

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

In Re:)
)
FIRST ACCEPTANCE INSURANCE) **Market Conduct Examination**
COMPANY (NAIC #10336)) **No. 286553**

ORDER OF THE DIRECTOR

NOW, on this 29th day of February, 2021, Director, Chlora Lindley-Myers, after consideration and review of the market conduct examination report of First Acceptance Insurance Company (NAIC #10336) (hereinafter “First Acceptance”), examination report number 286553, prepared and submitted by the Division of Insurance Market Regulation (hereinafter “Division”) pursuant to §374.205.3(3)(a)¹, 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 set out in the caption above, 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). Director does hereby issue the following orders:

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

IT IS THEREFORE ORDERED that First Acceptance and the Division having agreed to the Stipulation, the Director does hereby approve and agree to the Stipulation.

IT IS FURTHER ORDERED that First Acceptance shall not engage in any of the violations of law 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, and to maintain those corrective actions at all times, and shall fully comply with all terms of the Stipulation.

¹ All references, unless otherwise noted, are to Missouri Revised Statutes 2016 as amended.

IT IS FURTHER ORDERED that First Acceptance shall pay, and the Department of Commerce and Insurance, State of Missouri, shall accept, the Voluntary Forfeiture of \$5,750.00 payable to the Missouri State School Fund in connection with the examination.

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 03rd day of February, 2021.



Chlora Lindley-Myers
Chlora Lindley-Myers
Director

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

In Re:)
)
FIRST ACCEPTANCE INSURANCE) Market Conduct Examination
COMPANY (NAIC #10336)) No. 286553

STIPULATION OF SETTLEMENT AND VOLUNTARY FORFEITURE

It is hereby stipulated and agreed by the Division of Insurance Market Regulation (hereinafter “the Division”) and First Acceptance Insurance Company (NAIC #286553) (hereinafter “First Acceptance”), as follows:

WHEREAS, the Division is a unit of the Missouri Department of Commerce and (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, First Acceptance 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 First Acceptance, examination #286553; and

WHEREAS, based on the market conduct examination of First Acceptance, the Division alleges that:

1. In four instances, First Acceptance failed to maintain files to clearly show the coverage provided when it attached the incorrect declarations page to policy files in violation of §374.205.2 (2)¹ and 20 CSR 100-8.040 (3) (A).

2. In five instances, First Acceptance failed to include a copy of the insured’s signed

¹ All references, unless otherwise noted, are to Missouri Revised Statutes 2016, as amended.

application in the file in violation of §374.205.2 (2) and 20 CSR 100-8.040 (3) (A) 1.

3. In one instance, First Acceptance maintained a record of a Missouri complaint under South Carolina in its Complaint Registry in violation of 20 CSR 100-8.040 (3) (D.)

4. In several instances, First Acceptance did not follow its underwriting guidelines in violation of §379.321.

5. In twenty-two instances, First Acceptance failed to disclose in writing all incidental fees to applicants in violation of §375.052, §379.356.2 and 20 CSR 700-1.150.

6. In numerous instances, First Acceptance failed to adopt and implement reasonable standards for the prompt investigation and settlement of claims arising under its policies in violation of §375.1007 (3), §375.1005, 20 CSR 100-1.050 and 20 CSR 100-1.030.

7. In several instances, First Acceptance did not attempt to effectuate prompt, fair and equitable settlements of claims in which liability had become reasonably clear in violation of §375.1007 (4), §375.1005, 20 CSR 100-1.050, and 20 CSR 100-1.030.

8. In several instances, First Acceptance did not acknowledge with reasonable promptness pertinent communications with respect to claims arising under its policies in violation of §375.1007 (2), §375.1005 and 20 CSR 100-1.030.

9. In several instances, First Acceptance did not disclose coverages, relevant facts or policy provisions to claimants in violation of §375.1007 (1), §375.1005 and 20 CSR 100-1.020.

10. In numerous instances, First Acceptance did not promptly provide a reasonable and accurate explanation for claims denials or offers of a compromise settlement in violation of §375.1007 (12), §375.1005, 20 CSR 100-1.050 and 20 CSR 100-1.020.

11. In several instances, First Acceptance failed to maintain adequate documentation in claim files in violation of §374.205.2 (2) and 20 CSR 100-8.040 (3) (B).

WHEREAS, the Division and First Acceptance 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.** First Acceptance agrees to take remedial action bringing it into compliance with the statutes and regulations of Missouri and agrees to maintain such remedial actions at all times, to reasonably ensure that the errors noted in the market conduct examination and in this Stipulation do not recur. Such remedial actions shall consist of the following:

1. First Acceptance agrees to maintain Missouri policy files consistent with the requirements of 20 CSR 100-8.040 (3) (A).

