

December 1, 2008

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DEPT OF INSURANCE
FINANCIAL INSTITUTIONS &
PROFESSIONAL REGISTRATION

State of Missouri
Department of Insurance, Financial Institutions, and Professional Registration
Market Conduct Section
Attention: Carolyn H. Kerr, Senior Counsel
301 West High Street, Room 530
Jefferson City, Missouri 65102-0690
Via Email: carolyn.kerr@insurance.mo.gov

RE: Missouri Market Conduct Examination #0710-15-TGT
Esurance Insurance Company (NAIC #25712)

Dear Ms. Herr:

On behalf of Esurance Insurance Company (the "Company"), please allow this letter to serve as the Company's response to the Department's *Market Conduct Examination Report of Esurance Insurance Company*, (the "Report"). The Company appreciates the opportunity to respond to the findings as outlined in the Report.

The Company respectfully submits its responses in the order appearing in the Report.

A. *Private Passenger Automobile Physical Damage Claims Paid*

1. *The examiners discovered the following four files that failed to document that a Missouri sales tax affidavit was given to an insured or claimant concerning the total loss vehicles.*

Claim Number
ATL-0013453
TXA-0040349
TXA-0043180
TXA-0048345

Company Response

The Company's normal procedure is to document the file with a copy of a Missouri sales tax affidavit concerning the insured or claimant's total loss vehicle.

To ensure compliance with § 144.027.1 RSMo and 20 CSR 300-2.200(3)(B)3, and to ensure consistent handling of a total loss claim, the Company updated its sales tax affidavit process in 2008. This update included the assignment of all Missouri total losses to a dedicated total loss representative; and, the mandatory review of the sales tax affidavit by the Claims Unit Manager prior to the closure of the claim file.

C. Private Passenger Automobile Liability Claims Paid

- 1. The examiners discovered the following seven files that failed to document that a Missouri sales tax affidavit was given to an insured or claimant concerning the total loss vehicles.*

Claim Number

WIS-0000548

TXA-0039962

WIS-0000378

TXA-0040625

TXA-0047238

TXA-0042760

TXA-0047834

Company Response

The Company's normal procedure is to document the file with a copy of a Missouri sales tax affidavit concerning the insured or claimant's total loss vehicle. To ensure compliance with § 144.027.1 RSMo and 20 CSR 300-2.200(3)(B)3, and to ensure consistent handling of a total loss claim, the Company updated its sales tax affidavit process in 2008. This update included the assignment of all Missouri total losses to a dedicated total loss representative; and, the mandatory review of the sales tax affidavit by the Claims Unit Manager prior to the closure of the claim file.

The Company offers our sincere gratitude to the Department and to the examiners for the courtesies granted the Company throughout the course of the examination.

Sincerely,



Robin Bogdanich

Compliance Manager

Esurance Insurance Company

STATE OF MISSOURI
DEPARTMENT of INSURANCE FINANCIAL INSTITUTIONS
and PROFESSIONAL REGISTRATION



MARKET CONDUCT EXAMINATION REPORT
for
PROPERTY and CASUALTY INSURANCE
of

Esurance Insurance Company

(NAIC # 25712)

3785 Placer Corporate Drive, #550 ♦ Rocklin, California 95765

October 15, 2008

EXAMINATION NUMBER: 0710/15/TGT



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FOREWORD

This is a targeted market conduct examination report of the Esurance Insurance Company, (NAIC Code #25712). This examination was conducted at the offices of Esurance, located at 3785 Placer Corporate Drive, Rocklin, California 95765 and at the Missouri DIFP branch office, located at 615 East 13th Street, Room 510, Kansas City, Missouri 64106.

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.

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.

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

The final examination report documents consist of this examination report, the Company's response and administrative actions based on the findings by the Missouri DIFP.

When used in this report:

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



PURPOSE AND SCOPE OF EXAMINATION

The purpose of this examination is to determine whether the Company complied with Missouri statutes, DIFP regulations, and bulletins issued by the Director of Insurance. In addition, examiners looked for practices and procedures that were not in the best interest of Missouri insurance consumers.

The examination included a review of the following areas of the Company's operations for the lines of business reviewed; Sales, Advertising, and Marketing and Claims Handling practices.

The examination period is generally January 1, 2007 through December 31, 2007.

The authority of the DIFP to perform this examination includes, but is not limited to, §§ 374.110, 374.190, 374.205, 375.445, 375.938, and 375.1009, RSMo.

While this report contains errors found in individual files, the focus is on the general business practices of the Company. The examiners used the NAIC suggested error tolerance rate of 10 percent (10%) for underwriting and rating practices and seven percent (7%) for claims handling practices. An error rate in excess of the tolerance level in these sections of the report is indicative of a general business practice to engage in that type of conduct. The Examiners requested the Company make refunds concerning underwriting premium overcharges (not applicable to this examination), and claim underpayments found for amounts greater than \$5.00.



EXECUTIVE SUMMARY

The DIFP conducted a targeted market conduct examination of Esurance Insurance Company. The following is a summary of the findings.

