

FINANCIAL SERVICES COMMISSION

**FLORIDA OFFICE OF INSURANCE REGULATION
MARKET INVESTIGATIONS**

TARGET MARKET CONDUCT EXAMINATION REPORT

OF

**NATIONAL UNION FIRE INSURANCE COMPANY
OF
PITTSBURGH, PA.**

AS

OF

August 6, 2004

NAIC COMPANY CODE: 19445

NAIC GROUP: 0012

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Examiner
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INTRODUCTION

National Union Fire Insurance Company of Pittsburgh, PA (Company) is a foreign property and casualty insurer licensed to conduct business in the State of Florida during the scope of this target market conduct examination. The scope of the examination was January 1, 2003 through August 6, 2004. The examination began on June 3, 2004, and the field work was concluded in Wilmington, Delaware on August 6, 2004. A previous examination of the Company was filed with the Florida Department of Insurance on April 8, 2003, and covered the period of January 1999 through March 2001.

PURPOSE AND SCOPE OF EXAMINATION

Under authorization of the Financial Services Commission, Florida Office of Insurance Regulation (Office), Market Investigations, pursuant to Section 624.3161, Florida Statutes, a target market conduct examination of the Company was performed by Robert D. Flege, CIE, CFE, FLMI, ALHC, ARA, AIRC, CCP, LPCS, representing Examination Resources, LLC.

The purpose of this examination was to review the issues raised in the previous Market Conduct Examination, consumer complaints received by the Florida Department of Financial Services, and to verify the Company's compliance with Florida Statutes and Rules.

The examination was conducted in Atlanta, Georgia and Wilmington, Delaware. Commercial automobile policies were reviewed in Atlanta, Georgia and the private passenger automobile policies were reviewed in Wilmington, Delaware.

In reviewing materials for this report, the examiner relied on records maintained by the Company and complaint data provided by the Division of Consumer Services. The files reviewed were selected systematically from data files provided by the Company using Microsoft Excel's "random number" selection process. The examination report is a report by exception. As a result, files or material reviewed containing no improprieties by the Company have been omitted from the examination report. The examination was conducted in accordance with the practices and procedures set forth in the Market Conduct Examiner's Handbook produced by the National Association of Insurance Commissioners (NAIC). Zero tolerance levels were applied to all improprieties by the Company that indicated violations of Florida Statutes and Rules.

The examination included a review of complaints, cancellation and nonrenewal practices, underwriting and claims handling relative to commercial automobile and private passenger automobile policies.

REVIEW OF POLICIES

COMMERCIAL AUTOMOBILE

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>In-Force Policy Count</u>
2003	\$6,920,454	109
2004*	\$1,442,900	54

*(Through June 30, 2004)

Cancellations and Nonrenewals

The Company advises that during the scope of the examination, there were no nonrenewals and no mid-term cancellations initiated by the Company.

Claims

A total of fifty (50) commercial automobile claim files were selected at random for review from a population of two hundred and three (203).

As there were no exceptions noted during the review of the first twenty-five (25) claim files, and with the approval of the Office, review of the remaining sample was waived.

Underwriting and Rate Review

A total of fifty (50) underwriting files selected at random from a total population of one hundred sixty-three (163) commercial automobile policies in force during the scope of the examination were reviewed.

Sixty-one (61) errors were noted, involving fifty (50) underwriting files.

The errors are broken down as follows:

1. One (1) error was cited for a violation of Section 627.727, Florida Statutes, for failure to maintain a signed UM/UIM acceptance/rejection form in an underwriting file. This error also occurred previously as reported in the 2001 examination report on Page 7, Item #4.

Corrective Action: The Company was advised of the requirement to maintain a signed UM/UIM acceptance/rejection form in the underwriting file. The Company is to submit a letter within 30 days of receipt of this examination report, signed by an officer of the Company, confirming that corrective action has been implemented.

2. Forty-six (46) errors were cited for violations of Section 627.4131, Florida Statutes, as the Company failed to display the telephone number and purpose on the policy.

