

**2002 PROPERTY AND CASUALTY TARGET MARKET CONDUCT EXAMINATION**

**OF**

**OCCIDENTAL FIRE & CASUALTY COMPANY OF NORTH CAROLINA  
(McM CORPORATION)**

**BY**

**THE FLORIDA DEPARTMENT OF INSURANCE**

**FILED DATE: 11/18/02**



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## EXECUTIVE SUMMARY

The purpose of this examination was to review complaints to determine if such complaints were indicative of improper business practices. Fifty (50) complaints were reviewed and break down as follows:

- 1) Eleven (11) complaints were for premium issues.
- 2) Seventeen (17) complaints were for cancellation issues.
- 3) Thirteen (13) complaints were for claim denials.
- 4) Six (6) complaints were for coverage questions.
- 5) Three (3) complaints were for coverage change delays.

Two (2) errors were found. One (1) error was due to the Company failing to give the insured a safety device discount. Upon reviewing the complaint and determining the error, the Company corrected the premium resulting in an \$87.00 premium return to the insured. There was no indication of improper business practices by the Company. In the 2000 examination of this Company, three (3) errors were found in the Private Passenger Automobile rate review for not giving mandatory discounts for safety devices.

The Company was correctly logging Department of Insurance complaints but not recording written complaints received directly from the consumer. They have corrected the procedures to include all consumer complaints on the log. One (1) error was due to failure to maintain a complete complaint log.

The line of business reviewed in this examination was Private Passenger Automobile. In the rate review, sixty-five (65) policies were reviewed for compliance with rate, rule and form filings in addition to compliance with State rules and statutes. No errors were found.

The Company began using a two tier rating process based on the qualifying characteristics of each risk beginning September 2000. Prior to that time, the Company did not use any type of tier rating. Of those policies reviewed, those risks in the higher rated tier were transferred to the preferred tier at the first eligible renewal. Credit reports are not being ordered or used for rating or any other purpose by the Company on the Private Passenger Automobile business.

In the cancellation/nonrenewal review, forty (40) policies for cancellation were examined with no errors found. Ten (10) nonrenewals were examined and there were five (5) errors found for failure to provide timely notice of nonrenewal. The Company was not giving the required forty-five day advance notice of nonrenewal as required by Florida Statutes on some policies. These errors are indicative of an improper business practice. The Company advised they are working on correcting their system to give enough advance notification to the underwriter to react to nonrenewals in a timely manner.

Fifty (50) claims were examined. Four (4) errors were cited for failure to follow the disclosure requirements in a timely manner. The Company advised they will put new procedures in place to prevent this delay problem.

## INTRODUCTION

Occidental Fire & Casualty Company of North America (Company) is a foreign 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 December 2001. The examination began January 6, 2002 and ended February 23, 2002. The last property and casualty market conduct examination of this insurer, by the Florida Department of Insurance, was concluded in May 2000.

The prior examination report included a review of private passenger automobile. Violations cited included failure to provide safety device discounts and failure to display agents' name/license number or insurer name on the applications.

This examination was conducted due to the number of complaints received by the Division of Consumer Services and to verify compliance with Florida Statutes and Administrative Rules.

During this examination, records reviewed included private passenger automobile policies, cancellations/nonrenewals, agent/MGA licensing, claims, and consumer complaints 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 requested 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, \$87.00 was returned to Florida consumers due to overcharges of premium and \$120.00 has been sent to the Florida Department of Insurance for appointments for two agents that the Company had failed to appoint.

## **CERTIFICATE OF AUTHORITY – AUTHORIZED LINES**

### **GENERAL COMMENTS**

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

### **EXAM FINDINGS**

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

No errors were found.

## **COMPANY OPERATIONS/MANAGEMENT**

### **HISTORY/MANAGEMENT**

Occidental Fire and Casualty Company of North American was incorporated on October 31, 1961, under the laws of North Carolina. The Company obtained a Florida Certificate of Authority on December 18, 1962. They began writing private passenger automobile insurance in Florida in 1991. The Company is wholly-owned by the McM Corporation which was previously a public company, but became privately owned by a single individual on April 27, 2000.

The Company's home office is located in Raleigh, North Carolina. The underwriting function of its private passenger automobile business is conducted in Scottsdale, Arizona, and the claims function is conducted in Coral Springs, Florida. Underwriting for the commercial automobile business is done in the home office in Raleigh, North Carolina.

