PROCEEDING BEFORE THE HONORABLE JANE L. CLINE
INSURANCE COMMISSIONER OF THE
STATE OF WEST VIRGINIA

IN RE:
ST. PAUL FIRE & MARINE INSURANCE COMPANY

ADMINISTRATIVE PROCEEDING
NUMBER 09-MAP-2003

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

NOW COMES, The Honorable Jane L. Cline, Insurance Commissioner of the State of West Virginia, and issues this Agreed Order which adopts the Report of Market Conduct Examination, directs corrective action and assesses a penalty as a result of findings in the Report of Market Conduct Examination for the targeted examination of **ST. PAUL FIRE & MARINE INSURANCE COMPANY** hereinafter referred to as "**ST. PAUL**" for the examination period ending June 30, 2007 based upon the following findings, to wit:

PARTIES

1. The Honorable Jane L. Cline 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. ST. PAUL is a Minnesota domestic insurer authorized by the Insurance Commissioner to transact property and casualty insurance in the State

of West Virginia as permitted under Chapter 33, Article 1 of the West Virginia Code.

3. Additionally, ST. PAUL is authorized to transact insurance in all states, Canada, Guam, Puerto Rico, and the U.S. Virgin Islands.

4. This targeted market conduct examination was instituted as result of the Final Orders entered in Administrative Proceeding Nos. 06-THP-103 and 06-THP-140 which found that St. Paul Fire & Marine Insurance Company committed unfair claims settlement practices by violating W. Va. Code §33-11-4(9)(d); failing to pay claims without conducting a reasonable investigation based upon all available information; and W. Va. Code §33-11-4(9)(f) not attempting to effectuate a prompt, fair and equitable settlement of a claim once liability has become reasonably clear. W. Va. Code §33-11-4a(e) & (f) provides that upon any finding that a company committed an unfair claims settlement practice with respect to a third party claimant, that the Commissioner shall determine whether or not that practice occurred with such frequency as to be construed as a general business practice of the Company.

FINDINGS OF FACT

1. A Targeted Market Conduct Examination concerning claims handling of ST. PAUL for the one year period ending June 30, 2007, was conducted in accordance with West Virginia Code Section 33-2-9(c) by examiners duly appointed by the Insurance Commissioner.

2. On July 31, 2009, the examiner filed with the Insurance

Commissioner, pursuant to West Virginia Code Section 33-2-9(j)(2), a Report of Market Conduct Examination.

3. On July 31, 2009, a true copy of the Report of Market Conduct Examination was sent to ST. PAUL by certified and electronic mail and was received by ST. PAUL on August 5, 2009. A certified mail, return receipt requested, and was also delivered and acknowledged by the Company. .

4. On July 31, 2009 ST. PAUL was notified that, pursuant to West Virginia Code Section 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.

5. The Report of Market Conduct Examination included violations of West Virginia Code sections 33-11-4(9) (d); and West Virginia Code sections 33-11-4(9) (f).

6. On August 21, 2009, ST. PAUL responded to the Report of Market Conduct Examination ("St. Paul's Response") and essentially did not dispute certain facts pertaining to findings, comments, results, observations, or recommendations contained in the Report of Market Conduct Examination

7. The Report of Market Conduct Examination included violations of West Virginia Code sections 33-11-4(9)(d) concerning failure to properly investigate claims and West Virginia Code of State Rules Section 114-14-6.17 regarding failure to include required contact information for Commissioner on claim disputes. The Report of Market Conduct Examination also revealed violations of West Virginia Code of State Rules 114-14-6.7 and 114-14-3.1.

8. The violations of West Virginia Code sections 33-11-4(9)(d) as well as violations of West Virginia Code of State Rules, section 114-14-6.17 occurred with such frequency as to be construed as failures of the standards according to guidelines set forth of the NAIC Market Regulation Handbook.

9. ST. PAUL waives notice of administrative hearing, any and all rights to an administrative hearing, and to judicial review of this matter.

10. 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 of and the parties to this proceeding.

2. This proceeding is pursuant to and in accordance with West Virginia Code Section 33-2-9.

3. The violations of West Virginia Code Section 33-11-4(9)(d) and West Virginia Code of State Rules, Sections 114-14-6.17 have occurred with such frequency as to constitute a general business practice under the provisions of West Virginia Code, Section 33-11-4a(e). Further, under West Virginia Code, Chapter 33, Article 11, Section 4a(f), the Commissioner finds that the actions of ST. PAUL constitute a general business practice based upon the existence of substantially similar violations in a number of separate claims or causes of action.

4. The Report of Market Conduct Examination also revealed violations

of West Virginia Code of State Rules 114-14-6.7 and 114-14-3.1. However, because those infractions were minimal in nature they will be considered *de minimus* and fine or penalty will not be sought by WVOIC.

