

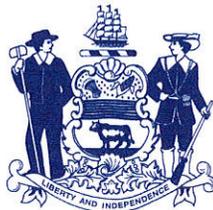
MARKET CONDUCT EXAMINATION REPORT

TITAN INDEMNITY INSURANCE COMPANY

NAIC #13242

June 30, 2009

Karen Weldin Stewart, CIR-ML
Commissioner



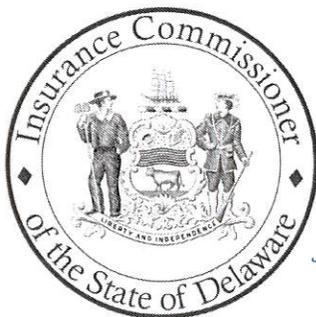
Delaware Department of Insurance

I, Karen Weldin Stewart, Insurance Commissioner of the State of Delaware, do hereby certify that the attached REPORT ON EXAMINATION, made as of June 30, 2009 on

TITAN INDEMNITY INSURANCE COMPANY

is a true and correct copy of the document filed with this Department.

Attest By:

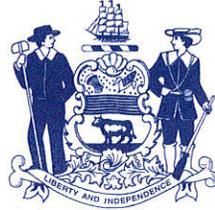


In Witness Whereof, I have hereunto set my hand and affixed the official seal of this Department at the City of Dover.

Karen Weldin Stewart, CIR-ML
Insurance Commissioner

5/17/12

Karen Weldin Stewart, CIR-ML
Commissioner



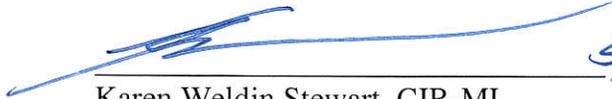
Delaware Department of Insurance

REPORT ON EXAMINATION
OF THE
TITAN INDEMNITY INSURANCE COMPANY
AS OF
JUNE 30, 2009

The above-captioned Report was completed by examiners of the Delaware Department of Insurance.

Consideration has been duly given to the comments, conclusions and recommendations of the examiners regarding the status of the Company as reflected in the Report.

This Report is hereby accepted, adopted and filed as an official record of this Department.


Karen Weldin Stewart, CIR-ML
Insurance Commissioner

5/17/12

**Delaware Market Conduct Examination Report
Titan Indemnity Insurance Company**

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SALUTATION

December 3, 2010

Honorable Karen Weldin Stewart CIR-ML
Insurance Commissioner
State of Delaware
841 Silver Lake Boulevard
Dover, Delaware 19904

Dear Commissioner Stewart:

In compliance with the instructions contained in Certificate of Examination Authority Number 09-705, and pursuant to statutory provisions including 18 *Del. C.* §318-322, a market conduct examination has been conducted of the affairs and practices of:

Titan Indemnity Insurance Company

The examination was performed as of June 30, 2009. Titan Indemnity Insurance Company, hereinafter referred to as the "Company" or as "Titan Indemnity," is incorporated under the laws of Texas. The examination consisted of two phases, an on-site phase and an off-site phase. The on-site phase of the examination was conducted at the following Company locations:

56 West Main Street, Christiana, DE 19702
20800 Harvard Road, Suite 300, Highland Hills, OH 44122
One Nationwide Plaza, Columbus, OH 43215

The off-site examination phase was performed at the offices of the Delaware Department of Insurance, hereinafter referred to as the "Department" or "DDOI," or other suitable locations.

The report of examination herein is respectfully submitted.

EXECUTIVE SUMMARY

Titan Indemnity Insurance Company was founded on August 31, 1983 in Connecticut. Its home office is located at 2700 NE Loop 410, Suite 500, San Antonio, TX 78217. The Company's principal executive offices are located at 5915 Landerbrook Drive, Mayfield Heights, OH 44126. Titan Indemnity offers private passenger and commercial automobile insurance and currently operates in 15 states with approximately \$148,386,120 of direct written premium in 2008.

The examination was a market conduct examination of the following business areas: Company Operations and Management; Complaint Handling; Policyholder Services; Underwriting and Rating; and Claims Settlement Practices. The examination scope was later expanded to include Producer Licensing and Marketing and Sales specific to a new product introduced in August of 2007. This was a targeted examination of the Company's private passenger automobile operations.

