

Market Conduct Report

American Commerce Insurance Company

July 6, 2021

Connecticut Insurance Department

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American Commerce
Insurance Company

I. INTRODUCTION

A. Statutory Authority

By authority granted under Section 38a-15 of the Connecticut General Statutes, the examination was conducted by Market Conduct examiners of the State of Connecticut Insurance Department at the Department's office located in Hartford, Connecticut.

B. Scope of Examination

From February 5, 2021 to on or about May 28, 2021, the Market Conduct Division of the Connecticut Insurance Department examined the market conduct practices of American Commerce Insurance Company using a sample period of January 1, 2019 through December 31, 2019. The examination was limited to Connecticut business.

C. Company Profile

<u>Company</u>	<u>Commenced Business</u>	<u>State of Domicile</u>
American Commerce Insurance Company	September 18, 1946	Ohio

Direct premiums written as of December 31, 2019 are as follows:

	<u>Connecticut</u>	<u>Total</u>
American Commerce Insurance Company	94,156,958	173,251,199

D. Market Conduct Reports

The examiners generated a listing of market conduct examination reports using National Association of Insurance Commissioners' I-Site. This information was used to request market conduct examination reports from the company.

The examiners obtained copies of all relevant market conduct examination reports which had been issued to the company during the three (3) years preceding the examination. The reports were reviewed to identify any recommendations that had been made by the respective Insurance Departments and to determine whether the company had taken appropriate corrective action in response to those recommendations.

E. Privacy of Consumer Financial Information

Standard 1: The company has adequate procedures in place for the protection of consumer financial information.

The company appears to be in compliance.

Standard 2: The company provides each consumer with an initial privacy notice in accordance with statutes, rules and regulations.

The company appears to be in compliance.

Standard 3: The company provides each consumer with an annual privacy notice in accordance with statutes, rules and regulations but at a minimum annually.

The company appears to be in compliance.

Standard 4: The company provides each consumer with an opt out notice in accordance with statutes, rules and regulations.

The company appears to be in compliance.

Standard 5: The company provides each consumer with a revised privacy notice in accordance with statutes, rules and regulations.

The company appears to be in compliance.

Standard 6: All notices are provided in the required timeframe so as to minimize any improper intrusion into the privacy of consumers.

The company appears to be in compliance.

Standard 7: The company complies with all requirements for the disclosure of nonpublic personal financial information to nonaffiliated third parties so as to minimize any improper intrusion into the privacy of consumers.

The company appears to be in compliance.

Standard 8: The company complies with all requirements for the disclosure and redisclosure of nonpublic personal financial information so as to minimize any improper intrusion into the privacy of consumers.

The company appears to be in compliance.

Standard 9: The company has procedures for the sharing of consumer account numbers so as to minimize any improper intrusion into the privacy of consumers.

The company appears to be in compliance.

II. ITEMS EXAMINED

A. Operations and Management

Standard 1: The company has an up-to-date, valid internal or external audit program.

The company appears to be in compliance.

Standard 2: The company has appropriate controls, safeguards and procedures for protecting the integrity of computer information.

The company has appropriate controls and protocols in place with regard to the protection of the integrity of computer information. The MAPFRE (Parent Company) Information Security Program manuals dated December 2018 and August 2019 were provided to the examiners for review. The company has more than adequate controls in place to prevent data intrusions. Procedures are in place regarding the level of access to computer information by both employees and vendors.

Standard 3: The company has an antifraud plan in place.

A total of 110 cases were referred to S.I.U. during the examination period. There were not any that resulted in prosecutions or convictions. The company anti-fraud plan dated January 3, 2019 was reviewed regarding company standards and procedures regarding fraud related issues.

Standard 4: The company has a valid disaster recovery plan.

American Commerce Insurance Company adheres to the MAPFRE Business Continuation Plan (BLP).MAPFRE utilizes comprehensive ISO aligned standards. The plan is well over 1,000 pages that include specifics regarding all aspects of business recovery operations.

Standard 5: The company adequately monitors the activities of the managing general agents.

The company does not have managing general agents.

American Commerce Insurance Company

Standard 6: The company's contracts with managing general agents comply with applicable statutes, rules and regulations.