5. The Commissioner is charged with the responsibility of verifying continued compliance with West Virginia Code and the West Virginia Code of State Rules by ST. PAUL as well as all other provisions of regulation that ST. PAUL is subjected to by virtue of their Certificate of Authority to operate in the State of West Virginia.

6. There does not appear to be any intentional conduct exhibited by ST. PAUL in this examination findings and scope.

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

8. Only third party claims were reviewed during the scope of this examination. Therefore, any findings enumerated in the Report of Market Conduct Examination were strictly limited to third party claims only. The manner in which ST. PAUL has handled claims submitted by its policyholders is not relevant nor within the scope of this Report of Market Conduct Examination nor should be interpreted as such. The terms of this Order do not apply nor should be construed to imply that they are applicable to first party insurance claims.

ORDER

Pursuant to West Virginia Code Section 33-2-9(j)(3)(A), following the review of the Report of Market Conduct Examination, the examination work papers, and St. Paul's Response thereto, the Insurance Commissioner and ST.

PAUL have agreed to enter into this Agreed Order adopting the Report of Market Conduct Examination. The Parties have further agreed to the imposition of corrective action and an administrative penalty against ST. PAUL as set forth below.

It is accordingly **ORDERED** as follows:

(A) The Report of Market Conduct Examination of ST. PAUL for the period ending June 30, 2007 is hereby **ADOPTED** and **APPROVED** by the Insurance Commissioner.

(B) It is **ORDERED** that ST. PAUL will **CEASE AND DESIST** from failing to comply with the Statutes, Rules and regulations of the State of West Virginia concerning any claims so handled in this State and more specifically the provisions enumerated herein this Order.

(C) It is further **ORDERED** that ST. PAUL shall continue to monitor its Compliance with West Virginia Code Section 33-11-4(9)(d) and West Virginia Code of State Rules, Sections 114-14-6.17, 114-14-6.7, 114-14-3.1 and provide reports of compliance, as part of the required Corrective Action Plan, not less frequently than each calendar quarter for a period of one (1) year from the date of this order unless extended by the Commissioner by providing thirty (30) days written notice to ST. PAUL.

(D) It is further ORDERED that within thirty (30) days of the next regularly scheduled meeting of its Board of Directors, ST. PAUL shall file with the West Virginia Insurance Commissioner, in accordance with West Virginia Code Section 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, DIRECTING CORRECTIVE ACTION AND ASSESSING PENALTY.

(E) It is further **ORDERED** that ST. PAUL shall ensure compliance with the West Virginia Code and the Code of State Rules. ST. PAUL shall specifically cure those violations and deficiencies identified in the Report of Market Conduct Examination including but not limited to the following:

(i.) St. Paul agrees to review the 239 claims that were not part of the examination to determine whether they contain the required regulatory West Virginia Offices of the Insurance Commissioner reference language. If the letter does have the appropriate language, no further review would be necessary. If the letter does not contain the appropriate language, St. Paul will review the file to determine if additional investigation is warranted. If so determined, St. Paul will reopen the file and complete the investigation. Once the investigation is complete, St. Paul will either negotiate and pay the claim, if appropriate, or send a new denial letter, tolling the statute of limitations for a period of 60 days, and advising the claimant that they can contact the West Virginia Offices of the Insurance Commissioner if they disagree with the denial.

(ii.) St. Paul will additionally send communication to all of their claim offices reinforcing the need for proper documentation in their claim handling.

(F) It is further **ORDERED** that ST. PAUL SHALL FILE a Corrective Action Plan which will be subject to the approval of the Insurance Commissioner. The Corrective Action Plan shall detail ST. PAUL'S changes to its procedures and/or

internal policies to ensure compliance with the West Virginia Code and incorporate all recommendations of the Insurance Commissioner's examiners and address all violations specifically cited in the Report of Market Conduct Examination. ST. PAUL will also voluntarily review its related procedures in other jurisdictions with similar Third Party Claimant Laws; however those actions will not be reported in the Corrective Action Plan, except to the extent necessary to acknowledge the Company has completed its review. 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. ST. PAUL 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 ST. PAUL 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.

(G) The Insurance Commissioner has determined and it has been ordered that ST. PAUL shall pay an administrative penalty to the State of West Virginia in the amount of **Fifteen Thousand Dollars ($15,000.00)** for non-compliance with the West Virginia Code 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 further Ordered that this Order be limited in scope and context to this Targeted Market Conduct exam and should not be interpreted as being anything more conclusive than an examination conducted of its third party claims

files. No first party claims were reviewed herein this examination nor in the scope of this inquiry. ST. PAUL herein does not admit liability, violation, or other wrongdoing except as contained herein this Agreed Order or attached hereto in the Report of Market Conduct Examination. The findings are not intended to be used as precedent for any such additional causes of action or proceedings. ST. PAUL shall immediately implement a Corrective Action Plan as described herein.

