

# STATE OF MISSOURI



## DEPARTMENT OF COMMERCE & INSURANCE

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

*In Re:*

ASSURANCEAMERICA INSURANCE  
COMPANY (NAIC #11558)

)  
)  
)  
)

Market Conduct Examination No. 372407

### ORDER OF THE DIRECTOR

NOW, on this 02<sup>nd</sup> day of AUGUST, 2024, Director, Chlora Lindley-Myers, after consideration and review of the market conduct examination report of AssuranceAmerica Insurance Company (hereinafter "AAIC"), examination report number #372407, prepared and submitted by the Division of Insurance Market Regulation (hereinafter "Division") pursuant to §374.205.3(3)(a)<sup>1</sup>, does hereby adopt such report as filed. After consideration and review of the Stipulation of Settlement and Voluntary Forfeiture ("Stipulation"), relating to the market conduct examination #372407, the examination report, relevant work papers, and any written submissions or rebuttals, the findings and conclusions of such report are deemed to be the Director's findings and conclusions accompanying this order pursuant to §374.205.3(4). The Director does hereby issue the following orders:

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

**IT IS THEREFORE ORDERED** that the Director does hereby approve and agree to the Stipulation as agreed to by AAIC and the Division.

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<sup>1</sup> All references, unless otherwise noted, are to Revised Statutes of Missouri 2016.

**IT IS FURTHER ORDERED** that AAIC shall not engage in any of the violations of statutes and regulations set forth in the Stipulation, shall implement procedures to place it in full compliance with the requirements in the Stipulation and the statutes and regulations of the State of Missouri, shall maintain those corrective actions at all times, and shall fully comply with all terms of the Stipulation.

**IT IS FURTHER ORDERED** that AAIC shall pay, and the Department of Commerce and Insurance, State of Missouri, shall accept, the Voluntary Forfeiture of \$46,000.00, payable to the Missouri State School Fund.

**IT IS SO ORDERED.**

**IN WITNESS WHEREOF**, I have hereunto set my hand and affixed the seal of my office in Jefferson City, Missouri, this 02<sup>nd</sup> day of AUGUST, 2024.



*Chlora Lindley-Myers*  
Chlora Lindley-Myers  
Director

**IN THE DEPARTMENT OF COMMERCE AND INSURANCE  
STATE OF MISSOURI**

*In Re:* )  
 )  
ASSURANCEAMERICA INSURANCE ) **Market Conduct Examination No. 372407**  
COMPANY (NAIC #11558) )  
 )  
 )

**STIPULATION OF SETTLEMENT AND VOLUNTARY FORFEITURE**

It is hereby stipulated and agreed by the Division of Insurance Market Regulation (hereinafter the “Division”), and AssuranceAmerica Insurance Company (hereinafter “AAIC”), as follows:

**WHEREAS**, the Division is a unit of the Missouri Department of Commerce and Insurance (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 of Missouri;

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

**WHEREAS**, the Division conducted a market conduct examination of AAIC, examination no. 372407; and

**WHEREAS**, based on the market conduct examination of AAIC, the Division alleges that:

1. In four instances, AAIC did not maintain records in the claim file clearly showing the handling and disposition of the claim in violation of §374.205.2 (2)<sup>1</sup> and 20 CSR 100-8.040 (3) (B).

2. In 11 instances, AAIC did not maintain a signed application in its policy files in violation

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<sup>1</sup> All statutory references, unless otherwise noted, are to the 2016 Revised Statutes of Missouri, as amended.

of §374.205.2 (2) and 20 CSR 100-8.040 (3) (A).

3. In 43 instances, AAIC used information from the insured's record of violations and accidents as rating criteria for factors that were applied to uninsured motorist and/or comprehensive coverage in violation of §379.470 and 20 CSR 500-2.700 (1).

4. In 30 instances, AAIC applied rating factors to the insured's premium that differed from those filed with the Department in violation of §379.470.

5. In three instances, AAIC used vehicle symbol factors that differed from its filed factors in violation of §379.470 and 20 CSR 500-4.100 (1) (B).

6. In one instance, AAIC applied an unfiled base rate for Accidental Death and Dismemberment coverage in violation of §379.470.

7. In one instance, AAIC applied vehicle symbols that were not yet effective to a vehicle in violation of §379.470 and 20 CSR 500-4.100 (1) (B).

8. In one instance, AAIC used unfiled model year factors when rating a vehicle in violation of §379.470.

9. In two instances, AAIC sent non-renewal notices that were not sufficiently clear and specific to identify the basis for the insurer's decision in violation of §379.118.1 (3).

10. In one instance, AAIC charged an SR 22 fee when the policy did not have an SR 22 filing for the policy term in violation of §375.052 and 20 CSR 700-1.150 (2).

11. In two instances, AAIC did not complete the investigation of the claim within 30 days after notification of the claim and in three instances did not send timely 45 day letters to the claimants implicating the provisions of §375.1007 (4) and in violation of 20 CSR 100-1.050 (1) (C).

12. In one instance, AAIC did not accept or deny a claim within 15 working days implicating the provisions of §375.1007 (4) and in violation of 20 CSR 100-1.050 (1) (C).

13. In two instances, AAIC accepted liability but did not pay the claimants' medical bills implicating the provisions of §375.1007 (4).

14. In 43 instances, AAIC made claim payments without indicating the coverage under which each payment was made in violation of §375.1007 (10).

15. In 82 instances, AAIC did not adequately document how the Company arrived at the amount of the condition adjustment taken on total loss valuations and in calculating a weighted average of comparable vehicles in violation of §375.1007 (3), §375.1005, 20 CSR 100-1.050 (2) (E) and 20 CSR 100-8.040 (3) (B).

16. In 9 instances, AAIC did not accurately account for the condition of the loss vehicle in determining the actual cash value of the vehicle in violation of §375.1007 (4), §375.1005 and 20 CSR 100-1.050 (2) (E).

