



## Department of Insurance

IN THE MATTER OF  
THE EXAMINATION OF:

INSURA PROPERTY AND CASUALTY COMPANY  
150 HARVESTER DRIVE  
BURR RIDGE, ILLINOIS 60527

### MARKET CONDUCT EXAMINATION WARRANT

I, the undersigned, Director of Insurance of the State of Illinois, pursuant to Sections 5/131.21, 5/132, 5/401, 5/402, 5/403 and 5/425 of the Illinois Insurance Code (215 ILCS 5/131.21, 5/132, 5/401, 5/402 and 5/425) do hereby appoint, Examiner-In-Charge, Bernie Sullivan and associates as the proper persons to examine the insurance business and affairs of Insura Property and Casualty Company of Burr Ridge, Illinois, and to make a full and true report to me of the examination made by them of Insura Property and Casualty Company with a full statement of the condition and operation of the business and affairs of Insura Property and Casualty Company with any other information as shall in their opinion be requisite to furnish me a statement of the condition and operation of its business and affairs and the manner in which it conducts its business.

The persons so appointed shall also have the power to administer oaths and to examine any person concerning the business, conduct, or affairs of Insura Property and Casualty Company.

### IN TESTIMONY WHEREOF,

I hereto set my hand and cause to be affixed the Seal of my office.

Done at the City of Springfield, this 1<sup>st</sup> day of April, 2010

*Michael T. McRaith*

Michael T. McRaith

Director



STATE OF ILLINOIS     )  
                                  ) SS  
COUNTY OF SANGAMON    )

I personally served a copy of the within Warrant by leaving  
said copy with LEN MARZALEK , at the hour of 8:30 Am  
on 4/19/10 , A.D., 2010.

Bernard Sullwey Jr  
Examiner

STATE OF ILLINOIS  
DEPARTMENT OF INSURANCE



IN THE MATTER OF THE EXAMINATION OF

INSURA PROPERTY & CASUALTY INSURANCE COMPANY  
150 HARVESTER DRIVE  
BURR RIDGE, IL 60527

MARKET CONDUCT EXAMINATION WARRANT

I, the undersigned, Director of Insurance of the State of Illinois, pursuant to Sections 132, 401, 401.5, 402, 403 and 425 of the Illinois Insurance Code (215 ILCS 5/132, 5/401, 5/401.5, 5/402, 5/403, and 5/425) do hereby appoint Scott A. Hanfling, Mark Wilson, Tim Kelly, and Meghan Welch at Kerns Frost & Pearlman, LLC as Examiners to assist the Illinois Department of Insurance ("Department") in the completion of the market conduct examination of Insura Property & Casualty Insurance Company, NAIC # 38806, (the "Company") by reviewing and completing the examination report prepared by Examiner in Charge, Bernie Sullivan, including the review of any objections or rebuttals submitted by the Company regarding the findings of such reports, and drafting of any related Stipulation and Consent Order for the review and approval of the Director. The costs of this examination shall be borne by the Company.

The persons so appointed shall also have the power to administer oaths and to examine any person concerning the business, conduct, or affairs of the Company.



*IN TESTIMONY WHEREOF*, I hereto set my hand and cause to be affixed this Seal.

Done at the City of Chicago, this 1<sup>st</sup> day of October, 2012..

*Andrew Boron*

Andrew Boron

Director

This Market Conduct Examination was conducted pursuant to Sections 5/132, 5/401, 5/402, 5/403 and 5/425 of the Illinois Insurance Code (215 ILCS 5/132, 5/401, 5/402, 5/403 and 5/425). It was conducted in accordance with standard procedures of the Market Conduct Examination Section by duly qualified examiners of the Illinois Department of Insurance.

This report is divided into five parts. They are as follows: Summary, Background, Methodology, Findings and Technical Appendices. All files reviewed were reviewed on the basis of the files' contents at the time of the examination. Unless otherwise noted, all overcharges (underwriting) and/or underpayments (claims) were reimbursed during the course of the examination.

No company, corporation, or individual shall use this report or any statement, excerpt, portion, or section thereof for any advertising, marketing or solicitation purpose. Any company, corporation or individual action contrary to the above shall be deemed a violation of Section 149 of the Illinois Insurance Code (215 ILCS 5/149).

