FLORIDA DEPARTMENT
OF
FINANCIAL SERVICES

OFFICE OF INSURANCE REGULATION
BUREAU OF MARKET CONDUCT

TARGET MARKET CONDUCT EXAMINATION REPORT

OF

VESTA FIRE INSURANCE CORPORATION

AS OF

FEBRUARY 28, 2003

EXAMINERS – TOM BALLARD, CIE, CFE, FLMI
BILL DOW, AIE, FLMI

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EXECUTIVE SUMMARY

Vesta Fire Insurance Corporation (Vesta) 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 1, 2002 to January 31, 2003. The examination began on February 9, 2003 and ended March 29, 2003. The last property and casualty market conduct examination on Vesta by the Office of Insurance Regulation (OIR), formerly the Department of Insurance, was completed in 2000.

The purpose of this examination was to review the issues behind the volume of consumer complaints received by the Department of Financial Services, Division of Consumer Services. From a review of the consumer complaints filed against the Company, the OIR focused on claims delays, claims denials, cancellations due to nonpayment of premiums and premium related issues in general.

A total of three hundred fifty (350) files were examined for this Company with twenty-seven (27) errors noted. The following represents general findings; however, specific details are found in each section of the report.

Fifty (50) complaint files were examined with nine (9) errors. Two (2) errors were due to the Company failing to order a police report in claims investigations until several weeks after the claim had been reported, thus delaying the settlement of the claim; One (1) error was due to misrepresenting pertinent facts of coverage by claiming a file was being handled under a Reservation of Rights letter when in fact it was not; One (1) error was due to failing to act upon information in the claims file as the Company had the witness' name two days after the loss and did not obtain his statement; Two (2) errors were due to failing to investigate a loss by not using the information available; One (1) error was due to sending a cancellation notice to the insured that did not have a specific reason listed and Two (2) errors were due to sending out notices with invalid reasons listed on the cancellation notice.

One hundred (100) private passenger automobile policies were examined with no errors noted.

Eighty (80) cancellations were examined with two (2) errors noted. The Company failed to provide the specific reason for cancellation.

Twenty (20) nonrenewals were examined with sixteen (16) errors noted. In two (2) errors, the Company used a reason which was invalid under the circumstances. In fourteen (14) instances, the Company was using the nonrenewal notice to ask for information and not giving a specific reason for the nonrenewal.

One hundred (100) claim files were examined with two (2) errors noted. The errors were the result of the Company using a Reservation of Rights letter as a contact letter and not for the intended purpose of placing the insured on notice of a true coverage question on his policy.

In view of the above noted items, the Company was requested to change the way cancellation and nonrenewal notices were sent to the insured. Specifically, the Company was requested to cease using the cancellation and nonrenewal forms as a request for additional underwriting information. For underwriting purposes, a separate form will now request any additional information desired by the Company and if it is not received by a specified date, a separate cancellation or nonrenewal notice will then be generated and sent to the insured. The Company was also requested to begin ordering police reports when claim files are set up and to have any Reservation of Rights Letter approved by management prior to being sent to an insured. The Company, prior to the conclusion of the examination, adopted both procedures. The claims department has also developed a letter for use in contacting the insured and/or claimant in an effort to reduce the time required to investigate and settle claims.

The examiners also conducted a random check of the cancellation and nonrenewal lists to verify the Company had not cancelled nor nonrenewed any Vesta Industrial Fire Policies in accordance with the Withdrawal Plan as outlined in the Directive issued by the OFS dated March 11, 2003.

As a result of this examination and at the recommendation of the examiners, the Company has also agreed to the following:

- To cease requiring an insured to take full PIP (no deductible) coverage when a non-relative member of the insured household does not own a vehicle.
- To request information from the insured in the form of a request rather than including the request in the cancellation notice.
- To ensure that the insured has enough time to comply with the information request prior to any cancellation being sent, but retaining the right to cancel within the first sixty days.
- To provide a specific reason for any cancellation or nonrenewal sent to the insured.
- To investigate claims in a more timely manner by ordering police reports at the start of the investigation and sending contact letters to the insured and/or claimant immediately.
- To use the information on the police report as part of the claims investigation, including witness names and addresses, the insured statement of the loss and the claimant statement as well.
- To verify the appropriateness of sending a final cancellation notice to the insured advising the policy is being cancelled due to the additional premium not being paid.

All of these process changes are being made by the Company in an effort to provide greater service to insureds/claimants and reduce the number of complaints being filed by consumers with the Department of Financial Services, Division of Consumer Services.