The examiners discovered errors when conducting the Claims Handling practices reviews.

The Private Passenger Automobile Physical Damage Claims Paid Claims Handling Practices review resulted in a found error rate of **4.0%**. Four files failed to document that a Missouri sales tax affidavit was given to the insured or claimant concerning total loss vehicles.

The Private Passenger Automobile Liability Claims Paid Claims Handling Practices review resulted in a found error rate of **7.0%**. Seven files failed to document that a Missouri sales tax affidavit was given to the insured or claimant concerning total loss vehicles.



EXAMINATION FINDINGS

I. MARKETING AND SALES PRACTICES

This section of the report is designed to provide a review of the Company's marketing and sales practices.

A. Marketing and Sales Materials

The examiners requested the Company's marketing manual and all marketing and sales materials used in Missouri. This included brochures, newsletters, bulletins, newspaper ads, radio and television ads and telemarketing scripts. The Company stated it did not have a marketing manual, but did provide materials for review.

The examiners reviewed the items to ensure they were not in violation of Missouri statutes or regulations. Examiners looked for statements that were not truthful, misleading comparisons to other products, sources for all statistics, rebate offers and unlicensed producers. The examiners also looked for items that, while not in violation of a Missouri statute or regulation, were not in the best interest of consumers. The examiners discovered no issues or concerns.

B. Producer Generated Sales Materials

The examiners requested the Company's procedures for approval of producer generated sales materials and samples of all such materials. The Company stated that it did not allow producer generated sales materials to be used. No evidence was discovered to the contrary.

C. Producer Training Materials

The examiners requested all producer-training materials used by the Company. This included all presentations, training materials, bulletins, newsletters, mass e-mails and memorandums. The examiners discovered no issues or concerns.

D. Telemarketing Services

The examiners requested a description and listing of all telemarketing service providers used by the Company. The Company stated it used no such services. The examiners discovered no evidence to the contrary.

E. Internet Web Pages

The examiners requested the addresses of all Company Internet websites and all known Internet websites of Missouri producers. The examiners discovered no issues or concerns.

II. CLAIMS HANDLING PRACTICES

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

The Company uses its own employees as adjusters and independent adjusting firms to investigate and settle claims. Fees for services are based on a case by case basis with no formal contracts for services existing between the Company and the adjusting firms.

The examiners requested a data download of claims paid and claims closed without payment during the examination period for each line of business under review. The examiners then used Excel to systematically select a sample of claims. When the number of claims in the population was small, the examiners selected each file, or a census, for review.

The examiners requested the Company's claims handling procedures manual for each line of business under review and all claims forms used during the claims handling process.

A claim is, but is not limited to, a demand for payment by a policyholder or third-party claimant under a coverage which is either paid by the Company as full or partial recompense or closed without payment by reason of no relevant coverage, no liability, or recompense by other legal means.

The error criterion used to develop confidence levels for the claims practices review is seven percent (7%), as established by the NAIC.

In determining efficiency, examiners looked at the duration of time the Company used to acknowledge the receipt of the claim, the time for investigation of the claim, and the time to make payment or provide a written denial. Missouri regulations define a reasonable duration of time for claim handling as acknowledgement of receipt of the claim within 10 working days; completion of the investigation of the claim within 30 calendar days; and payment or denial of the claim within 15 working days after the investigation is completed.

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

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

CLAIMS PAID

A. Private Passenger Automobile Physical Damage Claims Paid

The examiners requested a sample from the total population of Missouri Private Passenger Automobile Physical Damage claims paid and closed during the examination period.

Number of claims in population	Number of files sampled by examiners	Type of sample used by examiners	Number of files found in error	Found error rate
1,563	100	Systematic	4	4.0%

Findings

1. The examiners discovered the following four files that failed to document that a Missouri sales tax affidavit was given to an insured or claimant concerning the total loss vehicles.

Reference: § 144.027 RSMo and 20 CSR 300-2.200(3)(B)(3).

Claim Number

ATL-0013453

TXA-0040349

TXA-0043180

TXA-0048345

B. Private Passenger Automobile Medical Payment Claims Paid

The examiners requested a sample from the total population of Missouri Private Passenger Automobile Medical Payment claims paid and closed during the examination period.

Number of claims in population	Number of files sampled by examiners	Type of sample used by examiners	Number of files found in error	Found error rate
194	50	Systematic	0	0.0%

Findings

The examiners discovered no issues or concerns.

C. Private Passenger Automobile Liability Claims Paid

The examiners requested a sample from the total population of Missouri Private Passenger Automobile Liability claims paid and closed during the examination period.

Number of claims in population	Number of files sampled by examiners	Type of sample used by examiners	Number of files found in error	Found error rate
997	100	Systematic	7	7.0%

Findings

1. The examiners discovered the following seven files that failed to document that a Missouri sales tax affidavit was given to an insured or claimant concerning the total loss vehicles.

Reference: § 144.027 RSMo and 20 CSR 300-2.200(3)(B)(3).

