such sum payable to the Missouri State School Fund, in accordance with § 374.280. Employers Mutual agrees, voluntarily and knowingly, to surrender and forfeit the sum of $66,500, 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 EMCASCO and Employers Mutual, other than those agreed to in this Stipulation, for the conduct found in Market Conduct Examinations 1207-12-TGT and 1207-13-TGT.

F. **Waivers.** EMCASCO and Employers Mutual, after being advised by legal counsel, do 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 Examinations.

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 not become effective until entry of a Final Order by the Director of the Department of Insurance, Financial Institutions and Professional Registration (hereinafter the "Director") approving this Stipulation.

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: 12/17/2013

Stewart Freilich
Legal Counsel
Division of Insurance Market Regulation

DATED: 12/12/2013

President
EMCASCO Insurance Company

DATED: 12/12/2013

President
Employers Mutual Casualty ~~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

EMCASCO Insurance Company
NAIC # 21407

MISSOURI EXAMINATION # 1207-12-TGT

NAIC EXAM TRACKING SYSTEM # MO341-M95

December 23, 2013

Home Office
EMCASCO Insurance Company
717 Mulberry Street
Des Moines, Iowa 50309

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FOREWORD

This is a targeted market conduct examination report of EMCASCO Insurance Company, (NAIC Code # 21407). This examination was conducted at the DIFP office located in Jefferson City, Missouri.

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" or "EMCASCO" refers to EMCASCO 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;
- "Division" refers to the Department of Labor, Division of Workers' Compensation;
- "NAIC" refers to the National Association of Insurance Commissioners;
- "NCCI" refers to the National Council on Compensation Insurance, Inc., and;
- "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, 2006, through December 31, 2011, 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: policy holder service, complaints, underwriting for workers' compensation policies.

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 for underwriting and trade practices is 10%. The NAIC benchmark error rate for claims practices is seven percent (7%). 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

History of the EMCASCO Insurance Company

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

The Company was incorporated on December 8, 1958 as a stock company having perpetual existence with the authorization to write insurance other than life. The Articles of Incorporation were amended in December 1960, whereby the Company was authorized to write multiple lines of insurance. The original Articles of Incorporation provided for $500,000 of authorized capital consisting of 50,000 shares of common stock, par value $10 each. The Articles were amended on December 29, 1961 and March 11, 1981, whereby the number of authorized shares of common stock increased to 100,000 and 350,000 shares, respectively.

EMCASCO Insurance Company and Farm and City Insurance Company, wholly owned subsidiaries of EMC Insurance Group Inc., merged on December 31, 2007 with EMCASCO Insurance Company being the surviving entity.

EXECUTIVE SUMMARY

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

- The Company in 99 instances failed to update schedule rating worksheets and was unable to locate and provide the worksheets which support the basis for the schedule rating credit or debit used in the rating.

- The Company in 40 instances used schedule rating worksheets that had the category "Classifications Peculiarities" and the Company used this category to establish a schedule rating credit. This plan is not approved in Missouri.

- The Company in one instance used a credit rating factor different than what was indicated on the schedule rating worksheet.

- The Company on two occasions failed to complete and bill the extra premium to the insured within the 120 days of policy expiration or cancellation of the policy.

- The Company in one instance failed to comply with the Missouri schedule rate requirements regarding the maximum debits or credits allowed.

- The Company in 26 instances failed to adhere to rules of the NCCI Basic Manual by failing to send notification on an approved form to the insured that they may be eligible for a premium adjustment credit under the Missouri Contracting Classification Premium Adjustment Program because they have one or more contracting classifications on their policy.

- The Company in four instances used incorrect rates for class codes listed on the audit worksheet.

- The Company in four instances utilized an incorrect experience modification factor creating undercharges and one instance of an overcharge.

- The Company in one instance did not follow the NCCI algorithm in calculating the Premium Discount rate to an amount other than standard premium which resulted in an undercharge.

- The Company in one instance did not apply the earned factor towards the expense constant fee resulting in an overcharge to the insured.

- The Company in four instances did not follow the NCCI "Waiver of rights to recover from others" endorsement WC 00 03 13 resulting overcharges to the insured.

- The Company in 16 instances failed to file their large deductible policies individually.

The examiners requested that the Company make refunds concerning underwriting premium overcharges 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 reviewed 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 practice contrary to the law. Error rates 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.

Workers' Compensation Review

Reviews are conducted to confirm that workers' compensation carriers that issue large deductible, non-standard policies, in addition to traditional workers' compensation policies, are in compliance with the rate filing requirements found in §§ 287.310 and 287.947, RSMo.

Workers' Compensation carriers are also evaluated to ensure total premiums are being reported as well as correct methods for determining assessments and remittance of the required second injury fund and administrative surcharges. The review includes carriers' deductible policy forms and rules for compliance with § 287.310 Subsection 4, RSMo, regarding the presumption that a net reporting plan is offered unless the insured elects a gross reporting plan.

NCCI statistical data is reviewed to analyze utilization of Individual Rate Premium Modification (IRPM), also known as schedule rating, in the form of applied debits or credits. Schedule rating is intended to be used to accurately rate an individual employer's business operation. Descriptions of the risk categories are to be based on loss-related factors that can be objectively determined.

A. <u>Forms and Filings</u>

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

The examiners discovered no errors during this review.

B. <u>Underwriting and Rating</u>

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.

The following are the results of the reviews:

1. Workers' Compensation (Active)

Field Size:	1222
Sample Size:	100
Type of Sample:	Random
Number of Errors:	116

The examiners discovered the following errors during this review.

Policy Numbers

4H28611	3H70748	3H52738	3H58613	4H24961	3H56763
3H69988	3H72549	3H82536	3H85452	3H86301	3H86976
4H13795	4H17621	4H28407	4H29957	4H35914	4H40174
4H44307	4H45621	4H24130	4H18572	4H26078	4H30364
1Q55831	3H52743	3H58943	3H66079	3H69316	3H82872
3H85095	3H87935	4H24431	4H60426		

The examiners requested copies of the Missouri Schedule Rating worksheets for various policies in the sample reviewed. The Company was unable to locate and provide the worksheets which support the basis for the schedule rating credit or debit used in the rating. Therefore, the Company failed to maintain information necessary for the reconstruction of the rating and underwriting of the policies listed above.

In regards to the Schedule Rating worksheets that were supplied, some worksheets used were found to be outdated. Underwriters are required to document the application of credits and debits with the use of Workers' Compensation Schedule Rating Worksheet WC 8108(8-08). New worksheets went in effect 1/1/09 which updated the risk characteristic categories that could be considered. For the policies listed above, the Company underwriters failed to implement the new worksheet.

All schedule debits and credits shall be based on evidence that is contained in the file of the carrier at the time the schedule credit or debit is applied. The policies listed above did not have evidence or reasons on the worksheets submitted to support the basis for the credit or debit applied to the policy.

References: §§287.350, 287.937, 374.205.2(2), RSMo, and 20 CSR 100-8.040(3)(A) and 20 CSR 500-4.100(7) (D) 1 and EMC Workers' Compensation and Employers Liability Manual – MO Exception Page – Schedule Rating – Effective 1/1/2009.

Policy Numbers

3H27416	3H62251	3H44793	3H70748	3H52738	3H58613
3H58613	3H61986	3H69052	4H24961	3H52732	3H56763
3H57077	3H66193	3H72549	3H77561	3H81060	3H82533
3H85452	4H17366	4H17621	4H24996	4H26077	4H27310
4H28407	4H35914	4H40174	4H44307	3H77076	4H26078
4H30364	4H36056				

The Company's Workers' Compensation Schedule Rating Plan is not in compliance with Missouri's requirement for schedule rating plans regarding the application of risk characteristic modifications.

The review conducted by the examiners indicates the Company uses a schedule rating worksheet with the category "Classifications Peculiarities" and the policies listed above specially used this category to establish a schedule rating credit.

Although the current NCCI Schedule Rating plan does include a characteristic for "Classification Peculiarities", this plan is not approved for use in Missouri. Using "Classification Peculiarities" can lead to disregarding the classification system developed by NCCI and a very subjective interpretation of the Scope for a code that will vary from underwriter to underwriter. DIFP wants all risks to be classified correctly and resulting data received from the NCCI is valid and complete. Allowing companies to subjectively "adjust" for "classification peculiarities" through Schedule Rating will potentially lead to unfair rating practices and corrupt the Missouri data.

References: §§287.947, 287.955(1), RSMo

Policy No	**Date Effective**
4H48450 – 12	2/13/2011- 2/13/12

(1) The Company used a Missouri schedule rating credit factor of .80 when a schedule rating worksheet showed the credit documented as .90. The correct discount was $943 but $1886 was given. This created an undercharge of $943.

References: §287.950 RSMo, and 20 CSR 500-4.100(7)(D)1.

(2) As a result of the incorrect schedule rating, subsequent changes affected calculations of the Missouri Second Injury Fund surcharge. The examiner recalculated the policy premium and determined a $26 undercharge to the Second Injury Fund.

