

2000 PROPERTY AND CASUALTY MARKET CONDUCT EXAMINATION

OF

WAUSAU UNDERWRITERS INSURANCE COMPANY  
(WAUSAU INSURANCE COMPANIES)

BY

THE FLORIDA DEPARTMENT OF INSURANCE

FILE DATE: 12/21/01

## TABLE OF CONTENTS

<u>PART NUMBER</u>	<u>SUBJECT</u>	<u>PAGE NUMBER</u>
I.	INTRODUCTION	1
II.	PRE-EXAM REVIEW OF COMPANY WRITINGS	2
III.	REVIEW OF POLICIES	
A.	COMMERCIAL AUTOMOBILE	3
B.	COMMERCIAL PACKAGE POLICY	9
C.	WORKERS' COMPENSATION	14
IV.	AGENTS/MGA REVIEW	16
V.	CANCELLATIONS/NONRENEWALS REVIEW	17
VI.	CLAIMS REVIEW	18
VII.	COMPLAINTS REVIEW	19
VIII.	PENDING ISSUES	20
IX.	EXHIBITS	21

## I. INTRODUCTION

Wausau Underwriters Insurance Company is a foreign property and casualty insurer licensed to conduct business in the State of Florida during the scope of this examination, January 1996 through December 1998. This examination began April 16, 2000 and ended July 1, 2000. The last examination of this insurer by the Florida Department of Insurance was completed in 1994.

During this examination, records reviewed included policies, cancellations/nonrenewals, agent/MGA licensing, claims and consumer complaints for the period of January 1996 through December 1998 as reflected in the report.

This report contains examination results addressing all areas of noncompliance found during the course of the examination. In all instances, the Company was directed to take corrective action as required, issue appropriate refunds, make all necessary filings with the Department and immediately cease any activity that continues to place the Company in noncompliance with Florida Statutes/Rules.

As a result of the findings of this examination, \$18,128.00 was returned to Florida consumers due to overcharges of premium. The Company has been directed to re-rate Commercial Automobile policies written with "stacked" Uninsured Motorists limits. This re-rate will produce approximately \$34,126.00 in refunds. The Company has also been directed to re-rate Commercial Package policies. This re-rate that will produce approximately \$74,620 in refunds. Refunds issued as a result of this examination will total approximately \$126,874.00.

## II. PRE-EXAM REVIEW OF COMPANY'S WRITINGS

### A. CERTIFICATE OF AUTHORITY - AUTHORIZED LINES

#### 1. General Comments

The Certificate of Authority/Renewal Invoices were reviewed for all years within the scope of the examination.

#### 2. Error Percentages

The review included verification of the lines of business the Company was authorized to write during the scope of examination versus those lines actually being written. It also included verification that notification requirements were met for any line of business that was discontinued.

No errors were found.

### III. REVIEW OF POLICIES

#### A. COMMERCIAL AUTOMOBILE POLICY

##### 1. Application of Rules, Rates and Forms

###### a. Rate/Rule Filings

Wausau Underwriters Insurance Company is a member of Insurance Services Office (ISO) and as such ISO is authorized to file rules/rates on the Company's behalf in accordance with Section 627.062, Florida Statutes. In addition, the Company does make some independent filings.

###### b. Form Filings

Wausau Underwriters Insurance Company is a member of Insurance Services Office (ISO) and as such ISO is authorized to file forms on the Company's behalf in accordance with Section 627.410, Florida Statutes. In addition, the Company does make some independent filings.

###### c. Statistical Affiliation

Insurance Services Office acts as the Company's official statistical agent.

2. Premium and Policy Counts

Direct Premiums Written and in-force policy counts for the scope of the examination are as follows:

<u>Year</u>	<u>DPW</u>	<u>Policy Count</u>
1996	\$1,159,614	100
1997	\$1,399,008	116
1998	\$1,757,844	138

3. Exam Findings

Fifty (50) policy files were examined.

One hundred eight (108) errors were found.

Errors affecting premium resulted in twenty-one (21) overcharges totaling \$3,567.00 and sixteen (16) undercharges totaling \$3,349.00.

A rerate of this line has been requested which will produce approximately \$34,126 in overcharges.

The errors are broken down as follows:

1. Twenty-three (23) errors were due to failure to attach the correct Uninsured Motorists (UM) form. The policy contained the Stacked UM Form CA2147. The correct form that should have been attached is the Nonstacked UM Form CA2172. This constitutes a violation of Section 627.412, Florida Statutes.
2. Twenty-three (23) errors were due to failure to follow the filed rating plan. These were all policies issued to corporations as Named Insureds. The Company included “stacked” UM coverage, but only “nonstacked” UM coverage has been available to corporations as Named Insureds since 1993. Two of these errors also included incorrect Collision deductible factors. These errors resulted in nineteen (19) overcharges totaling \$3,450.00, which have been refunded by the Company, and one undercharge of \$102.00. This constitutes a violation of Section 627.062, Florida Statutes.

