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

IN RE: MARKET CONDUCT EXAMINATION OF STATE AUTO PROPERTY & CASUALTY INSURANCE COMPANY

ADMINISTRATIVE PROCEEDING NUMBER 07-AP-050

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

FILED
2007 DEC 21 AM 8: 15
OFFICE OF WV SECRETARY OF STATE

NOW COMES, The Honorable Jane L. Cline, 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 STATE AUTO PROPERTY AND CASUALTY COMPANY hereinafter referred to as STATE AUTO for the examination period ending December, 2006 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. STATE AUTO is an Iowa 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, STATE AUTO is authorized to transact insurance in thirty (30) other jurisdictions.

FINDINGS OF FACT

1. A Targeted Market Conduct Examination concerning claims treatment of STATE AUTO for the one year period ending December 31, 2006, was conducted in accordance with West Virginia Code Section 33-2-9(c) by examiners duly appointed by the Insurance Commissioner.

2. On October 4, 2007, 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 October 4, 2007, a true copy of the Report of Market Conduct Examination (attached hereto as Exhibit A) was sent to STATE AUTO by electronic mail and was received by STATE AUTO on October 4, 2007. A certified mail, return receipt requested, and was also delivered and acknowledged by the Company. .

4. The Report of Market Conduct Examination included two recommendations:

> It is recommended that the Company send the required notices of delay of investigation to third party claimants when appropriate. It is further recommended that the Company conduct additional training for its claims adjusters specifically as it relates to W. Va. Code St. R. § 114-14-1 et. seq. (Legislative 2006).

* * *

> 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.

(Exhibit A, pp. 8, 12.)

5. On October 4, 2007, STATE AUTO 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.

6. On October 17, 2007, STATE AUTO responded to the Report of Market Conduct Examination ("STATE AUTO's Response") by assuring the Insurance Commissioner that the two violations "are not reflective of [STATE AUTO's] intended business practices for any of the State Auto Companies in handling the claims of our policyholders and claimants" and responded specifically to the two deficiencies identified in the Report of Market Conduct Examination. (See STATE AUTO's Response, attached hereto as Exhibit B.)

7. Specifically, with respect to the Insurance Commissioner's Recommendation concerning Standard G-2, STATE AUTO advised:

> The Company acknowledges the Department's findings and reports that procedural steps and personnel actions have been taken to ensure required delay notices are distributed in an accurate and timely manner.
>
> In addition, State Auto Claims Management has conducted additional training cover the requirements of *W. Va. Code St. R. § 114-14-1 et. seq. (Legislative 2006)* with the Claim Service Offices responsible for handling West Virginia claims. These supplemental training sessions were completed by August 15, 2007, soon after the conclusion of the Exam. Additional training has also been provided to our Claims Contact Center personnel on this issue.

> Ongoing compliance is being monitored for all lines of insurance by Claim Staff and Branch Claim operations, using amended claim audit procedures and additional computer automation steps to ensure timeliness and accuracy of Claim Delay letters on the part of the Company. (Exhibit B, p. 2.)

8. Further, with respect to the Insurance Commissioner's Recommendation concerning Standard G-11, STATE AUTO also advised:

> State Auto Insurance acknowledges the Department's findings and reports the specific violations cited in the Examination Report were the result of human error and has been reviewed with responsible personnel. The importance of complete and accurate compliance has been reinforced by Claims Management.
>
> Separately, samples of our revised denial letters have been sent to Mr. Mark Hooker [Chief Market Conduct Examiner]. The revised letters now carry the required contact information. Specific adjuster contract information is added at the time the letter is produced. (Exhibit B, p. 2.)

9. STATE AUTO did not otherwise dispute any facts pertaining to findings, comments, results, observations, or recommendations contained in the Report of Market Conduct Examination but did also state that:

> None of these comments nor any of [STATE AUTO's] actions is admissions on our part of any violation, wrongdoing or fault and should not be interpreted by the West Virginia Department or any other party as constituting any admission.(Exhibit B, p. 3.)