The Examiner-in-Charge was responsible for the conduct of this examination. The Examiner-in-Charge did approve of each criticism contained herein and has sworn to the accuracy of this report.

Anne Marie Skallerup  
Staff Attorney  
Illinois Department of Insurance

**Insura Property & Casualty Insurance Company**

MARKET CONDUCT RE-EXAMINATION REPORT

DATE OF RE-EXAMINATION: April 19, 2010 through May 28, 2010

EXAMINATION OF: Insura Property & Casualty Insurance Company  
(P & C Domestic)

LOCATION: 150 Harvester Drive, Suite 300  
Burr Ridge, IL 60527

PERIOD COVERED BY  
RE-EXAMINATION: January 1, 2009 through December 31, 2009

EXAMINERS: Bernie Sullivan Jr. LUTCF  
Examiner-in-Charge

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**I. COMPLIANCE:**

The Company was previously the subject of a Market Conduct Examination completed June 1, 2007, covering the period March 1, 2006 through February 28, 2007.

Based upon the findings of that examination three (3) Orders were issued.

**ORDER #1:** Institute and maintain procedures whereby first party insureds are provided delay letters as outlined in Section 919.80(b)(2) of the Illinois Administrative Code. (50 Ill. Adm. Code 919.80(b)(2))

The Company is not substantially complying with this Order.

**ORDER #2:** Institute and maintain procedures whereby third party claimants are provided delay letters as outlined in Section 919.80(b)(3) of the Illinois Administrative Code. (50 Ill Adm. Code 919.80(b)(3))

The Company is not substantially complying with this Order.

**ORDER #3:** Institute and maintain procedures whereby policyholders who have experienced a total loss to their vehicle are provided the information contained in Exhibit A and provided the information within seven (7) days of the vehicle being determined a total loss as is mandated in Section 919.80(c) of the Illinois Administrative Code. (50 Ill. Adm. Code 919.80(c))

The Company is not substantially complying with this Order.



## II. SUMMARY

1. The Company was criticized under 50 Ill. Adm. Code 919.80(b)(2) for failing to provide the insureds with a reasonable written explanation for delay when the claim remained unresolved for more than 40 days.

General trend criticisms were issued in the first party paid, first party closed without payment and total loss surveys. These are violations of Order #1 of the Stipulation and Consent Order issued by the Director of Insurance, State of Illinois on October 12, 2007.

2. The Company was criticized under 50 Ill. Adm. Code 919.80(b)(2) as related to 50 Ill. Adm. Code 919.80(b)(1) for failing to maintain a median on the first party paid claims lower than 40 days from the date of report to the date of final payment or rendering of the repaired vehicle.

A class trend criticism was issued since the Company median in the first party paid claim survey was 47 days.

3. The Company was criticized under 50 Ill. Adm. Code 919.80(d)(3) for deducting unauthorized advance charges from the settlement amount resulting in underpayments totaling \$670.00. Refunds were processed during the examination.
4. The Company was criticized under 50 Ill. Adm. Code 919.80(b)(3) for failing to provide the claimants with a reasonable written explanation for delay when the claim remained unresolved in excess of 60 days.

General trend criticisms were issued in the third party closed without payment surveys. This is a violation of Order #2 of the Stipulation and Consent Order issued by the Director of Insurance, State of Illinois on October 12, 2007.

5. The Company was criticized under 50 Ill. Adm. Code 919.80(c) for either failing to provide the information contained in Exhibit A or failing to provide the information within seven (7) days of determination of the total loss.

A general trend criticism was issued in the total loss survey. This is a violation of Order #3 of the Stipulation and Consent Order issued by the Director of Insurance, State of Illinois on October 12, 2007.

6. The Company was criticized under 50 Ill. Adm. Code 919.80(d)(3) for improperly deducting storage and towing fees resulting in underpayments of \$834.00. Reimbursements were processed during the examination.
7. The Company was criticized under 50 Ill. Adm. Code 919.80(c)(3)(A)(i) for failing to reimburse the correct amount for the tax, title and transfer fees resulting in underpayments of \$130.17. Reimbursements were processed during the examination.

