

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

In Re:)
)
AMERICAN CONTRACTORS)
INSURANCE GROUP)
INSURANCE COMPANY (NAIC # 19984)) Market Conduct Exam No. 1104-14-TGT
)

ORDER OF THE DIRECTOR

NOW, on this 17th day of JANUARY, 2013, Director John M. Huff, after consideration and review of the market conduct examination report of American Contractors Insurance Group Insurance Company (NAIC #19984) (hereafter referred to as "ACIG"), report number 1104-14-TGT, prepared and submitted by the Division of Insurance Market Regulation pursuant to §374.205.3(3) (a)¹ and the Stipulation of Settlement and Voluntary Forfeiture ("Stipulation"), does hereby adopt such report as filed. After consideration and review of the Stipulation, reports, relevant work papers, and any written submissions or rebuttals, the findings and conclusions of such report are deemed to be the Director's findings and conclusions accompanying this order pursuant to §374.205.3(4).

This order, issued pursuant to §374.205.3(4), §374.280, and §374.046.15. RSMo (Cum. Supp. 2012), is in the public interest.

IT IS THEREFORE ORDERED that ACIG and the Division of Insurance Market Regulation having agreed to the Stipulation, the Director does hereby approve and agree to the Stipulation.

IT IS FURTHER ORDERED that ACIG shall not engage in any of the violations of law and regulations set forth in the Stipulation and shall implement procedures to place the Company 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.

IT IS FURTHER ORDERED that ACIG shall pay, and the Department of Insurance,

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

Financial Institutions and Professional Registration, State of Missouri, shall accept, the Voluntary Forfeiture of \$76,400 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 17th day of JANUARY, 2013.


John M. Huff
Director

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

In Re:)
)
AMERICAN CONTRACTORS)
INSURANCE GROUP) Market Conduct Exam No. 1104-14-TGT
INSURANCE COMPANY (NAIC #19984))

**STIPULATION OF SETTLEMENT
AND VOLUNTARY FORFEITURE**

It is hereby stipulated and agreed by the Division of Insurance Market Regulation (hereinafter "the Division") and American Contractors Insurance Group Insurance Company (NAIC #19984) (hereinafter referred to as "ACIG"), as follows:

WHEREAS, the Division is a unit of the Missouri Department of Insurance, Financial Institutions and Professional Registration (hereinafter, "the Department"), an agency of the State of Missouri, created and established for administering and enforcing all laws in relation to insurance companies doing business in the State in Missouri; and

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

WHEREAS, the Division conducted a Market Conduct Examination of ACIG and prepared report number 1104-14-TGT; and

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

1. In 100 instances, ACIG issued policies which included at least one form that had not been filed with the Department in violation of §287.310.1¹ and 20 CSR 500-6.100;
2. In 6 instances, ACIG failed to adhere to the rules of the NCCI's Basic Manual in violation of §287.955.3;
3. In 98 instances, ACIG failed to file all rate and supplementary rate information with the Department in violation of §287.947.1;

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

4. In 90 instances, ACIG failed to maintain adequate documentation for the reconstruction and determination of rates in violation of §287.937.2, §374.205.2 (2) and 20 CSR 300-2.200;

5. In 2 instances, ACIG charged unfairly discriminatory rates in violation of §287.950.

WHEREAS, the Division and ACIG have agreed to resolve the issues raised in the Market Conduct Examination Report as follows:

A. **Scope of Agreement.** This Stipulation of Settlement and Voluntary Forfeiture embodies the entire agreement and understanding of the signatories with respect to the subject matter contained herein. The signatories hereby declare and represent that no promise, inducement or agreement not herein expressed has been made, and acknowledge that the terms and conditions of this agreement are contractual and not a mere recital.

B. **Remedial Action.** ACIG agrees to take remedial action on Missouri policies issued after the date of the Stipulation bringing it into compliance with the statutes and regulations of Missouri and agrees to maintain those remedial actions at all times, to reasonably assure that the errors noted in the above-referenced market conduct examination report do not recur. Such remedial actions shall include, but not be limited to, the following:

1. ACIG agrees to file with the Director all workers compensation and employers' liability policy forms, and all endorsements to such policy forms which have not been submitted by a filing agency, including those endorsements that clarify changes to the policy;

2. ACIG agrees to file with the Director all rates and supplementary rate information used in its large deductible policies, including the actual unrounded Excess Loss Pure Premium Factor (ELPPF) within 30 days of the effective date of the policies, or alternatively agrees to file with the Director individual rating plans for each individually rated large deductible policy within 30 days of the effective date of the policy;

3. ACIG agrees to maintain documentation on its workers compensation policies sufficient to determine if the policies are property rated and whether they comply with Missouri law.

