

**DEPARTMENT OF INSURANCE, FINANCIAL  
INSTITUTIONS AND PROFESSIONAL REGISTRATION**

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

In re: )  
 ) Examination No. 0904-20-TGT  
National Interstate Insurance Company (NAIC #32620) )

**ORDER OF THE DIRECTOR**

NOW, on this 22<sup>ND</sup> day of August, 2011, Director John M. Huff, after consideration and review of the market conduct examination report of National Interstate Insurance Company (NAIC #32620), (hereafter referred to as "the Company") report numbered 0904-20-TGT, prepared and submitted by the Division of Insurance Market Regulation pursuant to §374.205.3(3)(a), RSMo, and the Stipulation of Settlement ("Stipulation"), does hereby adopt such report as filed. After consideration and review of the Stipulation, report, relevant workpapers, and any written submissions or rebuttals, the findings and conclusions of such report is deemed to be the Director's findings and conclusions accompanying this order pursuant to §374.205.3(4), RSMo.

This order, issued pursuant to §§374.205.3(4) and 374.280, RSMo and §374.046.15. RSMo (Cum. Supp. 2010), is in the public interest.

IT IS THEREFORE ORDERED that, the Company and the Division of Insurance Market Regulation having agreed to the Stipulation, the Director does hereby approve and agree to the Stipulation.

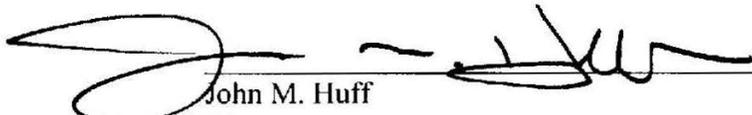
IT IS FURTHER ORDERED that the Company shall not engage in any of the violations of law and regulations set forth in the Stipulation and shall implement procedures to place the Company in full compliance with the requirements in the Stipulation and the statutes and regulations of the State of

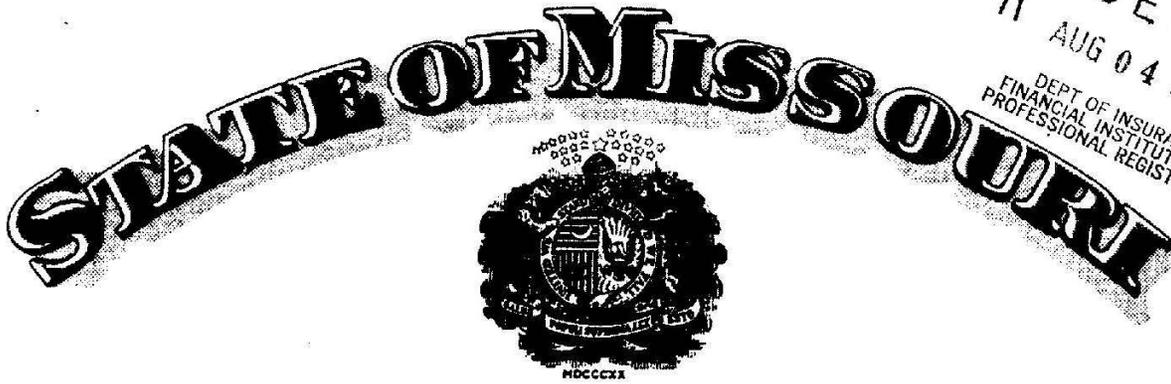
Missouri and to maintain those corrective actions at all times.

IT IS FURTHER ORDERED that the Company shall pay, and the Department of Insurance, Financial Institutions and Professional Registration, State of Missouri, shall accept, the Voluntary Forfeiture of \$43,000, payable to the Missouri State School Fund.

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 22<sup>nd</sup> day of AUGUST, 2011.

  
John M. Huff  
Director



**DEPARTMENT OF INSURANCE, FINANCIAL  
INSTITUTIONS AND PROFESSIONAL REGISTRATION**

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

TO: National Interstate  
3250 Interstate Dr.  
Richfield, OH 44286-9000

RE: National Interstate Insurance Company (NAIC #32620)  
Missouri Market Conduct Examination #0904-20-TGT

**STIPULATION OF SETTLEMENT  
AND VOLUNTARY FORFEITURE**

It is hereby stipulated and agreed by John M. Huff, Director of the Missouri Department of Insurance, Financial Institutions and Professional Registration, hereinafter referred to as "Director," and National Interstate Insurance Company (NAIC #32620), (hereafter referred to as "National Interstate"), as follows:

WHEREAS, John M. Huff is the Director of the Missouri Department of Insurance, Financial Institutions and Professional Registration (hereafter referred to as "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 in Missouri; and

WHEREAS, National Interstate has been granted a certificate of authority to transact the business of insurance in the State of Missouri; and

WHEREAS, the Department conducted a Market Conduct Examination of National Interstate and prepared report number 0904-20-TGT; and

WHEREAS, the report of the Market Conduct Examination revealed that:

1. In some instances, National Interstate failed to provide examiners information in its underwriting manual indicating who, when, why, or how the Company's underwriters apply the

“may be” in the experience rating modifier for the assigned risk, in violation of §374.205, RSMo.

2. In some instances, National Interstate used applications that included the prohibited question regarding the applicant’s prior coverage being declined, cancelled, or non-renewed, in violation of §375.936(11)(f), RSMo, 20 CSR 500-9.100, and DIFP Bulletin 94-04.

3. In some instances, National Interstate failed to properly inform its active private passenger automobile customers about the diminishing deductible coverage and explain to insureds who did not present a claim of their deductible amount under that coverage how to do so, in violation of §§375.144(2) and (3) and 376.936(6), RSMo, and 20 CSR 500-2.100(3).