### III. BACKGROUND

#### Insura Property & Casualty Insurance Company

Insura Property & Casualty Insurance Company (Company), NAIC # 38806, was incorporated on October 7, 1980, under the laws of the State of Ohio. The Company redomesticated to the State of Illinois effective July 16, 2001. Affirmative Insurance Holdings, Inc. purchased the Company on December 31, 2003. It was a wholly owned subsidiary of Affirmative Insurance Company. Effective November 19, 2012, Insura Property & Casualty Insurance Company merged into Affirmative Insurance Company, NAIC # 42609, with Affirmative Insurance Company, being the surviving entity.

The Company was licensed in 31 states and actively wrote non-standard automobile insurance in Illinois, Indiana and New Mexico.

#### IV. METHODOLOGY:

The Market Conduct Examination places emphasis on an insurer's systems and procedures used in dealing with insureds and claimants.

The following categories are the general areas examined:

##### 1. Claims

The review of these categories is accomplished through examination of individual 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 report concerns itself with improper practices performed with such frequency as to indicate general business practices. Individual criticisms are identified and communicated with the insurer, but not cited in the report if not indicative of a general trend, except to the extent that there were underpayments and/or overpayments.

The following method was used to obtain the required samples and to assure a methodical 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.

Claims were requested based on the settlement occurring within the period under examination.

All claims were reviewed for compliance with policy contracts and endorsements, applicable sections of the Illinois Insurance Code (215 ILCS 5/1 et seq.) and Part 919 (50 Ill. Adm. Code 919).

##### Selection of Samples

<u>Survey</u>	<u>Population</u>	<u># Reviewed</u>	<u>% Reviewed</u>
Claims:			
First Party Paid & Median	391	90	23.01%
First Party Closed without Payment	327	90	27.52%
Third Party Paid & Median	686	100	14.57%
Third Party Closed without Payment	229	80	34.93%
Total Losses	128	80	62.50%

## V. FINDINGS:

### A. Claims

#### 1. First Party Paid & Median

The median payment period was 47 days distributed as follows:

<u>Days</u>	<u>Number</u>	<u>Percentage</u>
0-30	27	30.00%
31-60	31	34.44%
61-90	17	18.89%
91-180	14	15.56%
181-365	1	1.11%
<u>Over 365</u>	<u>0</u>	<u>0.00%</u>
Total	90	100.00%

Two (2) first party paid claims (2.22% of the 90 files reviewed) were criticized for containing releases signed by the insured and the wording "full & final" being included on the check when the policy limit was not met or there was no dispute of the amount as outlined in 50 Ill. Adm. Code 919.60(a).

Two (2) first party paid claims (2.22% of the 90 files reviewed) were criticized for deducting unauthorized advance charges from the settlement amount in violation of 50 Ill. Adm. Code 919.80(d)(3). This resulted in underpayments of \$670.00. Refunds were processed during the examination.

Seven (7) first party paid claims (7.77% of the 90 files reviewed) were criticized for failing to provide the insureds with a reasonable written explanation of delay when the claim remained unresolved for more than 40 days from the date of report to the date of final payment or rendering of the repaired vehicle as required by 50 Ill. Adm. Code 919.80(b)(2).

A general trend criticism was issued since this is also a violation of Order #1 of the Stipulation and Consent Orders issued by the Director of Insurance, State of Illinois on October 12, 2007.

The Company was criticized under 50 Ill. Adm. Code 919.80(b)(2) as it relates to 50 Ill. Adm. Code 919.80(b)(1) for maintaining a median of 47 days from the date of report to the date of final payment or rendering of the repaired vehicle.

A class trend criticism was issued.

2. First Party Closed without Payment

Three (3) first party closed without payment claims (3.33% of the 90 files reviewed) were criticized for failing to contain detailed documentation in order to allow reconstruction of the company's activities relative to each claim file as required by 50 Ill. Adm. Code 919.30(c).

Eight (8) first party closed without payment claims (8.88% of the 90 files reviewed) were criticized for failing to provide the insured with a reasonable written explanation for delay when the claim remained unresolved for more than 40 days as required by 50 Ill. Adm. Code 919.80(b)(2).