C. **Compliance.** ACIG agrees to file documentation within 180 days of the entry of a final order of all remedial action to be taken to implement compliance with the terms of this stipulation.

D. **Voluntary Forfeiture.** ACIG agrees, voluntarily and knowingly, to surrender and forfeit the sum of \$76,400, such sum payable to the Missouri State School Fund, in accordance with §374.280.

E. **Other Penalties.** The Division agrees that it will not seek penalties against ACIG, other than those agreed to in this Stipulation, for the conduct found in Market Conduct Examination 1104-14-TGT.

F. **Waivers.** ACIG, 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.

G. **Changes.** No changes to this stipulation shall be effective unless made in writing and agreed to by all signatories to the stipulation.

H. **Governing Law.** This Stipulation of Settlement and Voluntary Forfeiture shall be governed and construed in accordance with the laws of the State of Missouri.

I. **Authority.** The signatories below represent, acknowledge and warrant that they are authorized to sign this Stipulation of Settlement and Voluntary Forfeiture.

J. **Effect of Stipulation.** This Stipulation of Settlement and Voluntary Forfeiture shall not become effective until entry of a Final Order by the Director of the Department of Insurance, Financial Institutions and Professional Registration (hereinafter the "Director") approving this Stipulation.

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

DATED: 1/16/2013

Stewart Freilich
Stewart Freilich
Legal Counsel
Division of Insurance Market Regulation

DATED: 1/11/2013

Richard L. ...
Richard L. ...
President
~~American Contractors Insurance Group~~
Insurance Company

ACIG

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



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

American Contractors Insurance Group Insurance Company
NAIC Group #0594
NAIC #19984

MISSOURI EXAMINATION # 1104-14-TGT

NAIC EXAM TRACKING SYSTEM # MO341-M35

January 24, 2013

American Contractors Insurance Group Insurance Company
12222 Merit Drive, Suite 1660
Dallas, Texas 75251

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FOREWORD

This is a targeted market conduct examination report of the American Contractors Insurance Group (ACIG) Insurance Company (NAIC Code #19984). This examination was conducted at the Missouri Department of Insurance, Financial Institutions, and Professional Registration's Kansas City office located at 615 East 13th Street, Room 510, Kansas City, Missouri 64106.

This examination report is generally a report by exception. However, failure to criticize specific practices, procedures, products or files does not constitute approval thereof by the DIFP.

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

When used in this report:

- "Company" refers to American Contractors Insurance Group Insurance Company;
- "CSR" refers to the Missouri Code of State Regulation;
- "DIFP" refers to the Missouri Department of Insurance, Financial Institutions and Professional Registration;
- "Director" refers to the Director of the Missouri Department of Insurance, Financial Institutions and Professional Registration;
- "ACIG" refers to American Contractors Insurance Group Insurance Company;
- "NAIC" refers to the National Association of Insurance Commissioners;
- "RSMo" refers to the Revised Statutes of Missouri.
- "MOCCPAP" refers to Missouri Contracting Classification Premium Adjustment Program;
- "NCCI" refers to the National Council on Workers Compensation Insurance;
- "ELPPF" refers to Excess Loss Pure Premium Factor;
- "SIF" refers to Second Injury Fund;
- "OCIP" refers to Owner Controlled Insurance Program;
- "CCIP" refers to Contractor Controlled Insurance Program.

SCOPE OF EXAMINATION

The DIFP has authority to conduct this examination pursuant to, but not limited to, §§374.110, 374.190, 374.205, 375.445, 375.938, and 375.1009, RSMo.

The purpose of this examination was to determine if the Company complied with Missouri statutes and DIFP regulations and to consider whether the Company's operations are consistent with the public interest. The primary period covered by this review is January 1, 2006 through June 30, 2011 unless otherwise noted. Errors outside of this time period discovered during the course of the examination may also be included in the report.

The examination included a review of the following areas of the Company's operations for the lines of business reviewed:

Workers' Compensation Underwriting, Rating, and Policyholder Services.