10. The violations of West Virginia Code sections 33-11-4(9)(c), as well as violations of West Virginia Code of State Rules, sections 114-14-6.17 and 114-14-6.7 occurred with such frequency as to be construed as failures of the standards according to guidelines set forth in Chapter 15 of the NAIC Market Regulation Handbook

11. STATE AUTO waives notice of administrative hearing, any and all rights to an administrative hearing, and to judicial review of this matter.

12. 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 of State Rules, Sections 114-14-6.17 and 114-14-6.7 have occurred with such frequency as to constitute a business practice under the provisions of West Virginia Code, Section 33-11-4A(f).

4. The Commissioner is charged with the responsibility of verifying continued compliance with West Virginia Code of State Rules, Sections114-14-6.17 and 114-14-6.7 by STATE AUTO as well as all other provisions of regulation that STATE AUTO is subjected to by virtue of their Certificate of Authority to operate in the State of West Virginia.

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

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 STATE AUTO 's Response thereto, the Insurance Commissioner

and STATE AUTO have agreed to enter into this Agreed Order adopting the Report of Market Conduct Examination. The Insurance Commissioner and STATE AUTO have further agreed to the imposition of an administrative penalty against STATE AUTO as set forth below.

It is accordingly **AGREED** and **ORDERED** as follows:

The Report of Market Conduct Examination of STATE AUTO PROPERTY AND CASULTY COMPANY for the period ending December 31, 2006 is hereby **ADOPTED** and **APPROVED** by the Insurance Commissioner;

It is **AGREED** and **ORDERED** that STATE AUTO 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;

It is **AGREED** that the violations of West Virginia Code of State Rules, Sections 114-14-6.17 and 114-14-6.7 have occurred with such frequency as to constitute a general business practice under the provisions of West Virginia Code Section 33-11-4A(f);

It is further **AGREED** that STATE AUTO shall continue to monitor its Compliance with West Virginia Code of State Rules, Sections 114-14-6.17 and 114-14-6.7 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 the Commissioner;

It is further **AGREED** that within thirty (30) days of the STATE AUTO's next regularly scheduled meeting of its Board of Directors, STATE AUTO 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 AGREED ORDER ADOPTING REPORT OF MARKET CONDUCT EXAMINATION, DIRECTING CORRECTIVE ACTION AND ASSESSING PENALTY;

It is further **ORDERED** that STATE AUTO shall ensure compliance with the West Virginia Code and the Code of State Rules. STATE AUTO shall specifically cure those violations and deficiencies identified in the Report of Market Conduct Examination; and

It is further **ORDERED** that, STATE AUTO SHALL FILE a Corrective Action Plan which will be subject to the approval of the Insurance Commissioner. The Corrective Action Plan shall detail STATE AUTO'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 examiner and address all violations specifically cited in the Report of Market Conduct Examination. STATE AUTO 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. STATE AUTO 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 STATE AUTO 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.

The Insurance Commissioner has determined and it has been AGREED TO BY THE PARTIES that STATE AUTO shall pay an administrative penalty to the State of West Virginia in the amount of Twenty Four Thousand Five Hundred Dollars ($24,500.00) 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 upon execution of this order.

THE PARTIES SO AGREE:

OFFICE OF THE INSURANCE COMMISSIONER
FOR THE STATE OF WEST VIRGINIA

Dated this 17th day of December, 2007.

