



Market Conduct Examination

THE TURNER GROUP
Parsippany, New Jersey

STATE OF NEW JERSEY
DEPARTMENT OF BANKING AND INSURANCE
Office of Consumer Protection Services
Market Conduct Examination Unit

Report Adopted October 10, 2003

REPORT
OF THE
MARKET CONDUCT EXAMINATION
OF THE
THE TURNER GROUP
LOCATED IN
PARSIPPANY NEW JERSEY
AS OF
JUNE 5, 2002
BY EXAMINERS
OF THE
STATE OF NEW JERSEY
DEPARTMENT OF BANKING AND INSURANCE
OFFICE OF CONSUMER PROTECTION SERVICES
MARKET CONDUCT EXAMINATION UNIT

DATE REPORT ADOPTED:

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I. INTRODUCTION

This is a report of the Market Conduct activities of The Turner Group (hereinafter referred to as the “Agency” or the “Company”). In this report, examiners of the New Jersey Department of Banking and Insurance (NJDOBI) present their findings, conclusions and recommendations as a result of their market conduct examination. The Market Conduct Examiners were Robert Greenfield, Examiner-In-Charge and Richard Segin.

A. SCOPE OF REVIEW

The scope of the examination covered the Agency’s insurance business conducted in New Jersey only. The examiners reviewed business conducted by the Agency during the review period January 1, 1998 through June 5, 2002.

The examiners performed their fieldwork at the Agency's office located in Parsippany, New Jersey between November 15, 2001 and November 20, 2001 and between June 3, 2002 and June 5, 2002. The examiners completed the examination and report writing on various dates thereafter.

The examiners randomly selected files and records from listings and documents provided by the Agency. The random selection process is in accordance with the National Association of Insurance Commissioners' Market Conduct Handbook.

B. ERROR RATIOS

Error ratios are the percentage of files which the agency handled in error. Each file not handled in accordance with applicable state statutes or regulations is an error. A file will also be counted as an error when it is mishandled or the insured is treated unfairly, even if no statute or regulation is applicable. Even though a file may contain multiple errors, the examiners counted only one error per file in calculating the error ratio. However, any file that contains more than one error will be cited more than once in this report. In the event that the agency corrects an error because of a consumer complaint or due to the examiners' findings, the error will be included in the error ratio. If the agency corrects an error independent of a complaint or NJDOBI intervention, the error is not included in the error ratios. For the most part, this is a report by exception.

The examiners occasionally find a business practice of an agency which may be technical in nature or which did not have an impact on a consumer. Although such a practice would not be in compliance with law, the examiners do not count each of these files as an error in determining error ratios.

Whenever the examiners find that the Agency commits a type of error with sufficient frequency, they will cite the error as an improper general business practice. If an error constitutes an improper general business practice, the examiners have stated this in the report that follows.

The examiners sometimes find improper general business practices of an agency that may be technical in nature or which did not have an impact on a consumer. Although such practice would not comply with law, the examiners do not count each of these files as an error in determining error ratios. Whenever such business practices do have an impact on the consumer, each of the files in error will be counted in the error ratio. The examiners indicate in the report that follows whenever they did not count any particular files in the error ratio.

The examiners submitted written inquiries to representatives of the Agency on the errors and findings cited in this report. These inquiries afforded the Agency the opportunity to respond to the examiners' findings and to offer explanations for an error or exception reported by the examiners. On those errors and exceptions where the Agency disagreed, the examiners evaluated the individual merits of each response and considered all of its comments. In some instances, the examiners did not cite the files due to the Agency's explanatory responses. In others, the errors remained as cited in the examiners' report.

C. AGENCY PROFILE

The Turner Group began to conduct business on September 1, 1966 in Totowa, New Jersey as a sole proprietorship, trading under the name Ye Turner Agency. On June 26, 1978, the agency became incorporated under R.J.T., Inc., trading as Ye Turner Agency. In the mid 1980's the Agency's trade name was changed to The Turner Group. The Agency has acquired 27 agencies in the last 35 years. Current lines of authority are in Life, Health, and Property & Casualty. The current active officers are Robert J. Turner, President, Marian Murphy Weiner, Vice President, and Scott R. Turner/Secretary/ Treasurer.