References: §§287.310.9 and 287.715 RSMo

Pursuant to §§287.310.9 and 287.715, RSMo, please be advised that it is within our discretion to notify the Division of Workers' Compensation and/or the Department of Revenue regarding the incorrect application of charges and collections of the Second Injury Fund surcharges and/or Administrative surcharges.

(3) Considering the effect the incorrect schedule rating had on the calculation of the remaining premium, the Missouri final audit total was $8,741 versus the Missouri final audit total from the premium Audit Statement of $7,841.

Excluding the Second Injury Fund above ($8,741- $7,841 = $900 - $26 = $874), this created an overall undercharge of $874 for the total premium.

References: §287.950 RSMo

Policy No	Canceled/Exp Date	Audit Date	# of Days
2H00691	06/06/2007	11/20/2007	167

The Company failed to complete, bill and return the premium to the insured within 120 days of the policy expiration or cancellation. The policy file did not contain adequate documentation that the delay was caused by the policyholder's failure to respond to reasonable and timely requests or that the delay was by mutual agreement of the policyholder and insurance company.

References: §287.310 RSMo, and 20 CSR 500-6.500(2)(A)

Policy Numbers

1H19786	3H58613	3H82872	3H68852	3H57077	3H66193
3H66193	3H72549	3H76828	4H13795	4H17621	
4H28407	4H29957	4H40174	4H44307	2M98170	
3H45436	3H72549	4H24130	3H56766	3H68942	
3M52498	4H28407	4H24431	1H30368	3H45436	

The Company failed to adhere to rules of the National Council on Compensation Insurance (NCCI) Basic Manual by failing to send notification on the approved form to the insured that they may be eligible for a premium adjustment credit under the Missouri Contracting Classification Premium Adjustment Program because they have one or more contracting classifications on their policy.

The Company was requested to send copies of all applications sent to policyholders with the qualifying contracting classifications and the corresponding letters and credit worksheets received from NCCI if the policyholder qualified for such credit. The Company has been unable to produce copies for the above listed policies.

References: §287.955.3 RSMo, and Basic Manual (2001 MO) – Miscellaneous Rules: Missouri Contracting Classification Premium Adjustment Program

Policy No	Date Effective
3H69988-10	8/15/09 – 8/15/10

(1) The Company used the wrong rates for class codes listed on the audit. The inconsistencies are as follows:

- A rate of $6.46 was used for class code 7380 when the manual shows $6.59.
- A rate of $3.58 was used for class code 8018 when the manual shows $3.39.
- A rate of .40 was used for class code 8810 when the manual shows .37.
- It appears rates that were used were from the previous rates effective 9/1/2007. Since the policy period initiates 8/15/2009, the new rates effective 1/1/2009 should have been used.

References: §§287.947, 287.950 RSMo and 20 CSR 500-6.950

(2) The Company used a terrorism rate of .01 when the manual shows a rate of .03. It appears the terrorism rate used was from the rate pages effective 9/1/2008 and not the terrorism rate from the rate page effective 1/1/2009. This error created an undercharge of $150 ($225-$75 = $150).

References: §§287.947, 287.950 RSMo and 20 CSR 500-6.950

(3) Considering the effect the incorrect rates had on the subsequent calculations explained above, the final audit total was $23,224 versus the final total from the Premium Audit Statement of $23,242, a difference of $18 with nine percent interest owed to the insured until paid.

References: §§287.947, 287.950, 408.020, RSMo and 20 CSR 500-6.950

Policy No	Date Effective
2H42949-08	1/1/07 – 1/1/08

(1) The Company utilized an incorrect experience modification factor of .73 when the Workers' Compensation Experience Rating Worksheet shows the final factor that should have been used of .74. This created an undercharge.

References: §287.950, 287.955 RSMo and 20 CSR 500-6.950

(2) As a result of the incorrect experience modification factor, subsequent changes affected calculations of the Missouri Second Injury Fund surcharge. The examiner recalculated the policy premium and determined an approximate $2 undercharge to the Second Injury Fund.

References: §287.310.9, 287.715 RSMo

(3) As a result of the incorrect experience modification factor the remaining premium from the statement of Premium Adjustment audit was $3,507. The examiners recalculated the Missouri final audit in the amount of $3,558. Excluding the Second Injury Fund explained above ($3,558-$3,507 = $51 -$2

= $49), this created an overall approximate undercharge of $49 for the total premium.

References: §§287.950, 287.955 RSMo and 20 CSR 500-6.950

Policy No	**Date Effective**
3H58943-12	7/17/11 – 7/17/12

(1) The Company used the wrong rates for class codes listed on the audit. The inconsistencies are as follows:

- A rate of $2.23 was used for class code 8018 when the manual shows $2.42.
- A rate of .37 was used for class code 8810 when manual shows .29.
- It appears the rates used were from the previous rates effective 9/19/09. Since the policy initiates 7/17/11, the new rates effective 7/1/11 should have been used.

References: §§ 287.947, 287.950 RSMo, and 20 CSR 500-6.950

(2) As a result of the incorrect rates used, subsequent changes affected calculations of the Missouri Second Injury Fund surcharge. The examiner recalculated the correct amounts and the new Second Injury Fund surcharge totaled $61 versus the $58 in the original audit, a $3 undercharge.

References: §§ 287.310.9, 287.715 RSMo

(3) Considering the effect the incorrect rates had on the subsequent calculations explained above, the final audit total was $2,094 versus the final total premium Audit Statement of $1,978, a difference of $116. Excluding the Second Injury Fund amount explained above ($2,094-$1,978 = $116 - $3 = $113), this created an undercharge of $113 for the total premium.

References: §§ 287.947, 287.950 RSMo, and 20 CSR 500-6.950

Policy No	**Date Effective**
3H45436-09	9/27/08

(1) The Company used the wrong rates for class codes listed on the audit. The inconsistencies are as follows:

- A rate of $5.69 was used for class code 5183 when the manual shows $7.22.

- It appears the rate was for class code 5188 which appears immediately after class code 5183 in the manual.

References: §§ 287.947, 287.950 RSMo, and 20 CSR 500-6.950

(2) As a result of the incorrect rate used, subsequent changes affected calculations of the Missouri Second Injury Fund surcharge. The examiner recalculated the correct amounts and the new Second Injury Fund surcharge totaled $105 versus the $102 in the original audit, a $3 undercharge.

References: §§ 287.310.9, 287.715 RSMo

(3) Considering the affect the incorrect rates had on the subsequent calculations explained above, the final audit total was $3,602 versus the final total premium Audit Statement of $3,507, a difference of $95. Excluding the Second Injury Fund amount explained above ($3,602-$3,507= $95- $3 = $92), this created an undercharge of $92 for the total premium.

References: §§ 287.947, 287.950 RSMo, and 20 CSR 500-6.950

Policy No	Date Effective
3H70327-12	3/20/11

The Company utilized an incorrect experience modification factor of 1.07 when the Workers' Compensation Experience Rating Worksheet shows the final factor that should have been used of 1.08. The Company has stated that this was due to an entry error. This created an undercharge of $87 plus nine percent interest from the effective date of policy until paid.

References: §§ 287.950, 287.955, 408.020, RSMo, and 20 CSR 500-6.950

Policy No	Date Effective
2P66550-09	3/1/2008

The Company failed to adhere to the rules of the National Council on Compensation Insurance (NCCI)'s Basic Manual. The Company did not follow the NCCI algorithm in calculating the Premium Discount and incorrectly applied the premium discount factor rate to an amount other than the Standard Premium. According to the Company this was due to a human error entry. The Company recalculated the premium and determined the error resulted in a $274 undercharge to the total premium and an undercharge of $8 to the Second Injury Fund.

References: §287.955.3, RSMo, and Basic Manual (2001 Mo) Miscellaneous Rules Missouri Workers' Compensation Premium Algorithm and Part One, Rule 3: 19 Premium Discount and 20 Standard Premium rules.

Policy Numbers	Date Effective
1H30368	07/01/2006
1H30368	07/01/2007
1H30368	07/01/2008
1H30368	07/01/2009
1H30368	07/01/2010
2H96450	10/04/2006
2H96450	10/04/2007
2H96450	10/04/2008
2H96450	10/04/2009
3H62799	10/15/2007
3M52498	05/01/2007
3M52498	05/01/2008
3M52498	05/01/2009
3M52498	05/01/2010
3M52498	05/01/2011
8H40933	01/01/2011

The Company appears to have not made a filing with DIFP of requisite information for the above list of large deductible, non-standard (negotiated) rated policies.

References: §§ 287.310, 287.947.1 RSMo

2. Workers' Compensation (Non - Active)

Field Size:	160
Sample Size:	160
Type of Sample:	Census
Number of Errors:	83

The examiners discovered the following errors during this review.

