



# **Mississippi Insurance Department**

## **Report of Market Conduct Examination**

**of**

### **DIRECT GENERAL INSURANCE COMPANY OF MISSISSIPPI**

**4734 North State Street  
Jackson, MS 39206**

**As of December 31, 2009**

**NAIC Group Code 1213  
NAIC Company Code 10889  
NAIC ETS No. MS029-F1**

## TABLE OF CONTENTS

Examiner's Affidavit .....	1
Salutation .....	2
Scope of Examination .....	3
Comments and Recommendations of Previous Examination .....	3
Operations/Management .....	4
Complaint Handling.....	4
Producer Licensing .....	5
Policyholder Service .....	5
Underwriting and Rating.....	6
Claims .....	7
Marketing and Sales.....	7
Subsequent Events .....	8
Comments and Recommendations.....	8
Acknowledgment .....	10

**EXAMINER'S AFFIDAVIT AS TO STANDARDS AND PROCEDURES USED IN AN EXAMINATION**

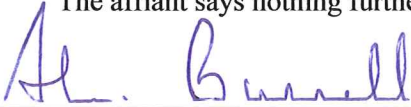
State of Georgia,

County of DeKalb,

Alvin Burrell, CFE, AIE, MCM being duly sworn, states as follows:

1. I have authority to represent the Commissioner of Insurance in the market conduct examination of the State of Mississippi in the examination of Direct General Insurance Company of Mississippi.
2. The Mississippi Insurance Department is accredited under the National Association of Insurance Commissioners Financial Regulation Standards and Accreditation.
3. I have reviewed the examination work papers and examination report, and the market conduct examination of Direct General Insurance Company of Mississippi as of December 31, 2009, was performed in a manner consistent with the standards and procedures required by the Commissioner of Insurance of the State of Mississippi.

The affiant says nothing further.



Alvin Burrell, CFE, AIE, MCM  
Examiner

Subscribed and sworn before me by Andrew Longino on this 30<sup>th</sup> day of September, 2011.

(SEAL)



Notary Public  
Andrew Longino  
Notary Public, DeKalb County, Georgia  
My Commission Expires June 8, 2015

---

Direct General Insurance Company of Mississippi  
MID Market Conduct Examination as of December 31, 2009



## MISSISSIPPI INSURANCE DEPARTMENT

501 N. WEST STREET, SUITE 1001  
WOOLFOLK BUILDING  
JACKSON, MISSISSIPPI 39201  
www.mid.state.ms.us

MAILING ADDRESS  
Post Office Box 79  
Jackson, Mississippi 39205-0079  
TELEPHONE: (601) 359-3569  
FAX: (601) 359-2474

**MIKE CHANEY**  
Commissioner of Insurance  
State Fire Marshal

**MARK HAIRE**  
Deputy Commissioner of Insurance

July 29, 2011

Honorable Mike Chaney  
Commissioner of Insurance  
Mississippi Insurance Department  
1001 Woolfolk Building  
501 North West Street  
Jackson, Mississippi 39201

Dear Commissioner Chaney:

Pursuant to your instructions and authorization and in compliance with statutory provisions, a limited market conduct examination has been conducted, as of December 31, 2009, of the affairs of:

**DIRECT GENERAL INSURANCE COMPANY OF MISSISSIPPI**  
**COMPANY LICENSE # 9700042**  
**NAIC COMPANY CODE 10889**  
4734 North State Street  
Jackson, MS 39206

This examination was commenced in accordance with Miss. Code Ann. § 83-5-201 et seq. and was performed in Nashville, Tennessee, at the Administrative Office of Direct General Insurance Company of Mississippi ("Company"). The report of examination is herewith submitted.

## **SCOPE OF EXAMINATION**

The Company was last examined by representatives of the Mississippi Insurance Department (“MID”) as of the period ending December 31, 2006. The previous examination was conducted as part of and under the same authority as the Financial Condition Examination for the same period. A full scope market conduct examination was not performed; however, limited procedures were performed on specific areas of the Company’s market conduct activities.