See above.

Standard 7: Records are adequate, accessible, consistent and orderly, and comply with State record retention requirements.

The company appears to be in compliance.

Standard 8: The company is licensed for the lines of business that are being written.

The company appears to be in compliance.

Standard 9: The company cooperates on a timely basis with examiners performing the examination.

The company appears to be in compliance.

B. Complaint Handling

Standard 1: All complaints are recorded in the required format on the company's complaint register.

The examiners reviewed a total of twenty-six (26) complaints recorded with the DOI along with non-Department complaints filed against the company during the examination period. The company complaint log met with Connecticut Regulations with regard to format. No issues were noted.

Standard 2: The company has adequate complaint handling procedures in place and communicates such procedures to policyholders.

The company appears to be in compliance.

Standard 3: The company takes adequate steps to finalize and dispose of the complaint in accordance with applicable statutes, rules and regulations, and contract language.

The company appears to be in compliance.

American Commerce Insurance Company

Standard 4: The time frame within which the company responds is in accordance with applicable statutes, rules and regulations.

The company appears to be in compliance.

C. Marketing and Sales

Standard 1: All advertising and sales materials are in compliance with applicable statutes, rules and regulations.

The company appears to be in compliance.

Standard 2: The company's internal producer training materials are in compliance with applicable statutes, rules and regulations.

The company appears to be in compliance.

Standard 3: The company's communications to producers are in compliance with applicable statutes, rules and regulations.

The company appears to be in compliance.

Standard 4: The company's mass marketing of property and casualty insurance is in compliance with applicable statutes, rules and regulations.

The company does not mass market insurance.

D. Producer Licensing

Standard 1: The company's records of licensed and appointed producers agree with Insurance Department's records.

The company appears to be in compliance.

Standard 2: The producers are properly licensed and appointed in the jurisdiction where the application was taken.

The company was not in compliance with Connecticut General Statute, Section 38a-702(m) regarding the appointment of producers.

American Commerce Insurance Company

Standard 3: Termination of producers complies with statutes regarding notification to the producer and notification to the State, if applicable.

The company appears to be in compliance.

Standard 4: The company's policy of producer appointments and terminations does not result in unfair discrimination against policyholders.

The company appears to be in compliance.

Standard 5: Records of terminated producers adequately document the reasons for termination.

The company appears to be in compliance.

E. Policyholder Service

Standard 1: Premium notices and billing notices are sent out with an adequate amount of advance notice.

The company appears to be in compliance.

Standard 2: Policy issuance and insured requested cancellations are timely.

The company appears to be in compliance.

Standard 3: All correspondence directed to the company is answered in a timely and responsive manner by the appropriate department.

The company appears to be in compliance.

F. Underwriting and Rating

Standard 1: The rates charged for the policy coverage are in accordance with filed rates or the company's rating plan.

Private Passenger Automobile

During the manual rating of private passenger automobile policies, the examiner determined the following: The company base rates for towing coverage were not filed with the Department. It was also determined that the company computed the rating tier factors with four decimal places but was actually filed for two decimals. This resulted in two undercharges when manually re-rating policies.

American Commerce Insurance Company

Standard 2: Disclosures to insureds concerning rates and coverages are accurate and timely.

The company appears to be in compliance.

Standard 3: The company does not permit illegal rebating, commission cutting or inducements.

The company appears to be in compliance.

Standard 4: Credits and deviations are consistently applied on a non-discriminatory basis.

The company appears to be in compliance.

Standard 5: Schedule rating or individual risk premium modification plans, where permitted, are based on objective criteria with usage supported by appropriate documentation.

The examination did not include commercial risk rating.

Standard 6: The company's underwriting practices are not unfairly discriminatory. The company adheres to applicable statutes, rules, regulations and company's guidelines in the selection of risks.

See Standard 15.

Standard 7: All forms and endorsements forming a part of the contract are listed on the declarations page and should be filed with the Department of Insurance.

The company appears to be in compliance.

Standard 8: The producers are properly licensed and appointed in the jurisdiction where the application was taken.

Private Passenger Automobile

The company was not in compliance in eleven (11) instances where the producer did not hold an appointment with the company when new the new business policy was written.

