

**STATE OF ALABAMA
DEPARTMENT OF INSURANCE
MONTGOMERY, ALABAMA**

REPORT OF EXAMINATION OF

ACCESS INSURANCE COMPANY

ATLANTA, GA

AS OF July 23, 2010

**PARTICIPATION:
ALABAMA**

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STATE OF ALABAMA
Montgomery, County

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JAN 18 2012
ALABAMA DEPT. OF INSURANCE
EXAMINERS DIVISION

Mora Perkins, being first duly sworn, upon her oath deposes and say:

That she is an examiner appointed by the Commissioner of Insurance for the State of Alabama;

That an examination was made of the affairs and marketing condition of Access Insurance Company for the period January 1, 2007 through December 31, 2009;

That the following 12 pages constitute the report thereon to the Commissioner of Insurance of the State of Alabama;

And that the statements, exhibits and data therein contained are true and correct to the best of her knowledge and belief.

Mora Perkins
Mora Perkins, MCM

Subscribed and sworn to before the undersigned authority this 17 day of January, 2012.

Jean H. Noojin
(Signature of Notary Public)

Jean H. Noojin, Notary Public
(Print Name)

in and for the State of Alabama.

My commission expires 1/28/13

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JAN 19 2012
ALABAMA DEPT. OF INSURANCE
EXAMINERS DIVISION

Atlanta, Georgia
July 23, 2010

Honorable Jim L. Ridling, Commissioner
Alabama Department of Insurance
201 Monroe Street, Suite 502
Montgomery, AL 36104

Dear Commissioner:

Pursuant to your instructions and in compliance with the statutory requirements of the State of Alabama and the resolutions adopted by the National Association of Insurance Commissioners, an examination has been made of the affairs and marketing condition of

**Access Insurance Company
Atlanta, Georgia**

as of July 23, 2010, at its home office located at 2830 Dresden Drive 30341. The report of examination appears herewith.

Where the term "Company" appears herein without qualification, it will be understood to indicate Access Insurance Company. Also, where the term "ALDOI" appears herein without qualification, it will be understood to indicate Alabama Department of Insurance.

SCOPE OF EXAMINATION

A limited scope examination was authorized pursuant to the instructions of the Alabama Insurance Commissioner and in accordance with the statutory requirements of the Alabama Insurance Code and the regulations and bulletins of the ALDOI; in accordance with the applicable guidelines and procedures promulgated by the National Association of Insurance Commissioners (NAIC); and in accordance with generally accepted examination standards.

This was the Company's first Alabama examination for the period January 1, 2007 to December 31, 2009 and was conducted by an examiner from the ALDOI.

The examination included a general review of the Company's market conduct activities regarding policyholder complaints, claims handling practices and producer licensing. The market conduct activities in this report have been confined to those items which indicated a violation of the Alabama Insurance Code, or the Insurance Department's rules and regulations.

ORGANIZATION AND HISTORY

The Company was incorporated on December 5, 1945 and was known as Lawyers Surety Corporation until June 2, 1994 when it was acquired by Century American Insurance from Old Republic Surety Company and renamed Century American Casualty Company (CACC). In 2002, the Company was distributed via dividend from CACC to its parent, Professional Services Network, Inc. (PSN), a downstream subsidiary of Physician Insurance Company of Wisconsin, Inc. PSN owned 100 percent of the Company's outstanding common shares until it sold the Company to Access Insurance Holdings, Inc. (AIH) as of October 1, 2004. The Company became a wholly-owned subsidiary of AIH, and AIH changed the Company's name to Access Insurance Company. The Company is a Texas domiciled company and is currently authorized in 20 states on an admitted basis. As of December 31, 2009, the Company was licensed in the following states: Alabama, Arizona, Arkansas, California, Delaware, Florida, Georgia, Indiana, Kentucky, Louisiana, Mississippi, Missouri, Montana, North Carolina, Oklahoma, Oregon, Pennsylvania, South Carolina, Tennessee, and Texas. When purchased, the Company contained \$5M in capital and surplus, into which another \$5M (total of \$10M) was contributed by AIH that was to be used by the previously dormant company as a vehicle to write non-standard automobile business. The Company distributed its products through wholly owned

agencies that engaged a network of independent producers pursuant to various producer agreements.

The Company utilizes several quota share risk agreements with unrelated partners to allow for premium growth and balance the loss exposure for the non-standard business. The Company also utilizes several managing agency agreements and service agreements with related affiliates to service the non-standard business.

