

SOUTH DAKOTA DIVISION OF INSURANCE
MARKET CONDUCT EXAMINATION REPORT
OF

ZURICH AMERICAN INSURANCE GROUP
(NAIC GROUP CODE 0212)

ZURICH AMERICAN INSURANCE COMPANY
(NAIC COMPANY CODE 16535)
1400 American Lane
Schaumburg, Illinois 60196

AMERICAN ZURICH INSURANCE COMPANY
(NAIC COMPANY CODE 40142)
1400 American Lane
Schaumburg, Illinois 60196

EMPIRE FIRE AND MARINE INSURANCE COMPANY
(NAIC COMPANY CODE 21326)
1400 American Lane
Schaumburg, Illinois 60196

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SALUTATION

June 10, 2015

Honorable Larry Deiter
Insurance Director
State of South Dakota
124 South Euclid Avenue, 2nd Floor
Pierre, South Dakota 57501

Dear Director Deiter:

In compliance with the instructions contained in the Order for Examination, dated August 3, 2012, and pursuant to statutory provisions including SDCL Ch. 58-3, a Market Conduct Examination has been conducted of the affairs and practices of Zurich American Insurance Group.

Zurich American Insurance Group is a group of companies with Zurich American Insurance Company being the lead company. Zurich Insurance Group Ltd, of Switzerland, is the ultimate parent company of the group. The group includes, among other companies, Zurich American Insurance Company, American Zurich Insurance Company, and Empire Fire and Marine Insurance Company. Zurich American Insurance Company was incorporated under the laws of the State of New York. American Zurich Insurance Company was incorporated under the laws of the State of Illinois. Empire Fire and Marine Insurance Company was incorporated under the laws of the State of Nebraska.

This 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 Group's location, 1400 American Lane, Schaumburg, IL 60196.

The off-site examination phase was performed at the offices of the South Dakota Division of Insurance and other appropriate locations.

The report of examination thereon is respectfully submitted.

FOREWORD

This examination reflects the insurance activities of Zurich American Insurance Group in the State of South Dakota. This Market Conduct Examination Report is, in general, a report by exception. Some of the information reviewed by the examiners may not be referenced in this written report regarding practices, procedures, or files that did not contain any errors or irregularities. Failure to comment on specific products, procedures, or files does not constitute approval thereof by the South Dakota Division of Insurance.

In performing this examination, the Division selected a portion of the Group's operations for review. This report does not fully reflect a review of all of the practices and activities of the Group.

Where used in the report:

"ARSD" refers to South Dakota's Administrative Rules

"Company" or "Companies" refer either collectively or individually to Zurich American Insurance Company, American Zurich Insurance Company, or Empire Fire and Marine Insurance Company

"Division" refers to South Dakota Division of Insurance

"Group" refers to Zurich American Insurance Group

"NAIC" refers to National Association Insurance Commissioners

"NCCI" refers to National Council on Compensation Insurance

"SDCL" refers to the Statutes of South Dakota

"TPA" refers to Third Party Administrator

"ZNA Pool of Companies" refers to Zurich American Insurance Group

SCOPE OF EXAMINATION

The South Dakota Division of Insurance has authority to perform this examination pursuant to, but not limited to, SDCL Ch. 58-3. This examination of the Zurich American Insurance Group began September 24, 2012, and covered the period of January 1, 2009 through June 30, 2012, unless otherwise noted. This examination focused on a review of the Group's Operations and Management, Complaint Handling, Sales and Marketing, Producer Licensing, Underwriting and Rating, and Claims.

This examination was performed in accordance with Market Regulation standards established by the Division and examination procedures established by the NAIC. While the examiner's report on the errors found in individual files, the examination also reviews general business practices of the Group.

EXECUTIVE SUMMARY

This Market Conduct Examination focused on the business practices of Zurich American Insurance Group. The Group writes commercial lines of business.

The examiners reviewed the Companies' procedures and practices in the areas of Operations and Management, Complaint Handling, Sales and Marketing, Producer Licensing, Underwriting and Rating, and Claims. The Company was requested to provide samples of files for underwriting and claims for each of the 3 Companies.

The sample files for Empire Fire and Marine Insurance Company were received as requested. The underwriting sample files initially requested for Zurich American Insurance Company and American Zurich Insurance Company totaled 778 files. After a number of delays in providing the files, the Companies requested that the number of underwriting sample files be reduced to 284 files. The Division approved the Companies' request. Despite this significant reduction the Companies, nonetheless, failed to facilitate the exam process. The Companies continuously failed to provide the requested sample files and some files were never provided.

Deficiencies were noted in each of the following areas: Operations and Management, Underwriting and Rating, and Claims. In total, 266 violations of South Dakota laws or administrative rules were noted. The details of these findings are provided in the respective chapters and sections of the report. In summary, the examiners noted the following:

CHAPTER 1: ZURICH AMERICAN INSURANCE COMPANY

- 136 Violations of SDCL § 58-3-7 - Failure to timely provide records during the examination process
- 8 Violations of SDCL § 58-12-16(3) - Failure to include in the repair estimate and adjustment all disclosures related to paintless dent repair.

CHAPTER 2: AMERICAN ZURICH INSURANCE COMPANY

- 114 Violations of SDCL § 58-3-7 - Failure to timely provide records during the examination process
- 1 Violation of SDCL § 58-24-10 – Failure to file rates with the Director
- 1 Violation of SDCL § 58-24-25 - Issuance of a contract or policy contrary to policy rate filing

CHAPTER 3: EMPIRE FIRE AND MARINE INSURANCE COMPANY

- 1 Violation of SDCL § 58-33-60 - Failure to provide twenty days' notice of cancellation
- 1 Violation of SDCL § 58-24-10 - Failure to file rates with the Director
- 1 Violations of SDCL § 58-24-25 - Issuance of a contract or policy contrary to policy provisions

- 3 Violations of SDCL § 58-12-16(3) - Failure to include in the repair estimate and adjustment all disclosures related to paintless dent repair

EXPLANATION OF THE EXAMINATION PROCESS

COMPANY OPERATIONS

The examiners review the operations and management of the Group. The examiners also determine whether the Group facilitates the examination process by providing complete, accurate, and timely records and data.

COMPLAINT HANDLING

The examiners review the complaints the Group receives directly from consumers and the complaints submitted by the Division to the Group. The purpose of the review is to determine the accuracy of handling and the resolution of the complaint along with the timeliness of the response.

MARKETING AND SALES

The examiners evaluate the representations made by the Group about its products or services through a review of the Company's advertising materials and media.

PRODUCER LICENSING

The examiners review the Group's compliance with the State's producer licensing and appointment laws. The Group's list of licensed producers is compared to the Division's licensing records and producers listed on the applications in the underwriting sections of the review are verified for proper licensing and appointment.

UNDERWRITING AND RATING

The examiners review the Companies' underwriting and rating practices, which includes the use of policy forms, adherence to underwriting guidelines and company manuals, and assessment of premium and termination procedures to determine if they are in compliance with the statutes and regulations. The examiners determine if the procedures assist the Companies in meeting their compliance obligations, contractual obligations and business effectiveness. The examiners also look at the oversight utilized by the Group to ensure its procedures are being followed and performing as intended.

The examiners review the Companies' policy forms and underwriting guidelines to determine compliance with filing requirements, to ensure the contract language is not ambiguous, and that the provisions of the policies adequately protect insureds. In addition, the examiners review active and terminated policy files to determine if the Companies are adhering to their own underwriting guidelines and procedures.

CLAIMS

The examiners review the claim practices of the Group in order to determine efficiency of handling, accuracy of payment, adherence to contract provisions, and compliance with South Dakota regulations.

The types of practices considered to be an error include, but are not limited to, the failure to investigate and settle claims in a timely manner, the failure of the Company to correctly calculate claim benefits, or the failure of the Group to comply with South Dakota regulations regarding claim settlement practices.

REVIEW OF FILES

If practical, the examiners conduct a census or complete review of the universe of files. In instances where a census review cannot be conducted in an expedient manner, the examiners may review a random sample of the universe.

In a random sample, each unit is chosen from the universe of files entirely by chance; every unit of the population has an equal probability of being included in the sample. No units have been "preselected" out of the universe. Random selections may be attained through use of a random numbers table or a random numbers generator in computer software.

CHAPTER 1: ZURICH AMERICAN INSURANCE COMPANY

BACKGROUND INFORMATION

A. HISTORY

Zurich American Insurance Company was incorporated under the laws of the State of New York on June 1, 1998, and commenced business on December 31, 1998. The Company was organized to provide a vehicle for the domestication of the United States Branch of Zurich Insurance Company under Article 72 of the New York Insurance Law. On December 31, 1998, all of the assets and liabilities of the Branch were transferred to the Company and the Branch ceased to exist.

B. PROFILE

Zurich American Insurance Company is licensed to write the following lines in South Dakota: Health, Fire, Inland Ocean Marine, Workers' Compensation, Bodily Injury (No Auto), Property Damage (No Auto), Bodily Injury (Auto), Property Damage (Auto), Physical Damage (Auto), Fidelity Surety Bonds, Glass, Burglary Theft, Boiler Machinery, Aircraft, and Credit.

Zurich American Insurance Company is part of the ZNA Pool Companies that offers all types of commercial property and casualty insurance in the 50 states, the District of Columbia and certain U.S. territories. The Company also offers certain personal lines coverages on a more limited basis.

Most business is written through the Independent Agency system of distribution, where Agents and Brokers do not have authority to bind business on the Companies' behalf but instead are granted authority to submit applications for the Companies' review. The exception to this relates to three units of ZNA Pool's business that can grant binding authority to the agents: Surety, Small Business, and Programs. The Companies operate on the proprietary plan with authority and control held by the sole shareholder and the corporate powers and the business and affairs of the Company are managed under the direction of the elected board of directors.

The Company's operations are coordinated from its principal place of business in Schaumburg, Illinois. Support services are provided through its own network of claim administration centers and marketing offices.

The Company's total direct written premiums are the following:

Year	National	South Dakota
2009	\$4,304,704,528	\$7,728,355
2010	\$4,268,660,135	\$6,042,461
2011	\$4,451,431,877	\$7,220,143
2012	\$4,801,761,856	\$7,366,084

EXAMINATION FINDINGS

I. COMPANY OPERATIONS AND MANAGEMENT

This examination focused on the Company's Operations and Management, Complaint Handling, Sales and Marketing, Producer Licensing, Underwriting and Rating, and Claims. The examiners reviewed the Company's practices and procedures for providing complete, accurate, and timely data throughout the course of the examination in compliance with the South Dakota statutes and administrative rules.

