

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

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

In re: )  
 ) Examination #0609-33-TGT  
Accident Fund Insurance Company )  
Of America (NAIC #10166) )

**CURATIVE ORDER OF THE DIRECTOR**

NOW, on this 30<sup>th</sup> day of December, 2008, Acting Director Linda Bohrer, after consideration and review of the market conduct examination report of Accident Fund Insurance Company of America (NAIC #10166), (hereinafter "the Company"), report number 0609-33-TGT, prepared and submitted by the Division of Insurance Market Regulation pursuant to §374.205.3(3)(a), RSMo, does hereby adopt such report as filed. After consideration and review of such report, relevant workpapers, 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), RSMo.

This order, issued pursuant to §374.205.3, RSMo and §374.046.15. RSMo Cum. Supp. 2006, is in the public interest.

IT IS THEREFORE ORDERED that the Company shall CURE the violations of law, regulations or prior orders revealed in such report and shall take remedial action to bring the Company into compliance with the statutes and regulations of the State of Missouri.

It is further ORDERED that a Missouri market conduct examination of the Company is not necessary until three years from the date of this Order, unless the Director has cause to believe the Company has failed to comply with the terms of this Order or has otherwise violated Missouri laws or regulations.

So Adopted, Found, Concluded and Ordered.

12-30-08  
Date

Linda Bohrer  
Linda Bohrer  
Acting Director

**Kerr, Carolyn**

**From:** Sekoni, Michael [Michaels@accidentfund.com]  
**Sent:** Tuesday, November 18, 2008 8:22 AM  
**To:** Kerr, Carolyn  
**Cc:** Pendleton, Scott  
**Subject:** Missouri Market Conduct Examination of Accident Fund Insurance Co  
**Importance:** High  
**Attachments:** Broadspire SA 14380 2007-08.pdf

Dear Ms. Kerr,

Thank you for your report dated November 6, 2008. We appreciate the cooperation received from your auditors during their audit of the Company.

We have reviewed your draft report and agreed to your observations. I do have a correction to make to the report on page 3 under Claims Handling Practices. Paragraph 2 indicates that the Company uses its own employees and independent adjusting firms to investigate and settle claims. This is correct; however, you indicated that we do not have formal contracts for services existing between the Company and the adjusting firms. There is a contract. Attached is a copy of the current contract for your review.

Thank you for the opportunity to review your draft report.

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**Michael O. Sekoni, CFSA, CIA, CISA, AIS**  
**Vice President & General Auditor, Corporate Audit & Advisory Services (CAAS)**  
**Accident Fund Insurance Company of America**  
**T 517-367-1439 | F 517-367-2910**  
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 W <http://www.accidentfund.com>  
 "Pleasure in the job puts perfection in the work." --Aristotle

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**STATE OF MISSOURI**  
**DEPARTMENT of INSURANCE FINANCIAL INSTITUTIONS**  
**and PROFESSIONAL REGISTRATION**



**MARKET CONDUCT EXAMINATION REPORT**  
for  
**PROPERTY and CASUALTY INSURANCE**  
of

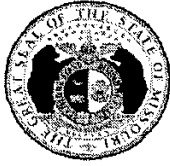
**Accident Fund Insurance**  
**Company of America**

**(NAIC # 10166)**

**232 South Capitol Avenue ♦ Lansing, Michigan 48933**

**October 28, 2008**

**EXAMINATION NUMBER: 0609/33/TGT**



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## FOREWORD

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This is a targeted market conduct examination report of the Accident Fund Insurance Company of America (NAIC Code #10166). This examination was conducted at the offices of Accident Fund Insurance Company of America, located at 232 South Capitol Avenue, Lansing, Michigan 48933 and at the Missouri DIFP branch office, located at 615 East 13<sup>th</sup> 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 DIFP.

When used in this report:

- "Company" refers to Accident Fund Insurance Company of America;
- "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.



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## PURPOSE AND SCOPE OF EXAMINATION

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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, Claims Handling practices, and Underwriting and Rating 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, and claim underpayments found for amounts greater than \$5.00.



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## EXECUTIVE SUMMARY

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

The Workers Compensation Claims Paid review resulted in a found error rate of **4.0%**. Two files failed to document clearly showing the inception, handling and disposition of the claims.

The Workers Compensation Claims Closed Without Payment review resulted in a found error rate of **40.4%**. Thirty-six files failed to document clearly showing the inception, handling and disposition of the claims.

The Workers Compensation policies review resulted in one policy found in error resulting in a found error rate of **2.0%**. One file failed to document how the schedule debits and credits were determined.



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## EXAMINATION FINDINGS

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### **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 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. Workers Compensation Claims Paid**

The examiners requested a sample from the total population of Missouri Workers Compensation claims paid and closed during the examination period.

<b>Number of claims in population</b>	<b>Number of files sampled by examiners</b>	<b>Type of sample used by examiners</b>	<b>Number of files found in error</b>	<b>Found error rate</b>
<b>1,952</b>	<b>50</b>	<b>Systematic</b>	<b>2</b>	<b>4.0%</b>

**Findings**

1. The examiners discovered that the following two files failed to contain documentation clearly showing the inception, handling and disposition of the claims.