Corrective Action: The Company was advised of the requirement to have a telephone number displayed, along with the purpose, on the policy. The Company is to submit a letter within 30 days of receipt of this examination report, signed by an officer of the Company, confirming that corrective action has been implemented.

3. One (1) error was cited for a violation of Rule 69O-166.040, Florida Administrative Code. The Company failed to provide a written notice of existence and availability of risk management programs.

Corrective Action: The Company was advised of the requirement to provide notice of existence and availability of risk management programs. The Company is to submit a letter within 30 days of receipt of this examination report, signed by an officer of the Company, confirming that corrective action has been implemented.

4. Seven (7) errors were cited for violations of Section 627.412, Florida Statutes, as the Company failed to attach mandatory forms CA0128, CA0267, CA2210, CA2172, CA2147, and UM/UIM, to the policies. This error occurred previously as reported in the 2001 examination report on Page 7, Item #10 and Page 8, Item #12.

Corrective Action: The Company was advised of the need to attach mandatory forms to the policies. The Company is to submit a letter within 30 days of receipt of this examination report, signed by an officer of the Company, confirming that corrective action has been implemented.

5. Two (2) errors were cited for violations of Section 627.062, Florida Statutes. The Company failed to follow its filed rating plan. Terrorism coverage was provided to insureds at no additional charge. This error also occurred previously as reported in the 2001 examination report on Page 7, Item #8.

Corrective Action: The Company was advised of the requirements to follow its filed rating plan. The Company is to submit a letter within 30 days of receipt of this examination report, signed by an officer of the Company, confirming that corrective action has been implemented.

6. Two (2) errors were cited for violations of Section 627.739(2), Florida Statutes, as policies became effective October 1, 2003, or after, and were subject to a \$2,000 PIP deductible, which is not in accordance with this law.

Corrective Action: The Company was advised that \$2,000 PIP deductibles are not available after October 1, 2003. The Company is to submit a letter within 30 days of receipt of this examination report, signed by an officer of the Company, confirming that corrective action has been implemented.

7. One (1) error was cited for a violation of Section 627.727, Florida Statutes. The Company incorrectly attached Form CA 2147 to a non-stackable corporate policy. This error also occurred previously as reported in the 2001 examination report on Page 8, Items #11 and #17.

Corrective Action: The Company was advised that stacking of UM/UIM coverages by corporations is not permitted. The Company is to submit a letter within 30 days of receipt of this examination report, signed by an officer of the Company, confirming that corrective action has been implemented.

8. One (1) error was cited for a violation of Section 627.421(1), Florida Statutes, as the Company failed to mail or deliver a policy within sixty (60) days after the effective date of coverage.

Corrective Action: The Company was advised that a policy must be mailed or delivered within sixty (60) days after the effective date of coverage. The Company is to submit a letter within 30 days of receipt of this examination report, signed by an officer of the Company, confirming that corrective action has been implemented.

The Company has in place procedures to comply with Florida Statutes. The errors found indicate a breakdown in the application of the procedures and, in most instances, fall within generally accepted tolerances.

Complaints

In response to the request for complaint files relative to any complaints received involving commercial automobile business during the scope of the examination, the Company advised that there have been no complaints received by National Union Fire Insurance Company for commercial automobile business during 2003 or 2004.

Following a review of the data provided by the Division of Consumer Services, and upon further inquiry, the Company acknowledges that two (2) complaints were received.

Two (2) errors were cited for violations of Section 626.9541(1)(j), Florida Statutes, as the Company failed to maintain a complete record of all complaints.

Corrective action: The Company was advised they are required to maintain a record of all complaints. The Company is to submit a letter within 30 days of receipt of this examination report, signed by an officer of the Company, confirming that corrective action has been implemented.

PRIVATE PASSENGER AUTOMOBILE

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>In-Force Policy Count</u>
2003	\$3,645,924	1,805
2004*	\$10,955,033	6,234

*(Through June 30, 2004)

Cancellations and Nonrenewals

Fifty (50) files were reviewed from a total population of one thousand one hundred forty-four (1,144) policies cancelled or nonrenewed during the scope of the examination.