Policy Numbers

3H87941	3H89208	3H89214	3N68450	3P81075	3R18248
4H14968	4H16119	4H16166	4H16271	4H16275	4H16280
4H16723	4H17364	4H17754	4H21182	4H21182	4H23952

4H24091	4H24444	4H24574	4H24620	4H26071	4H27850
4H27924	4H28220	4H28238	4H28643	4H29041	4H30465
4H30695	4H30700	4H31367	4H32725	4H32997	4H33289
4H33974	4H33981	4H34154	4H34947	4H34958	4H35825
4H37128	4H37411	4H37783	4H38450	4H38460	4H41688
4H41812	4H43372	4H44122	4H44290	4H44301	4H45362
4H45658	4H45918	4H49652	4H50015	4H51438	4H52521
4H53675	4H59694	4H59963	4H60690	4M28548	

The examiners requested copies of the Missouri Schedule Rating worksheets for various policies in the sample reviewed. The Company was unable to locate and provide the worksheets which support the basis for the schedule rating credit or debit used in the rating. Therefore, the Company failed to maintain information necessary for the reconstruction of the rating and underwriting of the policies listed above.

In regards to the Schedule Rating worksheets that were supplied, some worksheets used were found to be outdated. Underwriters are required to document the application of credits and debits with the use of Workers' Compensation Schedule Rating Worksheet WC 8108(8-08). New worksheets went in effect 1/1/09 which updated the risk characteristic categories that could be considered. For the policies listed above, the Company underwriters failed to implement the new worksheet.

All schedule debits and credits shall be based on evidence that is contained in the file of the carrier at the time the schedule credit or debit is applied. The policies listed above did not have evidence or reasons on the worksheets submitted to support the basis for the credit or debit applied to the policy.

References: §§287.350, 287.937, 374.205.2(2), RSMo, and 20 CSR 100-8.040(3)(A) and 20 CSR 500-4.100(7) (D) 1 and EMC Workers' Compensation and Employers Liability Manual – MO Exception Page – Schedule Rating – Effective 1/1/2009.

Policy No	**Date Effective**
3H59984-12	05/05/11

(1) The Company did not apply the earned factor of .153 towards the Expense Constant fee.

The Company did not pro-rate the 4240 Expense Constant Fee. The policy's effective date was 8/5/11 with a canceled date of 9/30/11. The policy was in force for 55 days with an unearned factor of .847.

As a result of not applying the earned factor towards the expense Constant fee, the examiner recalculated the policy's premium and determined the Company overcharged the insured $203, excluding the Second Injury Fund.

References: §§287.947.1, 287.955, RSMo and 20 CSR 500-6.950 and NCCI Basic Manual Rule 3-A – 11 Expense Constant

(2) As a result of not applying the correct earned factor the subsequent changes affected the calculations of the Missouri Second Injury Fund surcharge. The recalculated Second Injury Fund surcharge indicates a $6 overcharge.

References: §§287.310.9, 287.715, RSMo

The Company overcharged the insured in the amount of $209. The amount due the insured is $209 plus nine percent interest from effective date until paid.

References: §408.020, RSMo

Policy No	Date Effective
2H45658-09	02/12/2008

The Company utilized an incorrect experience modification factor of 1.0 when the NCCI Workers' Compensation Experience Rating Worksheet shows the final factor of 1.05. This created a $22 premium undercharge.

References: §§287.950, 287.955, RSMo and 20 CSR 500-6.950

Policy No	Date Effective
3H57764	06/01/2008

(1) The Company failed to adhere to the NCCI Experience Modification factor that was provided. The Company utilized an incorrect Experience Modification factor of .85, when the NCCI Workers' Compensation Experience Rating Worksheet shows the final factor was .89 effective 7/31/08.

As a result of the applied incorrect rate, the examiner recalculated the policy's premium and determined the Company undercharged the insured $407 (applying the correct class code rates), excluding the Second Injury Fund.

References: §§287.950, 287.955, RSMo and 20 CSR 500-6.950

(2) The Company applied the incorrect rate of $3.01 for class code 8811, .76 for class code 8742, and .37 for class code 8810 during the audit period of 7/31/2008 to 6/1/2009. The policy's effective date was 6/1/2008.

As the result of the applied incorrect rates, the examiner recalculated the policy's premium and determined the Company undercharged the insured $407 (applying the correct experience modification factor), excluding the Second Injury Fund.

References: §287.947.1, RSMo and 20 CSR 500-6.950

(3) As a result of the incorrect experience modification factor, the Company incorrectly computed the Second Injury Fund surcharge in the premium calculation. The examiner recalculated the Second Injury Fund surcharge and determined a $12 underpayment.

References: §§287.310.9, 287.715, RSMo

Policy No	Date Effective
2H26510- 12	05/01/2011

(1) The Company failed to adhere to the NCCI Experience Modification factor that was provided. The Company utilized an incorrect Experience Modification factor of 1.23, when the NCCI Workers' Compensation Experience Rating Worksheet shows the final factor was 1.12 effective 5/1/2011. This created a premium overcharge of $2,565, excluding the Second Injury Fund amount.

References: §§287.950, 287.955, 408.020 RSMo and 20 CSR 500-6.950

(2) As a result of the incorrect experience modification factor, the Company incorrectly computed the Second Injury Fund surcharge in the premium calculation. The examiner recalculated the Second Injury Fund surcharge and determined a $77 overpayment.

References: §287.310.9, 287.715, RSMo

As a result, the insured was overcharged in the amount of $2,642 plus nine percent interest from the policy effective date 5/21/2011 and ending when paid.

Policy Numbers
2H36458
2H36826
9H46533
3H72199

The Company did not follow the NCCI "Waiver of our Rights to Recover From Others" endorsement WC 00 03 13, which states that the endorsement does not apply to policies in Missouri where the employer is in the construction group of

code classifications. A contractual provision purporting to waive subrogation rights is against public policy and void where one party of the contract is an employer in the construction group of code classifications. Also, the Company did not follow the Missouri – Workers' Compensation Rate /Rule Revision SERFF filing # EMCC 125756150, which stated that the Company will revise the rules to comply with Missouri regulations.

The Company shall file with the director all rates and supplementary rate information which is to be used in this state.

The Company charged a $500 fee for policy 2H36458 in accordance with the "Waiver of our Rights to recover from others" endorsement on the policy. The endorsement states the premium is $500 per endorsement. However, this endorsement may not be used with the Contracting Classification Code of 5403 or 8227, as indicated on the Final Audit Report for this Policy. After application of the experience rating factor, schedule rating modification factor, and premium discount factor, the insured was overcharged $343. The Company owes the insured the amount of $343 plus nine percent interest per annum until paid.

The Company charged a $100 fee for policy 2H36826 in accordance with the "Waiver of our rights to recover from others" endorsement on the policy. The endorsement states the premium is $100 per endorsement. However, this endorsement may not be used with the Contracting Classification Code of 3724, as indicated on the Final Audit Report for the policy. After application of the experience rating factor, schedule rating modification factor, and premium discount factor, the insured was overcharged $93. The Company owes the insured the amount of $93 plus nine percent interest per annum until paid.

The Company charged a $150 fee for policy 9H46533 in accordance with the "Waiver of our rights to recover from others" endorsement on the policy. The endorsement states the premium is $150 per endorsement. However, this endorsement may not be used with the Contracting Classification Code of 3724, as indicated on the Final Audit Report for this policy. After application of the experience rating factor, schedule rating modification factor, and premium discount factor, the insured was overcharged $184. The Company owes the insured the amount of $184 plus nine percent interest per annum until paid.

The Company charged a $50 fee for policy 3H721199 in accordance with the "Waiver of our rights to recover from others" endorsement on the policy. The endorsement states the premium is $50 per endorsement. However, this endorsement may not be used with the Contracting Classification Code of 5183, as indicated on the Final Audit Report for this policy. After application of the experience rating factor, schedule rating modification factor, and premium discount factor, the insured was overcharged $38. The Company owes the insured the amount of $38 plus nine percent interest per annum until paid.

References: §287.955, 408.020, RSMo, CSR 500-6.950 and the NCCI 2001 Workers' Compensation Manual-Rule 3. A.22; endorsement WC 00-03-13

Policy No	Date Effective
2H42949-07	01/01/2006

(1) The Company failed to comply with the Missouri Schedule Rate requirements regarding the maximum debits and credits allowed.

The Company applied a total schedule rate of .71 or 29% credit during the policy period. The schedule rate premium for Missouri was -$1,428. The examiner recalculated the premium and applied the maximum limit of .75 or 25% credit and determined the correct schedule rate premium was -$1,231. The higher schedule rate credit resulted in a lower premium by -$197.

Therefore, the Company undercharged the insured by $197 (excluding the Second Injury Fund), as a result of the applied incorrect 29% schedule rate credit.

References: §§287.947, 287.955 (1), RSMo and 20 CSR 500-4.100(7)

(2) As a result of the incorrect 29% schedule credit, the Company incorrectly computed the Second Injury Fund surcharge in the premium calculation. The examiner recalculated the policy premium and determined a $5 underpayment to the Second Injury Fund.

