



Illinois Department of Insurance

JB Pritzker
Governor

Dana Popish Severinghaus
Director

VIA ELECTRONIC MAIL

July 5, 2022

Alberto Schiavon, President
c/o Ryan Short
Elephant Insurance Company
9950 Mayland Drive, Suite 400
Henrico, VA. 23233

Re: Elephant Insurance Company, NAIC 13688
Market Conduct Examination Report Closing Letter

Dear Mr. Schiavon:

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
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**ILLINOIS DEPARTMENT OF INSURANCE
MARKET CONDUCT EXAMINATION OF**

ELEPHANT INSURANCE COMPANY

MARKET CONDUCT EXAMINATION REPORT

DATE OF EXAMINATION: December 7, 2020 to August 31, 2021

EXAMINATION OF: Elephant Insurance Company (NAIC #13688)

LOCATION OF EXAMINATION: 9950 Mayland Drive, Suite 400
Henrico, VA 23233

PERIOD COVERED BY
EXAMINATION: October 1, 2019 through September 30, 2020
(Complaints were reviewed for the period
April 1, 2019 through September 30, 2020)

EXAMINERS:
MCM

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I. SUMMARY

A targeted market conduct examination of Elephant Insurance Company (NAIC #13688), (herein referred to as “Company”) was performed to determine compliance with Illinois Statutes and the Illinois Administrative Code.

The examination was targeted to Private Passenger Automobile (“PPA”) coverages.

The following represents general findings from issued criticisms; however, specific details are found in each section of the report.

TABLE OF TOTAL VIOLATIONS						
Crit #	Statute/ Rule	Description of Violation	Findings	Files Reviewed	No. of Violations	Error %
1	215 ILCS 5/143d(c)	DOI Complaints: Company failed to respond to complaint within 21 days.	A.1	2	1	50%
4	215 ILCS 5/143.14(a)	Risk Selection – Cancellations less than 60 days: Company failed to send a cancellation notice.	C.1	79	38	48.1%
5	215 ILCS 5/143.14(a)	Risk Selection – Cancellations greater than 60 days: Company failed to send a cancellation notice.	C.2	114	61	53.5%
6	215 ILCS 5/143.14 (a)	Risk Selection – Cancellations less than 60 days: Company failed to retain a copy of the proof of mailing.	C.1	79	37	46.8%
8	215 ILCS 5/143.15	Risk Selection – Cancellations less than 60 days: Company failed to provide evidence the lienholder received proper notice.	C.1	79	26	32.9%
9	215 ILCS 5/143.15	Risk Selection – Cancellations greater than 60 days: Company failed to provide evidence the lienholder received proper notice.	C.2	114	48	42.1%
10	215 ILCS 5/143.15	Risk Selection – Cancellations greater than 60 days: Company failed to notify the lienholder 10 days prior to cancellation.	C.2	114	1	0.9%
12	215 ILCS 5/143.17 (a)	Risk Selection – Nonrenewals: Company failed to retain a copy of the proof of mailing.	C.3	68	4	5.9%
13	215 ILCS 5/143.17 (a)	Risk Selection – Nonrenewals: Company failed to provide a proof of mailing which was date-stamped.	C.3	68	9	13.2%
15	215 ILCS 5/154.6 (d)	Claims – Total Loss: Company failed to attempt in good faith to effectuate the prompt, fair and equitable settlement of the claim.	E.3	41	1	2.4%
16	50 Ill. Adm. Code 919.60(a)	Claims – Total Loss: Company indicated in an email communication to an insured that the payment was “final”.	E.3	41	1	2.4%
17	50 Ill. Adm. Code 919.80(c)	Claims –Total Loss: Company failed to provide the insured the information contained in Exhibit A.	E.3	41	15	36.6%
18	50 Ill. Adm. Code 919.80(c)	Claims –Total Loss: Company failed to provide the insured the information contained in Exhibit A within seven (7) days of determining the vehicle a total loss.	E.3	41	4	9.8%