Homeowners

The company was not in compliance in nine (9) instances where the producer did not hold an appointment with the company when the new business policy was written.

American Commerce Insurance Company

Standard 9: Underwriting, rating and classifications are based on adequate information developed at or near inception of the coverage rather than near expiration or following a claim.

The company appears to be in compliance.

Standard 10: File documentation adequately supports decisions made.

The company appears to be in compliance.

Standard 11: Policies and endorsements are issued or renewed accurately, timely and completely.

The company appears to be in compliance.

Standard 12: Audits, when required, are conducted accurately and timely.

Examination did not include commercial lines rating.

Standard 13: The company verifies that VIN number submitted with application is valid and that the correct symbol is utilized.

The company appears to be in compliance.

Standard 14: The company does not engage in collusive or anti-competitive underwriting practices.

The company appears to be in compliance.

Standard 15: Rejections and declinations are not unfairly discriminatory.

Declinations

The company was asked to provide the examiners with a listing of both private passenger automobile and homeowner declinations for the period of examination. The company advised that it will not be able to provide this information for review as it does not maintain any type of log or register to track declinations of applicants for insurance quotations or policy coverage.

The company stated that the agent has the primary responsibility for the declination of risks and there is no company procedure or process currently in place to capture declinations and rejections of applicants seeking insurance coverage with the company. The company was found to be in non-compliance with the retention of documentation necessary to determine that the company does not unfairly discriminate against applicants seeking private passenger automobile and homeowner's coverage.

Standard 16: Cancellation/non-renewal notices comply with policy provisions and State laws, and company's guidelines.

Automobile Non-Renewals

During the review of automobile non-renewals, it was determined that the company failed to provide insureds a summary of their available rights in the event of adverse underwriting decisions which is in violation of Connecticut General Statute Section, 38a-985(2). In addition, there were also some instances in which insureds were not informed of the institutional source in violation of Connecticut General Statute, Section 38a-983(b).

There were also some instances where notice of non-renewal was nonspecific in violation of Connecticut General Statutes, Section 38a-323 and Bulletins PC-88 and there were some instances a risk still qualified for renewal based on company guidelines.

Homeowner Non-Renewals

During review of homeowner non-renewals, it was determined that five (5) non-renewal notices were nonspecific in violation of Connecticut General Statutes, Section 38a-323 and Bulletin PC-88.

Standard 17: Cancellation/non-renewal notices comply with policy provisions and State laws, including the amount of advance notice provided to the insured and other parties to the contract.

See above.

Standard 18: Unearned premiums are correctly calculated and returned to appropriate party in a timely manner, and in accordance with applicable statutes, rules and regulations.

The company appears to be in compliance.

Standard 19: Rescissions are not made for non-material misrepresentation.

The company appears to be in compliance.

Standard 20: All policies are correctly coded.

The company appears to be in compliance.

G. Claims

The company provided a listing of claims paid and denied during the period of examination. The claim files were reviewed to determine if they were handled in accordance with policy provisions, and applicable statutes and regulations.

Standard 1: The initial contact by the company with the claimant is within the required time frame.

The company appears to be in compliance.

Standard 2: Timely investigations are conducted.

The company appears to be in compliance.

Standard 3: Claims are resolved in a timely manner.

The company appears to be in compliance.

Standard 4: The company responds to claim correspondence in a timely manner.

The company appears to be in compliance.

Standard 5: Claim files are adequately documented.

The company appears to be in compliance.

Standard 6: Claim files are handled in accordance with policy provisions and applicable statutes, rules and regulations.

Private Passenger Automobile

In a sample of property damage liability claims, in six (6) instances, the file documentation did not support the condition of vehicle adjustments applied to the vehicles total loss evaluations and (1) file was determined to not have explanation of deductions taken in letter sent to claimant. A total of \$2,759 was returned to claimants with regard to the condition adjustments.

In a sample of comprehensive claims, two settlements did not have documentation that supported condition adjustments on total loss settlements and company returned \$1,254 to insureds.

