

STATE OF NEW JERSEY
DEPARTMENT OF BANKING AND INSURANCE

IN THE MATTER OF:

Proceedings by the Commissioner of)	
Banking and Insurance, State of New)	
Jersey, with respect to New Jersey)	
Manufacturers Insurance Company)	CONSENT
NAIC No. 12122, and New Jersey Reinsurance)	ORDER
Company, NAIC No. 35432)	

TO: New Jersey Manufacturers Group
301 Sullivan Way
West Trenton, NJ 08628-3496

This matter, having been opened to the Commissioner of Banking and Insurance ("Commissioner"), State of New Jersey, upon the filing of a Market Conduct Examination Report (the Report) containing the results of the October 1, 2008 through September 30, 2009 examination of total loss claim settlements processed by New Jersey Manufacturers Insurance Company and New Jersey Reinsurance Company (the Companies) performed by the Department of Banking and Insurance (Department) pursuant to the authority provided at N.J.S.A. 17:23-20 et seq.; and

WHEREAS, the market conduct examination revealed certain instances, as fully set forth in the Report, where the Companies practices did not accord fully with various provisions of New Jersey insurance statutes or regulations; and

WHEREAS, based on the documentation and information submitted by the Companies, the Department is satisfied that the Companies have taken or will take corrective measures pursuant to the recommendations of the Report.

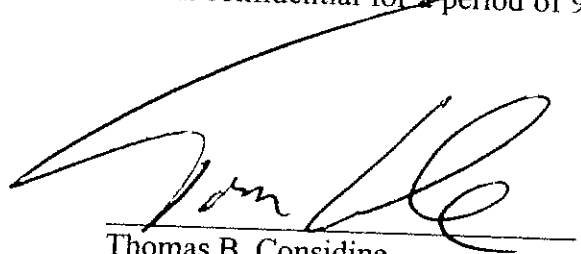
NOW, THEREFORE, IT IS on this 11th day of June, 2010

ORDERED AND AGREED that the attached Report will be adopted and filed as an official record of the Department; and

IT IS FURTHER ORDERED AND AGREED that Companies shall comply with New Jersey insurance statutes and regulations and the recommendations contained in the attached Report ; and

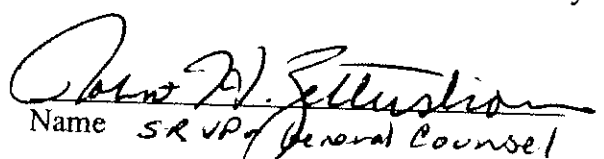
IT IS FURTHER ORDERED AND AGREED that pursuant to N.J.S.A. 17:23-24d(1), within 30 days of the Companies shall file affidavits with the Department's Market Conduct Unit, executed by each of its directors stating under oath that they have received a copy of the adopted Report; and

IT IS FURTHER ORDERED AND AGREED that in accordance with N.J.S.A. 17:23-24e (1) the Department shall hold the content of the examination confidential for a period of 90 days.



Thomas B. Considine
Commissioner

Consented to as to form, content and entry



Name SR VP of General Counsel

Date: 5-27-2010

MARKET CONDUCT EXAMINATION

of the

NEW JERSEY MANUFACTURERS INSURANCE COMPANY

and

NEW JERSEY RE-INSURANCE COMPANY

located in

WEST TRENTON, NEW JERSEY

as of

NOVEMBER 16, 2009

BY EXAMINERS

of the

STATE OF NEW JERSEY

DEPARTMENT OF BANKING AND INSURANCE

OFFICE OF CONSUMER PROTECTION SERVICES

**MARKET CONDUCT EXAMINATIONS and ANTI-FRAUD
COMPLIANCE SECTIONS**

REPORT ADOPTED:

June 16, 2010

TABLE OF CONTENTS

I. INTRODUCTION	1
A. SCOPE OF EXAMINATION	1
B. ERROR RATIOS	1
C. COMPANY PROFILE	2
II. CLAIMS REVIEW.....	4
A. INTRODUCTION	4
B. ERROR RATIOS	4
C. EXAMINERS' FINDINGS.....	5
III. RECOMMENDATIONS	7
A. GENERAL INSTRUCTIONS	7
B. CLAIMS.....	7
APPENDIX A – CLAIM ERRORS	9
IV. VERIFICATION PAGE	10

I. INTRODUCTION

This is a report of the Market Conduct activities of New Jersey Manufacturers Insurance Company and New Jersey Re-Insurance Company (hereinafter collectively referred to as NJM 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 examination.

