



State of Wisconsin / OFFICE OF THE COMMISSIONER OF INSURANCE

Scott McCallum, Governor
Connie L. O'Connell, Commissioner

Wisconsin.gov

121 East Wilson Street • P.O. Box 7873
Madison, Wisconsin 53707-7873
Phone: (608) 266-3585 • Fax: (608) 266-9935
E-Mail: information@oci.state.wi.us
Web Address: oci.wi.gov

Notice of Adoption and Filing of Examination Report

Take notice that the proposed report of the market conduct examination of the

General Casualty Company of Wisconsin
One General Drive
Sun Prairie WI 53596

dated February 11-19, 2002, and served upon the company on October 2, 2002, has been adopted as the final report, and has been placed on file as an official public record of this Office.

Date at Madison, Wisconsin, this 7th day of November, 2002.

Connie L. O'Connell
Commissioner of Insurance

**STATE OF WISCONSIN
OFFICE OF THE COMMISSIONER OF INSURANCE**

MARKET CONDUCT EXAMINATION

OF

**GENERAL CASUALTY COMPANY OF WISCONSIN
SUN PRAIRIE, WISCONSIN**

FEBRUARY 11-19, 2002

TABLE OF CONTENTS

I. INTRODUCTION	1
II. PURPOSE AND SCOPE	4
III. PRIOR EXAMINATION RECOMMEDATIONS	5
IV. CURRENT EXAMINATION FINDINGS	9
CLAIMS	9
MARKETING & SALES.....	11
OPERATIONS & MANAGEMENT.....	11
POLICY FORMS.....	12
POLICYHOLDER SERVICE & COMPLAINT	12
PRODUCER LICENSING.....	12
UNDERWRITING & RATING.....	14
V. CONCLUSION	23
VI. SUMMARY OF RECOMMENDATIONS	24
VII. ACKNOWLEDGEMENT	27



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March 25, 2002

Bureau of Market Regulation

121 East Wilson Street • P.O. Box 7873
Madison, Wisconsin 53707-7873
(608) 266-3585 • (800) 236-8517
Fax: (608) 264-8115
E-Mail: marketreg@oci.state.wi.us
Web Address: oci.wi.gov

Honorable Connie L. O'Connell
Commissioner of Insurance
Madison, WI 53702

Commissioner:

Pursuant to your instructions and authorization, a targeted market conduct examination was made February 11–19, 2002 of:

General Casualty Company of Wisconsin
Sun Prairie, Wisconsin

and the following report is respectfully submitted.

I. INTRODUCTION

General Casualty Company of Wisconsin (the company) is a property and casualty insurer. It was incorporated under its present name and commenced business in May 1925. In 1956 the company was sold to Reliance Insurance Company and sold again to Winterthur U.S. Holdings, Inc., (a subsidiary of Winterthur Swiss Insurance Company) in 1990.

Since 1963, the company has expanded the number of its subsidiaries. Each company in the General Casualty group of companies has marketing role, which allows the group to offer a diverse range of products and programs. General Casualty Company of Wisconsin's role is to write standard risks at standard rates.

In 1999 and 2000 the company reorganized. It went from nine self-contained branches to five regions. In addition, during 2000 the company also integrated its sister company, Blue Ridge Insurance Company, into the General Casualty group of companies.

As of December 31, 2000, the company was licensed in all jurisdictions except the District of Columbia, New Hampshire, New Jersey, and Vermont. During 2000, Wisconsin business

accounted for over 48% of the company's total business, the most of any single state. As of December 31, 2000, General Casualty Company of Wisconsin's direct premiums written and direct losses paid were as follows:

	Direct Premiums Written	Direct Losses Paid
Total Company	\$267,202,779	\$174,862,241
Wisconsin Business Only	\$130,334,844	\$102,574,851

In 2000, the company was ranked as the 7th largest writer of private passenger automobile insurance in Wisconsin. In addition, the company was ranked as the 3rd largest writer of commercial automobile insurance, the 5th largest writer of commercial multi-peril insurance, and the 5th largest writer of homeowners insurance in Wisconsin. As of December 31, 2001, General Casualty Company of Wisconsin reported the following premiums and losses organized by line of business in Wisconsin:

	Direct Premium Earned	Direct Losses Incurred
Fire & Allied Lines	\$ 1,452,655	\$ 1,066,791
Homeowners/Farmowners	14,276,140	19,878,820
Commercial Multiple Peril	17,076,734	4,792,729
Worker's Compensation	7,639,639	2,721,180
Private Passenger Auto	59,562,903	51,082,109
Commercial Auto	23,231,671	14,633,017
All Others	7,095,102	1,967,301
Total	\$ 130,334,844	\$ 96,141,947

The Office of the Commissioner Of Insurance (OCI) received 171 complaints against General Casualty Company of Wisconsin between January 1, 2000 and December 31, 2001. A complaint is defined as "a written communication received by the Commissioner's Office that indicates dissatisfaction with an insurance company or agent." The following table categorizes the complaints received by OCI in 2000 and 2001 against the company by type of policy and complaint reason. There may be more than one type of coverage and/or reason for each complaint.