In conjunction with the market conduct examination, the Delaware Department of Insurance requested a review of the Company's use of discounts, surcharges and tier rating to determine if they were being applied in a consistent manner and according to the rate filings filed with the Department. There were no areas of concern identified during this review other than those listed below.

Seven areas of concern were noted during the examination. These issues are more fully discussed in the highlighted sections noted after each summary below:

- The Company used branding for an affiliated company, Victoria Insurance that is not licensed in Delaware. Examples of forms and correspondence used with consumers containing the Victoria branding observed during the course of the examination include premium notices, applications, and correspondence with claimants and complainants.
- The Company failed to accurately record all complaints on the complaint register. Failure to record all complaints is a violation of 18 *Del. C.* §2304(17) which states, "Failure to maintain complaint handling procedures. — Failure of any person to maintain a complete record of all the complaints which it has received since the date of its last examination as otherwise required in this title. 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 Company failed to demonstrate that it had adequate complaint handling procedures in place. Failure to have adequate complaint handling procedures is a violation under 18 *Del. C.* §2304(17). The Company also failed to comply with complaint handling requirements stipulated by the Delaware Department of Insurance (DDOI) in violation of 18 *Del. C.* § 2304(26) which states, "Failure to respond to regulatory inquiries — No person shall, with such frequency as to indicate a general business practice, fail to provide preliminary substantive responses to inquiries from the Department of Insurance

regarding the denial of claims, cancellation, non-renewal, or refusal of benefits, refusal to pre-authorize benefits, or violations of this title, within 21 calendar days of such inquiry. A response in compliance with this subsection shall not preclude the provision of additional information responsive to the inquiry.”

- The Company failed to track and maintain writing agent information at the policy level for any of the new business written during the examination period. As a result, the examiners were unable to confirm compliance with 18 *Del. C.* §1703 which states, “A person shall not sell, solicit or negotiate insurance in this State for any class or classes of insurance unless the person is licensed for that line of authority in accordance with this chapter.”
- The Company failed to provide appropriate documentation for 11 of 32 files (34%) where policy discounts were applied. Failure to document eligibility for discounts applied is a violation of the ratemaking standards under 18 *Del. C.* s 2503(a) (2) which states, “Rates shall not be excessive, inadequate or unfairly discriminatory”.
- The Company failed to provide a timely and accurate deductible reimbursement to one claimant and failed to pursue one out-of-pocket reimbursement after subrogation. Failure to promptly settle claims in accordance with the policy provisions may be an unfair claims practice under 18 *Del. C.* §2304(16) (f) which states an unfair claims settlement practice includes, “Not attempting in good faith to effectuate prompt, fair and equitable settlements of claims in which liability has become reasonably clear.”
- The Company implemented a Specialty Auto Contest during the examination that included increased compensation based on the volume of new applications submitted and a \$50,000 “Specialty Auto Kicker” bonus to any producer that wrote 1000 new policies during the first 6 months of 2009 and had 200 or more policies written than the prior year. The examiners found that this bonus was unusually excessive and merited mention in the examination report.

Recommendations have been made to remedy these concerns.

SCOPE OF EXAMINATION

The basic business areas that are subject to a Delaware Market Conduct Examination vary depending on the type on insurer. For all insurers these may include:

- Company Operations/Management
- Complaint Handling
- Marketing and Sales
- Producer Licensing
- Policyholder Service
- Underwriting and Rating
- Claims/Settlements

This examination report is a report by exception rather than a report by test. This means that only those areas where recommendations are suggested are described and results indicated.

The experience period for this examination is July 31, 2008 through June 30, 2009.

HISTORY AND PROFILE

Titan Indemnity Company ("Titan Indemnity") was incorporated on August 31, 1983 in the State of Texas. The company changed its name from "Technology Insurance Company" to "Titan Indemnity Company" in 1986. Titan Indemnity is one of seven insurance companies owned by THI Holdings (Delaware), a Delaware holding company. On August 1, 2003, Nationwide Mutual Insurance Company acquired 100% of the outstanding capital shares of THI Holdings (Delaware), Inc., and the seven THI insurance companies became affiliates of the Nationwide Insurance enterprise.

Titan Indemnity offers private passenger and commercial automobile insurance and currently operates in 15 states with approximately \$148,386,120 of direct written premium in 2008. Titan Indemnity is based in San Antonio, Texas. Operations in Delaware are serviced primarily through its offices in San Antonio, Texas and Highland Hills, Ohio.