The following is a list of the Company's corporate officers:

Stephen L. Stephano	President and Chief Executive Officer
Michael D. Blinson	Senior Vice President/Corporate Secretary
Kenneth C. Coon	Senior Vice President
Jerry H. Ferguson	Senior Vice President/Agency Marketing Operations
Deborah A. Wrinkle	Senior Vice President
Tobie H. Collins	Vice President/Claims
Jeffrey L. Ellis	Vice President/Scottsdale Branch Manager
Kevin J. Hamm	Vice President/Chief Financial Officer
Brenda M. Lewis	Vice President/Human Resources
David Matousek	Vice President/Underwriting (Commercial Automobile)
Paul T. Webb	Vice President/Information Technology

The Company website address is: [www.occiquote.mcm-ins.com](http://www.occiquote.mcm-ins.com)

### **COMPANY PROCESSES/STATISTICAL AFFILIATIONS**

#### **Computer System**

The Company's computer system is an AS/400 applications processing system with PMSI software for processing and accessing policy, claim and billing information.

#### **Anti-Fraud Plan**

The Company has filed a Plan with the Florida Department of Insurance as required by Section 626.9891, Florida Statutes.

The Plan meets the statutory requirements by contracting with the firm, The Robert Plan of New York Corporation, to provide this service. One employee of the Robert Plan operates out of the Coral Springs claims office, handling inspections of vehicles and collecting any information on any claims with characteristics that raise questions to the claim examiners.

### **Disaster Recovery Plan**

The Company has developed a Disaster Recovery Plan for use with Florida business. An off-site location has been selected for the continuance of business for any Company office that may become incapacitated in the event of a catastrophe. The data in the mainframe is backed up every evening and stored off-site on a weekly basis.

### **Internal Audit Procedures**

The Company has not developed Internal Audit Procedures for use in reviewing Florida business. The Company has been requested to develop a plan and provide to the Florida Department of Insurance within 90 days of receipt of the examination report. Exhibit I.

### **Privacy Plan**

The Company has developed a Plan to meet the requirements of Emergency Rule 4ER-01. Insureds are provided an endorsement, which has been filed with and approved by the Florida Department of Insurance, explaining the Company's privacy policy with every insurance policy and renewal that is issued. Exhibit II.

### **Statistical Affiliations**

National Association of Independent Insurers acts as the Company's official statistical agent.

### **Credit Reports**

The Company does not use Credit Reports as an underwriting tool.

## **OPERATIONS/MARKETING**

### **Marketing**

The Company writes private passenger automobile insurance coverages throughout the State of Florida. The change made since the last market conduct examination was to expand into the Commercial Automobile market in Florida in 2001.

### **Agents/Agencies/MGA/Exchange of Business/Direct Response/Internet/Adjusters and Claims Handling**

Private passenger automobile is marketed through the independent agency system. Commercial automobile is marketed, distributed and processed through a single managing general agency, First Coast Southeast, Inc., in Jacksonville, Florida.

### **Lines of Business**

During the scope of this examination, the Company wrote private passenger automobile and commercial automobile insurance.

## REVIEW OF POLICIES

### PRIVATE PASSENGER AUTOMOBILE

#### Description of Product/Lines of Business

The current examination involved a complete review of private passenger automobile coverages, including bodily injury liability (BI), property damage liability (PD), personal injury protection (PIP), uninsured motorists (UM), comprehensive, collision, and road protection coverage. The Company offered full coverage throughout the State of Florida.

Beginning September 20, 2000 on new business and October 20, 2000 on renewal business, the Company began using two (2) levels for the placement of insurance based on the qualifying characteristics of the risks being rated. The qualifications used to determine which rating level is used for an individual risk are: accident/violation history, age of operator, and driving experience. Discounts and surcharges are determined in both tiers for accident/violation history, prior insurance coverage, marital status, home ownership requirement, safety equipment, number of insured vehicles and limits and/or deductibles on desired coverages.

#### 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	\$ 4,538,928	4,912
2000	\$10,540,905	11,061
2001	\$18,493,052	18,908

The premiums and policy count for 2001 reflect only the policies written through September 30, 2001.

