

**PROCEEDING BEFORE THE HONORABLE MICHAEL D. RILEY  
INSURANCE COMMISSIONER OF THE  
STATE OF WEST VIRGINIA**

**IN RE:  
ATLANTIC SPECIALTY INSURANCE COMPANY  
ADMINISTRATIVE PROCEEDING 15-MC-THP-02000**

**AGREED ORDER ADOPTING REPORT OF  
MARKET CONDUCT EXAMINATION, DIRECTING  
CORRECTIVE ACTION AND ASSESSING PENALTY**

NOW COMES, Michael D. Riley, Insurance Commissioner of the State of West Virginia, and issues this Agreed Order which adopts the Report of Market Conduct Examination for the targeted examination of Atlantic Specialty Insurance Company for the period ending June 30, 2015 based upon the following findings, to wit:

**PARTIES**

1. Michael D. Riley, is the Insurance Commissioner of the State of West Virginia (hereinafter the "Insurance Commissioner") and is charged with the duty of administering and enforcing, among other duties, the provisions of Chapter 33 of the West Virginia Code of 1931, as amended.

2. Atlantic Specialty Insurance Company was incorporated on June 27, 1986 as the Atlantic Reinsurance Company under the laws of the State of New York. The Company was organized by Atlantic Mutual Insurance Company as a wholly-owned subsidiary. On February 14, 1995, the Company changed its name to Atlantic Specialty Insurance Company. On March 31, 2004, OneBeacon Insurance Company acquired the Company. On December 23, 2012, the Company's ownership was transferred and Atlantic Specialty Insurance Company became a wholly-owned subsidiary of OneBeacon Insurance Group, LLC.

## FINDINGS OF FACT

1. In West Virginia, Atlantic Specialty Insurance Company operates under the provisions of Chapter 33, of the West Virginia Code and is licensed for the lines of Accident and Sickness, Casualty, Fire, Marine and Surety.

2. This Targeted Market Conduct Examination was instituted as result of the Final Order entered in Administrative Proceeding 14--THP-02137/14-AP-THP-02137. That Final Order concluded that Atlantic Specialty Insurance Company violated W. Va. Code. R. §§ 114-14-5.3, 114-14-6.1 and 114-14-6.7 in the handling of Carl Claypool's third-party claim, which constitutes a violation the Unfair Trade Practices Act, specifically W.Va. Code § 33-11-4(9)(b) and (c).

3. The purpose of this Targeted Market Conduct Examination was to investigate the claims handling practices of Atlantic Specialty Insurance Company in regard to third-party claims and to determine whether the actions of Atlantic Specialty Insurance Company identified as a result of Carl Claypool's third-party complaint constitute a general business practice pursuant to W.Va. Code § 33-11-4a (e) and (f).

4. The Targeted Market Conduct Examination primarily focused on third-party claims handling practices with particular attention to the Company's investigation of claims, timeliness in response to communications and issuance of notice of necessary delay letters. The examination covered the period of operations ending June 30, 2015. The examination was conducted in accordance with W. Va. Code § 33-2-9(c) by examiners duly appointed by the West Virginia Offices of the Insurance Commissioner.

5. The Targeted Market Conduct Examination began on September 14, 2015

and concluded on October 22, 2015. The examination was conducted at the corporate offices of Atlantic Specialty Insurance Company and at the Offices of the Insurance Commissioner. The examiners conducted file reviews and interviews of company management. The tests administered by the examiners are designed to measure the level of the Company's compliance with West Virginia's statutes, rules and regulations. The examiners used the National Association of Insurance Commissioners' (NAIC) standard of a 7% error ratio on claims.

6. Thirteen (13) separate standards were reviewed during the examination. Of the thirteen (13) standards, the company was compliant or predominately compliant in twelve (12) standards and non-compliant in one (1) standard (G2), which primarily pertains to failure to provide notice of necessary delay letters as required by W.Va. Code R. § 114-14-6.7. A violation of W.Va. Code R. §114-14-6.7 was noted in the Final Order in 14--THP-02137/14-AP-THP-02137. Accordingly, a general business practice of violating W.Va. Code R. § 114-14-6.7 was identified.

7. The Targeted Market Conduct Examination revealed one (1) violation of W.Va. Code R. §114-14-5.3 pertaining to replying to pertinent communications from a claimant within fifteen (15) working days. A violation of W.Va. Code R. §114-14-5.3 was noted in the Final Order in 14--THP-02137/14-AP-THP-02137. However, this violation did not occur with such frequency to fail the error tolerance or to be identified as a non-compliant claims handling practice. Accordingly, a general business practice of violating W.Va. Code R. §114-14-5.3 was not identified.

8. The result of the Targeted Market Conduct Examination did not reveal any violations of W.Va. Code R. §114-14-6.1, the third rule violation noted in the Final Order

in 14--THP-02137/14-AP-THP-02137. Accordingly, a general business practice of violating W.Va. Code R. §114-14-6.1 was not identified.

