

**DEPARTMENT OF COMMERCE & INSURANCE**

P.O. Box 690, Jefferson City, Mo. 65102-0690

<i>In Re:</i>	)	
	)	
<b>MILFORD CASUALTY INSURANCE</b>	)	<b>Market Conduct Examination</b>
<b>COMPANY f/k/a MILWAUKEE</b>	)	<b>No. 317159</b>
<b>CASUALTY INSURANCE COMPANY</b>	)	
<b>(NAIC # 26662)</b>	)	

**ORDER OF THE DIRECTOR**

NOW, on this 15<sup>th</sup> day of November, 2021, Director, Chlora Lindley-Myers, after consideration and review of the market conduct examination report of Milford Casualty Insurance Company, f/k/a Milwaukee Casualty Insurance Company (NAIC #26662) (hereinafter “Milford”), examination report number #317159, prepared and submitted by the Division of Insurance Market Regulation (hereinafter “Division”) pursuant to §374.205.3(3)(a)<sup>1</sup>, does hereby adopt such report as filed. After consideration and review of the Stipulation of Settlement and Voluntary Forfeiture (“Stipulation”), relating to the market conduct examination #317159, the examination report, relevant work papers, and any written submissions or rebuttals, the findings and conclusions of such report are deemed to be the Director’s findings and conclusions accompanying this order pursuant to §374.205.3(4). The Director does hereby issue the following orders:

This order, issued pursuant to §374.205.3(4), §374.280 RSMo, and §374.046.15. RSMo, is in the public interest.

<sup>1</sup> All references, unless otherwise noted, are to Revised Statutes of Missouri 2016, as amended, or to the Code of State Regulations, 2020, as amended.

**IT IS THEREFORE ORDERED** that Milford and the Division having agreed to the Stipulation, the Director does hereby approve and agree to the Stipulation.

**IT IS FURTHER ORDERED** that Milford shall not engage in any of the violations of law and regulations set forth in the Stipulation, shall implement procedures to place it in full compliance with the requirements in the Stipulation and the statutes and regulations of the State of Missouri, and to maintain those corrective actions at all times, and shall fully comply with all terms of the Stipulation.

**IT IS FURTHER ORDERED** that Milford shall pay, and the Department of Commerce and Insurance, State of Missouri, shall accept, the Voluntary Forfeiture of \$27,650.00 payable to the Missouri State School Fund in connection with the examination.

**IT IS SO ORDERED.**

**IN WITNESS WHEREOF**, I have hereunto set my hand and affixed the seal of my office in Jefferson City, Missouri, this 15<sup>th</sup> day of November, 2021.



*Chlora Lindley-Myers*

Chlora Lindley-Myers  
Director

**IN THE DEPARTMENT OF COMMERCE AND INSURANCE  
STATE OF MISSOURI**

*In Re:* )  
)  
MILFORD CASUALTY INSURANCE ) **Market Conduct Examination**  
COMPANY f/k/a MILWAUKEE ) **No. 317159**  
CASUALTY INSURANCE COMPANY )  
(NAIC # 26662) )

**STIPULATION OF SETTLEMENT AND VOLUNTARY FORFEITURE**

It is hereby stipulated and agreed by the Division of Insurance Market Regulation (hereinafter “the Division”) and Milford Casualty Insurance Company, f/k/a Milwaukee Casualty Insurance Company (NAIC #26662) (hereinafter “Milford”), as follows:

**WHEREAS**, the Division is a unit of the Missouri Department of Commerce and Insurance (hereinafter “the Department”), an agency of the State of Missouri, created and established for administering and enforcing all laws in relation to insurance companies doing business in the State of Missouri;

**WHEREAS**, Milford has been granted a certificate of authority to transact the business of insurance in the State of Missouri;

**WHEREAS**, the Division conducted a market conduct examination of Milford, examination #317159; and

**WHEREAS**, based on the market conduct examination of Milford, the Division alleges that:

1. In four instances, Milford did not adhere to the NCCI Basic Rules manual when it failed to include payroll in proper classifications in violation of §§287.955.1 & .4<sup>1</sup>.

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<sup>1</sup> All references, unless otherwise noted, are to Missouri Revised Statutes 2016, as amended or to the Code of State Regulations, 2020, as amended

2. In one instance, Milford did not adequately document whether Limited Liability Company (“LLC”) members’ payroll needed to be classified in the audit in violation of §374.205.2(2) and 20 CSR 100-8.040 (3) (A).

3. In 22 instances, Milford incorrectly applied premium discounts in violation of §287.950.2 and §287.955.1.

4. In one instance, Milford did not file the “Waiver of Our Right to Recover from Other” rate in violation of §287.947 and 20 CSR 500-6.950 (7).

5. In one instance, Milford used an unfiled worksheet to determine the schedule rate in violation of §287.310.1, §374.205.2 (2), 20 CSR 500-6.100 (1) and 20 CSR 100-8.040 (3) (A).

6. In 126 instances, Milford failed to attach required forms or endorsements in violation of §287.310.1, 20 CSR 500-6.100 (1), and §§287.955.4 & .5.