The large increase in growth over the last two years has been due to the combination of an increased number of policies being processed due to other companies pulling out of Florida or limiting new writings by other companies.

#### Examination Findings

Sixty-five (65) policy files were examined.

No errors were found.

## **CANCELLATIONS/NONRENEWALS REVIEW**

### **DESCRIPTION OF CANCELLATION/NONRENEWAL PROCEDURES**

The cancellation procedures followed by the Company for its private passenger automobile business do comply with all of the cancellation laws. In many cases, the nonrenewal procedures do not comply with laws requiring forty-five (45) days advanced notice of nonrenewal. The notices of cancellation/nonrenewal are mailed to the policyholder, agent and lienholder, when applicable, proof of mailing is obtained upon mailing, and proper dates are used for calculating return premiums.

### **CANCELLATION REVIEW**

Forty (40) cancelled policies were examined.

No errors were found.

### **NONRENEWAL REVIEW**

Ten (10) nonrenewed policies were examined.

Five (5) errors were found.

The errors are broken down as follows:

1. Five (5) errors were due to failure to provide timely notice of nonrenewal. This constitutes a violation of Section 627.728, Florida Statutes, and is considered a business practice of the Company. These errors were due to not giving the 45 days advance notice of nonrenewal.

## COMPLAINTS/INVESTIGATION REVIEW

A complete record of all the complaints received by the Company since the date of the last examination has not been maintained as is required by Section 626.9541(1),(j), Florida Statutes. Procedures for handling these complaints had not been completely established by the Company.

### COMPANY RECEIVED COMPLAINTS

Number	Consumer Services Ref. Number*	Alleged Violation	Violation Found	Comments
1	S-0001-0035970	Refund not received	None	Policy was on prem pay plan and cancelled for non pay, then producer asked for flat canc due to insured never taking possession of vehicle & company canc flat & returned prem within 14 days of proof from dealer
2	S-0102-0021209	Paid prem but policy not reinstated	None	Canc correctly mailed effective 5/16/01 to insured so when insured claimed she made payments on 9/21 and 10/1 the policy had been cancelled for at least 4 months.
3	S-0001-0049388	Prem paid but no policy received	None	Co. acknowledged policy paid in full and policy issued timely.
4	S-0102-0035321	Policy cancelled because insured stationed in Korea	None	Company's filing and und guide allow for military risks not stationed in FL to be ineligible. Canc was properly executed
5	S-0102-0019051	Claim denial	None	Policy cancelled for non-pay a month before accident
6	S-0001-0058094	Claim denial	None	Policy canc for non-pay then agent provided proof of receiving payment prior to loss, Company proceeded with processing claim and policy has since been canc again
7	S-0001-0056915	Premium Issue	None	Insured felt agent took a fee out of his down payment & company explained there was no such thing and prem actually increased due to violation discovered after quoting
8	S-0001-0056589	Premium Issue	None	Insured sent in money but policy didn't get reinstated. Co didn't receive full amount due & let canc stand. No money due insured as he owed Company more than the earned premium for time policy in effect.
9	S-0102-002-1956	Claim Denial	None	Policy cancelled for non-pay of an installment payment and return prem due the insured was returned with notice and was cashed by insured. Later insured had accident & tried to submit a claim.
10	S-0001-0034660	Cancellation Issue	None	Insured advised she sent money to agent and Company never rec'd & canc for non-pay. Agent was contacted & money was sent & policy reinstated.
11	S-0001-0052110	Claim Denial	None	Policy coverage suspended after insured did not comply with requirement to have vehicle inspected after more than one request from his agent to do so.
12	S-0102-0024119	Coverage Question	None	Wanted to know the policy period dates as insured lost license for having no insurance. Co verified that policy had been canc for non-pay a few months prior to accident & never reinstated.
13	S-0001-0052110	Premium Refund	None	Insured felt she was due a refund from her canc. Co checked and they had mailed a return check but it had never been cashed so reissued the refund.
14	S-0001-0058577	Coverage Question	None	Insured advised she requested BI be deleted and it was never done. Co nor agent have any corr requesting this.
15	S-0001-0049108	Cancellation Issue	627.0651	Company did not give the insured a discount for having prior coverage.
16	S-0001-0031438	Delay in receiving change of auto end and ID cards	None	Co indicated they sent end & ID cards at time of request so they resent copies to the insured since first ones not rec'd.
17	S-0102-0017718	Premium Issue	None	Insured wanted to know why prem was more than quoted and Co explained agent made an error in quoting the original policy premium.