4. In some instances, National Interstate failed to properly inform the insureds about the usage of the towing coverage, in that the language used by the Company to describe the coverage was vague and potentially misleading, in violation of §375.936(6)(a), RSMo.

5. In some instances, National Interstate failed to apply an applicable discount or surcharge or incorrectly charged a particular surcharge, in violation of §379.321.1, RSMo, and 20 CSR 500-2.100(3).

6. In one instance, National Interstate failed to properly rate a policy because the information provided on the declaration sheet did not reflect the actual coverage afforded, in violation of §375.145, RSMo.

7. In some instances, the prohibited question regarding the National Interstate’s Commercial Automobile applicant’s prior coverage being declined, cancelled, or non-renewed had been asked and answered, in violation of §375.936(11)(f), RSMo, 20 CSR 500-9.100, and DIFP Bulletin 94-04.

8. In one instance, National Interstate deviated from its filed rates and incorrectly rated the policy, in violation of §§379.318(4), 379.321.6(1) and 379.356.1, RSMo.

9. In some instances, National Interstate misclassified territories and vehicles, used incorrect schedule rating worksheets, and failed to match individual underwriting judgments with amounts quoted from a rating organization, in violation of §§379.321.6 and 379.336, RSMo.

WHEREAS, National Interstate hereby agrees to take remedial action bringing it into compliance with the statutes and regulations of Missouri and agrees to maintain those corrective actions at all times, including, but not limited to, taking the following actions:

1. National Interstate agrees to use its best efforts to take corrective action to assure that the errors noted in the above-referenced market conduct examination report do not recur;

2. National Interstate agrees to review all of its Private Passenger Automobile policy files dated January 1, 2007, to the date a final Order is entered in this matter to determine if any other policyholders were overcharged. If so, it must issue any refunds on rate adjustments at renewal. These refunds must include an additional payment of nine per cent (9%) interest per annum, pursuant to §408.020, RSMo. A letter must be included with the refund payments, indicating that “as a result of a Missouri Market Conduct examination,” the Company owes a rate adjustment refund on the policy. Additionally, evidence must be provided to the Department that such payments have been made within 90 days after the date of the Order finalizing this examination.

3. National Interstate agrees to review all of its Commercial Automobile policy files dated January 1, 2007, to the date a final Order is entered in this matter to determine if any other policyholders were overcharged. If so, it must issue any refunds on rate adjustments at renewal. These refunds must include an additional payment of nine per cent (9%) interest per annum, pursuant to §408.020, RSMo. A letter must be included with the refund payments, indicating that “as a result of a Missouri Market Conduct examination,” the Company owes a rate adjustment refund on the policy. Additionally, evidence must be provided to the Department that such payments have been made within 90 days after the date of the Order finalizing this examination.

WHEREAS, National Interstate is of the position that this Stipulation of Settlement and Voluntary Forfeiture is a compromise of disputed factual and legal allegations, and that payment of a forfeiture is merely to resolve the disputes and avoid litigation; and

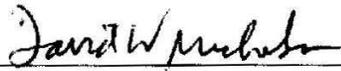
WHEREAS, National Interstate, after being advised by legal counsel, does hereby voluntarily and knowingly waive any and all rights for procedural requirements, including notice and an opportunity for a hearing, which may have otherwise applied to the above referenced Market Conduct Examination; and

WHEREAS, National Interstate hereby agrees to the imposition of the ORDER of the Director and as a result of Market Conduct Examination #0904-20-TGT further agrees, voluntarily and knowingly to surrender and forfeit the sum of \$43,000.

NOW, THEREFORE, in lieu of the institution by the Director of any action for the SUSPENSION or REVOCATION of the Certificate(s) of Authority of National Interstate to transact

the business of insurance in the State of Missouri or the imposition of other sanctions, National Interstate does hereby voluntarily and knowingly waive all rights to any hearing, does consent to the ORDER of the Director and does surrender and forfeit the sum of \$43,000, such sum payable to the Missouri State School Fund, in accordance with §374.280, RSMo.

DATED: 8/3/11

  
\_\_\_\_\_  
President  
National Interstate Insurance Company



May 6, 2011

*Sent via e-mail/Original via UPS Overnight*

Ms. Carolyn H. Kerr, Esq.  
Senior Counsel  
Missouri Department of Insurance  
Financial Institutions & Professional Registration Regulation Division  
301 W. High Street, Room #530  
Jefferson City, MO 65102

RECEIVED  
MAY 10 2011  
DEPT OF INSURANCE,  
FINANCIAL INSTITUTIONS &  
PROFESSIONAL REGISTRATION

RE: Market Conduct Examination of National Interstate Insurance Company  
NAIC No. 32620

Dear Ms. Kerr:

Thank you for the opportunity to respond to your letter dated March 31, 2011 ("letter"). As stated in prior correspondence, National Interstate Insurance Company's goal is to be fully compliant with all laws and all alleged violations are taken very seriously.

This response addresses each issue in the order in which you raise them in your letter. National Interstate Insurance Company is referred to herein as the "Company" or "National Interstate," the Missouri Department of Insurance is referred to as the "Department" and the examination is referred to as the "exam."

**I. Underwriting & Rating Practices**

**1. "On page 8 of the exam report, the examiners noted that they were unable to locate an underwriting rule in the Company's underwriting manual indicating who, when, why or how the Company's underwriters apply the "may be" in the experience rating modifier for the assigned risk. The Company's failure to include this information in its underwriting manual violates §374.205, RSMo, in that the Company was unable to produce this information upon request during the examination."**

The Company continues to maintain that underwriter discretion in the usage of this permissive modifier was appropriate because the proper filing to do so was timely filed with the Department. However, in an effort to address the examiners' criticism, the Company agreed that these types of files will have specifically documented information when this permissive modifier is used in Missouri in the future.

