

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

**IN RE: WESTFIELD INSURANCE COMPANY  
ADMINISTRATIVE PROCEEDING  
13-MC-THP-02001**

**AGREED ORDER ADOPTING REPORT OF  
MARKET CONDUCT EXAMINATION**

NOW COMES, The Honorable Michael D. Riley, Insurance Commissioner of the State of West Virginia, and issues this Order which adopts the Report of Market Conduct Examination for the targeted examination of WESTFIELD INSURANCE COMPANY (hereinafter referred to as "Westfield") for the examination period ending June 30, 2013 based upon the following findings, to wit:

**PARTIES**

1. The Honorable 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. Westfield operates under the provisions of Chapter 33, of the West Virginia Code and is domiciled in the State of Ohio.
3. Westfield is licensed in the State of West Virginia for the lines of Property & Casualty.

4. This Targeted Market Conduct Examination was instituted as result of the Final Order entered in Administrative Proceeding Number 11-THP-02058. The Administrative Order concluded that Westfield violated the following sections of the Unfair Claims Settlement Act: W.Va. Code §§ 33-11-4(9)(b), W. Va. Code R. §§ 114-14-5.1 and 114-14-5.3. The Administrative Order further concluded that Westfield did not conduct a thorough, prompt and fair investigation after receiving constructive notice of the claim. Therefore, there were violations of W. Va. Code § 33-11-4(9)(c) and W. Va. Code R. §§ 114-14-6.1, 114-14-6.2 and 114-14-6.7.

5. The purpose of this targeted examination was to determine Westfield's compliance with West Virginia Insurance laws relating to treatment of third party claimants, particularly, whether the circumstances and findings of the Final Order in Administrative Proceeding No. 11-THP-02058 were done with such frequency as to constitute a general business practice. Examination information contained in this report should serve only these purposes. The conclusions and findings of this examination are public record.

#### **FINDINGS OF FACT**

1. The Targeted Market Conduct Examination primarily focused on third-party claims handling. The targeted examination covered the period of operations from January 1, 2011 through June 30, 2013. The examination was conducted in accordance with W. Va. Code § 33-2-9(c) by examiners duly appointed by the Offices of the West Virginia Insurance Commissioner.

2. On October 16, 2013, the examiner filed with the Insurance

Examination regarding the treatment of third party claimants.

3. A true copy of the Report of Market Conduct Examination and this Agreed Order were sent to Westfield.

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

5. Westfield waives notice of administrative hearing, any and all rights to an administrative hearing, and to judicial review of this matter.

6. Any Finding of Fact that is more properly a Conclusion of Law is hereby adopted as such and incorporated in the next section.

#### **CONCLUSIONS OF LAW**

1. The Insurance Commissioner has jurisdiction over the subject matter and the parties to this proceeding.

2. This proceeding is pursuant to and in accordance with W. Va. Code §33-2-9.

3. 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 Westfield as well as all other provisions of regulation that Westfield is subjected to by virtue of its Certificate of Authority to operate in the State of West Virginia.

4. There does not appear to be any violation exhibited by Westfield in this examination findings and scope.

5. Any Conclusion of Law that is more properly a Finding of Fact is hereby incorporated as such.

### **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 Westfield thereto, if any, the Insurance Commissioner and Westfield have agreed to enter into this Agreed Order adopting the Report of Market Conduct Examination.

It is accordingly **ORDERED** as follows:

(A) The Report of Market Conduct Examination of Westfield for the period ending June 30, 2013 is hereby **ADOPTED** and **APPROVED** by the Insurance Commissioner;

(B) It is further **ORDERED** that within thirty (30) days of the next regularly scheduled meeting of its Board of Directors, Westfield shall file with the West Virginia 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 **ORDER ADOPTING REPORT OF MARKET CONDUCT EXAMINATION**.

(C) It is further **ORDERED** that Westfield shall ensure continued compliance with the West Virginia Code and the West Virginia Code of State Rules.

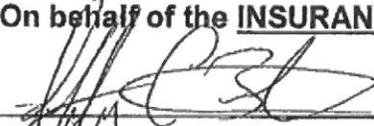
(D) It is finally **ORDERED** that all such statutory notices, administrative hearings and appellate rights are herein waived concerning this Report of Market Conduct Examination and Agreed Order. All such rights are preserved by the Parties regarding implementation or further action taken on such Order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

Entered this 3<sup>rd</sup> day of December, 2013

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

**REVIEWED AND AGREED TO BY:**

On behalf of the **INSURANCE COMMISSIONER:**

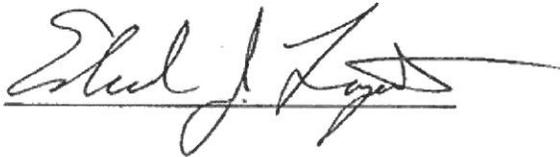
  
\_\_\_\_\_  
Jeffrey C. Black, Attorney Supervisor  
Regulatory Compliance and Enforcement

Dated: 12/3/13

On Behalf of **WESTFIELD INSURANCE COMPANY:**

By: EDWARD S. LARGENT  
Print Name

Its: PRESIDENT

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

Date: NOVEMBER 21, 2013

# Report of Market Conduct Examination

As of June 30, 2013



## Westfield Insurance Company

9040 Greenwich Rd.  
Westfield Center, OH 44251

NAIC COMPANY CODE 24112  
Examination Number WY014-M40

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October 16, 2013

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, 2013, regarding treatment of third-party claimants:

**Westfield Insurance Company**  
9040 Greenwich Rd.  
Westfield Center, OH 44251

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 Office of the Insurance Commissioner ("WVOIC") which are based on applicable West Virginia statutes and administrative rules, as referenced herein.