The Honorable Jane L. Cline
Insurance Commissioner

STATE AUTO PROPERTY AND CASULTY COMPANY

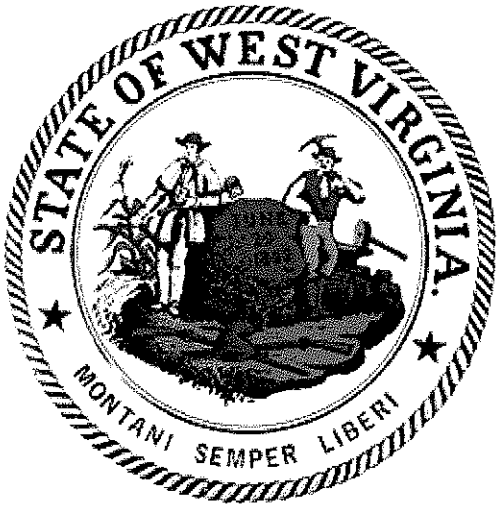
BY _____

ITS VP-SEC-GC.

DATE 12-14-07

Report of Market Conduct Examination

As of December 31, 2006



State Auto Property and Casualty Company

1300 Woodland Avenue
West Des Moines, IA 50265

NAIC COMPANY CODE 25127
Examination Number WV014-M7

TABLE OF CONTENTS

EXECUTIVE SUMMARY 1

PREVIOUS EXAMINATION FINDINGS 1

SCOPE OF EXAMINATION 2

HISTORY AND PROFILE 2

METHODOLOGY 2

A. COMPANY OPERATIONS/MANAGEMENT 4

B. COMPLAINT HANDLING 5

G. CLAIMS PRACTICES 7

CONCLUSION 14

LIST OF RECOMMENDATIONS 15

EXAMINER'S SIGNATURE AND ACKNOWLEDGEMENT 16

EXAMINER'S AFFIDAVIT 17

October 3, 2007

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 December 31, 2006 of methods of doing business of:

State Auto Property and Casualty Company
1300 Woodland Avenue
West Des Moines, IA 50265

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

EXECUTIVE SUMMARY

This examination is the first market conduct examination of State Auto Property and Casualty Company conducted by the State of West Virginia. The examination fieldwork began July 9, 2007, and concluded on August 1st 2007. The examination is being called as a result of a hearing in Administrative Proceeding No. 06-THP-72, which concluded that SAPCIC committed an unfair claims settlement practice by violating W. Va. Code St. R. § 114-14-6.7 (2006) wherein SAPCIC failed to send a proper and timely notice of delay of investigation of a 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, that the Commissioner 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 entire examination was conducted at the Company's East Broad Street, Columbus Ohio location. The examination field work began on July 9, 2007 and concluded on August 1, 2007. The examination primarily focused on third party claims handling with particular attention paid to areas which required the Company to contact the claimant during the claims handling process. These areas are encompassed within Standards G1, G2, G3, G6, G-11 and G -13 of this report. 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 sixteen (16) standards were reviewed during this examination. Of these sixteen (16) standards the Company passed fourteen (14) and failed two (2). The two standards the company failed primarily dealt with failing to timely send the required notices of necessary delay in claims investigations and failure to provide claimants with the appropriate contact information for the West Virginia Insurance Commissioner upon denial of claims. The former is the precise violation the Company was cited for in the aforementioned administrative action.

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.

PREVIOUS EXAMINATION FINDINGS

The Pennsylvania Insurance Department conducted a market conduct examination for the experience period of January 1 2005 through December 31, 2005. The Kentucky Insurance Department also conducted an examination for the experience period of July 1, 2003 through July 31, 2005. Neither examination produced results which were relevant to this examination.

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 to 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

SAPCIC was incorporated on January 25, 1950, in South Carolina as Dixie Fire and Casualty Company. The title of Southern Home Insurance Company was adopted on December 31, 1963. However, on January 1, 1988, the current name of SAPCIC was adopted. SAPCIC is a wholly-owned subsidiary of State Auto Financial Corporation, an insurance holding company. State Auto Financial Corporation is, in turn, controlled by the group's lead member, State Automobile Mutual Insurance Company. SAPCIC is licensed in 31 States including West Virginia. The Company was licensed in West Virginia on October 1, 1983. Currently SAPCIC writes $11,215,392.00 in premium and has a 1.32% market share in private passenger automobile insurance 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 or 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 kept with 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 recordkeeping 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 does not have 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 examiners found that SAPCIC'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 examiners 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 examiners 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 cooperative and the examination proceeded in a cordial atmosphere. Data provided was responsive and timely.

