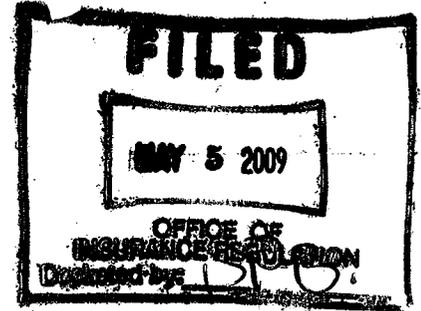




OFFICE OF INSURANCE REGULATION

KEVIN M. MCCARTY  
COMMISSIONER



IN THE MATTER OF:

UNITED AUTOMOBILE INSURANCE  
COMPANY  
2007 Market Conduct Examination

CASE NO.: 103030-09

CONSENT ORDER

THIS CAUSE came on for consideration as the result of an agreement between UNITED AUTOMOBILE INSURANCE COMPANY (hereinafter referred to as "UNITED AUTOMOBILE") and the OFFICE OF INSURANCE REGULATION (hereinafter referred to as the "OFFICE"). Following a complete review of the entire record, and upon consideration thereof, and being otherwise fully advised in the premises, the OFFICE hereby finds as follows:

1. The OFFICE has jurisdiction over the subject matter and parties to this proceeding.
2. UNITED AUTOMOBILE is a domestic property and casualty insurer authorized to transact insurance business in Florida and is subject to the jurisdiction and regulation of the OFFICE pursuant to the Florida Insurance Code.
3. The OFFICE conducted a market conduct examination of UNITED AUTOMOBILE pursuant to Section 624.3161, Florida Statutes. As a result, the OFFICE has found noncompliance with the following provisions of the Florida Insurance Code and Florida Administrative Code:

- a. § 20.121(2)(h)2., Fla. Stat.—Failure to respond to a Division of Consumer Services inquiry within twenty (20) days.
- b. § 626.877, Fla. Stat.—Failure to adjust the claim in compliance with contract or law.
- c. § 627.0651, Fla. Stat.—Failure to follow the filed rates, rules, or underwriting guidelines.
- d. § 627.4137(1), Fla. Stat.—Failure to timely disclose policy information.
- e. § 627.7277(2),(3), Fla. Stat.—Failure to provide notice of renewal premium.
- f. § 627.736(4)(b), Fla. Stat.—Failure to provide proper Explanation of Benefits (EOBs).
- g. § 627.736(4)(b), Fla. Stat.—Failure to comply with Personal Injury Protection (PIP) benefit requirements, paying within thirty (30) days of written notice.
- h. § 627.736(4)(b), Fla. Stat.—Failure to comply with PIP benefit requirements.
- i. § 627.736(7)(a), Fla. Stat.—Failure to utilize an independent medical examiner of the same licensure as the treating physician.
- j. § 627.848(1)(e), Fla. Stat.—Failure of agents to return premium timely.
- k. § 627.848(1)(e), Fla. Stat.—Failure to notify the insured of the amount of return premium that was returned to the premium finance company and the amount of unearned commission held by the agent.
- l. § 628.271(1)(e), Fla. Stat.—Failure due to UNITED AUTOMOBILE's inability to provide a copy of the file for review.
- m. Rule 69O-167.002, Fla. Admin. Code—Failure to provide form OIR-B3-493, report of rescinded policy, to the OFFICE for all rescinded policies.

4. UNITED AUTOMOBILE agrees that upon the execution of this Consent Order it shall be subject to the terms and conditions herein.

5. UNITED AUTOMOBILE shall maintain complete electronic and/or physical records to document all claims activity.

6. Within thirty (30) days of the execution of the Consent Order, UNITED AUTOMOBILE shall submit to the OFFICE a certification signed by an officer of UNITED

AUTOMOBILE that the corrective actions set out in the examination report have been completed or, if not fully completed, detailing the corrective action(s) that will be fully implemented and the expected date that the particular corrective action(s) shall be fully implemented.

7. Within fifteen (15) days of the execution of this Consent Order, and pursuant to Section 624.3161, Florida Statutes, the OFFICE will begin a market conduct investigation and request a random sampling of UNITED AUTOMOBILE's open PIP claim files for the years 2008–2009. Within forty-five (45) days of said request, UNITED AUTOMOBILE will provide the OFFICE with a report in Excel format containing a list of claim numbers for each PIP claim open as of the date of the report. The report shall also identify the following for each claimant: 1) the name of the claimant's most frequently used provider; 2) whether the claim file contains a bill from the most frequently used provider, which was not paid within sixty (60) days of receipt; 4) the specific reason(s) why the bill(s) was not paid within sixty (60) days of receipt; 5) whether the claim is in litigation; 6) the date litigation of the claim began; and 7) the current litigation status of each claim.