(l) 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 any further action taken on such Order by the Commissioner against ST. PAUL.

Entered this 27th day of October, 2009.

The Honorable Jane L. Cline
Insurance Commissioner

REVIEWED AND AGREED TO BY:

On behalf of the INSURANCE COMMISSIONER:

Andrew R. Pauley, Associate Counsel
Attorney Supervisor, APIR

Dated: 10/19/09

On Behalf of ST. PAUL:

By: CHRISTINE PALMIERI
Print Name

Its: 2nd Vice President

Signature: [signature]

Date: October 14, 2009

STATE OF WEST VIRGINIA
Offices of the Insurance Commissioner

JOE MANCHIN III
Governor

JANE L. CLINE
Insurance Commissioner

July 31, 2009

CERTIFIED MAIL
7007 2680 0000 9767 4203

Mr. Brian William MacLean, President
Attention: Chris Palmieri, Mail Code 5MS
St. Paul Fire & Marine Insurance Company
One Tower Square
Hartford, CT 06183

RE: Report of Market Conduct Examination as of June 30, 2007

Dear Mr. MacLean:

Enclosed is a copy of the Report of Market Conduct Examination of St. Paul Fire & Marine Insurance Company. This targeted examination was performed in accordance with the provisions of Chapter 33, Article 2, and Section 9 of the West Virginia Code of 1931 as amended. The report reflects the standards reviewed pertaining to treatment of third party claimants by St. Paul Fire & Marine Insurance Company for the period ending June 30, 2007.

Pursuant to West Virginia Code §33-2-9(j)(2), you are hereby notified that you have thirty (30) days from receipt of this report to make written submission or rebuttals with respect to any matter contained in the Report of Market Conduct Examination. If an exception is taken it must be filed within the statutory time period. Please direct any questions you may have to Chief Market Conduct Examiner, Mark A. Hooker at 558-6279, ext. 1176.

Sincerely,

Jane L. Cline
Insurance Commissioner

Enc: Copy of Report of Market Conduct Examination as of June 30, 2007

cc: Mary Jane Pickens, General Counsel
Andrew R. Pauley, Associate Counsel, Supervisor-Regulatory Compliance
Mark A. Hooker, Chief Market Conduct Examiner

Report of Market Conduct Examination

As of June 30, 2007

St. Paul Fire & Marine Insurance Company

385 Washington Street
St. Paul, Minnesota 55102

NAIC COMPANY CODE 24767
Examination Number WV014-M12

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July 30, 2009

The Honorable Jane L. Cline
West Virginia Insurance Commissioner
1124 Smith Street
Charleston, West Virginia 25301

Dear Commissioner Cline:

Pursuant to your instructions and in accordance with W. Va. Code § 33-2-9, an examination has been made as of June 30, 2007 of methods of doing business of:

St. Paul Fire & Marine Insurance Company
385 Washington Street
St. Paul, Minnesota 55102

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

EXECUTIVE SUMMARY

This examination is the first market conduct examination of St. Paul Fire & Marine Insurance Company conducted by the State of West Virginia. The field portion of the examination began October 6, 2008, and concluded on November 21, 2008. It was conducted primarily at the Company's regional claims office in Hunt Valley, Maryland, with the remaining portion completed at the West Virginia Offices of the Insurance Commissioner. The examination was called as a result of the Final Orders entered in Administrative Proceeding Nos. 06-THP-103 and 06-THP-140 which found that St. Paul Fire & Marine Insurance Company committed unfair claims settlement practices by violating W. Va. Code §33-11-4(9)(d); failing to pay claims without conducting a reasonable investigation based upon all available information; and W. Va. Code §33-11-4(9)(f) not attempting to effectuate a prompt, fair and equitable settlement of a claim once liability has become reasonably clear. W. Va. Code § 33-11-4A(e) & (f) provides that upon any finding that a company committed an unfair claims settlement practice with respect to a third party claimant, that the Commissioner shall determine whether or not that 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 paid to denials of claims without a reasonable investigation or when liability had become reasonably clear. These areas are encompassed within Standard and G-9 of this report. Certain other Standards from the Company Operations and Management, and Complaint Handling Sections, of the *NAIC Market Regulation Handbook*, are also included within this examination report; these areas were considered ancillary to the claims practice review and/or the conduct of the examination.