7. In 126 instances, Milford used unapproved forms in violation of §287.310.1 and 20 CSR 500-6.100 (1).

8. In six instances, Milford did not provide/maintain a copy of the schedule rate and experience modification worksheets in the file in violation of §287.937.2, §374.205.2 (2) and 20 CSR 100-8.040 (3) (A).

9. In one instance, Milford did not maintain final audit worksheets in violation of §287.937.2, §374.205.2 (2) and 20 CSR 100-8.040 (3) (A).

10. In one instance, Milford incorrectly used a debit for classification peculiarities that is not permitted in Missouri in violation of §287.937.2, §287.947, §287.955 (1) and 20 CSR 100-8.040 (3) (A).

11. In six instances, Milford incorrectly applied, or failed to apply, schedule rating credits or debits in violation of §§287.955.6 (2) (d) & (4) (d) and 20 CSR 500-4.100 (7) (D).

12. In two instances, Milford did not apply the correct experience rating modification at audit in violation of §287.955.1.

13. In 10 instances, Milford did not complete and attach a required Missouri endorsement in violation of §287.310.1 and 20 CSR 500-6.100 (1).

14. In 19 instances, Milford incorrectly applied a multiplier of 150% to estimated payroll and failed to calculate the audit noncompliance charge in violation of §287.955.5.

15. In 36 instances, Milford materially aided producers, not listed on its Registry, to write business, in violation of §375.022.2 and 20 CSR 700-1.020.

16. In 13 instances, Milford failed to complete and bill audits or return premium within 120 days of policy expiration or cancellation in violation of §287.310.1, §§287.955.1 & .3 and 20 CSR 500-6.500 (2) (A).

17. In 19 instances, Milford did not notify the insured of the specific amount of the audit noncompliance charge in violation of §287.955.5.

18. In 15 instances, Milford was late in responding to examiner criticisms in violation of §374.205.2 (2) and 20 CSR 100-8.040 (6).

19. In two instances, Milford was late in responding to formal requests in violation of §374.205.2 (2) and 20 CSR 100-8.040 (6).

**WHEREAS**, the Division and Milford have agreed to resolve the issues raised in the market conduct examination as follows:

A. **Scope of Agreement.** This Stipulation of Settlement and Voluntary Forfeiture (hereinafter “Stipulation”) embodies the entire agreement and understanding of the signatories with respect to the subject matter contained herein. The signatories hereby declare and represent that no promise, inducement or agreement not herein expressed has been made, and acknowledge

that the terms and conditions of this agreement are contractual and not a mere recital.

B. **Remedial Action.** During the course of the examination, Milford represented that it had already corrected many of the issues raised in the market conduct examination. To the extent it has not already done so, Milford agrees to take further remedial action bringing it into compliance with the statutes and regulations of Missouri and agrees to maintain such remedial actions at all times, to reasonably ensure that the errors noted in the market conduct examination and in this Stipulation do not recur. Such remedial actions shall consist of the following:

1. Milford agrees to review all active guarantee cost workers compensation insurance policies with Missouri premium or exposure from January 1, 2015 to June 30, 2016 to determine if Milford applied premium discounts that were not from Premium Discount Table 8. If such premium discounts are discovered, Milford agrees not to seek reimbursement for any undercharges from policyholders, but to reimburse the Second Injury Fund for any underpayments. If the Second Injury Fund is owed additional payments, such payments shall be made to the fund with any applicable interest and penalties together with any amended filings as may be required by the Division of Workers Compensation.

2. Milford agrees that it will attach all Missouri required forms or endorsements to workers compensation policies with Missouri premium or exposure.

3. Milford agrees not to utilize unfiled or unapproved forms on workers compensation policies with Missouri premium or exposure.

4. Milford agrees that it will not utilize a schedule rating credit or debit, or increase or decrease such credits or debits, on workers compensation policies with Missouri premium or exposure without documenting a change in the risk.

5. Milford agrees that it will maintain records for Missouri risks, including schedule rating worksheets, in an archival manner and will not add information to a record that is finalized for file documentation or permanent retention purposes.

6. Milford agrees that it will maintain policy file documentation as required by §374.205.2 and 20 CSR100-8.040 (3) (A).

7. Milford agrees that it will not utilize a debit for classification peculiarities for workers compensation policies with Missouri premium or exposure, as long as such category is not permitted for use in Missouri.

8. Milford agrees not to permit producers to write Milford workers compensation policies with Missouri premium or exposure unless the producer is licensed and listed on Milford's Producer Registry at the time of the sale.

9. Milford agrees that audits on workers compensation policies with Missouri premium or exposure will be completed, billed, and premiums returned within 120 days of policy expiration or cancellation unless a) a delay is caused by the policyholder's failure to respond to reasonable audit requests provided that the requests are timely and adequately documented or b) a delay is by the mutual agreement of the policyholder and Milford provided that the agreement is adequately documented.

10. Milford agrees to timely notify Missouri policyholders of the specific amount of the Audit Noncompliance Charge applied for non-cooperation in the audit process prior to applying such a charge.

11. Milford agrees to issue refunds to all policyholders identified as being overcharged in the Examination Report, and will include interest as determined under §374.191. A letter will be included with the payment indicating that "as a result of a Missouri market conduct

examination, it was found that a premium refund was owed.”

12. Milford agrees to timely respond to criticisms and to formal requests in future Missouri market conduct examinations.