8. Within thirty (30) days of the execution of this Consent Order, UNITED AUTOMOBILE shall provide to the OFFICE its current criteria for determining which claims will be referred to the Division of Insurance Fraud in compliance with Section 626.989(6), Florida Statutes.

9. Within ninety (90) days of the execution of this Consent Order, UNITED AUTOMOBILE shall provide a report to the OFFICE, certified by an officer of UNITED AUTOMOBILE to be true and correct, which fully describes the actions taken by UNITED AUTOMOBILE to ensure that UNITED AUTOMOBILE is:

- a. Maintaining a complete record of all complaints;
- b. Acknowledging and responding timely to claims communications;
- c. Providing the specific reason(s) for a claim denial to providers and insureds;
- d. Providing timely and accurate EOBs to providers and insureds;
- e. Making timely payment of uncontested claims;
- f. Maintaining a complete record of claims;
- g. Ensuring PIP adjusters, prior to suspending PIP benefits, use a physician who is licensed under the same chapter as the treating physician to perform an Independent Medical Examination;
- h. Advising policyholders of the renewal premium in compliance with Section 627.7277(2), Florida Statutes;
- i. Informing policyholders of the amount of the return premium sent to the premium finance company and the unearned commission held by the agent, in compliance with Section 627.848(1), Florida Statutes;
- j. Ensuring that UNITED AUTOMOBILE agents timely return unearned premium, unearned commission, or both;
- k. Ensuring that policy information is timely provided to policyholders when requested;
- l. Ensuring that premiums are refunded to the date of the policy inception if a claim is denied due to material misrepresentation on an application for insurance; and
- m. Ensuring that all policies that are cancelled *ab initio* are reported to the OFFICE on form OIR-B3-493, report of rescinded policy.

10. Within thirty (30) days of the execution of this Consent Order, UNITED AUTOMOBILE shall provide a report to the OFFICE, certified by an officer of UNITED AUTOMOBILE to be true and correct, indicating the current total number of active PIP lawsuits filed against UNITED AUTOMOBILE. Thereafter, UNITED AUTOMOBILE will provide the OFFICE with quarterly lawsuit reports beginning with the period ending June 30, 2008, and concluding with period ending June 30, 2010. The reports are to be filed with the OFFICE within

thirty (30) days after the end of each quarter and must be certified by an officer of UNITED AUTOMOBILE to be true and correct. The reports must indicate the following: 1) the total number of PIP lawsuits against UNITED AUTOMOBILE that were active at the beginning of that quarter; 2) the total number of PIP lawsuits that were concluded during the quarter; 3) the total number of new PIP lawsuits that were filed against UNITED AUTOMOBILE during the quarter; and 4) the total number of PIP lawsuits pending against UNITED AUTOMOBILE as of the end of the quarter.

11. Within one-hundred and eighty (180) days of the execution of this Consent Order, and pursuant to Section 624.3161, Florida Statutes, the OFFICE may conduct another market conduct investigation and request a random sampling of UNITED AUTOMOBILE's open PIP claim files for the years 2008–2009. Within forty-five (45) days of said request, UNITED AUTOMOBILE will provide the OFFICE with a report in Excel format containing a list of claim numbers for each PIP claim open as of the date of the report. The report shall also identify the following for each claimant: 1) the name of the claimant's most frequently used provider; 2) whether the claim file contains a bill from the most frequently used provider, which was not paid within sixty (60) days of receipt; 4) the specific reason(s) why the bill(s) was not paid within sixty (60) days of receipt; 5) whether the claim is in litigation; 6) the date litigation of the claim began; and 7) the current litigation status of each claim.

12. UNITED AUTOMOBILE shall pay a penalty in the amount of Two Hundred and Fifty Thousand Dollars (\$250,000) and administrative costs of Ten Thousand Dollars (\$10,000) within thirty (30) days of the execution of this Consent Order.

13. UNITED AUTOMOBILE shall henceforth comply with all provisions of the Florida Insurance Code and Florida Administrative Code.

14. This Consent Order is entered into for the specific purposes of concluding the OFFICE's market conduct examination process and does not constitute acceptance by UNITED AUTOMOBILE that the OFFICE's examination findings are correct, nor does it constitute an admission on the part of UNITED AUTOMOBILE that it has violated any provision of Florida law or any other applicable law, rule, or regulation.

15. UNITED AUTOMOBILE expressly waives a hearing in this matter, and the making of Findings of Fact and Conclusions of Law by the OFFICE and other proceedings to which it may be entitled by law or the rules of the OFFICE. UNITED AUTOMOBILE hereby knowingly and voluntarily waives all rights to challenge or contest the provisions of this Consent Order, in any forum presently or in the future available to it, including the right to any administrative proceeding, state or federal court action, or any appeal.