During February 2005, AIH formed a wholly-owned subsidiary, Access General Insurance Adjusters, Inc (AGIA), to administer the Company's claims. The Company began writing non-standard automobile insurance in 2005. During its first full year of operation in 2006, the Company operated in three states, Georgia, Pennsylvania and California. The Company continued to expand by beginning operations in Alabama and Florida in 2007 and Texas and Arizona in 2008. The Company was exploring underwriting opportunities to expand into additional states in 2009 and beyond.

MARKET CONDUCT ACTIVITIES

Policyholder Complaints

The ALDOI had an increase in consumer complaints from the Company during the period from January 1, 2008 through December 31, 2009. There was one complaint listed for 2008; however, there were ten complaints in 2009. The Company's Alabama direct premiums written also increased from \$5,066,507 in 2008 to \$13,879,703 in 2009, which resulted in an increase in the number of complaints.

Company management provided the written procedure guide, ALDOI Inquiries for Claims Operations and Underwriting/Policy Services, for the handling of complaints. The procedures detailed the handling of complaints from the inception of the complaint until the conclusion of the complaint. The examiner reviewed the Company's complaint register to determine if all the complaints (both consumer direct and ALDOI) were being recorded. Some of the telephoned and emailed consumer complaints from the ALDOI were not logged into the register.

The Assistant Vice President of AGIA is responsible for logging the complaints into the complaint register and managing the complaints to a resolution. The Company had a written process for letters received from the ALDOI Consumer Division established before the examination. During the examination, the Company

established a written procedure for logging consumer complaints into the complaint register as well as for processing consumer complaints received by telephone and email from the ALDOI. The Company did not have a written procedure for processing complaints received directly from the consumer.

According to the 2009 NAIC Market Regulation Handbook, the register should include both consumer direct complaints and complaints filed with the department of insurance. The ALDOI adopted the NAIC Market Conduct Handbook effective May 7, 2007, via ALA.ADMIN. CODE 482-1-097-.06 which states, "...The NAIC Market Conduct Handbook, as it may be updated and amended from time to time so long as the examination methodology remains substantially consistent, is hereby adopted and incorporated by reference." As stated in the Market Regulation Handbook, "A review of complaint handling should incorporate both consumer direct complaints to the regulated entity and those complaints filed with the insurance department."

The Company's complaint register should include but not be limited to the following:

- Line of business
- Function (underwriting, marketing and sales, claims, policyholder services or miscellaneous); and
- Reason for complaint (underwriting, application, cancellation, rescission, nonrenewal).

The complaint register should also include the appropriate fields – Company Identification Number, Function, Reason, Line Type, Company Disposition After Receipt, Date Received, Date Closed, Insurance Department Complaint, and State of Origin.

Claim Handling Practices

The detail of the direct premium written reconciled to the NAIC's 2009 Annual Statement Exhibit of Premiums and Losses (Statutory Page 14) for Alabama, which equaled \$13,879,703.

According to the Company's 2008 Market Conduct Annual Statement, the claims closed without pay to claims closed ratio was 47.6%. The statewide average of claims closed without pay to claims closed ratio for 2008 was 22.1%. During discussions with the Company, the examiners discovered why this ratio was above average. AIGA claims system is set up to record every possible exposure for a claim so the potential loss to the Company can be evaluated. When a claim is initially entered into

the AIGA claims system, a claim is opened for each bodily injury and property damage, collision, rental car, etc. that is reported to the Company regardless of the exposure. The Company will also add a claim for bodily injury for the insured regardless of the exposure. During the claim process, if it is determined that there was no exposure for a claim; the claim is closed as a claim without payment because the system does not have the ability to close the claim as record only. When a policyholder reports a claim to the Company, it is entered into the claims system then it is determined if the claimant had coverage. If the claim is outside the coverage period, the claim is closed as a claim without payment. When the Company is notified by an insured of an accident that they intend to recover from another carrier. The Company tracks the notification of an accident as a claim under investigation because their system does not have a record only function. When the claim under investigation is closed, it is closed as a claim closed without payment. The system's inability to display record only results in the Company having a high number of claims closed without payment in its market conduct annual statement.

After a discussion with the Company about the high number of claims closed without payment, the Company decided that they would change the reporting of the claims without payment from the number count to the actual claims closed without payment. The company will provide an explanation and documentation on how they intend to calculate the actual claims closed without payment.

The sample of 107 Alabama paid claims was reviewed to determine compliance with policy provisions, timeliness of payments, and adequacy of documentation. There were nine claims that were not paid within the thirty days as required by ALA.ADMIN. CODE 482-1-125-.07. However, the file documentation determined the delay in payment was due to either the claims not being reported until weeks after the loss occurred or the Company had to make multiple attempts to reach the insured or claimant. All nine of the files contained clear, concise and detailed explanations for the disruption in the payment. No other discrepancies were found.