References: §287.310.9, 287.715, RSMo

Policy No	Canceled/Exp Date	Audit Date	# of Days
4S39045	08/15/2011	12/29/2011	136

The Company failed to complete, bill and return the premium to the insured within 120 days of the policy expiration or cancellation. The policy file did not contain adequate documentation that the delay was caused by the policyholder's failure to respond to reasonable and timely requests or that the delay was by mutual agreement of the policyholder and insurance company.

References: §287.310 RSMo, and 20 CSR 500-6.500(2)(A)

Policy Numbers

3N68450	3P81075	4H16119	4H16275	4H16280	3H44793
4H17364	4H23952				

The Company's Workers' Compensation Schedule Rating Plan is not in compliance with Missouri's requirement for schedule rating plans regarding the application of risk characteristic modifications.

The review conducted by the examiners indicates the Company uses a schedule rating worksheet with the category "Classifications Peculiarities" and the policies listed above used this category to establish a schedule rating credit.

Although the current NCCI Schedule Rating plan does include a characteristic for "Classification Peculiarities", this plan is not approved for use in Missouri. Using "Classification Peculiarities" can lead to disregarding the classification system developed by NCCI and a very subjective interpretation of the Scope for a code that will vary from underwriter to underwriter. DIFP wants all risks to be classified correctly and resulting data received from the NCCI is valid and complete. Allowing companies to subjectively "adjust" for "classification peculiarities" through Schedule Rating will potentially lead to unfair rating practices and corrupt the Missouri data.

References: §§287.947, 287.955(1), RSMo

C. Declinations

The examiners reviewed this large field of policies because they had been declined by the Company before assigning to a particular Company to see if the Company complied with it underwriting procedures for writing new business.

The following are the results of the reviews:

1. Workers' Compensation (Declinations)

Field Size:	4,684
Sample Size:	100
Type of Sample:	Random
Number of Errors:	0

The examiners discovered no errors during this review.

II. 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, 2006, through December 31, 2011. The registry contained no workers' compensation complaints.

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 300-2.200(3)(D) (as replaced by 20 CSR 100-8.040(3)(D), effective 7/30/2008).

The examiners discovered no issues or concerns.

III. 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

Calendar Days	Number of Criticisms	Percentage
Received w/in time-limit, incl. any extensions	37	100%
Received outside time-limit, incl. any extensions	0	0%
No Response	0	0%
Total	37	100%

References: §374.205, RSMo and 20 CSR 100-8.040.

B. Formal Request Time Study

Calendar Days	Number of Requests	Percentage
Received w/in time-limit, incl. any extensions	22	100%
Received outside time-limit, incl. any extensions	0	0%
No Response	0	0%
Total	22	100%

References: §374.205, 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 EMCASCO Insurance Company (NAIC #21407), Examination Number 1207-12-TGT. This examination was conducted by Gary Meyer, Darren Jordan, Gerald Michitsch, and Shelly Herzing. The findings in the Final Report were extracted from the Market Conduct Examiner's Draft Report, dated June 14, 2013. 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.

12/30/2013

Jim Mealer
Chief Market Conduct Examiner

Date

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

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

Employers Mutual Casualty Company
NAIC # 21415

MISSOURI EXAMINATION # 1207-13-TGT

NAIC EXAM TRACKING SYSTEM # MO341-M96

December 23, 2013

Home Office
Employers Mutual Casualty Company
717 Mulberry Street
Des Moines, Iowa 50309

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FOREWORD

This is a targeted market conduct examination report of Employers Mutual Casualty Company, (NAIC Code # 21415). This examination was conducted at the DIFP office located in Jefferson City, Missouri.

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" or "Employers Mutual Casualty" refers to Employers Mutual Casualty 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;
- "Division" refers to the Department of Labor, Division of Workers' Compensation;
- "NAIC" refers to the National Association of Insurance Commissioners;
- "NCCI" refers to the National Council on Compensation Insurance, Inc., and;
- "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, 2006, through December 31, 2011, 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: policy holder service, complaints and underwriting for workers' compensation policies.

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 for underwriting and trade practices is 10%. The NAIC benchmark error rate for claims practices is seven percent (7%). 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

History of the Employers Mutual Casualty Company

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

The Company was incorporated on April 25, 1911 as Employers Mutual Casualty Association of Iowa; an association formed for the purpose of writing risks under the Workers' Compensation and Employers' Liability Act of the State of Iowa. Automobile and various public liability risks were later written in 1920, followed by burglary and bond risks in 1942. The Company became authorized to write multiple lines in 1950.

The present corporate title was adopted in January 1924. Effective March 10, 1950, the corporate charter was amended to afford perpetual corporate existence.

EXECUTIVE SUMMARY

The DIFP conducted a targeted market conduct examination of Employers Mutual Casualty Company. The examiners found the following principal areas of concern:

- The Company in 12 instances failed to update schedule rating worksheets and was unable to locate and provide the worksheets which support the basis for the schedule rating credit or debit used in the rating.

- The Company in 13 instances used schedule rating worksheets that had the category "Classifications Peculiarities" and the Company used this category to establish a schedule rating credit. This plan is not approved in Missouri.

- The Company in one instance used a credit rating factor different than what was indicated on the schedule rating worksheet.

- The Company on two occasions failed to complete and bill the extra premium to the insured within the 120 days of policy expiration or cancellation of the policy.

- The Company in 31 instances failed to adhere to rules of NCCI Basic Manual by failing to send notification on an approved form to the insured that they may be eligible for a premium adjustment credit under the Missouri Contracting Classification Premium Adjustment Program because they have one or more contracting classifications on their policy.

- The Company in five instances used incorrect rates for class codes listed on the audit worksheet.

- The Company in four instances utilized an incorrect experience modification factor.

- The Company in one instance did not apply the earned factor towards the expense constant fee resulting in an overcharge to the insured.

- The Company in 44 instances failed to file their large deductible policies individually.

The examiners requested that the Company make refunds concerning underwriting premium overcharges 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 reviewed 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 practice contrary to the law. Error rates 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.

Workers' Compensation Review

Reviews are conducted to confirm that workers' compensation carriers that issue large deductible, non-standard policies, in addition to traditional workers' compensation policies, are in compliance with the rate filing requirements found in §§ 287.310 and 287.947, RSMo.

Workers' Compensation carriers are also evaluated to ensure total premiums are being reported as well as correct methods for determining assessments and remittance of the required second injury fund and administrative surcharges. The review includes carriers' deductible policy forms and rules for compliance with § 287.310 Subsection 4, RSMo, regarding the presumption that a net reporting plan is offered unless the insured elects a gross reporting plan.

NCCI statistical data is reviewed to analyze utilization of Individual Rate Premium Modification (IRPM), also known as schedule rating, in the form of applied debits or credits. Schedule rating is intended to be used to accurately rate an individual employer's business operation. Descriptions of the risk categories are to be based on loss-related factors that can be objectively determined.

A. <u>Forms and Filings</u>

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

The examiners discovered no errors during this review.

B. <u>Underwriting and Rating</u>

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.

The following are the results of the reviews:

1. Workers' Compensation (Active)

Field Size:	1556
Sample Size:	100
Type of Sample:	Random
Number of Errors:	87

The examiners discovered the following errors during this review.

Policy Numbers

3H39013	1H24867	1H32169	2H15393	2H25156	3H45877
3H45908	3H47886	3H56678	3H64877	4H31355	8Z84450

All schedule debits and credits shall be based on evidence that is contained in the file of the carrier at the time the schedule credit or debit is applied. The policies listed above did not have evidence or reasons on the worksheets submitted to support the basis for the credit or debit applied to the policy.

The examiners requested copies of the Missouri Schedule Rating worksheets for various policies in the sample reviewed. The Company was unable to locate and provide the worksheets which support the basis for the schedule rating credit or debit used in the rating. Therefore, the Company failed to maintain information necessary for the reconstruction of the rating and underwriting of the policies listed above.

In regards to the Schedule Rating worksheets that were supplied, some worksheets used were found to be outdated. Underwriters are required to document the application of credits and debits with the use of Workers' Compensation Schedule Rating Worksheet WC 8108(8-08). New worksheets went in effect 1/1/09 which updated the risk characteristic categories that could be considered. For the 12 policies listed above, the Company underwriters failed to implement the new worksheet.

References: §§287.350, 287.937, 374.205.2(2), RSMo, and 20 CSR 100-8.040(3)(A) and 20 CSR 500-4.100(7) (D) 1 and EMC Workers' Compensation and Employers Liability Manual – MO Exception Page – Schedule Rating – Effective 1/1/2009.

Policy Numbers

2H43940	2H77956	2H84376	3H44547	3H45908	2H25156
3H81257	8Z84450	1H24867	1H39369	4H31355	3H39013
3H45877					

The Company's Workers' Compensation Schedule Rating Plan is not in compliance with Missouri's requirement for schedule rating plans regarding the application of risk characteristic modifications.

The review conducted by the examiners indicates the Company uses a schedule rating worksheet with the category "Classifications Peculiarities" and the policies listed above used this category to establish a schedule rating credit.