TABLE OF TOTAL VIOLATIONS

Crit #	Statute/ Rule	Description of Violation	Findings	Files Reviewed	No. of Violations	Error %
19	50 Ill. Adm. Code 919.80(b)(2)	Claims – Total Loss: Company failed to provide a reasonable written explanation for the delay to the insured.	E.3	41	17	41.5%
22	215 ILCS 5/143(b)	Claims – Subrogation: Company failed to refund the insured’s share of deductible after a subrogation recovery.	E.6	57	2	3.5%
23	215 ILCS 5/143a-2	Underwriting and Rating – Renewals: Company failed to obtain from the insured either a written request for limits of uninsured motorist coverage which are less than bodily injury liability limits or a written rejection of limits in excess of those required by law.	D.2	114	2	1.8%
24	215 ILCS 5/154.6 (b)	Claims – Total Loss: Company failed to acknowledge with reasonable promptness pertinent communications with respect to the claim.	E.3	41	1	2.4%
25	50 Ill. Adm. Code 919.80(b)(3)	Claims – Third-Party Closed Without Payment: Company failed to provide a reasonable written explanation for the delay to the third-party claimant.	E.5	102	17	16.7%
26	50 Ill. Adm. Code 919.50(a)(2)	Claims – Third-Party Closed Without Payment: Company failed to provide a reasonable written explanation of the basis of the denial to the third-party claimant.	E.5	102	2	2.0%
27	215 ILCS 5/154.6 (c)	Claims – Third-Party Paid: Company failed to adopt reasonable standards for the prompt investigations and settlement of claims and failed to contact the claimants within 21 days of receipt of information.	E.4	114	3	2.6%
28	215 ILCS 5/154.6 (b)	Claims – Third-Party Paid: Company failed to acknowledge with reasonable promptness pertinent communications or make payment with respect to the claim.	E.4	114	1	0.9%
29	50 Ill. Adm. Code 919.80(d)(4) (a)(ii)	Claims – Third-Party Paid: Company applied a betterment deduction in the amount of \$3,728.81, which is in excess of \$500.	E.4	114	1	0.9%
30	50 Ill. Adm. Code 919.50(a)	Claims – Third-Party Paid: Company failed to offer payment within 30 days after affirmation of liability.	E.4	114	2	1.8%
31	50 Ill. Adm. Code 919.80(b)(3)	Claims – Third-Party Paid: Company failed to provide a reasonable written explanation for the delay to the third-party claimant.	E.4	114	10	8.8%
32	50 Ill. Adm. Code 919.80(b)(2)	Claims – First-Party Paid: Company failed to send a 40-day delay letter.	E.1	117	17	14.5%
33	50 Ill. Adm. Code 919.80(b)(2)	Claims – First-Party Closed Without Payment: Company failed to send a 40-day delay letter.	E.2	203	17	8.4%
34	50 Ill. Adm. Code 919.50(a)(1)	Claims – First-Party Closed Without Payment: Company failed to include “Notice of Availability” of the Department of Insurance with denial explanation.	E.2	203	15	7.4%

TABLE OF TOTAL VIOLATIONS

Crit #	Statute/ Rule	Description of Violation	Findings	Files Reviewed	No. of Violations	Error %
35	215 ILCS 5/154.6 (b) and 50 Ill. Adm. Code 919.40	Claims – First-Party Closed Without Payment: Company failed to acknowledge communication from the insured within 15 working days from receipt of a communication.	E.2	203	1	0.5%
37	215 ILCS 5/154.6	Claims – First-Party Closed Without Payment: Company failed to effectuate prompt, fair and equitable settlement.	E.2	203	1	0.5%
39	50 Ill. Adm. Code 919.30(c)	Claims – First-Party Closed Without Payment: Company failed to retain documentation evidencing the source of the prior damage amount.	E.2	203	1	0.5%
40	50 Ill. Adm. Code 919.50(a)	Claims – First-Party Closed Without Payment: Company failed to offer payment within 30 days of affirmation of liability or make payment in the amount of \$1,462.20.	E.2	203	1	0.5%
41	50 Ill. Adm. Code 919.80(b)(3)	Claims – Litigated: Company failed to provide a reasonable written explanation for the delay to the third-party claimant.	E.7	3	1	33.3%
42	215 ILCS 5/155.27	Underwriting and Rating – New Business: Company imposed a surcharge solely based on the identity of the applicant’s prior auto insurance carrier.	D.1	114	7	6.1%
43	50 Ill. Adm. Code 754.10	Underwriting and Rating – New Business: Company’s filed rating pages did not include an Occupation Status of “Disabled” or an alternative to classify the Occupation Status of “Disabled.”	D.1	114	1	0.9%
44	50 Ill. Adm. Code 754.10	Underwriting and Rating – New Business: Company failed to adhere to its filed Expense Score rule.	D.1	114	General	General
45	50 Ill. Adm. Code 754.10	Underwriting and Rating – New Business: Company failed to implement vehicle history rules and factors contained in its SERFF filing on the effective date specified in the filing.	D.1	114	15	13.2%
46	50 Ill. Adm. Code 754.10	Underwriting and Rating – New Business: Company used rates in effect on the date coverage was quoted or bound, instead of the rates in effect at policy inception.	D.1	114	2	1.8%
47	215 ILCS 5/143(2)	Underwriting and Rating – New Business: Company attached an unfiled Signature Page to policies.	D.1	114	58	50.9%
48	50 Ill. Adm. Code 754.10	Underwriting and Rating – New Business: Company deviated from the filed rating rule to develop the Expense Score.	D.1	114	7	6.1%
49	215 ILCS 5/423(1)	Underwriting and Rating – New Business: Company’s utilization of the Reapplication Discount resulted in unfairly discriminatory rates.	D.1	114	13	11.4%
50	215 ILCS 5/423(1)	Underwriting and Rating – New Business: Company failed to process an endorsement in accordance with language in letters to policy owners.	D.1	114	13	11.4%