9. On November 13, 2015, the examiner filed with the Insurance Commissioner, pursuant to W. Va. Code § 33-2-9, a Report of Market Conduct Examination regarding the treatment of third-party claimants.

10. A true copy of the Report of Market Conduct Examination and this Agreed Order were sent to Atlantic Specialty Insurance Company by certified mail, return receipt requested. It is attached hereto as Exhibit A.

11. Atlantic Specialty Insurance Company was notified, pursuant to W. Va. Code §33-2-9(j)(2), that it had thirty (30) days after receipt of the Report of Market Conduct Examination to file a submission or objection with the Insurance Commissioner. If the Company had no objections/submissions, it could instead elect to enter into this Agreed Order.

12. By entering into this Agreed Order, Atlantic Specialty Insurance Company hereby waives notice of administrative hearing, any and all rights to an administrative hearing, and to judicial review of this matter.

### **CONCLUSIONS OF LAW**

1. The Insurance Commissioner has jurisdiction over the parties and subject matter of this proceeding. It is being conducted pursuant to and in accordance with W. Va. Code §§ 33-2-9, 33-11-4a and 33-11-6.

2. The Insurance Commissioner is charged with the responsibility of verifying continued compliance with West Virginia Code and the West Virginia Code of State Rules by Atlantic Specialty Insurance Company as well as all other provisions of regulation that Atlantic Specialty Insurance Company is subjected to by virtue of its

Certificate of Authority to operate in West Virginia.

3. Atlantic Specialty Insurance Company has incurred violations of W. Va. Code R. § 114-14-6.7, as identified in the Targeted Market Conduct Examination, pertaining to failure to properly issue notice of necessary delay letters. The frequency of these violations was sufficient to be identified as a non-compliant claims handling practice. The failure of Atlantic Specialty Insurance Company to meet the standard related to W. Va. Code R. § 114-14-6.7 is related to the findings contained in the Final Order in 14--THP-02137/14-AP-THP-02137. Accordingly, the Insurance Commissioner finds that the Company has violated W. Va. Code R. § 114-14-6.7 with such frequency as to constitute a general business practice as required by W.Va. Code § 33-11-4a(e) and (f). A violation of W. Va. Code R. § 114-14-6.7 constitutes a violation of W.Va. Code § 33-11-4(9)(c).

4. The single violation of W. Va. Code R. §114-14-5.3 identified in the Targeted Market Conduct Examination did not cause the Company to be deemed non-compliant. Accordingly, the Insurance Commissioner finds that the Company did not violate W. Va. Code R. §114-14-5.3 with such frequency as to constitute a general business practice as required by W.Va. Code § 33-11-4a(e) and (f).

5. The Targeted Market Conduct Examination did not reveal any violations of W.Va. Code R. § 114-14-6.1. Accordingly, the Insurance Commissioner finds that the Company did not violate W. Va. Code R. §114-14-6.1 with such frequency as to constitute a general business practice as required by W.Va. Code § 33-11-4a(e) and (f).

6. The Insurance Commissioner finds that neither the Final Order in 14--THP-02137/14-AP-THP-02137, nor the Targeted Market Conduct Examination revealed

any intentional or egregious acts or conduct by Atlantic Specialty Insurance Company.

### **ORDER**

Pursuant to W. Va. Code §33-2-9(j)(3)(A), following the review of the Report of Market Conduct Examination, the examination work papers, and the response of Atlantic Specialty Insurance Company thereto, if any, the Insurance Commissioner and Atlantic Specialty Insurance Company have agreed to enter into this Agreed Order. The Parties have further agreed to the imposition of an administrative penalty against Atlantic Specialty Insurance Company as set forth below.

It is accordingly **ORDERED** as follows:

(A) The attached Report of Market Conduct Examination of Atlantic Specialty Insurance Company for the period ending June 30, 2015 is hereby **ADOPTED** and **APPROVED** by the Insurance Commissioner;

(B) It is **ORDERED** that Atlantic Specialty Insurance Company will **CEASE AND DESIST** from failing to comply with the statutes, rules and regulations of the State of West Virginia concerning any claims handled in this state and more specifically the provisions enumerated herein this Order;

(C) It is **ORDERED** that Atlantic Specialty Insurance Company shall continue to monitor its compliance with W.Va. Code § 33-11-4(9)(c) and W. Va. Code R. § 114-14-6.7.