**2. "On pages 8-9 of the exam report, the examiners criticized National Interstate for using applications that included the prohibited question regarding the applicant's prior coverage being declined, cancelled, or non-renewed, in violation of §375.936(11)(f), RSMo, 20 CSR 500-9.100, and DIFP Bulletin 94-04. This error was noted in all 106 Private Passenger Automobile files reviewed, resulting in a 100% error ratio."**

As stated in your letter, the Company has taken steps to correct this error by removing the question from all of its Missouri private passenger automobile applications.

**3. “On page 10 of the exam report, the examiners cited National Interstate for failing to properly inform 43 active private passenger automobile customers about the diminishing deductible coverage and failed to provide supporting documentation to the examiners about how the Company informs the insureds who did not present a claim of their deductible amount under that coverage how to do so. The examiners cited the Company with violating §375.144(2) and (3) and 376.936(6), RSMo, 20 CSR 500-2.100(3).”**

In spite of current internal programming limitations, any insured that purchased the diminishing deductible coverage would have been informed of the current deductible in his/her renewal review and at any time upon request. It is also important to note that no insured has informed us that he/she did not know his/her current deductible, or that he/she had any confusion regarding his/her deductible. Thus, the Company disagrees that it indirectly made or used any misrepresentation, concealment or suppression of a material fact in violation of §375.144(2), RSMo, or that it engaged in any pattern or practice of making any false statement of material fact in violation of §375.144(3), RSMo. Therefore, the Company strongly disagrees that it committed an unfair trade practice as alleged in your letter.

However, in an effort of cooperation and to clarify any potential misconceptions contained in the exam, the Company has put into place a manual process whereby a customer service representative will enter the insured’s then-current deductible on the policy, reflecting the diminished deductible as appropriate. Once programmed into our internal systems, the diminished deductible will be automatically reflected on the policy. As no insured was apparently impacted adversely by our prior method of handling their deductible, the Company respectfully requests that the Department reconsider its allegations and related forfeiture in this instance.

**4. “On page 11 of the report, the examiners criticized National Interstate for failing to properly inform the insureds about the usage of the towing coverage. The language used by the Company to describe the coverage was vague and potentially misleading, in violation of §375.936(6) (a), RSMo. The resulting error ratio was 37%, which exceeds the NAIC benchmark error rate and therefore, constitutes a violation of §375.942, RSMo.\* \* \*”**

The Company would once again like to note that insureds with towing coverage *were* made aware of the towing coverage that was available to them. Similar to the deductible issue above, it seems that this towing issue is one that only the examiners have made an issue based on their conception of vagueness. The Company’s prior filing, which was approved by the Department, contained language that the Company believes was the most beneficial to the insured in that the amount of coverage available was not stated in a certain amount or limited monetarily, which we believe provided a greater benefit to the insured than a stated amount or a stated limitation. The Company only sought to pay the reasonable expense of towing a

covered vehicle to the nearest qualified facility without having an insured concerned about the price of such tow. We believe this was beneficial to an insured as many times, especially in the rural areas of Missouri for example, towing expenses could be quite significant for an insured to get a vehicle to a qualified facility. Therefore, the Company clearly disagrees that it misrepresented the benefits, advantages, conditions or terms of this coverage, which you cite as a violation of §375.936(6)(a), RSMo. However, as a matter of compromise, and as noted in your letter, the Company has re-filed the towing endorsement language which now limits tows to a maximum amount of \$1,000. Based upon the above facts, the Company respectfully requests that the Department reconsider the forfeiture in this instance.

**5. “The examiners described 10 more criticisms on pages 12-13 of the examination report relating to National Interstate’s underwriting and rating practices. These errors were not counted in any error ratio because they were not violations of statutes which require a finding of “and act as part of a practice” in order for a forfeiture to attach. They are not subject to the “general business practices” standard of §375.934, RSMo. As such, each individual violation can be assessed a separate forfeiture, depending on the classification level of that violation...All 10 files criticized contained violations of §379.321.1, RSMo, in that in each file, the Company failed to apply an applicable discount or surcharge or incorrectly charged a particular surcharge.”**

For 8 of the above-noted 10 policies, the Company was criticized for not applying a paid-in-full discount, which was approved by the Department, because it was not yet programmed internally for use in the market. While it could be argued that the Company should have waited to file the discount until after the programming had been completed, it is important to note that the Company did not discriminate against any insured as the discount was not given to any insured. As such, there was no discriminatory or disparate treatment of insureds. The Company’s Personal Lines Department was certainly not aware that just having an approved discount available actually required it to be used immediately upon filing it, as the exam seems to conclude. If the Company would have known that any examiner would have penalized it for just having made the filing, it would not have filed the discount until it was programmed internally. However, as a result of the exam, the Company has withdrawn the paid-in-full discount and, as such, this discount will no longer be available to any insured in Missouri. We believe this is a loss for Missouri consumers. In any event, as requested, documentation supporting the refund of the additional 6 policies noted is enclosed herein. Given these circumstances, the Company respectfully requests that this forfeiture be reconsidered.

As it regards 1 of the 10 above-noted policies, the Company and the examiners disagreed on whether an applicable factor was a vehicle rating factor or a surcharge factor. As a result, the computation by the examiners was different from the Company’s computation on this factor because the examiners did not interpret the factor as we intended it. However, again in an effort to satisfy the Department, the Company has re-filed its formula for rating medium duty tow vehicles, adding the use of vehicle value factors rather than surcharges to clarify this factor. This clarification did not change the premium charged for this one policy. Because there is no difference in the resulting premium charged pre-exam and post-exam, the

Company believes there should be no monetary forfeiture and respectfully requests that the forfeiture in this instance be reconsidered.

