



Illinois Department of Insurance

JB Pritzker
Governor

Robert H. Muriel
Director

VIA ELECTRONIC MAIL
VIA USPS CERTIFIED MAIL

November 13, 2020

Mr. Steven M. Menzies
President
Continental Indemnity Company
526 Second Avenue SE
Cedar Rapids, IA. 52406

Re: Continental Indemnity Company, NAIC 28258
Market Conduct Examination Report Closing Letter

Dear Mr. Menzies:

The Department has received your Company's proof of compliance. Therefore, the Department is closing its file on this exam.

I intend to ask the Director to make the Examination Report and Stipulation and Consent Order available for public inspection as authorized by 215 ILCS 5/132. At the Department's discretion, specific content of the report may be subject to redaction for private, personal, or trade secret information prior to making the report public. However, any redacted information will be made available to other regulators upon request.

Please contact me if you have any questions.

Sincerely,

Erica Weyhenmeyer
Chief Market Conduct Examiner
Illinois Department of Insurance
320 West Washington St., 5th Floor
Springfield, IL 62767
Phone: 217-782-1790
E-mail: Erica.Weyhenmeyer@Illinois.gov

**ILLINOIS DEPARTMENT OF INSURANCE
MARKET CONDUCT EXAMINATION**

OF

CONTINENTAL INDEMNITY COMPANY

MARKET CONDUCT EXAMINATION REPORT

DATE OF EXAMINATION: March 4, 2019 through, May 10, 2019

EXAMINATION OF: Continental Indemnity Company (P & C), NAIC #28258

LOCATION: 10805 Old Mill Road, Omaha, NE 68154

PERIOD COVERED BY EXAMINATION: January 1, 2018, through December 31, 2018
Complaints: July 1, 2017 through December 31, 2018
Workers Compensation: January 1, 2016 through
December 31, 2018

EXAMINERS: Ron Cochran, Examiner-in-Charge
Aubrey Powell, MCM

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I. SUMMARY

A comprehensive market conduct examination of Continental Indemnity Company was performed to determine compliance with Illinois Statutes and Illinois Administrative Code.

The following represent general findings; however, specific details are found in each section of the report.

TABLE OF TOTAL VIOLATIONS						
Crit #	Statute/Rule	Survey / Description	Population	Files Reviewed	# of Violations	Error %
1	215 ILCS 5/143.17a	Non-renewals - failure to provide 60-day notice prior to nonrenewal	167	79	4	5.06%
2	215 ILCS 5/500-80(a)	Producer Licensing – commission(s) paid to producer not licensed in Illinois at the time of the sale of the policy	317	84	3	3.57%
3	50 IAC 926.50	Complaints – failure to maintain complaint log as outlined in Exhibit A and defined in Exhibit B	1	1	1	100%
4	215 ILCS 5/143.17(a)(b)	Renewals – failure to provide 60-day notice when premium increases 30%+	803	113	1	0.88%
5	215 ILCS 5/462b	New Business – failure to follow underwriting and rating guidelines	201	84	1	1.26%
6	50 IAC 9110.70(d)	Closed without payment claims – failure to provide written denial to claimant	159	76	5	6.57%
7	820 ILCS 305/8.2(d)(2)	Closed without payment claims – failure to provide written denial to medical provider	159	76	7	9.21%
9	215 ILCS 5/143c	Address of the Public Service Division of the DOI not provided with policies	Interrogatory # 1	N/A	N/A	N/A
10	820 ILCS 305/8.2(d)(2)	Paid Claims – provide written explanation of denial to med provider	2174	108	1	0.92%
11	820 ILCS 305/8.2(d)(3)	Paid Claims – interest owed and unpaid on late paid med bills	2174	108	7	6.48%
12	50 IAC 9110.70(d)	Paid claims – pay TTD within 14 days or provide written explanation of what’s needed to determine liability	2171	108	2	1.85%
IR1	215 ILCS 5/143(2) & 215 ILCS 5/457(1)	Unfiled Forms and Rate	253	253	253	100%
IR2	215 ILCS 5/132(2)	Failed to respond to request timely.	1	1	1	100%

II. BACKGROUND:

Continental Indemnity Company (“Company”) is a licensed property and casualty insurance company domiciled in Iowa and licensed to transact business in 48 states. AU Holding Company, Inc., is the holding company for Applied Group Insurance Holdings, Inc., and Applied Underwriters, Inc., and their related subsidiaries. The Company is a wholly owned subsidiary of North American Casualty Company, which is a wholly owned subsidiary of Applied Underwriters, Inc. Applied Underwriters Captive Risk Assurance Company, noted in Section VI., Inter-related Findings, is a subsidiary of Applied Underwriters, Inc.

