

STATE OF ILLINOIS  
DEPARTMENT OF INSURANCE



IN THE MATTER OF THE EXAMINATION OF

AMERICAN ACCESS CASUALTY COMPANY  
15450 SUMMIT AVENUE  
SUITE 230  
OAKBROOK TERRACE, IL 60181

MARKET CONDUCT EXAMINATION WARRANT

I, the undersigned, Director of Insurance of the State of Illinois, pursuant to Sections 132, 132.1, 132.4, 401, 401.5, 402, 403 and 425 of the Illinois Insurance Code (215 ILCS 5/132, 5/132.1, 5/132.4, 5/401, 5/401.5, 5/402, 5/403, and 5/425) do hereby appoint Barry Wells, of Risk and Regulatory Consulting, LLC, as Examiner-In-Charge, and Marg Spencer, Randall Stevenson, Wayne Johnson, John D'Amato, Kent Dover, Alea Talbert-Pearce, and Judi Miller, each of Risk & Regulatory Consulting, LLC, and Verus Financial LLC, as Examiners, to conduct a market conduct examination of American Access Casualty Company, NAIC # 10730, to examine the insurance business and affairs of American Access Casualty Company, and to make a full and true report to me of the examination of the company's claim settlement and policy administration practices to include compliance with the Uniform Disposition of Unclaimed Property Act, 765 ILCS 1025 *et seq.* The costs of the examination shall be borne by American Access Casualty 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 American Access Casualty Company. This warrant supersedes the warrant dated January 22, 2013 that was previously issued by the State of Illinois for American Access Casualty Company.



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

Done at the City of Chicago, this 25th day of July, 2013

*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.

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.

Lysa Saran  
Acting Deputy Director Consumer Outreach and Protection  
Illinois Department of Insurance

# ILLINOIS DEPARTMENT OF INSURANCE

## MARKET CONDUCT EXAMINATION REPORT

For the Period January 1, 2011 through December 31, 2012

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### American Access Casualty Company

15450 Summit Avenue, Suite 230  
Oakbrook Terrace, IL 60181

NAIC Number: 10730

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November 4, 2013

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## SALUTATION

November 4, 2013

Director Andrew Boron  
Illinois Department of Insurance  
122 S. Michigan Ave., 19th Floor  
Chicago, IL 60603

Dear Director Boron:

Pursuant to your instructions, an examination has been conducted of:

**American Access Casualty Company  
1S450 Summit Avenue, Suite 230  
Oakbrook Terrace, IL 60181**

hereinafter referred to as "AACC" or "the Company" The following report of the findings of this examination is herewith respectfully submitted.

## **PURPOSE AND SCOPE OF THE EXAMINATION**

The Illinois Department of Insurance (the "ILDOI" or "the Department") conducted a targeted Market Conduct Examination ("the Examination") of American Access Casualty Company ("AACC" or "the Company"). The Examination was called pursuant to Sections 132, 132.1, 132.4, 401, 401.5, 402, 403, and 425 of the Illinois Insurance Code (215 ILCS 5/132, 5/312.1, 5/132.4, 5/401, 5/401.5, 5/402, 5/403, and 5/425). The period of the Examination was January 1, 2011 through December 31, 2012 ("the Period"). The Examination was conducted at the direction of the ILDOI. Representatives from the firm of Risk & Regulatory Consulting, LLC ("RRC" or "the Examiners") were retained to assist the Department in conducting the Examination.

RRC personnel participated in this Examination in their capacity as Market Conduct Examiners. RRC provides no representations regarding questions of legal interpretation or opinion. Determination of findings constituting violations or potential violations is the sole responsibility of the ILDOI.