A general trend criticism was issued since this is also a violation of Order #1 of the Stipulation and Consent Orders issued by the Director of Insurance, State of Illinois on October 12, 2007.

3. Third Party Paid and Median

The median payment period was 44 days distributed as follows:

<u>Days</u>	<u>Number</u>	<u>Percentage</u>
0-30	36	36.00%
31-60	26	26.00%
61-90	12	12.00%
91-180	14	14.00%
181-365	12	12.00%
<u>Over 365</u>	<u>0</u>	<u>0.00%</u>
Total	100	100.00%

Five (5) third party paid claims (5.00% of the 100 files reviewed) failed to provide the claimant with a reasonable written explanation for delay as required by 50 Ill. Adm. Code 919.80(b)(3).

Five (5) third party paid claims (5.00% of the 100 files reviewed) failed to make a prompt, fair and equitable settlement of the claim as mandated by 215 ILCS 5/154.6(d) of the Illinois Insurance Code.

#### 4. Third Party Closed without Payment

Seven (7) third party closed without payment claims (8.75% of the 80 files reviewed) were criticized for failing to provide the claimant with a reasonable written explanation for delay when the claim remained unresolved in excess of 60 days as required by 50 Ill. Adm. Code 919.80(b)(3).

A general trend criticism was issued since this is also a violation of Order #2 of the Stipulation and Consent Orders issued by the Director of Insurance, State of Illinois on October 12, 2007.

#### 5. Total Losses

Thirty-four total loss paid claims (42.50% of the 80 files reviewed) either failed to provide the information contained in Exhibit A (7 files), or failed to provide the information within seven (7) days of determination of the total loss (27 files) as required by 50 Ill. Adm. Code 919.80(c).

A general trend criticism was issued since this is a violation of Order #3 of the Stipulation and Consent Order issued by the Director of Insurance, State of Illinois on October 12, 2007.

Twenty-six total loss paid claims (32.50% of the 80 files reviewed) failed to provide a reasonable written explanation of delay in payment to the insured, when the claim remained unresolved for more than 40 calendar days from the date of report to the date of final payment as required by 50 Ill. Adm. Code 919.80(b)(2).

A general trend criticism was issued since this is a violation of Order #1 of the Stipulation and Consent Order issued by the Director of Insurance, State of Illinois on October 12, 2007.

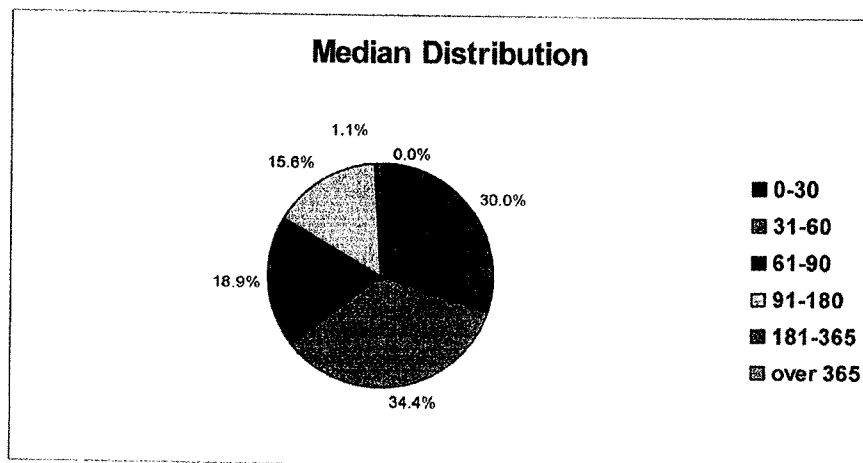
Four (4) total loss paid claims (5.00% of the 80 files reviewed) improperly deducted storage and towing fees pursuant to 50 Ill. Adm. Code 919.80(d)(3) resulting in underpayments of \$834.00.

Two (2) total loss paid claims (2.50% of the 80 files reviewed) failed to reimburse the correct amount for the tax, title and transfer fees as outlined in 50 Ill. Adm. Code 919.80(c)(3)(A)(i).

