

2001 PROPERTY AND CASUALTY TARGET MARKET CONDUCT EXAMINATION

OF

MERCURY CASUALTY COMPANY  
(MERCURY INSURANCE GROUP)

BY

THE FLORIDA DEPARTMENT OF INSURANCE

File Date: 4/30/02

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## I. INTRODUCTION

Mercury Casualty Company (Company) is a domestic property and casualty insurer licensed to conduct business in the State of Florida during the scope of this property and casualty market conduct examination. The scope of this examination was January 1999 through June 2001. The examination began August 5, 2001 and ended September 29, 2001. This is the first property and casualty market conduct examination of this insurer by the Florida Department of Insurance.

The purpose of this target examination was to verify overall compliance with Florida Statutes and Rules, review consumer complaints regarding the use of advertising materials and review complaints concerning incorrect return of unearned premium.

During this examination, records reviewed included private passenger automobile policies, applications for the agents/MGA review, cancellations/nonrenewals, claims and consumer complaints for the period of January 1999 through June 30, 2001, as reflected in the report.

This report contains examination results addressing all areas of noncompliance found during the course of the examination. In all instances, the Company was directed to take corrective action as required, issue appropriate refunds, make all necessary filings with the Department and immediately cease any activity that continues to place the Company in noncompliance with Florida Statutes/Rules.

As a result of the findings of this examination, \$151.81 was returned to Florida consumers due to refunds of unearned premium and the underpayment of a claim.

II. PRE-EXAM REVIEW OF COMPANY WRITINGS

A. CERTIFICATE OF AUTHORITY - AUTHORIZED LINES

1. General Comments

The Certificate of Authority/Renewal Invoices were reviewed for all years within the scope of the examination.

2. Exam Findings

The review included verification of the lines of business the Company was authorized to write during the scope of examination versus those lines actually being written. It also included verification that notification requirements were met for any line of business that was discontinued.

No errors were found.

### III. COMPANY OPERATIONS/MANAGEMENT

#### A. PROFILE

Mercury Casualty Company was issued its Certificate of Authority in 1997. The Company's home office is located in Los Angeles, California. The Company began writing private passenger automobile policies in Florida in January 1998. The Company's Florida operations are conducted from a regional office in Clearwater, Florida.

#### B. MANAGEMENT

For compliance with Section 626.9891 Florida Statutes, the Company has established a Special Investigative Unit (SIU) in order to detect, investigate, and report fraudulent claims within the State of Florida. The SIU is located at the Company's home office in California, as well as an internal Florida Operations SIU at the Clearwater, Florida location. The Plan was filed with the Department of Insurance, Division of Insurance Fraud in 1998.

Company operations are independently audited by a corporate internal auditor for quality assurance.

The Hewlett Packard 300 mainframe computer comprises the primary computer system for the Company. All Company data is stored in a main frame computer located at the Brea, California location, which is an off site storage facility. As part of the Disaster Recovery Plan, this data is backed up by another computer located at the Sacramento, California site, which is another off site storage facility.

In response to Emergency Rule 4-ER01, the Company has developed a plan to comply with privacy requirements. The plan does meet the requirements of the rule.

C. OPERATIONS

The Company produces business through their network of independent agents and maintains six marketing representatives located in Orlando, Miami, Ft. Lauderdale, Tallahassee, Tampa, and Clearwater. Florida claims are handled by Company in-house adjusters.

Mercury Casualty Company writes five rating tiers within their private passenger automobile program ranging from non-standard to superior. The Company utilizes credit history as the primary qualifying factor in determining which tier the risk qualifies.

IV. REVIEW OF POLICIES

A. PRIVATE PASSENGER AUTOMOBILE

1. Application of Rules, Rates and Forms

a. Rate/Rule Filings

Mercury Casualty Company independently files rules/rates in accordance with Section 627.0651, Florida Statutes.

b. Form Filings

Mercury Casualty Company independently files forms in accordance with Section 627.410, Florida Statutes.

c. Statistical Affiliation

The Insurance Services Office (ISO) acts as the Company's official statistical agent.

2. Premium and Policy Counts

Direct Premiums Written and in-force policy counts for the scope of the examination are as follows:

<u>Year</u>	<u>DPW</u>	<u>Policy Count</u>
1999	\$28,254,127	23,640
2000	\$38,779,856	29,061
*2001	\$22,887,444	16,900

\*As of June 30, 2001

The increase in business is due to paying the Company's independent agents a higher commission rate (15%) than most other Company agents for new business as well as renewal business.

3. Exam Findings

One hundred (100) policy files were examined.

Four (4) errors were found.

Errors affecting premium resulted in four (4) undercharges totaling \$886.00.