16. UNITED AUTOMOBILE is hereby placed on notice of the requirements of the above-referenced sections of law and agrees that any future violations of these sections by UNITED AUTOMOBILE may be deemed willful, subjecting UNITED AUTOMOBILE to the appropriate penalties or other remedies available under the Florida Insurance Code.

17. UNITED AUTOMOBILE agrees that the failure to adhere to one or more of the above terms and conditions of this Consent Order shall constitute a violation of a lawful Order of the OFFICE and may subject UNITED AUTOMOBILE to such administrative penalties or remedies available under the Florida Insurance Code.

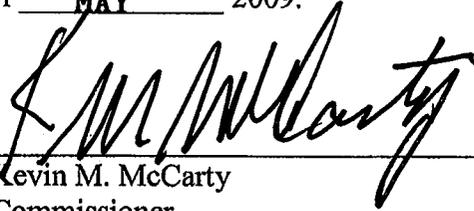
18. Except as noted above, each party to this action shall bear its own costs and fees.

THEREFORE, the agreement between UNITED AUTOMOBILE and the OFFICE, the terms and conditions of which are set forth above, is APPROVED.

FURTHER, all terms and conditions above are hereby ORDERED.

DONE and ORDERED this 5TH day of MAY 2009.



  
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Kevin M. McCarty  
Commissioner  
Office of Insurance Regulation

By execution hereof, UNITED AUTOMOBILE INSURANCE COMPANY consents to the entry of this Consent Order, agrees without reservation to all of the above terms and conditions, and shall be bound by all provisions herein. The undersigned represents that he or she has the authority to bind UNITED AUTOMOBILE INSURANCE COMPANY to the terms and conditions of this Consent Order.

UNITED AUTOMOBILE INSURANCE COMPANY

By: *Jack Ramirez*

Print Name: JACK RAMIREZ

Title: PRESIDENT

Date: 4/27/2009



[Corporate Seal]

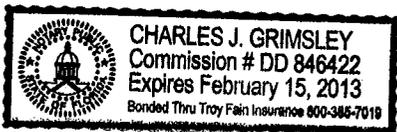
STATE OF FLORIDA  
COUNTY OF MIAMI-DADE

The foregoing instrument was acknowledged before me this 27<sup>th</sup> day of APRIL 2009, by JACK RAMIREZ, who is personally known to me or has produced the following identification N/A.

*Charles J. Grimsley*  
Signature of Notary Public

CHARLES J. GRIMSLEY  
Print Name

[Notarial Seal]



My Commission Expires: 2/15/13

COPIES FURNISHED TO:

JACK RAMIREZ, President  
United Automobile Insurance Company  
1313 Northwest 167<sup>th</sup> Street  
Miami Gardens, Florida 33169-5739

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MARIA E. ABATE, Esquire  
Colodny, Fass, Talenfeld, Karlinsky & Abate, P.A.  
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FINANCIAL SERVICES  
COMMISSION

CHARLIE CRIST  
GOVERNOR

ALEX SINK  
CHIEF FINANCIAL OFFICER

BILL MCCOLLUM  
ATTORNEY GENERAL

CHARLES BRONSON  
COMMISSIONER OF  
AGRICULTURE

DEPARTMENT OF FINANCIAL SERVICES  
OFFICE OF INSURANCE REGULATION

KEVIN M. MCCARTY  
COMMISSIONER

**INVOICE**

*ADMINISTRATIVE PENALTY IMPOSED BY CONSENT ORDER*

In order to ensure that your payment is received and properly credited, please make your check payable to the Florida Department of Financial Services and **return this invoice with your payment** to:

Department of Financial Services  
Revenue Processing Section  
P.O. Box 6100  
Tallahassee, Florida 32314-6100

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REFERENCE

NAME:	United Automobile Insurance Company
ADDRESS:	1313 Northwest 167 <sup>th</sup> Street
CITY, STATE, ZIP:	Miami Gardens, Florida 33169-5739
NAIC CO. CODE:	35319
CASE #:	103030-09
ATTORNEY:	Rhoda K. Johnson
SOURCE:	Market Investigations

<i>Fine Due:</i>	\$250,000.00
<i>Costs Due:</i>	\$ 10,000.00
<i>Total Amount Due:</i>	\$260,000.00

*Amount Remitted:*

OFFICIAL USE ONLY – [PLEASE DO NOT MARK BELOW THIS LINE]

<u>B/T</u>	<u>T/C</u>	<u>F/T</u>	<u>AMOUNT</u>
C	1105 P&C	J	\$ 250,000.00
C	1249	J	\$ 10,000.00