C. **Compliance.** Milford agrees to file documentation with the Division, in a format acceptable to the Division, within 180 days of the entry of a final order of any remedial action taken pursuant to Paragraph B to implement compliance with the terms of this Stipulation or to document the payment of restitution required by this Stipulation. Such documentation is provided pursuant to §374.205.

D. **Ongoing Examination.** Milford agrees to pay any reasonable examination fees expended by the Division in conducting its review of the documentation provided by Milford pursuant to Paragraph C of this Stipulation.

E. **Other Penalties.** The Division agrees that it will not seek penalties against Milford other than those agreed to in this Stipulation, in connection with the above-referenced market conduct examination.

F. **Voluntary Forfeiture.** Milford agrees, voluntarily and knowingly, to surrender and forfeit the sum of \$27,650 such sum payable to the Missouri State School Fund, in accordance with §374.049.11 and §374.280.2.

G. **Non-Admission.** Nothing in this Stipulation nor any act performed by Milford pursuant to or in furtherance of this Stipulation shall be construed as an admission by Milford, this Stipulation being part of a compromise settlement to resolve disputed factual and legal allegations arising out of the above-referenced market conduct examination. Milford expressly denies that any of its actions or alleged actions were knowingly committed or represented a pattern or business practice that would violate insurance unfair trade practice laws or any other

applicable statutes or regulations. The parties agree that nothing in this Stipulation is intended to create any private rights or remedies against Milford, to constitute evidence of wrongdoing by Milford for the purpose of any third-party proceeding, or to waive any of Milford's defenses against any person or entity not a party to this Stipulation. Milford enters into this Stipulation to fully, finally, and completely resolve all matters encompassed within the scope of this Stipulation and market conduct examination without further regulatory or administrative process or any actions, requirement, or monetary payments beyond those enumerated herein.

H. **Waivers.** Milford, after being advised by legal counsel, does hereby voluntarily and knowingly waive any and all rights for procedural requirements, including notice and an opportunity for a hearing, and review or appeal by any trial or appellate court, which may have otherwise applied to the above-referenced market conduct examination.

I. **Changes.** No changes to this Stipulation shall be effective unless made in writing and agreed to by representatives of the Division and Milford.

J. **Governing Law.** This Stipulation shall be governed and construed in accordance with the laws of the State of Missouri.

K. **Authority.** The signatories below represent, acknowledge, and warrant that they are authorized to sign this Stipulation, on behalf of the Division and Milford respectively.

L. **Counterparts.** This Stipulation may be executed in multiple counterparts, each of which shall be deemed an original and all of which taken together shall constitute a single document. Execution and delivery of this Stipulation by facsimile or by an electronically transmitted signature shall be fully and legally effective and binding.

M. **Effect of Stipulation.** This Stipulation shall become effective only upon entry of a Final Order by the Director of the Department (hereinafter "Director") approving this Stipulation.

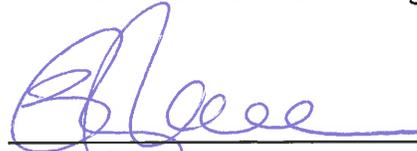
N. **Request for an Order.** The signatories below request that the Director issue an Order approving this Stipulation and ordering the relief agreed to in the Stipulation, and consent to the issuance of such Order.

DATED: 11-02-2021



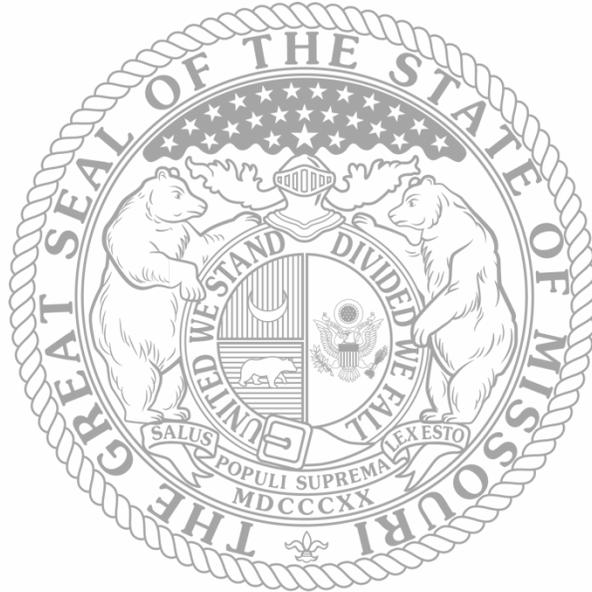
Stewart Freilich  
Chief Market Conduct  
Examiner and Senior Counsel  
Division of Insurance Market Regulation

DATED: October 28, 2021



Barry Moses  
Assistant Secretary and Vice President,  
Senior Regulatory Counsel

**Milford Casualty Insurance Company  
f/k/a Milwaukee Casualty Insurance  
Company**



**FINAL MARKET CONDUCT EXAMINATION REPORT  
Property and Casualty Business of**

**Milwaukee Casualty Insurance Company  
NAIC # 26662**

**MISSOURI SBS EXAMINATION # 317159**

**NAIC MATS #MO-HICKSS1-103**

**November 2, 2021**

**Home Office  
P.O. Box 650771  
Dallas, TX 75265**

**STATE OF MISSOURI  
DEPARTMENT OF COMMERCE & INSURANCE**

**JEFFERSON CITY, MISSOURI**

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November 2, 2021

Honorable Chlora Lindley-Myers, Director  
Missouri Department of Commerce and Insurance  
301 West High Street, Room 530  
Jefferson City, Missouri 65101

Director Lindley-Myers:

In accordance with your market conduct examination warrant, a targeted market conduct examination has been conducted of the specified lines of business and business practices of

**Milwaukee Casualty Insurance Company (NAIC #26662)**

hereinafter referred to as MCIC or as the Company. This examination was conducted as a desk examination at the offices of the Missouri Department of Commerce and Insurance (DCI).