The present examination was a limited market conduct examination performed by Huff, Thomas & Company (“Huff Thomas”) and covered the period from January 1, 2007 through December 31, 2009. The examination was limited in that not all examination procedures contained in the National Association of Insurance Commissioners (“NAIC”) guidelines were performed.

The examination included but was not limited to the following areas of the Company’s operation:

- Operations/Management
- Complaint Handling
- Producer Licensing
- Policyholder Service
- Underwriting and Rating
- Claims
- Marketing and Sales

The purpose of this examination was to review compliance by the Company with Mississippi Insurance Laws, Regulations, Bulletins and the NAIC Guidelines. NAIC Guidelines set the standard of conduct for a property and casualty insurer and promote a program of fair treatment of policyholders. Portions of the NAIC Market Regulation Handbook were used as a measure of compliance. Additionally, the examination reviewed certain areas as directed by the Chief Examiner at MID.

## **COMMENTS AND RECOMMENDATIONS OF PREVIOUS EXAMINATION**

In the previous Financial Examination Report for the period January 1, 2004, through December 31, 2006, limited Market Conduct procedures were performed on specific areas of the Company’s market conduct activities. These procedures resulted in no recommendations to the Company. The following areas were reviewed: Claims, Complaint Handling, Marketing and Sales, Privacy, Producer Licensing, Territory and Plan Operation, and Underwriting and Rating.

## **OPERATIONS/MANAGEMENT**

The examination included a review of the Company's policies, practices and procedures regarding protection and disclosure of nonpublic personal information of customers, former customers and consumers who are not customers, to verify they comply with applicable state laws regarding privacy. In particular, the examination compared the Company documentation and practices for compliance with Mississippi Regulation No. 2001-1. The Company Standard practice memorandum for privacy included no language addressing information of former customers. An exception was made to address this operational deficiency.

**It is recommended the Company amend their Privacy Notice to include information about the Company's former customers as required by Section 7 (A) (4) of Mississippi Regulation 2001-1.**

The Company employee code of conduct, policy manuals and training materials with respect to privacy were reviewed. As part of the review, the Company's "opt-out" practices and forms were reviewed for possible discrimination against customers who chose to "opt-out." None was indicated.

It was noted the Company provides active customers with notice of the privacy policy at least once a year. In the event of privacy policy changes, customers are sent an updated notice. Examiner reviews indicated a privacy statement was included within the packet of forms delivered to new insureds. The privacy policy is also posted on the Company web site. Before January 1, 2011, agency customers were handed the privacy statement at the point sale.

The Company had a privacy policy in place for the protection of policy holders and non-insured customers. This policy, except as noted above, was found to be in compliance with applicable laws, regulations and standards.

## **COMPLAINT HANDLING**

The Company's policies and practices for handling complaints were reviewed as part of the Market Conduct examination. Company manuals, standards and training materials provide clear guidance for recording and referral of complaints to the designated internal department. The Company maintains a complaint log that was found to record data categories as recommended by the NAIC.

The examiners compared the Company log with the complaint log as maintained by the Consumer Services Division ("CSD") of the MID for the period under examination (January 1, 2007 through December 31, 2009). The CSD log listed fifty (50) complaints, all of which were located on the Company log. The Company log recorded additional complaints to those maintained by CSD. A sample of complaints from the Company log was reviewed. The vast majority of complaints involved various aspects of claims settlements. The review of Company

complaint handling indicated complaints were addressed appropriately, completely and within the provisions of the insurance policies. Response to complaints was timely. As calculated by examiners, the average response time was seven (7) days from the time of receipt.

## **PRODUCER LICENSING**

For the period under examination the Company relied upon one-hundred eighty-seven (187) producers who were licensed and appointed with the MID. The Company compiled a list of agents appointed and terminated for the examination period that was compared to the listing provided by MID. Discrepancies were initially found, but all were successfully resolved with assistance and documentation provided by the Company.