(D) It is **ORDERED** that within thirty (30) days of the next regularly scheduled meeting of its Board of Directors, Atlantic Specialty Insurance Company shall file with the Insurance Commissioner, in accordance with W. Va. Code §33-2-9(j)(4), affidavits executed by each of its directors stating under oath that they have received a copy of the adopted Report of Market Conduct Examination and a copy of this Agreed Order;

(E) It is **ORDERED** that Atlantic Specialty Insurance Company **SHALL FILE** a Corrective Action Plan which will be subject to the approval of the Insurance Commissioner. The Corrective Action Plan shall detail Atlantic Specialty Insurance Company's changes to its procedures and/or internal policies to ensure compliance with the West Virginia Code and West Virginia Code of State Rules, incorporate all recommendations of the Insurance Commissioner's examiners and address all violations specifically cited in the Report of Market Conduct Examination. The Corrective Action Plan outlined in this Order must be submitted to the Insurance Commissioner for approval within thirty (30) days of the entry date of this Agreed Order. Atlantic Specialty Insurance Company shall implement reasonable changes to the Corrective Action Plan if requested by the Insurance Commissioner within thirty (30) days of the Insurance Commissioner's receipt of the Corrective Action Plan. The Insurance Commissioner shall provide notice to Atlantic Specialty Insurance Company if the Corrective Action Plan is disapproved and the reasons for such disapproval within thirty (30) days of the Insurance Commissioner's receipt of the Corrective Action Plan.

(F) It is **ORDERED** that Atlantic Specialty Insurance Company shall ensure compliance with the West Virginia Code and West Virginia Code of State Rules. Atlantic Specialty Insurance Company shall specifically cure those violations and deficiencies identified in the Report of Market Conduct Examination; and

(G) The Insurance Commissioner has determined and it has been **ORDERED** that Atlantic Specialty Insurance Company shall pay an administrative penalty to the State of West Virginia in the amount of **EIGHT THOUSAND FIVE HUNDRED DOLLARS (\$8,500.00)** for non-compliance as described herein. The payment of this administrative penalty is in lieu of any other regulatory penalty or remedy, and is due

within thirty (30) calendar days upon execution of this order.

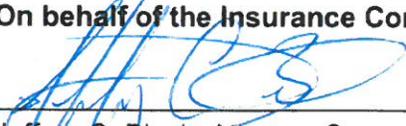
(H) It is **ORDERED** that all such statutory notices, administrative hearings and appellate rights are herein waived concerning this Report of Market Conduct Examination and Agreed Order. All such rights are preserved by the parties regarding implementation or further action taken on such Order by the Commissioner against Atlantic Specialty Insurance Company.

Entered this 20<sup>th</sup> day of January, 2016.

  
\_\_\_\_\_  
The Honorable Michael D. Riley  
Insurance Commissioner

**REVIEWED AND AGREED TO BY:**

**On behalf of the Insurance Commissioner:**

  
\_\_\_\_\_  
Jeffrey C. Black, Attorney Supervisor  
Regulatory compliance and Enforcement

Dated: 1/20/16

**On Behalf of Atlantic Specialty Insurance Company:**

By: JAMES G. JOHNSON  
Print Name

ASSISTANT SECRETARY &  
Its: DEPUTY GENERAL COUNSEL

Signature:   
\_\_\_\_\_

Date: 1-18-16

# Report of Market Conduct Examination

As of June 30, 2015



**Atlantic Specialty Insurance Company**  
605 N. Hwy 169, Suite 800  
Plymouth, MN 55419

**NAIC COMPANY CODE 27154**  
**Examination Number 15-MC-THP-02000**

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December 29, 2015

The Honorable Michael D. Riley  
West Virginia Insurance Commissioner  
1124 Smith Street  
Charleston, West Virginia 25301

Dear Commissioner Riley:

Pursuant to your instructions and in accordance with W. Va. Code §33-2-9, an examination has been made as of June 30, 2015 on

Atlantic Specialty Insurance Company  
605 N. Hwy 169, Suite 800  
Plymouth, MN 55419

hereinafter referred to as the "Company." The following report of the findings of this examination is herewith respectfully submitted.

## FOREWORD

This is a report by test of company compliance with selected Standards contained in the National Association of Insurance Commissioners' (NAIC) *2013 Market Regulation Handbook* ("Handbook") and Standards approved by the West Virginia Offices of the Insurance Commissioner ("WVOIC") which are based on applicable West Virginia statutes and administrative rules, as referenced herein. Testing is based on guidelines contained in the Handbook. All tests applied are included in this report.

"Company" as used herein refers to Atlantic Specialty Insurance Company. "WVOIC" as used herein refers to the West Virginia Offices of the Insurance Commissioner. "W.Va. Code St. R." as used herein refers to the West Virginia Code of State Rules. "W.Va. Code" as used herein refers to the West Virginia Code Annotated.

## EXECUTIVE SUMMARY

The examination began September 14, 2015 and concluded on October 22, 2015. The examination was called as a result of the Final Order entered in Administrative Proceeding No. 14-THP-02137/14-AP-THP-02137. The Administrative Order concluded that the Company violated the following sections of the Unfair Claims Settlement Act by violating W.Va. Code §§33-11-4(9)(b) (failing to acknowledge and to act reasonably promptly to a complainant's letter), 33-11-4(9)(c)(failing to implement reasonable standards for prompt investigations) and W. Va. Code St. R. §114-14-5.3 (failing to respond to a complainant's letter within fifteen (15) working days), 114-14-6.1 (failing to implement reasonable standards for a prompt investigation), and 114-14-6.7 (failing to send any forty-five (45) day delay letters).