Continental Indemnity Company

2016, 2017 and 2018 NAIC Annual Statement Page 19 (Illinois) reflects the following: NAIC # 28258

Year	Line	Direct premium written	Direct premium earned	Direct losses paid	Direct losses incurred
2016	Workers' Compensation	\$35,781,096	\$35,781,096	\$17,065,703	\$15,389,041
2017	Workers' Compensation	\$27,612,028	\$27,612,028	\$20,097,139	\$21,536,053
2018	Workers' Compensation	\$16,009,671	\$16,009,671	\$8,390,897	\$4,935,095

III. METHODOLOGY:

The market conduct examination places emphasis on an insurer's systems and procedures used in dealing with insureds and claimants. The scope of this market conduct examination was limited to the following general areas.

- a. Complaints
- b. Risk Selection
- c. Underwriting
- d. Claims
- e. Producer licensing.

The review of these categories is accomplished through examination of individual underwriting and claim files, written interrogatories, and interviews with company personnel. Each of these categories is examined for compliance with Department of Insurance rules and regulations and applicable state laws.

The following method was used to obtain the required samples and to assure a statistically sound selection. Surveys were developed from Company generated Excel spreadsheets. Random statistical printout reports were generated by the examiners and presented to the Company for retrieval.

Risk Selection

Cancellations and non-renewals of existing policy holders were requested based on the effective date of the transaction falling within the period under examination. Cancellations and non-renewals were reviewed for their compliance with statutory requirements, the accuracy and validity of reasons given, and for any possible discrimination.

Underwriting

The underwriting of new applicants for coverage with the company was selected based on the inception date of the policy falling within the period under examination. New policies were reviewed for rating accuracy, use of filed rates, and use of filed forms, for compliance with company underwriting guidelines and to ensure that the coverage provided was as requested by the applicant.

Claims

Claims were requested based on the settlement occurring or the claim file being closed without payment within the period under examination.

All claims were reviewed for compliance with policy contracts and endorsements and applicable sections of the Illinois Insurance Code (215 ILCS 5/1 et seq. and 820 ILCS 305/1 et seq.) and the Illinois Administrative Code (50 Ill. Adm. Code Parts 2902 and 9110).

Complaints were reviewed for completion, accuracy and validity which were based on complaints received by the Department of Insurance during the examination period. The accuracy and completeness of the Company complaint log was also reviewed.

Producer terminations and licensing were reviewed for their compliance with statutory requirements.

IV. SELECTION OF SAMPLE:

Survey	Population	Number Reviewed	Percentage Reviewed
Risk Selection	237	149	62.86%
Workers' Compensation Cancellations	70	70	100%
Workers' Compensation Non-renewals	167	79	47.30%
Underwriting	1004	197	19.62%
Workers' Compensation New Business	201	84	41.79%
Workers' Compensation Renewals	803	113	14.07%
Claims	2333	184	7.88%
Workers' Compensation – Paid	2174	108	4.96%
Workers' Compensation – CWP	159	76	47.79%
Policyholder Service			
Department Complaints	2	2	100%
Consumer Complaints	0	0	0.00%
Producer Terminations	0	0	0.00%
Producer Licensing	317	84	26.49%