The average overcharge was \$158.73 per policy. There were 215 policies issued during the period January 1996 to December 1998 with “stacked” UM limits. Using the average of \$158.73 per policy, it would appear that approximately \$34,126.00 was overcharged. Based on these findings, the Company has been requested to rerate all Commercial Automobile policies that were written during the scope of the examination with “stacked” UM limits and refund the overcharges to affected policyholders. The Company has been directed to provide the Department with exact policy numbers and refund totals. Exhibit I. A computer listing of these policies can be found in the examination workpapers.

3. Eight (8) errors were due to failure to follow the filed rating plan. Incorrect Collision and/or Comprehensive deductible factors were used to calculate the premium. The Company applied the Countrywide factors rather than the filed factors for Florida. These errors resulted in seven (7) undercharges totaling \$447.00. This constitutes a violation of Section 627.062, Florida Statutes.
4. Three (3) errors were due to failure to follow the filed rating plan. Incorrect experience rating modifiers were applied to the premium. The errors resulted in three (3) undercharges totaling \$2,065.00. This constitutes a violation of Section 627.062, Florida Statutes.
5. Two (2) errors were due to failure to follow the filed rating plan. The Company used territory 34 rates instead of the correct territory 15 rates. These errors resulted in two (2) undercharges totaling \$224.00. This constitutes a violation of Section 627.062, Florida Statutes.
6. Two (2) errors were due to failure to follow the filed rating plan. Both were premium calculation errors. These errors resulted in an overcharge of \$23.00, which has been refunded by the Company, and an undercharge of \$127.00. This constitutes a violation of Section 627.062, Florida Statutes. This error was also cited in the 1994 Market Conduct Examination Report, on Page 4, Item 15. Exhibit II.
7. One (1) error was due to failure to follow filed rates. The Company used rates that were effective October 1996 but should have used rates with an edition date of June 1997. This error resulted in an overcharge of \$52.00, which has been refunded by the Company. This constitutes a violation of Section 627.062, Florida Statutes.

8. One (1) error was due to failure to follow the filed rating plan. This policy was issued using rates excluding Personal Injury Protection (PIP), or No-Fault, coverage and incorrect Physical Damage premiums. This error resulted in an undercharge of \$334.00. This constitutes a violation of Section 627.062, Florida Statutes.
9. One (1) error was due to failure to comply with PIP benefit requirements. The PIP Form, CA2210, was omitted from the policy. This constitutes a violation of Section 627.736, Florida Statutes.
10. Fifteen (15) errors were due to failure to obtain signed Florida Uninsured Motorists Acceptance/Rejection Form when UM limits were lower than the Liability limits. This constitutes a violation of Section 627.727, Florida Statutes. This error was brought to the Company's attention in the 1994 Market Conduct Examination Report, on Page 3, Item 4. Exhibit III.
11. Twelve (12) errors were due to failure to provide timely notice of renewal premium. This constitutes a violation of Section 627.4133, Florida Statutes. This error was brought to the Company's attention in the 1994 Market conduct Examination Report (Page 3, Item 8). Exhibit III.
12. Four (4) errors were due to failure to maintain premium worksheets and experience rating worksheets in the file. The Analyst was unable to verify the premiums charge due to this oversight. This constitutes a violation of Section 627.318, Florida Statutes. This error was also cited in the 1994 Market Conduct Examination report on Page 3, Item 9. Exhibit III.

13. Three (3) errors were due to failure to deliver policy timely. These policies were issued by the Company from 96 days to 333 days after inception of the coverage. This constitutes a violation of Section 627.421, Florida Statutes.
14. Two (2) errors were due to failure to comply with Unfair Trade Practice Requirements. One of these policies developed Experience Rating modifiers of .812 for Liability and .727 for Physical Damage; the other policy developed modifiers of .75 for Liability and .493 for Physical Damage. The Company used an Experience Modifier of .30 for both Liability and Physical Damage “in order to fit premiums sold”. This constitutes a violation of Section 626.9541, Florida Statutes.
15. Two (2) errors were due to failure to document credits. This constitutes a violation of Rule 4-170.004, Florida Administrative Code. This error was also cited in the 1994 Market Conduct Examination report on Page 3, Item 7. Exhibit III.
16. Two (2) errors were due to failure to document individually rated risks. The Company advised that Hired and Non-Owned premiums were individually rated due to higher than normal exposures, but the files were not documented as to the premiums charged. This constitutes a violation of Section 627.062, Florida Statutes.
17. Two (2) errors were due to failure to report individually rated risks. Premiums charged for Hired and Non-Owned Autos was not reported to the Department on the quarterly reports. This constitutes a violation of Rule 4-137.008, Florida Administrative Code.