TABLE OF TOTAL VIOLATIONS

Crit #	Statute/Rule	Description of Violation	Findings	Files Reviewed	No. of Violations	Error %
51	215 ILCS 5/423(1)	Underwriting and Rating – New Business: Company’s practices related to the application of the anti-theft discount fail to provide the applicant with guidance or a description of active or passive anti-theft devices.	D.1	114	General	General
52	215 ILCS 5/423(1)	Underwriting and Rating – New Business: Company’s use of a form that contains a physical damage exclusion if a driver is found to have a blood alcohol content of .08 or higher gives the Company an unfair competitive advantage.	D.1	114	General	General
54	215 ILCS 5/423(1)	Underwriting and Rating – New Business: Company’s development of different premiums for policies with identical criteria results in unfairly discriminatory rates.	D.1	114	General	General
55	215 ILCS 5/423(1)	Underwriting and Rating – New Business: Company’s failure to review underwriting and rating characteristics within a reasonable experience period results in unfairly discriminatory rates.	D.1	114	General	General
56	50 Ill. Adm Code 754.10(b)(2)	Underwriting and Rating – New Business: Company’s use of bind dates in lieu of effective dates for underwriting and pricing is an unfair practice.	D.1	114	General	General
58	215 ILCS 5/424(5)	Underwriting and Rating – New Business: Company’s use of a rating plan that charges a higher automobile insurance premium because of certain Occupation Status is an unfair method of competition and an unfair practice.	D.1	114	General	General

II. BACKGROUND

The examination is of Elephant Insurance Company (NAIC #13688), (herein referred to as “Company”).

AIUS Insurance Company was organized on June 5, 2009 and licensed by the Illinois Department of Insurance on April 7, 2011 as a foreign property and casualty insurer. The Company changed its name to Elephant Insurance Company effective March 8, 2010.

As of October 1, 2019, the first day in the examination period, Elephant Insurance Company was a wholly owned subsidiary of Admiral Group, PLC.

In addition to Illinois, the Company was licensed to conduct business in nineteen other jurisdictions during the period under examination.

As of December 31, 2019, the Company’s written premiums in Illinois for the lines of business subject to the scope of this examination were as follows:

Elephant Insurance Company						
Line of Business	Direct Premiums Written (\$)	Direct Premiums Earned (\$)	Direct Unearned Premium (\$)	Direct Losses Paid (\$)	Direct Losses Incurred (\$)	Direct Losses Unpaid (\$)
Private Passenger Auto Liability	2,967,321	2,988,143	1,629,616	2,529,372	2,344,316	1,809,677
Private Passenger Auto Physical Damage	1,854,934	1,950,764	1,010,932	1,689,296	1,519,728	85,925
Motorcycle	0	0	0	0	0	0
Totals	4,822,255	4,938,907	2,640,548	4,218,668	3,864,044	1,895,602

III. METHODOLOGY

The market conduct examination places emphasis on an insurer's systems, procedures and guidelines used in dealing with insureds and claimants. The period under review was generally October 1, 2019 through September 30, 2020. The following categories were the areas examined:

- A. Complaint Handling
- B. Marketing and Sales
- C. Risk Selection
- D. Underwriting and Rating
- E. Claims

The review of these categories was accomplished through examination of individual policy and claim files, Company procedures, written interrogatories and interviews with the Company's personnel. Each category was examined for compliance with Illinois Department of Insurance ("DOI") rules and regulations, and applicable state laws.

Criticisms were provided to the Company addressing violations discovered in the review processes. All valid criticisms were incorporated into this report.

The following methods were used to obtain the required samples and to assure a statistically accurate and methodical selection. The samples were developed from data provided by the Company. The sample size was based on the most recent NAIC *Market Regulation Handbook*. Random samples were generated using Audit Command Language ("ACL") software and the selected samples were provided to the Company for retrieval.

Complaint Handling

DOI Complaints and Consumer Complaints for the period April 1, 2019 through September 30, 2020, were reviewed for compliance with applicable state laws and the Company's own guidelines.

DOI Complaints – The population request for this category consisted of complaints received from the DOI during the examination period. The Company's complaint registry was reconciled with the individual file information and the DOI records to determine the completeness and accuracy of the data recorded. Each complaint file, along with the underlying claim or underwriting file, was reviewed for compliance with regulatory requirements.