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 is ten percent (10%). *Note: Most Workers' Compensation laws do not apply a general business practice standard, no error rates were contemplated in these reviews unless the violation(s) were applicable to Missouri's Unfair Trade Practices Act.*

In performing this examination, the examiners only reviewed a sample of the Company's practices, procedures, products and files. Therefore, some noncompliant practices, procedures, products and files may not have been discovered. As such, this report may not fully reflect all of the practices and procedures of the Company. As indicated previously, failure to identify or criticize improper or noncompliant business practices in this state or other jurisdictions does not constitute acceptance of such practices.

COMPANY PROFILE

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

ACIG Insurance Company was organized in 1985, and is domiciled in Illinois. The Company is a wholly owned subsidiary of American Contractors Insurance Group Ltd. (ACIG Ltd.), an insurance company domiciled in Bermuda.

The Company has a wholly owned subsidiary: ACIG Insurance Agency, Inc. (a Texas corporation). ACIG Insurance Agency, Inc. acts as the agent for the Company's premium billings and collections. There have been no mergers or acquisitions in the last five years.

The Company is currently licensed in Guam, the District of Columbia, and all states, except New Hampshire. The Company is a captive insurance company, writing workers' compensation insurance for its members (owners of the parent company, ACIG Ltd., who are primarily large U.S. construction contractors) and their affiliates. ACIG Ltd. currently has 42 members, and the Company currently writes Missouri workers' compensation coverage for fewer than 20 of those members. The Company's services include underwriting, supervision of claims (directly handled by third party administrators), policy filings and issuance, loss and quality control.

The Company assumes 100% of the net retained business of two affiliates: ACIG Ltd. and American Contractors Insurance Company Risk Retention Group (ACICRRG).

The Company limits the net loss that can arise from severe accidents by reinsuring (ceding) a portion of its business to other insurers and reinsurers. The Company retains \$5 million per loss occurrence for workers' compensation accidents and cedes statutory limits excess of \$5 million to Zurich American Insurance Company.

EXECUTIVE SUMMARY

The DIFP conducted a targeted market conduct examination of the American Contractors Insurance Group Insurance Company (ACIG). The examiners found the following principal areas of concern:

The examiners discovered the following errors regarding the American Contractors Workers' Compensation Underwriting and Rating Practices reviews:

- The examiners found six instances where the Company failed to verify the Missouri Contracting Classification Premium Adjustment Program (MOCCPAP) payroll.
- The examiners found 90 instances where the Company failed to document the underwriting file with the basis for the rating of its policies.
- The examiners found 100 instances where the Company failed to submit forms for approval with the Missouri DIFP.
- The examiners found 98 instances where the Company failed to file Individual Risk Rate filings with the Missouri DIFP.
- The examiners found two instances where the Company unfairly discriminated between policyholders by incorrectly applying large deductible credits to policies that should not have received the credits.

Examiners requested that the Company make refunds concerning underwriting premium overcharges for amounts greater than \$5.00 found during the examination. The examiners found one file with a premium overcharge to the insured in the amount of \$155. The Company disagreed with the finding, resulting in no restitution to the insured.

Various non-compliant practices were identified, some of which may extend to other jurisdictions. When applicable, corrective action for the jurisdictions should be addressed.

As part of the examination process, examiners review any prior disciplinary actions noted against the Company being examined. The examiners found no record of disciplinary action taken against the ACIG Insurance Company. The Company informed the examiners that no market conduct examinations were conducted on the Company in the last three years. The examiners found no evidence to the contrary.

EXAMINATION FINDINGS

I. UNDERWRITING AND RATING PRACTICES

This section of the report is designed to provide a review of the Company's underwriting and rating practices. These practices included the use of policy forms, adherence to underwriting guidelines, assessment of premium, and procedures to decline or terminate coverage. Examiners reviewed how the Company handled new and renewal policies to ensure that the Company underwrote and rated risks according to their own underwriting guidelines, filed rates, and Missouri statutes and regulations.

Because of the small number of policy/underwriting files in the sample, the examiners reviewed the entire census in conducting their compliance testing. A policy/underwriting file is determined in accordance with 20 CSR 100-8.040 and the NAIC *Market Regulation Handbook*. Error rates are established when testing for compliance with laws that apply a general business practice standard (e.g., §§375.930 – 375.948 and 375.445, RSMo.) and compared with the NAIC benchmark error rate of ten percent (10%). Error rates in excess of the NAIC benchmark error rate are presumed to indicate a general business practice contrary to the law. As most Workers' Compensation laws do not apply a general business practice standard, no error rates were contemplated in these reviews unless the violation(s) discovered fell within the scope of Missouri's Unfair Trade Practices Act.