17. In one instance, AAIC made a reduction in the value of the condition of the total loss vehicle without documenting the basis for the adjustment in violation of §375.1007 (4), §375.1005, 20 CSR 100-1.050 (2) (E) and 20 CSR 100-8.040 (3) (B).

18. In 48 instances, AAIC did not provide a total loss claimant with a sales tax affidavit in violation of §375.1007 (4) and §375.1005.

19. In one instance, AAIC did not include the correct amount of the insurance proceeds and deductible on a sales tax affidavit in violation of §375.1007 (4) and §375.1005.

20. In five instances, AAIC did not disclose to the insured all pertinent benefits, coverages or other provisions of the policy in violation of §375.1007 (1), §375.1005 and 20 CSR 100-1.020 (1) (A).

21. In one instance, AAIC did not issue a claim payment on a total loss where the insured retained the vehicle in violation of §375.1007 (4) and §375.1005.

22. In one instance, AAIC did not provide a copy of estimates to the insured in violation

of §375.1007 (4), §375.1005 and 20 CSR 100-1.050 (2) (D).

23. In one instance, AAIC did not timely acknowledge correspondence from its insured in violation of §375.1007 (2), §375.1005 and 20 CSR 100-1.030 (B).

24. In nine instances, AAIC either did not increase its total loss valuation based on options that would have increased value or reduced the total loss valuation based on the total loss vehicle lacking options that were actually included on the vehicle, in violation of §375.1007 (4) and §375.1005.

25. In one instance, AAIC did not disclose all deductions on the net settlement payment letter to the insured in violation of §375.1007 (4) and §375.1005.

26. In 13 instances, AAIC did not include the correct amount of the insurance proceeds and deductibles on sales tax affidavits in violation of §375.1007 (4) and §375.1005.

27. In one instance, AAIC did not use the correct mileage when determining the actual cash value of a total loss vehicle in violation of §375.1007 (4) and §375.1005.

28. In one instance, AAIC did not deduct the collision deductible from the settlement payment in violation of §375.1007 (4) and §375.1005.

29. In one instance, AAIC provided the claimant with a sales tax affidavit that did not include the date the insurance proceeds were paid in violation of §375.1007 (4) and §375.1005.

30. In ten instances, AAIC closed a claim without sending correspondence to the insured in violation of §375.1007 (4), §375.1005 and 20 CSR 100-1.050 (1) (E).

31. In one instance, AAIC improperly denied a claim based on a driver exclusion endorsement that was not signed by the insured in violation of §379.116, §375.1007 (6), §375.1007 (12), §375.1005 and 20 CSR 500-2.100 (4) (A).

32. In one instance, AAIC sent a denial letter that failed to reference the specific policy provision, condition or exclusion that was the basis for the denial in violation of §375.1007 (12),

§375.1005 and 20 CSR 100-1.050 (1) (A).

33. In two instances, AAIC denied a claim without conducting a reasonable investigation in violation of §375.1007 (6) and §375.1005.

34. In one instance, AAIC improperly denied a claim because the loss was not reported to the police within 24 hours in violation of §375.1007 (1), §375.1007 (4), §375.1007 (12), §375.1005 and 20 CSR 100-1.020 (1) (D).

35. In one instance, AAIC did not disclose all first party benefits and coverages to the insured in violation of §375.1007 (1), §375.1005 and 20 CSR 100-1.020 (1) (A).

36. In four instances, AAIC was late in responding to examiner criticisms and in one instance late in responding to a Formal Request in violation of §374.205.2 (2) and 20 § 100-8.040 (6).

**WHEREAS**, the Division and AAIC have agreed to resolve the issues raised in the market conduct examination as follows:

A. **Scope of Agreement.** This Stipulation of Settlement and Voluntary Forfeiture (hereinafter “Stipulation”) 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.** AAIC agrees to take remedial action bringing it into compliance with the statutes and regulations of Missouri and agrees to maintain those remedial actions at all times. Such remedial actions shall include the following:

1. AAIC agrees to maintain records in its claim files that clearly show the handling and disposition of the claim.

2. AAIC agrees to maintain signed applications in its policy files.

3. AAIC agrees that it will not use information from an insured's record of violations and accidents as rating criteria for uninsured motorist and comprehensive coverage.

4. AAIC agrees that it will review all in force Missouri automobile policies from August 1, 2020 to the date of the order approving this stipulation to determine if an insured's record of violations and accidents were used as rating criteria for uninsured motorist or comprehensive coverage. If such factors were used in rating these coverages, AAIC will refund to the insured the difference between the premium charged for uninsured motorist and comprehensive coverage and the amount that would have been charged if the records of violations and accidents was not utilized as a rating factor. Interest will be included with the payment in an amount to be determined pursuant to §374.191. A letter will be included with the payment indicating that as a result of a Missouri Market Conduct Examination, it was determined that a premium refund was owed.

5. AAIC agrees that it will only use rating factors and vehicle symbol factors filed with the Department in determining premium for Missouri insureds.

6. AAIC agrees that it will review all in force Missouri automobile policies from August 1, 2020 to the date of the order approving this stipulation to determine if unfiled vehicle symbol factors were used in determining premium for Missouri policyholders. If unfiled vehicle symbol factors were used, AAIC will refund the difference between the premium charged using unfiled symbols and the premium that would have been charged if filed symbols were utilized. Interest will be included with the payment in an amount to be determined pursuant to §374.191. A letter will be included with the payment indicating that as a result of a Missouri Market Conduct Examination, it was determined that a premium refund was owed.

7. AAIC agrees that its non-renewal notices sent to Missouri insureds will be sufficiently clear and specific as to identify the basis for its decision to non-renew.

8. AAIC agrees that when claim payments are made, the claimant will receive



correspondence indicating the coverage under which the payment is being made.