COMPLAINTS

BACKGROUND

The reason the Office of Insurance Regulation (OIR) selected the Company for examination was the number of complaints received by the Department of Financial Services, Consumer Services Division, against the Company. These complaints dealt with time delays in handling claims, claim denials, reasons given for canceling binders within the first sixty (60) days, procedures for canceling policies for non-payment of additional premium due, procedures for the return of any unearned premium due the insured and requiring an applicant to take full PIP (no deductible) coverage when there was a non-relative resident of the household that did not own a vehicle.

Upon arrival, the examiners confirmed the Company has a procedure in place for the handling of complaints. There is a log of complaints kept and reviewed by the Company. This log contained all complaints forwarded by the Department of Financial Services to the Company during the scope of this examination for a response. As a matter of procedure, the underwriting complaints are handled by the Melbourne office of the MGA with a copy of the response going to the Company for approval. They are then sent to the Department of Financial Services by the MGA, once the Company has approved the response. The Lake Mary claims office handles the claims complaints, sends the response to the Company for approval. Once approved, the claims complaint response is then sent to the Department with a copy to both the MGA and the Company.

REVIEW

As part of this review, fifty (50) complaints were reviewed. Each complaint file selected included the review of the underwriting and/or claims file on which the complaint was filed. Thirty-five (35) files were underwriting complaints and fifteen (15) files were claims complaints.

EXAMINATION FINDINGS

Fifty (50) files were reviewed.

Nine (9) errors were found.

The errors are broken down as follows:

1. Two (2) errors were due to failure to implement standards for the proper investigation of claims. This constitutes a violation of Section 626.9541(1)(i)(3)(a), Florida Statutes. These errors were the result of the Company failing to order a police report until several weeks after the claim had been reported for investigation.
2. One (1) error was the result of the Company misrepresenting pertinent facts relating to coverage. This constitutes a violation of Section 626.9541(1)(i)(3)(b), Florida Statutes. This error was the result of the Company advising the subrogation carrier the file was being investigated under a Reservation of Rights concerning possible denial of coverage when in fact, at the time, no Reservation of Rights had been sent to the insured.
3. One (1) error was the result of the Company failing to act upon information contained within the claims file. This constitutes a violation of Section 626.9541 (1)(i)(3)(c). The Company had a police report in the file two days after the loss with the name of the witness and did not try to secure his version of the accident, further delaying the settlement of the claim.
4. Two (2) errors were the result of the Company denying claims without conducting a reasonable investigation based on the information available. This constitutes a violation of Section 626.9541(1)(i)(3)(d), Florida Statutes. These errors were the result of the failure of the Company to use the information available to confirm liability on the insured in liability property damage claims. Specifically, the named insured admitted liability on the police report, and yet the Company initially refused to honor the claims and caused a delay in settlement.
5. One (1) error was the result of the Company failing to give a specific reason for cancellation. This constitutes a violation of Section 627.4091, Florida Statutes. The Company sent a cancellation with the reason of "Characteristics of Risk make it unacceptable."
6. Two (2) errors were the result of the Company using an invalid reason for cancellation. This constitutes a violation of Section 627.728, Florida Statutes. The Company advised one insured they were being cancelled for failing to report a loss timely. The loss date was 10/14/02 and the claim was reported on 10/26/02. This was a windshield loss and the Company's financial exposure was not increased due to the twelve (12) day delay. The second error resulted when the Company cancelled the policy because the insured paid her premium with a check from her fiancé with his business address on the check. The insured did not qualify for a business policy and the Company reason was in error.

All of the errors noted deal with the same problems that generated all of the complaints from the Department of Financial Services, Consumer Services Division. In addition to the Company agreeing to change procedures as outlined above, the claims department has also changed procedures effective March 3, 2003. The two primary changes include the Company now ordering the police report as a clerical function when the loss is reported rather than leaving it to the individual adjuster, and now sending an initial contact letter asking the insured to call the adjuster to discuss the details of the loss. The Company has agreed to all of the above violations.

All of the issues listed above have been addressed with the Company. Suggestions have been made to the Company on how to reduce the number of complaints generated and the Company has incorporated those suggestions. Specifically, the examiners made the following recommendations:

1. **Cancellations.** We recommended that the Company cease using cancellation notices on binders to request additional information. If the Company intends to cancel the binder, it should provide the reason on the notice that applies and not use the notice to request other information. If the Company needs additional information, it should request the desired information, and if the information is not received within a set time limit, issue the cancellation prior to the expiration of the binder with the cause of cancellation being the failure to submit the additional requested information.
2. **PIP restrictions.** We recommended that the Company immediately comply with Section 627.739(4), Florida Statutes, by offering named insureds all PIP options for which they qualify under the statute without regard to residents of the insureds residence.
3. **Premium refunds.** It was determined that premium refunds were sent out to insureds late. The amount of refunds sent late amounted to approximately $940. The interest due as a result of the late payment would have resulted in payments averaging $0.15 per payment. The examiners noted complaints concerning delays in getting refunds from the Company. However, a review of the files indicated the Company had sent the refunds out to the insureds and had included the interest due with the payments. The Company has agreed to the errors.