Although the current NCCI Schedule Rating plan does include a characteristic for "Classification Peculiarities", this plan is not approved for use in Missouri. Using "Classification Peculiarities" can lead to disregarding the classification system developed by NCCI and a very subjective interpretation of the Scope for a code that will vary from underwriter to underwriter. DIFP wants all risks to be classified correctly and resulting data received from the NCCI is valid and complete. Allowing companies to subjectively "adjust" for "classification peculiarities" through Schedule Rating will potentially lead to unfair rating practices and corrupt the Missouri data.

References: §§287.947 and 287.955(1), RSMo.

Policy No	Date Effective
1H99416 – 08	04/04/2007- 04/04/2008

(1) The Company used a Missouri schedule rating credit factor of .75 when a schedule rating worksheet showed the credit documented as .90. The correct discount was $5,570, but none was given. This created an overcharge of $5,570 plus nine percent interest accruing until paid, excluding the Second Injury Fund.

References: §287.950 RSMo, and 20 CSR 500-4.100(7)(D)1.

(2) As a result of the incorrect schedule rating, subsequent changes affected calculations to the Missouri Second Injury Fund. The examiner recalculated the policy premium and determined a $167 overpayment to the Second Injury Fund.

References: §§287.310.9 and 287.715 RSMo.

Pursuant to §§287.310.9 and 287.715, RSMo, please be advised that it is within our discretion to notify the Division of Workers' Compensation and/or the Department of Revenue regarding the incorrect application of charges and collections of the Second Injury Fund Surcharges and/or Administrative Surcharges.

Policy No	Canceled/Exp Date	Audit Date	# of Days
1H90068	11/02/2007	04/18/2008	168
2H77956	09/01/2007	01/28/2008	149

The Company failed to complete, bill and return the premium to the insured within 120 days of the policy expiration or cancellation. The policy file did not contain adequate documentation that the delay was caused by the policyholder's failure to respond to reasonable and timely requests or that the delay was by mutual agreement of the policyholder and insurance company.

References: §287.310 RSMo, and 20 CSR 500-6.500(2)(A)

Policy Numbers

1H12545 1H23408 2H33384 2H49712 2M27590 3H30028 9H59049

The Company failed to adhere to rules of the National Council on Compensation Insurance (NCCI) Basic Manual by failing to send notification on the approved form to the insured advisin g them th at they may be eligible for a premium adjustment credit under the Missouri Contracting Classification Premium Adjustment Program because they have one or more contracting classifications on their policy.

The Company was requested to provide copies of all applications sent to policyholders with the qualifying contracting classifications and any corresponding letters and credit worksheets received from NCCI if the policyholder qualified for such credit. The Company has been unable to produce copies for the above policies listed.

References: §287.955.3 RSMo, and Basic Manual (2001 MO) – Miscellaneous Rules: Missouri Contracting Classification Premium Adjustment Program

Policy No	Date Effective
3H86756-12	07/15/2011

(1) The Company applied the incorrect rates of $5.13 for class code 8387 and .44 for class code 8810 during the policy term. The policy's effective date was 7/14/2011.

The Company did not apply the correct rates, which were $4.51 and .35 effective 7/1/2011. As a result, of the applied incorrect rates the examiner recalculated the policy's premium and determined the Company overcharged the insured $202, excluding the Second Injury Fund. The insured is due back the amount of $202 plus nine percent per annum interest until paid.

References: §§287.947.1, 408.020, RSMo and 20 CSR 500-6.950

(2) As a result of the incorrect rates used, subsequent changes affected calculations to the Missouri Second Injury Fund. The examiners determined a $6 overpayment to the Second Injury Fund.

References: §§287.310.9 and 287.715, RSMo.

Policy No	Date Effective
2H34600-11	07/09/2011 – 07/09/2012

(1) The Company applied the incorrect rates of $2.02 for class code 8006 and .44 for class code 8810 during the policy term. The policy effective date was 7/9/11.

The audit indicated the incorrect classification code rates of $2.02 and .44 effective 1/1/09. However, the Company filed new rates of $3.49 and .35 that were effective on 7/1/11. As a result, of the applied incorrect rates, the examiners recalculated the policy premium and determined the Company undercharged the insured $1,396, excluding the Second Injury Fund.

References: §287.947.1, RSMo and 20 CSR 500-6.950

(2) As a result of the incorrect applied classification code rates, the subsequent changes affected calculations to the Missouri Second Injury Fund. The examiner recalculated the policy premium and determined a $42 underpayment to the Second Injury Fund.

References: §287.310.9, RSMo.

Pursuant to §§287.310.9 and 287.715, RSMo, please be advised that it is within our discretion to notify the Division of Workers' Compensation and/or the Department of Revenue regarding the incorrect application of charges and collections of the Second Injury Fund Surcharges and/or Administrative Surcharges.

Policy No	Date Effective
3H67161-10	01/01/2009

The Company applied the incorrect rates of $11.76 for class code 0042 and .97 for class code 8742 during the policy term. The policy's effective date was 1/1/2009.

The Company did not apply the correct rates, which were $11.34 and .89 effective 1/1/2009. As a result, of the applied incorrect rates, the examiner recalculated the policy's premium and determined the Company overcharged the insured $44, excluding the Second Injury Fund. The insured is due back the overcharge of $44 plus nine percent interest per annum until paid.

References: §§ 287.947.1, 408.020, RSMo, and 20 CSR 500-6.950

Policy No	Date Effective
3H62254-10	04/09/2009-04/14/2010

(1) The Company applied the incorrect rates of $11.76 for class code 0042 and .47 for class code 8810 during the policy term. The policy's effective date was 4/14/09.

The Company responded to request #18 by providing the correct audit. However for the audit period of 4/14/09 to 4/26/09, the correct classification rates $11.34 and .44 effective 1/1/09 were not applied. As a result of the applied incorrect rates, the examiner recalculated the policy's premium during the audit period of 4/14/09 to 4/26/09 and determined the Company undercharged the insured $868 (applying the correct experience modification factor), excluding the Second Injury Fund.

References: §§ 287.947.1, 408.020, RSMo, and 20 CSR 500-6.950

(2) The Company did not utilize an experience modification factor when the Workers' Compensation Experience Rating Worksheet shows that the final factor should have been 0.97 for the period from April 14, 2009 to April 26, 2009, and 1.14 for the period from April 26, 2009 to April 14, 2010.

As a result of the applied incorrect rate, the examiner recalculated the policy's premium and determined the Company undercharged the insured $868 (applying the correct class code rates), excluding the Second Injury Fund.

References: §§ 287.950, 287.955, 408.020, RSMo, and 20 CSR 500-6.950

Policy No	Date Effective
2H37921	10/040/2007

The Company applied the incorrect rate of $3.31 for class code 8061 during the policy term. The policy's effective date was 10/4/2007. The Company relied on the prior rate manual effective March 1, 2006, instead of the rate manual effective September 1, 2007.

As a result of the applied incorrect rate, the examiner recalculated the policy's premium and determined the Company overcharged the insured $113, excluding the Second Injury Fund overcharge of $4. The insured is due back the overcharge of $117 plus nine percent interest per annum until paid.

References: §§ 287.947.1, 408.020, RSMo, and 20 CSR 500-6.950

Policy No	Date Effective
3H70327-09	3/20/2011

(1) The Company utilized an incorrect experience modification factor of 1.07 when the Workers' Compensation Experience Rating Worksheet shows the

final factor that should have been used of 1.08. The Company has stated in Request #8 that this was due to an entry error. This created an undercharge of $23. However, in response to criticism # 9, the Company agreed that at audit, it was incorrect but the policy term had a mid-term rate and the experience modification factor changed. The Company should have conducted a split period audit. The Company recalculated to illustrate what should have occurred at the audit and the resulting amounts. The Company indicates the insured was overcharged by $87. The insured is due back the overcharge of $87 plus nine percent interest per annum until paid.

References: §§ 287.950, 287.955, 408.020, RSMo, and 20 CSR 500-6.950

(2) As a result of the incorrect experience modification factor and failing to apply mid-term rates, subsequent changes affected calculations to the Missouri Second Injury Fund. The Company recalculated the policy premium and determined a $3 overcharge to the Second Injury Fund.

References: §§ 287.310.9 and 287.715, RSMo.

Policy No	Date Effective
4H30704-12	5/15/2011

The Company failed to adhere to the NCCI Experience Modification factor that was provided. The Company utilized an incorrect Experience Modification factor of 1.06, when the NCCI Workers' Compensation Experience Rating Worksheet shows the final factor was 1.05.

The Company agreed that the incorrect experience modification factor was used but disagreed on the refund amount. The original audit produced two separate auditing periods from 5/15/11 to 11/1/11 and 11/1/11 to 11/8/11. The Company stated in their response that policy was issued with an incorrect anniversary date. The Company produced a revised audit with the audit period from 5/15/11 to 11/28/11 and without any classification rate changes.

Therefore, the examiner submitted the revised Criticism #30, as mentioned above with the increased overcharge amount from $77 to $114. The insured is due back $114 for the overcharge plus nine percent interest per annum until paid.