METHODOLOGY

This examination is based on the Standards and Tests for a Market Conduct Examination of a Property and Casualty Insurer found in the Delaware Market Conduct Examiners' Handbook. This chapter is derived from applicable Delaware Statutes, Rules and Regulations as referenced herein and the *NAIC's Market Regulation Handbook* (2008 edition).

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 using a sampling methodology described in the Delaware Market Conduct Examiners' Handbook and the *NAIC's Market Regulation Handbook*. Samples of complaint files, underwriting files and settlement files were reviewed to determine that the processes described by the Company are actually used by the Company.

An "electronic" review indicates that a standard was tested through the use of a computer program or routine applied to a download of computer records of the examinee. This type of review typically reviews one hundred percent (100%) of the records of a particular type.

In this examination, the standards were tested through a combination of “generic” review and direct observation of the processes used.

Each Standard contains a brief description of the purpose or reason for the Standard. The examiners’ “Observations” are noted following each Standard tested. In some cases a “Recommendation” is made. Comments, Results, Observations and Recommendations are reported with the appropriate corresponding Standard.

EXAMINATION FINDINGS

The following examination areas were reviewed and deemed as passing without notable exceptions:

Company Operations and Management – 2008 NAIC MRH Chapter XVI

- Standard 1 - The regulated entity has an up-to-date, valid internal or external audit program.
- Standard 2 - The regulated entity has appropriate controls, safeguards and procedures for protecting the integrity of computer information.
- Standard 3 - The regulated entity has antifraud initiatives in place that are reasonably calculated to detect, prosecute and prevent fraudulent insurance acts.
- Standard 5 - Contracts between the regulated entity and entities assuming a business function or acting on behalf of the regulated entity, such as, but not limited to, managing general agents (MGAs), general agents (GAs), third-party administrators (TPAs) and management agreements, must comply with applicable licensing requirements, statutes, rules and regulations.
- Standard 7 - Records are adequate, accessible, consistent and orderly and comply with state record retention requirements.
- Standard 10 - The regulated entity has procedures for the collection, use and disclosure of information gathered in connection with insurance transactions so as to minimize any improper intrusion into the privacy of applicants and policyholders.
- Standard 11 - The regulated entity has developed and implemented written policies, standards and procedures for the management of insurance information.
- Standard 12 - The regulated entity has policies and procedures to protect the privacy of nonpublic personal information relating to its customers, former customers and consumers that are not customers.
- Standard 13 - The regulated entity provides privacy notices to its customers and, if applicable, to its consumers who are not customers regarding treatment of nonpublic personal financial information.
- Standard 14 - If the regulated entity discloses information subject to an opt out right, the regulated entity has policies and procedures in place so that nonpublic personal financial information will not be disclosed when a consumer who is not a customer has opted out,

and the regulated entity provides opt out notices to its customers and other affected consumers.

- Standard 15 - The regulated entity's collection, use and disclosure of nonpublic personal financial information are in compliance with applicable statutes, rules and regulations.
- Standard 16 - In states promulgating the health information provisions of the NAIC model regulation, or providing equivalent protection through other substantially similar laws under the jurisdiction of the insurance department, the regulated entity has policies and procedures in place so that nonpublic personal health information will not be disclosed, except as permitted by law, unless a customer or a consumer who is not a customer has authorized the disclosure.
- Standard 17 - Each licensee shall implement a comprehensive written information security program for the protection of nonpublic customer information.

Complaint Handling – 2008 NAIC MRH Chapter XVI

- Standard 3 - The regulated entity takes adequate steps to finalize and dispose of the complaint in accordance with applicable statutes, rules and regulations and contract language.
- Standard 4 - The time frame within which the regulated entity responds to complaints is in accordance with applicable statutes, rules and regulations.

Marketing and Sales – 2008 NAIC MRH Chapter XVI

- Standard 1 - All advertising and sales materials are in compliance with applicable statutes, rules and regulations.
- Standard 2 - Regulated entity internal producer training materials are in compliance with applicable statutes, rules and regulations.
- Standard 3 - Regulated entity communications to producers are in compliance with applicable statutes, rules and regulations.