**FOREWORD**

This examination report is generally a report by exception. However, failure to criticize specific practices, procedures, products or files does not constitute approval thereof by the DCI.

During this examination, the examiners cited errors considered potential violations made by the Company. Statutory citations were as of the examination period unless otherwise noted.

When used in this report:

- “Company” refers to the Milwaukee Casualty Insurance Company
- “CSR” refers to the Missouri Code of State Regulation
- “DCI” refers to the Missouri Department of Commerce and Insurance
- “Director” refers to the Director of the Missouri Department of Commerce and Insurance
- “NAIC” refers to the National Association of Insurance Commissioners
- “NCCI” refers to the National Council on Compensation Insurance
- “RSMo” refers to the Revised Statutes of Missouri

**SCOPE OF EXAMINATION**

The DCI has authority to conduct this examination pursuant to, but not limited to, §§374.110, 374.190, 374.205, 375.938, and 375.1009, RSMo., conducted in accordance with §374.205.

The purpose of this examination was to determine if the Company complied with Missouri statutes and DCI regulations. The primary period covered by this review is January 1, 2015 through December 31, 2017, unless otherwise noted. Errors found outside of this time period may also be included in the report.

The examination was a targeted examination involving the following lines of business and business functions: Workers' Compensation Insurance (Underwriting/Rating, Licensing, and Policyholder Service).

The examination was conducted in accordance with the standards in the NAIC's *Market Regulation Handbook*. As such, the examiners utilized the benchmark error rate guidelines from the NAIC *Market Regulation Handbook* when conducting reviews that applied a general business practice standard. The NAIC benchmark error rate for claims practices is seven percent (7%) and for other trade practices it is ten percent (10%). Error rates exceeding these benchmarks are presumed to indicate a general business practice. The benchmark error rates were not utilized for reviews not applying the general business practice standard.

In performing this examination, the examiners reviewed only a sample of the Company's practices, procedures, products and files. Therefore, some noncompliant practices, procedures, products and files may not have been found. As such, this report may not fully reflect all of the practices and procedures of the Company.

## **COMPANY PROFILE**

The following company profile was provided to the examiners by the Company.

### **COMPANY HISTORY**

The Company was incorporated on September 28, 1973, as Milwaukee Guardian Insurance, Inc., a Wisconsin domiciled stock property and casualty insurer and wholly owned subsidiary of Milwaukee Insurance Company ("MIC"). Effective December 31, 1985, MIC contributed 100% of its directly held insurance subsidiaries, including the Company, to Milwaukee Insurance Group, Inc. ("MIG"). Trinity Universal Insurance Company ("TUIC"), a Texas domiciled property and casualty insurer wholly owned by Unitrin, Inc., acquired all of the capital stock of MIG effective October 2, 1995. Upon the change of control of MIG to TUIC, the ultimate ownership and control of the Company transferred to Unitrin, Inc. Effective June 1, 1999, the Company changed its name to Milwaukee Casualty Insurance Company ("MCI") and in 2001 became a directly held, wholly owned subsidiary of TUIC. AmTrust Financial Services, Inc. ("AFSI") purchased the Unitrin Business Insurance ("UBI") commercial book of business and affiliated carriers from Unitrin, Inc. effective June 1, 2008, acquiring the renewal rights to the UBI book of business and certain legal entities. Effective July 24, 2017, the Company re-domesticated to Delaware and as of August 28, 2017, the Company changed to its present name, Milford Casualty Insurance Company.

### **TERRITORY AND PLAN OF OPERATION**

As of December 31, 2017, the Company is licensed to write business in 48 states and the District of Columbia and has the authority to write the following lines of businesses: fire, allied lines, farm owners multiple peril, inland marine, other liability, products liability, commercial auto liability and physical damage, and workers' compensation. The Company's primary lines of business in 2017, in terms of direct premiums written, were workers' compensation (51.5%) and commercial auto liability (35.0%).