2. First Acceptance agrees to maintain Missouri claim files consistent with the requirements of 20 CSR 100-8.040 (3) (B).

3. First Acceptance agrees to follow its underwriting guidelines in calculating policy premium.

4. First Acceptance agrees that it will disclose in writing all incidental fees to applicants.

5. First Acceptance agrees that it will adjudicate Missouri claims consistent with the requirements of §375.1007, 20 CSR 100-1.020, 20 CSR 100-1.030 and 20 CSR 100-1.050.

6. First Acceptance agrees to provide restitution to all policyholders for overcharges noted in the Examination Report and to provide restitution to all policyholders for underpaid

claims noted in the Examination Report. Interest will be included with all restitution payments in an amount to be determined pursuant to §374.191. A letter should be included with the refund payment indicating that “as a result of a Missouri market conduct examination,” it was found that a refund was owed on the policy or that an additional payment is owed on the claim.

7. First Acceptance agrees that it will review all active policies from January 1, 2018 to the date of the Order approving this Stipulation to determine if the Company applied age changes within six months of the policy period. If such age changes were not applied within six months of the policy period and resulted in an overcharge to the insured, First Acceptance will refund the overpayment along with interest to be determined pursuant to §374.191. A letter should be included with the refund payment indicating that “as a result of a Missouri market conduct examination,” it was found that a refund was owed on the policy.

C. **Compliance.** First Acceptance agrees to file documentation with the Division, in a format acceptable to the Division, within 90 days of the entry of a final order of any remedial action taken pursuant to Paragraph B to implement compliance with the terms of this Stipulation. Such documentation is provided pursuant to §374.205.

D. **Ongoing Examination.** First Acceptance agrees to pay any reasonable examination fees expended by the Division in conducting its review of the documentation provided by First Acceptance pursuant to Paragraph C of this Stipulation.

E. **Voluntary Forfeiture.** First Acceptance agrees, voluntarily and knowingly, to surrender and forfeit the sum of \$5,750 such sum payable to the Missouri State School Fund, in accordance with §374.049.11 and §374.280.2.

F. **Non-Admission.** Nothing in this Stipulation shall be construed as an admission by First Acceptance, this Stipulation being part of a compromise settlement to resolve disputed factual

and legal allegations arising out of the above-referenced market conduct examination.

G. **Waivers.** First Acceptance, after being advised by legal counsel, does hereby voluntarily and knowingly waive any and all rights for procedural requirements, including notice and an opportunity for a hearing, and review or appeal by any trial or appellate court, which may have otherwise applied to the above-referenced market conduct examination.

H. **Changes.** No changes to this Stipulation shall be effective unless made in writing and agreed to by representatives of the Division and First Acceptance.

I. **Governing Law.** This Stipulation shall be governed and construed in accordance with the laws of the State of Missouri.

J. **Authority.** The signatories below represent, acknowledge, and warrant that they are authorized to sign this Stipulation, on behalf of the Division and First Acceptance respectively.

K. **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 and delivery of this Stipulation by facsimile or by an electronically transmitted signature shall be fully and legally effective and binding.

L. **Effect of Stipulation.** This Stipulation shall become effective only upon entry of a Final Order by the Director of the Department (hereinafter "Director") approving this Stipulation.

M. **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: 1/21/2021

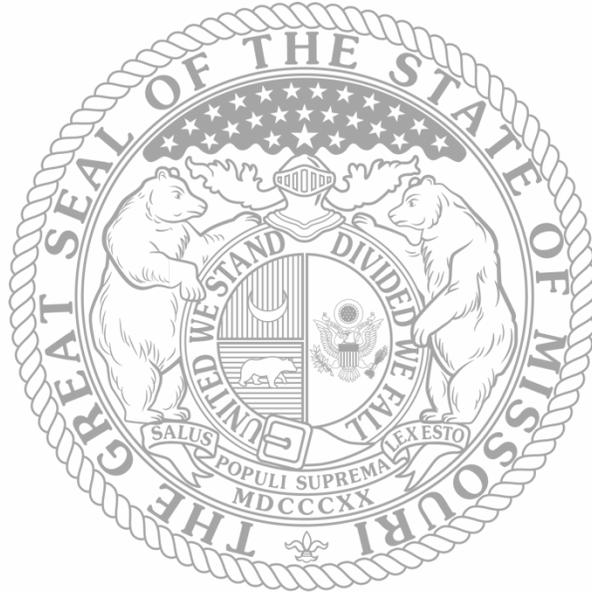
Stewart Freilich

Stewart Freilich
Chief Market Conduct Examiner and
Senior Counsel
Division of Insurance Market Regulation