The examiners requested the Company's underwriting and rating manuals for the line of business under review. This included all rates, guidelines, and rules that were in effect on the first day of the examination period and at any point during that period to ensure that the examiners could properly rate each policy reviewed.

The examiners also reviewed the Company's procedures, rules, and forms filed by or on behalf of the Company with the DIFP. The examiners reviewed all Missouri files from a listing furnished by the Company.

The examiners also requested a written description of significant underwriting and rating changes that occurred during the examination period for underwriting files that were maintained in an electronic format.

An error can include, but is not limited to, any miscalculation of the premium based on the information in the file, an improper acceptance or rejection of an application, the misapplication of the company's underwriting guidelines, incomplete file information preventing the examiners from readily ascertaining the company's rating and underwriting practices, and any other activity indicating a failure to comply with Missouri statutes and regulations.

A. Forms and Filings

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

1. The examiners discovered the following 100 policies which included at least one form that had been not been filed with the Missouri DIFP.

Policy #	Forms
WC06000009	Endmt #18-Premium Payment Endmt
WC06000021	Endmt #22-Premium Payment Endmt
WC06000022	Endmt #18-Premium Payment Endmt
WC06000033	Endmt #18-Premium Payment Endmt
WC06000038	Endmt #105-Premium Payment Endmt
WC06000044	Endmt #59-Premium Payment Endmt
WC06000063	Endmt #22-Premium Payment Endmt Endmt #24- Contracting Classification Adjustment Endmt
WC06000064	Endmt #32-Premium Payment Endmt
WC06000074	Endmt #78-Premium Payment Endmt
WC06000080	Endmt #22-Premium Payment Endmt Endmt #23-Experience Modification Amendment
WC07000009	Endmt #18-Premium Payment Endmt Endmt #20-Missouri Administrative Surcharge Amendment
WC07000021	Endmt #23-Premium Payment Endmt Endmt #26-Missouri Administrative Surcharge Amendment
WC07000022	Endmt #18-Premium Payment Endmt Endmt #20-Missouri Administrative Surcharge Amendment
WC07000033	Endmt #18-Premium Payment Endmt Endmt #20-Missouri Administrative Surcharge Amendment
WC07000038	Endmt #107-Premium Payment Endmt Endmt #111-Missouri Administrative Surcharge Amendment

Policy #	Forms
WC07000063	Endmt #23-Premium Payment Endmt Endmt #28-Missouri Administrative Surcharge Amendment
WC07000064	Endmt #23-Premium Payment Endmt Endmt #28-Missouri Administrative Surcharge Amendment
WC07000074	Endmt #83-Premium Payment Endmt Endmt #89-Missouri Administrative Surcharge Amendment
WC07000080	Endmt #22-Premium Payment Endmt Endmt #24-Missouri Administrative Surcharge Amendment
WC08000009	Endmt #18-Premium Payment Endmt
WC08000017	Endmt #24-Premium Payment Endmt
WC08000018	Endmt #18-Premium Payment Endmt
WC08000030	Endmt #18-Premium Payment Endmt
WC08000035	Endmt #115-Premium Payment Endmt
WC08000063	Endmt #26-Premium Payment Endmt
WC08000064	Endmt #36-Premium Payment Endmt
WC08000078	Endmt #24-Premium Payment Endmt Endmt #26- Other States Insurance Amendatory Endmt
WC09000007	Endmt #17-Premium Payment Endmt
WC09000014	Endmt #21-Premium Payment Endmt
WC09000023	Endmt #17-Premium Payment Endmt
WC09000028	Endmt #105-Premium Payment Endmt
WC09000044	Endmt #22- Premium Payment Endmt Endmt #25- Contracting Classification Credit Adjustment Endmt #28- Experience Modification Factor Change Endmt
WC09000045	Endmt #37-Premium Payment Endmt
WC09000051	Endmt #87-Premium Payment Endmt
WC09000056	Endmt #21-Premium Payment Endmt
WC10000015	Endmt #21-Premium Payment Endmt Endmt #25- Notice To Certificate Holders