The examiners asked for and reviewed the following information:

- A. A current organizational charts outlining relationships of subsidiaries, branch offices, and divisions/departments to the overall corporate management structure;
- B. A current organizational charts outlining the structure of South Dakota operations, including any specialty operations conducted separately;
- C. A description of the management structure of the Company;
- D. A description of all fines, penalties, and recommendations from any state for the last 3 years and a copy of all Financial and Market Conduct Examination Reports conducted during the last 3 years;
- E. A copy of the Company's last annual report to the shareholders;
- F. A copy of the Company's annual statements for the prior three years and any property and casualty related schedules or statements;
- G. A copy of all Management Agreements or Vendor Agreements including agreements between affiliates or private contractors for the examination period and a list of all Third Party Administrators contracted with the Company to process South Dakota business during the examination period as well as a copy of the contracts;
- H. A copy of all internal audit schedules, internal audit reports, and internal audit procedures conducted by the Company or any entity within the last three years;
- I. A copy of the Company's South Dakota Certificate(s) of Authority for the period under examination;
- J. A copy of the Company's Anti-Fraud Procedures and annual reports; and
- K. A copy of the Company's Privacy Procedures.

Finding 1: No violations were noted.

II. COMPLAINT HANDLING

The examiners requested all complaints received by the Company and direct complaints to the South Dakota Division of Insurance. The Company reported one complaint that was received through the South Dakota Division of Insurance.

Field Size:	1
Sample Size:	1
Sample Type:	Census
Number of Violations:	0

Finding 2: No violations were noted.

III. MARKETING AND SALES

The examiners requested a list of all Advertising and Marketing Material utilized during the examination period. The Company provided, inclusive for all 3 companies, 19 pieces of advertising utilized in South Dakota. The advertising consisted of: promotional videos, brochures, manuals, and the Company's website. The 19 advertising materials and the Company's website were reviewed to determine compliance with SDCL Ch. 58-33, Unfair Trade Practices.

Finding 3: No violations were noted.

IV. PRODUCER LICENSING

The Company was requested to provide a list of all producers licensed in South Dakota to solicit business during the examination period. In addition, the Company was requested to provide policies and procedures regarding the following activities:

- Licensing, Appointment, and Termination Procedures
- Producer Product and Compliance Training
- Allegations of Misconduct Producer Reports

The producer licensing lists and Company policies and procedures were received and reviewed. All new business files were reviewed for license and appointment compliance.

Finding 4: No violations were noted.

V. UNDERWRITING AND RATING

The examiners reviewed the Company's Commercial Automobile, General Liability, Commercial Fire, Burglary and Theft, Fidelity and Workers Compensation underwriting and rating practices for compliance with the South Dakota statutes and administrative rules. In underwriting, the examiners reviewed the following files:

- A. Cancellations
- B. Non-renewals
- C. Declinations

In rating, the examiners review the following files:

- D. New Business
- E. Renewals

Throughout the review of the Company's underwriting and rating practices, the emphasis was placed on adherence to underwriting guidelines and manuals, termination procedures, the risk characteristics, adherence with Company filings, and the accuracy in the development of the policy premium.

A. Cancellations

Commercial Auto Cancellations 2009-2012

The Company identified a universe of 27 Commercial Auto cancellations during the 2009-2012 examination period. The Company was initially requested to provide all 27 Commercial Auto cancellations files on May 2, 2013, with a due date of May 13, 2013. After a number of delays and discussions with the Division, the Company was again requested to provide all 27 Commercial Auto cancellations files on September 23, 2013, with a revised due date of October 4, 2013. The Company advised the examiners on October 30, 2013, that 6 of the files did not have cancellation letters because 4 of the policies were cancelled and re-written and 2 were insured request cancellations. The Company provided 1 file on October 30, 2013, 4 files on November 7, 2013, and 7 files on November 25, 2013. The Company was notified (Information Request 116) on December 18, 2013, that 9 Commercial Auto cancellation files still had not been provided. The Company provided 3 files on January 2, 2014, 1 file on January 10, 2014, 2 files on January 15, 2014, and 2 files on January 22, 2014. One file was never provided.

Field Size:	27
Sample Size:	27
Sample Type:	Census
Number of Violations:	21

Finding 5: The Company failed to provide requested files in a timely manner. The Company is in violation of SDCL § 58-3-7.

Recommendation 5: It is recommended that the Company, in order to facilitate the examination process, adopt and adhere to policies and procedures to ensure the Company provides requested information in a timely manner.

Workers Compensation Cancellations 2009-2012

The Company identified a universe of 7 Workers Compensation cancellations during the 2009-2012 examination period. The Company was initially requested to provide all 7 Workers Compensation cancellations files on May 2, 2013, with a due date of May 13, 2013. After a number of delays and discussions with the Division, the Company was again requested to provide all 7 Workers Compensation cancellations on September 23, 2013, with a due date of October 4, 2013. The Company provided 3 files on November 7, 2013, and 1 file on November 20, 2013. The Company was notified (Information Request 116) on December 18, 2013, that 3 Commercial Auto cancellation files had still not been provided. The Company provided 1 file on January 2, 2014, and 1 file on January 3, 2014. One file was never provided.

Field Size:	7
Sample Size:	7
Sample Type:	Census
Number of Violations:	7

Finding 6: The Company failed to provide requested files in a timely manner. The Company is in violation of SDCL § 58-3-7.

Recommendation 6: It is recommended that the Company, in order to facilitate the examination process, adopt and adhere to policies and procedures to ensure the Company provides requested information in a timely manner.

B. Non-renewals

Commercial Auto Non-renewals 2009-2012

The Company identified a universe of 1 Commercial Auto Non-renewal during the 2009-2012 examination period. The Company was initially requested to provide the 1 Commercial Auto Non-renewal policy on May 2, 2013, with a due date of May 13, 2013. After a number of delays and discussions with the Division, the Company was again requested to provide the 1 Commercial Auto Non-renewal file on September 23, 2013, with a due date of October 4, 2013. The Company was notified (Information Request 116) on December 18, 2013, that the 1 Commercial Auto Non-renewal file had not been provided. The file was provided on January 22, 2014.

Field Size:	1
Sample Size:	1
Sample Type:	Census
Number of Violations:	1

Finding 7: The Company failed to provide the requested file in a timely manner. The Company is in violation of SDCL § 58-3-7.

Recommendation 7: It is recommended that the Company, in order to facilitate the examination process, adopt and adhere to policies and procedures to ensure the Company provides requested information in a timely manner.

Workers Compensation Non-renewal 2009-2012

The Company identified a universe of 1 Workers Compensation Non-renewal during the 2009-2012 examination period. The Company was initially requested to provide the 1 Workers Compensation Non-renewal policy on May 2, 2013, with a due date of May 13, 2013. After a number of delays and discussions with the Division, the Company was again requested to provide the 1 Workers Compensation file on September 23, 2013, with a due date of October 4, 2013. The Company was notified (Information Request 116) on December 18, 2013, that the 1 Commercial Auto Non-renewal file had not been provided. The file was provided on January 22, 2014.

Field Size:	1
Sample Size:	1
Sample Type:	Census
Number of Violations:	1

Finding 8: The Company failed to provide requested files in a timely manner. The Company is in violation of SDCL § 58-3-7.

Recommendation 8: It is recommended that the Company, in order to facilitate the examination process, adopt and adhere to policies and procedures to ensure the Company provides requested information in a timely manner.

C. Declinations

The Company reported all declinations collectively for all 3 companies. The review of declinations is addressed in the American Zurich Insurance Company chapter of this report.

D. New Business

Commercial Auto New Business 2009

The Company identified a universe of 25 Commercial Auto new business policies written during the 2009 examination period. The Company was initially requested to provide a sample of 21 Commercial Auto new business files on May 13, 2013 with a due date of June 7, 2013. After a number of delays and discussions with the Division, the Company was requested to provide a reduced sample of 5 Commercial Auto new business files on September 23, 2013, with a due date of October 4, 2013. The Company provided 3 files on October 7, 2013. The Company was notified (Information Request 116) on December 18, 2013, that 2 Commercial Auto files had not been provided. 1 file was provided on January 2, 2014, and 1 file was provided on February 24, 2014.

Field Size:	25
Sample Size:	5
Sample Type:	Random
Number of Violations:	5

Finding 9: The Company failed to provide requested files in a timely manner. The Company is in violation of SDCL § 58-3-7.

Recommendation 9: It is recommended that the Company, in order to facilitate the examination process, adopt and adhere to policies and procedures to ensure the Company provides requested information in a timely manner.

Commercial Auto New Business 2010

The Company identified 20 Commercial Auto new business policies written during the 2010 examination period. The Company was initially requested to provide a sample of 16 Commercial Auto new business files on May 2, 2013 with a due date of May 13, 2013. After a number of delays and discussions with the Division, the Company was again requested to provide a reduced sample of 4 Commercial Auto new business files on September 23, 2013, with a due date of October 4, 2013. The Company provided 1 file on October 3, 2013, and 3 files on October 7, 2013.

Field Size:	20
Sample Size:	4
Sample Type:	Random
Number of Violations:	3

Finding 10: The Company failed to provide requested files in a timely manner. The Company is in violation of SDCL § 58-3-7.

Recommendation 10: It is recommended that the Company, in order to facilitate the examination process, adopt and adhere to policies and procedures to ensure the Company provides requested information in a timely manner.

Commercial Auto New Business 2011

The Company identified a universe of 31 Commercial Auto new business policies written during the 2011 examination period. The Company was initially requested to provide a sample of 25 Commercial Auto new business files on May 13, 2013 with a due date of June 7, 2013. After a number of delays and discussions with the Division, the Company was requested to provide a reduced sample of 6 Commercial Auto new business files on September 23, 2013, with a due date of October 4, 2013. The Company provided 5 files on October 7, 2013, and 1 file on October 28, 2013.

Field Size:	31
Sample Size:	6
Sample Type:	Random
Number of Violations:	6

Finding 11: The Company failed to provide requested files in a timely manner. The Company is in violation of SDCL § 58-3-7.

Recommendation 11: It is recommended that the Company, in order to facilitate the examination process, adopt and adhere to policies and procedures to ensure the Company provides requested information in a timely manner.