DATED: 1/7/2021

Alicia Crenshaw Director, Compliance

[Name and Title]
First Acceptance Insurance Company



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

**First Acceptance Insurance Company
NAIC # 10336**

MISSOURI SBS EXAMINATION # 286553

NAIC MATS #MO-HICKSS1-78

January 21, 2021

**Home Office
3813 Green Hills Village Drive
Nashville, TN 37215**

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

JEFFERSON CITY, MISSOURI

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SALUTATION

January 21, 2021

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

First Acceptance Insurance Company Inc. (NAIC #10336)

hereinafter referred to as First Acceptance 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” refers to the First Acceptance Insurance Company, Inc.
- “CSR” refers to the Missouri Code of State Regulation
- “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.

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 July 1, 2013 through June 30, 2016, 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 Auto (Complaint Handling, Underwriting and Rating, Policyholder Service, Claims, and Operations/Management).

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

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

First Acceptance Corporation (the "Company") is a holding company based in Nashville, Tennessee with operating subsidiaries whose primary operations include the selling, servicing, and underwriting of non-standard personal automobile insurance and related products. In 2018, the Company generated revenue from selling non-standard personal automobile insurance products and related products in 17 states. The Company conducted servicing and underwriting operations in 15 states and operated only as an insurance agency in two states. The Company issued policies of insurance through a subsidiary First Acceptance Insurance Company, Inc., and its subsidiaries: First Acceptance Insurance Company of Georgia, Inc. and First Acceptance Insurance Company of Tennessee, Inc. (collectively, the "Insurance Companies") and operated as an insurance agency through another subsidiary, Acceptance Insurance Agency of Tennessee, Inc.

EXECUTIVE SUMMARY

The DCI conducted a targeted market conduct examination of First Acceptance Insurance Company, Inc. The examiners found the following areas of concern:

OPERATIONS/MANAGEMENT

- In four files, the Company failed to maintain the file to clearly show the coverage provided when it attached the incorrect declaration page to the policy files. The Company attached the Specialty Program Declaration page (SP MO 200 Ed. Mar 2010) when the insured did not also purchase the requisite associated Tenant Renter's Policy with their auto policy. Reference: §374.205, RSMo, and 20 CSR 100-8.040(3)(A)
- In five files, the Company failed to maintain the file by not providing a copy of the insured's signed application. Reference: §374.205, RSMo, and 20 CSR 100-8.040(3)(A)1.

COMPLAINTS

- In one file, the Company failed to maintain a complete record of the complaint received in its Missouri Complaint Registry. The complaint was mistakenly maintained in the South Carolina Complaint Registry. Reference: §375.936 (3), RSMo, and 20CSR100-8.040(3)(D)

UNDERWRITING AND RATING

ACTIVE

- In three files, the Company failed to follow the Company's underwriting guidelines by not adjusting the premium after the Company did not receive proof of prior insurance after the seven day requirement. Reference: §379.321, RSMo
- In two files, the Company failed to follow their underwriting guidelines by not applying the age change within six months of policy period. Reference: §379.321, RSMo
- In one file, the Company failed to follow the Company's underwriting guidelines by providing a Homeowners Discount without obtaining proof of home ownership. Reference: §379.321, RSMo
- In 17 files, the Company failed to disclose in writing to the applicants and insureds all incidental fees. Reference: §§375.052 & 379.356.2 RSMo, and 20 CSR 700-1.150

NON ACTIVE

- In nine files, the Company failed to disclose in writing to the applicants and insureds all incidental fees. Reference: §§375.052 & 379.356.2, RSMo, and 20 CSR 700-1.150

CLAIMS

- In two claims, the Company failed to conduct timely investigations with prompt and fair settlements. Reference: §375.1007(3), RSMo, and 20 CSR 100-1.050
- In eleven claims, the Company failed to investigate and resolve claims in a timely manner. Reference: §375.1007(3) & (4), RSMo, and 20 CSR 100-1.050(1)
- In four claims, the Company failed to respond to claims correspondence in a timely manner. Reference: §375.1007(2), RSMo, and 20 CSR 100-1.030(B)