## **EXECUTIVE SUMMARY**

The DCI conducted a targeted market conduct examination of Milwaukee Casualty Insurance Company. The examiners found the following areas of concern:

### **UNDERWRITING AND RATING**

#### **Active Guarantee Cost Workers' Compensation Policies**

- In four policies, the Company failed to adhere to NCCI Basic Manual rules when it failed to include Sole Proprietors, Limited Liability Company (LLC), Members' and Officers' correct payroll in the proper classifications. Reference: §§287.955.1 and 287.955.4, RSMo, and NCCI Basic Manual – 2001 Edition User's Guide - Missouri – Rule 2.E.
- In one policy, Company failed to adequately document whether LLC members' payroll needed to be classified in the audit. Reference: §374.205.2(2), RSMo, and 20 CSR 100-8.040(3)(A)
- In 22 policies, the Company failed to adhere to their filed rates by applying premium discounts that were not from the Premium Discount Table 8. Reference: §§287.950.2, 287.955.1, RSMo, and NCCI Basic Manual – 2001 Edition, Appendix A, Table 8
- In one policy, the Company failed to file the "Waiver of Our Right to Recover from Other" rate. Reference: §287.947.1, RSMo, and 20 CSR 500-6.950(7)
- In one policy, the Company used an outdated or unfiled Missouri Schedule Rating worksheet to determine the schedule rate during the policy period. Reference: §§287.310.1, 374.205(2), RSMo, 20 CSR 500-6.100(1) and 20 CSR 100-8.040(3)(A)
- In 76 policies, the Company failed to attach the required forms to the policy. Reference: §§287.310.1, 287.955.4 and .5, RSMo, and 20 CSR 500-6.100(1)
- In 76 policies, the Company failed to submit various forms for which it failed to obtain approval from DCI. Reference: §287.310.1, RSMo, and 20 CSR 500-6.100(1)
- In six policies, the Company failed to provide and/or maintain a copy of the schedule rate and experience modification worksheets in the file to support the debits and modifications. Reference: §§287.937, 374.205(2), RSMo, and 20 CSR 100-8.040(3)(A)
- In one policy, the Company failed to maintain the Final Audit Worksheets that determined the payroll amount used for the Final Premium Audit. Reference: §§287.937.2, 374.205.2.(2), RSMo, and 20 CSR 100-8.040(3)(A)
- In one policy, the Schedule Rate Plan that was utilized at audit had incorrectly indicated a debit in category (2) Classifications Peculiarities which is not allowed as a Missouri schedule modification rating category factor. Reference: §§287.937.2, 287.947, and 287.955(1), RSMo, and 20 CSR 100-8.040(3)(A)
- In one policy, the Company failed to apply the scheduled rating credit for the policy period when there was a change in the risk. Reference: §§287.950.1, 287.955.6(4)(d), (2014), 287.955.6(2)(d), (2016), RSMo, and 20 CSR 500-4.100(7)(D)
- In two policies, the Company incorrectly applied the scheduled rating when there was no documented change in risk. Reference: §§287.950.1, 287.955.6(4)(d), (2014), 287.955.6(2)(d), (2016), RSMo, and 20 CSR 500-4.100(7)(D)
- In three policies, the Company incorrectly applied a scheduled rating and an experience modification when there was no documentation in the file to support the modifications.

Reference: §§287.950.1, 287.955.6(4)(d), (2014), 287.955.6(2)(d), (2016), RSMo, and 20 CSR 500-4.100(7)(D)

- In two policies, the Company failed to apply the correct Experience Rating Modification Factor at audit. Reference §287.955.1 RSMo

#### **Active Small Deductible Workers' Compensation Policies**

- In 10 policies, the Company failed to complete and attach the required Missouri Benefits Deductible Endorsement WC 24 06 03 to the small deductible policies. Reference: §287.310.1, RSMo, and 20 CSR 500-6.100(1)

#### **Late Audit Policies**

- In 19 files, the Company incorrectly applied the multiplier of 150% to the estimated payroll and failed to calculate the Audit Noncompliance Charge in accordance to the NCCI rule. Reference: §287.955.5, RSMo, and NCCI Rule 3-A-13 a. and b.
- In 50 policies, the Company attached forms to its policies for which it failed to obtain approval from the DCI. Reference: §287.310.1, RSMo, and 20 CSR 500-6.100(1)
- In 40 policies, the Company failed to attach the required Missouri Amendatory Endorsement WC240604A form. Reference: §§287.955.4 and .5, 287.310.1, RSMo, 20 CSR 500-6.100(1), and NCCI Forms Manual
- In 10 policies, the Company failed to attach the required Missouri Amendatory Endorsement WC240604B form to the policy. Reference: §§287.955.4 and .5, 287.310.1, RSMo, 20 CSR 500-6.100(1), and NCCI Forms Manual

### **PRODUCER LICENSING**

#### **Active Guarantee Cost Workers' Compensation Policies**

- Thirty-six policies were written by producers that were not appointed by the Company. Reference: §§375.014, 375.022(2), RSMo, and 20 CSR 700-1.020

### **POLICYHOLDER SERVICE**

#### **Late Audit Policies**

- In 13 policies, the Company failed to complete and bill audits or return premium within 120 days of policy expiration or cancellation without an allowable reason for the delay. Reference: §§287.310.1, 287.955.1 and .3, RSMo, and 20 CSR 500-6.500(2)(A)
- In 19 files, the Company did not notify the insured of the amount of the Audit Noncompliance Charge (ANC) that would be applied to the policy if the insureds were uncooperative in completing the audit. Reference: §287.955.5, RSMo, and NCCI Rule 3-A-13.b.