Procedures for appointing and licensing agents were found to be in compliance with MID laws. The examiners took a sample of policies written during the examination period. The agents writing the policies were found to be properly licensed and appointed at the policy effective dates. Terminations were also tested for compliance to applicable laws and no discrepancies were detected.

The vast majority of the Company's business is written by the Company's affiliate agency force. A small portion (approximately \$2.8 million in premium over the three years examined) was written by five (5) independent agents or agencies that were included in the agent review. Adherence to the producer agreements with these producers was reviewed as well as proper agency appointment and licensing for the agents involved. No exceptions were indicated.

## **POLICYHOLDER SERVICE**

The Company markets its products primarily through affiliated insurance agencies ("Direct Agencies"), all of which are direct or indirect subsidiaries of Direct General Corporation (DGC) which is a financial services holding company domiciled in Tennessee. DGC's operating subsidiaries provide non-standard personal automobile insurance, term life insurance, premium finance and other consumer products and services primarily on a direct basis throughout the southeastern United States.

The Direct Agencies sell insurance and non-insurance products and services primarily through neighborhood sales offices which are staffed primarily by salaried, employee-agents. A typical sales office is located in a strip mall on a major thoroughfare in a well-populated area of town. These strategically located sales offices allow for both delivery of products and collection of payments. The targeted customer base is expected to be between the ages of twenty-five (25) and forty-five (45).

A majority of business is premium financed and DGC has two affiliated premium finance

companies. The web and phone sales are also produced by affiliated agencies; therefore, the group continuously monitors cancellation, declination and non-renewed policies.

The examination of policyholder service consisted of a review of the Company's practices in the areas of premium billings, policy renewals, and policy endorsements with the accompanying premium adjustments.

A sample taken of policy renewals determined the Company was consistent with its own underwriting guidelines of sending notice thirty (30) days or more prior to the renewal date. Notices of non-renewals were also sent notices thirty (30) days or more prior to the cancellation date as is required by Miss. Code Ann. § 83-11-7.

Endorsements were found to be issued timely as well. It is the Company's practice to send notice of policy endorsements and premium changes on the day following the change.

Coupon books and premium finance documents are included when a policy is sold through any of its three marketing venues: storefronts, telephone or web. Other policy documents are provided before customers leave in storefront sales, mailed when sales are made over the telephone and downloaded and/or printed for internet sales.

## **UNDERWRITING AND RATING**

The Company's policies and practices with respect to underwriting and rating were reviewed. Before business is accepted, each driver and vehicle data is processed through third-party vendors that access DMV data and established credit bureaus (A Plus, Rating Verification Platform - RVP). Risks are accepted or rejected on criteria set by the Company in adherence to any state regulations.

Examiners reviewed Company policies and practices with respect to cancellations. A sample was made of cancellations and all sampled notices provided specific reasons for cancellation as prescribed or permitted by Mississippi Insurance Code. No violations were found for Miss. Code Ann. § 83-11-5 (Notice of Cancellations), § 83-11-3 (Grounds for Cancellation) or § 83-11-13 (Written Statement of Reason for Cancellation).

Examiners also reviewed Company non-renewals. In the sample taken, all non-renewals were due to the insured moving out of the State, in each instance notice of non-renewal was provided thirty (30) days in advance and mailed/delivered to the last known address of the insured. No violations were found of Miss. Code Ann. § 83-11-13 (Written Statement of Reason for Cancellation) and § 83-11-7 (Nonrenewal).

The examiners reviewed all policies, applications and endorsements filed with the Mississippi Insurance Department and compared them to the forms utilized by the Company. No exceptions or violations of the Mississippi Insurance Code were noted in this review.



## CLAIMS

A review was made of the claims policies and practices of the Company. The Company provided its General Operating Guidelines (“GOG”) or claims manual which the examiners used in evaluating samples of both paid and closed without payment/denied claims. Standards and policies from the GOG were compared to the actual practices found in the sampled claim files. Attributes tested by the examiners in the sampled claims included: timeliness of initial contact, response to claimant questions and claim resolution. Other areas tested were: quality and sufficiency of file documentation, proper application of policy provisions and records retention. In addition, denied claims were also reviewed for reasonableness of the denial and proper notification and explanation to the claimant.