Finally, in 1 of the 10 above-noted policies, the examiners criticized the Company that a potential surcharge was listed on the declarations page but not applied to this policy. However, the Company programmed this particular surcharge to be listed on the declarations page in the event it was needed to be applied to the policy mid-term. When not applicable, the surcharge was of course not actually charged. Although we explained this reasoning to the examiners, they concluded that this particular policy was undercharged, when in fact, it was not. In any event, in an effort to satisfy the Department, the Company has taken steps to re-program this surcharge so that it only shows on the declarations page when actually applied to a policy. Under these factual circumstances, we would respectfully request that the applicable forfeiture be reconsidered.

**“\* \* \* National Interstate must review all of its Private Passenger Automobile policy files dated January 1, 2007, to the date a final Order is entered in this matter to determine if any other policyholders were overcharged\* \* \*”**

The Company is in the process of reviewing its policies with effective dates from January 1, 2007 and will inform the Department of the results within 90 days from the date of a final Order.

6. **“On page 13 of the exam report, the examiners noted five instances where the prohibited question regarding the Commercial Automobile applicant’s prior coverage being declined, cancelled or non-renewed had been asked and answered, in violation of §375.936(11)(f), RSMo, 20 CSR 500-9.100, and DIFP Bulletin 94-04 \* \* \* ”**

The Company has specifically noted next to the question in its Commercial Automobile applications that the question is not applicable in Missouri.

7. **“In one instance \* \* \* National Interstate deviated from its filed rates and incorrectly rated the policy, resulting in an undercharge of over \$83,000 in premium. The examiners noted violations of §379.318(4), 379.321.6(1) and 379.356.1, RSMo. \* \* \*”**

The Company disagrees that it deviated from its filed rates in that the application of the experience rating modifier in the Company’s filing was permissive and subject to underwriter discretion. However, the Company has now decided that underwriter subjectivity will no longer be allowed in the use of the modifier.

**“The remaining 26 errors described and listed on pages 14-15 of the examination report violated §379.321.6 and 379.336, RSMo, in that territories and vehicles were misclassified, schedule rating worksheets were incorrect, and individual underwriting judgments did not make amounts printed from SilverPlume \* \* \* ”**

The Company would like to again note that the rates charged in each of the 26 files were within the Company's filed rates. While we fully acknowledge there were various errors in the in-putting of information into the SilverPlume compliance tool, the amounts by which the manual calculations and SilverPlume calculations differed were in many cases negligible. The Company only recently began using SilverPlume as a compliance tool and did not intend nor expect that negligible dollar amounts were or would be considered rating violations by Missouri. It is important to note that the Company only uses SilverPlume as a compliance tool to determine whether it is within its filed rates and believes that the fact that the policies were within its filed rates on a total policy premium basis is the crucial issue that should be considered by the Department. However, because of the examiners criticisms, the Company has taken steps to ensure that SilverPlume calculations are more accurately reflected, including giving its personnel additional training and establishing random file audit procedures, although SilverPlume will still only be used as a compliance tool, not a policy rater. The Company respectfully requests that the Department reconsider the recommended forfeiture in this instance.

**"In addition, National Interstate must review all of its Commercial Automobile policy files dated January 1, 2007, to the date a final Order is entered in this matter to determine if any other policyholders were overcharged \* \* \*"**

The Company is in the process of reviewing its policies with effective dates from January 1, 2007 and it will inform the Department of the results within 90 days from the date of a final Order.

Finally, we are in the process of reviewing your draft "Stipulation of Settlement and Voluntary Forfeiture" and plan to call you in the very near future to discuss it and certain matters contained herein. We look forward to discussing these items with you in the hopes of resolving them amicably without the need for any protracted proceedings. Thank you for your consideration.

Sincerely,

NATIONAL INTERSTATE INSURANCE COMPANY



Tanya M. Inama  
AVP, Deputy General Counsel

Cc: Arthur J. Gonzales, VP, General Counsel

Enclosure

**STATE OF MISSOURI**  
**DEPARTMENT OF INSURANCE, FINANCIAL INSTITUTIONS AND**  
**PROFESSIONAL REGISTRATION**



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

**National Interstate Insurance Company**  
**NAIC # 32620**

**MISSOURI EXAMINATION # 0904-20-TGT**

**NAIC EXAM TRACKING SYSTEM # M0268-M95**

**June 30, 2011**

**Home Office**  
**3250 Interstate Drive**  
**Richfield, Ohio, 44286-90004**

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## **FOREWORD**

This is a targeted market conduct examination report of the National Interstate Insurance Company (The "Company"), (NAIC Code # 32620). This examination was conducted at the Office of DIFP, 301 West High Street, Jefferson City, Missouri, 65102.

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 DIFP.

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

When used in this report:

- "Company" refers to National Interstate Insurance Company;
- "CSR" refers to the Missouri Code of State Regulation;
- "DIFP" refers to the Missouri Department of Insurance, Financial Institutions and Professional Registration;
- "Director" refers to the Director of the Missouri Department of Insurance, Financial Institutions and Professional Registration;
- "Division" refers to the Department of Labor, Division of Workers' Compensation;
- "NAIC" refers to the National Association of Insurance Commissioners; and
- "RSMo" refers to the Revised Statutes of Missouri.

## **SCOPE OF EXAMINATION**

The DIFP has authority to conduct this examination pursuant to, but not limited to, §§374.110, 374.190, 374.205, 375.445, 375.938, and 375.1009, RSMo.