18. One (1) error was due to failure to follow filed rules with regard to Hired and Non-Owned Auto minimum premium. This constitutes a violation of Section 627.062, Florida Statutes.
  
19. One (1) error was due to failure to follow the filed rules. This policy was issued with a Property Damage deductible of \$7,500. The Commercial Lines Manual makes allowance only for either a \$250 or \$500 Property Damage deductible. This constitutes a violation of Section 627.062, Florida Statutes.

B. COMMERCIAL PACKAGE POLICY

1. Application of Rules, Rates and Forms

a. Rate/Rule Filings

Wausau Underwriters Insurance Company is a member of Insurance Services Office (ISO) and as such ISO is authorized to file rules/rates on the Company's behalf in accordance with Section 627.062, Florida Statutes. In addition, the Company does make some independent filings.

The Company's MatchGuard and Business Owners' policies were included in this review.

b. Form Filings

Wausau Underwriters Insurance Company is a member/subscriber of ISO and as such ISO is authorized to file forms on the Company's behalf in accordance with Section 627.410, Florida Statutes. In addition, the Company does make some independent filings.

c. Statistical Affiliation

Insurance Services Office acts as the Company's official statistical agent.

2. Premium and Policy Counts

Direct Premiums Written and in-force policy counts for the scope of the examination are as follows:

<u>Year</u>	<u>DPW</u>	<u>Policy Count</u>
1996	\$1,273,301	52
1997	\$1,042,361	36
1998	\$1,274,831	162

3. Exam Findings

Fifty (50) policy files were examined.

One hundred nine (109) errors were found.

Errors affecting premium resulted in nine (9) overcharges totaling \$14,561.00 and twenty-three (23) undercharges totaling \$60,452.00.

The Company was requested to rerate this line of business. Refunds will go to approximately 41 insureds for an approximate total of \$74,620.

Exhibit IV.

The errors are broken down as follows:

1. Thirty (30) errors were due to failure to provide timely notice of renewal premium. This constitutes a violation of Section 627.4133, Florida Statutes. This error was brought to the Company's attention in the 1989 Market Conduct Examination Report (Page 13, Item 1) and the 1994 Market Conduct Examination Report (Page 8, Item 5). Exhibit V.
2. Twenty (20) errors were due to use of unfiled rates for the WausauCover Endorsement. The Company advised the rates were filed with the Department but were disapproved, but the Company continued to use these rates. This constitutes a violation of Section 627.062, Florida Statutes.
3. Twelve (12) errors were due to failure to deliver policy timely. These policies were all issued more than sixty (60) days after the effective date of coverage. This constitutes a violation of Section 627.421, Florida Statutes.
4. Eight (8) errors were due to failure to follow the filed rating plan. The Liability portion was classified incorrectly. One of these errors included incorrect Loss Cost Multiplier and Package modifier and one also was rated as masonry-noncombustible construction instead of the correct joisted masonry construction. These errors resulted in undercharges totaling \$55,237.00. This constitutes a violation of Section 627.062, Florida Statutes.
5. Six (6) errors were due to failure to display telephone number and purpose on policy. This constitutes a violation of Section 627.4131, Florida Statutes.

6. Six (6) errors were due to failure to provide Risk Management guidelines. This constitutes a violation of Section 627.0625, Florida Statutes.
7. Four (4) errors were due to failure to follow the filed rating plan. These were all due to incorrect deductible factors. These errors resulted in undercharges totaling \$502.00. This constitutes a violation of Section 627.062, Florida Statutes.
8. Three (3) errors were due to failure to follow the filed rating plan. The Company incorrectly included a charge for offices on contracting risks that already include the cost of this exposure in the primary classification. These errors resulted in overcharges totaling \$2,701.00, which have been refunded by the Company. This constitutes a violation of Section 627.062, Florida Statutes.
9. Three (3) errors were due to failure to follow the filed rating plan. The Company used incorrect edition of rates, incorrect Property Group I rate and deductible factor. These errors resulted in overcharges totaling \$8,321.00, which have been refunded by the Company. This constitutes a violation of Section 627.062, Florida Statutes.
10. Three (3) errors were due to failure to follow the filed rating plan. The Company used the incorrect Group II rate table. These errors resulted in undercharges totaling \$2,914.00. This constitutes a violation of Section 627.062, Florida Statutes.
11. Three (3) errors were due to failure to follow the filed rating plan. The Company applied the incorrect package modifier to the premiums. These errors resulted in undercharges totaling

\$1,147.00. This constitutes a violation of Section 627.062, Florida Statutes.