## **EXAMINATION FINDINGS**

### **I. UNDERWRITING AND RATING**

The underwriting and rating portion of the examination provides a review of the Company's compliance with Missouri statutes and regulations regarding underwriting and rating practices

such as the use of policy forms, adherence to underwriting guidelines, assessment of premium, and procedures to decline or terminate coverage.

**A. Active Guarantee Cost Workers' Compensation Policies**

**1. NAIC Chapter 20 Underwriting and Rating Standard 1: The rates charged for the policy coverage are in accordance with filed rates (if applicable) or the regulated entity's rating plan.**

To test for this standard, examiners requested and reviewed a random sample of 79 active guarantee cost workers' compensation policies from data supplied by the Company to determine if the premiums charged agreed with the Company's rate filing and NCCI rules.

Field Size	344
Sample Size	79
Type of Sample	Random
Number of Files in Error	29
Error Ratio	36.70%

The following errors were found in this review.

Finding 1: In four policies, the Company failed to adhere to NCCI Basic Manual rules when it failed to include Sole Proprietors, LLC, Members' and Officers' payroll in the proper classifications, resulting in over and undercharges.

Reference: §§287.955.1 and .4, RSMo, and NCCI Basic Manual – 2001 Edition User's Guide Rule 2.E

Finding 2: In one policy, the Company failed to adequately document whether LLC member's payroll needed to be classified in the audit.

Reference: §374.205.2(2), RSMo, and 20 CSR 100-8.040(3)(A).

Finding 3: In 22 policies, the Company failed to adhere to their filed rates by applying premium discounts that were not from Premium Discount Table 8, resulting in excess discounts and underpayments to the premium and Second Injury Fund.

Reference: §§287.950.2, 287.955.1, RSMo, and NCCI Basic Manual 2001 Edition, Appendix A, Table 8

Finding 4: In one file, the Company failed to file the "Waiver of Our Right to Recover from Other" rate, resulting in overcharges.

Reference: §287.947.1, RSMo, and 20 CSR 500-6.950(7)

**2. NAIC Chapter 20 Underwriting and Rating Standard 5: All forms, including policies contracts, riders, amendments, endorsement forms and certificates are filed with the insurance department if applicable.**

To test for this standard, examiners requested and reviewed a random sample of 79 active guarantee cost workers' compensation policies from data supplied by the Company to determine if the forms making the policy were filed with the Director and used as filed.

Field Size	344
Sample Size	79
Type of Sample	Random
Number of Files in Error	77
Error Ratio	97.46%

The following errors were found in this review.

Finding 1: In one policy, the Company used an outdated or unfiled Missouri Schedule Rating worksheet to determine the schedule rate during the policy period.

Reference: §§287.310.1, 374.205(2), RSMo, 20 CSR 500-6.100(1) and 20 CSR 100-8.040(3)(A)

Finding 2: In 76 policies, the Company failed to attach the required forms: Missouri Notification of Additional Mesothelioma Benefits – WC 24 03 02; Missouri Exclusion of Additional Mesothelioma Benefits WC240303; Missouri Property and Casualty Guaranty Association Notification WC240602B; Missouri Amendatory Endorsement WC240604A (eff. 09/01/2013 – 01/01/2017); Terrorism Risk Insurance Program Reauthorization Act Disclosure Endorsement.

Reference: §§287.955.4 and .5, 287.310.1, RSMo, and 20 CSR 500-6.100(1)

Finding 3: In 76 policies, the Company failed to submit various forms to the Department of Insurance for specific approval prior to use. The Company failed to obtain approval for forms: Workers Compensation and Employers Liability Insurance Policy – WC 00 00 00 A; Information Page Notes – WC 00 00 01A (withdrawn 1/1/2015); Terrorism Risk Insurance Program Reauthorization Act Disclosure WC 00 04 22 A (withdrawn 01/20/2015); Missouri Amendatory Endorsement WC 24 06 04 (withdrawn 09/1/2013); Missouri Employer Paid Medical Endorsement WC 24 04 06 C (withdrawn 8/28/2016); WC 99 00 01 B (never approved in MO).

Reference: §287.310.1, RSMo, and 20 CSR 500-6.100(1)

**3. NAIC Chapter 20 Operations/Management Standard 7: Records are adequate, accessible, consistent and orderly and comply with state record retention requirements.**

To test for this standard, examiners requested and reviewed a random sample of 79 active guarantee cost workers' compensation policies from data supplied by the Company to determine if compliance of state record retention requirements were met.

Field Size	344
Sample Size	79
Type of Sample	Random
Number of Files in Error	7
Error Ratio	8.86%

Finding 1: In six policies, the Company failed to provide and/or maintain a copy of the schedule rate and experience modification worksheets in the file to support the debits and modifications.

Reference: §§287.937, 374.205(2), RSMo, and 20 CSR 100-8.040(3)(A)

Finding 2: In one policy, the Company failed to maintain the Final Audit Worksheets that determined the payroll amount used for the Final Premium Audit.

Reference: §§287.937.2, 374.205.2(2,), RSMo, and 20 CSR 100-8.040(3)(A)

**4. NAIC Chapter 21 Underwriting and Rating Standard 2: Schedule rating or individual risk premium modification plans, where permitted, are based on objective criteria with usage supported by appropriate documentation.**

To test for this standard, examiners requested and reviewed a random sample of 79 active guarantee cost workers' compensation policies from data supplied by the Company to determine if schedule rating credits or debits were based on actual changes in risk and whether evidence was in the file of the insurer that documented the reason for the debit or credit at the time the debit or credit was applied.