V. FINDINGS:

- a. Risk Selection:
 - i. Workers' Compensation – Cancellations
 - 1. No criticisms were found in the following surveys:
 - a. Cancellations in the First 60 days (no data provided)
 - b. Cancellations Mid Term (After first 60 days)
 - c. Insured Requested Cancellations and Cancellations for Non-Payment of Premium
 - ii. Workers' Compensation - Non-renewals:
 - 1. In four (4) non-renewal policy files (5.06% of the 79 policy files reviewed), the Company failed to provide the minimum 60-day notice before the date of non-renewal for the policy in violation of 215 ILCS 5/143.17a.
- b. Underwriting:
 - i. Workers' Compensation - New Business
 - 1. In one (1) policy file the company failed to follow underwriting guidelines filed with the department and charged a premium based on including the payroll of an employee (owner) that signed a waiver on 3/24/2017 to be excluded prior to the issue of the new policy issued effective 4/2/2017 resulting in a premium overcharge of \$8,310.09 in violation of 215 ILCS 5/462b.
 - ii. Workers' Compensation – Renewals
 - 1. In one (1) policy file the company failed to provide the minimum 60-day notice before the renewal of the policy that included a premium increase of 30%+ from the previous amount charged for the policy in violation of 215 ILCS 5/143.17a(b).
 - iii. Workers' Compensation – policy modifications
 - 1. See Inter-Related findings regarding unfiled forms and rates in “Reinsurance Participation Agreements” issued by affiliated Applied Underwriters Captive Risk Assurance Company and sold in conjunction with the Company’s guaranteed cost workers’ compensation and employers’ liability policies.
- c. Claims:
 - i. Workers' Compensation Paid Claims
 - 1. In one (1) claim file (0.92% of the 108 claim files reviewed) the Company failed to provide a written explanation for the basis of the denial to the medical provider within 30 days of receipt of the bill in violation of 820 ILCS 305/8.2(d)(2).
 - 2. In seven (7) claim files (6.48% of the 108 claim files reviewed) the Company failed to pay interest to the medical provider within 30 days after failing to pay medical bills within 30 days of receipt of medical bills which contained substantially all the required data elements necessary to adjudicate the bills or nonpayment to a medical provider in violation of 820 ILCS 305/8.2(d)(3).
 - 3. A total of 1,391 medical bills were reviewed, eight (8) medical bills (0.57% of 1,391 medical bills reviewed) were paid after a period of 30 days from the date of receipt resulting in a total of \$484.81 in interest owed to the medical providers and remains unpaid by the company. All the medical bills were from the paid claim and closed without payment claim samples. A medical bill was chosen for review based on the date the Company received the medical bill. The date of receipt of the medical bill must be within the specified experience period of January 1, 2016 to December 31, 2018.

4. In two (2) claim files (1.85% of the 108 claim files reviewed) the Company failed to issue payment of temporary total disability benefits to the employee or advise the employee in writing of the information needed to make that determination or provide a written explanation of the basis for denial within 14 days of notification or knowledge of such inability or alleged inability to work in violation of 50 Ill. Adm. Code Part 9110.70.
- ii. Workers' Compensation Closed Without Payment Claims
 1. In five (5) claim files (6.57% of the 76 claim files reviewed) the Company failed to issue payment of temporary total disability benefits to the employee or advise the employee in writing of the information needed to make that determination or provide a written explanation of the basis for denial within 14 days of notification or knowledge of such inability or alleged inability to work to the employee in violation of 50 Ill. Adm. Code Part 9110.70.
 2. In eight (8) claim files (9.2% of the 76 claim files reviewed) the Company failed to provide a written explanation for the basis of the denial to the medical provider within 30 days of receipt of the bill in violation of 820 ILCS 305/8.2(d)(2).
- d. Policyholder Service
 - i. Department Complaints
 1. The Company was criticized for failing to maintain the minimum information in the Company complaint record as outlined in Exhibit A and defined in Exhibit B in violation of 50 Ill. Adm. Code 926.50.
 - ii. Consumer Complaints
 1. No data submitted for the survey.
 - iii. Producer Licensing
 1. In three (3) instances involving the payment of commission to producers/agents for insurance policies (3.57% of the 84 agents reviewed) the Company issued commission payments for the sale of a policy by a producer/agent not licensed in the State of Illinois at the time of the sale in violation of 215 ILCS 5/500-80.

VI. INTER-RELATED FINDINGS:

- a. In conjunction with the Company's guaranteed cost workers' compensation and employers' liability policies, an affiliated member of AU Holding Company, Inc., Applied Underwriters Captive Risk Assurance, issued Two Hundred and Fifty-Three (253) "Reinsurance Participation Agreements" ("RPAs"). These RPAs were issued to Illinois insureds, but were not filed with the Director.

The Two Hundred and Fifty-Three (253) RPAs issued to Illinois insureds from on or about 2009 to the present by Applied Underwriters Captive Risk Assurance Company, were and are in violation of 215 ILCS 5/143(2) and 215 ILCS 5/457(1).