II. COMPLAINT REVIEW

A. INTRODUCTION

During the period of January 1, 1998 through December 31, 2001, consumers filed a total of seven NJDOBI complaints against the Agency. The examiners reviewed four complaint files from this population. In reviewing these complaints, the examiners checked for compliance with several statutes and regulations with emphasis on N.J.S.A. 17:23-1 (promptness in responding to NJDOBI complaints and inquiries), N.J.A.C. 11:2-17.6(d) and (e) and N.J.S.A. 17:29B-4 (complaint handling procedures), and National Association of Insurance Commissioners (NAIC) Market Conduct Examination standards outlined in Chapter VI-Conducting Property and Casualty Insurance Examinations.

B. COMPLAINT ERROR RATIOS

Complaint Type	Files Reviewed	Files in Error	Error Ratio
Policyholder Service	3	0	0%
Claim Handling	1	0	0%
Totals	4	0	0%

C. COMPLAINT HANDLING/RECORDING ERRORS

1. Failure to Record Direct Complaints and Failure to Maintain a Complete Complaint Log - Improper General Business Practice.

Pursuant to N.J.S.A. 17:29B-4(10), the Turner Group is required to maintain a complete record of all complaints received. This record shall indicate the total number of complaints, their classification by line of insurance, the nature and disposition of each complaint, and the time taken to process each complaint. This statute is similar to Standard One of the complaint handling section of the National Association of Insurance Commissioner's Market Conduct Examination Handbook which states that "[A]ll complaints ... (should be) ... recorded in the required format on the (Agency) complaint register." The examiners found that the Agency recorded only NJDOBI complaints, and failed to log complaints received directly from consumers. In response to an inquiry, the Agency stated "...The Turner Group was not aware that we had to compile a log of all complaints received."

Although the Company did maintain a log of NJDOBI complaints, the examiners found that the log was deficient on two grounds: 1) failure to state classification by line of insurance; and 2) failure to state receipt dates and response dates to allow calculation of the time taken to resolve the complaint. Failure to include required information on direct and NJDOBI complaints constitutes an improper general business practice.

III. MISCELLANEOUS AGENCY REVIEWS

A. AGENCY AGREEMENTS AND PRODUCER CONTRACTS

The examiners requested a listing of all signed non-compete and confidentiality agreements that were executed between the Turner Agency and its employee-producers after January 1, 1998. The Agency provided a list of 73 agreements that were executed during this time period. The examiners' findings are as follows.

ERROR RATIOS

<u>Review Sample</u>	<u>Files Reviewed</u>	<u>Files in Error</u>	<u>Error Ratio</u>
Agency Agreements	73	20	27%

1. Improper Execution of Employee Confidentiality and Non-Competition Agreements. - (20 Errors)

Of the 73 agreements reviewed, the examiners found that twelve agreements lacked a witness signature and one other that was not dated. The Agency was unable to provide a detailed explanation for these discrepancies, stating only that it was unintentional and poor clerical work by the accounting department. The examiners also found that the Turner Agency backdated seven non-compete agreements at the Agency's Clinton, N.J Office. The Agency stated that this backdating occurred because the manager of that office failed to follow Agency procedure when these seven employees were hired. The Turner Agency, at the request of the New Jersey Department of Banking and Insurance, later rescinded the seven non-compete agreements. It should be noted that backdating may constitute a violation of **N.J.S.A. 17:22A-17.a(20)** (**N.J.S.A. 17:22A-1 et seq.** was in effect at the time of this examination, but has been superseded by the New Jersey Producer Licensing Act of 2001, under **N.J.S.A. 17:22A-26 et seq.**).

Error Chart

<u>SSN Number*</u>	<u>Employee Initials</u>	<u>Error Code</u>
53	E.T.	1
48	C.L.S.	1
08	M.S.	1
48	D.C.S.	1
80	C.M.O.	1
50	M.R.B.	1
41	D.A.J.	2
94	A.C.L.	1
61	J.G.	1
55	R.W.M.	1
06	K.S.	1
92	O.T.B.	1
55	T.A.R.	1
94	D.S.	3
01	D.S.	3
23	D.H.	3
20	D.S.	3
41	D.J.	3
04	J.M.	3
81	K.L.	3

Code

Error

- 1 Form Signature not witnessed.
- 2 Form not dated.
- 3 Agreement backdated.
- * Last two digits of the employee's social security number

It should be noted that the former manager of the Clinton, N.J. office provided a sworn statement under oath in the presence of the Manager of the Agency's sales staff. In addition to the examiners' findings, this sworn statement revealed several other issues, including the fact that the former manager claimed to but did not actually witness employee signatures on non-compete agreements.