References: §§ 287.950, 287.955, 408.020, RSMo, and 20 CSR 500-6.950

Policy No	Date Effective
4H23931-11	01/01/2010

The Company utilized an incorrect experience modification factor of .97 when the NCCI Workers' Compensation Experience Rating Worksheet shows the final factor of .95.

The Company has agreed that the incorrect experience modification factor was used but disagrees with the overcharge amount. The Company noted that the .95 factor was effective 5/3/11. Therefore the incorrect experience modification factor was applied for 122 days and not the full policy term. The insured is due back $55 for the overcharge plus nine percent interest per annum until paid.

References: §§ 287.950, 287.955, 408.020, RSMo, and 20 CSR 500-6.950

Policy No	Date Effective
3H87934-10	05/04/2009

The Company applied the incorrect earned factor of .471 instead of the correct factor of .364.

The Company did not apply the correct earned factor to pro-rate the Expense Constant Fee. The Policy's effective date was 5/4/09 with a canceled date of 9/14/09. The policy was in force for 133 days with an unearned factor of .636 and an earned factor of .364.

As a result, of the applied incorrect unearned factor used to pro-rate the premium the examiner recalculated the policy's premium and determined the Company overcharged the insured $34, excluding the Second Injury Fund overcharge of $1. The insured is due back $35 for the overcharge plus nine percent interest per annum until paid.

References: §§ 287.947.1, 408.020, RSMo, and 20 CSR 500-6.950

Policy Numbers	Date Effective	Policy Numbers	Date Effective
1H91267	11/01/2008	1H91267	11/01/2009
1P50384	08/01/2006	1P50384	08/01/2007
1Y21127	01/01/2006	1Y21127	01/01/2007
1Y21127	01/01/2011	2H83878	01/01/2006
2H83878	01/01/2007	2H83878	01/01/2008
2H83878	01/01/2009	2H83878	01/01/2010
2H83878	01/01/2011	2M27590	06/01/2006
2M27590	06/01/2007	2M27590	06/01/2008
2M27590	06/01/2009	2M27590	06/01/2010
2M27590	06/01/2011	2Z53625	07/01/2006
2Z53625	07/01/2007	2Z53625	07/01/2008
2Z53625	07/01/2009	2Z53625	07/01/2010
2Z53625	07/01/2011	3H53854	12/31/2007
3Y18949	09/01/2006	3Y18949	09/01/2007

3Y18949	09/01/2008	3Y18949	09/01/2009
3Y18949	09/01/2010	4H16903	08/01/2009
4H16903	08/01/2010	4H25905	01/08/2010
4H25905	01/08/2011	4H53298	04/17/2011
9T68664	03/01/2006	9T68664	03/01/2007
9T68664	03/01/2008	9T68664	03/01/2009
9T68664	03/01/2010	9T68664	03/01/2011

The Company appears to have not made a filing with DIFP of requisite information for the above list of large deductible, non-standard (negotiated) rated policies.

References: §§ 287.310 and 287.947.1 RSMo.

2. Workers' Compensation (Non - Active)

Field Size:	137
Sample Size:	137
Type of Sample:	Census
Number of Errors:	26

The examiners discovered the following errors during this review.

Policy Numbers	Effective Date	Policy Numbers	Effective Date
0N56488	02/16/2008	1H75430	05/19/2008
0R95957	08/01/2009	1N32635	07/23/2006
1H62685	12/04/2007	1P49210	05/29/2008
1P50384	08/01/2009	2H06767	06/14/2008
2H31367	10/01/2006	2H40559	11/16/2007
3H17918	01/01/2008	3H35265	02/14/2006
3H39508	06/01/2008	3H50110	12/21/2008
3H65690	07/09/2009	4H46672	04/13/2011
4H49534	01/01/2011	9H46533	01/27/2008
9H46533	01/27/2009	9H59049	06/16/2011
9H69603	06/16/2011	9H73588	07/01/2006
9H86729	04/14/2011	9H98116	09/12/2008

The Company failed to adhere to the rules of the National Council on Compensation Insurance (NCCI) Basic Manual by failing to send notification on the approved form to the insured that they may be eligible for a premium adjustment credit under the Missouri Contracting Classification Premium Adjustment Program because they have one or more contracting classifications on their policy.

The Company was requested to send copies of all applications sent to the policyholders with the qualifying contracting classifications and the corresponding letters and credit worksheets received from NCCI if the policyholder qualified for such credit. The Company has been unable to produce copies for the above policyholders listed. The examiners are assuming no MOCCPAP applications were sent.

References: § 287.955.3, RSMo, and Basic Manual (2001 MO) – Miscellaneous Rules: Missouri Contracting Classification Premium Adjustment Program.

Policy Numbers	Date Effective
1H91267	11/01/2010
1P50384	08/01/2009

The Company appears to have not made a filing with DIFP of requisite information for the above list of large deductible, non-standard (negotiated) rated policies.

References: §§ 287.310 and 287.947.1 RSMo.

II. 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, 2006, through December 31, 2011. The registry contained no workers' compensation complaints.

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 300-2.200(3)(D) (as replaced by 20 CSR 100-8.040(3)(D), effective 7/30/2008).

The examiners discovered no issues or concerns.

III. 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

Calendar Days	Number of Criticisms	Percentage
Received w/in time-limit, incl. any extensions	16	100%
Received outside time-limit, incl. any extensions	0	0%
No Response	0	0%
Total	16	100%

References: §374.205, RSMo and 20 CSR 100-8.040.

B. Formal Request Time Study

Calendar Days	Number of Requests	Percentage
Received w/in time-limit, incl. any extensions	22	100%
Received outside time-limit, incl. any extensions	0	0%
No Response	0	0%
Total	22	100%

References: §374.205, 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 Employers Mutual Casualty Company (NAIC #21415), Examination Number 1207-13-TGT. This examination was conducted by Gary Meyer, Darren Jordan, Gerald Michitsch, and Shelly Herzing. The findings in the Final Report were extracted from the Market Conduct Examiner's Draft Report, dated July 12, 2013. 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 12/30/2013

Jim Mealer Date
Chief Market Conduct Examiner

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November 14, 2013

Mr. Stewart Freilich
Legal Counsel
Market Conduct Section
Division of Insurance Market Regulation
Department of Insurance, Financial Institutions
and Professional Regulation

RE: Response to the Draft Final Reports and Proposed Stipulation
Missouri Market Conduct Examinations #1207-12-TGT and #1207-13-TGT
EMCASCO Insurance Company (NAIC #21407)
Employers Mutual Casualty Company (NAIC #21415)

Dear Mr. Freilich:

Thank you for the opportunity to respond to your letter dated October 21, 2013 concerning the Draft Reports and Proposed Stipulation regarding the market conduct examination of Employers Mutual Casualty Company ("EMCC") and EMCASCO Insurance Company ("EMCASCO") (collectively "Companies"). Our Companies' goal is to be fully compliant with all applicable laws. We take any violations very seriously. This response addresses the violations raised and the proposed forfeitures in the order addressed in your letter. The Missouri Department of Insurance is referred to as the "Department."

EMCASCO
Underwriting and Rating:

1. Failure to maintain information for reconstruction of the rating and underwriting of 34 policies.
Total proposed forfeiture: $34,000.
Comment: EMCASCO agrees to maintain adequate documentation in its policy files going forward. It does not object to the forfeiture amount.

2. Schedule Rating Plan reported not in compliance with schedule rating plans regarding the application of risk characteristic modifications.
Proposed forfeiture: $0
Comment: EMCASCO agrees to refrain from the use of the "Classification Peculiarities" category on Missouri policies going forward.

3. Schedule rating credit factor on a single policy not in accordance with worksheet.
Proposed forfeiture: $1,000.
Comment: This is one of two random errors in the entry of the schedule rating factor in the 260 EMCASCO policies sampled. This error ratio is .76% for the entry of the schedule rating factor and is well below the 10% NAIC standard used to indicate a general business practice. It is also below the 3% to 5% acceptable range of random human error for a manual process. Since this is a manual processing error and was not above the NAIC benchmark, we would request that the proposed forfeiture be reduced from the maximum possible ($1,000) to $100.

4. Failure to return premium to an insured within 120 days.
Proposed forfeiture: $0
Comment: EMCASCO agrees to take steps to ensure that premium is returned to the insured within 120 days.

5. Failure to notify 26 policyholders regarding premium adjustment credit.
Total proposed forfeiture: $26,000
Comment: EMCASCO agrees to ensure that insureds that qualify for a potential premium adjustment credit are sent the required forms. It does not object to the forfeiture amount.

6. Use of wrong rates for class codes listed on the audit as applied to one policy.
Proposed forfeiture: $1,000.
Comment: This is one of three random errors in the entry of the class rate on 260 EMCASCO policies that were sampled. The error rate is 1.15% and is well below the 10% NAIC standard used to indicate a general business practice. It is also below the 3% to 5% acceptable range for random human error for a manual process. Additionally, the Companies implemented a new audit system in 2012, prior to the exam, that eliminates the entry of the class rate to prevent this type of error from occurring again. Since EMCASCO has taken action to improve its processing system and since this error was not an indication of a general business practice, we request the proposed forfeiture be reduced from the maximum penalty possible ($1,000) to $100.