Summary of Consumer Complaints

Complaint Reason					
2001					
Coverage Type	Underwriting	Marketing & Sales	Claims	Policyholder Service	Other
Personal Automobile	8	7	30	15	-
Commercial Vehicle	1	-	3	1	-
Com Prop & Liability	1	1	6	2	-
Home/Farmowners	15	5	36	6	-
Commercial Liability	-	-	4	-	-
Worker's Comp	1	-	4	-	-
Fidelity & Surety	0	-	0	-	-
All Others	1	-	1	1	-
Total	27	13	84	25	0

Complaint Reason					
2000					
Coverage Type	Underwriting	Marketing & Sales	Claims	Policyholder Service	Other
Personal Automobile	9	1	28	4	-
Commercial Vehicle	-	-	-	-	-
Com Prop & Liability	-	-	1	1	-
Home/Farmowners	3	2	13	1	-
Commercial Liability	-	-	2	-	-
Worker's Comp	-	-	6	1	-
Fidelity & Surety	-	-	-	-	-
All Others	-	-	-	-	1
Total	12	3	50	7	1

II. PURPOSE AND SCOPE

The examination was conducted to determine compliance with recommendations made in the previous market conduct examination dated January 15, 1997, and to determine whether the company's practices and procedures comply with the Wisconsin insurance statutes and rules. The examination focused on the period from January 1, 2000 through December 31, 2001. In addition, the examination included a review of any subsequent events deemed important by the examiner-in-charge during the examination.

The examination included, but was not limited to, a review of producer licensing, marketing, sales and advertising (eCommerce), personal passenger automobile policy forms, worker's compensation, homeowners, and personal passenger underwriting and homeowners and personal passenger claims.

The report is prepared on an exception basis and comments on those areas of the company's operations where adverse findings were noted.

III. PRIOR EXAMINATION RECOMMENDATIONS

The prior examination of General Casualty Company of Wisconsin is dated January 15, 1997. The market conduct portion of the prior examination was conducted in conjunction with an examination by the Bureau of Financial Analysis and Examination of the Office of the Commissioner of Insurance. The market conduct portion of the prior examination consisted of a review of agent monitoring, policy forms, personal passenger automobile and homeowners claims, and the company's underwriting procedures for personal passenger automobile, homeowner's, miscellaneous personal lines and worker compensation insurance. The recommendations contained in the previous examination report related to the market conduct portion of the examination and the company's actions therein follow:

Claims

1. It is recommended that the company submit a plan to bring its practices into compliance with s. 628.46, Wis. Stat., and Rimes v. State Farm Mutual Automobile Insurance Company, 106 Wis. 2d 263.

Action: Compliance

2. It is recommended that the company institute a procedure to ensure that the insured is made whole before the company retains amounts collected from subrogation pursuant to Wisconsin Supreme Court decision Rimes v. State Farm Mutual Automobile Insurance Company, 106 Wis. 2d 263.

Action: Compliance

3. In order to comply with s. 628.46, Wis. Stat., it is recommended that the company pay interest on subrogation recoveries returned to the insured within thirty (30) days after receipt.

Action: Compliance

4. It is suggested that the company institute a procedure to record received dates for all incoming claims-related correspondence to allow the company to monitor the timeliness of processing pertinent claims correspondence and avoid an unfair claims practice as defined by s. Ins 6.11, Wis. Adm. Code.

Action: Compliance

Underwriting

5. In order to comply with s 631.20 (1), Wis. Stat., it is recommended that the company should accept only those application forms for which it has received approval to use by the company in Wisconsin. In addition, it is suggested that the company remind all its agents to use only those application forms approved for use in Wisconsin.

Action: Compliance

6. It is recommended that the company provide at least ten (10) days' notice of cancellation for new policies in force for less than sixty (60) days that have not been previously renewed by the company in order to comply with s. 631.36 (2) (c), Wis. Stat.

Action: Compliance

The examiners did however find one file where the company failed to provide at least 10 days notice of termination due to a clerical error.

7. In order to avoid confusion on the part of the applicant and to ensure compliance with s. 631.36, Wis. Stat., it is suggested that when the company determines a bound risk does not meet its underwriting requirements in excess of ten (10) days prior to the effective date of the bound coverage, the termination date on the notice of cancellation should provide at least the ten (10) days' notice and coincide with the effective date and time of the binding.

Action: Compliance

8. It is recommended that the company withdraw and revise its Underinsured Motorist Coverage -Wisconsin, Named Non-Owner Coverage form to comply with s. 632.32 (6) (b) 11 Wis. Stat., and Wisconsin Supreme Court decision Bindrim v. Colonial Insurance Company, 190 Wis. 2d 525.

Action: Compliance

9. It is recommended that the company delete from the Personal Lines Manual the requirement that applicants over the age of sixty-five (65) complete a senior driver information form (now known as the Mature Driver Information form), in order to comply with s. 632.35, Wis. Stat., and s. Ins 6.54 (3) (a), Wis. Adm. Code. It is also recommended that the company delete all reference to the senior/mature driver information form in all other personal passenger automobile insurance applications in order to comply with s. 632.35, Wis. Stat., and s. Ins 6.54 (3) (a), Wis. Adm. Code.

Action: Compliance

- 10 It is recommended that the company delete from the Mature Driver Information form [form number Undo 135 (12-96)] any questions related to the applicant's medical condition, in order to comply with s. Ins 6.54 (3) (a) 2, Wis. Adm. Code.

Action: Compliance

11. It is suggested that the company revise the Personal Lines Manual to clearly indicate that guest passenger liability coverage is not an additional coverage subject to a separate charge.

Action: Compliance

12. In order to ensure compliance with s. Ins 6.57 (5), Wis. Adm. Code, it is recommended that the company revise its procedures and require that electronically transmitted applications contain sufficient information to identify the individual intermediary submitting the application.

Action: Non-Compliance

The examiners found that the company does not require that electronically transmitted applications contain sufficient information to identify the individual intermediary submitting the application and that the system used does not have the ability to capture the information at this time.

1. **Recommendation:** It is again recommended that the company revise its procedures and require that electronically transmitted applications contain sufficient information to identify the individual intermediary submitting the application in order to ensure compliance with s. Ins 6.57 (5), Wis. Adm. Code.

13. It is recommended that the company include the reason(s) for the termination of a policy on all notices of cancellation and nonrenewal, as required by s. 631.36 (6) and (8), Wis. Stat.