A total of fifteen (15) standards were reviewed during this examination. Of these fifteen (15) standards the Company passed fourteen (14) and failed one (1). The standard the company failed was relevant to the purpose of the examination. Various non-compliant practices were identified, some of which may extend to other jurisdictions. The Company is directed to take immediate corrective action to demonstrate its ability and intention to conduct business according to the West Virginia insurance laws and regulations. When applicable, corrective action for other jurisdictions should be addressed. The company advised that during 2007, a realignment of claims handling duties resulted in the majority of new West Virginia claims being shifted to the West Virginia claims office. Additionally, the company performed comprehensive training with claims staff on changes in the West Virginia Unfair Trade Practices Act prior to the start of the exam. The training included claim investigations and proper file documentation. Most of the claims reviewed were handled prior to the realignment and training. It was demonstrated during the exam that this realignment, in conjunction with

corresponding training had a positive impact on claim handling procedures and outcomes. ,

SCOPE OF EXAMINATION

The basic business areas that were examined under this examination were:

A. Company Operations/Management
B. Complaint Handling
G. Claims Practices

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

The examination focused on the methods used by the Company to manage its operations for each of the business areas subject to this examination. 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. This examination report is a report by test, rather than a report by exception, and all standards tested are described and the results indicated.

HISTORY AND PROFILE

St. Paul Fire and Marine Insurance Company is a subsidiary of The Travelers Companies, Inc., a general business corporation whose companies provide insurance and insurance related products. St. Paul Fire and Marine Insurance Company was incorporated in 1853 under the laws of the State of Minnesota with that original charter being assumed by The St. Paul Companies, Inc. when it was organized in 1968.

Mercury Insurance Company was incorporated in 1925 under the laws of the State of Minnesota. The name was changed to St. Paul Mercury Insurance Company in 1956. In accordance with a 1967 reinsurance and reorganization agreement between Mercury and the former St. Paul Fire and Marine Insurance Company, Mercury changed its name to St. Paul Fire and Marine Insurance Company. The former St. Paul Fire and Marine Insurance Company was reorganized as the St. Paul Companies, Inc. and its insurance business and related assets were assumed by St. Paul Fire and Marine Insurance company as part of the reinsurance and reorganization agreement. On April 1, 2004 The St. Paul Companies merged with Travelers Property Casualty Corp. and is now known as The Travelers Companies, Inc.

St. Paul Fire and Marine Insurance Company owns and operates through many subsidiaries. St. Paul Fire and Marine Insurance Company writes most lines of insurance and provides risk management, actuarial and financial services to insurance customers in all states, Canada, Guam, Puerto Rico, and the U.S. Virgin Islands.

As of December 31, 2007, the Company maintained less than a one percent market share in commercial multi-peril (liability portion), commercial automobile liability and other commercial liabilities in West Virginia.

METHODOLOGY

This examination is based on the standards and tests for a market conduct examination of a property and casualty insurer found in Chapters XVI and XVII of the *NAIC Market Regulation Handbook* and in applicable West Virginia statutes and rules.

Some of the standards were measured using a single type of review, while others used a combination for all types of review. The types of review used in this examination fall into three general categories: Generic, Sample, and Electronic.

A "Generic" review indicates that a standard was tested through an analysis of general data gathered by the examiner, or provided by the examinee in response to queries by the examiner.

A "Sample" review indicates that a standard was tested through direct review of a random sample of files selected using automated sampling software. The sampling techniques used are based on ninety-five percent (95%) confidence level with *Poisson* distribution---meaning sample sizes are generally the same without regard to population. For evaluation purposes, an error tolerance level of seven percent (7%) was used for claims and a ten percent (10%) tolerance was used for other types of review.

An "Electronic" review indicates that a standard was tested through use of a computer program or routine applied to a download of computer records provided by the examinee. In this type of review, typically 100% of the records of a particular type are examined.

Standards were measured using tests designed to adequately measure how the Company met certain benchmarks. The various tests utilized are set forth in the *NAIC Market Regulation Handbook* for a property and casualty insurer. Each standard applied is described and the result of testing is provided under the appropriate standard. The standard, its statutory authority under West Virginia law, and its source in the *NAIC Market Regulation Handbook* are stated and contained within a bold border.

Each standard is accompanied by a "Comment" describing the purpose or reason for the standard. "Results" are indicated, examiner's "Observations" are noted, and in some cases, a "Recommendation" is made. Comments, Results, Observations and Recommendations are maintained within the appropriate standard.

A. COMPANY OPERATIONS/MANAGEMENT

Comments: The evaluation of standards in this business area is based on a review of Company responses to information requests, questions, interviews, and presentations made to the examiner. Because this was a targeted examination primarily focused on Claims Handling, only two standards of this section of the NAIC Market Regulation Handbook were selected for review. These standards focused mainly on record keeping and the efficiency of the Company's responses to the examiner's requests.

Standard A 7	*NAIC Market Regulation Handbook – Chapter XVI, § A, Standard 7.*
Records are adequate, accessible, consistent and orderly and comply with state record retention requirements.	*W. Va. Code § 33-11-4 & W. Va. Code St. R. § 114-14-1, et seq.*

Comments: The review methodology for this standard is generic. The standard has a direct statutory requirement. This standard is intended to assure that an adequate and accessible record exists of the Company's transactions. The focus is on the records and actions considered in a market conduct examination such as, but not limited to, trade practices, claim practices, policy selection and issuance, rating, and complaint handling, etc. Inadequate, disorderly, inconsistent, and inaccessible records can lead to inappropriate rates and other issues, which can provide harm to the public.