Three (3) errors were cited for a violation of Section 627.7295, Florida Statutes. The Company cancelled three (3) policies at the request of the insured within two (2) months of the effective date, without confirming that the insured had purchased coverage elsewhere on the vehicles involved.

Corrective Action: The Company is aware of the requirements set forth in Section 627.7295, Florida Statutes. The Company is to submit a letter within 30 days of receipt of this examination report, signed by an officer of the Company, confirming that corrective action has been implemented.

The Company has in place procedures to comply with Florida Statutes. The errors found indicate a breakdown in the application of the procedures and fall within generally accepted tolerances.

Claims

Fifty (50) claim files were reviewed from a total population of six hundred fifty-six (656) claims reported during the scope of the examination.

Five (5) errors were noted, involving two (2) claim files.

The errors are broken down as follows:

1. One (1) error was cited for a violation of Section 627.7401, Florida Statutes, as the Company failed to notify the insured of their right to PIP benefits.

Corrective Action: The Company was advised of the failure to notify the insured of their right to PIP benefits. The Company is to submit a letter within 30 days of receipt of this examination report, signed by an officer of the Company, confirming that corrective action has been implemented.

2. A policy was effective on September 19, 2003, and the insured was involved in an accident on September 20, 2003. The insured had initially requested a \$2,000 PIP deductible. The PIP option form required to select the deductible was not returned and on October 31, 2003, the policy was changed to reflect basic PIP coverage without a deductible. After this date, the insured was advised that the deductible still applied.

The Company's handling of this one (1) PIP claim resulted in the following errors.

- a) One (1) error was cited for a violation of Section 627.739(2), Florida Statutes, as the Company advised the insured that the policy was subject to a \$2,000 PIP deductible when, in fact, there was no applicable deductible. The claim was ultimately paid without the application of a deductible.
- b) One (1) error was cited for a violation of Section 627.736(4)(b), Florida Statutes. The Company failed to pay benefits within thirty (30) days for eleven (11) separate bills submitted subsequent to October 31, 2003, all relating to one claim. Interest was added as required by Section 627.736(4)(b), Florida Statutes, at the time of payment.
- c) One (1) error was cited for a violation of Section 626.9541(1)(i)(2), Florida Statutes, as the Company misrepresented that the benefits were less than stated in the policy, causing the insured's health carrier to pay claim benefits that it was not responsible to pay.
- d) One (1) error was cited for a violation of Section 627.736, Florida Statutes, as the Company did not pay PIP benefits as the primary source of recovery for providers' services.

Corrective Action: The Company is aware of the requirements to promptly pay PIP benefits and to handle claims in accordance with policy provisions. The Company indicates that efforts will be expended to assure compliance. The Company is to submit a letter within 30 days of receipt of this examination report, signed by an officer of the Company, confirming that corrective action has been implemented.

The Company has in place procedures to comply with Florida Statutes. The errors found indicate a breakdown in the application of the procedures and fall within generally accepted tolerances.

Underwriting and Rate Review

One hundred (100) underwriting files were reviewed from a total of five thousand eight hundred forty-three (5,843) policies in force as of April 30, 2004.

A total of forty-five (45) errors were cited.

The errors are broken down as follows:

1. Ten (10) errors were cited for violations of Section 627.318, Florida Statutes. The Company failed to maintain applications in the underwriting files and failed to produce applications for the purpose of this examination.

Corrective Action: The Company is aware of the requirements for maintaining complete underwriting files and assures that necessary actions will be taken to have documents scanned and retained. The Company is to submit a letter within 30 days of receipt of this examination report, signed by an officer of the Company, confirming that corrective action has been implemented.

2. Fifteen (15) errors were cited for violations of Section 627.739, Florida Statutes, as the Company failed to maintain the Florida Selection Form (PIP) used to indicate options or to elect expanded arbitration provisions.

Corrective Action: The Company is aware of the requirements for maintaining complete underwriting files and assures that necessary actions will be taken to have documents scanned and retained. The Company is to submit a letter within 30 days of receipt of this examination report, signed by an officer of the Company, confirming that corrective action has been implemented.