9. For claims occurring after the date of the Order approving this Stipulation, AAIC agrees to document its total loss claim files so as to clearly show how the company arrived at the amount of the condition adjustment by component on loss vehicles. The Company further agrees that any adjustment in the value shall be itemized, measurable, verifiable, and appropriate in amount pursuant to 20 CSR 100-1.050(2)(E). The claim file shall clearly show how the amount comparable vehicles' values are adjusted, including but not limited to, condition from beginning value to final value by vehicle component, the weight applied to each comparable vehicle for weighted average, options, mileage, year, and model. Condition ratings applied to the loss vehicle shall be documented with the reason for the adjustment or non-adjustment and the amount. The basis for any adjustment in settlement shall be maintained in the Company's claim file.

10. For claims occurring after the date of the Order approving this Stipulation, AAIC agrees to maintain for a period of three years from the date the claim is closed, all documentation relied upon by the Company to determine total loss vehicle calculations and audits of those calculations, pursuant to 20 CSR 100-8.040.

11. AAIC agrees to issue a bulletin to its third-party vendors involved in the calculation of total loss valuations advising them that for total loss valuations all reductions made to comparable vehicle(s) must be properly documented, itemized, and information verified as detailed in remedial action 9 and 10 and 20 CSR 100-1.050(2)(E). If weighting is used the percentage of weight of each vehicle will be set out in the total loss valuation.

12. AAIC agrees to provide all Missouri total loss claimants with a sales tax affidavit that includes the correct amount of the insurance proceeds and deductible, unless AAIC chooses to reimburse all Missouri total loss claimants directly for the amount of the sales tax paid by the claimants.

13. AAIC agrees to disclose all pertinent benefits, coverages and other policy provisions to Missouri claimants when a claim is filed.

14. AAIC agrees not to reduce the value of total loss vehicles based on the absence of certain options found on comparable vehicles when those options are also found on the total loss vehicle.

15. For a period of a year after the date of the Order approving this Stipulation, the Company agrees to conduct quarterly audits of total loss claims to review and determine whether the total loss valuations contain the details as outlined in remedial action 9 and 10 and 20 CSR 100-1.050(2)(E). The Company agrees to pull a credible random sample of all total loss claims received during the quarter and review for compliance with remedial action 9 and 10 and 20 CSR 100-1.050(2)(E). If the compliance with these remedial actions and 20 CSR 100-1.050(2)(E) was not met, the Company agrees to address the errors with the total loss vendor and claims team as appropriate and the Company agrees to remediate the loss with the claimant, if such remediation is warranted. The Company further agrees to provide quarterly reports to the Division of all total loss claims reviewed within 45 days of the end of the quarter. The reports shall be provided in a manner acceptable to the Division. After the fourth audit, the Company agrees that as part of its practice it will continue to perform periodic and consistent audits of its total loss claims to ensure its total loss valuations files continue to contain the specific details as outlined in remedial actions 9 and 10 and 20 CSR 100-1.050(2)(E). the Company agrees to continue to address any errors with the total valuation vendor.

16. AAIC agrees that upon closing a Missouri claim file it will send correspondence to the insured notifying them of the closing of the claim.

17. AAIC agrees to reimburse all policyholders for premium overcharges or claim underpayments identified in the exam report which have not already been reimbursed. Payment

of interest, pursuant to §374.191 will be included. A letter will be included indicating that as a result of a Missouri Market Conduct Examination it was determined that an additional payment was due to the insured. AAIC's use of weighting, conditioning and mileage in its claims valuation process is expressly excluded from this provision.

C. **Compliance.** AAIC agrees to file documentation pursuant to §374.190 with the Division, in a format acceptable to the Division, within 90 days of the entry of an Order approving this Stipulation, of any remedial action taken to implement compliance with the terms of this Stipulation, including the payment of refunds to policyholders.

D. **Voluntary Forfeiture.** AAIC agrees, voluntarily and knowingly, to surrender and forfeit the sum of \$46,000 such sum payable to the Missouri State School Fund, in accordance with §§374.049.11 and 374.280.2.

E. **Non-Admission.** Nothing in this Stipulation shall be construed as an admission by AAIC, this Stipulation being part of a compromise settlement to resolve disputed factual and legal allegations arising out of the above referenced market conduct examination.

F. **Waivers.** AAIC, after being advised by legal counsel, does hereby voluntarily and knowingly waive any and all rights to 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 market conduct examination no. 372407.

G. **Amendments.** No amendments to this Stipulation shall be effective unless made in writing and agreed to by authorized representatives of the Division and AAIC.

H. **Governing Law.** This Stipulation 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, on behalf of the Division and AAIC, respectively.

J. **Counterparts.** This Stipulation may be executed in multiple counterparts, each of which shall be deemed an original and all of which taken together shall constitute a single document. Execution by facsimile or by electronically transmitted signature shall be fully and legally effective and binding.


K. **Effect of Stipulation.** This Stipulation shall not become effective until entry of an Order by the Director of the Department (hereinafter “Director”) approving this Stipulation.

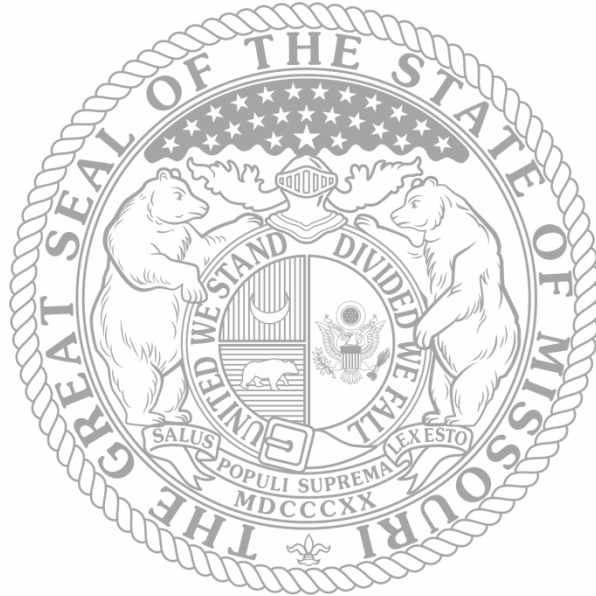
L. **Request for an Order.** The signatories below request that the Director issue an Order approving this Stipulation and ordering the relief agreed to in the Stipulation, and consent to the issuance of such Order.