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 thirteen (13) 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 B 1 Complaints Sample Results

Type	Sampled	N/A	Pass	Fail	%Pass
2006 Complaints	13	0	13	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. 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 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 to the Insurance Commission for all complaints received during the examination period.

Table B 4 Complaints Sample Results

Type	Sampled	N/A	Pass	Fail	%Pass
2006 Complaints	13	0	13	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: Random samples of sixty (60) paid claims and sixty (60) closed without payment claims were selected and reviewed to determine if the Company made timely contact with claimants. A total of four (4) paid and five (5) closed without payment claims were non-applicable to the review because the claim occurred in a jurisdiction other than West Virginia. Company contact times were in compliance with State statutes, rules and regulations. No exceptions were noted.

Table G 1 Claims-Initial Contact

Type	Population	Sampled	N/A	Pass	Fail	%Pass
2006 Third Party Paid claims	114	60	4	56	0	100%
2006 Third Party Claims closed without payment	109	60	5	55	0	100%
Totals	223	120	9	111	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. § 114-14-6.1

Comments: Review methodology for this standard is generic and sample. This standard has a direct statutory requirement. West Virginia requires a claim 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. Therefore, the examiners enforced 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: **Fail**

***Observation*:** Random samples of sixty (60) paid claims and sixty (60) closed without payment claims were reviewed to determine if the Company initiated investigations prompt and in accordance with statute. A total of four (4) paid and five (5) closed without payment claims were non-applicable to the review because the claim occurred in a jurisdiction other than West Virginia. A total of eighteen (18) claims failed this standard because the company failed to send appropriate notices of delay of investigation to claimants. In many cases enough time elapsed in the claims process so that more than one notice of delay should have been sent. As a result these eighteen (18) claim files contained thirty (30) violations of W. Va. Code St. R. § 114-14-6.7 (Emergency 2005) and seven (7) violations W. Va. Code St. R. § 114-14-6.7 (Legislative 2006). Company responses also indicated the Company did not comply with the certification and training provision of W. Va. Code St. R. § 114-14-8 (Emergency 2005) however it did remedy the situation and complied with W. Va. Code St. R. § 114-14-6.8 (Legislative 2006). The examiner would like to note that it did not appear that these violations resulted in a significant adverse economic impact to the claimants.

Table G 2 Claims-Timely Investigation

Type	Population	Sampled	N/A	Pass	Fail	%Pass
2006 Third Party Paid claims	114	60	4	42	14	75%
2006 Third Party Claims closed without payment	109	60	5	51	4	91%
Totals	223	120	9	93	18	84%

Recommendations: It is recommended that the Company send the required notices of delay of investigation to third party claimants when appropriate. It is further recommended that the Company conduct additional training for its claims adjuster's specifically as it relates to W. Va. Code St. R. § 114-14-1 et. seq. (Legislative 2006).

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 "bad faith" actions.

Results: **Pass**

Observations: The samples of sixty (60) paid claims and sixty (60) closed without payment claims were tested and a time study performed to determine if claims were resolved timely. A total of four (4) paid and five (5) closed without payment claims were non-applicable to the review because the claim occurred in a jurisdiction other than West Virginia. Resolution time was measured in working days. Resolution time began once the claimant provided all necessary information to investigate and settle the claim. No exceptions were noted.