Results: **Pass**

Observations: The examiner found that Company's policy and claim files were orderly to the extent that all pertinent events could be reconstructed from the documents and notes the Company maintained.

Recommendations: **None**

Standard A 9	*NAIC Market Regulation Handbook – Chapter XVI, § A, Standard 9*
The Company cooperates on a timely basis with examiner performing the examinations.	*W. Va. Code § 33-22-9 & W. Va. Code St. R. § 114-15-1, et seq.*

Comments: The review methodology for this standard is generic. The standard has a direct statutory requirement. This standard is aimed at assuring that the Company is cooperating with the State in the completion of an open and cogent review of the

Company's operations in West Virginia. Cooperation with examiner in the conduct of an examination is not only required by statute, it is conducive to completing the examination in a timely fashion and minimizing the cost of the examination.

Results: **Pass**

Observations: The Company was exceptionally cooperative. All requests for information were answered timely and the examination proceeded in a cordial atmosphere.

Recommendations: **None**

B. COMPLAINT HANDLING

Comments: Evaluations of the standards in this business area are based on Company responses to various requests for information and the review of the Company's complaint files. 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," the definition of a complaint is, "...any written communication primarily expressing a grievance."

Standard B 1	***NAIC Market Regulation Handbook -- Chapter XVI, § B, Standard 1***
All complaints are recorded in the required format on the company complaint register.	***W. Va. Code § 33-11-4(10)***

Comments: The review methodology for this standard is sample and generic. The standard has a direct statutory requirement. This standard is concerned with whether the Company keeps formal track of complaints or grievances as required by statute. An insurer is required to maintain a complete record of all complaints received. The record must indicate the total number of complaints since the last examination, 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.

Results: **Pass**

Observations: The Company registered nine (9) complaints for the examination period. The complaint register listed the policy number, insured name, complainants name, date received, reason for complaint, resolution status and resolution date. The Company complaint register was reconciled with the Insurance Commission's register without exception.

Table B1- Complaints Sample Results

Type	Population	Sampled	N/A	Pass	Fail	%Pass
2006-2007 Complaints	9	9	0	9	0	100%

Recommendations: **None**

Standard B 2 *NAIC Market Regulation Handbook – Chapter XVI, § B, Standard 2*
The regulated entity has adequate complaint handling procedures in place and communicates such procedures to policyholders.
W. Va. Code § 33-11-4(10) & W. Va. Code St. R. §114-14-5.2

Comments: The review methodology for this standard is generic. The standard has a direct statutory requirement. This standard is concerned with whether the Company has an adequate complaint handling procedure and whether the Company communicates complaint handling procedures to its policyholders. W. Va. Code § 33-11-4(10) requires all insurers to maintain a complete record of all complaints it has received since its last examination.

Results: **Pass**

Observations: The Company did maintain a complete record of complaints received from the Commissioner's Office and Complaints received directly by the Company. The Company's procedure is to begin processing complaints within twenty four (24) hours of receipt and to provide a response within fifteen (15) working days as required by W. Va. Code St. R. § 114-14-5.2.

Recommendations: **None**

Standard B 3 *NAIC Market Conduct Examiner Handbook – Chapter XVI, § B, Standard 3*
The company takes adequate steps to finalize and dispose of the complaint in accordance with applicable statutes, rules and regulations, and contract language.
W. Va. Code St. R. § 114-14-5.2

Comments: The review methodology for this standard is generic. The standard has a direct statutory requirement. This standard is concerned with whether the Company has an adequate complaint handling procedure and whether the Company takes adequate steps to resolve and finalize complaints.

Results: **Pass**

Observations: The entire population of WVOIC complaints and internal medical grievances were tested. The results of the testing are as follows: The Company provides its complaints to the proper internal departments to finalize and dispose of the complaints in compliance with W. Va. Code St. R. § 114-14-5.2.

Table B3- Complaints Sample Results

Type	Population	Sampled	N/A	Pass	Fail	%Pass
2006-2007 Complaints	9	9	0	9	0	100%

Recommendations: None

Standard B 4 *NAIC Market Regulation Handbook – Chapter XVI, § B, Standard 4*
The time frame within which the regulated entity responds to complaints is in accordance with applicable statutes, rules and regulations.
W. Va. Code § 33-11-4(10) & W. Va. Code St. R. § 114-14-5.2

Comments: The review methodology for this standard is sample. The standard does not have a direct statutory requirement, however, timeliness is inferred. In the case of complaints concerning claims, direct time requirements are found in regulation. This standard is concerned with whether the Company responded to complaints timely. West Virginia's complaint handling section uses a fifteen (15) working day standard for responses to complaints.