The purpose of this examination was to determine if the Company complied with Missouri statutes and DIFP regulations and to consider whether the Company's operations are consistent with the public interest. The primary period covered by this review is January 1, 2009, through December 31, 2009, unless otherwise noted. However, errors outside of this time period discovered during the course of the examination may also be included in the report.

The examination was a targeted examination involving the following business functions and lines of business: Company Complaints, Private Passenger Automobile, Commercial Automobile Active Underwriting, and Terminations.

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 *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 is ten percent (10%). Error rates exceeding these benchmarks are presumed to indicate a general business practice. The benchmark error rates were not utilized, however, for reviews not applying the general business practice standard.

In performing this examination, the examiners only reviewed a sample of the Company's practices, procedures, products and files. Therefore, some noncompliant practices, procedures, products and files may not have been discovered. As such, this report may not fully reflect all of the practices and procedures of the Company. As indicated previously, failure to identify or criticize improper or noncompliant business practices in this state or other jurisdictions does not constitute acceptance of such practices.

## **COMPANY PROFILE**

The Company provided the following company profile to the examiners.

The Company is a property and casualty stock insurance company focused primarily on the transportation industry. It was formed in 1989, is domiciled in Ohio and is licensed in all 50 states and the District of Columbia. The Company is headquartered in Richfield, Ohio, and has offices in Honolulu, Hawaii and Mechanicsburg, Pennsylvania. The Company has been a licensed carrier in Missouri since February 22, 1994.

## **EXECUTIVE SUMMARY**

The DIFP conducted a targeted market conduct examination of National Interstate Insurance Company. The examiners found the following principal areas of concern:

- The examiners found 106 violations in the Company's active private passenger automobile underwriting files.
- The examiners found 32 violations in the Company's active commercial automobile underwriting files.

The examiners requested that the Company make refunds concerning underwriting premium overcharges and claim underpayments for amounts greater than \$5.00 during the examination.

## EXAMINATION FINDINGS

### I. UNDERWRITING AND RATING PRACTICES

This section of the report is designed to provide a review of the Company's underwriting and rating practices. These practices included the use of policy forms, adherence to underwriting guidelines, assessment of premium, and procedures to decline or terminate coverage. Examiners reviewed how the Company handled new and renewal policies to ensure that the Company underwrote and rated risks according to their own underwriting guidelines, filed rates, and Missouri statutes and regulations.

Because of the time and cost involved in reviewing each policy/underwriting file, the examiners utilize sampling techniques in conducting compliance testing. A policy/underwriting file is reviewed in accordance with 20 CSR 100-8.040 and the NAIC Market Regulation Handbook. Error rates are established when testing for compliance with laws that apply a general business practice standard (e.g., §§375.930 – 375.948 and §375.445) and compared with the NAIC benchmark error rate of ten percent (10%). Error rates in excess of the NAIC benchmark error rate are presumed to indicate a general business practice contrary to the law. Errors indicating a failure to comply with laws that do not apply the general business practice standard are separately noted as errors and are not included in the error rates.

The examiners requested the Company's underwriting and rating manuals for the line of business under review. This included all rates, guidelines, and rules that were in effect on the first day of the examination period and at any point during that period to ensure that the examiners could properly rate each policy reviewed.

The examiners also reviewed the Company's procedures, rules, and forms filed by or on behalf of the Company with the DIFP. The examiners systematically selected the policies for review from a listing furnished by the Company.

The examiners also requested a written description of significant underwriting and rating changes that occurred during the examination period for underwriting files that were maintained in an electronic format.

An error can include, but is not limited to, any miscalculation of the premium based on the information in the file, an improper acceptance or rejection of an application, the misapplication of the company's underwriting guidelines, incomplete file information preventing the examiners from readily ascertaining the company's rating and underwriting practices, and any other activity indicating a failure to comply with Missouri statutes and regulations.

## **A. Forms and Filings**

The examiners reviewed the Company's policy and contract forms to determine its compliance with filing, approval, and content requirements to ensure that the contract language is not ambiguous or misleading and is adequate to protect those insured. The examiners found that the Experience Rating Plan filed under form GM EXP (07/08) included language stating that, "the premium(s) may be modified according to the loss experience of the risk." The Company's filing includes permissive language that the premium "may be" modified by the experience rating modification. This form of the filing has been approved by the Department for the Company's use.

The examiners were unable to locate in the manual an underwriting rule indicating who, when, why, or how the Company's underwriter applies the "may be" in the experience rating modifier for the assigned risk. The underwriting material provided by the Company for this file, policy number GMA 0000024 02, did not contain any underwriter's notes explaining why the underwriter did not apply the experience rating modifier.

**Reference:** §374.205, RSMo.

## **B. Underwriting and Rating**

The examiners reviewed applications for coverage that were issued, modified, or declined by the Company to determine the accuracy of rating and adherence to prescribed and acceptable underwriting criteria.

### **1. Private Passenger Automobile (New and Renewal)**

Field Size:	344
Sample Size:	106
Type of Sample:	Random
Number of Errors:	106
Error Ratio:	100%
Within DIFP Guidelines:	No

The Company used an application that contained the question "Has any insurance policy covering any owned or leased vehicle been canceled or non-renewed by an insurance company?" in all 106 active policies reviewed.

Missouri statute and regulation prohibit any insurer or its insurance producer or representative from asking the applicant, policyholder or operator whether any other insurer has canceled, refused to write, or refused to renew a policy of automobile insurance to the person.