DATED: July 30, 2024

  
\_\_\_\_\_  
Teresa Kroll  
Chief Market Conduct Examiner  
Division of Insurance Market Regulation

DATED: 6/13/24

  
\_\_\_\_\_  
Name: Eric Martinez  
Title: Associate General Counsel  
AssuranceAmerica Insurance Company



**MARKET CONDUCT EXAMINATION REPORT**  
**Property and Casualty**

**AssuranceAmerica Insurance Company**  
**NAIC # 11558**

**MISSOURI SBS EXAMINATION # 372407**

**NAIC MATS #MO-HICKSS1-149**

**November 6, 2023**

**Home Office**  
**10306 Regency Parkway Drive**  
**Omaha, NE 68114**

**STATE OF MISSOURI**  
**DEPARTMENT OF COMMERCE & INSURANCE**

**JEFFERSON CITY, MISSOURI**

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February 27, 2023

Honorable Chlora Lindley-Myers, Director  
Missouri Department of Commerce and Insurance  
301 West High Street, Room 530  
Jefferson City, Missouri 65101

Director Lindley-Myers:

In accordance with your market conduct examination warrant, a targeted market conduct examination has been conducted of the specified lines of business and business practices of

**AssuranceAmerica Insurance Company (NAIC #4909-11558)**

hereinafter referred to as AAIC or as the Company. This examination was conducted as a desk examination at the offices of the Missouri Department of Commerce and Insurance (DCI).

**FOREWORD**

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 DCI.

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

When used in this report:

- “Company” or “AAIC” refers to AssuranceAmerica Insurance Company
- “CSR” refers to the Missouri Code of State Regulations
- “DCI” refers to the Missouri Department of Commerce and Insurance
- “Director” refers to the Director of the Missouri Department of Commerce and Insurance
- “NAIC” refers to the National Association of Insurance Commissioners
- “RSMo” refers to the Revised Statutes of Missouri

**SCOPE OF EXAMINATION**

The DCI has authority to conduct this examination pursuant to, but not limited to, §§ 374.110, 374.190, 374.205, 375.938, and 375.1009, RSMo, and was conducted in accordance with § 374.205.

The purpose of this examination was to determine if the Company complied with Missouri statutes and DCI regulations. The primary period covered by this review is January 1, 2017 through December 31, 2019, unless otherwise noted. Errors found outside of this time period may also be included in the report.

The examination was a targeted examination involving the following lines of business and business functions: Private Passenger Automobile Insurance - Operations Management, Underwriting and Rating, and Claims.

The examination was conducted in accordance with the standards in the NAIC's 2021 *Market Regulation Handbook*. As such, the examiners utilized the benchmark error rate guidelines from the NAIC *Market Regulation Handbook* when conducting reviews that applied a general business practice standard. The NAIC benchmark error rate for claims practices is seven percent (7%) and for other trade practices is ten percent (10%). Error rates exceeding these benchmarks are presumed to indicate a general business practice. The benchmark error rates were not utilized for reviews not applying the general business practice standard.

In performing this examination, the examiners reviewed only a sample of the Company's practices, procedures, products and files. Therefore, some noncompliant practices, procedures, products and files may not have been found. As such, this report may not fully reflect all of the practices and procedures of the Company.

## **COMPANY PROFILE**

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

The Company was incorporated November 25, 2002, in the state of South Carolina and commenced business on April 1, 2003.

AssuranceAmerica, headquartered in Atlanta, Georgia, is comprised of AssuranceAmerica Insurance Company and AssuranceAmerica Managing General Agency (MGA). AssuranceAmerica companies provide insurance management services and insurance wholesale services through independent agents. The Company's affiliated MGA commenced business in 1999. The MGA functioned as an insurance company in all aspects, except for the retention of risk. The MGA performed all of the underwriting, claims, and policyholder service functions associated with a book of nonstandard private passenger automobile insurance business in the states of Alabama, South Carolina, Georgia, Florida, Texas, Louisiana, Mississippi, Arizona, and Indiana. The MGA's principle owners, Guy W. Milner and Lawrence Stumbaugh, through personal investments, formed and later capitalized the insurance company in order to retain the risks that the MGA underwrites.

## **EXECUTIVE SUMMARY**

The DCI conducted a targeted market conduct examination of AssuranceAmerica Insurance Company. The examiners found the following areas of concern:

### **OPERATIONS/MANAGEMENT**

- In four files, the Company failed to maintain records in the claim file to clearly show the handling and disposition of the claim. Reference: § 374.205.2(2), RSMo., and 20 CSR 100-8.040(3)(B)



- In 11 files, the Company failed to maintain a signed application in the policy file. Reference: § 374.205.2(2), RSMo., and 20 CSR 100-8.040(3)(A)
- The Company was late responding to four criticisms and one formal request. Reference: § 374.205.2(2), RSMo., and 20 CSR 100-8.040(6)

#### **UNDERWRITING AND RATING**

- In 43 files, the Company applied rating factors in an unfairly discriminatory manner. Reference: § 379.470, RSMo, and 20 CSR 500-2.700(1)
- In 30 files, the Company used incorrect rates and rate factors when calculating the policy's premium. Reference: § 379.470, RSMo.
- In five files, the Company used unfiled rating factors in calculating the insured's premium. Reference: § 379.470, RSMo., and 20 CSR 500-4.100(1)(B) & (6)
- In one file, the Company applied an incorrect base rate. Reference: § 379.470, RSMo.
- In two files, the Company sent non-renewal notices that were not sufficiently clear and specific to identify the basis for the action. Reference: § 379.118.1(3), RSMo.
- In one file, the Company incorrectly charged an SR22 fee to the policy. Reference: § 375.052, RSMo., and 20 CSR 700-1.150(2)