Results: **Pass**

Observations: The Company responded within fifteen (15) working days for all complaints received during the examination period.

Table B4- Complaints Sample Results

Type	Population	Sampled	N/A	Pass	Fail	%Pass
2006-2007 Complaints	9	9	0	9	0	100%

Recommendations: None

G. CLAIMS PRACTICES

Comments: The evaluation of standards in this business area is based on Company responses to information 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.

Standard G 1 *NAIC Market Regulation Handbook – Chapter XVI, §G, Standard 1*
The initial contact by the company with the claimant is within the required time frame.
W. Va. Code § 33-11-4(9) (b) & W. Va. Code St. R. § 114-14-5.1

Comments: Review methodology for this standard is generic, sample, and electronic. This standard derives directly from W. Va. Code § 33-11-4(9) (b) which prohibits, "failing to acknowledge and act reasonably upon communication with respect to claims arising under insurance policies." W. Va. Code St. R. § 114-14-5.1 states that "every insurer, upon receiving notification of a claim shall, within fifteen (15) working days, acknowledge the receipt of such notice unless full payment is made within such period of time".

Results: **Pass**

Observations: Out of the total population of two hundred ninety-nine (299) closed without payment claims, a sample of sixty (60) was selected for review to determine if the Company made timely contact with claimants. In all cases, Company contact times were in compliance within the required timeframe. Although no violations respecting this area were noted, the examiner did observe several instances in which the initial contact with the claimant was via denial notice (See Standard G 9). Five (5) Claims were considered "not applicable" for review if the claimant did not pursue a claim or if the claim file contained a first party loss only.

Table G 1- Claims-Closed Without Payment Sample Results

Type	Population	Sampled	N/A	Pass	Fail	%Pass
2006 -2007 Third Party Claims closed without payment	299	60	8	52	0	100%

Recommendations: **None**

Standard G 2	*NAIC Market Regulation Handbook – Chapter XVI, §G, Standard 2.*
Timely investigations are conducted.	*W. Va. Code § 33-11-4(9) (c) & W. Va. Code St. R. § 114-14-6*

Comments: Review methodology for this standard is generic and sample. This standard has a direct statutory requirement. West Virginia requires a claims investigation within fifteen (15) working days of receipt of a notice of a claim. W. Va. Code St. R. § 114-14-6.1 requires that the investigation be initiated within fifteen (15) working days from receiving notice of the claim.

According to W. Va. Code St. R. § 114-14-6.7 regarding notice of necessary delay in investigating claims, if the insurer needs more than thirty (30) calendar days from receipt notice of claim from a third-party claimant 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. 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. Both W. Va. Code St. R. § 114-14-8 (Emergency 2005) and W. Va. Code St. R. § 114-14-8 (Legislative 2006) allowed for a ninety-day provision for the training of adjusters on the rules. As a consequence, the examiner applied the Emergency Rule for activity on claims files

occurring after January 10, 2006 and the Legislative Rule for activity occurring on or after July 24, 2006.

Claim files that did not require the notice of necessary delay because they were resolved in a timely manner were considered to be a "pass" rather than "non-applicable" for evaluation purposes of this standard.

Results: **Pass**

Observation: Out of the total population of two hundred ninety-nine (299) claims closed without payment, a sample of sixty (60) was selected for review to determine if the Company initiated investigations prompt and in accordance with statutes and rules. One (1) claim failed this standard because the Company failed to send appropriate notice of delay of investigation to the claimant.

Table G 2- Timely Investigations

Type	Population	Sampled	N/A	Pass	Fail	%Pass
2006 -2007 Third Party Claims closed without payment	299	60	8	51	1	98%

Recommendations: None

Standard G 3	*NAIC Market Regulation Handbook – Chapter XVI, §G, Standard 3*
Claims are resolved in a timely manner	*W. Va. Code §33-11-4(9) (l) & (m) & W. Va. Code St. R. § 114-14-6.2, 6.5 & 6. 9*

Comments: Review methodology for this standard is generic, sample, and electronic. This standard has a direct statutory requirement. Failure to timely resolve claims can lead to administrative penalties and other actions under the provisions of the West Virginia Unfair Trade practices Act (UTPA).

Results: **Pass**

Observations: Out of the total population of two hundred ninety-nine (299) claims closed without payment, a sample of sixty (60) was selected for review and a time study performed to determine if claims were resolved timely. Resolution time was measured in working days from the time the claimant provided all necessary information to investigate and settle the claim. The company was consistently prompt in their handling of claims.