Consumer Complaints – The population request for this category consisted of complaints received directly from consumers during the examination period. The Company's complaint registry was reconciled with the individual file information to determine the completeness and accuracy of the data recorded. Each complaint file, along with the underlying claim or underwriting file, was reviewed for compliance with regulatory requirements.

Marketing and Sales

Marketing and sales materials were reviewed to evaluate the representations made by the Company about its products or services and for compliance with applicable state laws and the Company's own guidelines.

The examiners requested the Company's advertising and marketing manual; procedures for the approval of any advertising developed by brokers or agents; a listing of all advertising and marketing materials used by the Company during the examination period; and producer training manuals.

The Company stated they did not utilize a marketing manual. The Company also stated that since they did not have agents or brokers, all advertising materials were created by the Company and there were no producer training materials.

The reviews included judgmental sampling from the listing of all advertising and marketing materials provided by the Company.

Risk Selection

Cancellations, Nonrenewals and Rescissions were reviewed for compliance with applicable state laws, the Company's own guidelines, and to ensure reasons for termination were valid and not unfairly discriminatory.

Random samples were selected based on transactions occurring during the examination period.

Underwriting and Rating

The underwriting samples consisted of new and renewal business.

The new business sample was randomly selected based on the inception date occurring during the examination period. Policies were reviewed for rating accuracy, use of filed rates, use of filed forms, and for compliance with applicable state laws and the Company's own guidelines.

The renewal business sample was randomly selection based on the renewal date occurring during the examination period. Policies were reviewed for use of filed rates, use of filed forms, and for compliance with applicable state laws and the Company's own guidelines.

Claims

Claims were selected based on settlement occurring within the examination period. Claims were reviewed for compliance with policy contracts and endorsements, applicable sections of the Illinois Insurance Code (215 ILCS 5/1, et seq.) and the Illinois Administrative Code (50 Ill. Adm. Code 101 et seq.).

Separate samples were selected for First-party and Third-party claims. For each, separate samples were developed for both paid claims and those closed without payment ("CWP"). In addition, separate reviews were conducted of all total loss, subrogated and litigated claims.

SELECTION OF SAMPLES			
	Sample Size	Files Reviewed	Percentage Reviewed
Complaint Handling			
DOI Complaints	2	2	100.00%
Consumer Complaints	2	2	100.00%
Marketing and Sales			
Company-generated Marketing	168	50	29.80%
Producer Training Materials	372	50	22.00%
Risk Selection			
Cancellations - Less than 60 days	199	79	39.70%
Cancellations - Greater than 60 days	1098	114	10.40%
Nonrenewals	68	68	100.00%
Rescissions	2	2	100.00%
Underwriting and Rating			
New Business	1352	114	8.40%
Renewals	1858	114	6.10%
Claims			
First-Party Paid	117	117	100.00%
First-Party Closed without payment	203	203	100.00%
Total Loss	41	41	100.00%
Third-Party Paid	114	114	100.00%
Third-Party Closed without payment	102	102	100.00%
Subrogation	57	57	100.00%
Litigated	3	3	100.00%

IV. FINDINGS

A. Complaint Handling

1. DOI Complaints

In one (1) file (50% of the two (2) examined), the Company failed to respond to the complaint within 21 days as required by 215 ILCS 5/143d(c). (Crit #1)

2. Consumer Complaints

No violations were noted.

B. Marketing and Sales

1. Company-generated Marketing

No violations were noted.

2. Producer Training Materials

No violations were noted.

C. Risk Selection

1. Cancellations – Less than 60 days

In 38 files (48.1% of the 79 examined), the Company failed to send a cancellation notice as required by 215 ILCS 5/143.15. (Crit #4) The Company is implementing a new procedure to come into compliance.

In 37 files (46.8% of the 79 examined), the Company failed to retain a copy of the proof of mailing as required by 215 ILCS 5/143.14(a). (Crit #6) The Company is implementing a new procedure to come into compliance.

In 26 files (32.9% of the 79 examined), the Company failed to provide evidence the lienholder received proper notice as required by 215 ILCS 5/143.15. (Crit #8) The Company is implementing a new procedure to come into compliance.

2. Cancellations – Greater than 60 days

In 61 files (53.5% of the 114 examined), the Company failed to send a cancellation notice as required by 215 ILCS 5/143.15. (Crit #5) The Company is implementing a new procedure to come into compliance.

In 48 files (42.1% of the 114 examined), the Company failed to provide evidence the lienholder received proper notice as required by 215 ILCS 5/143.15. (Crit #9) The Company is implementing a new procedure to come into compliance.