3. Fifteen (15) errors were cited for violations of Section 627.727, Florida Statutes. The Company failed to maintain signed UM/UIM acceptance/rejection forms or the form for Selection of Non-Stacked Coverage in the underwriting files.

Corrective Action: The Company is aware of the requirements for maintaining complete underwriting files and assures that necessary actions will be taken to have documents scanned and retained. The Company is to submit a letter within 30 days of receipt of this examination report, signed by an officer of the Company, confirming that corrective action has been implemented.

4. Five (5) errors were cited for violations of Section 627.744(1), Florida Statutes. The Company failed to comply with the required pre-insurance inspection of private passenger motor vehicles.

Corrective Action: The Company is aware of the requirements for requesting pre-insurance inspections. The Company is to submit a letter within 30 days of receipt of this examination report, signed by an officer of the Company, confirming that corrective action has been implemented.

The Company was requested to manually rate fifty-six (56) of the files reviewed. The manual rating worksheets were provided and the data was verified from the underwriting and rating manual. No exceptions were noted in the rating of these files, and the premiums calculated matched the premiums charged the insureds.

The Company has in place procedures to comply with Florida Statutes. The errors found indicate a breakdown in the application of the procedures and, in most instances, fall within generally accepted tolerances.

Complaints

The Company provided a list of complaints received relative to private passenger automobile underwriting and claims. The list included twenty-two (22) complaints received either in writing or by phone. In the review of the files, it was noted that sixteen (16) complaints involved requests for information and were immediately resolved. Two (2) of the complaints were received through the Division of Consumer Services and a prompt response was provided.

No unusual trends or patterns were noted.

No exceptions were found.

REPORT SUMMARIZATION

A total of two hundred seventy-five (275) underwriting and claim files involving private passenger and commercial automobile risks were randomly selected for review. Two (2) complaints were discovered in commercial automobile. The Company recorded a total of twenty-two (22) complaints in private passenger underwriting and claims. These twenty-four (24) files were also reviewed making the total number of files reviewed to be two hundred ninety-nine (299).

A total of one hundred sixteen (116) errors were cited.

The following represents a summary of the findings. Specific details are found in each section of the report.

Sample Files Reviewed – 299

- Twenty-five (25) commercial automobile claim files
- Fifty (50) commercial automobile underwriting files
- Two (2) commercial automobile complaint files
- Fifty (50) private passenger automobile cancellations and nonrenewals
- Fifty (50) private passenger automobile claim files
- One hundred (100) private passenger automobile underwriting files
- Twenty-two (22) private passenger automobile complaint files

Findings

- Commercial Automobile
 - Underwriting and Rate Review – Sixty-one (61) errors cited. See Pages 2,3,4
 - Complaints – Two (2) errors cited. See Page 4
- Private Passenger Automobile
 - Cancellations and Nonrenewals – Three (3) errors cited. See Page 5

- Claims – Five (5) errors cited. See Pages 5,6
- Underwriting and Rate Review – Forty-five (45) errors cited. See Page 7

Corrective Actions

As indicated in each section of the report, the Company is to submit a letter within 30 days of receipt of this examination report, signed by an officer of the Company, confirming that corrective action has been implemented.

EXAMINATION REPORT SUBMISSION

Jack Kendall, Associate General Counsel, in Atlanta, Georgia, acted as Company Coordinator for the commercial automobile review. Maura Popp, Associate General Counsel, in Wilmington, Delaware, acted as Company Coordinator for the private passenger automobile review.

The undersigned conducted the examination and prepared the draft report. Rebecca Belanger-Walkins, Exam Manager, and Todd Fatzinger, Exam Supervisor, were involved in the management, consultation and supervision of the examination, in addition to the review of workpapers.

Respectfully submitted,

Robert D. Flege
CIE,CFE,FLMI,ALHC,ARA,AIRC,CCP,LPCS
Examiner-in-Charge
Examination Resources, LLC