Policy #	Forms
WC10000008	Endmt #17-Premium Payment Endmt Endmt #18- Notice To Certificate Holders
WC10000023	Endmt #17-Premium Payment Endmt Endmt #18- Notice To Certificate Holders
WC10000028	Endmt #104-Premium Payment Endmt Endmt #110- Notice To Certificate Holders
WC10000046	Endmt #22 Premium Payment Endmt Endmt #25 Experience Modification Factor Change Endmt Endmt #26 Notice To Certificate Holders
WC10000047	Endmt #37-Premium Payment Endmt Endmt #41- Notice To Certificate Holders
WC10000053	Endmt #91-Premium Payment Endmt Endmt #122- Notice To Certificate Holders
WC10000008	Endmt #17-Premium Payment Endmt Endmt #18- Notice To Certificate Holders
WC11000006	Endmt #17-Premium Payment Endmt Endmt #18- Notice To Certificate Holders
WC11000009	Endmt #21-Premium Payment Endmt Endmt #22- Notice To Certificate Holders
WC11000017	Endmt #17-Premium Payment Endmt Endmt #18- Notice To Certificate Holders
WC11000022	Endmt #105-Premium Payment Endmt Endmt #106- Notice To Certificate Holders
WC11000036	Endmt #31-Premium Payment Endmt Endmt #32- Notice To Certificate Holders

Policy #	Forms
WC11000042	Endmt #98-Premium Payment Endmt Endmt #99- Notice To Certificate Holders
WC11000054	Endmt #21-Premium Payment Endmt Endmt #22- Notice To Certificate Holders Endmt #24- Cancellation & Non-Renewal Endmt
WC07000111	Endmt #18- Premium Payment Endmt Endmt #21- Retrospective Premium Amendatory Endmt Endmt #24- Class Code Addition Endmt
WC08000102	Endmt #17- Premium Payment Endmt Endmt #20- Retrospective Premium Amendatory Endmt
WC09000112	Endmt #17- Premium Payment Endmt Endmt #20- Retrospective Premium Amendatory Endmt
WC10000115	Endmt #17- Premium Payment Endmt Endmt #20- Retrospective Premium Amendatory Endmt Endmt #24- Notice To Certificate Holders
WC06000027	Endmt #45-Premium Payment Endmt Endmt #47-Class Code Addition Endmt Endmt #50-Experience Modification Amendment
WC06000035	Endmt #64-Class Code Addition Endmt Endmt #84-Experience Modification Amendment
WC06000048	Endmt #30-Premium Payment Endmt Endmt #33-Experience Mod Amendment
WC06000058	Endmt #60-Premium Payment Endmt Endmt #61-Class Code Addition Endmt Endmt #64-Experience Modification Amendment
WC06000068	Endmt #28-Premium Payment Endmt Endmt #31-Experience Modification Amendment

Policy #	Forms
WC06000070	Endmt #53-Premium Payment Endmt Endmt #63-Experience Modification Amendment
WC06000079	Endmt #22-Premium Payment Endmt Endmt #23-Experience Modification Amendment
WC06000088	Endmt #84-Premium Payment Endmt Endmt #88-Class Code Addition Endmt Endmt #90-Class Code Addition Endmt Endmt #93-Class Code Addition Endmt Endmt #99-Experience Modification Amendment Endmt #100-Experience Modification Amendment
WC07000027	Endmt #45-Premium Payment Endmt Endmt #47-MO Admin Surcharge Amendment
WC07000035	Endmt #64-Premium Payment Endmt Endmt #69-MO Admin Surcharge Amendment
WC07000048	Endmt #31-Premium Payment Endmt Endmt #33-MO Admin Surcharge Amendment
WC07000068	Endmt #28-Premium Payment Endmt Endmt #30-MO Admin Surcharge Amendment
WC07000070	Endmt #56-Premium Payment Endmt Endmt #59-MO Admin Surcharge Amendment
WC07000079	Endmt #22-Premium Payment Endmt Endmt #24-MO Admin Surcharge Amendment