The errors are broken down as follows:

1. Four (4) errors were due to failure to follow the filed underwriting guidelines. This constitutes a violation of Section 627.0651, Florida Statutes. The Company incorrectly placed the insureds in upgraded policy tiers of intermediate or standard, when they were only eligible for placement in the lowest policy tier. This resulted in four (4) undercharges totaling \$886.00.

V. AGENTS/MGA REVIEW

Ten (10) applications/policies written during the scope of examination were examined.

No errors were found.

VI. CANCELLATIONS/NONRENEWALS REVIEW

Fifty (50) cancelled/nonrenewed policies were examined.

One (1) error was found.

The error did not affect premium calculations.

The error is described as follows:

1. One (1) error was due to failure to cancel a policy in accordance with ab initio requirements. This constitutes a violation of Rule 4-167.002, Florida Administrative Code. Form D14-493 (7/90) was not sent to the Department within 90 days after taking action to void ab initio a private passenger automobile policy due to material misrepresentation.

## VII. CLAIMS REVIEW

Fifty (50) claims were examined.

Six (6) errors were found.

One (1) error resulted in an underpayment totaling \$10.13 and one (1) error resulted in an overpayment totaling \$18.43.

The errors are broken down as follows:

1. One (1) error was due to failure to properly compute sales tax. This constitutes a violation of Rule 4-166.026, Florida Administrative Code. The Company applied 6.5% sales tax in lieu of the correct amount of 7% for Columbia County, Florida. This error resulted in an underpayment totaling \$10.13, which has been refunded by the Company.
2. One (1) error was due to failure to properly compute sales tax. This constitutes a violation of Rule 4-166.026, Florida Administrative Code. The discretionary sales surtax was incorrectly applied to the entire amount of loss in lieu of the first \$5,000.00. This error resulted in an overpayment totaling \$18.43.
3. Three (3) errors were due to failure to comply with PIP benefit payment requirements. This constitutes a violation of Section 627.736, Florida Statutes. Benefits were not paid within the required 30 days. The Company having realized these late payments, reimbursed interest to the insured prior to the beginning of this examination.
4. One (1) error was due to failure to properly forward the automobile title on a total loss to the Division of Highway Safety and Motor Vehicles within 72 hours after the Company's receipt of same. This constitutes a violation of Section 319.30, Florida Statutes.

VIII. COMPLAINTS REVIEW

A complete record of all the complaints received by the Company since the date of the last examination has been maintained as is required by Section 626.9541(1)(j), Florida Statutes. Procedures for handling these complaints have been established by the Company.

Consumer complaints received during the scope of examination were reviewed and findings are as follows:

A. DOI REFERRALS

<u>REFERRAL #</u>	<u>ALLEGED VIOLATION</u>	<u>VIOLATION OF</u>
S-99S-1584	Misleading advertising	626.9541 (1)(a)
S-98S-1309	Misleading advertising	626.9541 (1)(a)
S-9900-0019146	Failure to flat cancel as requested	None
S-9899-0034069	Failure to flat cancel as requested	None
S-9900-0043326	Exceeded 60 day underwriting	4-167.002
S-9900-0043464	ID cards incorrectly issued	None
S-9900-0019041	Excluded driver question	None
S-9900-0065038	Cancellation refund dispute	None
S-0001-0012139	Premium refund dispute	None
S-0001-0066598	Flat cancellation request	None

Ten (10) DOI referrals were reviewed.

Three (3) errors were found.

The errors are broken down as follows:

1. Two (2) errors were due to failure to comply with unfair trade practice requirements resulting from the use of an advertising form that is construed

to be misleading. This constitutes a violation of Section 626.9541(1)(a), Florida Statutes.

2. One (1) error was due to failure to complete the underwriting process within the 60 day required time frame. This constitutes a violation of Rule 4-167.002, Florida Administrative Code. The Company reissued a policy at a higher premium based on an underwriting decision 95 days after inception of the policy. The policy should have been correctly underwritten within the required 60 day time frame.

**B. COMPANY RECEIVED COMPLAINTS**

Forty (40) consumer received complaints were reviewed.

Four (4) errors were found.

Four (4) errors resulted in underreturns totaling \$141.68.

The errors are broken down as follows:

1. Four (4) errors were due to failure to cancel Mercury's policy as requested by the insured on the inception date of the insured's replacement policy. This constitutes a violation of Section 627.728, Florida Statutes. This resulted in four (4) underreturns totaling \$141.68, which have been refunded by the Company. The Company is also directed to amend their return premium calculation procedures to eliminate the application of a 50% unearned premium retention when two policies are in force at the same time. The Company is to confirm, in writing, this change to the Florida Department of Insurance within 90 days of the receipt of this report.