Table G 3- Timely Resolution

Type	Population	Sampled	N/A	Pass	Fail	%Pass
2006 -2007 Third Party Claims closed without payment	299	60	8	52	0	100%

Recommendations: None

Standard G 4	*NAIC Market Regulation Handbook – Chapter XVI, §G, Standard 4.*
The regulated entity responds to claim correspondence in a timely manner.	*W. Va. Code § 33-11-4(9)(b) & W. Va. Code St. R. §114-14-5*

Comments: Review methodology for this standard is generic and sample. This standard has a direct statutory requirement. This standard derives directly from W. Va. Code § 33-11-4(9)(b) which prohibits, "failing to acknowledge and act reasonably upon communication with respect to claims arising under insurance policies." West Virginia requires responses to claim communications within fifteen (15) working days of receipt of the communication.

Results: **Pass**

Observations: Out of the total population of two hundred ninety-nine (299) claims closed without payment, a sample of sixty (60) was selected for review to determine if the Company promptly responded to correspondences received. No exceptions were noted.

Table G 4- Claims Correspondence

Type	Population	Sampled	N/A	Pass	Fail	%Pass
2006 -2007 Third Party Claims closed without payment	299	60	8	52	0	100%

Recommendations: None

Standard G 5	*NAIC Market Regulation Handbook – Chapter XVI, §G, Standard 5*
Claim files are adequately documented.	*W. Va. Code St.. R. § 114-14-3. 1*

Comments: Review methodology for this standard is generic, sample, and electronic. This standard has a direct statutory requirement. Without adequate documentation, the various time frames required by statute and/or regulation cannot be demonstrated. West Virginia requires that an insurer's claim files shall 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.

Results: **Pass**

Observations: Out of the total population of two hundred ninety-nine (299) claims closed without payment, a sample of sixty (60) was selected for review to determine if documentation supported the ultimate claim determination. In one of the twenty-three (23) paid claim files, the Company failed to adequately document activities relating to the

claim. In the remaining paid and closed without payment claims, the examiner found that all claim files contained the necessary detail as to allow pertinent events and the dates of such events of the claim to be reconstructed.

Table G-5 Claims-Documentation

Type	Population	Sampled	N/A	Pass	Fail	%Pass
2006 -2007 Third Party Claims closed without payment	299	60	8	50	2	96%

Recommendations: None

Standard G 7	*NAIC Market Regulation Handbook – Chapter XVI, §G, Standard 7.*
Regulated Entity claim forms are appropriate for the type of product.	

Comments: Review methodology for this standard is generic. This standard does not have a direct statutory requirement.

Results: **Pass**

Observations: Out of the total population of two hundred ninety-nine (299) claims closed without payment, a sample of sixty (60) was selected for review and it was determined there were no inappropriate claim forms used.

Recommendations: **None**

Standard G 9	*NAIC Market Regulation Handbook – Chapter XVI, §G, Standard 9*
Denied and closed-without-payment claims are handled in accordance with policy provisions and state law.	*W. Va. Code § 33-11-4(9) (e) & (n) & W. Va. Code St. R. § 114-14- 6.17,6.3. 3, 6. 4 & 6.11*

Comments: Review methodology for this standard is generic. This standard has a direct statutory requirement. Concerns tested for this standard include:

- Notices of claim denials reference specific policy provisions or exclusions.
- Claims are not denied without a reasonable investigation
- Claimants are provided with a reasonable basis for the denial when required by statute or regulation.
- Claimants are advised of expiration of the statute of limitations in accordance with W. Va. Code St. R. § 114-14- 6.11
- Denied and closed-without-payment claims are based on policy provisions and comply with West Virginia statutes and regulations. W. Va. Code St. R. § 114-14-6.17 states the following:

> *Any notice rejecting any element of a claim shall contain the identity and the claims processing address of the insurer and the claim number. The notice must*

state that the claimant has the option of contacting the Commissioner. The notice must provide the Commissioner's mailing address, telephone number and website address.

Results: **Fail**

Observations: Out of the total population of two hundred ninety-nine (299) claims closed without payment, a sample of sixty (60) claims was selected for review for the above listed criteria.

Eight (8) claims were considered "not applicable" for review if the claimant did not pursue a claim or if the claim file contained a first party loss only.

In five (5) cases the Company denied or closed the claim without payment or without conducting a reasonable investigation as required by W. Va. Code § 33-11-4(9) (d). The results reflect a ten percent (10%) failure rate of the Standard... Because the examiner in charge was to determine if violations of W. Va. Code §33-11-4(9) (d) *failing to pay claims without conducting a reasonable investigation based upon all available information*; and W. Va. Code §33-11-4(9) (f) *not attempting to effectuate a prompt, fair and equitable settlement of a claim once liability has become reasonably clear* were committed with such frequency as to indicate a business practice of the company the accompanying tables were split. Table G 9a reflects this required determination.