A. SCOPE OF EXAMINATION

The scope of the examination included private passenger automobile insurance sold by the Company in New Jersey. The examiners evaluated NJM's compliance with the regulations and statutes pertaining to automobile total loss claims. The examiners placed specific emphasis on total loss claims that the Company settled after the Department issued Bulletin 09-23, dated July 27, 2009. This Bulletin advised insurers that New Jersey sales tax must be applied to salvage deductions incident to an owner's retention of a vehicle deemed to be a total loss. The review period for application of sales tax on total loss settlement was July 27, 2009 to the present. The examiners also included a general review period of October 1, 2008 to September 30, 2009 solely for purpose of checking for proper settlement and informational disclosures to first and third party claimants.

The examiners conducted their fieldwork at NJM's office in West Trenton, New Jersey between November 4, 2009 and November 6, 2009. On various dates following the fieldwork, the examiners completed additional review work and report writing. The Market Conduct Examiners were Examiner-in-Charge Marleen Sheridan and Robert Greenfield.

The examiners randomly selected files and records from computer listings and documents provided by the Company. The random selection process is in accordance with the National Association of Insurance Commissioner's (NAIC) Market Regulation Handbook. The examiners used the NAIC Market Regulation Handbook, Chapters Sixteen (General Examination Standards) and Seventeen (Conducting the Property and Casualty Examination), as a guide to examine the Company and write this report.

B. ERROR RATIOS

Error ratios are the percentage of files reviewed which an insurer handles in error. A file is counted as an error when it is mishandled or the insured is treated unfairly, even if no statute or regulation is applicable. If a file contains multiple

errors, the examiners will count the file only once in calculating error ratios. However, any file that contains more than one error will be cited more than once in the report. In the event that the insurer corrects an error as a result of a consumer complaint or due to the examiners' findings, the error will be included in the error ratio. If the insurer corrects an error independent of a complaint or NJDOBI intervention, the error is not included in the error ratios.

There may be errors cited in this report that define practices as specific acts that an insurer commits so frequently that it constitutes an improper general business practice. Whenever the examiners find that the errors cited constitute an improper general business practice, they have stated this in the report.

The examiners sometimes find improper general business practices or errors of an insurer that may be technical in nature or which did not have an impact on a consumer. Even though such errors or practices would not be in compliance with law, the examiners do not count each of these files as an error in determining error ratios. Whenever such business practices or errors 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 whenever they did not count particular files in the error ratio.

The examiners submitted written inquiries to Company representatives on the errors cited in this report. These inquiries provided NJM the opportunity to respond to the examiners' findings and to provide exceptions to the statutory and/or regulatory errors or mishandling of files reported. In response to these inquiries, NJM agreed with some of the errors cited in this report. On those errors with which the Company disagreed, the examiners evaluated the individual merits of each response and gave due consideration to all comments. In some instances, the examiners did not cite the files due to the Company's explanatory responses. In others, the errors remained as cited in the examiners' inquiries. For the most part, this is a report by exception.

C. COMPANY PROFILE

New Jersey Manufacturers Insurance Company (NJM) was incorporated in 1913 by a group of manufacturers seeking workers' compensation insurance coverage. It was originally incorporated as New Jersey Manufacturers Casualty Insurance Company and wrote only workers compensation insurance.

In 1965, Casualty merged with New Jersey Indemnity Insurance Company, a property and casualty insurer writing personal and commercial automobile and homeowners insurance. The surviving entity took the name New Jersey Manufacturers Insurance Company.

NJM is a direct writer which writes primarily in New Jersey. It is licensed to write in New Jersey, Pennsylvania, New York, Connecticut, Rhode Island and Maine. NJM is a membership company which provides coverage to member companies of the New Jersey Business & Industry Association and their employees, and to employees of the State of New Jersey. NJM operates as a mutual for the benefit of its policyholders.

NJM's primary lines of business are workers' compensation, private passenger automobile, homeowners and commercial automobile insurance. It writes these lines directly, and through its wholly-owned subsidiaries, New Jersey Re-Insurance Company, New Jersey Casualty Insurance Company and New Jersey Indemnity Insurance Company.