W. Va. Code §33-11-4a(e) & (f) imply that, upon any finding that a company committed an unfair claims settlement practice with respect to a third-party claimant, the Commissioner determines whether or not that the practice occurred with such frequency as to be construed as a general business practice of the Company. In this case, the Commissioner determined that the most efficient way to make this determination was through a targeted Market Conduct Examination. The examination primarily focused on third-party claims handling with particular attention to the Company's investigation of claims (Standard G2) and duty after investigation (Standard G4). Certain standards from the Company Operations and Management Section, and Complaint Handling Section of the *Market Regulation Handbook* were also included within this examination report.

A total of thirteen (13) standards were reviewed during this examination. Of these thirteen (13) standards, the Company was compliant or predominately compliant in eleven (12) and noncompliant in one (1) standard (G2).

The targeted market examination revealed the following violations of the W. Va. Code or Regulations cited in Administrative Proceeding 14-THP-02137/14-AP-THP-02137:

- The Company was predominantly compliant with G4 as the examiners found only one violation regarding Standard G4, W. Va. Code St. R. §114-14-5.3 (failing to respond to communication within fifteen (15) working days).

- Violations of W. Va. Code St. R. §114-14-6.7 were found -- fourteen violations involving a failure to issue written delay letters (Standard G2) and five instances where the Company failed to send a required second delay letter. Therefore there were nineteen (19) incidents of not issuing delay letters).

## **PURPOSE AND SCOPE OF EXAMINATION**

Market conduct examiners with the WVOIC reviewed certain business practices of Atlantic Specialty Insurance Company. W. Va. Code §33-2-9 empowers the Commissioner to examine any entity engaged in the business of insurance. The findings in this report, including all work products developed in producing it, are the sole property of the WVOIC.

The purpose of this targeted examination was to determine the Company's compliance with West Virginia insurance laws relating to treatment of third party claimants. Examination information contained in this report should serve only this purpose. The conclusions and findings of this examination are public record.

The basic business areas that were reviewed and tested under this examination were:

- Company Operations and Management
- Complaint Handling
- Claims Practices

Each business area has standards that the examination measured. Some standards have specific statutory guidelines, others have specific company guidelines, and yet others have contractual guidelines. Since this was a targeted examination, the WVOIC examined only the standards pertinent to the targeted examination or the treatment of third-party claimants.

The focus of the examination was on the methods used by the Company to manage its operations for each of the business areas subject to this examination. This included an analysis of how the Company communicates its instructions and intentions throughout its operations, how it measures and monitors the results of those communications, and how it reacts to and modifies its communications based on the result findings of the measurement and monitoring activities. The examination also determined whether this process is dynamic and results in enhanced compliance activities. Because of the predictive value of this form of analysis, focus was then made on those areas in which the process used by management does not appear to be achieving appropriate levels of statutory and regulatory compliance. Most areas were tested to verify the Company is in compliance with West Virginia statutes and rules. The examiners may not have discovered every unacceptable or non-compliant activity in which the Company is engaged. The failure to identify, comment on, or criticize specific Company practices does not constitute an acceptance of the practices by the West Virginia Offices of the Insurance Commissioner or its' designee.

## HISTORY AND PROFILE

Atlantic Specialty Insurance Company was incorporated on June 27, 1986, as the Atlantic Reinsurance Company under the laws of the State of New York. The Company was organized by Atlantic Mutual Insurance Company as a wholly-owned subsidiary. It commenced business on December 24, 1986. On February 14, 1995, the Company changes its name to Atlantic Specialty Insurance Company.

On March 31, 2004, OneBeacon Insurance Company acquired the Company. On December 23, 2012, the Company's ownership was transferred from OneBeacon Insurance Company and as a result Atlantic Specialty Insurance Company became a wholly-owned subsidiary of OneBeacon Insurance Group, LLC. OneBeacon Insurance Group, LLC is ultimately controlled by White Mountains Insurance Group, Ltd., a Bermuda holding company.

## METHODOLOGY

The examination was conducted in accordance with the standards and procedures established by the National Association of Insurance Commissioners ("NAIC") and West Virginia's applicable statutes and regulations. The examiners conducted file reviews and interviews of company management. This report is a report by tests.

Tests designed to measure the level of compliance with West Virginia's statutes, rules and regulations were applied to the files. All tests are described and the results displayed in this report.

In the results tables a "pass" response indicates compliance and a "fail" response indicates a failure to comply. The results of each test applied to a sample are reported separately.

The examiners used the NAIC standards of 7% error ratio on claims tests (93% compliance rate) and 10% error ratio on all other tests (90% compliance rate) to determine whether or not an apparent pattern or practice of being compliant, predominantly compliant, or non-compliant existed for any given test. Except as otherwise noted, all tests were conducted via random sample taken from a given population.