In a sample of collision claims, four (4) total loss settlements did not have documentation that supported the condition adjustment. One collision loss should have been settled as a comprehensive loss. One claim applied an incorrect deductible. One claim had an overpayment and there were two claim handling errors.

American Commerce Insurance Company

In a sample of closed without payment claims, three total loss settlements did not have adequate documentation to support condition adjustments. A total of \$3,462 was returned to claimants. One letter sent to claimant was sent to the wrong address. In a sample of loan/lease endorsement claims, four total loss settlements applied condition adjustments not supported by documentation. A total of \$2,759 was returned to claimants. One claim settlement was determined to have a duplicate payment.

Homeowners

In a sample of homeowner closed without payment claims, there was one (1) instance in which a denial letter was never sent to claimant. There were three (3) instances in which the company failed to advise the claimant the claim was being closed due to lack of activity.

Standard 7: The company uses the reservation of rights and excess of loss letters when appropriate.

The company appears to be in compliance.

Standard 8: Deductible reimbursement to insureds upon subrogation recovery is made in a timely and accurate manner.

The company appears to be in compliance.

Standard 9: The company's claim forms are appropriate for the type of product.

The company appears to be in compliance.

Standard 10: Claim files are reserved in accordance with the company's established procedures.

The company appears to be in compliance.

Standard 11: Denied and closed without payment claims are handled in accordance with policy provisions and State law.

The company appears to be in compliance.

Standard 12: Cancelled benefit checks and drafts reflect appropriate claim handling procedures.

The company appears to be in compliance.

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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.

The company appears to be in compliance.

Standard 14: The company uses licensed adjusters and (Connecticut) appraisers in the handling of casualty claims.

In one (1) instance, the company utilized an adjuster who did not have required Connecticut adjusters' license at time of the claim.

Standard 15: Loss statistical coding is complete and accurate.

The company appears to be in compliance.

Standard 16: Release by injured person voidable if obtained within fifteen days. (Connecticut)

The company appears to be in compliance.

III. SUMMARY OF RECOMMENDATIONS

Report
Section

II. D Producer Licensing:
New Business

It is required that American Commerce Insurance Company comply with Connecticut General Statutes, Sections 702m regarding the appointment of producers.

II. F. Underwriting and Rating:
Automobile & Homeowner-Declinations

It is required that American Commerce Insurance Company comply with Connecticut General Statutes Section 38a-15 with regard to maintaining proper documentation with regard to homeowner and automobile declinations.

II. F. Underwriting and Rating:
Automobile Non-Renewals

It is required that American Commerce Insurance Company comply with Connecticut General Statutes Section 38a-323, 38a-983(b) and 38a-985(2) of the Connecticut General Statutes and Bulletin PC-88 with regard to the non-renewal of automobile policies.

II. F. Underwriting and Rating:
Homeowner Non-Renewals

It is required that American Commerce Insurance Company comply with Connecticut General Statutes Section 38a-323 with regard to the non-renewal of homeowner policies.

II. F. Underwriting and Rating:
Automobile-Rating

It is required that American Commerce Insurance Company comply with Connecticut General Statutes Section 38a-686 with regard to automobile rating.

American Commerce Insurance Company

II. G. Claims:
Casualty Claims Adjusters

It is required that American Commerce Insurance Company comply with Connecticut General Statutes Section 38a-792 with regard to the licensing of casualty claims adjusters.

II. G. Claims:
Homeowner

It is required that American Commerce Insurance Company comply with Connecticut General Statutes, Section 38a-816, with regard to the settlement of homeowner claims.

II. G. Claims:
Automobile

It is required that American Commerce Insurance Company comply with Connecticut General Statutes, Section 38a-816, with regard to the settlement of automobile claims.

IV. ACKNOWLEDGMENT

The courtesy and cooperation of American Commerce Insurance Company during the course of this examination is acknowledged.

Mark J. Duffy, Nicholas Gill, La-Keya Daniels and James Stowe participated in the examination and preparation of this report.