In one (1) file (0.9% of the 114 examined), the Company failed to notify the lienholder 10 days prior to cancellation as required by 215 ILCS 5/143.15. (Crit #10)

3. Nonrenewals

In four (4) files (5.9% of the 68 examined), the Company failed to retain a copy of the proof of mailing as required by 215 ILCS 5/143.17(a). (Crit #12) The Company has taken steps to resolve this finding.

In nine (9) files (13.2% of the 68 examined), the Company failed to provide a copy of the proof of mailing which was date-stamped as required by 215 ILCS 5/143.17(a). (Crit #13) The Company has taken steps to resolve this finding.

4. Rescissions

No violations were noted.

D. Underwriting and Rating

1. New Business

In seven (7) files (6.1% of the 114 examined), the Company imposed a surcharge upon the applicant for a policy of automobile insurance solely based on the identity of the applicant's prior automobile insurance carrier in violation of 215 ILCS 5/155.27. In most instances, the prior carrier score used to develop the insurance score results in a surcharge if GEICO is the insured's prior carrier (according to the Company's filed rating plan). The total amount of imposed surcharges amounted to \$72. (Crit #42) The Company is working to remove this factor.

In one (1) file (0.9% of the 114 examined), the applicant listed an Occupation of "Disabled" on the application. The Company's filed rating pages did not include an Occupation Status of "Disabled" and did not include an alternative to classify the Occupation Status of "Disabled" in order to develop expense scores in violation of 50 Ill. Adm. Code 754.10. (Crit #43)

In general, the Company's filed Expense Score rule establishes the use of an applicant's most recent prior insurance carrier as a criterion in the determination of the Expense Score. Since the Expense Score tables do not contain the name of specific insurance companies, but instead contain insurance company group names, the Company failed to adhere to its filed Expense Score rule in violation of 50 Ill. Adm. Code 754.10. (Crit #44) The Company has taken steps to resolve this finding.

In 15 files (13.2% of the 114 examined), the Company failed to implement vehicle history rules and related factors contained in their filing (SERFF Tracking Number EINS-132457550) on the effective date specified by the filing in violation of 50 Ill. Adm. Code 754.10. Total overcharges amounted to \$83 and total undercharges amounted to \$251 for a total premium variance of \$334. (Crit #45)

In two (2) files (1.8% of the 114 examined), the Company used rates in effect on the date coverage was quoted or bound, instead of the rates in effect at policy inception. Failure to adhere to the rating manual's new business effective date selected by the Company and filed with the Department violates 50 Ill. Adm. Code 754.10. Total undercharges amounted to \$3. (Crit #46)

In 58 files (50.9% of the 114 examined), the Company attached an unfiled “Signature Page” (form number EIC_ZZ_Signatures_0120) to policies beginning on or about February 25, 2020, in violation of 215 ILCS 5/143(2). (Crit #47) The Company has taken steps to resolve this finding.

In seven (7) files (6.1% of the 114 examined), the Company deviated from the filed rule to develop the Expense Score in violation of 50 Ill. Adm. Code 754.10. Total undercharges amounted to \$308. (Crit #48) The Company has taken steps to resolve this finding.

In general, the Company’s practices related to the application of the anti-theft discount failed to provide the applicant with guidance or a description of active or passive anti-theft devices. The failure to provide insureds with basic guidance or definitions establishes a context where qualified vehicles do not receive the discount while disqualified vehicles may receive the discount. This practice encourages misrepresentation and is determined to be an unfair practice pursuant to 215 ILCS 5/423(1). (Crit #51) The Company is implementing a new procedure to come into compliance.

In general, the Company’s form # EIC_ZZ_PersAutoPol_0620 contains a physical damage exclusion if the driver is found to have a blood alcohol content (BAC) of .08 or higher at the time of the accident. The Company’s use of this form, which gives the Company an unfair competitive advantage by reducing the number of otherwise payable claims, is determined to be an unfair method of competition pursuant to 215 ILCS 5/423(1). (Crit #52) Company filed this form during the examination to come into compliance.

In general, the Company derives the expense score from various criteria, including applicant-specific criteria. For traditional married couples, the expense score can vary significantly based on whether the husband or wife applied for coverage. The Company’s development of different premiums for policies with identical criteria results in unfairly discriminatory rates and is determined to be an unfair method of competition and an unfair practice pursuant to 215 ILCS 5/423(1). (Crit #54) The Company is implementing a new procedure to come into compliance.