Commercial Auto New Business 2012

The Company identified a universe of 10 Commercial Auto new business policies written during the 2012 examination period. The Company was initially requested to provide all 10 Commercial Auto new business files on May 2, 2013, with a due date of May 13, 2013. After a number of delays and discussions with the Division, the Company was requested to provide a reduced sample of 3 Commercial Auto new business files on September 23, 2013, with a due date of October 4, 2013. The Company provided 1 file on October 3, 2013, 1 file on October 8, 2013, and 1 file on November 7, 2013.

Field Size:	10
Sample Size:	3
Sample Type:	Random
Number of Violations:	2

Finding 12: The Company failed to provide requested files in a timely manner. The Company is in violation of SDCL § 58-3-7.

Recommendation 12: It is recommended that the Company, in order to facilitate the examination process, adopt and adhere to policies and procedures to ensure the Company provides requested information in a timely manner.

Other Liability Claims Made New Business 2009-2012

The Company identified a universe of 12 Other Liability Claims Made new business policies written during the 2009-2012 examination period. The Company was initially requested to provide all 12 Other Liability Claims Made new business files on May 13, 2013 with a due date of June 7, 2013. After a number of delays and discussions with the Division, the Company was requested to provide a reduced sample of 3 Other Liability Claims Made new business files on September 23, 2013, with a due date of October 4, 2013. The Company provided 1 file on November 20, 2013. The Company was notified (Information Request 116) on December 18, 2013, that the 2 Other Liability Claims Made new business files were not provided. The Company provided 1 file on January 2, 2014, and 1 file on January 22, 2014.

Field Size:	12
Sample Size:	3
Sample Type:	Random
Number of Violations:	3

Finding 13: The Company failed to provide requested files in a timely manner. The Company is in violation of SDCL § 58-3-7.

Recommendation 13: It is recommended that the Company, in order to facilitate the examination process, adopt and adhere to policies and procedures to ensure the Company provides requested information in a timely manner.

Commercial Fire New Business 2009-2012

The Company identified a universe of 33 Commercial Fire new business policies written during the 2009-2012 examination period. The Company was initially requested to provide a sample of 26 Commercial Fire new business files on May 2, 2013, with a due date of May 13, 2013. After a number of delays and discussions with the Division, the Company was requested to provide a reduced sample of 7 Commercial Fire new business files on September 23, 2013, with a due date of October 4, 2013. The Company provided 1 file on October 3, 2013, and 4 files on November 4, 2013. The Company was notified (Information Request 116) on December 18, 2013, that 2 Fire policies files were not provided. The Company provided 1 file on December 19, 2013, and 1 file on January 3, 2014.

Field Size:	33
Sample Size:	7
Sample Type:	Random
Number of Violations:	6

Finding 14: The Company failed to provide requested files in a timely manner. The Company is in violation of SDCL § 58-3-7.

Recommendation 14: It is recommended that the Company, in order to facilitate the examination process, adopt and adhere to policies and procedures to ensure the Company provides requested information in a timely manner.

Burglary and Theft New Business 2009-2012

The Company identified a universe of 4 Burglary and Theft new business policies written during the 2009-2012 examination period. The Company was initially requested to provide all 4 Burglary and Theft new business files on May 13, 2013 with a due date of June 7, 2013. After a number of delays and discussions with the Division, the Company was requested to provide a reduced sample of 1 Burglary and Theft new business file on September 23, 2013, with a due date of October 4, 2013. The Company was notified (Information Request 116) on December 18, 2013, that the 1 Burglary and Theft policy had not been provided. The Company provided the 1 file on January 2, 2014.

Field Size:	4
Sample Size:	1
Sample Type:	Random
Number of Violations:	1

Finding 15: The Company failed to provide requested files in a timely manner. The Company is in violation of SDCL § 58-3-7.

Recommendation 15: It is recommended that the Company, in order to facilitate the examination process, adopt and adhere to policies and procedures to ensure the Company provides requested information in a timely manner.

Fidelity New Business 2009-2012

The Company identified a universe of 3 Fidelity new business policies written during the 2009-2012 examination period. The Company was initially requested to provide all 3 Fidelity new business files on May 13, 2013 with a due date of June 7, 2013. After a number of delays and discussions with the Division, the Company was requested to provide a reduced sample of 1 Fidelity new business file on September 23, 2013, with a due date of October 4, 2013. The Company was notified (Information Request 116) on December 18, 2013, that the 1 Fidelity policy had not been provided. The Company provided the 1 file on January 2, 2014.

Field Size:	3
Sample Size:	1
Sample Type:	Random
Number of Violations:	1

Finding 16: The Company failed to provide requested files in a timely manner. The Company is in violation of SDCL § 58-3-7.

Recommendation 16: It is recommended that the Company, in order to facilitate the examination process, adopt and adhere to policies and procedures to ensure the Company provides requested information in a timely manner.

Workers Compensation New Business 2009

The Company identified a universe of 27 Workers Compensation new business policies written during the 2009 examination period. The Company was initially requested to provide a sample of 22 Workers Compensation new business policies on May 13, 2013 with a due date of June 7, 2013. After a number of delays and discussions with the Division, the Company was requested to provide a reduced sample of 6 Workers Compensation new business policies on September 23, 2013, with a due date of October 4, 2013. The Company provided 3 files on October 3, 2013, 1 file on October 28, 2013, 1 file November 6, 2013, and 1 file on November 7, 2013.

Field Size:	27
Sample Size:	6
Sample Type:	Random
Number of Violations:	3

Finding 17: The Company failed to provide requested files in a timely manner. The Company is in violation of SDCL § 58-3-7.

Recommendation 17: It is recommended that the Company, in order to facilitate the examination process, adopt and adhere to policies and procedures to ensure the Company provides requested information in a timely manner.

Workers Compensation New Business 2010

The Company identified a universe of 63 Workers Compensation new business policies written during the 2010 examination period. The Company was initially requested to provide a sample of 42 Workers Compensation new business files on May 13, 2013 with a due date of June 7, 2013. After a number of delays and discussions with the Division, the Company was requested to provide a reduced sample of 10 Workers Compensation new business files on September 23, 2013, with a due date of October 4, 2014. The Company provided 3 files on October 3, 2013, 2 files on October 18, 2013, 1 file on October 28, 2013, and 3 files on November 7, 2013. The Company was notified (Information Request 116) on December 18, 2013, that 1 Workers Compensation file had not been provided. The Company provided the 1 file on January 6, 2014.

Field Size:	63
Sample Size:	10
Sample Type:	Random
Number of Violations:	7

Finding 18: The Company failed to provide requested files in a timely manner. The Company is in violation of SDCL § 58-3-7.

Recommendation 18: It is recommended that the Company, in order to facilitate the examination process, adopt and adhere to policies and procedures to ensure the Company provides requested information in a timely manner.

Workers Compensation New Business 2011

The Company identified a universe of 64 Workers Compensation new business policies written during the 2011 examination period. The Company was initially requested to provide a sample of 42 Workers Compensation new business policies on May 13, 2013 with a due date of June 7, 2013. After a number of delays and discussions with the Division, the Company was requested to provide a reduced sample of 10 Workers Compensation new business policies on September 23, 2013, with a due date of October 4, 2013. The Company provided 2 files on October 3, 2013, 4 files on October 8, 2013, 1 file on October 28, 2013, and 3 files on November 7, 2013.

Field Size:	64
Sample Size:	10
Sample Type:	Random
Number of Violations:	8

Finding 19: The Company failed to provide requested files in a timely manner. The Company is in violation of SDCL § 58-3-7.

Recommendation 19: It is recommended that the Company, in order to facilitate the examination process, adopt and adhere to policies and procedures to ensure the Company provides requested information in a timely manner.

Workers Compensation New Business 2012

The Company identified a universe of 29 Workers Compensation new business policies written during the 2012 examination period. The Company was initially requested to provide a sample of 24 Workers Compensation new business policies on May 13, 2013 with a due date of June 7, 2013. After a number of delays and discussions with the Division, the Company was requested to provide a reduced sample of 6 Workers Compensation new business policies on September 23, 2013, with a due date of October 4, 2013. The Company provided 1 file on October 8, 2013, 2 files on October 9, 2013, and 3 files on November 7, 2013.

Field Size:	29
Sample Size:	6
Sample Type:	Random
Number of Violations:	6

Finding 20: The Company failed to provide requested files in a timely manner. The Company is in violation of SDCL § 58-3-7.

Recommendation 20: It is recommended that the Company, in order to facilitate the examination process, adopt and adhere to policies and procedures to ensure the Company provides requested information in a timely manner.

E. Renewals

Commercial Auto Renewals 2009-2012

The Company identified a universe of 294 Commercial Automobile renewal business policies written during the 2009-2012 examination period. The Company was initially requested to provide a sample of 76 Commercial Auto renewal files on May 13, 2013 with a due date of June 7, 2013. After a number of delays and discussions with the Division, the Company was requested to provide a reduced sample of 19 Commercial Auto renewal files on September 23, 2013, with a revised due date of October 4, 2013. The Company provided 3 files on October 3, 2013, 1 file on October 7, 2013, 6 files on October 8, 2013, 1 file on November 6, 2013, 5 files on November 7, 2013, and 1 file on November 20, 2013. The Company was notified (Information Request 116) on December 18, 2013, that 2 Commercial Auto files were not provided. The Company provided 1 file on January 2, 2014, and 1 file on January 3, 2014.

Field Size:	294
Sample Size:	19
Sample Type:	Random
Number of Violations:	16

Finding 21: The Company failed to provide requested files in a timely manner. The Company is in violation of SDCL § 58-3-7.

Recommendation 21: It is recommended that the Company, in order to facilitate the examination process, adopt and adhere to policies and procedures to ensure the Company provides requested information in a timely manner.

Other Liability Claims Made Renewals 2009-2012

The Company identified a universe of 54 Other Liability Claims Made renewal business policies written during the 2009-2012 examination period. The Company was initially requested to provide a sample of 20 Other Liability Claims Made renewal business files on May 13, 2013 with a due date of June 7, 2013. After a number of delays and discussions with the Division, the Company was requested to provide a reduced sample of 5 Other Liability Claims Made renewal business files on September 23, 2013, with a due date of October 4, 2013. The Company provided 1 file on October 28, 2013, and 3 files on November 20, 2013. The Company was notified (Information Request 116) on December 18, 2013, that 1 Other Liability Claims Made renewal file was not provided. One file was never provided.

Field Size:	54
Sample Size:	5
Sample Type:	Random
Number of Violations:	5

Finding 22: The Company failed to provide requested files in a timely manner. The Company is in violation of SDCL § 58-3-7.