18	S-0001-0063958	Claim Denial	None	Policy coverage suspended after insured did not comply with requirement to have vehicle inspected after more than one request from his agent to do so.
19	S-0001-0048153	Claim Denial	None	Policy cancelled for non-pay of an installment payment and return prem due the insured was returned with notice and was cashed by insured. Later insured had accident I tried to submit a claim.
20	S-0102-0017925	Premium Issue	627.0652	Co did not give the insured a prior coverage discount that he was entitled to. Policy endorsed back to inception and \$87.00 was returned 11/21/01.
21	S-0102-0028342	Claim Denial	None	Policy cancelled for non-pay of an installment payment and return prem due the insured was returned with notice and was cashed by insured. Later insured had accident & tried to submit a claim.
22	S-0001-0045740	Claim Denial	None	Policy cancelled for non-pay of an installment payment several times then Company refused to reinstate any more. Later insured had accident & tried to submit a claim.
23	S-0102-0002986	Cancellation Issue	None	Insured would not comply with requirement to submit medical report if over age 70
24	S-0102-0004714	Cancellation Issue	None	Insured says he cannot contact agent to cancel policy. Co has now cancelled and returned the unearned premium
25	S-0102-0002320	Claim Denial	None	Policy cancelled for non-pay of an installment payment several times then Company refused to reinstate any more. Later insured had accident & tried to submit a claim.
26	S-0001-0061999	Claim Denial	None	Policy cancelled for non-pay of an installment payment several times then Company refused to reinstate any more. Later insured had accident & tried to submit a claim.
27	S-0001-0046682	Coverage Question	None	Insured never received policy. Co determined that all payments were current and policy was in force & mailed another copy to insured. Proof of mailing of original policy was in the file.
28	S-0001-0040181	Claim Denial	None	Policy cancelled for non-pay of an installment payment several times then Company refused to reinstate any more. Later insured had accident & tried to submit a claim.
29	S-0102-0000322	Claim Denial	None	Policy cancelled for non-pay, prem received before canc date, policy reinstated and claim handled.
30	S-0001-0049794	Cancellation Issue – Change of address never made	None	Insured stated policy was cancelled however Co still had this policy as an active status, they processed the address change & sent insured a new dec
31	S-0001-0046913	Never received policy	None	Policy and ID cards reissued and mailed directly to insured. Proof of mailing of original policy & ID cards were in the file..
32	S-0001-0055226	Cancellation Issue	None	Co provided payment history and cancellation history to show why policy canc for non-pay
33	S-0001-0045390	Cancellation Issue	None	Co provided payment history and cancellation history to show why policy canc for non-pay
34	S-0001-0060533	Premium Issue	None	Increase in prem quoted was it was determined that insured not eligible for tier his agent put him in
35	None	Coverage Question	None	Cancelled for license suspension then reinstated when license reinstated with no lapse in coverage
36	S-0001-0043589	Premium Issue	None	Agent submitted app without consumer consent, consumer didn't buy vehicle and prem paid was returned to the insured
37	S-0102-0024157	License suspended as failure of Co to provide proof of ins	None	Suspension was due to failure to pay traffic fine months before policy went into effect. Co canc when they discovered suspension
38	S-0102-0015783	Premium Issue	None	Increase in prem quoted was due to undisclosed viols
39	S-0102-0021755	Cancellation Issue	None	Upon receiving evidence vehicle was sold, canc date was adjusted and an additional return was mailed to insured.
40	S-0102-0010803	Cancellation Issue	None	Co contacted agent for information regarding prem payment and has agreed to reinstate policy with no lapse as soon as additional prem is received for remainder of pol term