The Company responded as follows:

1. **Cancellations.** The Company will not use the Cancellation Notice, sent out on binders, as a request for information from the insured. In instances where the company requires additional information, the Company will issue a request for additional information. If the Company does not receive this information by a date shown on the notice, a Cancellation Notice will be sent out with a specific reason given as to why the cancellation took place. On all notices of cancellation, the Company will state the specific reason for such cancellation. The Company will no longer use a Cancellation Notice for the purpose of securing additional information needed for the underwriting process.

2. **PIP restrictions.** The Company will not require the insured to accept a zero deductible and will comply with Section 627.739(4), Florida Statutes.
3. **Delays in the Return of Unearned Premium.** The Company agrees that refunds were issued late as cited, however, the system has been corrected and refunds are being issued timely.

POLICY REVIEW

PRIVATE PASSENGER AUTOMOBILE INSURANCE

The Company writes nonstandard private passenger automobile insurance in the state of Florida in two different programs. One program is Personal Injury Protection and Property Damage Liability coverage. The other program is more inclusive and writes physical damage coverage for the insured automobile. This program includes optional bodily injury, uninsured motorists, and underinsured motorists coverage. Both programs are administered by Space Coast Underwriters, the managing general agent (MGA), for the Company.

For the scope of the examination, the Company wrote 39,685 policies and $16,478,650 in direct written premium in both programs. Vesta wrote much of this business when Interstate Indemnity Company left the market last year.

The examiners pulled one hundred (100) files for review and all one hundred (100) were provided for examination. There were no errors noted in the review.

However, the examiners did note the Company was using PIP selection forms as well as UM and UIM selection forms used by the previous carrier. The examiners made the following recommendations:

Use of Interstate Indemnity Forms for Vesta Business. We recommended the Company secure new Vesta PIP selection forms as well as Vesta UM and UIM selection forms from the insureds upon renewal.

The Company agreed with the examiners with the following response to our request:

Use of Interstate Indemnity Forms for Vesta Business. Upon renewal of certain policies, previously identified as Interstate Indemnity policies, the Company will attempt to secure, from the insureds, new Vesta PIP selection forms, as well as Vesta UM and UIM selection forms, by including a request for same with the renewal offer sent to the insureds. In an effort to minimize complaints arising in connection with this process, the Company will, neither cancel the policy, nor refuse to renew such policy, based upon the failure of the insured to comply with this request by the Company.

CANCELLATIONS/NONRENEWALS

DESCRIPTION OF CANCELLATION/NONRENEWAL PROCEDURES

Of the files reviewed, the Company cancels and nonrenews policies giving the insured the number of days notice required by statutes, plus mailing time. Notices are sent to the insured, agent, and lienholder when applicable. Return premiums are calculated as of the effective date of cancellation.

CANCELLATION REVIEW

Eighty (80) cancellation files were reviewed out of 3,964 cancellation files for the scope of the examination.

EXAMINATION FINDINGS

Two (2) errors were found.

1. Two (2) errors were due to the Company failing to give specific reasons for cancellation on the required notice. This constitutes a violation of Section 627.4091, Florida Statutes. In both files, the Company gave the reason as "Characteristics of Risk make it unacceptable". This was not specific and the Company has agreed.

The Company cancellation procedure was another area of concern for the Office of Insurance Regulation. The examiners found three areas that generated complaints. Only the third item described below places the Company in violation of Florida law.

1. The first area relates to the Company not sending another cancellation notice if the insured fails to pay any additional premium as requested. The policy simply expires with no further notice to the insured. While this practice generates complaints, it does not violate Florida law.
2. The second area relates to the calculation of return premium to the insured when the policy is cancelled. Again, the Company is calculating the return premium correctly. All policy fees for the MGA, and the financing fees are fully earned as are the add-ons written at the request of the insured. Also, if the cancellation is at the request of the insured, the return is calculated at 90% of the pro-rata.
3. The third area of complaint relates to the method used in issuing cancellation notices to the insured. The Company was issuing cancellation notices to the insureds that would also act as premium notices requesting additional premium. However, these notices may also request additional information such as a

physician statement, non-business use statement, copies of drivers license, or other information. In many cases, the Company would simply use the notice to request additional information while giving a specific date of cancellation on the notice. This constitutes a violation of Section 627.4091, Florida Statutes, for failing to provide a specific reason for cancellation.