Recommendation 22: It is recommended that the Company, in order to facilitate the examination process, adopt and adhere to policies and procedures to ensure the Company provides requested information in a timely manner.

Commercial Fire Renewals 2009-2012

The Company identified a universe of 109 Commercial Fire renewal business policies written during the 2009-2012 examination period. The Company was initially requested to provide a sample of 52 Commercial Fire renewal files on May 13, 2013 with a due date of June 7, 2013. After a number of delays and discussions with the Division, the Company was requested to provide a reduced sample of 13 Commercial Fire renewal files on September 23, 2013, with a due date of October 4, 2013. The Company provided 9 files on November 7, 2013. The Company was notified (Information Request 116) on December 18, 2013, that 3 Commercial Fire policies files were not provided. The Company provided 3 files on December 19, 2013, and 1 file on January 7, 2014.

Field Size:	109
Sample Size:	13
Sample Type:	Random
Number of Violations:	13

Finding 23: The Company failed to provide requested files in a timely manner. The Company is in violation of SDCL § 58-3-7.

Recommendation 23: It is recommended that the Company, in order to facilitate the examination process, adopt and adhere to policies and procedures to ensure the Company provides requested information in a timely manner.

Burglary and Theft Renewals 2009-2012

The Company identified a universe of 5 Burglary and Theft renewal business policies written during the 2009-2012 examination period. The Company was initially requested to provide all 5 Burglary and Theft renewal policies on May 13, 2013 with a due date of June 7, 2013. After a number of delays and discussions with the Division, the Company was requested to provide a reduced sample of 1 Burglary and Theft renewal policy file on September 23, 2013, with a due date of October 4, 2013. The Company provided the 1 file on November 6, 2013.

Field Size:	5
Sample Size:	1
Sample Type:	Random
Number of Violations:	1

Finding 24: The Company failed to provide requested files in a timely manner. The Company is in violation of SDCL § 58-3-7.

Recommendation 24: It is recommended that the Company, in order to facilitate the examination process, adopt and adhere to policies and procedures to ensure the Company provides requested information in a timely manner.

Fidelity Renewals 2009-2012

The Company identified a universe of 7 Fidelity renewal business policies written during the 2009-2012 examination period. The Company was initially requested to provide all 7 Fidelity renewal files on May 13, 2013 with a due date of June 7, 2013. After a number of delays and discussions with the Division, the Company was requested to provide a reduced sample of 2 Fidelity renewal files on September 23, 2013, with a due date of October 4, 2013. The Company was notified (Information Request 116) on December 18, 2013, that the 2 Fidelity policies had not been provided. The Company provided 1 file on January 2, 2014, and 1 file on January 28, 2014.

Field Size:	7
Sample Size:	2
Sample Type:	Random
Number of Violations:	2

Finding 25: The Company failed to provide requested files in a timely manner. The Company is in violation of SDCL § 58-3-7.

Recommendation 25: It is recommended that the Company, in order to facilitate the examination process, adopt and adhere to policies and procedures to ensure the Company provides requested information in a timely manner.

Workers Compensation Renewals 2009-2012

The Company identified a universe of 244 Workers Compensation renewal business policies written during the 2009-2012 examination period. The Company was initially requested to provide a sample of 77 Workers Compensation renewal files on May 13, 2013 with a due date of June 7, 2013. After a number of delays and discussions with the Division, the Company was requested to provide a reduced sample of 19 Workers Compensation renewal files on September 23, 2013, with a due date of October 4, 2013. The Company provided 1 file on October 3, 2013, 7 files on October 8, 2013, 3 files on October 28, 2013, 1 file on November 6, 2013, 3 files on November 7, 2013, 1 file on November 13, 2013, and 1 file on November 14, 2013. The Company was notified (Information Request 116) on December 18, 2013, that 2 Workers Compensation files had not been provided. The Company provided 1 file on December 19, 2013, and 1 file on January 3, 2014.

Field Size:	244
Sample Size:	19
Sample Type:	Random
Number of Violations:	18

Finding 26: The Company failed to provide requested files in a timely manner. The Company is in violation of SDCL § 58-3-7.

Recommendation 26: It is recommended that the Company, in order to facilitate the examination process, adopt and adhere to policies and procedures to ensure the Company provides requested information in a timely manner.

VI. CLAIMS

The purpose of the review was to ascertain the Company's compliance with the claim practices rules and regulations of the South Dakota Division of Insurance. Throughout the review, the emphasis was placed on items such as the timeliness of claim handling, file documentation, and claim payment. The claim files additionally were reviewed to ensure compliance with the paintless dent repair requirements of SDCL §§ 58-12-16 to 58-12-18, inclusive as well as compliance with guidance issued by the Division in Bulletin 98-03. Property claims were reviewed to ensure compliance with the total loss requirements of SDCL § 58-10-10.

The examiners reviewed the Company's claim practices in the following categories:

COMMERCIAL LINES CLAIMS

- A. Commercial Auto Liability Property Damage
- B. Commercial Auto Liability Miscellaneous
- C. Commercial Auto Physical Damage Collision
- D. Commercial Auto Physical Damage Comprehensive
- E. Commercial General Liability
- F. Commercial Fire
- G. Hail Damage
- H. Litigated

THIRD PARTY ADMINISTRATOR CLAIMS

- A. Broadspire Commercial Auto
- B. CCMSI Property Professional Liability
- C. Creative Solutions General Liability
- D. Creative Solutions Vehicle Accident
- E. PMA Management Corporation Auto Vehicle
- F. Risk Enterprise Management General Liability
- G. Sedgwick Auto
- H. Sedgwick General Liability
- I. Berkley Travel Agent Professional Liability
- J. CBCS Truckers AL Property Damage
- K. Chesterfield Auto Property Damage
- L. Constitution-Travelers Auto Liability
- M. ESIS Auto General Liability
- N. Gallagher Bassett Auto
- O. Gallagher Bassett Liability
- P. Gallagher Bassett Litigated
- Q. RIS Auto

COMMERCIAL LINES CLAIMS

A. Commercial Auto Liability Property Damage

The examiners requested a list of all claims received during the examination period. The Company provided a universe of 115 Commercial Auto Liability Property Damage claims. A random sample of 59 files were requested, received, and reviewed.

Field Size:	115
Sample Size:	59
Sample Type:	Random
Number of Violations:	0

Finding 27: No violations were noted.

B. Commercial Auto Liability Miscellaneous

The examiners requested a list of all claims received during the examination period. The Company provided a universe of 26 Commercial Auto Liability Miscellaneous claims. All 26 files were requested, received, and reviewed.

Field Size:	26
Sample Size:	26
Sample Type:	Census
Number of Violations:	0

Finding 28: No violations were noted.

C. Commercial Auto Physical Damage Collision

The examiners requested a list of all claims received during the examination period. The Company provided a universe of 43 Commercial Physical Damage Collision claims. All 43 claims were requested, received, and reviewed.

Field Size:	43
Sample Size:	43
Sample Type:	Census
Number of Violations:	0

Finding 29: No violations were noted.

D. Commercial Auto Physical Damage Comprehensive

The examiners requested a list of all claims received during the examination period. The Company provided a universe of 47 Commercial Physical Damage Comprehensive claims. A random sample of 34 files was selected for review. Of the 34 files selected, 2 claims were hail claims and were included in the review of Section G, Hail claims. The remaining 32 claims were requested, received, and reviewed.

Field Size:	47
Sample Size:	32
Sample Type:	Random
Number of Violations:	0

Finding 30: No violations were noted.

E. Commercial General Liability

The examiners requested a list of all claims received during the examination period. The Company provided a universe of 61 Commercial General Liability claims. All 61 claims were requested for review. Of the 61 claims requested, 4 claims were duplicates. The 57 claims were requested, received, and reviewed.

Field Size:	61
Sample Size:	57
Sample Type:	Census
Number of Violations:	0

Finding 31: No violations were noted.

F. Commercial Fire

The examiners requested a list of all claims received during the examination period. The Company provided a universe of 11 Commercial Fire claims. All 11 claims were requested, received, and reviewed.

Field Size:	11
Sample Size:	11

Sample Type: Census
Number of Violations: 0

Finding 32: No violations were noted.

G. Hail Damage

The examiners requested a list of all Hail Damage claims received during the examination period. The Company provided a universe of 9 claims. Of the 9 claims requested for review, 1 claim was a Flood claim. The remaining 8 claims were received and reviewed.

Field Size: 9
Sample Size: 8
Sample Type: Census
Number of Violations: 0

Finding 33: No violations were noted.

H. Litigated

The examiners requested a list of all Litigated claims. The Company provided a universe of 13 claims. All 13 claims were requested, received, and reviewed.

Field Size: 13
Sample Size: 13
Sample Type: Census
Number of Violations: 0

Finding 34: No violations were noted.

THIRD PARTY ADMINISTRATOR CLAIMS

A. Broadspire Commercial Auto

The examiners requested a list of all claims handled by TPA, Broadspire. The Company provided a universe of 11 Commercial Auto claims. All 11 claims were requested, received, and reviewed.

Field Size: 11
Sample Size: 11
Sample Type: Census
Number of Violations: 0

Finding 35: No violations were noted.

B. CCMSI Property Professional Liability

The examiners requested a list of all claims handled by TPA, CCMSI. The Company provided a universe of 2 Property claims. Both claims were requested, received, and reviewed.

Field Size: 2
Sample Size: 2
Sample Type: Census
Number of Violations: 0

Finding 36: No violations were noted.

C. Creative Solutions General Liability

The examiners requested a list of all claims handled by TPA, Creative Solutions. The Company provided a universe of 105 General Liability claims. A random sample of 50 claims was requested. Of the 50 claims selected for review, 22 were duplicates. The sample of 28 claims was received and reviewed.

Field Size: 105
Sample Size: 28
Sample Type: Random
Number of Violations: 0

Finding 37: No violations were noted.

D. Creative Solutions Vehicle Accident

The examiners requested a list of all claims handled by TPA, Creative Solutions. The Company provided a universe of 16 Vehicle Accident claims. All 16 claims were requested, received, and reviewed.

Field Size: 16
Sample Size: 16
Sample Type: Census
Number of Violations: 0

Finding 38: No violations were noted.

E. PMA Management Corporation Auto Vehicle

The examiners requested a list of all claims handled by TPA, PMA. The Company provided a universe of 1 Auto Vehicle claim. The claim was requested, received, and reviewed.

Field Size: 1
Sample Size: 1
Sample Type: Census
Number of Violations: 0

Finding 39: No violations were noted.