Producer Licensing – 2008 NAIC MRH Chapter XVI

- Standard 1 - Regulated entity records of licensed and appointed (if applicable) producers agree with insurance department records.
- Standard 3 - Termination of producers complies with applicable standards, rules and regulations regarding notification to the producer and notification to the state, if applicable.
- Standard 4 - The regulated entity's policy of producer appointments and terminations does not result in unfair discrimination against policyholders.
- Standard 5 - Records of terminated producers adequately document reasons for terminations.

Policyholder Services – 2008 NAIC MRH Chapter XVI

- Standard 1 - Premium notices and billing notices are sent out with an adequate amount of advance notice.
- Standard 2 - Policy issuance and insured-requested cancellations are timely.
- Standard 3 - All correspondence directed to the regulated entity is answered in a timely and responsive manner by the appropriate department.
- Standard 5 - Policy transactions are processed accurately and completely.
- Standard 7 - Unearned premiums are correctly calculated and returned to the appropriate party in a timely manner and in accordance with applicable statutes, rules and regulations.

Underwriting and Rating – 2008 NAIC MRH Chapter XVI

- Standard 2 - All mandated disclosures are documented and in accordance with applicable statutes, rules and regulations.
- Standard 3 - The regulated entity does not permit illegal rebating, commission-cutting or inducements.
- Standard 4 - The regulated entity's underwriting practices are not unfairly discriminatory. The regulated entity adheres to applicable statutes, rules and regulations and regulated entity guidelines in the selection of risks.
- Standard 5 - All forms, including contracts, riders, endorsement forms and certificates are filed with the insurance department, if applicable.
- Standard 6 - Policies, riders and endorsements are issued or renewed accurately, timely and completely.
- Standard 8 - Cancellation/nonrenewal, discontinuance and declination notices comply with policy provisions, state laws and the regulated entity's guidelines.

Underwriting and Rating – 2008 NAIC MRH Chapter XVII

- Standard 8 - Underwriting, rating and classification are based on adequate information developed at or near inception of the coverage rather than near expiration, or following a claim.
- Standard 9 - Audits, when required, are conducted accurately and timely.
- Standard 10 - The regulated entity's underwriting practices are not unfairly discriminatory. The regulated entity adheres to applicable statutes, rules and regulations and the regulated entity's guidelines in the selection of risks.
- Standard 11 - All forms and endorsements forming a part of the contract are listed on the declaration page and should be filed with the insurance department (if applicable).
- Standard 12 - Regulated entity verifies that the VIN number submitted with the application is valid and that the correct symbol is utilized.

- Standard 13 - The regulated entity does not engage in collusive or anti-competitive underwriting practices.
- Standard 16 - Cancellation/nonrenewal notices comply with policy provisions and state laws, including the amount of advance notice provided to the insured and other parties to the contract.

Claims – 2008 NAIC MRH Chapter XVI

- Standard 1 - The initial contact by the regulated entity with the claimant is within the required time frame.
- Standard 2 - Timely investigations are conducted.
- Standard 3 - Claims are resolved in a timely manner.
- Standard 4 - The regulated entity responds to claims correspondence in a timely manner.
- Standard 5 - Claim files are adequately documented.
- Standard 6 - Claims are properly handled in accordance with policy provisions and applicable statutes (including HIPAA), rules and regulations.
- Standard 7 - Regulated entity claim forms are appropriate for the type of product.
- Standard 8 - Claim files are reserved in accordance with the regulated entity's established procedures.
- Standard 10 - Canceled benefit checks and drafts reflect appropriate claim handling practices.
- Standard 11 - 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.

Claims – 2008 NAIC MRH Chapter XVII

- Standard 1 - Regulated entity uses the reservation of rights and excess of loss letters, when appropriate.

Exceptions were identified in the following examination areas:

A. COMPANY OPERATIONS/MANAGEMENT

Standard A 08

<p style="text-align: center;"><i>NAIC's Market Regulation Handbook - Chapter XVI, §A, Standard 8</i></p> <p>The Company is licensed for the lines of business that are being written.</p> <p style="text-align: right;">18 Del. C. §318(a), §505(b),</p>
--

The review methodology for this standard is “generic.” This standard has a direct insurance statutory requirement. This standard is intended to ensure that the Company’s operations are in conformance with the Company’s Certificate of Authority.