"Company" as used herein refers to Westfield 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.

## PURPOSE AND SCOPE OF EXAMINATION

Market conduct examiners with the WVOIC reviewed certain business practices of Westfield 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 and in this instance with specific concentration on producer submission of claims. Examination information contained in this report should serve only these purposes. The conclusions and findings of this examination are public record.

This examination was governed by, and performed in accordance with procedures developed by the WVOIC that are based on those of the National Association of Insurance Commissioners (NAIC); modified to conform to the requirements of West Virginia insurance laws. In reviewing material for this report, the examiners relied primarily on records and material maintained and/or submitted by the Company. The examination covered the period of the Company's operations, from January 1, 2011 through June 30, 2013.

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

- Producer Claims Practices

As the specific characteristic that initiated the Administrative Proceeding resulting in violations for the Company was that the producer did not immediately report a claim to the Company and that the Final Order indicated that "Once the Respondent received actual notice of the claim, it responded to the claim and proceeded to conduct a thorough, prompt and fair investigation of the claim.", the examination focus on claims was narrowed to review detailed information regarding the producer involved in the initiating complaint, producer contracts and training for claim handling, as well as complaint history.

Note: The previous WVOIC target exam performed on the Company was adopted in September of 2011.

### EXECUTIVE SUMMARY

This examination began August 23, 2013 and concluded on October 1, 2013. The examination was conducted at the WVOIC in Charleston, W. Va. The examination was called as a result of the Final Order entered in Administrative Proceeding No. 11-THP-02058. 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) and W. Va. Code St. R. §§114-14-5.1 and 114-14-5.3. After receiving constructive notice, the Company failed to acknowledge the claim or timely respond to the communication. In addition, the Company violated W. Va. Code §33-11-4(9)(c) and W. Va. Code St. R. §§114-14-6.1 and 114-14-6.7. The Company failed to conduct a thorough, prompt and fair investigation after receiving constructive notice of the claim.

W. Va. Code §33-11-4a(e) & (f) implies 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.

### REVIEW METHODOLOGY & FINDINGS

- The examiners requested and the Company provided an Agency Profile on the producer that did not immediately report a claim. Review of the submitted Agency Profile indicates that the producer had been appointed with the Company since October of 2000 and at the time of the loss had represented the Company for over ten (10) years. During 2010 the producer reported 87 claims, in 2011 reported 67 claims and in 2012 reported 60 claims without any timeliness issues. The examiners' determination is that this was an isolated incident with this producer.

- The examiners requested and the Company provided a listing of producers licensed in W. Va. and a signed affidavit that each Agency Agreement contains the following language under General Provisions in regards to claims, "The Agent shall immediately report all claims and losses and turn over all legal process involving coverages placed with the Company to the nearest Company Claims Office or authorized representative." Of the 692 W. Va. licensed producers provided, the examiners reviewed a sample of 25 Agency Agreements; the same language was contained in all.
- The examiners requested and the Company provided screen shots and training materials that provide explanation of the claims process. The Company also provides to their producer force the forms for filing claims, Company Claims Office locations and contact information, as well as an AWP (Agency Web Passport), a portal for producer submission of claims. The examiners concluded that the company provides adequate training and access for filing claims.
- The examiners requested and the Company provided their complaint register. The examiners reviewed the provided register and the WVOIC list of complaints received on the Company for the examination period and found that there were no other instances regarding a producer untimely reporting a claim to the Company.

### CONCLUSION

In pursuit of compliance with W. Va. State codes specific to those contained in this report, the Company contractually indicates to its representing producer force to immediately report claims. In addition, the Company provides training in regards to proper processing of claims and provides access in multiple venues for reporting claims in a timely manner to the Company.

*The information reviewed during this examination is indicative of the causal complaint and resulting violations identified in Administrative Proceeding No. 11-THP-02058 as being an isolated event and as such is not a general business practice.*

**LIST OF RECOMMENDATIONS**

Although the examination does not indicate any violations identified in Administrative Proceeding No. 11-THP-02058, it is recommended that the Company provide refresher training to its producer force on their responsibility of proper claims handling as it pertains to acknowledging claims after receiving constructive notice of a claim and timely responses to communications and to conduct thorough, prompt and fair investigation after receiving constructive notice of the claim.

**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, Mark A. Hooker, CIB, AMCM, CPCU, CWCP, PIR, AAI, AU, AIS, CCP, FLMI, LUTCF, AIRC and Robert Parsons, CIE, MCM, AIRC, CWCP, ACS, CICSR, CCP also participated in the examination.



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Desiree D. Mauller, MCM, CWCP  
Examiner-in-Charge

EXAMINER'S AFFIDAVIT

State of West Virginia

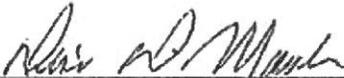
County of Kanawha

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

I, Desiree D. Mauller, being duly sworn, states as follows:

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

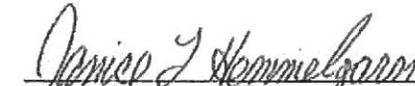
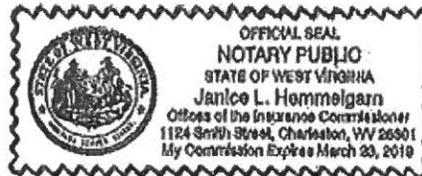
The affiant says nothing further.



Desiree D. Mauller, MCM, CWCP  
Examiner in Charge

Subscribed and sworn before me by Desiree D. Mauller on this 16 day of Oct, 2013.

(SEAL)

  
Notary Public

My commission expires on 3/23/2019 (date).