## **COMPANY PROFILE**

American Access Casualty Company (AACC), incorporated in December 1999, started operations in the Chicago metropolitan market, later expanding throughout Illinois and into Indiana, Nevada, Arizona and most recently Texas. As of December 31, 2012, the Company reported the following unaudited financial information, including:

- Premiums of \$137,068,886
- Incurred Losses of \$66,485,013
- Policyholders Surplus \$53,262,865
- Admitted Assets \$170,841,758
- Paid Losses of \$69,636,910

AACC is licensed to write auto physical damage, automobile liability and reinsurance (all lines) and specializes in the non-standard automobile insurance market. The Company underwrites 65% of its premium in Illinois and the remaining premium in Nevada, Texas, Indiana and Arizona. AACC's corporate headquarters is located in Oakbrook Terrace, IL.

## **EXAMINERS METHODOLOGY**

The Examination was based on the Examiner's workplan approved by the ILDOI, included below for reference as well as limited guidance from the Market Regulation Handbook, 2012 edition (the "Handbook"), and the relevant Illinois statutes, rules and regulations. Additionally, the Examination included a review of the applicable Illinois laws, regulations and bulletins related to Unclaimed Property. The Examiners requested and reviewed documentation and related information provided by the Company, including AACC's policies and procedures for Unclaimed Property. In addition, reports detailing the escheatment submitted to the State of Illinois during the Period were reviewed. Further, the Examiners conducted interviews of Company personnel responsible for AACC's Unclaimed Property area and reviewed samples of financial information specifically related to Unclaimed Property. The following is the Examiner workplan that guided the Examination.

A. Examination Workplan:

1. Obtain and review the Illinois laws regarding Unclaimed Property.
2. Obtain and review the following:
  - a. All annual statements filed since the most recent financial examination to determine whether any liability has been established and maintained for reportable unclaimed property, not yet escheated to the State of Illinois.
  - b. Company policies and procedures for handling stale outstanding checks.
  - c. Company policies and procedures for Unclaimed Property and escheatment.
  - d. Company records retention policies and procedures to help properly report and escheat unclaimed property.
  - e. Company listing of Unclaimed Property reported and yet to be escheated (if any).
  - f. Any other accounting documents available, such as general ledger entries and details on Unclaimed Property general ledger accounts along with any subsidiary ledgers containing Unclaimed Property information.
  - g. Company Unclaimed Property reports to the state (if any) during 2011 and 2012. Should note any failure to consistently submit Unclaimed Property reports to the State of Illinois.
  - h. Company escheatment to the State of Illinois (if any) during the scope Period. Should note any failure to consistently escheat the required property/funds to the state within timeframe established by Illinois law.
3. Identify and conduct interviews of Company representatives responsible for the Unclaimed Property process and procedures.
4. Discuss with the Department and Company any non-compliance with the applicable Unclaimed Property laws.
5. Request a listing of all applicable Company checking accounts in order to validate existing listing of unclaimed checks.
6. Obtain and review bank reconciliations for all relevant disbursement accounts for January through December 2011, for handling of old outstanding checks and voiding of checks during 2011. If deemed necessary, obtain and review the same for 2012.
7. Request supporting documentation for a sample of voided checks during 2011 to determine whether Company regularly voids un-cashed stale checks rather than identifying, tracking, and following up or properly establishing the liability for Unclaimed Property.

8. Ascertain the Company's due diligence in locating payees of Unclaimed Property and compliance with any State due diligence requirements.
9. If issues arise during the review of 2011 handling of unclaimed checks, recommend a look-back period in order to identify and quantify any amounts/property immediately due and payable to the State of Illinois under applicable statutes and regulations for which the Company has failed to report and/or escheat.

The Examiner's specific testing included the following:

**B. Completeness & Accuracy Testing:**

To test for the completeness and accuracy of the Company's escheatment list, the Examiners used their discretion to select outstanding checks included on each of the Company's June 2006, December 2006, and December 2007 bank reconciliation outstanding check lists (Claims Account & Operating Account). The test was performed to determine if the checks were cashed and cleared within the Illinois Unclaimed Property Statute's (the "Statute") five-year period required by 765 ILCS 1025 Uniform Disposition of Unclaimed Property Act. If the checks were not cleared within the requirements of the Statute, reviews were performed to ensure that the outstanding checks were properly escheated to the State of Illinois with the required five-year period.