F. Risk Enterprise Management General Liability

The examiners requested a list of all claims handled by TPA, Risk Enterprise Management. The Company provided a universe of 3 General Liability claims. All 3 claims were requested, received, and reviewed.

Field Size:	3
Sample Size:	3
Sample Type:	Census
Number of Violations:	0

Finding 40: No violations were noted.

G. Sedgwick Auto

The examiners requested a list of all claims handled by TPA, Sedgwick. The Company provided a universe of 24 Auto claims. All 24 claims were requested, received, and reviewed.

Field Size:	24
Sample Size:	24
Sample Type:	Census
Number of Violations:	0

Finding 41: No violations were noted.

H. Sedgwick General Liability

The examiners requested a list of all claims handled by TPA, Sedgwick. The Company provided a universe of 65 General Liability claims. A random sample of 43 claims was requested, received, and reviewed.

Field Size:	65
Sample Size:	43
Sample Type:	Random
Number of Violations:	0

Finding 42: No violations were noted.

I. Berkley Travel Agent Professional Liability

The examiners requested a list of all claims handled by TPA, Berkley. The Company provided a universe of 2 Agent Professional Liability claims. Both claims were requested, received, and reviewed.

Field Size:	2
Sample Size:	2
Sample Type:	Census
Number of Violations:	0

Finding 43: No violations were noted.

J. CBCS Truckers AL Property Damage

The examiners requested a list of all claims handled by TPA, CBCS. The Company provided a universe of 1 Truckers AL Property Damage claim. The 1 claim was requested, received, and reviewed.

Field Size:	1
Sample Size:	1
Sample Type:	Census
Number of Violations:	0

Finding 44: No violations were noted.

K. Chesterfield Auto Property Damage

The examiners requested a list of all claims handled by TPA, Chesterfield. The Company provided a universe of 8 Auto Property Damage claims. All 8 claims were requested, received, and reviewed.

Field Size:	8
Sample Size:	8
Sample Type:	Census
Number of Violations:	0

Finding 45: No violations were noted.

L. Constitution-Travelers Auto Liability

The examiners requested a list of all claims handled by TPA, Constitution-Travelers. The Company provided a universe of 7 Auto Liability claims. All 7 claims were requested, received, and reviewed.

Field Size:	7
Sample Size:	7
Sample Type:	Census
Number of Violations:	0

Finding 46: No violations were noted.

M. ESIS Auto General Liability

The examiners requested a list of all claims handled by TPA, ESIS. The Company provided a universe of 5 Auto General Liability claims. All 5 claims were requested, received, and reviewed.

Field Size:	5
Sample Size:	5
Sample Type:	Census
Number of Violations:	0

Finding 47: No violations were noted.

N. Gallagher Bassett Auto

The examiners requested a list of all claims handled by TPA, Gallagher Bassett. The Company provided a universe of 48 Auto claims. A random sample of 35 claims was requested, received, and reviewed.

Field Size:	48
Sample Size:	35
Sample Type:	Random
Number of Violations:	8

Finding 48: The Company failed to include the mandatory disclosure language pertaining to the paintless dent repair method in the estimate. The Company is in violation in 8 files of SDCL § 58-12-16(3) and disregarded guidance issued by the Division in Bulletin 98-03.

Recommendation 48: It is recommended that the Company adopt and adhere to policies and procedures to ensure the Company provides the mandatory disclosure language pertaining to the paintless dent repair method in the estimates.

O. Gallagher Bassett Liability

The examiners requested a list of all claims handled by TPA, Gallagher Bassett. The Company provided a universe of 5 Liability claims. All 5 claims were requested, received, and reviewed.

Field Size:	5
Sample Size:	5
Sample Type:	Census
Number of Violations:	0

Finding 49: No violations were noted.

P. Gallagher Bassett Litigated

The examiners requested a list of all claims handled by TPA, Gallagher Bassett. The Company provided a universe of 5 Litigated claims. All 5 claims were requested, received, and reviewed.

Field Size:	5
Sample Size:	5
Sample Type:	Census
Number of Violations:	0

Finding 50: No violations were noted.

Q. RIS Auto

The examiners requested a list of all claims handled by TPA, RIS. The Company provided a universe of 26 Auto claims. All 26 claims were requested, received, and reviewed.

Field Size:	26
Sample Size:	26
Sample Type:	Census
Number of Violations:	0

Finding 51: No violations were noted.

CHAPTER 2: AMERICAN ZURICH INSURANCE COMPANY

BACKGROUND INFORMATION

A. HISTORY

American Zurich Insurance Company was incorporated under the laws of the State of Illinois on August 19, 1981, and began business on September 2, 1981, as a multiple line property and casualty company. The Company received its South Dakota Certificate of Authority on September 15, 1983. The Company is a member of the Zurich American Insurance Companies Intercompany Pool.

B. PROFILE

American Zurich Insurance Company is licensed to write the following lines in South Dakota: Health, Fire, Inland Ocean Marine, Workers' Compensation, Bodily Injury (No Auto), Property Damage (No Auto), Bodily Injury (Auto), Property Damage (Auto), Physical Damage (Auto), Fidelity Surety Bonds, Glass, Burglary Theft, Boiler Machinery, Aircraft, Credit, Crop Hail, and Livestock.

American Zurich Insurance Company is part of the ZNA Pool Companies that offer all types of commercial property and casualty insurance in the 50 states and the District of Columbia. The Company also offers certain personal lines coverages on a more limited basis.

Most business is written through the Independent Agency system of distribution, where Agents and Brokers do not have authority to bind business on the companies' behalf but instead are granted authority to submit applications for the companies' review. The exception to this relates to three units of ZNA Pool's business that can grant binding authority to the agents: Surety, Small Business, and Programs. The Companies operate on the proprietary plan with authority and control held by the sole shareholder and the corporate powers and business and affairs of the company managed under the direction of the elected board of directors.

The Company's total direct earned premiums are the following:

Year	National	South Dakota
2009	\$832,273,498	\$2,000,641
2010	\$846,022,359	\$2,519,862
2011	\$1,030,095,321	\$4,537,709
2012	\$1,117,875,057	\$3,860,966

EXAMINATION FINDINGS

I. COMPANY OPERATIONS AND MANAGEMENT

This examination focused on the Company's Operations and Management, Complaint Handling, Sales and Marketing, Producer Licensing, Underwriting and Rating, and Claims. The examiners reviewed the Company's practices and procedures for providing complete, accurate, and timely data throughout the course of the examination in compliance with the South Dakota statutes and administrative rules.

The examiners asked for and reviewed the following information:

- A. A current organizational charts outlining relationships of subsidiaries, branch offices, and divisions/departments to the overall corporate management structure;
- B. A current organizational charts outlining the structure of South Dakota operations, including any specialty operations conducted separately;
- C. A description of the management structure of the Company;
- D. A description of all fines, penalties, and recommendations from any state for the last 3 years and a copy of all Financial and Market Conduct Examination Reports conducted during the last 3 years;
- E. A copy of the Company's last annual report to the shareholders;
- F. A copy of the Company's annual statements for the prior three years and any property and casualty related schedules or statements;
- G. A copy of all Management Agreements or Vendor Agreements including agreements between affiliates or private contractors for the examination period and a list of all Third Party Administrators contracted with the Company to process South Dakota business during the examination period as well as a copy of the contracts;
- H. A copy of all internal audit schedules, internal audit reports, and internal audit procedures conducted by the Company or any entity within the last three years;
- I. A copy of the Company's South Dakota Certificate(s) of Authority for the period under examination;
- J. A copy of the Company's Anti-Fraud Procedures and annual reports; and
- K. A copy of the Company's Privacy Procedures.

Finding 1: No violations were noted.

II. COMPLAINT HANDLING

The examiners requested all complaints received by the Company and direct complaints to South Dakota. There were no complaints for American Zurich Insurance Company during the time frame of the examination.

Finding 2: No violations were noted.

III. MARKETING AND SALES

The examiners requested a list of all Advertising and Marketing Material utilized during the examination period. The Company provided, inclusive for all 3 companies, 19 pieces of advertising utilized in South Dakota. The advertising consisted of: Promotional Videos, Brochures, Manuals, and the Company's website. The 19 advertising materials and the Company's website were reviewed to determine compliance with SDCL Ch. 58-33, Unfair Trade Practices.

Finding 3: No violations were noted.

IV. PRODUCER LICENSING

The Company was requested to provide a list of all producers licensed in South Dakota to solicit business during the examination period. In addition, the Company was requested to provide policies and procedures regarding the following activities:

- Licensing, Appointment, and Termination Procedures
- Producer Product and Compliance Training
- Allegations of Misconduct Producer Reports

The producer licensing lists and Company policies and procedures were received and reviewed. All new business files were reviewed for license and appointment compliance.

Finding 4: No violations were noted.

V. UNDERWRITING AND RATING

The examiners reviewed the Company's Commercial Automobile and Workers Compensation underwriting and rating practices for compliance with the South Dakota statutes and administrative rules. In underwriting, the examiners reviewed the following files:

- A. Cancellations
- B. Non-renewals
- C. Declinations

In rating, the examiners reviewed the following files:

- D. Commercial Automobile New Business
- E. Commercial Automobile Renewals
- F. Workers Compensation New Business
- G. Workers Compensation Renewals

Throughout the review of the Company's underwriting and rating practices, the emphasis was placed on adherence to underwriting guidelines and manuals, termination procedures, the risk characteristics, adherence with Company filings and the accuracy in the development of the policy premium.

A. Cancellations

Commercial Auto Cancellations 2009-2012

The Company identified a universe of 1 Commercial Auto policy cancelled during the 2009-2012 examination period. The Company was requested to provide the 1 Commercial Auto cancellation file on May 2, 2013, with a due date of May 13, 2013. After a number of delays and discussions with the Division, the Company was again requested to provide the 1 Commercial Auto cancellation on September 23, 2013, with a due date of October 4, 2013. The Company provided the 1 file on October 30, 2013.

Field Size:	1
Sample Size:	1
Sample Type:	Census
Number of Violations:	1

Finding 5: The Company failed to provide requested files in a timely manner. The Company is in violation of SDCL § 58-3-7.

Recommendation 5: It is recommended that the Company, in order to facilitate the examination process, adopt and adhere to policies and procedures to ensure the Company provides requested information in a timely manner.