Table G 3 Claims-Claims Resolution

Type	Population	Sampled	N/A	Pass	Fail	%Pass
2006 Third Party Paid claims	114	60	4	56	0	100%
2006 Third Party Claims closed without payment	109	60	5	55	0	100%
Totals	223	120	9	111	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: The samples of sixty (60) paid claims and sixty (60) closed without payment claims were reviewed to determine if the Company promptly responded to correspondence received. A total of four (4) paid and five (5) closed without payment claims were non-applicable to the review because the claim occurred in a jurisdiction other than West Virginia. No exceptions were noted.

Table G 4 Claims-Claims Correspondence

Type	Population	Sampled	N/A	Pass	Fail	%Pass
2006 Third Party Paid claims	114	60	4	56	0	100%
2006 Third Party Claims closed without payment	109	60	5	55	0	100%
Totals	223	120	9	111	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 such that pertinent events and the dates of such events can be reconstructed.

***Results*:** **Pass**

Observations: The samples of sixty (60) paid claims and sixty (60) closed without payment claims were reviewed to determine if documentation supported the ultimate claim determination. A total of four (4) paid and five (5) closed without payment claims were non-applicable to the review because the claim occurred in a jurisdiction other than West Virginia. Without exception, 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 Adequate Documentation

Type	Population	Sampled	N/A	Pass	Fail	%Pass
2006 Third Party Paid claims	114	60	4	56	0	100%
2006 Third Party Claims closed without payment	109	60	5	55	0	100%
Totals	223	120	9	111	0	100%

Recommendations: **None**

Standard G 6 *NAIC Market Regulation Handbook – Chapter XVI, §G, Standard 6*
Claims are properly handled in accordance with policy provisions and applicable statutes, rules and regulations. *W. Va. Code § 33-11-4(9) & W. Va. Code St. R. § 114-14-1, et seq.*

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

- That claim handling meets West Virginia statutes and rules as applied to sales tax payment, correct payees, improper release of claims, and proper payment of non-disputed claims.
- That coverage was checked for proper application of exclusionary language.
- That appropriate disclosures are given when a claim nears the applicable statute of limitations.

Results: **Pass**

Observations: The sample of sixty (60) paid claims was reviewed and determined to be in accordance with State law and policy provisions including settlement times and settlement amounts. A total of four (4) paid claims were non-applicable to the review because the claim occurred in a jurisdiction other than West Virginia. In one instance the company initially paid the claimant an amount one hundred dollars ($100.00) less than what was indicated on the release. Upon the examiners bringing the error to the company's attention, the company promptly rendered the difference to the claimant. The error appeared to be inadvertent and isolated. As a consequence no recommendation is warranted.

Table G 6 Claims-Claims Settlement

Type	Population	Sampled	N/A	Pass	Fail	%Pass
2006 Third Party Paid claims	114	60	4	55	1	98%

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: The samples of sixty (60) paid claims and sixty (60) closed without payment claims were reviewed and it was determined there were no inappropriate claim forms used. A total of four (4) paid and five (5) closed without payment claims were non- applicable to the review because the claim occurred in a jurisdiction other than West Virginia.

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. 7*

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.
- Claimants are provided with a reasonable basis for the denial when required by statute or regulation.
- 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: A random sample of sixty (60) claims that were either denied or closed-without-payment during the examination period was reviewed for the above listed criteria. A total of five (5) closed without payment claims were non-applicable to the review because the claim occurred in a jurisdiction other than West Virginia. Four (4) third party claim denial notices did not contain the required contact information and thus were not in compliance, three (3) of the denials were in violation of W. Va. Code St. R. § 114-14-6.18 (2005 Emergency), one was a violation of W. Va. Code St. R. § 114-14-6.17 (2006 Legislative). There is no substantive difference in the language between the two rules cited.

Table G 9- Claims-Closed Without Payment Sample Results

Type	Population	Sampled	N/A	Pass	Fail	%Pass
2006 Third Party Claims closed without payment	109	60	5	51	4	91

Recommendations: 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

Standard G 10	*NAIC Market Regulation Handbook – Chapter XVI, § G, Standard 10*
Canceled benefit checks and drafts reflect appropriate claim handling practices.	*W. Va. Code § 33-11-4(9) & W. Va. Code St. R. § 114-14-1, et seq.*

Comments: Review methodology for this standard is electronic and sample. The concerns tested for this standard include:

- This standard has a direct statutory requirement That cancelled benefit checks include the correct payee and are 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.