- In four claims, the Company failed to adequately document claim files. Reference: §374.205, RSMo & 20 CSR 100-8.040(3)(B)
- In nine claims, the Company failed to determine if claims were handled in accordance with the policy provisions and applicable statutes, rules and regulations. Reference: §375.1007(1), RSMo, and 20 CSR 100-1.020(1)(A)
- In eight claims, the Company failed to determine if denied and closed without payment claims were handled in accordance with policy provisions and state law. Reference: §375.1007(12), RSMo, and 20 CSR 100-1.050(1)(A)

EXAMINATION FINDINGS

I. OPERATIONS/MANAGEMENT

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

A. NAIC 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, examiners requested and reviewed a random sample of 25 active new business/renewal policy files and 25 non-active canceled files to determine if compliance of state record retention requirements were met.

1. Policy Record Retention for Active Policies

| | |
|------------------|--------|
| Field Size | 10,554 |
| Sample Size | 25 |
| Type of Sample | Random |
| Number of Errors | 4 |
| Error Ratio | 16% |

The examiners found the following errors in this review.

Finding 1: In four files, the Company failed to maintain the file to clearly show the coverage provided when it attached the incorrect declaration page to the policy files. The Company attached the Specialty Program Declaration page (SP MO 200 Ed. Mar 2010) when the insured did not also purchase the requisite associated Tenant Renter’s Policy with their auto.

Reference: §374.205, RSMo, and 20 CSR 100-8.040(3)(A)

2. Policy Record Retention for Canceled Policies

| | |
|------------------|--------|
| Field Size | 7584 |
| Sample Size | 25 |
| Type of Sample | Random |
| Number of Errors | 5 |
| Error Ratio | 20% |

The examiners found the following errors in this review.

Finding 1: In five files, the Company failed to correctly maintain the file when it failed to provide a copy of the insured's signed application.

Reference: §374.205, RSMo, and 20 CSR 100-8.040(3)(A)1

B. NAIC Chapter 20 Operations/Management Standard 5: The regulated entity monitoring the activities of any entity that contractually assumes a business function or is acting on behalf of the regulated entity.

To test for this standard, examiners requested and reviewed a random sample of 25 active policy files to determine if the Company was adequately monitoring the contract held with NSD/Nation Safe Driver.

| | |
|------------------|--------|
| Field Size | 10,554 |
| Sample Size | 25 |
| Type of Sample | Random |
| Number of Errors | 0 |
| Error Ratio | 0% |

The examiners found no errors with this review.

II. COMPLAINT HANDLING

The complaint-handling portion of the examination provides a review of the Company's complaint handling practices. The examiners reviewed how the Company handled complaints to ensure it was performing according to its own guidelines and Missouri statutes and regulations.

A. NAIC Chapter 20 Complaint Handling Standard 1: All complaints are recorded in the required format on the regulated entity's complaint register.

Finding 1: In one file, the Company failed to maintain a complete record of the complaint in the Missouri Complaint Registry. The complaint was mistakenly maintained in the South Carolina Complaint Registry. A complete record of Missouri complaints should be maintained in the Missouri Complaint Registry.

Reference: §375.936 (3), RSMo, and 20CSR100-8.040(3)(D)

III. POLICYHOLDER SERVICE

The policyholder service portion of the examination reviews the Company's compliance with Missouri statutes and regulations regarding notice/billing, delays/no response, and premium refund and coverage questions.

A. NAIC Chapter 20 Policyholder Service Standard 5: Policy transactions are processed accurately and timely.

To test for this standard, examiners requested and reviewed a random sample of 25 new business/renewal and 25 canceled policies to determine if new business/renewals and cancelations were processed accurately and timely and in accordance with applicable statutes, rules and regulations.

1. Active Policies

| | |
|------------------|--------|
| Field Size | 10,554 |
| Sample Size | 25 |
| Type of Sample | Random |
| Number of Errors | 0 |
| Error Ratio | 0% |

The examiners found no errors in this review.

2. Canceled Policies

| | |
|------------------|--------|
| Field Size | 7584 |
| Sample Size | 25 |
| Type of Sample | Random |
| Number of Errors | 0 |
| Error Ratio | 0% |

The examiners found no errors in this review.

IV. 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 beginning on January 1, 2015 and ending on June 30, 2016.

A. Active Policies

1. NAIC Chapter 20 Underwriting and Rating Standard 1: The rates charged for the policy coverage are in accordance with filed rates (if applicable) or the regulated entity’s rating plan.