For the sample of closed without payment or denied claims, all examiner questions were resolved and no significant or material exceptions were noted. From the paid claims sample, seven (7) claim files could not be produced, resulting in an exception for records retention.

The Company’s records retention practice was found to be inadequate for the period under examination. Prior to the introduction of imaging claims files in April, 2010, the Company allowed claim files to be destroyed three (3) years after the date of loss. This practice allowed physical claim files to be purged or destroyed in a time frame before an examination covering those claims might be completed.

The practice in effect through the examination date of December 31, 2009, was to keep claim files for three (3) years from the date of loss. The policy was revised but not implemented on April 1, 2009, to establish records retention for claims at five (5) years from the end of the policy. Longer periods were stipulated for bodily injury claims and lifetime structured settlements. Best practices require the Company to maintain claim files for a minimum of five (5) years from date of file closing to allow examiners to have access to all the files that may be reviewed under a three-year examination cycle.

**It is recommended the Company follow its records retention policy in effect to ensure records are destroyed in accordance with the approved schedule.**

## MARKETING AND SALES

A review of the Company’s and the Direct Agencies’ marketing and sales policies and practices was made. These practices were compared to the provisions of Miss. Code Ann. § 83-5-35 (Unfair & Deceptive Practices) and its related section § 83-5-33 (General Prohibition).

Examiners reviewed the Company’s marketing vehicles which were primarily radio and television advertising. Also reviewed by the examiners was the Corporate Marketing material as provided to the Direct Agency’s storefronts in "The Direct Approach" Agent Tool Kit & Brand Guide. Producers are not permitted to prepare or produce any sales or marketing material of their own.

No violations of Mississippi Insurance Code were found.

## **SUBSEQUENT EVENTS**

### **Privacy (Operations/Management)**

Effective January 1, 2011 the Company's legal department issued a request instructing the IT Department to program federally required privacy language to automatically print with customer paperwork.

### **Records Retention**

In 2010, the Company claims department began the process of imaging claims files. This conversion is being implemented in a staged roll out. According to the Company Attorney, record retention of claims files may be extended because of the capacity of the image system. In addition, the organization's records retention policy was revised in 2011 to increase the closed claims retention for all states to a seven (7) year period from date file closes.

## **COMMENTS AND RECOMMENDATIONS**

### 1. Operations/Management

#### Finding:

The Company Standard practice memorandum for privacy included no language addressing information of former customers.

#### **Recommendation**

**It is recommended the Company amend their Privacy Notice to include information about the Company's former customers as required by Section 7 (A) (4) of Mississippi Regulation 2001-1.**

### 2. Records Retention

#### Finding:

In the sample of paid claims, seven (7) claim files could not be produced, resulting in an exception for records retention. The Company's record retention policy allowed physical claim files to be purged or destroyed in a time frame before an examination covering those claims might be completed.

The practice in effect through the examination date of December 31, 2009, was to keep claim files for three (3) years from the date of loss. The policy was revised but not implemented on April 1, 2009, to establish records retention for claims at five (5) years from the end of the policy (longer periods were stipulated for bodily injury claims and lifetime structured settlements).

**Recommendation**

**It is recommended the Company follow its record retention policy in effect to ensure records are destroyed in accordance with the approved schedule.**

## ACKNOWLEDGMENT

The examiners representing the Mississippi Insurance Department and participating in this examination were:

Examiner: Ed Fossa, CFE, CIE

Examiner: Aejaz Palejwala, CFE

Examiner: David Daulton, CFE

Supervising Examiner: Cecil Thomas, CFE, CIE

The courteous cooperation of the officers and employees responsible for assisting in the examination is hereby acknowledged and appreciated.

Respectfully submitted,



---

Alvin Burrell, CFE, AIE, MCM  
Examiner-in-charge