41	S-0102-0009655	Claim Denial	None	Policy canc for non-pay of an payment plan several times then Company refused to reinstate any more. Later insured had accident & tried to submit a claim.
42	S-0001-0058649	Premium Issue	None	Co had charged the insured for an accident, upon receiving proof of non-fault Co endorsed policy back to correct prem
43	S-0001-0043246	Premium Issue	None	Insured complained about the rating of her policy but Co rated according to their underwriting rates and guidelines
44	S-0001-0067242	Cancellation Issue	None	Policy cancelled for non-pay of an installment payment several times then Company refused to reinstate any more.
45	S-0102-0008695	Cancellation Issue	None	Insured's complaint was that policy was issued without knowledge or permission to do so. Co has signed app. And received down payment and first monthly installment in their files. Then insured requested canc and didn't think they got enough money back even though Co canc properly so they made complaint to DOI and Co canc flat upon consumer's written request at the DOI's request.
46	S-0101-0033564	Coverage Question	None	Insured requested an explanation of why prem was higher than quoted and that has been furnished
47	S-0102-0013168	Cancellation Issue	None	Policy cancelled for non-pay of an installment payment several times then Company refused to reinstate any more. Later insured had accident & tried to submit a claim.
48	S-0001-0069121	Cancellation Issue	None	Insured did not meet und requirements when it was discovered that he had a learner's permit only.
49	S-0102-0033008	Premium Issue	None	Insured could not understand why youthful operator rated to the newer car and Co explained their und rule stating highest rated driver to highest rated vehicle
50	S-0102-0034463	Coverage Question	None	Third-party was trying to find if there was coverage for a party who damaged his vehicle. Co searched and provided information that was requested.

### **Examination Findings**

Fifty (50) policy files were examined.

Two (2) errors were found.

An error affecting premium resulted in one (1) overcharge totaling \$87.00.

The errors are broken down as follows:

1. One (1) error was due to failure to follow the filed rating plan, rating schedule or rating rule. This constitutes a violation of Section 627.0651, Florida Statutes. This error was due to the Company not giving the insured a discount for prior coverage as filed in the rating plan. This error resulted in one (1) overcharge totaling \$87.00 which has been refunded by the Company.
2. One (1) error was due to failure to maintain a complete log. This constitutes a violation of Section 626.9541(1)(j), Florida Statutes. This error was due to the Company keeping a complaint log on Florida Department of Insurance complaints, but not maintaining a log of Company received complaints. The Company now has a complete log in place.

These complaints were not indicative of improper business practices.

## **CLAIMS REVIEW**

### **DESCRIPTION OF CLAIMS REVIEWED – NON-PPA/MEDICAL REVIEWS**

#### **Examination Findings**

Fifty (50) private passenger automobile claims were examined.

Four (4) errors were found.

The errors are broken down as follows:

1. Four (4) errors were due to failure to disclose information in a timely manner. This constitutes a violation of Section 627.4137, Florida Statutes. These errors were due to the Company failing to respond to attorneys' requests for copies of the policy declarations and policy information within 30 days of date of written request.

### **DESCRIPTION OF CLAIMS REVIEWED – PPA/MEDICAL REVIEWS**

#### **Examination Findings**

Fifty (50) personal injury protection claims were examined.

No errors were found.

## **AGENTS/MGA REVIEW/ADVERTISING/MARKETING**

### **DESCRIPTION OF MGA ARRANGEMENTS**

Private Passenger Automobile is marketed through the independent agency system. Commercial Automobile is marketed, distributed and processed through a single managing general agency, First Coast Southeast, Inc., in Jacksonville, Florida.

### **Examination Findings**

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

Three (3) errors were found.

The errors are broken down as follows:

1. Three (3) errors were due to failure to use appointed agents. This constitutes a violation of Section 626.112, Florida Statutes. These errors were due to the application being executed by a licensed but unappointed agent. These errors resulted in loss of licensing fees to the Florida Department of Insurance totaling \$180.00. One hundred twenty dollars (\$120.00) was paid to the Florida Department of Insurance for appointment fees owed due to two unappointed agents used by the Company. The third unappointed agent had his license revoked through administrative action by the Florida Department of Insurance.

## **PENDING ISSUES**

The following issue was pending at the conclusion of the examination field work:

### **CORRECTIVE ACTIONS**

Company Operations/Management - The Company should develop an internal audit program and file with the Department of Insurance within 90 days of the receipt of the examination report.

**EXHIBITS**

**SUBJECT**

**EXHIBIT NUMBER**

**INTERNAL AUDIT PROCEDURES REQUEST**  
**PRIVACY POLICY**  
**COMPLAINT HANDLING PROCEDURES**  
**CLAIMS HANDLING PROCEDURES**  
**PRIOR EXAMINATION PAGE**

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