Results: Pass with comments

Observations: The examiners found that while Titan is licensed for the lines of business under the exam scope, it is using branding for an affiliated company, Victoria Insurance that is not licensed in Delaware. Examples of forms and correspondence used with consumers containing the Victoria branding observed during the course of the examination include premium notices, applications, and correspondence with claimants and complainants.

Prior to the examination, information from the Sr. Market Analysis Manager indicated that the Delaware Department and the Company were in discussions regarding complaints about the Victoria brand appearing on policy identification (ID) cards. It is the examiners understanding that the Company has agreed to remove branding from the policy ID cards at a date not disclosed at this time. During the examination, however, the examiners determined that the Victoria branding appears on policy forms and consumer correspondence in addition to the policy ID cards.

Recommendation: The Company must remove the Victoria branding from all policy forms and correspondence used in Delaware. All forms, where required, must be re-filed for approval with the Delaware Department.

Standard A 09

NAIC’s Market Conduct Examiners’ Handbook - Chapter VIII. §A, Standard 9

The Company cooperates on a timely basis with the examiners performing the examination.

18 Del. C. §318(a), §320(c), §520(b) 3

The review methodology for this standard is “generic.” This standard has a direct insurance statutory requirement. This standard is intended to ensure that the Company is cooperating with the state in the completion of an open review of the Company’s operations. Cooperation with the examiners in the conduct of an examination is not only required by statute, it is conducive to completing the examination in a timely manner thereby minimizing cost.

Results: Pass

Observations: The Company responded timely to examiner inquiries and data requests. The courtesy and cooperation of the officers and employees of the Company during the examination are acknowledged and appreciated.

Recommendations: None

B. COMPLAINT HANDLING

Standard B 01

NAIC's Market Conduct Examiners' Handbook - Chapter XVI. §B, Standard 1
All complaints are recorded in the required format on the regulated entity's complaint register.

18 *Del. C.* §2304(17)

The review methodology for this standard is “generic.” This standard has a direct insurance statutory requirement. This standard is intended to ensure that the regulated entity records all consumer and insurance department complaints on the complaint register in the prescribed format.

Results: Fail

Observations: The Company failed to include three DDOI complaint cases (Case #60453, #76573 and #74395) on the complaints register. In addition, The Company failed to accurately record the date the complaint was received in ten of the 33 complaints on the complaint register, the Company failed to accurately record the date the complaint was actually received. In these ten instances, the Company erroneously recorded the date the unit responsible for handling the complaint received it rather than the date the complaint was actually received by the Company mail room or fax machine. Failure to record an accurate “complaint received” date results in inaccurate reporting of the number of days the Company takes to resolve the complaint as required under 18 *Del. C.* §2304(17) which states, “Failure to maintain complaint handling procedures. — Failure of any person to maintain a complete record of all the complaints which it has received since the date of its last examination as otherwise required in this title. 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.”

Recommendation: The Company must revise its complaint handling procedures to ensure that all complaints are recorded on the complaint register. These procedures must include the accurate recording of the date the complaint was received by the Company. A copy of the revised procedures must be provided to the DDOI for review.

Standard B 02

NAIC's Market Conduct Examiners' Handbook - Chapter XVI. §B, Standard 2

The regulated entity has adequate complaint handling procedures in place and communicates such procedures to policyholders.

18 Del. C. §§2304(17), (26)

The review methodology for this standard is “generic.” This standard has a direct insurance statutory requirement. This standard is intended to ensure the regulated entity has adequate complaint handling procedures in place to satisfactorily handle complaints from receipt through resolution and to ensure that the procedures are in compliance with Department of Insurance requirements.

Results: Fail

Observations: The Company failed to demonstrate that it had adequate complaint handling procedures in place as required under 18 Del. C. §2304(17). The Company also failed to comply with complaint handling requirements stipulated by the Delaware Department of Insurance in violation of 18 Del. C. § 2304(26) which states, “Failure to respond to regulatory inquiries — No person shall, with such frequency as to indicate a general business practice, fail to provide preliminary substantive responses to inquiries from the Department of Insurance regarding the denial of claims, cancellation, non-renewal, or refusal of benefits, refusal to pre-authorize benefits, or violations of this title, within 21 calendar days of such inquiry. A response in compliance with this subsection shall not preclude the provision of additional information responsive to the inquiry.”