To test for this standard, examiners requested and reviewed a random sample of 25 active policies from data supplied by the Company to determine if the premiums charged agreed with the Company’s rate filings.

| | |
|------------------|--------|
| Field Size | 10,554 |
| Sample Size | 25 |
| Type of Sample | Random |
| Number of Errors | 6 |
| Error Ratio | 24% |

The examiners found the following errors in this review:

- a. Finding 1: In three files, the Company failed to follow the Company’s underwriting guidelines by not adjusting the premium after the Company did not receive proof of prior insurance after the seven-day requirement, resulting in undercharges to the premium.

Reference: §379.321, RSMo

- b. Finding 2: In two files, the Company failed to follow their underwriting guidelines by not applying the age change within six months of policy period, resulting in overcharges to the premium.

Reference: §379.321, RSMo

- c. Finding 3: In one file, the Company failed to follow the Company’s underwriting guidelines by providing a Homeowners Discount without requiring proof of home ownership, resulting in undercharges to the premium.

Reference: §379.321, RSMo

2. NAIC Chapter 20 Underwriting & Rating Standard 2: All mandated disclosures are documented and in accordance with applicable statutes, rules and regulations

To test for this standard, examiners requested and reviewed a random sample of 25 active policies from data supplied by the Company to determine disclosures were in accordance with applicable statutes, rules and regulations.

| | |
|------------------|--------|
| Field Size | 10,554 |
| Sample Size | 25 |
| Type of Sample | Random |
| Number of Errors | 13 |
| Error Ratio | 52% |

The examiners found the following errors in this review:

Finding 1: In 13 files, the Company failed to disclose in writing all incidental fees to applicants.

Reference: §§375.052 & 379.356.2, RSMo, and 20 CSR 700-1.150

B. Non-Active Policies

1. NAIC Chapter 20 Underwriting & Rating Standard 2 - All mandated disclosures are documented and in accordance with applicable statutes, rules and regulations

To test for this standard, examiners requested and reviewed a random sample of 25 non-active policies from data supplied by the Company to determine disclosures were in accordance with applicable statutes, rules and regulations.

| | |
|--------------------------|--------|
| Field Size | 7584 |
| Sample Size | 25 |
| Type of Sample | Random |
| Number of files in Error | 9 |
| Error Ratio | 36% |

The examiners found the following errors in this review:

Finding 1: In nine files, the Company failed to disclose in writing all incidental fees to the applicants.

Reference: §§375.052 & 379.356.2, RSMo, and 20 CSR 700-1.150

V. 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 Chapter 20 Claims Examination Standard 1: The initial contact by the regulated entity with the claimant is within the required time frame.

To test for this standard, examiners requested and reviewed a random sample of 25 paid and 25 non-paid claims from data supplied by the Company to determine if initial contacts were timely.

1. Initial Contact for Paid Claims

| | |
|------------------|--------|
| Field Size | 795 |
| Sample Size | 25 |
| Type of Sample | Random |
| Number of Errors | 0 |
| Error Ratio | 0.00% |

The examiners found no errors in this review.

2. Initial Contact For Denied/Closed Without Payment Claims

| | |
|------------------|--------|
| Field Size | 606 |
| Sample Size | 25 |
| Type of Sample | Random |
| Number of Errors | 0 |
| Error Ratio | 0.00% |

The examiners found no errors in this review.

B. NAIC Chapter 20 Claims Examination Standard 2: Timely investigations are conducted.

To test for this standard, examiners requested and reviewed a random sample of 25 paid and 25 non-paid claims from data supplied by the Company to determine if investigations were timely.

1. Investigation Time for Paid Claims

| | |
|------------------|--------|
| Field Size | 795 |
| Sample Size | 25 |
| Sample | Random |
| Number of Errors | 2 |
| Error Ratio | 8% |

The examiners found the following errors:

- a. Finding 1: For one claim, the Company failed to implement reasonable standards for a prompt investigation and settlement when the Company failed to find methods to locate the claimant address and delayed payment for 59 days.

Reference: §375.1007(3), RSMo, and 20 CSR 100-1.050

- b. Finding 2: For one claim, the Company did not advise the first-party claimant of acceptance or denial of the named insured’s claim within 15 days of submission of all forms necessary to establish the nature and extent of their claim.

Reference: §375.1007(3), RSMo, and 20 CSR 100-1.050(1)(A)

2. Investigation Time for Denied/Closed Without Payment Claims

| | |
|------------------|--------|
| Field Size | 606 |
| Sample Size | 25 |
| Type of Sample | Random |
| Number of Errors | 0 |
| Error Ratio | 0.00% |

No errors were found in this review.