Action: Compliance

14. In order to ensure compliance with s. 631.36 (7) (a), Wis. Stat., it is recommended that the company amend its homeowner's cancellation, termination, and nonrenewal notices to include the correct and current address of the Wisconsin Insurance Plan.

Action: Compliance

15. It is recommended that the company revise the binder provision in its applications to eliminate the language that limits the term of binding to thirty (30) days from the effective date in order to comply with the Wisconsin Court of Appeals decision, Terry v. Mongin Insurance Agency, 102 Wis. 2d 239.

Action: Compliance

16. In order to avoid coverage disputes, it is suggested that the company revise its applications to clearly disclose that coverage is bound as of the intended effective date of the policy and not the application date, unless such is actually the case.

Action: Compliance

17. It is recommended that the company provide at least sixty (60) days' notice of its decision to nonrenew a policy, as required by s. Ins 21.01 (6), Wis. Adm. Code, and s. 102.31 (2) Wis. Stat.

Action: Compliance

18. It is suggested that the company revise its underwriting procedures to require the applicant's signature and date of the signing on all commercial applications submitted to the company in hard copy format.

Action: Non-compliance

The company advised the examiners that it strongly encourages the independent agents that represent the company to have the applicant sign and date applications. However, the company did not revise its underwriting procedures and does not require that hard copy applications be signed and dated by the insured prior to accepting the business.

Agent Monitoring

19. In order to ensure compliance with s. Ins 6.57 (2), Wis. Adm. Code, it is suggested that the company remind each agency, with which the company has a contract, to notify the company as soon as possible of terminations of agents.

Action: Compliance

IV. CURRENT EXAMINATION FINDINGS

Claims

In settling claims under policies issued to Wisconsin insureds, the company primarily uses employee representatives located in regional offices in Sun Prairie, Brookfield, Appleton and Eau Claire. The company also maintains a toll free number for its policyholders to report claims 24 hours a day, 365 days a year. The company also utilizes designated independent adjusters as needed.

The examiners reviewed 151 closed homeowners and personal passenger automobile claim files (50 paid claims, 66 denied or closed without payment and 35 subrogation files). The company's claim practices and methods were also reviewed. The following exceptions were noted:

The examiners found two files where the company did not mail a written claim denial after a verbal denial was given; one file where it took the company 58 days to deny a third party claim after it became reasonably clear that the company's insured was not liable for the damages, and; one file where the company did not send a written denial to a third party claimant due to the rescission of the policy. Section Ins 6.11 (3)(a) 7, Wis. Adm. Code, provides that failure to affirm or deny coverage for claims within a reasonable time if committed by any person without just cause and performed with such frequency as to indicate general business practice, shall constitute unfair methods and practices in the business of insurance. In addition, s. Ins 6.11 (3) (b) 2, Wis. Adm. Code, provides that failure to make provision for adequate claims handling systems and procedures to effectively service claims is an unfair method and practice. Sending a written claim denial letter verifies the precise decision of the company and documents compliance with claim settlement practices.

- 2. Recommendation:** In order to document compliance and avoid the unfair claim settlement practices described in ss. Ins 6.11 (3), (a), 7 and (3) (b) 2, Wis. Adm. Code, it is recommended that the company implement procedures that ensure a written claim denial is sent promptly after the claim is verbally denied and/or it has become

reasonable clear that the company is not liable for the payment of a claim under the terms of the contract.

The examiners found eleven claim files where a verbal or written request for additional information and/or documentation regarding the claim was made and no second request for the additional information/documentation was made prior to closing the claim file. The company advised the examiners that its standard procedure for small losses is to make contact with the insured or claimant, request the information needed to conclude the claim and then close the file if nothing is received in five to six months. Sections Ins 6.11 (3) (a) 1 and 3, Wis. Adm. Code, provide that failure to initiate and conclude a claims investigation with all reasonable dispatch and/or to promptly provide necessary claims forms, instructions and reasonable assistance to insureds and claimants under its insurance policies if committed by any person without just cause and performed with such frequency as to indicate general business practice, shall constitute unfair methods and practices in the business of insurance.

- 3. Recommendation:** In order to avoid the unfair claims settlement practice described in ss. Ins 6.11 (3) (a) 1 and 3, Wis. Adm. Code, it is recommended that the company establish a procedure requiring that a second request for claim information and/or documentation be sent to the claimant prior to closing the claim file.

The company advised the examiners that:

“Our claim system does not have the capability of calculating interest, nor measuring late claims payments. If a claim payment is deemed to be late, through a review by the Commissioner of Insurance, the appropriate interest is paid.”

Section 628.46, Wis. Stat., states that a claim shall be overdue if not paid within 30 days after the insurer is furnished written notice of the fact of a covered loss and of the amount of the loss. All overdue payments shall bear simple interest at the rate of 12% per year. While the examiners did not find any instances where a claim appeared to be overdue, the lack of a procedure to identify late claims and pay interest could result in a violation of s. 628.46, Wis. Stat.

4. **Recommendation:** It is recommended that the company develop and implement a procedure to make certain interest is paid on all overdue claims, in order to ensure compliance with s. 628.46, Wis. Stat.

Marketing & Sales

The company markets its commercial and personal lines coverages via the independent agency system. General Casualty Company of Wisconsin does not maintain its own homepage, however, the General Casualty group of companies does. The group website contains information regarding the group of companies, the products offered, general consumer information, company contact information, an agent locator, information on how to report a claim and allows consumers to send a complaint to the company via the internet. At this time, the company does not quote or sell insurance over the Internet, although it does allow its agents to electronically transmit personal lines applications to the company via Insurance Value Added Network Services. The website also has an agent area that requires a user name and password to access. Agents may access specific client information via this area of the website.