The Company failed to have adequate controls for the updating and distribution of the complaint handling procedures used by the Claims Unit. Despite the Claims Managers assertion that the Company’s Claims Best Practices Manual was updated annually, the examiners observed that the Company’s Certification training program contained procedures that were implemented in 2004 and 2005. When the examiners asked for copies of the annual updates, the Company indicated that there were no updates issued between the April 2007 version provided to the examiners during the examination and the February 9, 2010 version submitted in response to the examiners’ inquiries.

In addition, the examiners found that the Company does not adequately monitor its complaint handling practices. The Company failed to provide evidence that it conducts complaints audits or performs analysis to determine trends. While the Company indicates that it delegates responsibility to the Titan Indemnity sales managers to share the Complaints Best Practices with the agents, the examiners found no evidence that the Company monitors this delegated

responsibility to ensure that all complaints reported to producers are properly recorded or handled in accordance with Delaware law.

Finally, the Company failed to provide a copy of the response to the complainant on all 17 DDOI complaints during the examination period. Upon presentation of this finding, the Company acknowledged that carbon copies of resolution letters to the Delaware Department of Insurance were not sent to the complainants. The Company indicated that going forward it will ensure compliance by sending all regulatory responses to the Delaware Department of Insurance with a copy to the complainants.

Recommendations: The Company must review its controls for monitoring the updating and distribution of complaint procedures to ensure that all business units, producers, insureds and claimants have complete and up-to-date information regarding the appropriate reporting and handling of all complaints. In addition, the Company should implement procedures to monitor and track all complaints reported directly to producers. It is further recommended that the Company conduct periodic complaints audits to ensure regulatory compliance. The Company must revise its complaint procedures to require a written response to ensure that the complainant is copied on all responses to Delaware Department of Insurance complaints as required. The Company must provide a copy of the revised complaint procedures to the Delaware Department of Insurance.

C. PRODUCER LICENSING

Standard D 02

<p><i>NAIC's Market Regulation Handbook - Chapter XVI. §D Standard 2</i></p> <p>The producers are properly licensed and appointed (if required by state law) in the jurisdiction where the application was taken.</p> <p style="text-align: right;"><i>18 Del. C. §1703</i></p>
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The review methodology for this standard is “generic.” This standard has a direct insurance statutory requirement. This standard is intended to ensure that the Company is in compliance with state statutes governing licensing and appointment of producers.

Results: Fail

Observations: The Company does not track the writing agent at the policy level. The examiners determined that the Company’s New Business data listing contained the Agency ID Number rather than the writing agent ID Number. The Company was asked to provide a revised data listing with the writing agent included. In its response the Company stated, “This

communication is in response to your note dated April 9, 2010, requesting a corrected new business data listing to include the license number of the producing agent. Currently, the agency licensing system and the policy issuance system are not linked together. As producers are licensed with the company they are issued a unique user ID and password, which allows that producer to upload business to the company. However, after upload the policy is linked to the agency code and not the unique user ID or producer license number. Due to this system limitation, the producer license number is not available at the policy level. Commission checks are sent to the primary agent to be distributed to the appropriate writing agent within their agency. The business unit is working with IT to discuss future options on how to link the policy to the writing agent.”

As a result of the Company’s inability to provide the writing agent information for any of the new business written during the examination period, the examiners were unable to confirm compliance with 18 *Del. C.* §1703 which states, “A person shall not sell, solicit or negotiate insurance in this State for any class or classes of insurance unless the person is licensed for that line of authority in accordance with this chapter.”

Recommendation: The Company must track and maintain producer information at the policy level to ensure that all business is submitted by licensed and appointed individuals in compliance with 18 *Del. C.* §1703.

D. UNDERWRITING AND RATING

Standard F 01

<i>NAIC’s Market Regulation Handbook - Chapter XVI. §F, Standard 1</i> The rates charged for the policy coverage are in accordance with filed rates or the regulated entity’s rating plan. <i>18 Del. C. §2503</i>

The review methodology for this standard is “sample.” This standard has a direct insurance statutory requirement. This standard is intended to ensure that the Company is in compliance with state statutes governing policy rates.