VI. TECHNICAL APPENDICES:

FIRST PARTY PAID & MEDIAN

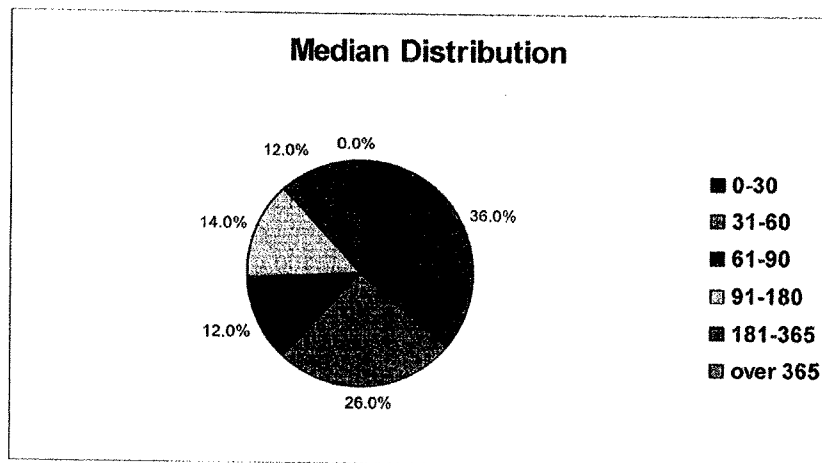
<b>MEDIAN DISTRIBUTION</b>		
<b>No. Days Category</b>	<b>Number</b>	<b>Percent</b>
0-30	27	30.00%
31-60	31	34.44%
61-90	17	18.89%
91-180	14	15.56%
181-365	1	1.11%
over 365	0	0.00%
<b>Total</b>	<b>90</b>	<b>100.00%</b>



VII. TECHNICAL APPENDICES: continued

THIRD PARTY PAID & MEDIAN

<b>MEDIAN DISTRIBUTION</b>		
<b>No. Days Category</b>	<b>Number</b>	<b>Percent</b>
0-30	36	36.00%
31-60	26	26.00%
61-90	12	12.00%
91-180	14	14.00%
181-365	12	12.00%
over 365	0	0.00%
<b>Total</b>	<b>100</b>	<b>100.00%</b>





STATE OF ILLINOIS        )  
                                  ) ss  
COUNTY OF COOK         )

Bernie Sullivan, being first duly sworn upon his oath, deposes and says:

That he was appointed by the Director of Insurance of the State of Illinois (the "Director") as Examiner-In Charge to examine the insurance business and affairs of Insura Property & Casualty Insurance Company (the "Company"), NAIC # 38806, which merged into Affirmative Insurance Company, NAIC # 42609, effective November 19, 2012 with Affirmative Insurance Company being the surviving entity,

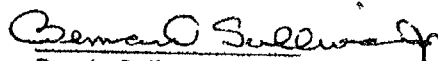
That, as Examiner-In-Charge, he was directed to make a full and true report to the Director of the examination with a full statement of the condition and operation of the business and affairs of the Company with any other information as shall in the opinion of the Examiner-In-Charge be requisite to furnish 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 he nor any other persons designated as examiners 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 policyholders, and that neither he nor any other persons designated as examiners 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 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.

  
Bernie Sullivan  
Examiner-In-Charge

Subscribed and sworn to before me  
this *21* day of *December*, 2012.

  
Notary Public



# STATE OF ILLINOIS

## DEPARTMENT OF INSURANCE



IN THE MATTER OF:

AFFIRMATIVE INSURANCE COMPANY  
150 HARVESTER DRIVE, SUITE 300  
BURR RIDGE, ILLINOIS 60527

### STIPULATION AND CONSENT ORDER

WHEREAS, the Director (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, Insura Property & Casualty Insurance Company (Company) was authorized under the insurance laws of this State and by the Director as a domestic stock company, to engage in the business of soliciting, selling and issuing insurance policies; and

WHEREAS effective November 19, 2012, Insura Property & Casualty Insurance Company merged into Affirmative Insurance Company, NAIC # 42609, an Illinois domestic stock company with Affirmative Insurance Company, being the surviving entity; and

WHEREAS, a Market Conduct Examination of the Company was conducted by duly qualified examiners of the Department pursuant to Sections 131.21, 132, 401, 402 and 425 of the Illinois Insurance Code (215 ILCS 5/131.21, 5/132, 5/401, 5/402 and 5/425); and

WHEREAS, the Department examiners have filed an examination report as an official document of the Department as a result of the Market Conduct Examination; and

WHEREAS, said 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 its 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, it waives 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. That the Market Conduct Examination indicated various areas in which the Company was not in compliance with provisions of the Illinois Insurance Code and/or Department Regulations; and
2. That 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/or Department Regulations.