#### **CLAIMS**

- In two files, the Company failed to promptly investigate the claim and failed to provide the reasons more time was needed. Reference: § 375.1007(3), RSMo., and 20 CSR 100-1.050(1)(C)
- In four files, the Company failed to advise the insured of the reasons it needed more to time investigate the claim. Reference: § 375.1007(3), RSMo., and 20 CSR 100-1.050(1)(C)
- In one file, the Company did not provide the insured with a copy of the estimate. Reference: § 375.1007(3), RSMo., and 20 CSR 100-1.050(2)(D)
- In four files, the Company failed to issue payment for the loss. Reference: § 375.1007(4), RSMo.
- In 43 files, the Company made claim payments without indicating the coverage under which each payment was made. Reference: § 375.1007(10), RSMo.
- In six files, the Company failed to disclose to the insured all pertinent benefits or coverages. Reference: § 375.1007(1), RSMo., and 20 CSR 100-1.020(1)(A)
- In 77 files, the Company did not document how it determined the condition adjustments on comparable vehicles in total loss valuations. Reference: § 374.205.2(2), RSMo., and 20 CSR 100-8.040(3)(B)
- In 84 files, the Company failed to handle claims in accordance with policy provisions and applicable statutes, rules, and regulations. Reference: §§ 375.1007(3), 375.1007(4), RSMo.
- In one file, the Company did not disclose the basis for the claim settlement amount. Reference: § 375.1007(4), RSMo., and 20 CSR 100-1.050(2)(E)
- In 15 files, the Company did not include all required information on the sales tax affidavit to the claimant. Reference: § 375.1007(4), RSMo.
- In 49 files, the Company did not provide the claimant with a sales tax affidavit. Reference: § 375.1007(4), RSMo.
- In one file, the Company did not to use the correct mileage of the loss vehicle. Reference: § 375, 1007(4), RSMo.

- In one file, the Company failed to deduct the collision deductible from the settlement. Reference: § 375.1007(3), RSMo.
- In one file, the Company did not timely acknowledge correspondence from its insured. Reference: § 375.1007(2), RSMo., and 20 CSR 100-1.030(B)
- In 10 files, the Company closed the claim without advising the insured of conditions and duties in the policy. Reference: §§ 375.1007(4), RSMo., and 20 CSR 100-1.050(1)(E)
- In one file, the Company improperly denied the claim. Reference: § 375.1007(12), RSMo., and 20 CSR 500-2.100(4)(A)
- In one file, the Company sent a denial letter that failed to reference the provision, condition or exclusion that was the basis for denial. Reference: § 375.1007(12), RSMo., and 20 CSR 100-1.050(1)(A)
- In one file, the Company failed to provide the insured with a written denial of the claim. Reference: § 375.1007(12), RSMo., and 20 CSR 100-1.050(1)(A)
- In two files, the Company refused to pay the claim without conducting a reasonable investigation. Reference: § 375.1007(6), RSMo.
- In two files, the Company misrepresented relevant facts and policy provisions in the denial of the claim. Reference: §§ 375.1007(1), 375.1007(4), 375.1007(12), RSMo., and 20 CSR 100-1.020(1)(D)

## EXAMINATION FINDINGS

### I. OPERATIONS/MANAGEMENT

The operations/management portion of the examination provides a review of what the Company does and how it operates.

#### **A. NAIC Market Regulation Handbook Chapter 20 – Operations/Management Standard 7: Records are adequate, accessible, consistent and orderly and comply with state record retention requirements.**

To test for this standard, the examiners requested and reviewed a random sample of 107 of 1,500 paid claims, 83 of 620 claims closed without payment, and 82 of 363 total loss claims to determine if the Company adequately maintained the claim files to clearly show the inception, handling, and disposition of each claim. Examiners also reviewed Company records for any other record retention issues during the course of the examination.

##### **1. Paid Claims**

No areas of concern were noted.

##### **2. Claims Closed Without Payment**

Field Size	620
Sample Size	83
Type of Sample	Random
Number of Files with Errors	4

The examiners found the following errors in this review.

Finding 1: In four files, the Company failed to maintain records in the claim file. The claim file does not clearly show the handling and disposition of the claim.

Reference: § 374.205.2(2), RSMo., and 20 CSR 100-8.040(3)(B)

### **3. Total Loss Claims**

No areas of concern were noted.

### **4. Non-Renewals**

Field Size	163
Sample Size	79
Type of Sample	Random
Number of Files with Errors	9

The examiners found the following errors in this review.

Finding 1: In nine files, a signed application was not maintained in the policy file.

Reference: § 374.205.2, RSMo., and 20 CSR 100-8.040(3)(A)

### **5. Inforce Policies**

Field Size	21,618
Sample Size	116
Type of Sample	Random
Number of Files with Errors	2

The examiners found the following errors in this review.

Finding 1: In two files, a signed application was not maintained in the policy file.

Reference: § 374.205.2, RSMo., and 20 CSR 100-8.040(3)(A)(2)

## **II. UNDERWRITING AND RATING**

The underwriting and rating portion of the examination provides a review of the Company's compliance with Missouri statutes and regulations regarding underwriting and rating practices such as the use of policy forms, adherence to underwriting guidelines, assessment of premium, and procedures to decline or terminate coverage.

**A. NAIC Market Regulation Handbook Chapter 21 Underwriting and Rating Standard 10: The regulated entity’s underwriting practices are not unfairly discriminatory. The regulated entity adheres to applicable statutes, rules and regulations and the regulated entity’s guidelines in the selection of risks.**

To test for this standard, the examiners requested and reviewed a random sample of 116 of 21,618 inforce policy files from the data supplied by the Company to determine if the rates charged were consistent with the Company’s filed rates and in compliance with Missouri law.

Field Size	21,618
Sample Size	116
Type of Sample	Random
Number of Files with Errors	53

The examiners found the following errors in this review. Files with more than one error were counted only once in the number of files with errors.