**Adequacy of Company's Process to Identify Payees:** The Examiners performed this test to determine the Company's "payee location" process and the overall responsiveness and adequacy of that process. Testing included but was not limited to a review of the following:

- What are the number and method(s) of "payee locate" follow-up attempts?
- Was the payment erroneously transitioned to income?
- Was the payment reissued?
- What were the Company responses?

The Examiners used their discretion to select outstanding checks included on each of the Company's bank reconciliation outstanding check lists (Claims Account) as of December 31, 2011 and December 31, 2012 and which were less than five years outstanding.

The Examiners gathered additional information by submitting Information Data Requests ("IDRs"), which were used in some instances to clarify the Examiners' understanding of a particular matter. If findings and/or concerns were identified, the Company was provided with a "Concern Form," which also identified certain preliminary findings. The Company's responses to the Concern Form were reviewed and carefully considered when determining the findings included in this report.

The Examiners undertook testing and analysis of information provided by the Company, which included:

- Outstanding checks at various yearly intervals in the Period.
- Testing to determine if outstanding checks were cashed, escheated, voided and re-issued, etc. Ultimately, if the check was outstanding greater than five years, the Examiners attempted to determine if the Company properly and timely escheated the unclaimed property to the State of Illinois.
- Testing to determine if AACC attempted to locate payees in advance of the year interval.
- Testing to determine the Company's compliance with Illinois' Improper Claims Practice requirements specific to prompt settlement of claims.

Finally, the Examiners and the ILDOI conducted teleconference meetings with the Company to provide updates concerning the progress of the Examination and shared relevant findings as of the date of the meeting.

## **EXAMINATION EXECUTIVE SUMMARY**

The scope of the Examination included determining the Company's compliance with applicable Illinois laws specific to the required handling, reporting and escheating of Unclaimed Property to the State of Illinois for the Period. Further, the Examination included an assessment as to whether the Company is properly tracking and recording the reportable and payable property amounts in its accounting records and financial statements, and performing reasonable due diligence to locate claim check payees, to pay refunds and make other applicable disbursements. In addition, though a complete review was not made of AACC's claims practices, to the extent issues were present in the evaluation of uncashed checks, Examiners considered AACC's compliance with applicable prompt settlement of claims requirements. The Examination did not include a review of the Company's operations to evaluate any unclaimed property that may not have been reduced to a check.

## **PREVIOUS EXAMINATION FINDINGS**

No prior Market Conduct Examinations specific to Unclaimed Property for AACC have been conducted by the ILDOI. Additionally, the Examiners did not identify any market conduct reports or any related enforcement actions from additional states in which AACC conducts business. Those states include: Arizona, Indiana, Nevada and Texas.

## **PERTINENT FACTUAL FINDINGS**

### **A. REVIEW OF EXAMINATION STANDARDS**

This aspect of the Examination was concerned with the review and testing, where applicable, of the relevant Handbook guidance.

#### **Unclaimed Property**

- Evaluation of the applicable Market Conduct Standard was based on: (a) interviews with Company personnel regarding policies and procedures, (b) the Company's response to various information and data requests explaining their processes and procedures, and (c) a review of Company files and related records.

***Chapter 28 - Standard A-1. Procedures for handling unclaimed property are proper.***

**Results:** Based on the work performed by the Examiners and as discussed later in the report in more detail, it was determined that the Company does not have procedures in place to attempt to locate payees or obtain updated information during the five-year escheatment period other than within the 120-day period prior to the end of the five-year period.

## B. REVIEW OF GOVERNING ILLINOIS STATUTES AND LAWS REGARDING UNCLAIMED PROPERTY AND IMPROPER CLAIMS PRACTICES

This aspect of the Examination was concerned with the review and testing of AACC's compliance with the State of Illinois statutes and laws governing Unclaimed Property and Improper Claims Practices, specifically including the following:

### 765 ILCS 1025/11, Sec. 11. Report of Holder – Paragraph (d):

*"The report and remittance of the property specified in the report shall be filed by banking organizations, financial organizations, insurance companies other than life insurance corporations, and governmental entities before November 1 of each year as of June 30 next preceding."*