Results: **Pass**

Observations: The sample of sixty (60) paid claims was reviewed. A total of four (4) paid claims were non-applicable to the review because the claim occurred in a jurisdiction other than West Virginia. Checks were in the correct amount and included the correct payee. No exceptions were noted.

Table G 10 Claims Sample Result

Type	Population	Sampled	N/A	Pass	Fail	%Pass
2006 Third Party Paid claims	109	60	4	56	0	100%

Recommendations: **None**

Standard G 11 ***NAIC Market Regulation Handbook – Chapter XVI, § G, Standard 13***
Claim handling practices do not compel claimants to institute litigation, in cases of clear liability and coverage, to recover amounts due under policies by offering substantially less than is due under the policy. ***W. Va. Code § 33-11-4(9)(g)***

Comments: Review methodology for this standard is generic. This standard has a direct statutory requirement although compliance with this standard is usually judgmental rather than objective, especially as it pertains to third party claimants. The primary concern tested was that the Company processes and handles the claim appropriately and does not compel the claimant to institute a lawsuit to effect an appropriate settlement of the claim.

Results: **Pass**

Observations: Litigated claim testing did not indicate any problematic claim handling practices. Four (4) claims were not applicable because the claims occurred in another jurisdiction. No exceptions were noted.

Table G 11 Litigated Claims

Type	Population	Sampled	N/A	Pass	Fail	%Pass
Litigated claims	10	10	4	6	0	100%

Recommendations: **None**

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: The samples of sixty (60) paid claims and sixty (60) closed without payment claims were reviewed to determine if the Company advised claimants, when necessary, of it's reservation of rights or the potential of a claim being in excess of loss allowed under policy provisions. A total of four (4) paid and five (5) closed without payment claims were non-applicable to the review because the claim occurred in a jurisdiction other than West Virginia. The Company issued reservation of rights and excess of loss letters where appropriate, no exceptions were noted.

Recommendations: **None**

CONCLUSION

The examination found eighteen (18) claim files contained thirty (30) violations of W. Va. Code St. R. § 114-14-6.7 (Emergency 2005) and seven (7) violations of W. Va. Code St. R. § 114-14-6.7 (Legislative 2006). The frequency of these violations was sufficient to fail the standard using tolerance level set forth in the Chapter 15 NAIC Market Regulation Handbook. The examination also revealed four (4) violations of W. Va. Code St. R. § 114-14-6.17 which again occurred with such frequency to fail the standard. The Company also did not comply with W. Va. Code St. R. § 114-14-8 (Emergency 2005), however it did remedy the situation and complied with W. Va. Code St. R. § 114-14-6.8 (Legislative 2006).

LIST OF RECOMMENDATIONS

Recommendation G-2

It is recommended that the Company send the required notices of delay of investigation to third party claimants when appropriate. It is further recommended that the Company conduct additional training for its West Virginia adjusters on W. Va. Code St. R. § 114-14-1 et. seq. (Legislative 2006).

Recommendation G-11

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.

In addition to the undersigned, JoAnn Wheaton of Huff Thomas and Company also participated in the examination.

Mark A. Hooker, AIE, CPCU, AAI, AU, AIS
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 State Auto Property and Casualty Company.

2. I have reviewed the examination work papers and examination report, and the examination of State Auto Property and Casualty Company was performed in a manner consistent with the standards and procedures required by West Virginia.

The affiant says nothing further.

Mark A. Hooker, AIE, CPCU, AAI, AU, AIS
Examiner in Charge

Subscribed and sworn before me by Mark A. Hooker on this 3rd day of October, 2007.