Finding 1: In 43 files, the Company used information from the insured’s record of violations and accidents as rating criteria for factors that were applied to uninsured motorist and/or comprehensive coverages. The Company’s rating plan is unfairly discriminatory.

Reference: § 379.470, RSMo., and 20 CSR 500-2.700(1)

Finding 2: In 30 files, the Company applied rating factors to the insured’s premium that differed from those filed with the DCI and in one of the 30 files failed to follow its filed underwriting guidelines by assigning the policy to the wrong tier.

Reference: § 379.470, RSMo.

Finding 3: In three files, the Company used vehicle symbol factors that were not filed in Missouri but were filed in another state.

Reference: § 379.470, RSMo, 20 CSR 500-4.100 (1) (B).

Finding 4: In one file, the Company applied an unfiled base rate for Accidental Death and Dismemberment coverage.

Reference: § 379.470, RSMo.

Finding 5: In one file, the Company applied Vehicle Symbols and Symbol Factors to a vehicle insured on the policy prior to the stated effective date of the filing for the symbols utilized.

Reference: § 379.470, RSMo., and 20 CSR 500-4.100(1)(B) & (6)

Finding 6: In one file, the Company used 2016 model year factors for a vehicle model year 2017. The filing does not state the Company will use 2016 model year factors for vehicles 2017 model year and after.

Reference: § 379.470, RSMo.

Finding 7: In one file, the Company charged an SR22 fee when the policy did not have an SR22 filing for the policy term.

Reference: § 375.052, RSMo., and 20 CSR 700-1.150(2)

**B. NAIC Market Regulation Handbook Chapter 21 Underwriting and Rating Standard 16: Cancellation/nonrenewal notices comply with policy provisions and state laws, including the amount of advance notice provided to the insured and other parties to the contract.**

To test for this standard, the examiners requested and reviewed a random sample of 79 of 163 non-renewed policy files from the data supplied by the Company to determine if the non-renewal was proper and if the Company sent adequate notice to the insured and lienholder, if applicable.

Field Size	163
Sample Size	79
Type of Sample	Random
Number of Files with Errors	2

The examiners found the following errors in this review.

Finding 1: In two files, the Company sent non-renewal notices to its insureds that provided a reason for the non-renewal that was not sufficiently clear and specific enough to identify the basis for the insurer's decision without further inquiry.

Reference: § 379.118.1(3), RSMo.

**C. NAIC Market Regulation Handbook Chapter 20 Underwriting and Rating Standard 2: All mandated disclosures are documented and in accordance with applicable statutes, rules, and regulations.**

To test for this standard, the examiners requested and reviewed a random sample of 116 of 21,618 inforce policy files from the data supplied by the Company to determine if the Company provided all mandatory disclosures.

Field Size	21,618
Sample Size	116
Type of Sample	Random
Number of Files with Errors	0

No areas of concern were noted.

### III. CLAIMS

The claims portion of the examination provides a review of the Company's compliance with Missouri statutes and regulations regarding claims handling practices such as the timeliness of handling, accuracy of payment, adherence to contract provisions, and compliance with Missouri statutes and regulations.

#### A. NAIC Market Regulation Handbook Chapter 20 Claims Standard 2: Timely investigations are conducted.

To test for this standard, the examiners requested and reviewed a random sample of 107 of 1,500 paid claims, 83 of 620 claims closed without payment, and 82 of 636 total loss claims to determine if investigations were timely.

##### 1. Paid Claims

No areas of concern were noted.

##### 2. Claims Closed Without Payment

Field Size	620
Sample Size	83
Type of Sample	Random
Number of Files with Errors	4
Error Ratio	4.82%

The examiners found the following errors in this review.

**Finding 1:** In two files, the Company failed to complete an investigation of the claim within 30 days after notification of the claim and failed to send the required notification letter within 45 days of the Company's initial notification, advising the insured of the reasons additional time was needed to investigate the claim. The claims were closed without any further action by the Company to resolve the claims by either paying or denying them.

Reference: § 375.1007(4), RSMo., 20 CSR 100-1.050(1)(C)

**Finding 2:** In one file, the Company failed to send the insured the required notification letter within 45 days of the Company's initial notification that additional time was needed.

Reference: § 375.1007(4), RSMo., and 20 CSR 100-1.050(1)(C)

**Finding 3:** In one file, the Company did not accept or deny the claim within 15 working days and failed to provide the insured with the reasons why more time was needed.

Reference: § 375.1007(4), RSMo., and 20 CSR 100-1.050(1)(C)

### 3. Total Loss Claims

No areas of concern were noted.

## B. NAIC Market Regulation Handbook Chapter 20 Claims Standard 3: Claims are resolved in a timely manner.

To test for this standard, the examiners requested and reviewed a random sample of 107 of 1,500 paid claims, 83 of 620 claims closed without payment, and 82 of 363 total loss claim to determine if claims were resolved in a timely manner.

### 1. Paid Claims

No areas of concern were noted.

### 2. Claims Closed Without Payment

No areas of concern were noted.

### 3. Total Loss Claims

Field Size	363
Sample Size	82
Type of Sample	Random
Number of Files with Errors	3
Error Ratio	3.66%

The examiners found the following errors in this review.

Finding 1: In one file, the Company issued a partial payment to the lienholder for a total loss vehicle, but failed to pay the insured the remaining settlement amount.

Reference: § 375.1007(4), RSMo.

Finding 2: In two files, after accepting liability for the loss the Company did not pay the claimant's medical bills.

Reference: § 375.1007(4), RSMo.

## C. NAIC Market Regulation Handbook Chapter 20 Claims Standard 6: Claims are properly handled in accordance with policy provisions and applicable statutes (including HIPAA), rules and regulations.

To test for this standard, the examiners requested and reviewed a random sample of 107 of 1,500 paid claims, 83 of 620 claims closed without payment, and 82 of 363 total loss claims to determine if the Company properly and consistently handled claims according to policy provisions and applicable statutes, rules and regulations.