Policy #	Forms
WC07000088	Endmt #85-Premium Payment Endmt Endmt #89-MO Admin Surcharge Amendment Endmt #94-Schedule of Named Insureds Amendment Endmt #95-Class Code Addition Endmt Endmt #100-Experience Modification Factor Change Endmt #101-Experience Modification Factor Change
WC08000024	Endmt #48-Premium Payment Endmt Endmt #49-Other States Insurance Amendment Endmt #52-Schedule of Named Insured Amendment Endmt#54-Schedule of Named Insured Amendment
WC08000032	Endmt #69-Premium Payment Endmt Endmt #75-Other States Insurance Amendment Endmt #78-Experience Modification Factor Change
WC08000045	Endmt #33-Premium Payment Endmt Endmt #34-Other States Insurance Amendment
WC08000068	Endmt #31-Premium Payment Endmt Endmt #34-Other States Insurance Amendment Endmt #35-Named Insured Amendment Endmt #37-Schedule of Named Insured Amendment
WC08000069	Endmt #58-Premium Payment Amendment Endmt #66-Other States Insurance Amendment Endmt #68 - Class Code Addition Endmt
WC08000077	Endmt #24-Premium Payment Amendment Endmt #25-Other States Insurance Amendment

Policy #	Forms
WC08000087	Endmt #94-Premium Payment Endmt Endmt #111-Class Code Addition Endmt Endmt #113-Other States Insurance Amendment Endmt #116-Schedule of Named Insureds Amendment
WC09000020	Endmt #44-Premium Payment Amendment Endmt #47-Class Code Addition Amendment
WC09000033	Endmt #29-Premium Payment Amendment Endmt #30-Class Code Addition Amendment Endmt #31-Class Code Addition Amendment
WC09000048	Endmt #24-Premium Payment Amendment Endmt #26- States Addition Amendment
WC09000049	Endmt #54-Premium Payment Amendment Endmt #55- States Addition Amendment
WC09000055	Endmt #21-Premium Payment Amendment
WC09000060	Endmt #35-Premium Payment Amendment Endmt #43-Schedule of Named Insured Amendment Endmt #44-Military Contracts Cancelation Clause Endmt #45-Schedule of Named Insured Amendment Endmt #46-Mailing Address Amendment WC000113-Terrorism Risk Insurance Extension Act WC000311-Voluntary Compensation and Employers Liability Coverage Amendment
WC09000062	Endmt #86-Premium Payment Amendment Endmt #88-Military Contracts Cancelation Clause Endmt #101-Mailing Address Amendment

Policy #	Forms
WC10000020	Endmt #45-Premium Payment Endmt Endmt #46-State Addition Endmt Endmt #51-Notice to Certificate Holders
WC10000026	Endmt #63-Premium Payment Endmt Endmt #67-Notice to Certificate Holders Endmt#68-Policy Declarations Page Amendment
WC10000050	Endmt #28-Premium Payment Endmt Endmt #30-Notice to Certificate Holders Endmt #31-State Addition Endmt
WC10000051	Endmt #54-Premium Payment Endmt Endmt #55-State Addition Endmt Endmt #61-Notice to Certificate Holders
WC10000063	Endmt #21-Premium Payment Endmt Endmt #22-Notice to Certificate Holders
WC10000068	Endmt #36-Premium Payment Endmt Endmt#37-Military Contracts Cancellation Clause Endmt #40-State Addition Endmt Endmt #46-Notice to Certificate Holders Endmt #58-AmEndmtatory Endmt
WC10000070	Endmt #85-Premium Payment Endmt Endmt #98-AmEndmtatory Endmt Endmt#103-Notice to Certificate Holders Endmt #108-AmEndmtatory Endmt-1
WC10000126	Endmt #17-Premium Payment Endmt Endmt #19-Notice to Certificate Holders Endmt #20-State Addition Endmt
WC10000127	Endmt #17-Premium Payment Endmt Endmt #19-Notice to Certificate Holders
WC11000014	Endmt #46-Premium Payment Endmt Endmt #47-Notice to Certificate Holders

Policy #	Forms
WC11000039	Endmt #32-Premium Payment Endmt Endmt #33-Notice to Certificate Holders Endmt #35-State Addition Endmt
WC11000040	Endmt #58-Premium Payment Endmt Endmt #59-Notice to Certificate Holders
WC11000053	Endmt #21-Premium Payment Endmt Endmt #22-Notice to Certificate Holders
WC11000061	Endmt #17-Premium Payment Endmt Endmt #18-Notice to Certificate Holders
WC11000062	Endmt #86-Premium Payment Endmt Endmt #87-Notice to Certificate Holders Endmt #88-Military Contracts Cancellation Clause Endmt #99-Cancellation and Nonrenewal Endmt
WC11000064	Endmt #38-Military Contracts Cancellation Clause Endmt #39-Premium Payment Endmt Endmt #40-Notice to Certificate Holders
WC11000066	Endmt #21-Premium Payment Endmt Endmt #22-Notice to Certificate Holders

Reference: §287.310.1, RSMo and 20 CSR 500-6.100(1).