In general, the Company uses an expense scoring procedure to allocate acquisition costs to policyholders and recalculates the score at renewal. Certain criteria will not get updated during the renewal process, including the applicants most recent liability limits at the time of binding, the age of newest vehicle at the time coverage is bound, good student discount compared to the applicant’s occupation, occupation status, age, and prior insurance carrier. As a result of this practice, policyholders will be perpetually rewarded or penalized based upon the identity of the insurance carrier providing coverage on the date of binding. The Company’s failure to review underwriting and rating characteristics within a reasonable experience period will result in unfairly discriminatory rates and is determined to be an unfair practice pursuant to 215 ILCS 5/423(1). (Crit #55) The Company is working to remove the prior carrier factor.

In general, the Company’s use of bind dates in lieu of policy effective dates for underwriting and rating presents the potential for multiple rate levels applicable to policies written with the same new business effective date due to rate changes in the interim and may perpetually impact insured’s applying for coverage prior to the in-force policy expiration because the in-force policy tenure rating criteria will not consider the current policy going to term. This is a violation of 50 Ill Adm. 754.10(b)(2) for use of unfiled rates. (Crit #56)

In general, certain occupations within the Company's Expense Score Group- O14, used within the Company's rating palm receive a lower expense score which resulted in a higher premium. Charging a higher automobile insurance premium for certain occupations within Expense Score- O14 is determined to be an unfair method of discrimination to 215 ILCS 5/424(5). (Crit #58)

2. Renewals

In two (2) files (1.8% of the 114 examined), the UM/UIM limits were less than the bodily injury liability limits and the Company failed to obtain, from the insured, a written request for limits of uninsured motorist coverage which are less than bodily injury liability limits or a written rejection of limits in excess of those required by law as required by 215 ILCS 5/143a-2. (Crit #23) The Company has taken steps to resolve this finding.

In 13 files (11.4% of the 114 examined), the Company stated in a letter to the policy owner that, "[w]e have processed the following endorsement" in relation to a policy change with a premium impact. The "Endorsement Type" listed in the letter stated "Other Change (premium impact)." The Company did not process an endorsement in accordance with the language in the letter to the policy owner. Instead, the Company applied the Reapplication Discount, which was a discount only available to policy owners who called the Company. Since the Reapplication Discount was only provided when policy owners called in, and there was no notice to policy owners that a discount would be provided if they called in, it resulted in unfairly discriminatory rating and is determined to be an unfair method of competition or an unfair or deceptive act or practice pursuant to 215 ILCS 5/423(1). In addition, the language stating, "[w]e have processed the following endorsement" is considered to be a trade practice that is a deceptive act or practice pursuant to 215 ILCS 5/423(1). (Crits #49 and #50) The Company is implementing a new procedure to come into compliance.

E. Claims

1. First-Party Paid

In 17 files (14.5% of the 117 examined), the Company failed to send a 40-day delay letter as required by 50 Ill. Adm. Code 919.80(b)(2). (Crit #32)

2. First-Party Closed Without Payment

In 17 files (8.4% of the 203 examined), the Company failed to send a 40-day delay letter as required by 50 Ill. Adm. Code 919.80(b)(2). (Crit #33)

In 15 files (7.4% of the 203 examined), the Company failed to include the "Notice of Availability" of the Department of Insurance with the explanation of denial as required by 50 Ill. Adm. Code 919.50(a)(1). (Crit #34)

In one (1) file (0.5% of the 203 examined), the Company failed to acknowledge a communication from the insured within 15 working days from receipt of a communication as required by 215 ILCS 5/154.6(b) and 50 Ill. Adm. Code 919.40. (Crit #35)

In one (1) file (0.5% of the 203 examined), the Company failed to effectuate prompt, fair and equitable settlement of the claim as required by 215 ILCS 5/154.6. (Crit #37)

In one (1) file (0.5% of the 203 examined), the Company failed to retain documentation evidencing the source of the prior damage amount as required by 50 Ill. Adm. Code 919.30(c). (Crit #39)

In one (1) file (0.5% of the 203 examined), the Company failed to offer payment within 30 days of affirmation of liability or make payment as required by 50 Ill. Adm. Code 919.50(a). Once brought to its attention, the Company issued payment in the amount of \$1,462.20 to the insured. (Crit #40)

3. Total Loss

In one (1) file (2.4% of the 41 examined), the Company failed to attempt in good faith to effectuate prompt, fair and equitable settlement of the claim in violation of 215 ILCS 5/154.6(d). (Crit #15)

In one (1) file (2.4% of the 41 examined), the Company indicated in an email communication to an insured that the payment was “final” in violation of 50 Ill. Adm. Code 919.60(a). (Crit #16)

In 15 files (36.6% of the 41 examined), the Company failed to provide to the insured the information contained in Exhibit A as required by 50 Ill. Adm. Code 919.80(c). (Crit #17)

In four (4) files (9.8% of the 41 examined), the Company failed to provide to the insured the information contained in Exhibit A within seven (7) days of determining the vehicle a total loss as required by 50 Ill. Adm. Code 919.80(c). (Crit #18)