Claim Number

WIS-0000548

TXA-0039962

WIS-0000378

TXA-0040625

TXA-0047238

TXA-0042760

TXA-0047834

D. Private Passenger Automobile UM/UIM Claims Paid

The examiners requested a sample from the total population of Missouri Private Passenger Automobile Uninsured Motorist/Underinsured Motorist claims paid and closed during the examination period.

Number of claims in population	Number of files sampled by examiners	Type of sample used by examiners	Number of files found in error	Found error rate
27	27	Census	0	0.0%

Findings

The examiners discovered no issues or concerns.

CLAIMS CLOSED WITHOUT PAYMENT

A. Private Passenger Automobile Physical Damage Claims CWP

The examiners requested a sample from the total population of Missouri Private Passenger Automobile Physical Damage claims closed without payment during the examination period.

Number of claims in population	Number of files sampled by examiners	Type of sample used by examiners	Number of files found in error	Found error rate
777	50	Systematic	0	0.0%

Findings

The examiners discovered no issues or concerns.

B. Private Passenger Automobile Medical Payment Claims CWP

The examiners requested a sample from the total population of Missouri Private Passenger Automobile Medical Payment claims closed without payment during the examination period.

Number of claims in population	Number of files sampled by examiners	Type of sample used by examiners	Number of files found in error	Found error rate
135	50	Systematic	0	0.0%

Findings

The examiners discovered no issues or concerns.

C. Private Passenger Automobile Liability Claims CWP

The examiners requested a sample from the total population of Missouri Private Passenger Automobile Liability claims closed without payment during the examination period.

Number of claims in population	Number of files sampled by examiners	Type of sample used by examiners	Number of files found in error	Found error rate
331	50	Systematic	0	0.0%

Findings

The examiners discovered no issues or concerns.

D. Private Passenger Automobile UM/UIM Claims CWP

The examiners requested a sample from the total population of Missouri Private Passenger Automobile Uninsured Motorist/Underinsured Motorist claims closed without payment the examination period.

Number of claims in population	Number of files sampled by examiners	Type of sample used by examiners	Number of files found in error	Found error rate
19	19	Census	0	0.0%

Findings

The examiners discovered no issues or concerns.

V. PRACTICES NOT IN THE BEST INTEREST OF MISSOURI CONSUMERS

In addition to looking for practices and procedures that violate Missouri law, examiners also looked for practices and procedures of the Company that appeared not to be in the best interest of consumers of the State of Missouri.

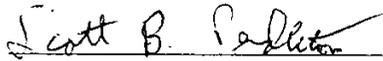
Findings

The examiners discovered no issues or concerns.



EXAMINATION REPORT SUBMISSION

This examination report of the Esurance Insurance Company is respectfully submitted to the Director of the Department of Insurance, Financial Institutions and Professional Registration; State of Missouri.



Scott B. Pendleton BS, CIE, AIRC, MCM
Examiner in Charge
October 15, 2008



**VERIFICATION OF WRITTEN REPORT SUBMISSION
AFFIDAVIT**

Before me, the undersigned authority, personally appeared Scott B. Pendleton, being duly sworn and deposed stated as follows:

1. My name is Scott B. Pendleton. I am of sound mind, capable of making this affidavit, and personally acquainted with the facts herein stated.
2. I am the Examiner in Charge duly appointed by the Director of the Department of Insurance, Financial Institutions and Professional Registration; State of Missouri to examine the business affairs and market conduct of the Esurance Insurance Company that has been granted authority to transact the business of insurance in the State of Missouri.
3. Attached hereto and containing nine pages is my targeted examination report of Esurance Insurance Company.
4. This examination report was produced in observation of those guidelines and procedures set forth in the Market Regulation Handbook adopted by the National Association of Insurance Commissioners and such other guidelines and procedures adopted by the Department of Insurance, Financial Institutions and Professional Registration; State of Missouri.
5. This examination is comprised of only facts appearing upon the books, records, or other documents of the Company, its producer or other persons examined, or as ascertained from the testimony of its officers or producers or other persons examined concerning its affairs, and such conclusions as reasonably warranted from the facts.

Scott B. Pendleton

Scott B. Pendleton BS, CIE, AIRC, MCM
Examiner in Charge

Missouri Department of Insurance, Financial Institutions and Professional Registration

State of Missouri
County of Jackson

Subscribed and sworn to before me on October 20, 2008.

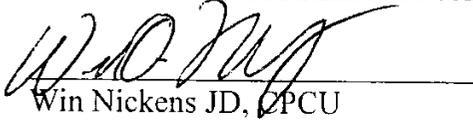
My commission expires 04-14-2012.

Beverly M. Webb
Notary Public

BEVERLY M. WEBB
Notary Public - Notary Seal
STATE OF MISSOURI
County of Clay
My Commission Expires 4/14/2012
Commission # 08464070

SUPERVISION

The examination process has been monitored and supervised by the undersigned. The examination report and supporting work papers have been reviewed and approved. Compliance with NAIC procedures and guidelines as contained in the Market Conduct Examiners Handbook has been confirmed.



Win Nickens JD, CPCU

Property and Casualty Audit Manager

Missouri Department of Insurance, Financial Institutions and Professional Registration.