B. American Contractors Insurance Group Insurance Company Underwriting and Rating Practices

The examiners reviewed applications for coverage that were issued, modified, or declined by the Company to determine the accuracy of rating and adherence to prescribed and acceptable underwriting criteria.

The examiners discovered that while rate filings were submitted and approved by the DIFP, the Company frequently used rates that were not filed. This practice resulted in several undercharges and one overcharge to Missouri policyholders, as evidenced in the report.

The following are the results of the reviews:

Underwriting and Rating Practices:

1. The examiners found that the Company failed to adhere to the rules of the National Council on Compensation Insurance (NCCI)'s Basic Manual in writing and reporting its business. Regarding the following six policy files, the Company failed upon audit to reconcile the information submitted by the insured for the calculation of the Missouri Contracting Premium Adjustment Credit against the information the insured reported to taxing authorities.

Reference: §287.955.3. RSMo and NCCI Workers Compensation Manual-Missouri Miscellaneous Rules-Contracting Classification Premium Adjustment Program.

2. The Company failed to file with the director all rates and supplementary rate information which was to be used in Missouri for the following 98 policy files. The Company filed its large deductible plan; however, it did not file the Company's Excess Loss Pure Premium Factor (ELPPF) which was used in the large deductible plan. Since this factor was not filed, all large deductible policies listed below were individual risks for which the Company was required to submit individual risk filings to the Missouri DIFP. The Company was required to submit a filing to include the insured's name, address, telephone number, policy number, policy period, and an explanation of the non-standard methodology by which the premium was calculated. The filing should include the names, titles, and signatures of the insurer, insured, and insured's producer under a statement indicating the insureds are aware that the rates charged are not standard, and that they nevertheless accept the non-standard rates. In Policy WC07000088 a \$155 premium overcharge was discovered along with a \$45 Second Injury Fund (SIF) overpayment, and a \$14 Administrative Surcharge overpayment. The Company disagreed with the findings.

<u>Policy #</u>	<u>Policy #</u>	<u>Policy #</u>
WC06000027	WC10000068	WC08000030
WC06000035	WC10000070	WC08000035
WC06000048	WC11000014	WC08000063
WC06000058	WC11000039	WC08000064
WC06000068	WC11000040	WC08000078
WC06000070	WC11000053	WC09000007
WC06000079	WC11000061	WC09000014
WC06000088	WC11000062	WC09000023
WC07000027	WC11000064	WC09000028
WC07000035	WC11000066	WC09000044
WC07000048	WC07000088	WC09000045
WC07000068	WC06000009	WC09000051
WC07000070	WC06000021	WC09000056
WC07000079	WC06000022	WC10000015
WC08000024	WC06000033	WC10000008
WC08000032	WC06000038	WC10000023
WC08000045	WC06000044	WC10000028
WC08000068	WC06000063	WC10000046
WC08000069	WC06000064	WC10000047
WC08000077	WC06000074	WC10000053
WC08000087	WC06000080	WC10000008
WC09000020	WC07000009	WC11000006
<u>Policy #</u>	<u>Policy #</u>	<u>Policy #</u>
WC09000033	WC07000021	WC11000009
WC09000048	WC07000022	WC11000017
WC09000049	WC07000033	WC11000022
WC09000055	WC07000038	WC11000036
WC09000060	WC07000063	WC11000042
WC09000062	WC07000064	WC11000054
WC10000020	WC07000074	WC07000111
WC10000026	WC07000080	WC08000102
WC10000050	WC08000009	WC09000112
WC10000051	WC08000017	WC10000115
WC10000063	WC08000018	

Reference: §287.947.1, RSMo.

3. The examiners found that the Company failed to maintain information necessary for the reconstruction and determination of the rating of the policy. The following 90 policy files listed below did not contain adequate documentation to conduct the following reviews: 1) to confirm the accuracy of the classification codes chosen for the policy upon which the premium was based, 2) to confirm the accuracy of the payroll amount applied to members, officers, or partners of the Company, 3) regarding certificate holder requests, to confirm the date the certificate was requested or the date when the form was sent to the contractor, 4) for justification of schedule modifications applied to the policy and/or letters to the insured regarding who to contact in cases where a change in schedule modification had the effect of an increase concerning the premium, 5) for verification of workers compensation coverage for subcontractors, 6) for verification of payroll deductions and premium credits for Owner Controlled Insurance Program (OCIP) and Contractor Controlled Insurance Program (CCIP) policies and/or 7) to determine the rounding rules, number of digits required per factor, and ELPPF for the deductible plan.