The examiners reviewed the company's home page, brochures published by the company and general information related to the marketing and sales tactics of the company. No exceptions were found.

Operations & Management

The examiners found that there is no contractual relationship between the company and the third party vendor retained to dispose of company records, including records that might contain personally identifiable information. Sections 610.70 and 895.505, Wis. Stat., provide for specific procedures related to the destruction of records that contain personally identifiable information.

5. **Recommendation:** It is recommended that the company enter into a contractual agreement with the third party vendor retained to dispose of company records and that such contract impose a duty on the vendor to comply with ss. 610.70 and 895.505, Wis. Stat.

Policy Forms

General Casualty Company of Wisconsin provides coverage to its policyholders using independently filed company policy forms and endorsements. The examiners reviewed all 29 policy forms currently used by the company in Wisconsin for personal passenger automobile insurance. In addition, the examiners verified that all 29 of the policy forms have, in fact, been approved for use in Wisconsin. No exceptions were noted.

Policyholder Service & Complaint

The examiners found that the company's notification of a person's right to file a complaint with the commissioner [form number Und. 385 (1-93)] does not contain the company's toll free phone number. Section Ins 6.85 (4) (b), Wis. Adm. Code, provides that the notification of a person's right to file a complaint with the commissioner must include the issuer's address, toll free phone number, if available, and phone number.

- 6. Recommendation:** It is recommended that the company revise its notification of a person's right to file a complaint with the commissioner [form number Und. 385 (1-93)] to include the company's toll free phone number to ensure compliance with s. Ins 6.85 (4) (b), Wis. Adm. Code.

Producer Licensing

The company markets its insurance products using an independent agency system. The examiners reviewed 35 files where the agent was terminated pursuant to s. Ins 6.57 (2), Wis. Adm. Code, during the period under review to determine whether the company's practices and procedures related to the appointment and termination of agents comply with Wisconsin insurance statutes and rules. The following exceptions were noted:

The examiners found that the amount of documentation contained in a producer's file related to the intermediary's appointment and/or a termination with the company varies from file to file. The examiners found that the company could not locate the documentation to support that two individuals representing the company were properly licensed in Wisconsin, the actual date twenty-two individuals no longer represented the company, that the listing for one individual

representing the company was sent to OCI in accordance with s. Ins 6.57 (1), Wis. Adm. Code, and, that a letter was sent to one agent in accordance with s. Ins 6.57 (2), Wis. Adm. Code. The lack of documentation and/or the ability of the company to locate the documentation made it difficult for the examiners to determine to what extent the company complies with s. Ins 6.57, Wis. Adm. Code. The company advised the examiners that it does not have written procedures detailing the process to be followed in appointing and/or terminating an individual agent and what documentation should be maintained in each producer file.

7. **Recommendation:** To ensure compliance with s. Ins 6.57, Wis. Adm. Code, it is recommended that the company develop and implement written procedures detailing the process to be followed in appointing and/or terminating an individual agent and what documentation should be maintained in each producer file.

The examiners found five producer files where the company failed to provide the agent written notice that the agent is no longer to be listed as a representative of the company and that he or she may not act as its representative. In addition, the examiners found one producer file where the company provided the written notice that the agent is no longer to be listed as a representative of the company and that he or she may not act as its representative to the agency and not the individual agent. Section Ins 6.57 (2), Wis. Adm. Code, provides that prior to or within 15 days of filing a notice of termination with the office of the commissioner of insurance, the insurer shall provide the agent written notice that the agent is no longer to be listed as a representative of the company and that he or she may not act as its representative.

8. **Recommendation:** To ensure compliance with s. Ins 6.57 (2), Wis. Adm. Code, it is recommended that when an agent listing has been terminated with the company, that the company send written notice directly to the agent that he or she is no longer to be listed as a representative of the company and that he or she may not act as its representative directly to all agents terminated.

The examiners found that the standard letter used by the company to notify an agent that he/she may no longer represent the company due to the revocation of the agents license does not include a formal demand for the return of all indicia of agency. Section Ins 6.57 (2), Wis. Adm. Code, provides that an insurer shall include a formal demand for the return of all indicia of

the agency in the written notice to the agent advising that he/she is no longer to be listed as a representative of the company and that he or she may not act as its representative.

9. **Recommendation:** In order to comply with s. Ins 6.57 (2), Wis. Adm. Code, it is recommended that the company include a formal demand for the return of all indicia of agency in the written notice to the agent advising that he/she is no longer to be listed as a representative of the company and that he or she may not act as its representative due to the revocation of his/her agent license.

The examiners found forty four individuals where the company system indicated that the individual was an active agent currently representing the company. OCI records showed that the agent license for each of these individuals had been cancelled by OCI or voluntarily surrendered by the individual between December 27, 1996 and April 30, 2001. The company advised the examiners that it does match the Annual Renewal Billing sent by OCI to its database to make sure all agents are listed. However, in each instance found by the examiners, the company failed to notice that the individuals did not appear on one or more billings since May 1997. As such, the company did not investigate the reason(s) the individuals were not included on the annual billing and promptly terminate the agent in accordance with s. Ins 6.57 (2), Wis. Stat., or re-appoint the agent in accordance with s. Ins 6.57 (1), Wis. Adm. Code.

10. **Recommendation:** To ensure compliance with s. Ins 6.57, Wis. Adm. Code, it is recommended that the company carefully review and compare the Annual Renewal Billing sent by OCI to the company records, promptly initiate an investigation into the reason(s) an agent does not appear on the Annual Renewal Billing when the company shows as an active agent appointed to represent the company and take the appropriate action to rectify the situation.