**Policy Numbers:**

APV200586002	RVP106196403	RVP109842200
APV200608902	RVP106204903	RVP109352001
APV200712601	RVP106230903	RVP109394201
APV200750701	RVP106579603	RVP109419901
APV200890500	RVP106919203	RVP109439501
RVP070753210	RVP107049902	RVP109488501
RVP071060211	RVP107103102	RVP109519201
RVP072133009	RVP107118102	RVP109533201
RVP072660508	RVP107204402	RVP109569801
RVP072738010	RVP107224602	RVP109582600
RVP073029608	RVP107252402	RVP109587400
RVP073461008	RVP107437302	RVP109628300
RVP073713207	RVP107482402	RVP109723200
RVP073804407	RVP107512902	RVP109831600
RVP073963407	RVP107631602	RVP109836000
RVP073994406	RVP107658402	RVP109872100
RVP100379706	RVP107795202	RVP109962100
RVP100622906	RVP107930702	RVP110005500
RVP100841206	RVP108028202	RVP110057500
RVP100886806	RVP108028602	RVP110077000
RVP101377005	RVP108380002	RVP110096800
RVP101804405	RVP108484102	RVP110121500
RVP101870905	RVP108596902	RVP110133000
RVP102617005	RVP108651601	RVP110264600
RVP102855205	RVP108698701	RVP110300000
RVP102873805	RVP108706501	RVP110323000
RVP102882305	RVP108719101	RVX100432106
RVP104224504	RVP108840200	RVX101530505
RVP104500804	RVP108858801	
RVP104513404	RVP108889701	
RVP104638404	RVP108921101	
RVP104946904	RVP109039901	
RVP105477203	RVP109083401	
RVP105560903	RVP109113501	
RVP105686303	RVP109222401	
RVP105695903	RVP109232001	
RVP105851203	RVP109234301	
RVP105911403	RVP109322601	
RVP105927803	RVP109342101	

**References:** §375.936(11), RSMo, 20 CSR 500-2.300(2)(B), and DIFP Bulletin 94-04.

Field Size:	344
Sample Size:	106
Type of Sample:	Random
Number of Errors:	43
Error Ratio:	41%
Within DIFP Guidelines:	No

The following 43 active personal automobile policies included the diminishing deductible coverage, which states that: "Your deductibles will be reduced 25% each year you remain claim free until you reach \$0." The automobile and recreational vehicle declaration page did not inform the insured that the deductible had been reduced by 25% as a result of no claim payments during the policy period.

The Company did not provide documentation that supports how the Company informs the insureds that did not present a claim of their deductible amount under the diminishing deductible coverage. The examiners were unable to confirm that the insureds who did not present a claim were aware of their changing deductible amount under the diminishing deductible coverage, because the declaration page did not indicate it.

The Company committed an unfair trade practice in that it misrepresented the benefits and advantages of the policy.

**Policy Numbers:**

APV200586002	RVP107252402	RVP109831600
APV200750701	RVP107658402	RVP109836000
RVP073461008	RVP108380002	RVP109842200
RVP101377005	RVP108596902	RVP110005500
RVP101804405	RVP108651601	RVP110077000
RVP102873805	RVP108698701	RVP11012150
RVP102882305	RVP108719101	RVP110133000
RVP104638404	RVP108840200	
RVP105477203	RVP108889701	
RVP105560903	RVP108921101	
RVP105695903	RVP109039901	
RVP105851203	RVP109083401	
RVP105911403	RVP109222401	
RVP105927803	RVP109234301	
RVP106579603	RVP109342101	
RVP106919203	RVP109419901	
RVP107049902	RVP109587400	
RVP107118102	RVP109628300	

**References:** §§375.144(2) and (3), 375.936(6), RSMo, and 20 CSR 500-2.100(3), and National Interstate Insurance Company RV Endorsement # 1053070.

Field Size:	344
Sample Size:	106
Type of Sample:	Random
Number of Errors:	39
Error Ratio:	37%
Within DIFP Guidelines:	No

The following 39 active policies had towing coverage benefits. The Company's policy agreement states: "We will pay up to the limit of liability for towing cost to the nearest qualified facility at which repairs can be made during normal business hours." The policy did not state a specific dollar amount on the declaration page. The Company states they will pay up to the dollar limit. The Towing Coverage policy also does not define qualified facility. The policy language is vague and does not benefit the insured regarding the usage of the towing coverage.

**Policy Numbers:**

RVP070753210	RVP107437302
RVP072660508	RVP107482402
RVP073461008	RVP107512902
RVP073713207	RVP107631602
RVP073804407	RVP107930702
RVP073963407	RVP108380002
RVP073994406	RVP108651601
RVP100886806	RVP108840200
RVP101377005	RVP109113501
RVP102617005	RVP109232001
RVP102855205	RVP109234301
RVP102873805	RVP109419901
RVP102882305	RVP109488501
RVP104224504	RVP109519201
RVP104500804	RVP109587400
RVP104946904	RVP110057500
RVP105477203	RVP110133000
RVP105560903	RVP110264600
RVP106579603	RVX101530505
RVP107049902	

**References:** §375.936(6)(a), RSMo, and National Interstate Insurance Company Towing Coverage – RV form # 10520501.

**Violations Not Included in Error Ratio:**

The examiners reviewed the Company's Missouri Rules Filing for Recreation Vehicle Product, Section IV. Discounts, H. Paid in Full – which states a 10% discount is available for new business policies that pay 100% of policy premium at policy inception. The two policies referenced below did not apply the 10% discount.

**Policy Number RVP1099621** qualified for the 10% discount as a result of full payment at policy inception. The Company did not apply the 10% discount resulting in an overcharge to the insured in the amount of \$40.00 and nine percent interest of \$4.54 for a total amount of \$44.54. The Company has paid the amount of \$44.54.