- b. Applied Underwriters Captive Risk Assurance violated section 132(2) of the Illinois Insurance Code (215 ILCS 5/132(2)) by failing to provide books, records, documents, or papers in a timely manner and after extensions had been granted.

VII. OTHER

The Company issued a new policy that included coverage for the owner that had signed an agreement to waive coverage before the issuance of the policy and identified in Criticism #5. The coverage waiver signed by the owner of the business is dated 3/24/2017, the policy was issued effective 4/2/2017. The Company overcharged premium of \$8,310.09 for the policy.

The Company disputes the Criticism #5 – a violation of 215 ILCS 5/462b for failure to follow their filed underwriting and rating guidelines in that they failed to honor the coverage waiver signed by the owner of the company.

The Company states in their response: “Premium is billed as earned. We did not reduce the estimated payroll on the policy for class IL0042 to account for the owner’s exclusion as premium is only billed and collected in association with the payroll processing service provided. The owner did not process compensable payroll through the payroll processing service; therefore, no premium was billed for workers’ compensation coverage of the excluded owner (Guadalupe Magallanes aka Lupe Magallanes)”.

A total of \$484.81 in interest is owed to various medical providers and remains unpaid by the company (Criticism #11).

The Company disagreed with Criticism # 6, Criticism # 7, Criticism # 10, Criticism # 11 and Criticism # 12. The Company offered no explanation or any additional documentation to support their disagreement with the criticisms. We asked the Coordinator, Mr. Jeffrey A. Silver if he would offer any further explanation or documentation for the criticisms they disagreed with, he indicated that the criticisms were not written correctly.

STATE OF ILLINOIS)
) ss
COUNTY OF SANGAMON)

Ron Cochran, being first duly sworn upon his/her oath, deposes and says:

That he was appointed by the Acting Director of Insurance of the State of Illinois (the "Director") as Examiner-In Charge to examine the insurance business and affairs of Continental Indemnity Company, (the "Company"), NAIC 28258.

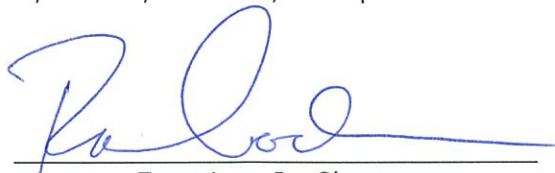
That the Examiner-In-Charge was directed to make a full and true report to the Director of the examination with a full statement of the condition and operation of the business and affairs of the Company with any other information as shall in the opinion of the Examiner-In-Charge be requisite to furnish the Director with a statement of the condition and operation of the Company's business and affairs and the manner in which the Company conducts its business;

That neither the Examiner-In-Charge nor any other persons so designated nor any members of their immediate families is an officer of, connected with, or financially interested in the Company nor any of the Company's affiliates other than as a policyholder or claimant under a policy or as an owner of shares in a regulated diversified investment company, and that neither the Examiner-In-Charge nor any other persons so designated nor any members of their immediate families is financially interested in any other corporation or person affected by the examination;

That an examination was made of the affairs of the Company pursuant to the authority vested in the Examiner-In-Charge by the Director of Insurance of the State of Illinois;

That she/he was the Examiner-in-Charge of said examination and the attached report of examination is a full and true statement of the condition and operation of the insurance business and affairs of the Company for the period covered by the Report as determined by the examiners;

That the Report contains only facts ascertained from the books, papers, records, or documents, and other evidence obtained by investigation and examined or ascertained from the testimony of officers or agents or other persons examined under oath concerning the business, affairs, conduct, and performance of the Company.

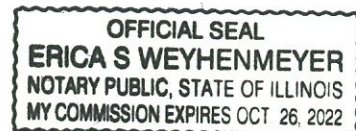


Examiner-In-Charge

Subscribed and sworn to before me
this 31 day of May, 2019



Notary Public



STATE OF ILLINOIS

DEPARTMENT OF INSURANCE



IN THE MATTER OF:

CONTINENTAL INDEMNITY COMPANY
10805 OLD MILL ROAD
OMAHA, NE, 68154

STIPULATION AND CONSENT ORDER

WHEREAS, the Director of the Illinois Department of Insurance (“Department”) is a duly authorized and appointed official of the State of Illinois, having authority and responsibility for the enforcement of the insurance laws of this State; and