REG'D CT INSURANCE DEP
NOV 17 21 PM 12:28



STATE OF CONNECTICUT

INSURANCE DEPARTMENT

----- X
IN THE MATTER OF:
AMERICAN COMMERCE
INSURANCE COMPANY
----- X

DOCKET MC 21-68

STIPULATION AND CONSENT ORDER

It is hereby stipulated and agreed between American Commerce Insurance Company and the State of Connecticut Insurance Department by and through Andrew N. Mais, Insurance Commissioner, to wit:

I

WHEREAS, pursuant to a Market Conduct examination, the Commissioner alleges the following with respect to American Commerce Insurance Company:

1. American Commerce Insurance Company, hereinafter referred to as Respondent, is domiciled in the State of Ohio and is licensed to transact property and casualty insurance in the State of Connecticut. The NAIC company code number is 19941.
2. From February 5, 2021 through May 28, 2021, the Department conducted an examination of Respondent's market conduct practices in the State of Connecticut covering the period from January 1, 2019 through December 31, 2019.
3. During the period under examination, Respondent failed to follow established practices and procedures to ensure compliance with statutory requirements resulting in instances of:
 - a) unlicensed individuals adjusting casualty claims
 - b) improper rating of automobile policies
 - c) individuals acting as producers without the required appointment
 - d) failure to maintain proper controls with regard to the documentation of both automobile and homeowner declinations
 - e) improper non-renewal of automobile policies
 - f) improper settlement of automobile claims

4. The conduct described in paragraph three is in violation of Sections 38a-15, 38a-323, 38a-686, 38a-702m, 38a-790, 38a-792, 38a-816, 38a-983(b) and 38a-985(2) of the Connecticut General Statutes, and constitutes cause for the imposition of a fine or other administrative penalty under Sections 38a-2, 38a-41 and 38a-817 of the Connecticut General Statutes.

II

1. WHEREAS, Respondent admits the allegations in paragraphs three and four of Article I of this Stipulation and Consent Order; and
2. WHEREAS, Respondent agrees to undertake a complete review of its practices and procedures, with respect to those areas of concern, as described in the Market Conduct Report and this Stipulation, so that those areas of concern are compliant with Connecticut Statutes; and
3. WHEREAS, Respondent agrees to provide the Insurance Commissioner with a full report of findings and a summary of actions taken to comply with the requirements of paragraph two of this Section within ninety (90) days of the date of this document; and
4. WHEREAS, Respondent agrees to pay a fine in the amount of \$83,000 for the violations described herein; and
5. WHEREAS, Respondent, being desirous of terminating administrative action without the necessity of a formal hearing or further litigation, does consent to the making of this Consent Order and voluntarily waives:
 - a. any right to notice and a hearing; and
 - b. any requirements that the Insurance Commissioner's decision contain a statement of findings of fact and conclusions of law; and
 - c. any and all rights to object to or challenge before the Insurance Commissioner or in any judicial proceeding any aspect, provision or requirement of this Stipulation

NOW THEREFORE, upon the consent of the parties, it is hereby ordered and adjudged:

1. That the Insurance Department has jurisdiction of the subject matter of this administrative proceeding.
2. That American Commerce Insurance Company is ordered to pay a fine in the amount of Eighty-Three Thousand Dollars (\$83,000).

AMERICAN COMMERCE INSURANCE COMPANY

By: 

(Representative of Insurance Company)

CERTIFICATION

The undersigned deposes and says that she/he has duly executed this Stipulation and Consent Order on this 12th day of November 2021, for and on behalf of American Commerce Insurance Company that she/he is the Chief Compliance Officer of such company, and she/he has authority to execute and file such instrument.

By: [Signature]

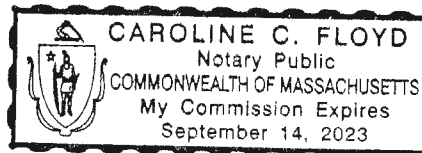
STATE OF Massachusetts

SS

COUNTY OF Worcester

On the 12th day of November 2021, before me personally appeared Christopher A. Matherly, sealer of the foregoing Stipulation and Consent Order, acknowledged same to be her/his act and deed.

[Signature]
Notary Public/Commissioner of The Superior Court



Section Below To Be Completed by State of Connecticut Insurance Department

Dated at Hartford, Connecticut this 23 day of November 2021.

[Signature]
Andrew N. Mais
Insurance Commissioner