Workers Compensation Cancellations 2009-2012

The Company identified a universe of 8 Workers Compensation policies cancelled during the 2009-2012 examination period. The Company was requested to provide all 8 Workers Compensation cancellation files on May 2, 2013, with a due date of May 13, 2013. After a number of delays and discussions with the Division, the Company was again requested to provide all 8 Workers Compensation cancellations on September 23, 2013, with a due date of October 4, 2013. The Company provided 1 file on October 29, 2013 and 7 files on November 20, 2013.

Field Size:	8
Sample Size:	8
Sample Type:	Census
Number of Violations:	8

Finding 6: The Company failed to provide requested files in a timely manner. The Company is in violation of SDCL § 58-3-7.

Recommendation 6: It is recommended that the Company, in order to facilitate the examination process, adopt and adhere to policies and procedures to ensure the Company provides requested information in a timely manner.

B. Non-renewals

The examiners requested a listing of all non-renewals issued by the Company for Commercial Auto and Workers Compensation. The Company reported no non-renewals for the experience period.

Finding 7: No violations were noted.

C. Declinations

The Company reported all declinations collectively for all 3 companies as follows:

2009 All Companies Commercial Auto, Workers Compensation, and Fidelity

The Company identified 51 declinations during the 2009 examination period. The Company was requested to provide a random sample of 24 declinations on May 2, 2013, with a due date of May 13, 2013. After a number of delays and discussions with the Division, the Company was again requested to provide the sample of 24 declinations on September 23, 2013, with a due date of October 4, 2013. The Company provided 2 files on November 19, 2013. The Company was notified (Information Request 47) on December 18, 2013, that 22 declinations had not been provided. The Company provided 9 declinations on January 3, 2014. Thirteen files were never provided.

Field Size:	51
Sample Size:	24
Sample Type:	Random
Number of Violations:	24

Finding 8: The Company failed to provide requested files in a timely manner. The Company is in violation of SDCL § 58-3-7.

Recommendation 8: It is recommended that the Company, in order to facilitate the examination process, adopt and adhere to policies and procedures to ensure the Company provides requested information in a timely manner.

2010 All Companies Commercial Auto and Workers Compensation

The Company identified a universe of 41 declinations during the 2010 examination period. The Company was requested to provide a random sample of 16 declinations on May 2, 2013, with a due date of May 13, 2013. After a number of delays and discussions with the Division, the Company was again requested to provide the sample of 16 declinations on September 23, 2013, with a due date of October 4, 2013. The Company provided 6 files on November 19, 2013. The

Company was notified (Information Request 47) on December 18, 2013, that 10 declinations had not been provided. The Company provided 5 declinations on January 3, 2014, 1 declination on January 22, 2014, and 4 declinations on February 10, 2014.

Field Size:	41
Sample Size:	16
Sample Type:	Random
Number of Violations:	16

Finding 9: The Company failed to provide requested files in a timely manner. The Company is in violation of SDCL § 58-3-7.

Recommendation 9: It is recommended that the Company, in order to facilitate the examination process, adopt and adhere to policies and procedures to ensure the Company provides requested information in a timely manner.

2011 All Companies Commercial Auto, Workers Compensation, and Fidelity

The Company identified a universe of 50 declinations during the 2011 examination period. The Company was requested to provide a random sample of 24 declinations on May 2, 2013, with a due date of May 13, 2013. After a number of delays and discussions with the Division, the Company was again requested to provide the sample of 24 declinations on September 23, 2013, with a due date of October 4, 2013. The Company provided 1 file on October 29, 2013, 8 files on November 19, 2013, and 1 file on November 20, 2013. The Company was notified (Information Request 47) on December 18, 2013, that 14 declinations had not been provided. The Company provided 5 declinations on January 3, 2014, 1 declination on January 22, 2014, and 4 declinations on February 10, 2014. Four files were never provided.

Field Size:	50
Sample Size:	24
Sample Type:	Random
Number of Violations:	24

Finding 10: The Company failed to provide requested files in a timely manner. The Company is in violation of SDCL § 58-3-7.

Recommendation 10: It is recommended that the Company, in order to facilitate the examination process, adopt and adhere to policies and procedures to ensure the Company provides requested information in a timely manner.

2012 All Companies Commercial Auto, Workers Compensation, and Fidelity

The Company identified 23 declinations during the 2012 examination period. The Company was requested to provide a random sample of 10 declinations on May 2, 2013, with a due date of May 13, 2013. After a number of delays and discussions with the Division, the Company was again requested to provide the sample of 10 declinations on September 23, 2013, with a due date of October 4, 2013. The Company provided 2 files on October 29, 2013, and 2 files on November

19, 2013. The Company was notified (Information Request 47) on December 18, 2013, that 6 declinations had not been provided. The Company provided 1 declination on January 3, 2014 and 3 declinations on February 10, 2014. Two were never provided.

Field Size:	23
Sample Size:	10
Sample Type:	Random
Number of Violations:	10

Finding 11: The Company failed to provide requested files in a timely manner. The Company is in violation of SDCL § 58-3-7.

Recommendation 11: It is recommended that the Company, in order to facilitate the examination process, adopt and adhere to policies and procedures to ensure the Company provides requested information in a timely manner.

D. New Business

Commercial Auto New Business 2009-2012

The Company identified a universe of 7 Commercial Auto new business policies written during the 2009-2012 examination period. The Company was initially requested to provide all 7 Commercial Auto new business files on May 13, 2013 with a due date of May 27, 2013. After a number of delays and discussions with the Division, the Company was requested to provide the reduced sample of 2 Commercial Auto New Business files on September 23, 2013, with a due date of October 4, 2013. The Company provided 1 file on October 28, 2013. The Company was notified (Information Request 47) on December 18, 2013, that 1 Commercial Auto New Business file had not been provided. The Company provided the file on January 22, 2014.

Field Size:	7
Sample Size:	2
Sample Type:	Random
Number of Violations:	2

Finding 12: The Company failed to provide requested files in a timely manner. The Company is in violation of SDCL § 58-3-7.

Recommendation 12: It is recommended that the Company, in order to facilitate the examination process, adopt and adhere to policies and procedures to ensure the Company provides requested information in a timely manner.

Workers Compensation New Business 2009

The Company identified a universe of 19 Workers Compensation new business policies written during the 2009 examination period. The Company was initially requested to provide a random sample of 17 Workers Compensation new business files on May 13, 2013, with a due date of May 27, 2013. After a number of delays and discussions with the Division, the Company was requested to provide the reduced sample of 4 Workers Compensation new business files on

September 23, 2013, with a due date October 4, 2013. The Company provided 1 file on October 14, 2013 and 3 files on November 20, 2013.

Field Size:	19
Sample Size:	4
Sample Type:	Random
Number of Violations:	4

Finding 13: The Company failed to provide requested files in a timely manner. The Company is in violation of SDCL § 58-3-7.

Recommendation 13: It is recommended that the Company, in order to facilitate the examination process, adopt and adhere to policies and procedures to ensure the Company provides requested information in a timely manner.

Workers Compensation New Business 2010

The Company identified a universe of 31 Workers Compensation new business policies written during the 2010 examination period. The Company was initially requested to provide a random sample of 25 Workers Compensation new business files on May 13, 2013 with a due date of May 27, 2013. After a number of delays and discussions with the Division, the Company was requested to provide a reduced sample of 6 Workers Compensation new business files on September 23, 2013, with a due date of October 4, 2013. The Company provided 2 files on October 24, 2013, 2 files on October 29, 2013, 1 file on November 1, 2013, and 1 file on November 20, 2013.

Field Size:	31
Sample Size:	6
Sample Type:	Random
Number of Violations:	6

Finding 14: The Company failed to provide requested files in a timely manner. The Company is in violation of SDCL § 58-3-7.

Recommendation 14: It is recommended that the Company, in order to facilitate the examination process, adopt and adhere to policies and procedures to ensure the Company provides requested information in a timely manner.

Workers Compensation New Business 2011

The Company identified a universe of 26 Workers Compensation new business policies written during the 2011 examination period. The Company was initially requested to provide a random sample of 22 Workers Compensation new business files on May 13, 2013 with a due date of May 27, 2013. After a number of delays and discussions with the Division, the Company was requested to provide a reduced sample of 6 Workers Compensation new business files on September 23, 2013, with a due date of October 4, 2013. The Company provided 2 files on

October 3, 2013, 1 file on October 10, 2013, 2 files on October 29, 2013, and 1 file on October 30, 2013.

Field Size:	26
Sample Size:	6
Sample Type:	Random
Number of Violations:	4

Finding 15: The Company failed to provide requested files in a timely manner. The Company is in violation of SDCL § 58-3-7.

Recommendation 15: It is recommended that the Company, in order to facilitate the examination process, adopt and adhere to policies and procedures to ensure the Company provides requested information in a timely manner.

Workers Compensation New Business 2012

The Company identified a universe of 10 Workers Compensation new business policies written during the 2012 examination period. The Company was initially requested to provide a random sample of 22 Workers Compensation new business files on May 13, 2013 with a due date of May 27, 2013. After a number of delays and discussions with the Division, the Company was requested to provide a reduced sample of 3 Workers Compensation new business files on September 23, 2013, with a due date of October 4, 2013. The Company provided 1 file on October 2, 2013, 1 file on October 10, 2013, and 1 file on October 29, 2013.

Field Size:	10
Sample Size:	3
Sample Type:	Random
Number of Violations:	2

Finding 16: The Company failed to provide requested files in a timely manner. The Company is in violation of SDCL § 58-3-7.

Recommendation 16: It is recommended that the Company, in order to facilitate the examination process, adopt and adhere to policies and procedures to ensure the Company provides requested information in a timely manner.

E. Renewals

Commercial Auto Renewals 2009-2012

The Company identified a universe of 17 Commercial Auto renewals during the 2009-2012 examination period. The Company was initially requested to provide all 17 Commercial Auto renewal business files on May 13, 2013 with a due date of May 27, 2013. After a number of delays and discussions with the Division, the Company was requested to provide a reduced sample of 4 Commercial Auto renewal business files on September 23, 2013, with a due date of

October 4, 2013. The Company provided 2 files on October 2, 2013, 1 file on October 14, 2013, and 1 file on November 6, 2013.

Field Size:	17
Sample Size:	4
Sample Type:	Random
Number of Violations:	2

Finding 17: The Company failed to provide requested files in a timely manner. The Company is in violation of SDCL § 58-3-7.

Recommendation 17: It is recommended that the Company, in order to facilitate the examination process, adopt and adhere to policies and procedures to ensure the Company provides requested information in a timely manner.