12. Three (3) errors were due to failure to follow the filed rating plan. The Company used incorrect Personal Property Special Form class limit to calculate the premium. One of these policies also had the incorrect deductible factor applied. These errors resulted in undercharges totaling \$551.00. This constitutes a violation of Section 627.062, Florida Statutes.
13. Three (3) errors were due to failure to follow the filed rating plan. These errors involved incorrect Property Group I rate, territory and/or protection class and resulted in undercharges totaling \$101.00. This constitutes a violation of Section 627.062, Florida Statutes.
14. Two (2) errors were due to failure to maintain records. The files did not contain rating worksheets to enable verification of the premiums. This constitutes a violation of Section 627.318, Florida Statutes. This error was brought to the Company's attention in the 1994 Market Conduct Examination Report (Page 7, Item 4). Exhibit VI.
15. One (1) error was due to failure to follow the filed rating plan. Incorrect Group II zone rates were used to calculate the premium. This error resulted in an overcharge of \$3,497.00, which has been refunded by the Company. This constitutes a violation of Section 627.062, Florida Statutes.
16. One (1) error was due to failure to follow the filed rating plan. Incorrect building construction and rates were used to calculate the

premium. This error resulted in an overcharge of \$15.00, which has been refunded by the Company. This constitutes a violation of Section 627.062, Florida Statutes.

17. One (1) error was due to failure to follow the filed rating plan. Incorrect fire protection class was used. This error resulted in an overcharge of \$27.00, which has been refunded by the Company. This constitutes a violation of Section 627.062, Florida Statutes.

C. WORKERS' COMPENSATION

1. Application of Rules, Rates and Forms

a. General Comments

Wausau Underwriters Insurance Company is a National Council on Compensation Insurance (NCCI) company and as such uses this organization's rules, rates and forms. The NCCI acts as statistical agent for this line of business.

Direct Premiums Written and in-force policy counts for the scope of the examination are as follows:

<u>Year</u>	<u>DPW</u>	<u>Policy Count</u>
1996	\$ 9,271,643	222
1997	\$ 9,452,871	245
1998	\$16,135,735	299

b. Error Percentages

Fifty (50) policies and audits were examined.

No errors were found.

2. Unit Statistical Review

a. Audit Comparison

Forty (40) premium statistical cards were examined.

No errors were found.

b. Claim Comparison

Twenty-five (25) claim statistical cards were examined.

No errors were found.

IV. AGENTS/MGA REVIEW

Thirty (30) applications/policies written during the scope of examination were examined.

Six (6) errors were found.

None of the errors affected policy fees.

The errors are broken down as follows:

1. Three (3) errors were due to failure to display agent's name and license identification number on application. This constitutes a violation of Section 627.4085, Florida Statutes.
2. Two (2) errors were due to failure to maintain records. The application and the agent's name were not found in the files. This constitutes a violation of Section 627.318, Florida Statutes.
3. One (1) error was due to use of an unlicensed nonresident agent. This constitutes a violation of Section 626.741, Florida Statutes.

V. CANCELLATIONS/NONRENEWALS REVIEW

Fifty (50) cancelled/nonrenewed policies were examined.

One (1) error was found.

The error did not affect premium calculations.

The error is described down as follows:

1. One (1) error was due to failure to provide a specific reason for nonrenewal. The notice indicated ...”this account does not meet our underwriting guidelines in Custom Accounts”, which is not a specific reason. This constitutes a violation of Section 627.4133, Florida Statutes.

VI. CLAIMS REVIEW

Fifty (50) claims were examined.

No errors were found.

The Company's internal claims handling procedures and reserving practices are described in Exhibits VII and VIII.

VII. COMPLAINTS REVIEW

A complete record of all the complaints received by the Company since the date of the last examination has been maintained as is required by Section 626.9541(1)(j), Florida Statutes. Procedures for handling these complaints have been established by the Company. Complaint handling procedures are described in Exhibit IX.

## VIII. PENDING ISSUES

The following issues were pending at the conclusion of the examination:

1. The Company was requested to rerate Commercial Automobile policies that were issued with “stacked” Uninsured Motorists limits. This will produce an estimated \$34,126 in overcharges.
2. The Company was requested to rerate Commercial Package policies. This will produce an estimated \$74,620 in overcharges.

IX. EXHIBITS

<u>SUBJECT</u>	<u>EXHIBIT NUMBER</u>
COMMERCIAL AUTOMOBILE RERATE LETTER	I
1993 MARKET CONDUCT EXAMINATION REPORT, PAGE 3	II
COMMERCIAL PACKAGE POLICY RERATE LETTER	III
1993 MARKET CONDUCT EXAMINATION REPORT, PAGE 8	IV
AUTO AND GENERAL LIABILITY CLAIM-HANDLING PRACTICES	V
IICOMMERCIAL PROPERTY CLAIM HANDLING PRACTICES	VI
INSURANCE DEPARTMENT COMPLAINTS PROCEDURES	VII