### **A. *Company Operations & Management***

The evaluation of standards in this business area is based on a review of Company responses to information requests and questions, and based on interviews with Company personnel. This portion of the examination is designed to provide a view of what the Company is and how it operates and is not based on sampling techniques, but rather the Company's structure. This review is not intended to duplicate a financial examination review but is important in establishing an understanding of the examinee. Many troubled companies have become so because management has not been structured to adequately recognize and address the problems that can arise. Well-run companies generally have processes that are similar in structure. While these processes vary in detail and effectiveness from company-to-company, the

absence of them or the ineffective application of them is often reflected in failure of the various standards tested throughout the examination. The processes usually include:

- A planning function where direction, policy, objectives, and goals are formulated;
- An execution or implementation of the planning function elements;
- A measurement function that considers the results of the planning and execution; and
- A reaction function that utilizes the results of measurement to take corrective action or to modify the process to develop more efficient and effective management of its operations.

**Standard A7: Records are adequate, accessible, consistent and orderly and comply with state record retention.** (NAIC Market Regulation Handbook Chapter 16, § A Standard 7)

**Test Methodology:**

- Are the records adequate and accessible?

**Examiner Observations:** Files are retained in accordance with state record retention requirements. Policy files contained all pertinent information for the examination.

**Examiner Recommendations:** None

**Results:** Compliant

**Standard A9: The Company cooperates on a timely basis with examiners performing the examinations.** (NAIC Market Regulation Handbook Chapter 16, § A Standard 9)

**Test Methodology:**

- Did the Company provide records in a timely basis?

**Examiner Observations:** The Company was cooperative and the examination proceeded in a cordial atmosphere. Data provided was responsive and timely.

**Examiner Recommendations:** None

**Results:** Compliant

## **B. Complaint Handling**

Evaluations of the standards in this business area were based on Company responses to various information requests and the review of complaint files at the Company. The definition of a complaint is "any written communication primarily expressing a grievance." In this business area, "complaints" include "grievances." W.Va. Code §33-11-4(10) requires the Company to "...maintain a complete record of all the complaints which it has received since the date of its

last examination.” The statute also requires that, “This record shall indicate the total number of complaints, their classification by line of insurance, the nature of each complaint, the disposition of these complaints and the time it took to process each complaint.”

**Standard B1: All complaints are recorded in the required format on the company complaint register.** (NAIC Market Regulation Handbook Chapter 16, § B Standard 1)

**Test Methodology:**

- Is the Company recording all complaints from both the consumer and the Commissioner’s Office?
- Is the Company recording all complaints in a regulated complaint register? [*W. Va. Code §33-11-4(10)*]

**Examiner Observations:** The Company was recording all written complaints from the consumer, as well as those from the WVOIC. The record contained the required fields: the classification of each complaint by line of insurance, the nature of each complaint, the disposition of each complaint, and the time it took to process each complaint.

**Examiner Recommendations:** None

**Results:** Compliant

**Table B1 Results: Complaints Sample**

Type	Population	Sample	Pass	Fail	Standard	Compliance
Complaints	15	15	15	0	90	100

**Standard B2: The Company has adequate complaint handling procedures in place and communicates such procedures to policyholders.** (NAIC Market Regulation Handbook Chapter 16, § B Standard 2)

**Test Methodology:**

- Does the Company have complaint procedures in place, and are they sufficient to satisfactorily handle complaints?
- Does the Company have procedures in place to track responses to complaints? [*W. Va. Code St. R. §114-14-5.2*]

**Examiner Observations:** The Company had procedures in place. All complaints were logged. The process is to begin processing complaints within twenty-four hours and to provide a response within fifteen working days as required by W. Va. Code St. R. §114-14-5.2.

**Examiner Recommendations:** None

**Results:** Compliant

**Standard B4: The time frame within which the company responds to complaints is in accordance with applicable statutes, rules, and regulations.** (NAIC Market Regulation Handbook Chapter 16, § B Standard 4)

**Test Methodology:**

- Is the Company maintaining adequate documentation of complaints, as required by W. Va. Code §33-11-4(10)?
- Is the Company responding to complaints in a timely manner, as required by W. Va. Code §114-14-5.2?

**Examiner Observations:** The Company adequately documented complaints. The Company responded to complaints in a timely manner, with one exception being the claim relating to the final order associated with Administrative Proceeding 14-THP-02137/14-AP-THP-02137.

**Examiner Recommendations:** It is recommended that the Company reply to all complaint inquiries from the Offices of the Insurance Commissioner within fifteen (15) working days per W. Va. Code §114-14-5.2.