<u>Policy #</u>	<u>Policy #</u>	<u>Policy #</u>
WC06000027	WC09000055	WC07000074
WC06000068	WC10000020	WC07000080
WC07000035	WC10000026	WC08000009
WC07000070	WC10000050	WC08000017
WC08000024	WC10000051	WC08000018
WC08000045	WC10000063	WC08000030
WC08000077	WC10000068	WC08000035
WC09000060	WC10000070	WC08000063
WC09000062	WC11000014	WC08000078
<u>Policy #</u>	<u>Policy #</u>	<u>Policy #</u>
WC10000126	WC11000039	WC09000007
WC10000127	WC11000040	WC09000014
WC06000035	WC11000053	WC09000023
WC06000048	WC11000061	WC09000028
WC06000058	WC11000062	WC09000044
WC06000070	WC11000064	WC09000056
WC06000079	WC11000066	WC10000015
WC06000088	WC06000009	WC10000008
WC07000027	WC06000021	WC10000023
WC07000048	WC06000033	WC10000028
WC07000068	WC06000038	WC10000046
WC07000079	WC06000044	WC10000053
WC07000088	WC06000063	WC11000006
WC08000032	WC06000074	WC11000009
WC08000068	WC06000080	WC11000017

WC08000069	WC07000009	WC11000022
WC08000087	WC07000021	WC11000054
WC09000020	WC07000022	WC07000111
WC09000033	WC07000033	WC08000102
WC09000048	WC07000038	WC09000112
WC09000049	WC07000063	WC10000115

Reference: §§287.937.2, 374.205.2.(2), RSMo and 20 CSR 300-2.200 [as replaced by 20 CSR100-8.040(3)(A) eff. 1/30/2009].

2. The examiners found that the Company charged rates that were unfairly discriminatory. To be eligible for a large deductible policy, the risk was required to have at least \$100,000 in standard premium excluding deductible credits, and be a multi-state risk. The following two policy files had less than \$100,000 in standard premium and one policy was not a multi-state risk. However, they received the large deductible credit in violation of the rating structure.

Policy #

WC10000126
WC10000127

Reference: § 287.950.1, RSMo.

II. CRITICISMS AND FORMAL REQUESTS TIME STUDY

This study is based upon the time required by the Company to provide the examiners with the requested material or to respond to criticisms. Missouri law requires companies to respond to criticisms and formal requests within 10 calendar days. Please note that in the event an extension was requested by the Company and granted by the examiners, the response was deemed timely if it was received within the time frame granted by the examiners. If the response was not received within that time period, the response was not considered timely.

A. Criticism Time Study

<u>Calendar Days</u>	<u>Number of Criticisms</u>	<u>Percentage</u>
Received within the time limit including any extensions:	19	100.0%

Received outside time limit including any extensions:	0	0.0%
No response:	0	0.0%
Total:	19	100.0%

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

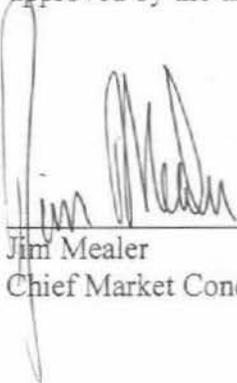
B. Formal Request Time Study

<u>Calendar Days</u>	<u>Number of Formal Requests</u>	<u>Percentage</u>
Received within the time limit including any extensions:	19	100.0%
Received outside time limit including any extensions:	0	0.0%
No response:	0	0.0%
Total:	19	100.0%

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

EXAMINATION REPORT SUBMISSION

Attached hereto is the Division of Insurance Market Regulation's Final Report of the examination of American Contractors Insurance Group Insurance Company (NAIC #19984), Examination Number 1104-14-TGT. This examination was conducted by Scott B. Pendleton, Dale Hobart, and Teresa Koerkenmeier. The findings in the Final Report were extracted from the Market Conduct Examiner's Draft Report, dated May 14, 2012. 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.

 1/24/2013

Jim Mealer

Date

Chief Market Conduct Examiner