B. ADVERTISING MATERIALS

The examiners reviewed all Agency advertising material for compliance with **N.J.S.A. 17:29B-4(1)** and **(2)**. The Agency uses this material in New Jersey for both marketing solicitation and general Agency image. The examiners did not find any of the material to be contrary to the aforementioned statute.

C. AGENCY AUDIT REVIEW

The primary focus of this review was to ensure compliance with procedures specifically related to underwriting guidelines with those companies for which the Turner Group is under contract to conduct business. The examiners reviewed two external audit reports of major insurance carriers and found no major errors. There were several minor errors noted, including failure to document proof of ownership, a missing coverage selection form and a missing declaration page. Overall, the external audit reports revealed no significant errors.

D. AGENT/BROKER LICENSING

The Agency currently employs 51 producers. The examiners reviewed all applicable licenses of the Turner Group and found them to be complete, current and properly displayed. The examiners also cross-checked all active agents within the review period to the master licensing records of the New Jersey Department of Banking and Insurance to determine if all producers were properly licensed. The examiners found no errors or discrepancies. The examiners found no irregularities in this review.

E. AGENT COMMISSION REGISTER

The examiners randomly reviewed 100 pages from a population of approximately 20,000 pages of transactions from the Agency's commission registers and found no apparent errors or commission payments to unlicensed producers.

IV. RECOMMENDATIONS

The Turner Group should inform all responsible personnel and third party entities who handle the files and records cited as errors in this report of the examiners' recommendations and remedial measures that follow in the report sections indicated. The examiners also recommend that the Agency establish procedures to monitor compliance with these measures.

The examiners acknowledge that during the examination, the Agency agreed with and had already complied with, either in whole or in part, some of the recommendations stated in this report. For the purpose of obtaining proof of compliance and for the Agency to provide its personnel with a document they can use for future reference, the examiners have listed all recommendations below.

A. GENERAL INSTRUCTIONS

Documentation of compliance with each of the recommendations below, including copies of all written instructions, bulletins, procedures, reminders, etc., should be sent to the Commissioner, c/o Clifton J. Day, Manager of Market Conduct Examinations and Anti-Fraud Compliance Unit, 20 West State Street, PO Box 329, Trenton, N.J. 08625, within thirty (30) days of the date of the adopted report.

B. COMPLAINTS

1. Pursuant to **N.J.S.A. 17:29B-4(10)**, the Agency must inform all appropriate personnel that they must maintain a complete record or log of all direct and NJDOBI complaints that are received. The log must indicate the total number of complaints, their classification by line of insurance, the nature of each complaint, the disposition of these complaints, and the time it took to process each complaint. The Turner Agency must provide a sample of its complaint register to the Commissioner in order to demonstrate compliance with the aforementioned statute.

C. MISCELLANEOUS AGENCY REVIEWS

2. The Turner Agency must ensure that contracts or agreements, where a witness is required, contain the time and date of execution and that the witness be present at the time of signature. The Agency should notify all appropriate personnel that backdating of agreements is unacceptable, pursuant to **N.J.S.A. 17:22A-17.a(20)**.

VERIFICATION PAGE

1. I, Robert Greenfield, am the Examiner-in-Charge of the Market Conduct Examination of The Turner Group conducted by examiners of the New Jersey Department of Banking and Insurance. This verification is based on my personal knowledge as acquired in my official capacity.

2. The findings, conclusions, and recommendations contained in the foregoing report represent, to the best of my knowledge, a full and true statement of the Market Conduct examination of The Turner Group as of June 5, 2002.

I certify that the foregoing statements are true. I am aware that if any of the foregoing statements made by me is willfully false, I am subject to punishment.

Date:

Robert Greenfield
Examiner-In-Charge
New Jersey Department
of Banking and Insurance