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

1. Institute and maintain procedures whereby all first party insureds whose claims remain open for more than 40 days from the date of report to the date of final payment or rendering of the repaired vehicle are provided with a reasonable written explanation for delay as mandated by 50 Ill. Adm. Code 919.80(b)(2).
2. Institute and maintain procedures whereby median payment period for the first party paid claims calculated from the date of report to the date of final payment or the rendering of the repaired vehicle is maintained at 40 days or less, as outlined in 50 Ill. Adm. Code 919.80(b)(1) and mandated by 50 Ill. Adm. Code 919.80(b)(2).
3. Institute and maintain procedures whereby all third party claimants whose claims remain open in excess of 60 days from the date of report to the date of final payment or rendering of the repaired vehicle are provided with a reasonable written explanation for delay as outlined in 50 Ill. Adm. Code 919.80(b)(3).
4. Institute and maintain procedures whereby all insureds, whose vehicles have been determined to be a total loss, are provided with, at a minimum, the information contained in 50 Ill. Adm. Code 919, Exhibit A within seven (7) after the date of determination of total loss; mandated by 50 Ill. Adm. Code 919.80(c).
5. Submit to the Director of Insurance, State of Illinois, proof of compliance with the above four (4) Orders within 30 days of receipt of these Orders.
6. Pay to the Director of Insurance, State of Illinois, a civil forfeiture of \$20,000 within 30 days of the date of these Orders. Any further fine resulting from a future re-examination will be determined at the time of the completion of the re-examination based on the Company's non-compliance with Orders 1-4 contained in this Stipulation and Consent 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 Affirmative Insurance Company:

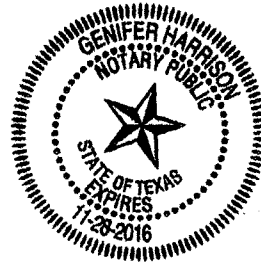
W H Huff  
Signature

WILLIAM H. HUFF  
Name

VICE PRESIDENT  
Title

Subscribed and sworn to before me this  
22 day of MARCH A.D. 2013.

Heidi Stein  
Notary Public



DEPARTMENT OF INSURANCE of the  
State of Illinois;

DATE March 26, 2013

Andrew Boron  
Andrew Boron  
Director



# Illinois Department of Insurance

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PAT QUINN  
Governor

ANDREW BORON  
Director

May 24, 2013

Sent via USPS Certified Mail

\*return receipt requested

William Huff  
Vice President, Regulatory Affairs  
Affirmative Insurance Holdings, Inc.  
4450 Sojourn Drive, Suite 500  
Addison, TX 75001

**Re: Insura Property and Casualty Insurance Company Market Conduct Re-  
Examination**

Dear Mr. Huff,

The Department received Insura's Property and Casualty Insurance Company's (Insura) proof of compliance with a cover letter dated April 17, 2013. We have reviewed the proof and have determined it is satisfactory. Insura has submitted satisfactory proofs of compliance with Orders #1 through 6 of the Stipulation and Consent Order. The Department will now be closing its file on this exam.

I would like to take this opportunity to thank both yourself and the employees of Insura for the courtesy and professionalism shown to the Department and its examiners through the examination process. Please be advised that I intend to request that the Director make the Market Conduct Examination report public pursuant to Section 132 of the Illinois Insurance Code. (215 ILCS 5/132).

The Chicago office of the Illinois Department of Insurance has relocated. Our new address is:

122 S. Michigan Ave, 19<sup>th</sup> Floor  
Chicago, IL 60603

Please update your files and any correspondence you may have with policyholders or claimants.

Sincerely,

  
Anne Marie Skallerup  
Staff Attorney

cc: M. Smith

320 West Washington St.  
Springfield, Illinois 62767-0001  
(217) 782-4515