7. Incorrect experience modification factor on used policy.
Proposed forfeiture: $1,000.
Comment: This is one of five random errors in the entry of the experience modification factor for the 260 EMCASCO policies sampled. This error rate is 1.92% and is well below the 10% NAIC standard used to indicate a general business practice. It is also below the 3% to 5% acceptable range of random human error for a manual process. Additionally, work began on a system enhancement prior to the exam that will automatically enter the experience modification factor on renewal policies to reduce the occurrence of this type of human error. The error in question was the use of an incorrect experience modification factor of .73 rather than .74, a difference of .01. Since EMCASCO has taken action to improve its processing system, since the error was not an indication of a general business practice, and since the dollar amount caused by error was negligible, we request the proposed forfeiture be reduced from the maximum penalty possible ($1,000) to $0.

8. Random error in the entry of the class rate on audit.
Proposed forfeiture: $1,000
Comment: This is one of three random errors in the entry of the class rate in 260 EMCASCO policies that were sampled. This error ratio is 1.15% and is well below the 10% NAIC standard used to indicate a general business practice. It is also below the 3% to 5% acceptable range of human error for a manual process. Additionally, EMCASCO implemented a new audit system in 2012 prior to the exam that eliminates the entry of the class rate to prevent errors from occurring in the future. Since EMCASCO has taken action to improve its processing system and eliminate these errors in the future, it requests the forfeiture be reduced from the maximum penalty possible ($1,000) to $100. EMCASCO further agrees to reimburse the second injury fund for any associated undercharge.

9. Wrong rates for class codes used on audit.
Proposed forfeiture: $1,000.
Comment: This is one of three random errors in the entry of the class rate in 260 EMCASCO policies that were sampled. This error ratio is 1.15% and is well below the 10% NAIC standard used to indicate a general business practice. It is also below the 3% to 5% acceptable range of human error for a manual process. Additionally, EMCASCO implemented a new audit system in 2012 prior to the exam that eliminates

the entry of the class rate to prevent errors from occurring in the future. Since EMCASCO has taken action to improve its processing system and eliminate these errors in the future, we request the forfeiture be reduced from the maximum penalty possible ($1,000) to $100. EMCASCO further agrees to reimburse the second injury fund for any associated undercharge.

10. Incorrect experience modification factor used.
Proposed forfeiture: $1,000.
Comment: This is one of five random errors in the entry of the experience modification factor for the 260 policies sampled. This error rate is 1.92% and is well below the 10% NAIC standard used to indicate a general business practice. It is also below the 3% to 5% acceptable range of random human error for a manual process. Additionally work began on a system enhancement prior to the exam that will automatically enter the experience modification factor on renewal policies to reduce the occurrence of this type of human error. The error in question was the use of an incorrect experience modification factor of 1.07 rather than 1.08, a difference of .01 and an insignificant dollar amount. Since EMCASCO has taken action to improve its processing system, since the error was not an indication of a general business practice, and since the error was negligible, we request the proposed forfeiture be reduced from the maximum penalty possible ($1,000) to $0.

11. Incorrectly applied the premium discount factor rate to an amount other than the standard premium.
Proposed forfeiture: $1,000.
Comment: This is one of two random errors in the calculation of an audit in the 260 EMCASCO policies that were sampled. This error ratio is .76% and is well below the 10% NAIC standard used to indicate a general business practice. It is also below the 3% to 5% acceptable range of human error for a manual process. Additionally, EMCASCO implemented a new audit system in 2012 prior to the exam that eliminates the manual calculation of the premium to prevent this error from occurring in the future. Since EMCASCO has taken steps to improve its system and since this was a random manual processing error, we request the forfeiture be reduced from the maximum penalty ($1,000) to $100.

12. Failure to file information on large deductible policies.
Total proposed forfeiture: $7,750
Comment: EMCASCO does not object to the forfeiture amount. EMCASCO agrees to file the required information on large deductible policies.

13. Failure to maintain information for reconstruction of the rating and underwriting.
Total proposed forfeiture: $65,000.
Comment: EMCASC does not object to the forfeiture amount. EMCASCO agrees to maintain adequate documentation in the future.

14. Failure to apply the earned factor towards the Expense Constant fee.
Proposed forfeiture: $1,000.
Comment: This is one of two random errors in the calculation of an audit in the 260 EMCASCO policies that were sampled. This error ratio is .76% and is well below the 10% NAIC standard used to indicate a general business practice. It is also below the 3% to 5% acceptable range of human error for a manual process. Additionally, EMCASCO implemented a new audit system in 2012 prior to the exam that eliminates the manual calculation of the premium to prevent this error from occurring in the future. Since EMCASCO has taken steps to improve its system and since this was a random manual processing error, it requests the forfeiture be reduced from the maximum penalty ($1,000) to $100.

15. Incorrect experience modification factor used.

Proposed forfeiture: $1,000.

Comment: This is one of five random errors in the entry of the experience modification factor for the 260 EMCASCO policies sampled. This error rate is 1.92% and is well below the 10% NAIC standard used to indicate a general business practice. It is also below the 3% to 5% acceptable range of random human error for a manual process. Additionally, work began on a system enhancement prior to the exam that will automatically enter the experience modification factor on renewal policies to reduce the occurrence of this type of human error. The error in question was the use of an incorrect experience modification factor of 1.0 rather than 1.05, a difference of .05 and caused an insignificant dollar amount of difference. Since EMCASCO has taken action to improve its processing system, since the error was not an indication of a general business practice, and since the error was negligible, we request the forfeiture be reduced from the maximum penalty possible ($1,000) to $0.

16. Incorrect experience modification used.

Proposed forfeiture: $2,000.

Comment: This is one of five random errors in the entry of the experience modification factor for the 260 EMCASCO policies sampled. This error rate for this type of error is 1.92% and is well below the 10% NAIC standard used to indicate a general business practice. It is also below the 3% to 5% acceptable range of random human error for a manual process. Additionally, work began on a system enhancement prior to the exam that will automatically enter the experience modification factor on renewal policies to reduce the occurrence of this type of human error. The error in question was the use of an incorrect experience modification factor of .85 rather than .89, a difference of .04 and an insignificant dollar amount of error. Also due to the nature of the transactions on this policy the same error is being noted twice. Since EMCASCO has taken action to improve its processing system, since the error was not an indication of a general business practice, and since the errors were negligible, we request the forfeiture be reduced from the maximum penalty possible $2000 ($1,000x2) to $0.

17. Incorrect experience modification used.

Proposed forfeiture: $1,000.

Comment: This is one of five random errors in the entry of the experience modification factor for the 260 EMCASCO policies sampled. This error rate is 1.92% and is well below the 10% NAIC standard used to indicate a general business practice. It is also below the 3% to 5% acceptable range of random human error for a manual process. Additionally, work began on a system enhancement prior to the exam that will automatically enter the experience modification factor on renewal policies to reduce the occurrence of this type of human error. Since EMCASCO has taken action to improve its processing system and since the error was not an indication of a general business practice, it requests the forfeiture be reduced from the maximum penalty possible ($1,000) to $100.

18. Incorrect use of 'Application of Waiver of our Rights to Recover from Others' endorsement.

Total proposed forfeiture: $4,000

Comment: EMCASCO does not object to the forfeiture amount. EMCASCO agree to correctly use the 'Application of Waiver of Our Rights to Recover from Others' endorsement.

19. Failure to comply with the Missouri schedule rate requirements.

Proposed forfeiture: $1,000.

Comment: This is one of two random errors in the entry of the schedule rating factor in 260 EMCASCO policies that were sampled. This error ratio is .76% for the entry of the schedule rating factor and is well below the 10% NAIC standard used to indicate a general business practice. It is also below the 3% to 5% acceptable range of random human error for a manual process. Since this error was not an indication of a general business practice, EMCASCO requests the penalty be reduced from the maximum forfeiture ($1,000) to $100.

20. Failure to complete, bill and return premium within 120 days.

Proposed forfeiture: $0.
Comment: EMCASCO agrees to take steps to ensure that premium is returned to the insured within 120 days.

21. Use of classifications peculiarities.
Proposed forfeiture: $0.
Comment: EMCASCO agrees to refrain from the use of classification peculiarities.

Additional comment: EMCASCO has already made the necessary refunds of $3380 to the insureds and agrees to make the necessary additional payments to the Second Injury Fund.

CONCLUSION:
EMCASCO requests the total penalty assessed be reduced from $149,750 to $137,550.

EMCC
Underwriting and Rating:

1. Failure to maintain information for the reconstruction of the rating and underwriting of policies.
Total proposed forfeiture: $12,000.
Comment: EMCC does not object to the forfeiture amount. It will maintain adequate documentation in the future.

2. Use of classifications peculiarities.
Proposed forfeiture: $0.
Comment: EMCC will refrain for use of classification peculiarities.