New Jersey Re-Insurance Company (NJRe) was incorporated in 1977. It was originally formed to write inter-company reinsurance for the NJM Group. NJRe is a direct writer which writes primarily in New Jersey. It is licensed to write in New Jersey, Pennsylvania, Delaware, Ohio and Washington. NJRe's primary lines of business are workers' compensation, personal auto, personal excess liability and homeowners insurance.

II. CLAIMS REVIEW

A. INTRODUCTION

This review covers paid total loss collision, total loss comprehensive and total loss property damage claims submitted under private passenger automobile insurance. Any such New Jersey claim closed between October 1, 2008 and September 30, 2009 where the claimant retained the salvage, was subject to review. During this review period NJM closed, 648 total loss comprehensive claims, 6,606 total loss collision claims and 2,093 total loss property damage claims. From this total, the examiners randomly selected and reviewed 60 paid total loss claims.

In reviewing each claim, the examiners checked for compliance with all applicable statutes and regulations that govern the settlement of first and third party claims. The examiners conducted specific reviews placing particular emphasis on N.J.S.A. 17:29B-4(9) and N.J.A.C. 11:2-17 (unfair claims and settlement practices), and N.J.A.C. 11:3-10 (auto physical damage claims). Additionally, the examiners verified NJM's compliance with New Jersey Department of Banking and Insurance **Bulletin 09-23** (Applicable State Sales Tax Required to be Added to the Salvage Retention Deduction).

B. ERROR RATIOS

The examiners calculated the following error ratios by applying the procedure outlined in the introduction of this report. Error ratios are itemized separately based on the review samples as indicated in the following chart.

<u>Review Sample</u>	<u>Files Reviewed</u>	<u>Files in Error</u>	<u>Error Ratio</u>
Collision	18	1	6%
Comprehensive	12	0	0
Property Damage	<u>30</u>	<u>6</u>	20%
Total	60	7	12%

C. EXAMINERS' FINDINGS

1. Exclusion of Salvage Retention Value from Sales Tax Calculation of Total Losses – 0 Files in Error

N.J.A.C. 11:3-10.4(a) states in part that, "...if the insurer elects to make a cash settlement, it must bear in mind that the insured's position is that of a retail consumer, and that the settlement must be reasonable and fair for a person in that position..." Moreover, if the insurer elects to make a cash settlement, its offer is subject to additions and deductions plus applicable sales tax. Permissible additions and deductions include betterment and depreciation (N.J.A.C. 11:3-10.3(i)), prior damage and condition (N.J.A.C. 11:3-10.3(j)) and mileage depreciation where applicable (N.J.A.C. 11:3-10.4(f)), or otherwise specified in N.J.A.C. 11:3-10.4(a) and (b).

NJM utilizes Certified Collateral Corporation (CCC) to establish the actual cash value and cash settlement offer referenced above. N.J.A.C. 11:3-10.2 defines actual cash value as a value for which the damaged vehicle can be replaced with one that is substantially similar. N.J.A.C. 11:3-10.2 further defines a substantially similar vehicle as one that is the same make, model, year and condition of the damaged vehicle at the time of loss.

If the insurer elects to make a cash settlement in lieu of providing an actual replacement, its offer (actual cash value as defined under N.J.A.C. 11:3-10.2 and as further established by the company's use of CCC pursuant to N.J.A.C. 11:3-10.4(a)2 and 3) is subject to valuation additions and deductions plus applicable sales tax.

While reviewing 30 total losses that NJM settled after the Department issued Bulletin 09-23 on July 27, 2009, the examiners found that NJM properly applied sales tax to the salvage retention value where the claimant retained the damaged vehicle. This method of settlement is also consistent with the approved deduction and settlement calculation methodology outlined in N.J.A.C. 11:3-10.4(a) and N.J.A.C. 11:3-10.2.

2. Failure to Advise Claimant of Rights of Recourse - 5 Files in Error

N.J.A.C. 11:3-10.4(c) requires insurers to provide claimants with a written notice of the rights of recourse at the time a total loss settlement draft is issued, and to retain a copy of the notice in the claim file.

The examiners reviewed 60 paid total loss claims and found that contrary to this regulation, NJM failed to provide the required written rights of recourse on five property damage total loss claims.