Workers Compensation Renewals 2009-2012

The Company identified a universe of 268 Workers Compensation renewal policies written during the 2009-2012 examination period. The Company was initially requested to provide a random sample of 77 Workers Compensation renewal files on May 13, 2013 with a due date of May 27, 2013. After a number of delays and discussions with the Division, the Company was requested to provide a reduced sample of 19 Workers Compensation renewal files on September 23, 2013, with a due date of October 4, 2013. The Company provided 6 files on October 2, 2013, 2 files on October 3, 2013, 1 file on October 28, 2013, 2 files on October 29, 2013, 3 files on November 1, 2013, 1 file on November 6, 2013, 1 file on November 13, 2013, 1 file on November 20, 2013, and 1 file on November 29, 2013. One file was never provided.

Field Size:	268
Sample Size:	19
Sample Type:	Random
Number of Violations:	11

Finding 18: The Company failed to provide requested files in a timely manner. The Company is in violation of SDCL § 58-3-7.

Recommendation 18: It is recommended that the Company, in order to facilitate the examination process, adopt and adhere to policies and procedures to ensure the Company provides requested information in a timely manner.

Finding 19: The Company did not use the correct rate as filed with the South Dakota Division of Insurance on one policy. The Company is in violation of SDCL §§ 58-24-10 and 58-24-25. The use of the incorrect rate resulted in an undercharge of \$20.00.

Recommendation 19: It is recommended that the Company adopt and adhere to proper procedures to ensure that all rates filed with the South Dakota Division of Insurance are followed.

VI. CLAIMS

The purpose of the review was to ascertain the Company's compliance with the claim practices rules and regulations of the South Dakota Division of Insurance. Throughout the review, the emphasis was placed on items such as the timeliness of claim handling, file documentation, and claim payment. The claim files additionally were reviewed to ensure compliance with the paintless dent repair requirements of SDCL §§ 58-12-16 to 58-12-18, inclusive as well as compliance with guidance issued by the Division in Bulletin 98-03.

The examiners reviewed the Company's claim practices in the following categories:

COMMERCIAL LINES CLAIMS

- A. Commercial Auto Liability Property Damage
- B. Commercial Auto Liability Miscellaneous
- C. Commercial Auto Physical Damage Collision
- D. Commercial Auto Physical Damage Comprehensive
- E. Hail Damage
- F. Litigated

THIRD PARTY ADMINISTRATOR CLAIMS

- A. AMC Property Damage and General Liability
- B. CCMCI Commercial Auto ALP
- C. ESIS Commercial Auto General Liability

COMMERCIAL LINES CLAIMS

A. Commercial Auto Liability Property Damage

The examiners requested a list of all claims received during the examination period. The Company provided a universe of 10 Commercial Auto Liability Property Damage claims. All 10 claims were requested, received, and reviewed.

Field Size:	10
Sample Size:	10
Sample Type:	Census
Number of Violations:	0

Finding 20: No violations were noted.

B. Commercial Auto Liability Miscellaneous

The examiners requested a list of all claims received during the examination period. The Company provided a universe of 4 Commercial Auto Liability Miscellaneous claims. All 4 claims were requested, received, and reviewed.

Field Size: 4
Sample Size: 4
Sample Type: Census
Number of Violations: 0

Finding 21: No violations were noted.

C. Commercial Auto Physical Damage Collision

The examiners requested a list of all claims received during the examination period. The Company provided a universe of 7 Commercial Auto Physical Damage Collision claims. All 7 claims were requested, received, and reviewed.

Field Size: 7
Sample Size: 7
Sample Type: Census
Number of Violations: 0

Finding 22: No violations were noted.

D. Commercial Auto Physical Damage Comprehensive

The examiners requested a list of all claims received during the examination period. The Company provided a universe of 4 Commercial Auto Physical Damage Comprehensive claims. All 4 claims were requested, received, and reviewed.

Field Size: 4
Sample Size: 4
Sample Type: Census
Number of Violations: 0

Finding 23: No violations were noted.

E. Hail Damage

The examiners requested a list of all Hail Damage claims received during the examination period. The Company initially identified a universe of 2 Hail Damage claims. However, both of the claims provided were Flood claims, not Hail Damage claims. The correct universe for Hail Damage claims is zero.

Field Size: 0
Sample Size: 0
Sample Type: Census
Number of Violations: 0

Finding 24: No violations were noted.

F. Litigated

The examiners requested a list of all Litigated claims received during the examination period. The Company provided a universe of 13 claims. All 13 claims were requested, received, and reviewed.

Field Size:	13
Sample Size:	13
Sample Type:	Census
Number of Violations:	0

Finding 25: No violations were noted.

THIRD PARTY ADMINISTRATOR CLAIMS

A. AMC Property Damage and General Liability

The examiners requested a list of all claims handled by TPA, AMC. The Company provided a universe of 1 First Party Property Damage claim, 1 Property claim, and 2 Commercial General Liability claims. All 4 claims were requested, received, and reviewed.

Field Size:	4
Sample Size:	4
Sample Type:	Census
Number of Violations:	0

Finding 26: No violations were noted.

B. CCMSI Commercial Auto ALP

The examiners requested a list of all claims handled by TPA, CCMSI. The Company provided a list of 4 Commercial Auto ALP claims. All 4 claims were requested, received, and reviewed.

Field Size:	4
Sample Size:	4
Sample Type:	Census
Number of Violations:	0

Finding 27: No violations were noted.

C. ESIS Commercial Auto General Liability

The examiners requested a list of all claims handled by TPA, ESIS. The Company provided a universe of 20 Commercial Auto General Liability claims. All 20 claims were requested, received, and reviewed.

Field Size:	20
Sample Size:	20

Sample Type: Census
Number of Violations: 0

Finding 28: No violations were noted.

CHAPTER 3: EMPIRE FIRE AND MARINE INSURANCE COMPANY

BACKGROUND INFORMATION

A. HISTORY

Empire Fire and Marine Insurance was incorporated under the laws of the State of Nebraska on March 16, 1954, and commenced business on July 31, 1954, as a capital stock casualty insurance company.

By means of a reinsurance agreement effective August 1, 1954, the Company absorbed all of the assets and assumed all of the liabilities of the Empire Fire and Marine Automobile Insurance Company of Omaha, Nebraska, a mutual insurance company which had been organized in 1947. Effective October 15, 1956, the Company assumed all of the assets and liabilities and obligations of Mutual Bonding and Indemnity Company of Omaha, Nebraska. Under the terms of a reinsurance and consolidation agreement, the Company, on February 15, 1957, received all of the assets and assumed all of the liabilities and obligations of the Farmers Union Fidelity Insurance Company, a mutual insurance company of Grand Island, Nebraska. On September 1, 1957, a former wholly owned affiliate, Empire Surety Company of Omaha, Nebraska, was similarly absorbed by means of a reinsurance and consolidation agreement. The Company and Public Service Insurance Company of Fort Wayne, Indiana, merged effective January 1, 1960. In both instances, the surviving corporation was Empire Fire and Marine Insurance Company. Effective May 31, 1979, Zurich Insurance Company, U.S. Branch, acquired all of the outstanding shares of capital stock of the Company. Subsequent changes in ownership of the Company's stock have occurred among affiliate companies. The latest such change took place on January 1, 1999, when American Guarantee and Liability Insurance Company contributed the Company's stock to Zurich American Insurance Company.

B. PROFILE

Empire Fire and Marine Insurance Company is licensed to write the following lines in South Dakota: Health, Fire, Inland Ocean Marine, Workers' Compensation, Bodily Injury (No Auto), Property Damage (No Auto), Bodily Injury (Auto), Property Damage (Auto), Physical Damage (Auto), Fidelity Surety Bonds, Glass, Burglary Theft, Aircraft, Crop-Hail, Commercial, and Personal.

Empire Fire and Marine Insurance Company is part of the ZNA Pool Companies that offer all types of commercial property and casualty insurance in the 50 states and the District of Columbia. The Company also offers certain personal lines coverages on a more limited basis.

Most business is written through the Independent Agency system of distribution, where Agents and Brokers do not have authority to bind business on the companies' behalf but instead are granted authority to submit applications for the companies' review. The exception to this relates to three units of ZNA Pool's business that can grant binding authority to the agents: Surety, Small Business, and Programs. The Companies operate on the proprietary plan with authority

and control held by the sole shareholder and the corporate powers and business and affairs of the company managed under the direction of the elected board of directors.

The Company's operations are coordinated from its home in Schaumburg, Illinois. Support services are provided through its own network of claim administration centers and marketing offices.

The Company's total direct written premiums are the following:

Year	National	South Dakota
2009	\$591,793,297	\$834,157
2010	\$355,557,216	\$1,763,911
2011	\$331,764,555	\$2,607,623
2012	\$342,743,843	\$535,170

EXAMINATION FINDINGS

I. COMPANY OPERATIONS AND MANAGEMENT

This examination focused on the Company's Operations and Management, Complaint Handling, Sales and Marketing, Producer Licensing, Underwriting and Rating, and Claims. The examiners reviewed the Company's practices and procedures for providing complete, accurate, and timely data throughout the course of the examination in compliance with the South Dakota statutes and administrative rules.

The examiners asked for and reviewed the following information:

- A. A current organizational charts outlining relationships of subsidiaries, branch offices, and divisions/departments to the overall corporate management structure;
- B. A current organizational charts outlining the structure of South Dakota operations, including any specialty operations conducted separately;
- C. A description of the management structure of the Company;
- D. A description of all fines, penalties, and recommendations from any state for the last 3 years and a copy of all Financial and Market Conduct Examination Reports conducted during the last 3 years;
- E. A copy of the Company's last annual report to the shareholders;
- F. A copy of the Company's annual statements for the prior three years and any property and casualty related schedules or statements;
- G. A copy of all Management Agreements or Vendor Agreements including agreements between affiliates or private contractors for the examination period and a list of all Third Party Administrators contracted with the Company to process South Dakota business during the examination period as well as a copy of the contracts;
- H. A copy of all internal audit schedules, internal audit reports, and internal audit procedures conducted by the Company or any entity within the last three years;
- I. A copy of the Company's South Dakota Certificate(s) of Authority for the period under examination;
- J. A copy of the Company's Anti-Fraud Procedures and annual reports; and
- K. A copy of the Company's Privacy Procedures.

Finding 1: No violations were noted.

II. COMPLAINT HANDLING

The examiners requested all complaints received by the Company and direct complaints to the South Dakota Division of Insurance. The Company reported one complaint that was received through the South Dakota Division of Insurance.