C. NAIC Chapter 20 Claims Examination Standard 3: Claims are resolved in a timely manner.

To test for this standard, examiners requested and reviewed a random sample of 25 paid and 25 non-paid claims from data supplied by the Company to determine if claims were investigated and resolved in timely manner.

1. Determination Time for Paid Claims

| | |
|------------------|--------|
| Field Size | 795 |
| Sample Size | 25 |
| Type of Sample | Random |
| Number of Errors | 5 |
| Error Ratio | 20% |

The examiners found the following errors:

- a. Finding 1: In one claim, the Company failed to give a fair and equitable settlement and recommended that a third-party claimant make a claim under his own policy to avoid paying a loss of use claim under the insurance contract, resulting in a claim underpayment.

Reference: §§375.445(3), 375.1007(4), RSMo, and 20 CSR 100-1.050(2)A

- b. Finding 2: In one claim, the Company failed to adopt and implement reasonable standards for a prompt investigation and settlement of claims arising under its policies. On April 22, 2015, the Company left one message on the insured’s voicemail advising of a loss amount and asked for a return call if the insured wished to use a Direct Repair facility. No further contact was attempted with the insured until 26 days later, May 18, 2015.

Reference: §375.1007(3), RSMo, and 20 CSR 100-1.050(1)

- c. Finding 3: In one claim, the Company failed to make a prompt and equitable settlement within a reasonable time after all investigation information was received by March 6, 2015. No attempts were made to resolve the claim until April 30, 2015.

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

- d. Finding 4: In one claim, the Company failed to acknowledge pertinent communications with reasonable promptness as it was 47 working days on one occasion and 12 working days from 2/4/16 to 2/22/16 on a second occasion to respond and resolve the claim.

Reference: §375.1007(2) & (4), RSMo, and 20 CSR 100-1.030.1(B)

- e. Finding 5: In one claim, the Company failed to give a fair and equitable settlement when it failed to compensate the claimant for loss of transportation for 139 days, resulting in a claim underpayment.

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

2. Determination Time for Denied/Closed Without Payment Claims

| | |
|------------------|--------|
| Field Size | 606 |
| Sample Size | 25 |
| Type of Sample | Random |
| Number of Errors | 6 |
| Error Ratio | 24% |

The examiners found the following errors:

- a. Finding 1: In one claim, the Company failed to adopt and implement reasonable standards for a prompt investigation and settlement of claims arising under its policies. The police report was received which provided the claimant’s insurance carrier but the Company closed the claim without contacting the carrier to discuss liability or recovery of damages.

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

- b. Finding 2: In one claim, the Company failed to investigate and determine if the at fault party that rear-ended the insured was insured and determine if there was applicable coverage for the insured under their Uninsured Motorist Bodily Injury coverage.

Reference: §375.1007(3), RSMo, and 20 CSR 100-1.050(1)

- c. Finding 3: For one claim, the Company failed to adopt and implement standards for the prompt investigation and settlement of claims when the Company failed to make contact with the insured to determine facts and determine applicable coverages. The Company admitted no contact was made during the 41 days the claims was open.

Reference: §375.1007(3), RSMo, and 20 CSR 100-8.050(1)

- d. Finding 4: For one claim, the Company failed to adopt and implement reasonable standards for the prompt investigation and settlement of claims when it did not contact the glass repair company to determine the amount of damages before closing the file the same day the claim was reported. The insured had a \$500 Comprehensive deductible but the insured had only reported a chip to his windshield.

Reference: §375.1007(3), RSMo, and 20 CSR 100-1.050(1) (C)

- e. Finding 5: In one claim, the Company closed the claim without providing a prompt investigation of the claim by failing to provide the insured with a reason why the claim was closed.

Reference: §375.1007(3), RSMo, and 20 CSR 100-1.050(1)

- f. Finding 6: In one claim, the Company failed to adopt and implement reasonable standards for the prompt investigation and settlement of claims arising under its policies by not contacting the insured to discuss the possibility of Uninsured Motorist Bodily Injury coverage since the insured sustained soft tissue injuries as a result of the accident.

Reference: §375.1007(3), RSMo, and 20 CSR 100-1.050(1)

D. NAIC Chapter 20 Claims Examination Standard 4: The regulated entity responds to claims correspondence in a timely manner.

To test for this standard, examiners requested and reviewed a random sample of 25 paid and 25 non-paid claims from data supplied by the Company to determine if response to correspondence was timely.