**Results:** The Company’s handling practices were predominantly compliant.

**Table B4 Results: Complaints Sample**

Type	Population	Sample	Pass	Fail	Standard	Compliance
Complaints	15	15	14	1	90	93

**G. Claims Practices**

The evaluation of standards in this business area was based on Company responses to information items requested by the examiner, discussions with Company staff, electronic testing of claim databases, and file sampling during the examination process. This portion of the examination is designed to provide a view of how the Company treats claimants and whether that treatment is in compliance with applicable statutes and rules. Certain files (thirteen) for the paid claims sample were replaced due to the fact that the claim was initiated via law suit; in those cases court rules and time frames generally take precedence. For the closed without payment claims, certain files (sixteen) were replaced due to the fact that the claim was initiated via law suit, or instances in which a reserve was initially established but no claim or demand for payment was actually filed with the company.

**Standard G1: The initial contact by the company with the claimant is within the required time frame.** (NAIC Market Regulation Handbook Chapter 16, § G Standard 1)

**Test Methodology:**

- Was the claimant contacted within 15 working days (or mandated emergency order timeframe) from the date of the loss notice per W.Va. Code §33-11-4(9)(b) and W. Va. Code St. R. §114-14-5.1?

**Examiner Observations:** In three claims, the Company did not contact the claimant within the required time frame.

**Examiner Recommendations:** It is recommended that all claimants be contacted within fifteen (15) working days upon receiving notification of a claim in accordance with W. Va. Code St. R. §114-14-5.1.

**Results:** The Company's claim handling practices were predominantly compliant.

**Table G1 Results: Claims Initial Contact Sample**

Type	Population	Sample	N/A	Pass	Fail	Standard	Compliance
Paid claims (3 <sup>rd</sup> party)	437	82		82	0	93	100
Claims closed w/o pmt (3 <sup>rd</sup> party)	126	82		79	3	93	96
<b>TOTALS</b>	<b>563</b>	<b>164</b>		<b>161</b>	<b>3</b>	<b>93</b>	<b>98</b>

**Standard G2: Timely investigations are conducted.** (NAIC Market Regulation Handbook Chapter 16, § G Standard 2)

**Test Methodology:**

- Did the investigation commence within fifteen (15) working days of any claim filed per W. Va. Code St. R. §114-14-6.2 a?
- Did the Company promptly conduct and diligently pursue a thorough, fair and objective investigation and not unreasonably delay resolution by persisting in seeking information not reasonably required for or material to the resolution of the claim dispute per W. Va. Code St. R. §114-14-6.1?
- Is the investigation continuing more than 30 calendar days? If so, was a delay letter sent within 15 working days after the 30 calendar days per W. Va. Code St. R. §114-14-6.7?
- If the investigation continued, were subsequent delay letters sent with 45 calendar days per W. Va. Code St. R. §114-14-6.7?

**Examiner Observations:** All claim investigations commenced within the required fifteen working days. No unreasonable delays were found by the Company seeking information not necessary. In fourteen (14) claims, the Company failed to properly issue delay letters in violation of W. Va. Code St. R. §114-14-6.7. Five of the claims also failed to send a required second delay letter, therefore there were nineteen (19) incidents of not issuing delay letters.

**Examiner Recommendations:** It is recommended that the Company comply with W. Va. Code St. R. §114-14-6.7 regarding notice of necessary delay in investigating claims. Section 6.7 states that if the insurer needs more than thirty (30) calendar days from the date that a proof of loss from a first party claimant or notice of claim from a third-party claimant is received to determine whether a claim should be accepted or denied, it shall so notify the claimant in

writing within fifteen (15) working days after the thirty-day period expires. Section 6.7 also states that if the investigation remains incomplete, the insurer shall provide written notification of the delay to the claimant every forty-five (45) calendar days thereafter until the investigation is complete.

**Results:** The Company’s handling practices were non-compliant.

**Table G2 Results: Claims Timely Investigation Sample**

Type	Population	Sample	N/A	Pass	Fail	Standard	Compliance
Paid claims (3 <sup>rd</sup> party)	437	82		78	4	93	95
Claims closed w/o pmt (3 <sup>rd</sup> party)	126	82		72	10	93	88
<b>TOTALS</b>	<b>563</b>	<b>164</b>		<b>150</b>	<b>14</b>	<b>93</b>	<b>91</b>

**Standard G3: Claims are resolved in a timely manner.** (NAIC Market Regulation Handbook Chapter 16, § G Standard 3)

**Test Methodology:**

- Did the Company deny the claim or make a written offer within ten (10) working days of completing its investigation per W. Va. Code St. R. §114-14-6.3?

**Examiner Observations:** The examiners found no exceptions.

**Examiner Recommendations:** None

**Results:** The standard of compliance is 93%. The Company’s handling practices were compliant.

**Table G3 Results: Claims Resolution Sample**

Type	Population	Sample	N/A	Pass	Fail	Standard	Compliance
Paid claims (3 <sup>rd</sup> party)	437	82		82	0	93	100
Claims closed w/o pmt (3 <sup>rd</sup> party)	126	82		82	0	93	100
<b>TOTALS</b>	<b>563</b>	<b>164</b>		<b>164</b>	<b>0</b>	<b>93</b>	<b>100</b>

**Standard G4: The Company responds to claim correspondence in a timely manner.** (NAIC Market Regulation Handbook Chapter 16, § G Standard 4)

**Test Methodology:**

- Did the Company reply to pertinent communications from a claimant which reasonably suggest that a response is needed per W. Va. Code St. R. §114-14-5.3 and W. Va. Code §33-11-4(9) (b)?