Table G 9a- Claims-Closed Without Payment Sample Results

Type	Population	Sampled	N/A	Pass	Fail	%Pass
Third Party Claims closed without payment	299	60	8	47	5	90%

It is noteworthy that the examiner is not making any representations as to whether the Company was truly liable on five (5) of these claims as there was not enough information in the file to make these determination, as such, the extent of consumer harm can not be evaluated. The Company claims procedures contained sufficient direction concerning proper investigations; consequently the company felt these five files were anomalies.

The examination revealed that in twenty-seven (27) instances, the denial notices issued by the company did not contained contact information for the Insurance Commissioner as required by W. Va. Code St. R § 114-14-6.17. Table 9b reflects other failures of the standard that were not relevant to the commissioner's required determination but nevertheless failed the standard.

Table G 9b- Claims-Closed Without Payment Sample Results(Denial Notice Information)

Type	Population	Sampled	N/A	Pass	Fail	%Pass
Third Party Claims closed without payment	299	60	8	25	27	48%

Recommendations: It recommended that the company specifically reopen and reevaluate all denied claims to include those claims files identified by the examiner as having a deficient investigation. It is further recommended that the company conduct additional training to its adjusters who handle West Virginia claims on their obligations with respect to third party claimants. It is also recommended that the Company include in all claim denial letters the contact information required by West Virginia Code State R. § 114-14-6.17. It is further recommended that the Company implement procedures to ensure that a reasonable investigation is conducted prior to denying a claim.

Standard G 12	*NAIC Market Regulation Handbook – Chapter XVII, §G, Standard 1*
Regulated Entity uses the reservation of rights and excess of loss letters, when appropriate.	*W. Va. Code § 33-11-4(9) (e) & W. Va. Code St. R. § 114-14-6. 5*

Comments: Review methodology for this standard is sample and generic. This standard has a direct statutory requirement. Concerns tested for this standard include:

- The Company has reason to question coverage and has sent a reservation of rights letter.
- The Company sends an excess of loss letter when it is apparent that the loss will exceed policy limits.

Results: **Pass**

Observations: Out of the total population of two hundred ninety-nine (299) claims closed without payment, a sample of sixty (60) was selected for review to determine if the Company advised claimants, when necessary, of its reservation of rights or the potential of a claim being in excess of loss allowed under policy provisions. The Company issued reservation of rights and excess of loss letters where appropriate, no exceptions were noted.

Recommendations: **None**

CONCLUSION

The examination revealed twenty-seven (27) violations of W. Va. Code St. R. § 114-14-6.17 and five (5) violations of W. Va. Code § 33-11-4(9) (d). Both of these violations occurred with such frequency to fail the standard (Standard 9). The violations of W. Va. Code § 33-11-4(9) have a direct bearing as to whether the underlying violations in Administrative Proceeding Nos. 06-THP-103 and 06-THP-140 were committed with such frequency as to fail the standard with respect to error tolerance levels set forth in the *NAIC Market Regulation Handbook.*

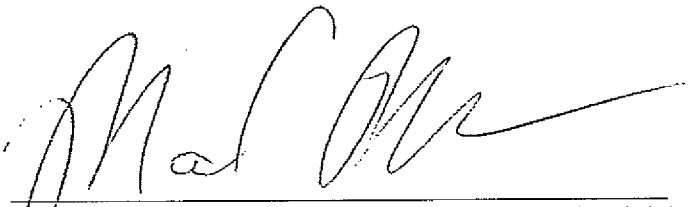
LIST OF RECOMMENDATIONS

Recommendation G-9a It is recommended that the company specifically reopen and reevaluate all denied claims to include those claims files identified by the examiner as having a deficient investigation. It is further recommended that the company conduct additional training to its adjusters who handle West Virginia claims on their obligations with respect to third party claimants

Recommendation G-9b
It is recommended that the Company include in all claim denial letters the contact information required by West Virginia Code State R. § 114-14-6.17.

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.



Mark A. Hooker, CIE, CPCU, MCM, CWCP, AAI, AU, AIS, LUTCF
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, Mark A. Hooker, being duly sworn, states as follows:

1. I have the authority to represent West Virginia in the examination of St. Paul Fire & Marine Insurance Company. .

2. I have reviewed the examination work papers and examination report, and the examination of St. Paul Fire & Marine Insurance Company was performed in a manner consistent with the standards and procedures required by West Virginia.

The affiant says nothing further.

Mark A. Hooker, CIE, CPCU, MCM, CWCP, AAI, AU, AIS, LUTCF
Examiner in Charge

Subscribed and sworn before me by Mark A. Hooker on this 29Th day of July 2009.

(SEAL)

OFFICIAL SEAL
NOTARY PUBLIC
STATE OF WEST VIRGINIA
ELIZABETH WEBB
440 Rockaway Road
Charleston, WV 25302
My Commission Expires Sept. 26, 2012

Notary Public

My commission expires Sept. 26, 2012 (date).