1. Claim Communication Time for Paid Claims

| | |
|-------------|-----|
| Field Size | 795 |
| Sample Size | 25 |

| | |
|------------------|--------|
| Type of Sample | Random |
| Number of Errors | 4 |
| Error Ratio | 16 % |

The examiners found the following errors in this review:

- a. Finding 1: In one claim, the Company failed to provide an appropriate reply within 10 working days where a claimant reasonably expected a response. The claimant was identified as a third party claimant on May 4, 2015. There was no evidence in the file that indicates the claimant was contacted before May 26, 2015.

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

- b. Finding 2: In one claim, the Company failed to acknowledge with reasonable promptness pertinent communications with a claimant who initiated several phone calls to settle a physical damage claim until after 50 days.

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

- c. Finding 3: In one claim, the Company failed to provide an appropriate reply within 10 working days on all communications from a claimant that reasonably suggested a response was expected. On several occasions, the insured called to ask questions about vehicle valuation and GAP insurance but the Company did not respond timely.

Reference: §375.1007(3), RSMo, and 20 CSR 100-1.030(1)(B)

- d. Finding 4: In one claim, the Company did not provide an appropriate reply within 10 working days on all communications from a claimant that reasonably suggested a response was expected. The insured contacted the Company asking for a payment status and the Company did not respond until 12 working days later.

Reference: §375.1007(3), RMSo, and 20 CSR 100-1.030(1)(B)

2. Claim Communication Time for Denied/Closed Without Payment Claims

| | |
|------------------|--------|
| Field Size | 606 |
| Sample Size | 25 |
| Type of Sample | Random |
| Number of Errors | 0 |
| Error Ratio | 0.00% |

No errors were found in this review.

E. NAIC Chapter 20 Claims Examination Standard 5: Claim files are adequately documented.

To test for this standard, examiners requested and reviewed a random sample of 25 paid and 25 non-paid claims from data supplied by the Company to determine if claim files were adequately documented.

1. Claim Record Retention for Paid Claims

| | |
|------------------|--------|
| Field Size | 795 |
| Sample Size | 25 |
| Type of Sample | Random |
| Number of Errors | 1 |
| Error Ratio | 4% |

The examiners found the following error:

Finding 1: In one claim, the Company failed to maintain a complete claim file when it failed to log incoming phone calls in the claim notes.

Reference: §374.205, RSMo, and 20 CSR 100-8.040(3)(B)

2. Claim Record Retention for Denied/Closed Without Payment Claims

| | |
|------------------|--------|
| Field Size | 606 |
| Sample Size | 25 |
| Type of Sample | Random |
| Number of Errors | 3 |
| Error Ratio | 12% |

The examiners found the following errors:

a. Finding 1: In one claim, the Company failed to provide a copy of the police report.

Reference: §374.205, RSMo, and 20 CSR 100-8.040(3)(B)

b. Finding 2: In one claim, the Company failed to document denial of all applicable coverages with clear reasons of denial to a third party claimant.

Reference: §375.1007(2), RSMo, and 20 CSR 100-1.030(3)(B)

c. Finding 3: In one claim, the Company failed to document a follow up communication with the insured with a reason the claim was closed.

Reference: §375.1007(2), RSMo, and 20 CSR 100-1.030(3)(B)

F. NAIC Chapter 20 Claims Examination Standard 6: Claims are properly handled in accordance with policy provisions and applicable statutes, rules and regulations.

To test for this standard, examiners requested and reviewed a random sample of 25 paid and 25 non-paid claims from data supplied by the Company to determine if claims are handled in accordance to policy provisions and applicable statutes, rules and regulations.

1. Paid Claims

| | |
|------------------|--------|
| Field Size | 795 |
| Sample Size | 25 |
| Type of Sample | Random |
| Number of Errors | 5 |
| Error Ratio | 20% |

The examiners found the following errors:

- a. Finding 1: In four claims, the Company failed to disclose coverage and policy provisions and failed to provide the first party claimant an explanation as to which coverage the claim was being paid under.

Reference: §375.1007 (1) & (10), RSMo, and 20 CSR 100-1.020(1)(A) & 20 CSR 100-8.040(3)(B)

- b. Finding 2: In one claim, the Company failed to issue a Missouri total loss sales tax affidavit, resulting in a claim underpayment valued at \$224.02.

Reference: §§144.027, 374.205, 375.1007(4), RSMo, and 20 CSR 100-8.040(3)(B)

2. Denied/Closed Without Payment Claims.

| | |
|------------------|--------|
| Field Size | 606 |
| Sample Size | 25 |
| Type of Sample | Random |
| Number of Errors | 4 |
| Error Ratio | 16 % |

The examiners found the following errors:

- a. Finding 1: In one claim, the Company failed to disclose to Enterprise Rental relevant facts or policy provisions relating to coverages at issue by failing to disclose the insured did not have Collision or Comprehensive coverages to cover a loss.