Underwriting & Rating

General Casualty Company of Wisconsin is a multi-line insurer which writes both personal and commercial lines business. The examiners reviewed 96 new business personal lines underwriting files (65 personal passenger automobile and 31 homeowners), 195 personal lines terminations (97 nonrenewals, 48 company initiated mid-term terminations and 50 insured/agent initiated terminations), 80 worker's compensation underwriting files (40 new business and 40

terminations). The examiners also reviewed the company's underwriting procedures and manuals. The following exceptions were noted:

The examiners found that the Agent's Underwriting Rules section of the Wisconsin Generations and Generations II Automobile Manual provide that a risk is unacceptable if any operator or member of the household is an entertainer, athlete, celebrity or person of notoriety. Section 632.35, Wis. Stat., prohibits the rejection, cancellation and nonrenewal of an automobile insurance policy wholly or partially because of any persons occupation.

- 11. Recommendation:** It is recommended that the company amend the Program Eligibility requirements of the Wisconsin Generations and Generations II Automobile Manual to comply with s. 632.35, Wis. Stat.

The examiners found that the Binder Period section of the Wisconsin Personal Lines Manual for Boatowners insurance states that:

“The application is a 30-day binder. Coverage ceases 30 days from the effective date if a policy is not issued.”

The Wisconsin Court of Appeals case, Terry v. Mongin Insurance Agency, 102 Wis. 2d 236, supports that binders are subject to the same terms and conditions of the policy. The company's boatowners policies are actually issued for a coverage period of one year. To bind coverage for a different period of time from what is provided by the actual policy, misrepresents coverage and is misleading and deceiving pursuant to s. 631.20 (2) (a), Wis. Stat. Section 631.20 (2) (a), Wis. Stat., in part, provides that the commissioner may disapprove a form upon a finding that it is misleading, deceptive, obscure or encourages misrepresentation. In addition, s. 631.36 (2), Wis. Stats., requires provides that a notice of termination must be provided to the policyholder in order to effectively terminate coverage. Therefore, a binder does not expire on its own terms and is subject to the same terms and conditions of the policy ordinarily used by the company.

- 12. Recommendation:** It is recommended that the company eliminate the language in the Binder Period section of the Wisconsin Personal Lines Manual for Boatowners insurance that limits the coverage to 30 days after the effective date if no policy is issued, in order to avoid a binder form that misrepresents coverage and is misleading

and deceptive with reference to s. 631.20 (2) (a), Wis. Stat. and ensure compliance with s. 632.36 (2), Wis. Stat. and the Wisconsin Court of Appeals decision, Terry v. Mongin Insurance Agency, 102 Wis. 2d 239.

The examiners found that the notice [form number PLF FL32 0396, Assigned Risk Obligation Exp. Notice] used by the company to nonrenew a policy assigned to the company by the Wisconsin Automobile Insurance Plan (Plan) because company's obligation to provide the coverage under the Plan has ended provides for a 45 day notice of nonrenewal. The company advised that this notice and its procedure to provide a 45 day notice are based on the guidelines contained in the Plan manual, which contains the rules applicable to the handling of policies assigned to the company by the Plan. Section 631.36 (4), Wis. Stat., provides that at least 60 days notice be provided to a policyholder of the company's intention not to renew a policy beyond the agreed upon expiration date.

- 13. Recommendation:** To ensure compliance with s. 631.36 (4), Wis. Stat., it is recommended that the company revise its notice and procedures to provide at least 60 days notice of its intention to nonrenew a policy assigned to the company by the Wisconsin Automobile Insurance Plan because the company's obligation to provide the coverage under the Plan has ended.

The examiners requested to review 50 personal line files terminated, at the request of the insured and/or agent, during the period under review. The files provided did not contain any documentation to support that a request for cancellation was received from the insured/agent. The company advised the examiners that during the period under review, documentation regarding the insured's/agent's request to cancel a policy was not retained. Section Ins 6.80 (4) (b) 1, Wis. Adm. Code, provides that records of insurance company operations reasonably related to insurance operations for the preceding three years shall be maintained and be available to the commissioner. Documentation to support that a request for the cancellation of a policy was received from the insured/agent is a record of insurance and should have been retained by the company in accordance with s. Ins 6.80 (4) (b) 1, Wis. Adm. Code. The company also advised the examiners that subsequent to the period under review and prior to the examination, it resumed the retention of these documents through an electronic imaging system.

The examiners found that the following notices used by the company to terminate personal lines property policies state that if the reason for the termination of the policy is not stated in the notice, the insured may obtain the reason for the termination by mailing or delivering to the company a written request for such reason:

- Notice of Cancellation of Policy [form number PPC4801 1097]
- Notice of Cancellation of Policy [form number PPC48CS 1097]
- Notice of Nonrenewal of Policy [form number PPN4801 1097]
- Notice of Nonrenewal of Policy [form number PPN48CS 1097]

The company advised the examiners that it is their standard practice to provide a reasonably precise explanation when a policy is cancelled or nonrenewed, even when one of the above referenced notices is used to terminate the policy. For policies issued or renewed prior to December 1, 1990, the insurance laws provided that if the notice of termination did not state with reasonable precision the facts on which the insurers decision was based, the insurer had to mail or deliver the information to the policyholder within five days of receipt of a written request from the policyholder and that no such notice was effective unless it contained adequate information about the policyholders right to make the request. For policies issued or renewed on or after December 31, 1990, s. 631.36 (6), Wis. Stat., provides that that a notice of cancellation or nonrenewal shall state with reasonable precision the facts on which the insurers decision is based and that no such notice is effective unless it so states the facts. As such, termination notices that contain information about a policyholders rights to make a written request for the reason a policy was terminated is obsolete.

14. **Recommendation:** To avoid confusion on the part of policyholders, it is recommended that the company remove language regarding a policyholders right to make a written request for the reason(s) for termination from all notices of termination as the language is obsolete.