WHEREAS, Continental Indemnity Company (“the Company”), NAIC 28258, is authorized under the insurance laws of this State and by the Director to engage in the business of soliciting, selling and issuing insurance policies; and

WHEREAS, a Market Conduct Examination of the Company was conducted by a duly qualified examiner of the Department pursuant to Sections 132, 401, 402, 403, and 425 of the Illinois Insurance Code (215 ILCS 5/132, 5/401, 5/402, 5/403, and 5/425) which is incorporated herein by reference; and

WHEREAS, as a result of the Market Conduct Examination, the Department examiner filed a Market Conduct Examination Report covering the period of January 1, 2018-December 31, 2018, which is an official document of the Department; and

WHEREAS, the Market Conduct Examination Report cited various areas in which the Company was not in compliance with the Illinois Insurance Code (215 ILCS 5/1 *et seq.*) and Department Regulations (50 Ill. Adm. Code 101 *et seq.*); and

WHEREAS, nothing herein contained, nor any action taken by the Company in connection with this Stipulation and Consent Order, shall constitute, or be construed as, an admission of fault, liability or wrongdoing of any kind whatsoever by the Company; and

WHEREAS, the Company is aware of and understands their various rights in connection with the examination and report, including the right to counsel, notice, hearing and appeal under Sections 132, 401, 402, 407, and 407.2 of the Illinois Insurance Code and 50 Ill. Adm. Code 2402; and

WHEREAS, the Company understands and agrees that by entering into this Stipulation and Consent Order, they waive any and all rights to notice and hearing; and

WHEREAS, the Company and the Director, for the purpose of resolving all matters raised by the report and in order to avoid any further administrative action, hereby enter into this Stipulation and Consent Order.

NOW, THEREFORE, IT IS AGREED by and between the Company and the Director as follows:


1. The Market Conduct Examination indicated various areas in which the Company was not in compliance with provisions of the Illinois Insurance Code and Department Regulations; and
2. The Director and the Company consent to this Order requiring the Company to take certain actions to come into compliance with provisions of the Illinois Insurance Code and Department Regulations.

THEREFORE, IT IS HEREBY ORDERED by the undersigned Director that the Company shall:

1. Institute and maintain policies and procedures whereby the Company shall ensure claims submitted by providers are paid within 30 days of receipt of the bill which contains substantially all of the required data elements necessary to adjudicate the bill as required by 820 ILCS 305/8.2(d)(1).
2. Institute and maintain policies and procedures whereby the Company shall ensure filing of forms issued and delivered as required by 215 ILCS 5/143(2).
3. Institute and maintain policies and procedures whereby the Company shall file with the Director every manual of classifications, every manual of rules and rates, every rating plan and every modification of the foregoing which it intends to use not later than 30 days prior to use per 215 ILCS 5/457(1).
4. Institute and maintain policies and procedures whereby the Company shall provide examiners adequate access to all books, records, documents, and any or all papers relating to the business, performance, operations, and affairs of the Company as required by 215 ILCS 5/132(2).
5. Submit to the Director of Insurance, State of Illinois, proof of compliance with the above four (4) orders within 10 days of execution of this Order.
6. Pay to the Director of Insurance, State of Illinois, a civil forfeiture in the amount of \$253,000 to be paid within 10 days of execution of this Order.

NOTHING contained herein shall prohibit the Director from taking any and all appropriate regulatory action as set forth in the Illinois Insurance Code including, but not limited to, levying additional forfeitures, should the Company violate any of the provisions of this Stipulation and Consent Order or any provisions of the Illinois Insurance Code or Department Regulations.

On behalf of CONTINENTAL INDEMNITY COMPANY

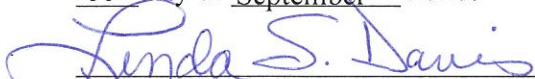


Signature
Jeffrey A. Silver

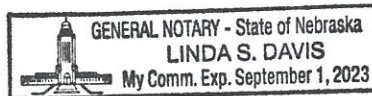
Name
Secretary

Title

Subscribed and sworn to before me this
11 day of September 2020.

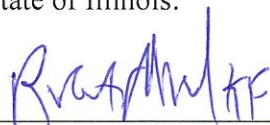


Notary Public



DEPARTMENT OF INSURANCE of the
State of Illinois:

DATE 9/16/2020



Robert H. Muriel
Director