**Examiner Observations:** The examiners found one closed without payment claim where the Company failed to respond to correspondence within fifteen working days. The original email from the City Clerk was forwarded four times. She received no response until 3/27/2014. The

Company's adjuster had another contact who stated he would inform everyone on his end of the reevaluation decision.

- **Examiner Recommendations:** It is recommended that the Company reply to pertinent communications from a claimant which reasonable suggest that a response is needed per W. Va. Code St. R. §114-14-5.3 and W. Va. Code §33-11-4(9) (b).

**Results:** The Company's handling practices were predominately compliant.

**Table G4 Results: Claims Correspondence Sample**

Type	Population	Sample	N/A	Pass	Fail	Standard	Compliance
Paid claims (3 <sup>rd</sup> party)	437	82		82	0	93	100
Claims closed w/o pmt (3 <sup>rd</sup> party)	126	82		81	1	93	99
<b>TOTALS</b>	<b>563</b>	<b>164</b>		<b>163</b>	<b>1</b>	<b>93</b>	<b>99</b>

**Standard G5: Claim files are adequately documented.** (NAIC Market Regulation Handbook Chapter 16, § G Standard 5)

**Test Methodology:**

- Do the files contain all notes and work papers pertaining to the claim in such detail that pertinent events and the dates of such events can be reconstructed per W. Va. Code St. R. §114-14-3?
- Are the communications properly dated?

**Examiner Observations:** The examiners found three claims where the actual denial letter was not retained.

**Examiner Recommendations:** It is recommended that files contain all notes and work papers pertaining to the claim in such detail that pertinent events and the dates of such events can be reconstructed per W. Va. Code St. R. §114-14-3.

**Results:** The Company's handling practices were predominantly compliant.

**Table G5 Results: Claims Documentation Sample**

Type	Population	Sample	N/A	Pass	Fail	Standard	Compliance
Paid claims (3 <sup>rd</sup> party)	437	82		82	0	93	100
Claims closed w/o pmt (3 <sup>rd</sup> party)	126	82		79	3	93	96
<b>TOTALS</b>	<b>563</b>	<b>164</b>		<b>161</b>	<b>3</b>	<b>93</b>	<b>98</b>

**Standard G6: Claims are properly handled in accordance with policy provisions and applicable statutes, rules, and regulations.** (NAIC Market Regulation Handbook Chapter 16, § G Standard 6)

**Test Methodology:**

- Does the claim handling meet West Virginia statutes and rules as applied to sales tax payment, correct payees, improper release of claims, and proper payment of non-disputed claims?
- Was coverage checked for proper application of deductible or appropriate exclusionary language?
- Were appropriate disclosures given when a claim nears the applicable statute of limitations?

**Examiner Observations:** The examiners found no exceptions to the rule.

**Examiner Recommendations:** None

**Results:** The standard of compliance is 93%. The Company’s handling practices were compliant.

**Table G6 Results: Claims Correspondence Sample**

Type	Population	Sample	N/A	Pass	Fail	Standard	Compliance
Paid claims (3 <sup>rd</sup> party)	437	82		82	0	93	100

**Standard G9: Denied and closed-without-payment claims are handled in accordance with policy provisions and state laws.** (NAIC Market Regulation Handbook Chapter 16, § G Standard 9)

**Test Methodology:**

- Is the denial based upon specific policy provisions or exclusions?
- Is the claimant provided with a reasonable basis for the denial when required by statute or regulation per W. Va. Code St. R. §114-14-3?
- Is the claimant who is neither an attorney or represented by an attorney given written notice of that statute of limitation per W. Va. Code St. R. §114-14-6.12?
- Is the claimant given the option of contacting the Commissioner’s Office and provided with its mailing address, telephone number, and web site address per W. Va. Code St. R. §114-14-6.17?

**Examiner Observations:** There were three (3) closed without payment claims failing §114-14-6.17 (Option of contacting the West Virginia Offices of the Commissioner. Additionally, during the review of paid claims, the examiner found three claims that initially were denied claims, but then reevaluated and paid. Those denial letters also did not contain the option of contacting the West Virginia Offices of the Insurance Commissioner.

**Examiner Recommendations:** It is recommended that the Company comply with

W. Va. Code St. R. §114-14-6.17: Provide contact information and the option to contact the West Virginia Offices of the Insurance Commissioner.

**Results:** The Company’s handling practices were predominantly compliant.

**Table G9 Results: Claims Denied or Closed Without Payment Sample**

Type	Population	Sample	N/A	Pass	Fail	Standard	Compliance
Claims closed w/o pmt (3 <sup>rd</sup> party)	437	82	0	79	3	93	96

**Standard G10: Cancelled checks and drafts reflect appropriate claim handling practices.** (NAIC Market Regulation Handbook Chapter 16, § G Standard 10)

**Test Methodology:**

- Do the checks include the correct payee and are they for the correct amount?
- That payment checks do not indicate the payment is “final” when such is not the case.
- That checks or drafts do not purport to release the insurer from total liability when such is not the case.