Field Size	344
Sample Size	79
Type of Sample	Random
Number of Files in Error	6
Error Ratio	7.59%

The following errors were found in this review.

Finding 1: In one policy, the Schedule Rate Plan that was utilized at audit had incorrectly indicated a debit in category (2) Classifications Peculiarities which is not allowed as a Missouri schedule modification rating category factor, resulting in a premium overcharge.

Reference: §§287.937.2, 287.947, and 287.955(1), RSMo, and 20 CSR 100-8.040(3)(A)

Finding 2: In one policy, the Company failed to apply the schedule rating credit of 5% for the policy period when there was a documented change in the risk, resulting in overcharges.

Reference: §§287.950.1, 287.955.6(4)(d), (2014), 287.955.6(2)(d), (2016), RSMo, and 20 CSR 500-4.100(7)(D)

Finding 3: In two policies, the Company incorrectly applied a schedule rating debit when there was no documentation in the file to support the debits, resulting in overcharges.

Reference: §§287.950.1, 287.955.6(4)(d), (2014), 287.955.6(2)(d), (2016), RSMo, and 20 CSR 500-4.100(7)(D)

Finding 4: In three policies, the Company incorrectly applied a schedule rating credit and an experience modification when there was no documentation in the file to support the credit or the experience modification, resulting in overcharges.

Reference: §§287.950.1, 287.955.6(4)(d), (2014), 287.955.6(2)(d), (2016), RSMo, and 20 CSR 500-4.100(7)(D)

**5. NAIC Chapter 21 Underwriting and Rating Standard 5: Verification of experience modification factors.**

To test for this standard, examiners requested and reviewed a random sample of 79 active guarantee cost workers' compensation policies from data supplied by the Company to determine if the file contained NCCI documentation of the experience modification factor and if the correct factor was applied to the policy.

Field Size	344
Sample Size	79
Type of Sample	Random
Number of Files in Error	2
Error Ratio	2.53%

The following errors were found in this review.

Finding 1: In two policies, the Company failed to apply the correct Experience Rating Modification Factor at audit, which resulted in a premium undercharge and overcharge.

Reference §287.955.1, RSMo

**B. Active Small Deductible Workers' Compensation Policies**

**1. NAIC Chapter 21 Underwriting and Rating Standard 11: All forms and endorsements forming a part of the contract are listed on the declaration page and should be filed with the insurance department (if applicable).**

To test for this standard, examiners requested and reviewed a census sample of 12 active small deductible workers' compensation policies from data supplied by the Company to determine if policies contained required forms.

Field Size	12
Sample Size	12
Type of Sample	Census
Number of files in Error	10
Error Ratio	83.33%

The following errors were found in this review.

**Finding 1:** In 10 policies, the Company failed to complete and attach the required Missouri Benefits Deductible Endorsement WC 24 06 03 to the small deductible policies reviewed.

Reference: §287.310.1, RSMo, and 20 CSR 500-6.100(1)

### C. Late Audit Policies

- 1. NAIC Chapter 20 Underwriting and Rating Standard 1: The rates charged for the policy coverage are in accordance with filed rates (if applicable) or the regulated entity’s rating plan.**

To test for this standard, examiners requested and reviewed a random sample of 50 late audit workers’ compensation policies from data supplied by the Company to determine if the premiums charged agreed with the Company’s rate filings and NCCI rules.

Field Size	74
Sample Size	50
Type of Sample	Random
Number of files in Error	19
Error Ratio	38.00%

The following errors were found in this review.

**Finding 1:** In 19 policies, the Company incorrectly applied the multiplier of 150 % to the estimated payroll and failed to calculate the ANC in accordance to the NCCI rule.

Reference: §287.955.5, RSMo, and NCCI Rule 3-A-13 a. and b.

- 2. NAIC Chapter 20 Underwriting and Rating Standard 5: All forms, including policies, contracts, riders, amendments, endorsement forms and certificates are filed with the insurance department, if applicable.**

To test for this standard, examiners requested and reviewed a random sample of 50 late audit workers’ compensation policies from data supplied by the Company to determine if the forms making the policy were filed with the Director and were used as filed.

Field Size	74
Sample Size	50
Type of Sample	Random
Number of files in Error	50
Error Ratio	100.00%

The following errors were found in this review.

**Finding 1:** In 50 policies, the Company attached forms to policies for which it failed to obtain approval from the DCI. The Company continued to use the following forms: Workers Compensation and Employers Liability Insurance Policy – WC 00 00 00 A (never approved in MO); Information Page Notes – WC 00 00 01A (withdrawn 1/1/2015); and Missouri Amendatory Endorsement WC 24 06 04 (withdrawn 09/1/2013).

Reference: §287.310.1, RSMo, and 20 CSR 500-6.100(1)

**3. NAIC Chapter 21 Underwriting and Rating Standard 11: All forms and endorsements forming a part of the contract are listed on the declaration page and should be filed with the insurance department (if applicable).**

To test for this standard, examiners requested and reviewed a random sample of 50 late audit workers' compensation policies from data supplied by the Company to determine if policies contained required forms.