## 1. Paid Claims

Field Size	1500
Sample Size	107
Type of Sample	Random
Number of Files with Errors	44
Error Ratio	41.12%

The examiners found the following errors in this review. Files with more than one error were counted only once in the number of files with errors.

**Finding 1:** In 43 files, the Company made claim payments without indicating the coverage under which each payment was made.

Reference: § 375.1007(10), RSMo.

**Finding 2:** In four files, the Company made value reductions in the total loss valuation with unsupported condition adjustments on comparable vehicles. The claim files were not documented to show how the Company arrived at the amount of the adjustment.

Reference: §§ 375.1007(3), 374.205.2(2), RSMo., 20 CSR 100-8.040(3)(B), and 20 CSR 100-1.050(2)(E)

**Finding 3:** In four files, the Company applied a duplicate adjustment to the loss vehicle's value by calculating a weighted average of the comparable vehicles' value based on the same reasons used in calculating the adjusted comparable vehicles' value. The comparable vehicles were already adjusted for options, mileage, year model and condition. In three of the four files, the Company also applied formulas for mileage adjustments that were variable. The rate per mile was inconsistent between comparable vehicles in a single claim and between the claim files, including vehicles with similar mileage.

Reference: § 375.1007(4), RSMo., and 20 CSR 100-1.050(2)(E)

**Finding 4:** In one file, the Company reduced the comparable vehicles' value without providing an explanation for the adjustment.

Reference: § 375.1007(3), RSMo., and 20 CSR 100-1.050(2)(E), 374.205.2 (2) and 20 CSR 100-8.040 (3) (B).

**Finding 5:** In one file, the Company made a reduction in value in the condition of the loss vehicle without explanation and documentation for the adjustment.



Reference: § 375.1007(3), RSMo., 20 CSR 100-8.040 (3) (B), and 20 CSR 100-1.050(2)(E)

Finding 6: In two files, the Company failed to provide the claimant with a sales tax affidavit in the vehicle total loss settlement.

Reference: § 375.1007(4), RSMo.

Finding 7: In one file, the correct amount of the insurance proceeds and deductible were not included on the sales tax affidavit for a tax liability offset on a replacement vehicle.

Reference: § 375.1007(4), RSMo.

## **2. Claims Closed Without Payment**

Field Size	620
Sample Size	83
Type of Sample	Random
Number of Files with Errors	8
Error Ratio	9.64%

The examiners found the following errors in this review.

Finding 1: In five files, when the claim was filed, all pertinent benefits, coverage, or other provisions of the insurance policy were not disclosed to the insured.

Reference: § 375.1007(1), RSMo., and 20 CSR 100-1.020(1)(A)

Finding 2: In one file, the insured vehicle was deemed a total loss. The file contains a valuation and settlement amounts for an owner retained settlement and for an insurer retained settlement. The insured retained the vehicle, yet the Company failed to issue a claim payment for the loss. The Company also did not attempt to identify a third party to determine if there were damages, for which the insured was liable.

Reference: § 375.1007(4), RSMo.

Finding 3: In one file, the Company prepared two estimates for the cost to repair the insured vehicle damages, but failed to provide a copy of the estimates to the insured.

Reference: § 375.1007(4), RSMo., and 20 CSR 100-1.050(2)(D)

Finding 4: In one file, the Company did not timely acknowledge correspondence from its insured.

Reference: § 375.1007(2), RSMo., and 20 CSR 100-1.030(B)

### 3. Total Loss Claims

Field Size	363
Sample Size	82
Type of Sample	Random
Number of Files with Errors	82
Error Ratio	100%

The examiners found the following errors in this review. Files with more than one error were counted only once in the number of files with errors.

Finding 1: In 77 files, the Company reduced the value of total loss valuations with unsupported condition adjustments on comparable vehicles. The claim files were not documented to show how the Company arrived at the amount of the adjustment.

Reference: §§ 375.1007(3), 374.205.2(2), RSMo., and 20 CSR 100-8.040(3)(B)

Finding 2: Of 77 files, examiners reviewed 11 files and in nine, the Company did not accurately account for the condition of the loss vehicle in determining the actual cash value of the vehicle. In accordance with CCC One's condition descriptions and scale, the loss vehicles' condition were not assigned a condition level that matched the vehicles' actual condition.

Reference: § 375.1007(4), RSMo., and 20 CSR 100-1.050(2)(E)

Finding 3: In nine files, some of the loss vehicle's options were not included in the total loss valuation. In some instances, the options were included for the comparable vehicles in the valuation, but not for the loss vehicle when the loss vehicle had the same options.

Reference: § 375.1007(4), RSMo.

Finding 4: In 80 files, the Company applied formulas for mileage adjustments that were variable and applied a duplicate adjustment to the loss vehicle's value by calculating a weighted average of the comparable vehicles' value based on the same reasons used in calculating the adjusted comparable vehicles' value. The rate per mile was inconsistent between comparable vehicles in a single claim and between the claim files, including vehicles with similar mileage and the comparable vehicles were already adjusted for options, mileage, year model and condition.

Reference: § 375.1007(4), RSMo., 20 CSR 100-1.050(2)(E)

Finding 5: In one file, the Company did not disclose all deductions on the net settlement payment letter to the insured. The amount deducted for prior unrepaired damage was not included in the letter.

Reference: § 375.1007(4), RSMo.

Finding 6: In 13 files, the correct amount of the insurance proceeds and deductible were not included on the sales tax affidavit for a tax liability offset on a replacement vehicle.

Reference: § 375.1007(4), RSMo.

Finding 7: In 47 files, the Company did not provide the claimant with a sales tax affidavit in the vehicle total loss settlement.

Reference: § 375.1007(4), RSMo.

Finding 8: In one file, the correct mileage of the loss vehicle was not used when determining the actual cash value of the vehicle.