**Examiner Observations:** Checks were in the correct amount and included the correct payee. No exceptions were noted.

**Examiner Recommendations:** None

**Results:** The standard of compliance is 93%. The Company’s handling practices were compliant.

**Table G10 Results: Cancelled Checks**

Type	Population	Sample	N/A	Pass	Fail	Standard	Compliance
Paid claims (3 <sup>rd</sup> party)	437	82	0	82	0	93	100

## LIST OF RECOMMENDATIONS

**Recommendation B4:** It is recommended that the Company reply to all complaint inquiries from the Offices of the Insurance Commissioner within fifteen (15) working days per W. Va. Code §114-14-5.2.

**Recommendation G1:** It is recommended that all claimants be contacted within fifteen (15) working days upon receiving notification of a claim in accordance with W. Va. Code St. R. §114-14-5.1.

**Recommendation G2:** It is recommended that the Company issue delay letters in accordance with W. Va. Code St. R. §114-14-6.7.

**Recommendation G4:** It is recommended that the Company reply to pertinent communications from a claimant which reasonable suggest that a response is needed per W. Va. Code St. R. §114-14-5.3 and W. Va. Code §33-11-4(9)(b).

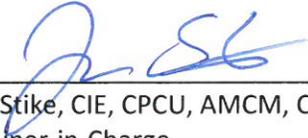
**Recommendation G5:** It is recommended that files contain all notes and work papers pertaining to the claim in such detail that pertinent events and the dates of such events can be reconstructed per W. Va. Code St. R. §114-14-3.

**Recommendation G9:** It is recommended that the Company comply with W. Va. Code St. R. §114-14-6.17: Provide contact information and the option to contact the West Virginia Offices of the Insurance Commissioner.

**EXAMINER'S SIGNATURE AND ACKNOWLEDGMENT**

The examiner would like to acknowledge the cooperation and assistance extended by the Company during the course of the examination.

In addition to the undersigned, Letha Greene, MCM, also participated in the examination.



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John Stike, CIE, CPCU, AMCM, CWCP, CIPA, APA, AU, AFI  
Examiner-in-Charge

EXAMINER'S AFFIDAVIT

State of West Virginia

County of Kanawha

EXAMINER'S AFFIDAVIT AS TO STANDARDS AND PROCEDURES USED IN AN EXAMINATION

I, John Stike, being duly sworn, states as follows:

- 1. I have the authority to represent West Virginia in the examination of Atlantic Specialty Insurance Company.
- 2. I have reviewed the examination work papers and examination report, and the examination of Atlantic Specialty Insurance Company was performed in a manner consistent with the standards and procedures required by West Virginia.

The affiant says nothing further.

*[Handwritten signature of John Stike]*

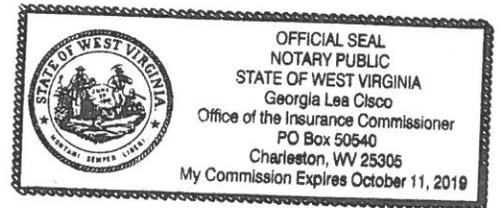
John Stike, CIE, CPCU, AMCM, CWCP, CIPA, APA, AU, AFI  
Examiner-in-Charge

Subscribed and sworn before me by John Stike on this 29 day of Dec, 2015.

(SEAL)

*Georgia Lea Cisco*  
Notary Public

My commission expires on 10-11-2019 (date).





OneBeacon Insurance Group  
605 N. Highway 169, Suite 800  
Plymouth, MN 55441  
[www.onebeacon.com](http://www.onebeacon.com)

**James G. Jordan**  
Deputy General Counsel

January 18, 2016

**VIA UPS**

Jeffrey C. Black  
Attorney Supervisor – Regulatory Compliance and Enforcement  
West Virginia Offices of the Insurance Commissioner  
P.O. Box 50540  
Charleston, WV 25305-0540

***Re: Market Conduct Examination of Atlantic Specialty Insurance Company – Agreed Order***

Mr. Black:

Attached is a copy of the agreed order signed by Atlantic Specialty Insurance Company (ASIC) and a check for the \$8500 administrative penalty. If you could send us a fully executed copy, that would be great.

We are in the process of finalizing the required corrective action plan, and we will submit the plan to the Department within the 30 days of the entry date of the order. We will also ensure that ASIC's Board receives a copy of the order and the final exam report.

We appreciate the assistance provided by the Department during the examination, especially the help we got from Mark Hooker and John Stike.

As always, feel free to call with questions.

Sincerely,

A handwritten signature in black ink, appearing to read "James G. Jordan", written over a horizontal line.

James G. Jordan