Results: **Fail**

Observations: The examiners reviewed a sample of 115 new business policies written during the examination period. Of the 115 policies, it was determined that 32 policies had discounts applied. The Company failed to provide appropriate documentation for 11 of 32 files (34%) where policy discounts were applied. While the Company has implemented measures to ensure documentation is obtained for Proof of Prior Coverage and Proof of Homeowners discounts, the

examiners note that the Company has no such procedure for monitoring proof of eligibility for Defensive Driver and Travel Link discounts. Failure to document eligibility for discounts applied is a violation of the ratemaking standards under 18 *Del. C. s* 2503(a) (2) which states, “Rates shall not be excessive, inadequate or unfairly discriminatory”.

Recommendation: The Company must implement measures to ensure that documentation is obtained for all discounts applied to policies written in Delaware in compliance with 18 *Del. C. s* 2503. A copy of the procedures implemented must be provided to the DDOI.

E. CLAIM SETTLEMENT PRACTICES

Standard G 02

<i>NAIC's Market Regulation Handbook - Chapter XVII. §G, Standard 2</i> Deductible reimbursement to insureds upon subrogation recovery is made in a timely and accurate manner. <i>18 Del. C. §2304(16)</i>
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The review methodology for this standard is “generic.” This standard has a direct insurance statutory requirement. This standard is intended to ensure that the Company is in compliance with state statutes governing claim settlement practices.

Results: **Fail**

Observations: The examiners reviewed all 17 subrogated claims and the reimbursements made to the six claimants associated with those claims. The Company failed to provide a timely and accurate deductible reimbursement to one of the six (16.67 %) claimants upon subrogation recovery (ID #1). In addition, the examiners also noted that in one of the six claims (ID # 6), the Company failed to pursue the out-of-pocket Rental Reimbursement after subrogation recovery until the examiners called the Company's attention to this matter. The Company indicated that it would take action to reimburse these two claimants for their losses. Failure to promptly settle claims in accordance with the policy provisions may be an unfair claims practice under 18 *Del. C. §*2304(16) (f) which states an unfair claims settlement practice includes, “Not attempting in good faith to effectuate prompt, fair and equitable settlements of claims in which liability has become reasonably clear.”

Recommendation: The Company must revise its claim handling procedures to ensure that deductible and out-of-pocket expense reimbursements are made promptly upon subrogation recovery. The Company must provide evidence to the DDOI that reimbursements were made to these claimants.

F. INTERRELATED FINDINGS

Producer Incentive Programs and Motivational Awards

Observations: The examiners asked the Company to explain the rapid premium growth over the two-year period between 01/01/07 and 12/31/08. Annual written premium in Delaware was \$0 in 2006 and over \$12M in 2008. The Company responded that, “*The reason for the rapid premium growth is that Titan Indemnity introduced a new product written effective 8/20/2007. The old product was placed into run-off and all new nonstandard auto customers were written in this new Titan Indemnity product.*”

The data provided for the examination period of 07/01/08 through 06/30/09, however, indicated a 4.5:1 ratio of policy cancelations to new business written. The examiners determined that it would be highly unusual for a new product to be introduced with such a high volume of sales and be followed in the next year by a significant decline in this business remaining in force.

For this reason, an expansion of the examination scope was recommended and approved to add a review of Marketing and Sales including all advertising of this new product introduced 08/20/07.

During the review of the Company’s producer incentive programs and motivational awards implemented during the examination period, the examiners noted a Specialty Auto Contest that included increased compensation based on the volume of new applications submitted and a \$50,000 “Specialty Auto Kicker” bonus to any producer that wrote 1000 new policies during the first 6 months of 2009 and had 200 or more policies written than the prior year.

Upon further inquiry into the contest, it was noted that a total of 3798 policies qualified during the period. Eight producers qualified for the contest. One agent was responsible for 3154 (82.5%) of the policies written. That producer received total bonus compensation of \$175,120. The agent with the next highest total of new business written had 290 (7.6%). None of the other 6 agents had more than 5% of the business qualifying for bonus.

Recommendation: It is recommended that the Company seek Department approval prior to implementing producer incentive programs or motivational awards that offer unusually high compensation amounts.

CONCLUSION

The examination was conducted by Debra Boothby, Cyndy Campbell, Heather Harley and Candace Walker, supervised by Shelly Schuman and is respectfully submitted,



Debra A. Boothby, CIE, MCM
Market Conduct Examiner-in-Charge
Insurance Department
State of Delaware