The examiners found that the company does not verify that the intermediary submitting electronic applications to the company is a licensed intermediary listed with the company in accordance with s. Ins 6.57 (1), Wis. Adm. Code. The company advised the examiners that the system currently used to accept electronic applications does not have the ability to capture

sufficient information that would allow it to identify the intermediary submitting the application. Therefore, the company has relied on the agencies that represent the company to use only licensed agents listed with the company. In addition, the examiners found two files where the intermediary who was shown as the producer on the application and appeared to have placed the business with the company was not listed with the company, in accordance with s. Ins 6.57 (1), Wis. Adm. Code. Section Ins 6.57 (5), Wis. Stat., provides that no insurer shall accept business directly from any intermediary unless that intermediary is a licensed agent listed with that insurer.

15. **Recommendation:** To ensure compliance with s. Ins 6.57 (5), Wis. Adm. Code, it is recommended that the company develop and implement a procedure to verify that all intermediaries submitting business to the company are listed with the company in accordance with s. Ins 6.57 (1), Wis. Adm. Code. It is further recommended that the company not accept an application until such time as it is determined that the intermediary submitting the application is a licensed intermediary listed with the company in accordance with s. Ins 6.57 (1), Wis. Adm. Code.

The examiners found that the company surcharges personal lines automobile insurance policies if the motor vehicle record for an individual insured under the policy includes a 'Curfew' violation or a 'Loaning of License' violation. The 'Loaning of License' violation is a non-driving related violation and the 'Curfew' violation may or may not be driving related. Both of these violations are placed on the driving record whether or not a vehicle is involved. Section Ins 6.54 (3) (a) 1, Wis. Adm. Code, prohibits an insurer from refusing, canceling, denying, or placing a risk in a rating classification based solely on the applicant's or insured's past criminal record. By using these violations to deny coverage or rate the policy, the company may be basing its decision on the applicant's or insured's criminal record rather than the driving record.

16. **Recommendation:** In order to comply with s. Ins 6.54 (3) (a) 1, Wis. Adm. Code, it is recommended that the company not use non-driving related violations to underwrite or rate an automobile insurance policy. It is further recommended that, before using possible non-driving related violations to underwrite or rate an automobile insurance policy, the company investigate whether the violation is driving related, in order to ensure compliance with s. Ins 6.54 (3) (a) 1, Wis. Adm. Code.

The examiners found six personal lines automobile files where the applications indicated that Underinsured Motorists (UIM) coverage policy limits of \$25,000 per person and \$50,000 per accident (25/50) should be applied to the policy. The policies were issued without UIM limits. The company advised that its normal procedure is not to display any UIM limits on the declarations page when limits of 25/50 are requested by the insured, as no situation exists whereby the policyholder would receive a benefit with the requested limits. The company underwriting files contained no information to indicate that the applicant was notified why no UIM limits were shown on the policy declarations page. Issuing a policy on terms other than requested on the original application, without direct notice to the policyholder, is misleading by omission and could be considered an unfair marketing practice per s. 628.34 (1), Wis. Stat.

- 17. Recommendation:** It is recommended that the company provide notification directly to the policyholder when issuing a policy on terms other than applied for by the applicant to avoid unfair marketing practices defined by s. 628.34 (1), Wis. Stat.

The examiners found that the Submission Guidelines for the Applicant of the Wisconsin Personal Lines - Homeowners manual provide that an applicant is not eligible for coverage if a previous policy has been non-renewed or cancelled in the past three years. Section Ins. 6.68 (3) (c), Wis. Adm. Code, provides that it is an unfair trade practice to refuse to insure a risk solely because the applicant was previously denied coverage, terminated by another insurer or had obtained coverage in the residual market.

- 18. Recommendation:** It is recommended that the company revise the Submission Guidelines for the Applicant of the Wisconsin Personal Lines - Homeowners manual to comply with s. Ins. 6.68 (3) (c), Wis. Adm. Code.

The examiners found three worker's compensation insurance files and seven personal lines files nonrenewed by the company where the notice for nonrenewal did not state with reasonable precision the facts on which the insurer's decision was based. Sections 631.36 (6), Wis. Stat., and Ins 21.01 (8), Wis. Adm. Code, provide that a notice of nonrenewal shall state with reasonable precision the facts on which the insurer's decision is based and that no such notice is effective unless it so states the facts. OCI's position is that generic reasons, such as but not

limited to claim activity, claims history, the motor vehicle record of an insured or does not meet underwriting guidelines, do not state with reasonable precision the facts on which the insurer's decision was based.

19. Recommendation: In order to effectively terminate coverage and to ensure compliance with ss. 631.36 (6) and Ins 21.01 (8), Wis. Adm. Code, it is recommended that the company's notice of nonrenewal to a policyholder state with reasonable precision the facts on which the insurer's decision is based.

The examiners found that the following notices used by the company contain an incorrect address for the Wisconsin Automobile Insurance Plan and the Wisconsin Worker's Compensation Insurance Pool:

- Notice of Cancellation, Nonrenewal or Altered Policy Terms or Premium (Wisconsin) [form number GU 6639m (Ed. 8-97)]
- Notice of Cancellation of Worker's Compensation [form number CANLTR 8/92]
- Notice of Cancellation of Policy [form number PAC4801 1097]
- Notice of Cancellation of Policy [form number PAC48CS 1097]
- Notice of Nonrenewal of Policy [form number PAN4801 1097]
- Notice of Nonrenewal of Policy [form number PAN48CS 1097]

Section 631.36 (7) (b), Wis. Stat. provides that a notice of cancellation or nonrenewal required under ss. 631.36 (2) (b) or (4) is not effective unless the notice contains adequate instructions to the policyholder for applying for insurance through a risk-sharing plan under ch. 619, if a risk-sharing plan exists for the kind of coverage being canceled or nonrenewed. Section Ins 21.01 (9), Wis. Adm. Code, provides that notice of cancellation or nonrenewal under ss. Ins 21.01 (4) (b) or (6) is not effective unless the notice contains adequate instructions to the policyholder for obtaining insurance through the Wisconsin Worker's Compensation Insurance Pool.