In 17 files (41.5% of the 41 examined), the Company failed to provide a reasonable written explanation for the delay to the insured when a first party physical damage automobile claim remained unresolved for more than 40 calendar days from the date it was reported as required by 50 Ill. Adm. Code 919.80(b)(2). (Crit #19)

In one (1) file (2.4% of the 41 examined), the Company failed to acknowledge with reasonable promptness pertinent communications with respect to the claim in violation of 215 ILCS 5/154.6(b). The Company sent the acknowledgment of claim email to the wrong recipient (the email was sent to the claimant and not the insured). (Crit #24)

4. Third-Party Paid

In three (3) files (2.6% of the 114 examined), the Company failed to adopt and implement reasonable standards for the prompt investigations and settlement of claims arising under its policies in violation of 215 ILCS 5/154.6(c). The Company failed to contact the claimant within 21 days of receipt of the claimant’s information. (Crit #27)

In one (1) file (0.9% of the 114 examined), the Company failed to acknowledge with reasonable promptness pertinent communications with respect to the claim in violation of 215 ILCS 5/154.6(b). The Company received an invoice from the claimant on or about February 4, 2019 and failed to respond until making payment on October 18, 2019. (Crit #28)

In one (1) file (0.9% of the 114 examined), the Company applied a betterment deduction in excess of \$500 in violation of 50 Ill. Adm. Code 919.80(d)(4)(a)(ii). This resulted in a \$3,228.81 underpayment. (Crit #29)

In two (2) files (1.8% of the 114 examined), the Company failed to offer payment within 30 days after affirmation of liability in violation of 50 Ill. Adm. Code 919.50(a). (Crit #30)

In 10 files (8.8% of the 114 examined, the Company failed to provide a reasonable written explanation for the delay to the third-party claimant when an automobile property damage liability claim remained unresolved for more than 60 calendar days from the date it was reported as required by 50 Ill. Adm. Code 919.80(b)(3). (Crit #31)

5. Third-Party Closed Without Payment

In 17 files (16.7% of the 102 examined), the Company failed to provide a reasonable written explanation for the delay to the third-party claimant when an automobile property damage liability claim remained unresolved for more than 60 calendar days from the date it was reported as required by 50 Ill. Adm. Code 919.80(b)(3). (Crit #25)

In two (2) files (2% of the 102 examined), the Company failed to provide a reasonable written explanation of the basis of the denial to the third-party claimant as required by 50 Ill. Adm. Code 919.50(a)(2). (Crit #26)

6. Subrogation

In two (2) files (3.5% of the 57 examined), the Company failed to refund the insured's share of the deductible after a subrogation recovery as soon as the amount was collected in violation of 215 ILCS 5/143(b). Once brought to its attention, the Company sent the deductible refunds (totaling \$545.31) to the insureds. (Crit #22).

7. Litigated

In one (1) file (33.3% of the three (3) examined), the Company failed to provide a reasonable written explanation for the delay to the third-party claimant when an automobile property damage liability claim remained unresolved for more than 60 calendar days from the date it was reported as required by 50 Ill. Adm. Code 919.80(b)(3). (Crit #41)

STATE OF ILLINOIS

DEPARTMENT OF INSURANCE



IN THE MATTER OF:

ELEPHANT INSURANCE COMPANY
9950 MAYLAND DRIVE, SUITE 400
HENRICO, VA. 23233

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, Elephant Insurance Company (“the Company”), NAIC 13688, 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); and

WHEREAS, as a result of the Market Conduct Examination, the Department examiner filed a Market Conduct Examination Report covering the examination period of June 1, 2018 to December 1, 2020, 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 respond to complaints filed with the Illinois Department of Insurance within 21 days. 215 ILCS 5/143d(c)
2. Institute and maintain policies and procedures whereby the Company shall send cancellation notices when the cancellation occurs before 60 days. 215 ILCS 5/143.14(a)
3. Institute and maintain policies and procedures whereby the Company shall send cancellation notices when the cancellation occurs after 60 days. 215 ILCS 5/143.14(a)
4. Institute and maintain policies and procedures whereby the Company shall retain a copy of the proof of mailing when the cancellation of a policy occurs before 60 days. 215 ILCS 5/143.14(a)
5. Institute and maintain policies and procedures whereby the Company shall provide evidence the lienholder received proper notice when the cancellation occurs before 60 days. 215 ILCS 5/143.15
6. Institute and maintain policies and procedures whereby the Company shall provide evidence the lienholder received proper notice when the cancellation occurs after 60 days. 215 ILCS 5/143.15
7. Institute and maintain policies and procedures whereby the Company shall provide a proof of mailing for non-renewals which is date-stamped. 215 ILCS 5/143.17(a)
8. Institute and maintain policies and procedures whereby the Company shall provide the insured the information contained in Exhibit A. 50 Ill. Adm. Code 919.80(c)
9. Institute and maintain policies and procedures whereby the Company shall provide the insured the information contained in Exhibit A within seven (7) days of determining the vehicle a total loss. 50 Ill. Adm. Code 919.80(c)
10. Institute and maintain policies and procedures whereby the Company shall provide a reasonable written explanation to the insured when claim payment is delayed. 50 Ill. Adm. Code 919.80(b)(2)