### 215 ILCS 5/154.6, Sec. (c) and (d). Acts Constituting Improper Claims Practice:

*Any of the following acts by a company, if committed without just cause and in violation of Section 154.5, constitutes an improper claims practice:*

*(c) Failing to adopt and implement reasonable standards for the prompt investigations and settlement of claims arising under its policies;*

*(d) Not attempting in good faith to effectuate prompt, fair and equitable settlement of claims submitted in which liability has become reasonably clear;*

## C. RESULTS OF TESTING

### 1. Testing of outstanding checks aged greater than five years:

- No material exceptions (see item 4 below regarding exceptions) were noted with AACC's escheatment of specific checks reviewed. Specifically:
  - **2011** – 392 checks totaling \$17,295 were escheated to the state of Illinois (or an average of \$44 per check)
  - **2012** – 1,550 checks totaling \$29,769 (or an average of \$33 per check)

### 2. Testing of outstanding checks aged less than five years:

- The Examiners did not identify any exceptions with specific checks reviewed. As noted above, the Company does not have procedures in place to attempt to locate payees or obtain updated information during the five-year escheatment period other than within the 120-day period prior to the end of the five-year period. Specifically, the Company sends a letter to the payee on the check 120 days before the required state filing date. The letter states that the Company has their uncashed check, which will be remitted to the State should the Company not hear from the payee by a certain date. This appears to conform to the requirements for the five-year escheatment period and reporting.

### 3. 2011 Escheatment Testing

- No specific exceptions were noted other than the issue raised above in connection with locating payees and the late payment detailed in item 4 below.

**4. 2012 Escheatment Testing**

- \$1,176 of the escheatment made in 2012 should have been made in 2011. The average amount of each check was approximately \$7.

**5. Tests of Outstanding Checks**

- Based upon review of the December 2011 and 2012 outstanding checklists for the Operating, Legal and Claim banking accounts, other than the late payment detailed in item 4 above, the Examiners did not identify any outstanding checks that should have been escheated earlier. This testing was based upon reviewing both the dates of the checks and verifying there were no gaps in the check series for the period of review.
- Based upon review of the above noted bank account reconciliations for 2011 and 2012, it was noted that checks generally clear within three years.

## **EXAMINATION REPORT SUBMISSION**

The courtesy and cooperation of the officers and employees of the Organization during the examination are acknowledged. All aspects of the Examination were conducted by Risk & Regulatory Consulting, LLC.

**Respectfully submitted,**



**Barry L. Wells, CCLA, MCM  
Risk & Regulatory Consulting, LLC  
Examiner-In-Charge**





# Illinois Department of Insurance

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PAT QUINN  
Governor

ANDREW BORON  
Director

VIA USPS CERTIFIED MAIL  
RETURN RECEIPT REQUESTED

May 15, 2014

Daniel Thomas Cummings, President  
American Access Casualty Company  
1S450 Summit Avenue, Suite 230  
Oakbrook Terrace, IL 60181

**Re:** American Access Casualty Company-NAIC#10730  
*Market Conduct Examination Report – Closing Letter*

Dear Mr. Cummings:

The Department has received the company's response dated May 9, 2014, accepting the market conduct report of examination on American Access Casualty Company. Therefore, the Department is closing its file on this exam. I intend to ask the Director to make the Examination Report available for public inspection as authorized by 215 ILCS 5/132.

Please contact me if you have any questions.

Sincerely,

Lysa Saran  
Acting Deputy Director  
Consumer Outreach and Protection  
Illinois Department of Insurance  
122 S. Michigan Avenue, 19th Floor  
Chicago, IL 60603  
Phone: 312-814-1767  
Cell: 312-833-4396  
E-mail: [Lysa.Saran@Illinois.gov](mailto:Lysa.Saran@Illinois.gov)

**DISCLAIMER**

*Once the report of examination has been filed, the report, company's rebuttal (if any), and all corresponding Orders (if applicable) become public documents under the Freedom of Information Act (5 ILCS 140/1 et al.) and may be posted on the Department's website.*