20. Recommendation: In order to ensure compliance with s. Ins 21.01 (9), Wis. Adm. Code, and s. 631.36 (7) (a), Wis. Stat., it is recommended that the company amend all cancellation, termination, and nonrenewal notices to include the correct and current address of the Wisconsin Worker's Compensation Insurance Plan and/or the Wisconsin Automobile Insurance Plan.

The examiners found one worker's compensation insurance file where the application requested that an corporate officer be excluded from coverage under the terms of the policy. When the policy was issued, it was not endorsed to exclude the corporate officer from coverage.

The company advised the examiners that a clerical error in processing the file resulted in the error and that it would take steps immediately to correct the error.

The examiners also found one worker's compensation insurance file where the application requested that a member of the limited liability corporation (LLC) be included for coverage under the terms of the policy. When the policy was issued, it was not endorsed to include coverage for the member of the LLC. The company advised that the proper form requested the inclusion was not attached to the application and that the policy has now lapsed for nonpayment of premium. In this case, the company should have clarified the exact coverage being requested before issuing the policy or issued the policy and followed up with the insured regarding the additional information required to include the member of the LLC.

The examiners found that the company procedure for processing a worker's compensation insurance policy cancelled by the insured prior to the agreed upon expiration date is to short rate the premium only when the reason for the cancellation is that the coverage was placed with another insurer. The premium for policies cancelled by the insured prior to the agreed upon expiration date for any other reason would be pro-rated. Section 626.25 (1), Wis. Stat., provides that no insurer writing worker's compensation insurance may use a rate, rating plan or classification nor an expense loading not approved by the commissioner. The Basic Manual for Worker's Compensation and Employers Liability Insurance¹ (Basic Manual) including the Wisconsin state exception pages govern worker's compensation insurance and has been approved for use by all insurers authorized to write worker's compensation insurance in Wisconsin. Rule 3.A.3.b of the Basic Manual provides that if a policy is cancelled by the insured, except when retiring from the business, the premium for the cancelled policy must be calculated based on the Short-Rate Cancellation Table contained in the appendix of the manual.

¹ The Basic Manual for Worker's Compensation and Employers Liability Insurance is a publication of the National Council on Compensation Insurance (NCCI) and is used by the Wisconsin Compensation Rating Bureau and its members with the permission of the NCCI.

21. **Recommendation:** To ensure compliance with s. 626.25 (1), Wis. Stat., it is recommended that the company amend its procedures so that all worker's compensation cancellations are processed in accordance with the approved cancellation rules or pursue a change to the rules that govern worker's compensation insurance through the Wisconsin Compensation Rating Bureau so that the company may pro rate policies cancelled by the insured prior to the agreed upon expiration date for reasons other than retiring from business without violating s. 626.25 (1), Wis. Stat.

V. CONCLUSION

A total of twenty one recommendations were made relating to the need for General Casualty Company of Wisconsin to modify certain producer licensing management, underwriting and claims procedures. Of these twenty one recommendations, one recommendation is the result of the company's failure to comply with a market conduct recommendation contained in the prior examination report.

The company should send the insured and/or claimant a written notice of denial after a representative of the company verbally denies a claim. In addition, the company should make a second request for information related to a pending claim prior to closing the claim file.

In order to fully document compliance with s Ins 6.57, Wis. Adm. Code, the company should develop and implement procedures detailing how to process agent appointments and terminations. These procedures should also detail what type of documentation should be maintained in each producer file.

Pursuant to s. Ins 6.57 (5), Wis. Adm. Code, the company must ensure that all intermediaries are listed with the company. The company must also update the language contained in several manuals and standard notices to ensure compliance with Wisconsin insurance laws. In addition, when nonrenewing policies, the notice of nonrenewal should state with reasonable precision the facts upon which the company's decision was based.

Other aspects of the company's producer licensing management, underwriting and claims practices were noted as being inconsistent with Wisconsin market conduct regulations.

VI. SUMMARY OF RECOMMENDATIONS

Prior Examination Recommendations

- Page 07 1. It is again recommended that the company revise its procedures and require that electronically transmitted applications contain sufficient information to identify the individual intermediary submitting the application in order to ensure compliance with s. Ins 6.57 (5), Wis. Adm. Code.

Claims

- Page 09 2. In order to document compliance and avoid the unfair claim settlement practices described in ss. Ins 6.11 (3), (a), 7 and (3) (b) 2, Wis. Adm. Code, it is recommended that the company implement procedures that ensure a written claim denial is sent promptly after the claim is verbally denied and/or it has become reasonable clear that the company is not liable for the payment of a claim under the terms of the contract.
- Page 10 3. In order to avoid the unfair claims settlement practice described in ss. Ins 6.11 (3) (a) 1 and 3, Wis. Adm. Code, it is recommended that the company establish a procedure requiring that a second request for claim information and/or documentation be sent to the claimant prior to closing the claim file.
- Page 11 4. It is recommended that the company develop and implement a procedure to make certain interest is paid on all overdue claims, in order to ensure compliance with s. 628.46, Wis. Stat.

Operations & Management

- Page 11 5. It is recommended that the company enter into a contractual agreement with the third party vendor retained to dispose of company records and that such contract impose a duty on the vendor to comply with ss. 610.70 and 895.505, Wis. Stat.