Reference: § 375.1007(4), RSMo.

Finding 9: In one file, the policy collision deductible was not deducted from the settlement payment.

Reference: § 375.1007(4), RSMo.

Finding 10: In one file, the Company provided the insured with a sales tax affidavit, but the date the insurance proceeds were paid were not included on the affidavit. The sales tax affidavit is valid for 180 days of the insurance claim payment.

Reference: § 375.1007(4), RSMo.

**D. NAIC Market Regulation Handbook Chapter 20 Claims Standard 9: Denied and closed without payment claims are handled in accordance with policy provisions and state law.**

To test for this standard, the examiners requested and reviewed a random sample of 83 of 620 claims closed without payment to determine if the Company conducted a reasonable investigation to conclude the claim should be closed without payment and were adjudicated according to policy provisions and state law.

Field Size	620
Sample Size	83
Type of Sample	Random
Number of Files with Errors	16
Error Ratio	19.28%

The examiners found the following errors in this review. Files with more than one error were counted only once in the number of files with errors.

Finding 1: In ten files, the Company closed the claim without sending correspondence or attempting to contact the insured to notify the insured the claim was closing, but could be

reopened, nor did the Company advise the insured of any policy conditions or duties that could affect the insured's rights. The claim file does not clearly show the disposition of the claim.

Reference: § 375.1007(4), and 20 CSR 100-1.050(1)(E)

Finding 2: In one file, the Company improperly denied the claim asserting the driver at the time of the accident was an excluded driver, but the Company failed to obtain a driver exclusion endorsement that includes the signature of the insured accepting and acknowledging the restriction in coverage.

Reference: §§ 379.116, 375.1007(6), 375.1007(12), RSMo., and 20 CSR 500-2.100(4)(A)

Finding 3: In one file, the Company sent a denial letter, but failed to reference the specific policy provision, condition or exclusion language that was the basis for the claim denial.

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

Finding 4: In one file, the Company denied the claim without conducting a reasonable investigation. Upon receiving the claim, the Company made two calls to the insured to attempt contact, but did not send any letters or other correspondence, until it denied the claim five days after notification of the claim.

Reference: § 375.1007(6), RSMo.

Finding 5: In one file, the Company denied the claim because there was no police report that would confirm who was driving the vehicle. The policy does not require the insured to notify the police. The basis for closing the claim without payment was not supported by policy provisions. The Company closed the claim without conducting a reasonable investigation and closed it without providing a written explanation of the reason for denying the claim.

Reference: §§ 375.1007(1), 375.1007(4), 375.1007(6), 375.1007(12), RSMo., and 20 CSR 100-1.050(1)(A)

Finding 6: In one file, the Company denied the claim because the loss was not reported to the police or agent within 24 hours of the loss occurring. There is no requirement in the policy to report a multi-vehicle accident to the police, nor can the Company require the insured to report the loss to the Company within 24 hours unless it prejudices the rights of the insurer.

Reference: §§ 375.1007(1), 375.1007(4), 375.1007(12), RSMo., and 20 CSR 100-1.020(1)(D)

Finding 7: In one file, the Company failed to fully disclose all first party benefits and coverages of the policy under which a claim was filed.

Reference: § 375.1007(1), RSMo., and 20 CSR 100-1.020(1)(A)

**E. NAIC Market Regulation Handbook Chapter 20 Claims Standard 11: Claim handling practices do not compel claimants to institute litigation, in cases of clear liability and coverages, to recover amounts due under policies by offering substantially less than is due under the policy.**

To test for this standard, the examiners requested and reviewed a random sample of 107 of 1,500 paid claims, 83 of 620 claims closed without payment, and 82 of 363 total loss claim to determine if there were any claims in which the Company recommended the third party make a claim under their own policy and if there were any instances in which the Company's actions compelled insureds or beneficiaries to institute suits to recover amounts due.

**1. Paid Claims**

No areas of concern were noted.

**2. Claims Closed Without Payment**

No areas of concern were noted.

**3. Total Loss Claims**

No areas of concern were noted.

**V. 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 statutes and regulations require companies to respond to criticisms and formal requests within 10 calendar days. In the event an extension of time was requested by the Company and granted by the examiners, the response was deemed timely if it was received within the subsequent time frame. If the response was not received within the allotted time, the response was not considered timely.

**A. Criticism Time Study**

<b>Number of Calendar Days to Respond</b>	<b>Number of Criticisms</b>	<b>Percentage of Total</b>
0 to 10 days	100	93.46%
Over 10 days with extension	3	2.80%
Over 10 days without extension or after extension due date	4	3.74%
<b>Totals</b>	<b>107</b>	<b>100.00%</b>

Finding 1: The Company was late responding to four criticisms.

Reference: § 374.205.2(2), RSMo., and 20 CSR 100-8.040(6)

**B. Formal Request Time Study**

<b>Number of Calendar Days to Respond</b>	<b>Number of Requests</b>	<b>Percentage of Total</b>
0 to 10 days	37	80.43%
Over 10 days with extension	8	17.40%
Over 10 days without extension or after extension due date	1	02.17%
<b>Totals</b>	<b>46</b>	<b>100.00%</b>

Finding 1: The Company was late responding to one formal request.

Reference: § 374.205.2(2), RSMo., and 20 CSR 100-8.040(6)

**EXAMINATION REPORT SUBMISSION**

Attached hereto is the Division of Insurance Market Regulation’s Final Report of the examination of Assurance America, Examination Number 372407, MATS #MO-HICKSS1-149. This examination was conducted by Examiner-In-Charge, Julie Hesser, CIE, CPCU, MCM; Rachel Crowe, AIE, MCM; Jon Meyer, CIE, MCM; and Dana Whaley, AIE, MCM. The findings in the Final Report were extracted from the Market Conduct Examiner’s Draft Report, dated March 3, 2023. 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.

July 30, 2024  
Date

  
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Teresa Kroll  
Chief Examiner, Market Conduct