**Policy Number RVP1100575** qualified for the 10% discount as a result of a full payment at policy inception. The Company did not apply the 10% discount resulting in an overcharge to the insured in the amount of \$85.00 and nine percent interest of \$8.85 for a total amount of \$93.85. The Company has paid the amount of \$93.54.

**References:** §408.020, RSMo, and 20 CSR 500-4.100 (1) (B)

The following 6 additional active policies did not apply the 10% discount. The Company has declined to refund the monies owed plus nine percent interest owed from inception date until paid.

**Policy Numbers:**

- RVP1103000 (\$62.53 plus interest) – Inception Date 11/23/2009
- RVP1101215 (\$67.03 plus interest) – Inception Date 8/31/2009
- RVP1101330 (\$41.73 plus interest) – Inception Date 9/3/2009
- RVP1103230 (\$50.49 plus interest) – Inception Date 12/9/2009
- RVP1100968 (\$223.67 plus interest) – Inception Date 8/9/2009
- RVP1100770 (\$40.83 plus interest) – Inception Date 8/12/2009

The Company did file every manual of classification, rules, underwriting rules and rates, every rate plan and every modification, which the Company uses to determine such rates with the Director. However, the Company did not use the underwriting rules and rates for the 10% discount.

**References:** §408.020, RSMo, and 20 CSR 500-4.100 (1) (B)

The Company applied an incorrect surcharge rate for the medium duty tow truck vehicle on the following active policy. The Company used a \$1.50 surcharge factor. The correct applicable surcharge factor should have been \$2.50. This resulted in the policy being undercharged by \$365.00.

The Company did file every manual of classification, rules, underwriting rules and rates, every rate plan and every modification, which the Company uses to determine such rates

with the Director. However, the Company did not use those rates to determine the Medium Duty Tow vehicle premium. The Company contends that the factor was not a surcharge but instead a vehicle factor. However, the Company's recreational vehicle underwriting manual lists in Section V – Surcharges Medium Duty Tow vehicles as a surcharge.

**Policy Number:** RVP1098721

**References:** 20 CSR 500-2.100(3) and 20 CSR 500-4.100 (1) (B)

The Company stated on the declaration page of the following active policy that the insured received the 50% surcharge for Multi-Owner, but the Company did not apply the 50% surcharge to the premium. Therefore, the declaration page did not reflect the coverage afforded. This caused the policy premium to be undercharged in the amount of \$105.00.

The Company did file every manual of classifications, rules, underwriting rules and rates, every rate plan and every modification, which the Company uses to determine such rates with the Director. However, the Company did not apply the Multi-Owner surcharge rule.

**Policy Number:** RVP1092343

**References:** §375.144(2), RSMo, 20 CSR 500-2.100(3) and 20 CSR 500-4.100(1)(B)

## **2. Commercial Automobile (New and Renewal)**

Field Size:	55
Sample Size:	55
Type of Sample:	Census
Number of Errors:	5
Error Ratio:	9.1%

The following five commercial active policies had the question on the application: "Has your commercial rental insurance ever been canceled or non-renewed for any reason?" asked and answered.

**Policy Numbers:** GMA000009602      GMA000004402  
GMA000002402      GMA000012501  
GMA000013101

**References:** §375.936(11)(f), RSMo, and DIFP Bulletin 94-04.

**Violations Not Included in Error Ratio:**

For the following active commercial automobile policy, the examiners utilized the GMI Rental Rating Worksheet provided by the Company and inputted the insured's corresponding rates and qualifying factors pursuant to the Company's filing for coverages of liability, comprehensive, and uninsured motorist, instead of the rates filed under the balance of state. The Company deviated from their filed rates and incorrectly rated the policy. This resulted in an undercharge to the Company. The correct premium amount should have been \$111,555.00. The Company only charged premium in the amount of \$27,750.00 to the insured. This resulted in an undercharge to the Company in the amount of \$83,805.00.

**Policy Number:** GMA000004402

**References:** §§379.318(4), 379.321.6 (1) and 379.356.1, RSMo.

The following 26 commercial rating and underwriting active automobile policies needed corrections. The Company furnished the information to review these policies and to explain any differences between the SilverPlume rating worksheets originally provided and policy premiums charged to the insureds. In some instances, territories were misclassified, vehicles were misclassified for type of use and schedule rating worksheets were incorrect. Individual underwriting judgments did not match to the dollar amount that was printed from SilverPlume. All of this resulted in the following undercharges and overcharges.

All commercial property and commercial casualty insurance rates, rate plans, modifications, and manuals of classifications, where appropriate, shall be filed with the director for informational purposes only.

<u>Policy Numbers:</u>	<u>Over - Under= Final Overcharge</u>	<u>9% Interest Amount</u>	<u>Total Recovery</u>
CAR057281607	\$251.00	\$33.67	\$284.67
CAT001029700	\$13.00	\$1.64	\$14.64
EAL000025103	\$726.00	\$65.35	\$791.35
EAL000031203	\$5.00	\$0.61	\$5.61
EAL000048000	\$117.00	\$10.39	\$127.39
SFT200003300	\$20.00	\$2.08	\$22.08
VEN800003002	\$20.00	\$2.84	\$22.84
VPP490003601	\$23.00	\$3.43	\$26.43

VPP490004400	\$28.00	\$3.54	\$31.54
YPP112567006	\$160.00	\$21.46	\$181.46
YPP131801000	\$161.00	\$20.65	\$181.65
YPP570020005	\$13.00	\$1.74	\$14.74
	<u>\$1,537.00</u>	<u>\$167.40</u>	<u>\$1,704.40</u>