Producer License and Appointment

Access General Agency of Alabama, Inc. (Access AL) is a subsidiary of AIH. Access AL operates by an agreement with the Company to process all business written in Alabama. There are two Territory Sales Managers that manage the State of Alabama by locating prospective producers by word of mouth, internet, drive by, other company representatives and trade shows. In addition, potential producers can learn about the Company from the Company's web site (www.accessgeneral.com). The producer is able to download the Producer Appointment Application from the

website. Then the prospective producer completes the application and forwards it to the Company. The producer is activated to write new business once all the required documentation is received, the producer's application is reviewed and accepted by the Company, and the producer is appointed by the Company through the services of Cumberland Licensing Corporation (CLC). CLC is a business partner of National Insurance Producer Registry (NIPR), which provides licensing services to the insurance industry. The agreement between the Company and CLC began November 24, 2008. Once approved and appointed, producers are authorized to access the Company rates and are allowed electronic access to the application processing system to submit for underwriting including final rating and policy issuance. Access AL is authorized by an agreement to perform these functions on behalf of the Company. Access AL does not solicit or sell directly to the public on behalf of the Company. Access AL services the book of business in Alabama on behalf of the Company including policy binding and issuance, collection of premium, processing of endorsements, cancellations, reinstatements and renewal. Access AL does not handle claims on behalf of the Company (or any other carrier). Access AL has held a producer entity license in Alabama since 2008.

Based on the review of the Company's appointment listing, it was determined that one producer was appointed in 1988 by Lawyers Surety Corporation. The Company appointed one producer in 2007, four in 2008 and 294 in 2009. In 2007, the Company accepted premium from five unlicensed producers and 75 producers that were not appointed. In 2008, the Company accepted premium from nine unlicensed producers and 144 producers that were not appointed. In 2009, the Company accepted premium from 25 unlicensed producers and 148 producers that were not appointed. The Company started appointing producer entities May 13, 2010, when it was brought to their attention by the Examiner that producer entities must be appointed.

The Company was not in compliance with ALA. CODE 27-7-4 (a) which states, "No person shall in this state sell, solicit, or negotiate insurance for any class or classes of insurance unless the person is then licensed for that line of authority in accordance with this chapter..." and (b) No producer shall act on behalf of any insurer for which an appointment is not held under this chapter..."

The new business policies issued during the examination period were reviewed to determine if the producers were properly licensed and appointed to write and issue business on behalf of the Company. A random ACL sample of 116 new business files was selected for review. The review of the new business sample revealed the following:

- 44 producers were properly licensed and appointed prior to signing the application
- 37 producers were not appointed with the Company
 - Four of the 37 producers' licenses had expired
 - Four of the 37 producers' names were not found on State Based Systems (SBS)
 - Four of the 37 producers did not have a property and casualty license

The Company was not in compliance with ALA. CODE §27-7-30 (a) which states, "Each insurer appointing a producer in this state shall file with the commissioner, in a format approved by the commissioner, a notice of appointment within 15 days from the date the agency contract is executed or the first insurance application is submitted, whichever occurs first."

The Company was also not in compliance with ALA. CODE §27-7-4 (a) which states, "No person shall in this state sell, solicit, or negotiate insurance for any class or classes of insurance unless the person is then licensed for that line of authority in accordance with this chapter. Any insurer accepting business directly from a person not licensed for that line of authority and not appointed by the insurer shall be liable to a fine up to three times the premium received from the person."

- 16 files could not be reviewed due to the following reasons: four applications were not provided and 12 applications were not signed by the producer.

Since four of the files were not provided and 12 applications were not signed by the producers, the examiner could not verify the Company's compliance with the requirements for producer licensing and appointment.

- 19 producers were appointed after the application was signed. This was not in compliance with ALA. CODE §27-7-30 (a) which states, "Each insurer appointing a producer in this state shall file with the commissioner, in a format approved by the commissioner, a notice of appointment within 15 days from the date the agency contract is executed or the first insurance application is submitted, whichever occurs first."