Reference: § 374.205.2(2), RSMo, and 20 CSR 300-2.200(3)(B)

**Claim Number**

AF6015980WC07000003001

AF6021357WC07000002001

## CLAIMS CLOSED WITHOUT PAYMENT

### A. Workers Compensation Claims CWP

The examiners requested the population of Missouri Workers Compensation 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
89	89	Census	36	40.4%

### Findings

1. The examiners discovered that the following 36 files failed to contain documentation clearly showing the inception, handling and disposition of the claims.

Reference: § 374.205.2(2), RSMo, and 20 CSR 300-2.200(3)(B)

#### **Claim Number**

AF6018456WC06000003001  
AF6018456WC06000008001  
AF6020028WC06000003001  
AF5011068WC06000002001  
AF6018130WC06000005001  
AF6010570WC06000002001  
39281001  
41715001  
28264001  
149370001  
AF6010243WC06000004001  
AF6012977WC06000006001  
AF6003138WC06000002001  
AF6002220WC06000010001  
AF6015980WC06000002001  
30921001  
36618001  
43925001

#### **Claim Number**

AF5020907WC06000002001  
AF6009762WC06000002001  
AF6009762WC06000004001  
AF6012005WC06000007001  
AF6018456WC06000007001  
AF6018456WC06000009001  
AF6002173WC06000002001  
AF8001901WC06000002001  
AF6003675WC06000002001  
AF6022452WC07000005001  
AF6012977WC06000005001  
AF5010178WC06000004001  
AF6002220WC06000008001  
AF6016568WC06000002001  
AF5020140WC06000003001  
AF5010647WC06000002001  
AF6014373WC06000002001  
112930001

### **III. UNDERWRITING AND RATING PRACTICES**

This section of the report is designed to provide a review of the Company's underwriting and rating practices. Examiners reviewed how the Company handles new and renewal policies to ensure the Company underwrites and rates risks according to its own underwriting guidelines, filed rates, and Missouri statutes and regulations.

The examiners requested a data download of new and renewed policies issued during the examination period from the Company for each line of business under review. The examiners then used Excel to systematically select policies for review.

The examiners requested the Company's underwriting and rating manual for the lines 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 the period to ensure the examiners could properly rate each policy that was selected in the sample.

The examiners also requested the Company's procedures, rules, rates, and forms filed by or on behalf of the Company to determine compliance with Missouri statutes and regulations.

The examiners requested a description of the controls used to ensure the correct territories and zip codes were applied to the risks.

The error criterion to develop confidence levels for the Underwriting and Rating Practices reviews is 10% as established by the NAIC.

### A. Workers Compensation Policies Active

The examiners requested a sample from the total population of Workers Compensation new and renewed policies written in the state of Missouri.

Number of policies in population	Number of files sampled by examiners	Type of sample used by examiners	Number of files found in error	Found error rate
2,861	50	Systematic	1	2.0%

### Findings

1. The examiners discovered the following policy file that failed to document how the schedule debits and credits were determined.

Reference: 20 CSR 500-4.100(7)(D)

#### **Policy Number**

6007360

### IV. CANCELLATION, NON-RENEWAL AND DECLINATION PRACTICES

This section of the report is designed to provide a review of the Company's cancellation, non-renewal and declination practices. Examiners reviewed how the Company declines applications, and cancels and non-renews policies to ensure that the Company was performing these practices according to its own Company guidelines, and Missouri statutes and regulations.

The examiners requested a data download of policies cancelled within the first 60 days, policies non-renewed, and applications declined during the examination period. Policies were then systematically selected for review. When the number of policies in the population was small, the examiners selected each file, or a census for review.

### A. Policies Cancelled or Declined in the First 60 Days

The examiners requested a sample from the total population of all Workers Compensation policies written in the state of Missouri and cancelled in the first 60 days.

Number of policies in population	Number of files sampled by examiners	Type of sample used by examiners	Number of files found in error	Found error rate
82	50	Systematic	0	0.0%

#### Findings

The examiners discovered no issues or concerns.

### B. Policies Cancelled or Declined

The examiners requested a sample from the total population of all Missouri Workers Compensation policies written that were cancelled or declined during the examination period.

Number of policies in population	Number of files sampled by examiners	Type of sample used by examiners	Number of files found in error	Found error rate
238	50	Systematic	0	0.0%

#### Findings

The examiners discovered no issues or concerns.

### C. Policies Non-Renewed

The examiners requested a sample from the total population of all Missouri Workers Compensation policies written that were non-renewed during the examination period.

Number of policies in population	Number of files sampled by examiners	Type of sample used by examiners	Number of files found in error	Found error rate
999	50	Systematic	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.





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## EXAMINATION REPORT SUBMISSION

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This examination report of the Accident Fund Insurance Company of America is respectfully submitted to the Director of the Missouri Department of Insurance, Financial Institutions and Professional Registration.

*Scott B. Pendleton*

Scott B. Pendleton BS, CIE, AIRC, MCM

Examiner in Charge

November 3, 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 Accident Fund Insurance Company of America that has been granted authority to transact the business of insurance in the State of Missouri.
3. Attached hereto and containing 10 pages is my targeted examination report of Accident Fund Insurance Company of America.
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 November 3, 2008.

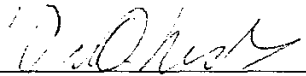
My commission expires 04-14-2012

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.

  
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Win Nickens JD, CPCU

Property and Casualty Audit Manager

Missouri Department of Insurance, Financial Institutions and Professional Registration.

11-3-8  
Date