Field Size	74
Sample Size	50
Type of Sample	Random
Number of files in Error	50
Error Ratio	100.00%

The following errors were found in this review.

**Finding 1:** In 40 policies, the Company failed to attach the required Missouri Amendatory Endorsement WC240604A form.

Reference: §§287.310.1, 287.955.4 and .5, RSMo, 20 CSR 500-6.100(1) and NCCI Forms Manual

**Finding 2:** In 10 policies, the Company failed to attach the required Missouri Amendatory Endorsement WC240604B form.

Reference: §§287.310.1, 287.955.4 and .5, RSMo, 20 CSR 500-6.100(1) and NCCI Forms Manual

## II. PRODUCER LICENSING

The producer licensing portion of the examination reviews a regulated entity's compliance with Missouri producer licensing laws and regulations.

### A. Active Guarantee Cost Workers' Compensation Policies

#### 1. NAIC Chapter 20 Producer Licensing Standard 1: Regulated entity records of licensed and appointed (if applicable) producers and in jurisdictions where applicable, licensed company or contracted independent adjusters agree with insurance department records.

To test for this standard, examiners requested and reviewed a random sample of 79 active guarantee cost workers' compensation policies from data supplied by the Company to determine if any policies were sold by producers that were not properly appointed by the Company.

Field Size	344
Sample Size	79
Type of Sample	Random
Number of files in Error	36
Error Ratio	45.57%

The following errors were found in this review.

Finding 1: In 36 policies, policies were written by producers that were not listed on the Company's producer registry or the appointment date was more than thirty days after the policy's effective date.

Reference: §§375.014, 375.022(2), RSMo, and 20 CSR 700-1.020.

## III. POLICYHOLDER SERVICE

The policyholder service portion of the examination reviews the Company's compliance with Missouri statutes and regulations regarding notice/billing, delays/no response, and premium refund and coverage questions.

### A. Late Audit Policies

#### 1. NAIC Chapter 20 Policyholder Service Standard 1: Premium notices and billing notices are sent out with an adequate amount of advance notice.

To test for this standard, examiners requested and reviewed 50 late audit workers' compensation policies from data supplied by the Company to determine if audits were completed and billed within 120 days of policy expiration or if there was a permissive reason for the delay.

Field Size	347
Sample Size	50
Type of Sample	Random
Number of files in Error	32
Error Ratio	64.00%

This review had the following errors:

Finding 1: In 13 policies, the Company failed to complete and bill audits or return premium within 120 days of policy expiration or cancellation and failed to provide evidence the audits were late due to a mutual agreement between the Company and the insured or due to the insured’s failure to respond to reasonable and timely audit requests.

Reference: §§287.955.1 & .3, 287.310.1, RSMo, and 20 CSR 500-6.500(2)(A)

Finding 2: In 19 files, the Company did not notify the insured of the amount of the ANC that would be applied to the policy if the insured were uncooperative in the audit process. The Company’s requests for information state the policy may be subject to a potential surcharge, but does not provide the specific amount of the ANC in accordance with NCCI rules.

Reference: §287.955.5, RSMo, and NCCI Rule 3-A-13.b.

#### IV. CRITICISMS AND FORMAL REQUESTS TIME STUDY

This study is based upon the time required by the Company to provide the examiners with the requested material or to respond to criticisms. Missouri statutes and regulations require companies to respond to criticisms and formal requests within 10 calendar days. In the event an extension of time was requested by the Company and granted by the examiners, the response was deemed timely if it was received within the subsequent time frame. If the response was not received within the allotted time, the response was not considered timely.

##### A. Criticism Time Study

Number of Calendar Days to Respond	Number of Criticisms	Percentage of Total
0 to 10 days	28	65.00%
Over 10 days and beyond extension due date	12	28.00%
Over 10 days with no extension	3	7.00%
Totals	43	100.00%

Finding 1: The Company was late in responding to 15 criticisms.

Reference: §374.205.2(2), RSMo, and 20 CSR 100-8.040(6)

## B. Formal Request Time Study

Number of Calendar Days to Respond	Number of Requests	Percentage of Total
0 to 10 days	17	89.00%
Over 10 days and beyond extension due date	2	11.00%
Over 10 days with no extension	0	0.00%
Totals	19	100.00%

Finding 1: The Company was late in responding to two requests.

Reference: §374.205.2(2), RSMo, and 20 CSR 100-8.040(6)

## **EXAMINATION REPORT SUBMISSION**

Attached hereto is the Division of Insurance Market Regulation's Final Report of the examination of Milwaukee Casualty Insurance Company (NAIC #26662), Examination Number 317159. This examination was conducted by Shelly Herzing, Dale Hobart, Darren Jordan and Tad Herin. The findings in the Final Report were extracted from the Market Conduct Examiner's Draft Report, dated December 17, 2020. Any changes from the text of the Market Conduct Examiner's Draft Report reflected in this Final Report were made by the Chief Market Conduct Examiner or with the Chief Market Conduct Examiner's approval. This Final Report has been reviewed and approved by the undersigned.

11-02-2021

\_\_\_\_\_  
Date



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Stewart Freilich  
Chief Market Conduct Examiner