SEE APPENDIX A-1 FOR A LIST OF FILES IN ERROR

3. Settlement Delays and Failure to Issue Delay Notices - 3 Files in Error

N.J.A.C. 11:3-10.5(a) and N.J.A.C. 11:2-17.7(c) state that unless clear justification exists the maximum payment period for physical damage claims shall be 30 calendar days and 45 calendar days for property damage claims. N.J.A.C. 11:3-10.5(b) and N.J.A.C. 11:2-17.7(e) state that, if the insurer is unable to settle the claim within the time periods specified, the insurer must send the claimant written notice by the end of the payment periods. This notice must specify the reason for the delay. N.J.A.C. 11:3-10.5(b) and N.J.A.C. 11:2-17.7(e) also require an insurer to send an updated, written notice of delay every 30 and 45 days, respectively, thereafter until all elements of the claim are paid or denied.

The examiners reviewed 60 paid claims and found that NJM failed to settle two of these claims (one collision and one property damage) within the correct time frame and without the required delay notices. On another property damage claim, 2009-421734, the Company issued one delay letter but paid the claim beyond the required timeframe and should have issued a second delay notice pursuant to N.J.A.C. 11:2-17.7(e).

SEE APPENDIX A-2 FOR A LIST OF FILES IN ERROR

III. RECOMMENDATIONS

NJM 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 NJM establish procedures to monitor compliance with these measures.

Throughout this report, the examiners cite and/or discuss all errors found. If the report cites a single error, the examiners often include a "reminder" recommendation because if a single error is found, more errors may have occurred.

Non-compliant activity was identified in this report which may extend to other jurisdictions. The Company is directed to take immediate corrective action to demonstrate its ability and intention to conduct business according to New Jersey law and regulations. When applicable, corrective action for other jurisdictions should be addressed.

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

A. GENERAL INSTRUCTIONS

All items requested for the Commissioner and copies of all written instructions, procedures, recommended forms, etc., should be sent to the Commissioner, c/o Clifton J. Day, Manager of the Market Conduct Examinations and Anti-fraud Compliance Unit, Mary Roebing Building, 20 West State Street, PO Box 329, Trenton, N.J. 08625, within thirty (30) days of the date of the adopted report.

B. CLAIMS

1. NJM must issue written instructions to all appropriate claims personnel stating that:
 - a. N.J.A.C. 11:3-10.4(c) requires insurers to provide claimants with a written notice of the rights of recourse at the time of a total loss settlement and to retain a copy of the notice in the claim file;
 - b. pursuant to N.J.A.C. 11:3-10.5(a), insurers are required to settle first party claims within 30 calendar days from receipt and that pursuant to

N.J.A.C. 11:3-10.5(b), if an insurer is unable to settle claims within the time periods specified, the insurer must send written notices of delay every 30 days as appropriate, until settlement is completed;

- c. N.J.A.C. 11:2-17.7(c) states the maximum payment period for property damage claims is 45 calendar days from receipt and pursuant to N.J.A.C. 11:2-17.7(e) if an insurer is unable to settle claims within the time periods specified, the insurer must send a written notice of delay every 45 days as appropriate, until the settlement is completed.

APPENDIX A – CLAIM ERRORS

1. Failure to Advise Claimant of Rights of Recourse – 5 Property Damage Files in Error

<u>Claim Number</u>	<u>Claim Number</u>
2009-421734	2009-462874
2009-453151	2009-455767
2008-342638	

2. Settlement Delays and Failure to Issue Delay Notices – 3 Files in Error

Collision Claim

<u>Claim Number</u>	<u>Date of Receipt</u>	<u>Date Claim Paid</u>	<u>Days Beyond 30</u>
2008-346037	9/5/2008	12/19/2008	75

Property Damage Claims

<u>Claim Number</u>	<u>Date of Receipt</u>	<u>Date Claim Paid</u>	<u>Days Beyond 45</u>
2009-430318	7/13/09	9/1/09	5
2009-421734*	5/22/09	9/29/09	40

*NJM sent a 45 day delay notice but failed to settle claim timely

IV. VERIFICATION PAGE

I, Marleen J. Sheridan, am the Examiner-in-Charge of the Market Conduct Examination of New Jersey Manufacturers Insurance Company and New Jersey Re-Insurance Company 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.

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 New Jersey Manufacturers Insurance Company and New Jersey Re-Insurance Company as of November 16, 2009.

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.

1/6/10

Date

Marleen Sheridan

Marleen Sheridan
Examiner-In-Charge
New Jersey Department
of Banking and Insurance