<u>Policy Numbers:</u>	<u>Overcharge</u>	<u>Undercharge</u>	<u>Under - Over = Final Undercharge</u>
CAR057273908		\$8.00	\$8.00
CAR057426102		\$13.00	\$13.00
DPP572875001	\$68.00	\$1,958.00	\$1,890.00
EAL000014905		\$834.00	\$834.00
EAL000019705		\$7.00	\$7.00
EAL000025304		\$76.00	\$76.00
EAL000025704		\$9.00	\$9.00
EAL000047100		\$759.00	\$759.00
NBS000028301		\$1,938.00	\$1,938.00
TUM460011904		\$33.00	\$33.00
TUM460028102		\$381.00	\$381.00
TUM460036101		\$715.00	\$715.00
TUM460048601		\$85.00	\$85.00
VPP490004500		\$18.00	\$18.00
	<u>\$68.00</u>	<u>\$6,834.00</u>	<u>\$6,766.00</u>

References: §§379.321.6, 379.336, and 408.020, RSMo.

### **C. Private Passenger Automobile Terminations**

The examiners reviewed policies that the carrier terminated at or before the scheduled expiration date of the policies and policies that were rescinded by the Company after the effective date of the policy.

#### **1. Private Passenger Automobile Terminations**

Field Size:	9
Sample Size:	9
Type of Sample:	Census
Number of Errors:	0
Error Ratio:	0%

The examiners discovered no general business practice issues in this review

### **D. Commercial Automobile Terminations**

The examiners reviewed policies that the carrier terminated at or before the scheduled expiration date of the policies and policies that were rescinded by the Company after the effective date of the policy.

#### **1. Commercial Automobile Terminations**

Field Size:	7
Sample Size:	7
Type of Sample:	Census
Number of Errors:	0
Error Ratio:	0%

The examiners discovered no general business practice issues in this review

### **E. Practices Not in the Best Interest of Consumers**

The examiners also looked for items that were not in the best interest of consumers. Not only could these practices be harmful to the insured, they may expose the company to potential liability.

The examiners discovered no general business practice issues in this review.

## **II. COMPLAINTS**

This section of the report is designed to provide a review of the Company's complaint handling practices. Examiners reviewed how the Company handled complaints to ensure it was performing according to its own guidelines and Missouri statutes and regulations.

Section 375.936(3), RSMo, requires companies to maintain a registry of all written complaints received for the last three years. The registry must include all Missouri complaints, including those sent to the DIFP and those sent directly to the company.

The examiners verified the four complaints from the Company's complaint registry and the Department's list, dated January 1, 2007, through December 31, 2009. The registry did not have any complaints that did not come through the Department.

The review consisted of a review of the nature of each complaint, the disposition of the complaint, and the time taken to process the complaint as required by §375.936(3), RSMo, and 20 CSR 100-8.240.

The examiners discovered no issues or concerns.

## **III. 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 law requires companies to respond to criticisms and formal requests within 10 calendar days. Please note that in the event an extension was requested by the company and granted by the examiners, the response was deemed timely if it was received within the time frame granted by the examiners. If the response was not received within that time period, the response was not considered timely.

### **A. Criticism Time Study**

<u>Calendar Days</u>	<u>Number of Criticisms</u>	<u>Percentage</u>
Received w/in time-limit, incl. any extensions	5	100%
Received outside time-limit, incl. any extensions	0	0 %
<u>No Response</u>	<u>0</u>	<u>0 %</u>
Total	5	100%

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

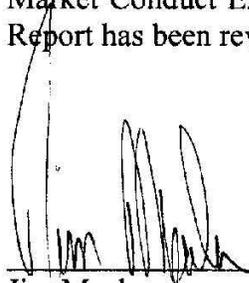
**B. Formal Request Time Study**

<u>Calendar Days</u>	<u>Number of Requests</u>	<u>Percentage</u>
Received w/in time-limit, incl. any extensions	8	100%
Received outside time-limit, incl. any extensions	0	0%
<u>No Response</u>	<u>0</u>	<u>0%</u>
Total	8	100%

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

## EXAMINATION REPORT SUBMISSION

Attached hereto is the Division of Insurance Market Regulation's Final Report of the examination of National Interstate Insurance Company (NAIC #32620), Examination Number 0904-20-TGT. This examination was conducted by Gary T. Meyer, Gerald Michitsch, Darren Jordan, and Shelly Herzing. The findings in the Final Report were extracted from the Market Conduct Examiner's Draft Report, dated January 4, 2011. 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.



Jim Mealer

Chief Market Conduct Examiner

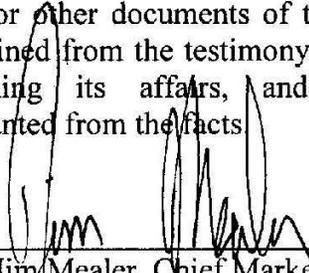
8/10/2011

Date

STATE OF Missouri )  
COUNTY OF Cole )

**VERIFICATION OF WRITTEN REPORT OF EXAMINATION**

I, Jim Mealer, on my oath swear that to the best of my knowledge and belief, the attached Examination Report is true and accurate and is comprised of only facts appearing upon the books, records, or other documents of the Company, its agents or other persons examined or as ascertained from the testimony of its officers or agents or other persons examined concerning its affairs, and such conclusions and recommendations as reasonably warranted from the facts.

  
\_\_\_\_\_  
Jim Mealer, Chief Market Conduct Examiner  
Department of Insurance, Financial Institutions &  
Professional Registration,  
State of Missouri

Sworn to and subscribed before me this 10<sup>th</sup> day of August, 2011.

Kimberly Landers  
\_\_\_\_\_  
Notary

My commission expires: May 18, 2012

(Seal)