(SEAL)

OFFICIAL SEAL
NOTARY PUBLIC
STATE OF WEST VIRGINIA
JOHN M. FRISBY
314 SIXTH AVENUE
MONTGOMERY, WV 25136
My Commission Expires April 14, 2009

Notary Public

My commission expires April 14, 2009 (date).

CORPORATE HEADQUARTERS
518 East Broad Street
Columbus, Ohio 43215
(614) 464-5000
http://www.stateauto.com

Exhibit B

October 17, 2007

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

RE: West Virginia Market Conduct Examination WV014-M7
State Auto Property Casualty Insurance Company – NAIC code# 25127
1300 Woodland Avenue
West Des Moines, Iowa 50265

Dear Commissioner Cline:

This letter is in response to the Department's Examination Report, issued October 3, 2007. The Company wishes to express its appreciation of the work of the Examination team, Mr. Mark Hooker and Ms. JoAnn Wheaton in completion of the Examination.

Overview

The Company takes its regulatory compliance responsibilities seriously and appreciates this opportunity to test and improve our processes. We share the Department's interest in the protection of policyholders and claimants.

In addition to Internal Controls, Claim Audits and Compliance Training in place, the Company has taken 'immediate corrective action' with responsible personnel across all lines of business to address the oversight that led to these violations and to help ensure our continued compliance with West Virginia law.

We acknowledge the seriousness of the violations, yet they are not reflective of our intended business practices for any of the State Auto Companies in handling the claims of our policyholders and claimants.

The remainder of this response will address the specific recommendations made by the Examination team.

Report Recommendations – (Refer to Report page 15)

Recommendation G-2 (See Standard G2, Report page 7)

It is recommended that the Company send the required notices of delay of investigation to third party claimants when appropriate. It is further recommended that the Company conduct additional training for its West Virginia adjusters on W. Va. Code St. R. § 114-14-1 et. seq. (Legislative 2006.)

The Company acknowledges the Department's findings and reports that procedural steps and personnel actions have been taken to ensure required delay notices are distributed in an accurate and timely manner.

In addition, State Auto Claims Management has conducted additional training covering the requirements of *W. Va. Code St. R. § 114-14-1 et. seq. (Legislative 2006)* with the Claim Service Offices responsible for handling West Virginia claims. These supplemental training sessions were completed by August 15, 2007, soon after the conclusion of the Exam. Additional training has also been provided to our Claims Contact Center personnel on this issue.

Ongoing compliance is being monitored for all lines of insurance by Claim Staff and Branch Claim operations, using amended claim audit procedures and additional computer automation steps to ensure timeliness and accuracy of Claim Delay letters on the part of the Company.

Recommendation G-11 (See Standard G9, Report page 12)

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

State Auto Insurance acknowledges the Department's findings and reports the specific violations cited in the Examination Report were the result of human error and has been reviewed with responsible personnel. The importance of complete and accurate compliance has been reinforced by Claims Management.

Separately, samples of our revised denial letters have been sent to Mr. Mark Hooker. The revised letters now carry the required contact information. Specific adjuster contact information is added at the time the letter is produced.

Acknowledgement

None of these comments nor any of our actions is admissions on our part of any violation, wrongdoing or fault and should not be interpreted by the West Virginia Department or any other party as constituting any admission. Please note also that we are providing these comments without waiver of any defense, legal or equitable and without waiver of any applicable privilege in connection with the information provided.

Thank you for this opportunity to respond to your Examination Report.

Respectfully Submitted,

David Boling

David W. Boling, CPCU
Compliance Assurance Manager

CC: Mark A. Hooker, Chief Market Conduct Examiner
Mary Jane Pickens, General Counsel
Andrew R. Pauley, Associate Counsel, Supervisor-Regulatory Compliance
Robert Restrepo, President, State Auto Property & Casualty Insurance Co.
Mr. Jay Yano, General Counsel, State Auto