11. Institute and maintain policies and procedures whereby the Company shall provide a reasonable written explanation for the delay to the third-party claimant when claim is closed without payment. 50 Ill. Adm. Code 919.80(b)(3)
12. Institute and maintain policies and procedures whereby the Company shall provide a reasonable written explanation for the delay to the third-party claimant. 50 Ill Adm Code 919.80(b)(3)
13. Institute and maintain policies and procedures whereby the Company shall send a 40-day delay letter on first-party paid claims. 50 Ill. Adm. Code 919.80(b)(2)
14. Institute and maintain policies and procedures whereby the Company shall send a 40-day delay letter on first-party claims closed without payment. 50 Ill. Adm. Code 919.80(b)(2)
15. Institute and maintain policies and procedures whereby the Company shall include “Notice of Availability” of the Department of Insurance with denial explanation on first-party claims closed without payment. 50 Ill. Adm. Code 919.50(a)(1)
16. Institute and maintain policies and procedures whereby the Company shall provide a reasonable written explanation for the delay to the third-party claimant. 50 Ill. Adm. Code 919.80(b)(3)
17. Institute and maintain policies and procedures whereby the Company shall adhere to its filed rules. 50 Ill. Adm. Code 754.10
18. Institute and maintain policies and procedures whereby the Company shall implement vehicle history rules and factors contained in its SERFF filing on the effective date specified in the filing. 50 Ill. Adm. Code 754.10
19. Institute and maintain policies and procedures whereby the Company shall file for approval all forms the Company intends to use in Illinois with the Department as required. 215 ILCS 5/143(2)
20. Institute and maintain policies and procedures whereby the Company shall not utilize the Reapplication Discount or any other rating factor resulting in unfair and discriminatory rates. 215 ILCS 5/423(1)
21. Institute and maintain policies and procedures whereby the Company shall process endorsements in accordance with language in letters to policy owners. 215 ILCS 5/423(1)
22. Institute and maintain policies and procedures whereby the Company shall implement practices related to the application of the anti-theft discount that provide the applicant with guidance or a description of active or passive anti-theft devices. 215 ILCS 5/423(1)
23. Institute and maintain policies and procedures whereby the Company shall not use forms that contain a physical damage exclusion if a driver is found to have a blood alcohol content of .08 or higher. 215 ILCS 5/423(1)
24. Institute and maintain policies and procedures whereby the Company shall not develop different premiums for policies with identical criteria. 215 ILCS 5/423(1)

25. Institute and maintain policies and procedures whereby the Company shall review underwriting and rating characteristics within a reasonable experience period. 215 ILCS 5/423(1)
26. Institute and maintain policies and procedures whereby the Company shall not use bind dates in lieu of effective dates for underwriting and pricing. 50 Ill. Adm Code 754.10(b)(2)
27. Institute and maintain policies and procedures whereby the Company shall not use a rating plan that charges a higher automobile insurance premium because of certain Occupation Status 215 ILCS 5/424(5).
28. The Company will remediate and refund consumers as a result of finding 27. The Company will re-rate affected policies to remove the occupational status and issue refunds. The Company will provide monthly updates as refunds progress until completed.
29. Submit an updated rate/rule filing in order to come into compliance with number 20, 21, 22, 23, 24, 26 and 27.
30. Submit a form filing in order to come into compliance with number 19.
31. Submit to the Director of Insurance, State of Illinois, proof of compliance with the above twenty-eight (28) orders within thirty (30) days of execution of this Order.
32. Pay to the Director of Insurance, State of Illinois, a civil forfeiture in the amount of \$150,000.00 to be paid within ten (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 ELEPHANT INSURANCE COMPANY


Signature

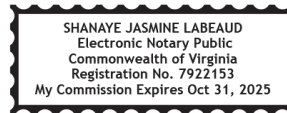
Bryan Sponza

Name

Corporate Secretary

Title

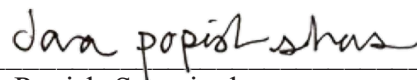
Subscribed and sworn to before me this
2 day of June 2022.




Notary Public

DEPARTMENT OF INSURANCE of the State of Illinois:

DATE _____


Dana Popish-Severinghaus
Director