Policyholder Service & Complaints

- Page 12 6. It is recommended that the company revise its notification of a person's right to file a complaint with the commissioner [form number Und. 385 (1-93)] to include the company's toll free phone number to ensure compliance with s. Ins 6.85 (4) (b), Wis. Adm. Code.

Producer Licensing

- Page 13 7. To ensure compliance with s. Ins 6.57, Wis. Adm. Code, it is recommended that the company develop and implement written procedures detailing the process to be followed in appointing and/or terminating an individual agent and what documentation should be maintained in each producer file.
- Page 13 8. To ensure compliance with s. Ins 6.57 (2), Wis. Adm. Code, it is recommended that when an agent listing has been terminated with the company, that the company send written notice directly to the agent that he or she is no longer to

be listed as a representative of the company and that he or she may not act as its representative directly to all agents terminated.

- Page 14 9. In order to comply with s. Ins 6.57 (2), Wis. Adm. Code, it is recommended that the company include a formal demand for the return of all indicia of agency in the written notice to the agent advising that he/she is no longer to be listed as a representative of the company and that he or she may not act as its representative due to the revocation of his/her agent license.
- Page 14 10. To ensure compliance with s. Ins 6.57, Wis. Adm. Code, it is recommended that the company carefully review and compare the Annual Renewal Billing sent by OCI to the company records, promptly initiate an investigation into the reason(s) an agent does not appear on the Annual Renewal Billing when the company shows as an active agent appointed to represent the company and take the appropriate action to rectify the situation.

Underwriting & Rating

- Page 15 11. It is recommended that the company amend the Program Eligibility requirements of the Wisconsin Generations and Generations II Automobile Manual to comply with s. 632.35, Wis. Stat.
- Page 15 12. It is recommended that the company eliminate the language in the Binder Period section of the Wisconsin Personal Lines Manual for Boatowners insurance that limits the coverage to 30 days after the effective date if no policy is issued, in order to avoid a binder form that misrepresents coverage and is misleading and deceptive with reference to s. 631.20 (2) (a), Wis. Stat. and ensure compliance with s. 632.36 (2), Wis. Stat. and the Wisconsin Court of Appeals decision, Terry v. Mongin Insurance Agency, 102 Wis. 2d 239.
- Page 16 13. To ensure compliance with s. 631.36 (4), Wis. Stat., it is recommended that the company revise its notice and procedures to provide at least 60 days notice of its intention to nonrenew a policy assigned to the company by the Wisconsin Automobile Insurance Plan because the company's obligation to provide the coverage under the Plan has ended.
- Page 17 14. To avoid confusion on the part of policyholders, it is recommended that the company remove language regarding a policyholders right to make a written request for the reason(s) for termination from all notices of termination as the language is obsolete.
- Page 18 15. To ensure compliance with s. Ins 6.57 (5), Wis. Adm. Code, it is recommended that the company develop and implement a procedure to verify that all intermediaries submitting business to the company are listed with the company in accordance with s. Ins 6.57 (1), Wis. Adm. Code. It is further recommended that the company not accept an application until such time as it is determined that the intermediary submitting the application is a licensed intermediary listed with the company in accordance with s. Ins 6.57 (1), Wis. Adm. Code.

- Page 18 16. In order to comply with s. Ins 6.54 (3) (a) 1, Wis. Adm. Code, it is recommended that the company not use non-driving related violations to underwrite or rate an automobile insurance policy. It is further recommended that, before using possible non-driving related violations to underwrite or rate an automobile insurance policy, the company investigate whether the violation is driving related, in order to ensure compliance with s. Ins 6.54 (3) (a) 1, Wis. Adm. Code.
- Page 19 17. It is recommended that the company provide notification directly to the policyholder when issuing a policy on terms other than applied for by the applicant to avoid unfair marketing practices defined by s. 628.34 (1), Wis. Stat.
- Page 19 18. It is recommended that the company revise the Submission Guidelines for the Applicant of the Wisconsin Personal Lines - Homeowners manual to comply with s. Ins. 6.68 (3) (c), Wis. Adm. Code.
- Page 20 19. In order to effectively terminate coverage and to ensure compliance with ss. 631.36 (6) and Ins 21.01 (8), Wis. Adm. Code, it is recommended that the company's notice of nonrenewal to a policyholder state with reasonable precision the facts on which the insurer's decision is based.
- Page 20 20. In order to ensure compliance with s. Ins 21.01 (9), Wis. Adm. Code, and s. 631.36 (7) (a), Wis. Stat., it is recommended that the company amend all cancellation, termination, and nonrenewal notices to include the correct and current address of the Wisconsin Worker's Compensation Insurance Plan and/or the Wisconsin Automobile Insurance Plan.
- Page 22 21. To ensure compliance with s. 626.25 (1), Wis. Stat., it is recommended that the company amend its procedures so that all worker's compensation cancellations are processed in accordance with the approved cancellation rules or pursue a change to the rules that govern worker's compensation insurance through the Wisconsin Compensation Rating Bureau so that the company may pro rate policies cancelled by the insured prior to the agreed upon expiration date for reasons other than retiring from business without violating s. 626.25 (1), Wis. Stat.

VII. ACKNOWLEDGEMENT

The courtesy and cooperation extended to the examiners during the course of the examination by the officers and employees of the company is acknowledged.

In addition to the undersigned, the following representatives of the Office of the Commissioner of Insurance, state of Wisconsin, participated in the examination.

<u>Name</u>	<u>Title</u>
Rhonda Peterson, CPCU, CIE, HIA	Senior Insurance Examiner
Ashley Natysin, HIA, ASC, MHP	Senior Insurance Examiner
Katherine Otis	Insurance Examiner
Drew Hunkins	Insurance Examiner

Respectfully submitted,

Jo A. LeDuc, CIE, CPCU
Examiner-in-Charge