Field Size:	1
Sample Size:	1
Sample Type:	Census
Number of Violations:	0

Finding 2: No violations were noted.

III. MARKETING AND SALES

The examiners requested a list of all Advertising and Marketing Material utilized during the examination period. The Company provided, inclusive for all 3 companies, 19 pieces of advertising utilized in South Dakota. The advertising consisted of: Promotional Videos, Brochures, Manuals, and the Company's website. The 19 advertising materials and the Company's website were reviewed to determine compliance with SDCL Ch. 58-33, Unfair Trade Practices.

Finding 3: No violations were noted.

IV. PRODUCER LICENSING

The Company was requested to provide a list of all producers licensed in South Dakota to solicit business during the examination period. In addition, the Company was requested to provide policies and procedures regarding the following activities:

- Licensing, Appointment, and Termination Procedures
- Producer Product and Compliance Training
- Allegations of Misconduct Producer Reports

The producer licensing lists and Company policies and procedures were received and reviewed. All new business files were reviewed for license and appointment compliance.

Finding 4: No violations were noted.

V. UNDERWRITING AND RATING

The examiners reviewed the Company's Commercial Automobile, General Liability, Commercial Fire, Burglary and Theft, Fidelity and Workers Compensation underwriting and rating practices for compliance with South Dakota statutes and administrative rules. In underwriting, the examiners reviewed the following files:

- A. Cancellations
- B. Non-renewals

C. Declinations

In rating, the examiners review the following files:

- D. Commercial Automobile New Business and Renewals
- E. Homeowners New Business and Renewals

Throughout the review of the Company's underwriting and rating practices, the emphasis was placed on adherence to underwriting guidelines and manuals, termination procedures, the risk characteristics, adherence with Company filings and the accuracy in the development of the policy premium.

A. Cancellations

QBE First Homeowners Cancellations 2009-2012

The examiners requested a list of all cancellations issued by the Company during the examination period. The Company provided a universe of 5 policies cancelled by their Third Party Administrator, QBE First. All 5 policies were requested, received, and reviewed.

Field Size:	5
Sample Size:	5
Sample Type:	Census
Number of Violations:	1

Finding 5: The Company failed in 1 cancellation file to provide at least 20 days' notice before the effective cancellation date. The Company is in violation of SDCL § 58-33-60.

Recommendation 5: It is recommended that the Company adopt and adhere to policies and procedures to ensure the Company does not issue cancellations without providing at least 20 days' notice.

B. Non-renewals

The Company did not have any non-renewals during the examination period.

C. Declinations

The Company reported all declinations collectively for all 3 companies. The review of Declinations is addressed in the American Zurich chapter of this report.

D. Commercial Auto New Business and Renewals

Commercial Auto New Business and Renewals 2009

The examiners requested a list of Commercial Automobile new business and renewals issued in 2009. The Company provided a universe of 70 policies. A random sample of 32 policies was requested, received, and reviewed.

Field Size:	70
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Sample Size: 32
Sample Type: Random
Number of Violations: 2

Finding 6: The Company completed a scheduled rating worksheet which applied a 5% credit to the policy. The Company failed to apply the credit in the development of the policy premium resulting in an overcharge of \$197.00. The Company is in violation of SDCL §§ 58-24-10 and 58-24-25.

Recommendation 6: It is recommended that the Company adopt and adhere to policies and procedures to ensure the Company does not issue policies contrary to their filings with the Division. Additionally, the Company is to refund the amount of the overcharge to the insured.

Commercial Auto New Business and Renewals 2010

The examiners requested a list of Commercial Automobile new business and renewals issued in 2010. The Company provided a universe of 58 policies. A random sample of 23 policies was requested.

Field Size: 58
Sample Size: 23
Sample Type: Random
Number of Violations: 0

Finding 7: No violations were noted.

Commercial Auto New Business and Renewals 2011

The examiners requested a list of Commercial Automobile new business and renewals issued in 2011. The Company provided a universe of 55 policies. A random sample of 20 policies was requested.

Field Size: 55
Sample Size: 20
Sample Type: Random
Number of Violations: 0

Finding 8: No violations were noted.

Commercial Auto New Business and Renewals 2012

The examiners requested a list of Commercial Automobile new business and renewals issued in 2012. The Company provided a universe of 27 policies. A random sample of 19 policies was requested. It was determined that there were 10 duplicate policies included in the sample and the correct sample is 9.

Field Size: 27

Sample Size: 9
Sample Type: Random
Number of Violations: 0

Finding 9: No violations were noted.

Homeowners New Business and Renewals 2009

The examiners requested a list of Homeowners new business and renewals issued in 2009. The Company provided a universe of 1 policy. The policy was requested, received, and reviewed.

Field Size: 1
Sample Size: 1
Sample Type: Census
Number of Violations: 0

Finding 10: No violations were noted.

Homeowners New Business and Renewals 2010

The examiners requested a list of Homeowners new business and renewals issued in 2010. The Company provided a universe of 1 policy. The policy was requested, received, and reviewed.

Field Size: 1
Sample Size: 1
Sample Type: Census
Number of Violations: 0

Finding 11: No violations were noted.

Homeowners New Business and Renewals 2011

The examiners requested a list of Homeowners new business and renewals issued in 2011. The Company provided a universe of 6 policies. All 6 policies were requested, received, and reviewed.

Field Size: 6
Sample Size: 6
Sample Type: Census
Number of Violations: 0

Finding 12: No violations were noted.

Homeowners New Business and Renewals 2012

The examiners requested a list of Homeowners new business and renewals issued in 2012. The Company provided a universe of 13 policies. All 13 policies were requested, received, and reviewed.

Field Size: 13
Sample Size: 13
Sample Type: Census
Number of Violations: 0

Finding 13: No violations were noted.

VI. CLAIMS

The purpose of the review was to ascertain the Company's compliance with the claim practices rules and regulations of the Division. Throughout the review, the emphasis was placed on items such as the timeliness of claim handling, file documentation, and claim payment. The claim files additionally were reviewed to ensure compliance with the paintless dent repair requirements of SDCL §§ 58-12-16 to 58-12-18, inclusive as well as compliance with guidance issued by the Division in Bulletin 98-03. Property claims were reviewed to ensure compliance with the total loss requirements of SDCL § 58-10-10.

The examiners reviewed the Company's claim practices in the following categories:

COMMERCIAL LINES CLAIMS

- A. Commercial Auto Liability Property Damage
- B. Commercial Auto Liability Miscellaneous
- C. Commercial Auto Physical Damage Collision
- D. Commercial Auto Physical Damage Comprehensive
- E. Hail Damage
- F. Litigated

THIRD PARTY ADMINISTRATOR CLAIMS

- A. QBE First Property
- B. EHI Auto Liability

COMMERCIAL LINES CLAIMS

A. Commercial Auto Liability Property Damage

The examiners requested a list of all claims received during the examination period. The Company provided a universe of 30 Commercial Auto Liability Property Damage claims. All 30 claims were requested, received, and reviewed.

Field Size: 30
Sample Size: 30
Sample Type: Census
Number of Violations: 0

Finding 14: No violations were noted.

B. Commercial Auto Liability Miscellaneous

The examiners requested a list of all claims received during the examination period. The Company provided a universe of 14 Commercial Auto Liability Miscellaneous claims. All 14 files were requested, received, and reviewed.

Field Size:	14
Sample Size:	14
Sample Type:	Census
Number of Violations:	0

Finding 15: No violations were noted.

C. Commercial Auto Physical Damage Collision

The examiners requested a list of all claims received during the examination period. The Company provided a universe of 22 Commercial Physical Damage Collision claims. Of the 22 claims requested for review, 1 claim was a duplicate and 2 claims were Comprehensive claims. The remaining 19 claims were requested, received, and reviewed.

Field Size:	22
Sample Size:	19
Sample Type:	Census
Number of Violations:	0

Finding 16: No violations were noted.

D. Commercial Auto Physical Damage Comprehensive

The examiners requested a list of all claims received during the examination period. The Company provided a universe of 43 Commercial Physical Damage Comprehensive claims. A random sample of 32 claims was requested. Of the 32 claims requested for review, 21 were Hail Damage claims. The remaining 11 claims were received and reviewed.

Field Size:	43
Sample Size:	11
Sample Type:	Random
Number of Violations:	0

Finding 17: No violations were noted.

E. Hail Damage

The examiners requested a list of all Hail Damage claims received during the examination period. The Company provided a universe of 31 Hail Damage claims. Of the 31 claims requested for review, 1 claim was a Flood Damage claim and 1 claim was a Wind Damage claim. All 29 hail damage claims were received and reviewed.

Field Size:	31
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Sample Size: 29
Sample Type: Census
Number of Violations: 3

Finding 18: The Company failed to include the mandatory paintless dent repair disclosure language in the claim estimate for 3 claims. The Company is in violation of SDCL § 58-12-16(3) and disregarded guidance issued by the Division in Bulletin 98-03.

Recommendation 18: It is recommended that the Company adopt and adhere to policies and procedures to ensure the Company provides the mandatory disclosure language pertaining to the paintless dent repair method in the estimates.

G. Litigated

The examiners requested a list of all Litigated claims received during the examination period. The Company provided a universe of 1 file. The file was requested, received, and reviewed.

Field Size: 1
Sample Size: 1
Sample Type: Census
Number of Violations: 0

Finding 19: No violations were noted.

THIRD PARTY ADMINISTRATOR CLAIMS

A. QBE First Property

The examiners requested a list of all claims handled by TPA, QBE First. The Company provided a universe of 15 Property claims. All 15 claims were requested, received, and reviewed.

Field Size: 15
Sample Size: 15
Sample Type: Census
Number of Violations: 0

Finding 20: No violations were noted.

B. EHI Auto Liability

The examiners requested a list of all claims handled by TPA, EHI. The Company provided a universe of 8 Liability claims. All 8 claims were requested for review. Of the 8 claims requested, 1 claim was a duplicate. All seven claims were received and reviewed.

Field Size: 8
Sample Size: 7
Sample Type: Census
Number of Violations: 0

Finding 21: No violations were noted.

CONCLUSION

This Report is respectfully submitted to the South Dakota Division of Insurance.

The Zurich Group Chapters of the Examination were completed by examiners Linda Miller, Joe Cohen, Sean Connolly, Mark Plesha and Lisa Crump.

Cyndy Campbell

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Sworn to and subscribed before me
this 10th day of June 2015

Christine A. Haggerty