3. Random error in the schedule rating credit factor.
Proposed forfeiture: $1,000.
Comment: This is the sole random error in the entry of the schedule rating factor in the 237 EMCC policies that were sampled. This error ratio is .42% for the entry of the schedule rating factor and is well below the 10% NAIC standard used to indicate a general business practice. It is also below the 3% to 5% acceptable range of random human error for a manual process. EMC requests the proposed forfeiture (1,000) be reduced to $100.

4. Failure to complete, bill and return premium.
Proposed forfeiture: $0.
Comment: EMCC agrees to take steps to ensure that premium is returned to the insured within 120 days.

5. Failure to send notification on approved form on premium adjustment credit.
Total proposed forfeiture: $7,000.
Comment: EMCC does not object to the forfeiture amount. It will ensure that insureds that potentially qualify are sent premium adjustment credit forms.

6. Wrong rates for class codes used on audit.
Proposed forfeiture: $1,000.
Comment: This is one of four random errors in the entry of the class rate in 237 EMCC policies that were sampled. This error ratio is 1.68% and is well below the 10% NAIC standard used to indicate a general business practice. It is also below the 3% to 5% acceptable range of random human error for a manual process. Additionally, we implemented a new audit system in 2012 prior to the exam that eliminates the

entry of the class rate to prevent this error from occurring in the future. Since EMCC has taken steps to improve its system and stop errors from occurring in the future and since the error was a random human error, EMCC requests the proposed forfeiture ($1,000) be reduced to $100. EMCC will reimburse the second injury fund for any associated undercharge.

7. Wrong rates for class codes used on audit.
Proposed forfeiture: $1,000.
Comment: This is one of four random errors in the entry of the class rate in 237 EMCC policies that were sampled. This error ratio is 1.68% and is well below the 10% NAIC standard used to indicate a general business practice. It is also below the 3% to 5% acceptable range of random human error for a manual process. Additionally, we implemented a new audit system in 2012 prior to the exam that eliminates the entry of the class rate to prevent this error from occurring in the future. Since EMCC has taken steps to improve its system and stop errors from occurring in the future and since the error was a random human error, EMCC requests the proposed forfeiture ($1,000) be reduced to $100. EMC will reimburse the second injury fund for any associated undercharge.

8. Random error entry of class rate on audit.
Proposed forfeiture: $1,000.
Comment: This is one of four random errors in the entry of the class rate in 237 EMCC policies that were sampled. This error ratio is 1.68% and is well below the 10% NAIC standard used to indicate a general business practice. It is also below the 3% to 5% acceptable range of random human error for a manual process. Additionally, we implemented a new audit system in 2012 prior to the exam that eliminates the entry of the class rate to prevent this error from occurring in the future. Since EMCC has taken steps to improve its system and stop errors from occurring in the future and since the error was a random human error, EMCC requests the proposed forfeiture ($1,000) be reduced to $100. EMCC will reimburse the second injury fund for any associated undercharge.

9. Random error on experience modification factor.
Proposed forfeiture: $2,000.
Comment: This is one of four random errors in the entry of the experience modification factor in 237 EMCC policies that were sampled. This error ratio is 1.68% for the entry of experience modification factor which is well below the 10% NAIC standard used to indicate a general business practice. It is also below the 3% to 5% acceptable range for random human error for a manual process. Additionally work began on a system enhancement prior to the exam that will automatically enter the experience modification factor on renewal policies to reduce the occurrence of this type of error in the future. EMCC requests the proposed forfeiture $2000 ($1,000x2) be reduced from the maximum penalty to $200 ($100x2).

10. Random error on entry of the class rate on the audit.
Proposed forfeiture: $1,000
Comment: This is one of four random errors in the entry of the class rate in 237 EMCC policies that were sampled. This error ratio is 1.68% and is well below the 10% NAIC standard used to indicate a general business practice. It is also below the 3% to 5% acceptable range of random human error for a manual process. Additionally, we implemented a new audit system in 2012 prior to the exam that eliminates the entry of the class rate to prevent this error from occurring in the future. Since EMCC has taken steps to improve its system and stop errors from occurring in the future and since the error was a random human error, EMCC requests the proposed forfeiture ($1,000) be reduced to $100. EMCC will reimburse the second injury fund for any associated undercharge.

11. Random error in entry of experience modification factor.
Proposed forfeiture: $1,000.

Comment: This is one of four random errors in the entry of the experience modification factor in 237 EMCC policies that were sampled. This error ratio is 1.68% for the entry of experience modification factor which is well below the 10% NAIC standard used to indicate a general business practice. It is also below the 3% to 5% acceptable range for random human error for a manual process. Additionally, work began on a system enhancement prior to the exam that will automatically enter the experience modification factor on renewal policies to reduce the occurrence of this type of error in the future. The error in question was the use of an incorrect experience modification factor of 1.07 rather than 1.08, a difference of .01 and an insignificant dollar error. As a result, EMCC requests the proposed forfeiture be reduced from the maximum penalty $1,000 to $0.

12. Random error in experience modification factor.
Proposed forfeiture: $1,000.
Comment: This is one of four random errors in the entry of the experience modification factor in 237 EMCC policies that were sampled. This error ratio is 1.68% for the entry of experience modification factor which is well below the 10% NAIC standard used to indicate a general business practice. It is also below the 3% to 5% acceptable range for random human error for a manual process. Additionally, work began on a system enhancement prior to the exam that will automatically enter the experience modification factor on renewal policies to reduce the occurrence of this type of error in the future. The error in question was the use of an incorrect experience modification factor of 1.06 rather than 1.05, a difference of .01 and an insignificant dollar error. As a result, EMCC requests the proposed forfeiture be reduced from the maximum penalty $1,000 to $0.

13. Random error in experience modification factor.
Proposed forfeiture: $1,000.
Comment: This is one of four random errors in the entry of the experience modification factor in 237 EMCC policies that were sampled. This error ratio is 1.68% for the entry of experience modification factor which is well below the 10% NAIC standard used to indicate a general business practice. It is also below the 3% to 5% acceptable range for random human error for a manual process. Additionally, work began on a system enhancement prior to the exam that will automatically enter the experience modification factor on renewal policies to reduce the occurrence of this type of error in the future. The error in question was the use of an incorrect experience modification factor of .97 rather than .95, a difference of .02 and an insignificant dollar error. As a result, EMCC requests the proposed forfeiture be reduced from the maximum penalty $1,000 to $0.

14. Random error calculating audit.
Proposed forfeiture: $1,000.
Comment: This is the sole random error in calculating the audit in the 237 EMCC policies that were sampled. This error ratio is .42% for the entry of the schedule rating factor and is well below the 10% NAIC standard used to indicate a general business practice. It is also below the 3% to 5% acceptable range of random human error for a manual process. EMCC requests that the proposed forfeiture of $1,000 be reduced to $100.

15. Failure to file large deductible policies.
Total proposed forfeiture: $19,500
Comment: EMCC does not dispute the forfeiture amount and agrees to file the appropriate information on large deductible policies.

16. Failure to send notification on premium adjustment credit.
Total proposed forfeiture: $24,000.
Comment: EMCC does not dispute the forfeiture amount. It will ensure that premium adjustment credit forms are sent to potentially eligible insureds.

17. Failure to file large deductible policies.
Total proposed forfeiture: $500.
Comment: EMCC does not dispute the forfeiture amount and agrees to file the appropriate information on large deductible policies.

Additional comment: EMCC has already made the necessary refunds of $9718 to the insureds and agrees to make the necessary additional payments to the Second Injury Fund.

CONCLUSION:
Employers Mutual Casualty Company requests that the total forfeiture be reduced from $74,000 to $63,800.

Other Comments:

The Department has requested Companies take certain remedial actions. The Companies are directed to provide the Department with an itemized list of its refund payments to insureds. The Companies are directed to review all workers' compensation insurance policies issued from January 1, 2006 to the date of the Order to determine if correct rates were used and payments made to the second injury fund. The Companies are further directed to correct any errors and to provide the Department with evidence that such refunds and payments were made within 90 days after the date of the Order finalizing this examination. The Companies are also directed to review all workers' compensation insurance policies issued from January 1, 2006 to the date of the Order and determine if the NCCI "Waiver of our Rights to Recover from Others" endorsement was used incorrectly on any policies. The Companies are directed to issue any refunds due to insureds and to provide evidence to the Department that such refunds were made within 90 days after the date of the Order finalizing this examination.

The Companies have issued 4,455 workers' compensation policies from January 1, 2006 in Missouri. To undertake an accurate review of those policies, make determination as to any rating errors which might have occurred, issue refunds if necessary and to provide an accounting to the Department could take more time than 90 days from the date of the final Order. We request that the date by which the Companies must review policies, issue refunds, and report to the Department be extended to 180 days from the date of the final Order finalizing the examination. To the extent the Companies are able to accomplish these tasks prior to the 180 day deadline, we will notify the Department as to our progress.

Sincerely yours,

Michael Freel
Insurance Information Compliance Manager
Assistant Vice President
Employers Mutual Casualty Company, EMCASCO Ins Company