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

- b. Finding 2: In one claim, the Company failed to disclose all pertinent benefits and coverages of an insurance policy by not disclosing applicable UMBI coverage to the insured.

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

- c. Finding 3: In one claim, the Company failed to disclose all pertinent benefits and coverages of an insurance policy by not disclosing applicable Property Damage coverage to the claimant.

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

- d. Finding 4: In one claim, the Company failed to follow claims guidelines by not discussing the liability decision with State Farm to confirm that no subrogation claim was pending or if the at fault party was seeking to recover damages.

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

G. NAIC Claims Examination Standard 9: Denied and closed without payment claims are handled in accordance with policy provisions and state law.

To test for this standard, examiners requested and reviewed a random sample of 25 paid and 25 non-paid claims from data supplied by the Company to determine if denied claims are handled in accordance with policy provisions and state law.

1. Paid Claims

| | |
|------------------|--------|
| Field Size | 795 |
| Sample Size | 25 |
| Type of Sample | Random |
| Number of Errors | 1 |
| Error Ratio | 4 % |

Finding 1: In one claim, the Company failed to explain to the claimant the reasons for not providing reasonable compensation for the claimant's loss of use claim for the 122 days the claimant was without a vehicle.

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

2. Denied and closed without payment claims

| | |
|------------------|--------|
| Field Size | 606 |
| Sample Size | 25 |
| Type of Sample | Random |
| Number of Errors | 7 |
| Error Ratio | 28% |

The examiners found the following errors:

- a. Finding 1: In one claim, the Company failed to place a copy of the denial letter in the claim file to support the Company's reason for the denial.

Reference: §§374.205, 375.1007(12), RSMo, and 20 CSR 100-1.050(1)(A) & 20 CSR 100-8.040(3)(B)

- b. Finding 2: In one claim, the Company failed to follow policy provisions when it denied the claim based on the insured's failure to submit the proof of loss form within 60 days after the Company's request.

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

- c. Finding 3: In one claim, the Company failed to follow policy provisions when it failed to state the correct policy provision, condition or exclusion in the denial letter to the claimant.

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

- d. Finding 4: In one claim, the Company failed to provide a copy of the denial letter related to the applicable Medical Payment coverage.

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

- e. Finding 5: In one claim, the Company failed to provide a denial letter to the insured stating the date of loss occurred after the policy was canceled.

Reference: §§374.205 & 375.1007(12), RSMo, and 20 CSR 100-1.050(1)(A) & 20 CSR 100-8.040(3)(B)

- f. Finding 6: In one claim, the Company failed to provide a reasonable and accurate explanation in the denial letter when it did not explain the specific and applicable deductible.

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

- g. Finding 7: In one claim, the Company failed to document applicable coverages to the insured and failed to maintain a copy of the denial letter in the claim file to support the Company's reason for the denial.

Reference: §§374.205 & 375.1007(12), RSMo, and 20 CSR 100-1.050(1)(A) & 20 CSR 100-8.040(3)(B)

VI. 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

| Number of Calendar Days to Respond | Number of Criticisms | Percentage of Total |
|--|-----------------------------|----------------------------|
| 0 to 10 days | 37 | 100% |
| Over 10 days with extension | 0 | 0% |
| Over 10 days without extension or after extension due date | 0 | 0% |
| Totals | 37 | 100% |

All criticism responses were timely.

B. Formal Request Time Study

| Number of Calendar Days to Respond | Number of Requests | Percentage of Total |
|--|---------------------------|----------------------------|
| 0 to 10 days | 54 | 100% |
| Over 10 days with extension | 0 | 0% |
| Over 10 days without extension or after extension due date | 0 | 0% |
| Totals | 54 | 100% |

All request responses were timely.

EXAMINATION REPORT SUBMISSION

Attached hereto is the Division of Insurance Market Regulation's Final Report of the examination of First Acceptance Insurance Company (NAIC #10336), Examination Number 286553. This examination was conducted by Shelly Herzing, Darren Jordan, Dale Hobart and Tad Herin. The findings in the Final Report were extracted from the Market Conduct Examiner's Draft Report, dated October 27, 2020. 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.

1-21-2021

Date



Stewart Freilich

Stewart Freilich
Chief Market Conduct Examiner