NONRENEWAL REVIEW

Twenty (20) nonrenewal files were reviewed out of 682 nonrenewal files for the scope of the examination.

EXAMINATION FINDINGS

Sixteen (16) errors were found.

The errors are described as follows:

1. Two (2) errors were due to the Company giving an invalid reason for nonrenewal. This constitutes a violation of Section 627.4091, Florida Statutes. The Company sent a notice with the reason "ineligible for a PIP deductible," when in fact; the insured was eligible for the PIP deductible.
2. Fourteen (14) errors were due to the Company failing to provide a specific reason for nonrenewal. This constitutes a violation of Section 627.4091, Florida Statutes. The Company was using the nonrenewal notice to ask for information and not giving a specific reason for the nonrenewal. The reason was given in the form of a question or request and not a specific reason.

As indicated above, the Company provided invalid reasons for nonrenewal in two (2) files. In both of these files, the Company gave the reason as "ineligible for a PIP deductible". This is incorrect and was also a factor in generating complaints in this area.

As indicated above, the Company failed to provide a specific reason for nonrenewal as required. These errors were also noted as creating complaints against the Company.

Accordingly, there were sixteen (16) violations found in the one hundred (100) files reviewed in this section. All of the violations have been agreed to by the Company. This is an error ratio of sixteen (16%) percent. The Company has agreed to change this process, and not use the cancellation notice and nonrenewal notice as a request for more information.

CLAIMS

DESCRIPTION OF CLAIMS REVIEWED

Private passenger automobile claims reviewed include: bodily injury, property damage liability, collision, comprehensive, uninsured motorists, underinsured motorists, medical payments, and personal injury protection (PIP). There were seventeen hundred and forty-nine (1,749) claims handled during the scope of this examination in both programs for Vesta. This is the first year of writing this business in Florida; therefore, no comparison could be made as to the number of claims handled by the Company during the previous year.

Examination Finding

One hundred (100) files were examined.

Two (2) errors were found.

1. Both errors were due to the improper use of the Reservation of Rights Letter (ROR). This is a violation of Section 626.9541(1)(I)(3)(b), Florida Statutes. In both cases, the Company had sent out ROR's to the insured within days of the date the claim was reported claiming in both cases the insured had failed to report the claim timely. In fact the Company was using this ROR letter as a method of contacting the insured, and hopefully generating a phone call back to discuss the claim.

The Company has ceased this practice and has generated a contact letter to be sent to the insured or claimant as the facts dictate. All ROR's sent out in the future must be approved by a member of management.

As the examiners were reviewing the claim files, it became apparent that fifty (50) files out of the one hundred (100) files reviewed were closed without payment for a number of different reasons. Since one of the areas of concern in the complaints received by the Department of Financial Services was claim denials, we reviewed the fifty (50) denials in detail and found the following breakdown of those claims:

- Claim occurred outside the policy term. 10 files.
- Policy rescinded for material misrepresentation on the application. 7 files.
- Policy cancelled for non-payment of additional premium. 15 files.
- Record Only. The insured went through liability carrier. 3 files.
- Claim denied. No liability or coverage. 12 files.
- No comprehensive or collision coverage on the insured car. 3 files.

The examiners also reviewed the time it took to process the fifty (50) paid claims since another area of major concern in the complaint area was claim handling delays. The examiners found the following:

NUMBER OF DAYS TO PAY	NUMBER OF FILES	PERCENTAGE
1 – 30 Days	37	74%
31 – 60 Days	9	18%
61 – 90 Days	4	8%
90+ Days	0	0%

The average number of days to pay a claim was twenty-eight (28) days from the date reported to the date paid.

From a review of these two charts, it does not notate business practices which violate Florida Statutes.

VESTA INDUSTRIAL FIRE WITHDRAWAL

The examiners were also asked to confirm compliance by Vesta with the Withdrawal Plan as outlined in the directive issued by the Office of Insurance Regulation (OIR) in the letter to the Company dated March 11, 2003.

The examiners completed a review of nonrenewals and cancellations and found that the Company was following the directives outlined as part of the Withdrawal Plan described in the letter from the OIR.

The Company has also provided the examiner with a letter certifying compliance with the directives from OIR.