Terminated Producers

The examiner requested the Company's list of terminated producers and was informed by the Company that there were no terminated producers during the examination period. As of June 2, 2010, twenty-seven producers that were appointed by the Company had voluntarily terminated their appointment with the Company or their appointment was terminated by the ALDOI because their producer's license had expired or the ALDOI had revoked their licenses. The Company suspended producers for lack of production, continuous insufficient check charges, errors and omissions compliance, and fraud. Some of the Company's producer suspensions were a justified reason for termination of appointment for cause. The Company's agreement with CLC provides the service of terminating producers for the Company. By suspending these producers instead of terminating their appointment, the Company did not comply with ALA. CODE §27-7-30 (e) which states, "Subject to the producer's contract rights, if any, an insurer or authorized representative of the insurer may terminate a producer's appointment at any time. An insurer or authorized representative of the insurer that terminates the appointment, employment, or contract with a producer for any reason shall within 30 days following the effective date of the termination, using a format prescribed by the commissioner, give notice of the termination to the commissioner." The intent of the statutory requirement is for the Company to notify the ALDOI of the producer's conduct so that the ALDOI can determine whether disciplinary action such as revoking or suspending the producer's license, placing the license on probationary status, and/or imposing a fine is appropriate, or the matter should be referred by the ALDOI to the appropriate authorities if the conduct has risen to the level of criminality.

SUBSEQUENT EVENTS

A review of events subsequent to the December 31, 2009 examination date was done. The following was noted during this review:

The Company now has a written process for email and telephone ALDOI complaints.

Before the conclusion of the examination, the Company provided documentation to support the implementation of the Company's new record retention policy for new business applications.

On July 22, 2010, the Company presented the Examiner a memo that stated during the examination the Examiner was provided the claims and underwriting complaint register. However, the official complaint register kept by the Compliance Department

contains the fields required by the Market Regulation Handbook. A copy of the Compliance Department's complaint register was presented to the Examiner with the required fields.

COMMENTS AND RECOMMENDATIONS

Policyholder Complaints – Page 3

It is recommended that the Company maintain written procedures for consumer direct complaints in accordance with the 2009 NAIC Market Regulation Handbook that was adopted by the ALDOI effective May 7, 2007, via ALA.ADMIN. CODE 482-1-097-.06 which states, "...The NAIC Market Conduct Handbook, as it may be updated and amended from time to time so long as the examination methodology remains substantially consistent, is hereby adopted and incorporated by reference."

It is further recommended that all of the Company's complaint registers be properly maintained. All complaint registers, such as the Claims and Underwriting Complaint Register, should include but not be limited to the following: line of business, function, reason for complaint, company identification number, line type, company disposition after receipt, date the company received the complaint, identify ALDOI complaints, and state the origin of the complaint. This recommendation is in accordance with the NAIC Market Regulation Handbook that was adopted by the ALDOI effective May 7, 2007, via ALA.ADMIN. CODE 482-1-097-.06 which states, "...The NAIC Market Conduct Handbook, as it may be updated and amended from time to time so long as the examination methodology remains substantially consistent, is hereby adopted and incorporated by reference."

Claims Handling Practices – Page 4

It is recommended that the Company modify its current accounting practice of calculating claims closed without payment for the Market Conduct Annual Statement.

Producer License and Appointment – Page 5

It is recommended that the Company ensure producers and business entities conducting business on their behalf are properly appointed, in accordance with ALA. CODE §27-7-30 (a) which states, "Each insurer appointing a producer in this state shall file with the commissioner, in a format approved by the commissioner, a notice of appointment within 15 days from the date the agency contract is executed or the first insurance application is submitted, whichever occurs first."

It is further recommended that the Company's producers are properly licensed for the line of authority in which they are selling, soliciting or negotiating insurance to

comply with ALA. CODE §27-7-4 (a) which states, “No, person shall in this state sell, solicit, or negotiate insurance for any class or classes of insurance unless the person is then licensed for that line of authority in accordance with this chapter. Any insurer accepting business directly from a person not licensed for that line of authority and not appointed by the insurer shall be liable to a fine up to three times the premium received from the person...”

It is further recommended that the Company’s producers are properly appointed to the Company they are selling, soliciting or negotiating insurance to comply with ALA. CODE §27-7-4 (b) No producer shall act on behalf of any insurer for which an appointment is not held under this chapter...”

Terminated Producers – Page 8

It is recommended that the Company terminate producers’ appointments in accordance with the Company’s producer contract and terminate producers’ appointments for cause then notify the ALDOI of their terminated producers in accordance with ALA. CODE §27-7-30 (e) which states, “Subject to the producer’s contract rights, if any, an insurer or authorized representative of the insurer may terminate a producer’s appointment at any time. An insurer or authorized representative of the insurer that terminates the appointment, employment, or contract with a producer for any reason shall within 30 days following the effective date of the termination, using a format prescribed by the commissioner, give notice of the termination to the commissioner.”

CONCLUSION

Acknowledgement is hereby made of the courtesy and cooperation extended by all persons representing Access Insurance Company during this limited scope examination.

The customary insurance examination procedures, as recommended by the National Association of Insurance Commissioners, have been followed in the completion of this report.

Respectfully submitted,



Mora Perkins, MCM
Examiner-in-charge
Alabama Department of Insurance