



# Illinois Department of Insurance

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Bruce Rauner  
Governor

Anne Melissa Dowling  
Acting Director

December 3, 2015

Steven M. Menzies, President  
Continental Indemnity Company  
526 Second Avenue SE  
PO Box 2457  
Cedar Rapids, IA 52406-2457

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

Dear Mr. Menzies:

The Department has reviewed your Company's proof of compliance and deems it adequate and sufficient. 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. 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,

Jack Engle, MCM  
Assistant Deputy Director-Market Conduct and Analysis  
Illinois Department of Insurance  
320 West Washington- 5th Floor  
Springfield, IL 62767  
217-558-1058  
E-mail: [Jack.Engle@Illinois.gov](mailto:Jack.Engle@Illinois.gov)

cc: Jeff Silver

Continental Indemnity Company

## MARKET CONDUCT EXAMINATION REPORT

DATE OF EXAMINATION: April 13, 2015, through May 29, 2015

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

LOCATION: Omaha, Nebraska

PERIOD COVERED BY EXAMINATION: July 1, 2011 through June 30, 2014

EXAMINERS: Timothy R. Nutt, Examiner-in-Charge  
Michael Currier, Senior Examiner  
Wayne C. Stephens, Senior Examiner

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## I. SUMMARY

A targeted market conduct examination of Continental Indemnity Company (“Company”) was performed to determine compliance with Illinois Statutes and the Illinois Administrative Code.

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

<b>TABLE OF TOTAL VIOLATIONS</b>						
<b>Crit #</b>	<b>Statute/Rule</b>	<b>Description of Violations</b>	<b>Population</b>	<b>Files Reviewed</b>	<b>Number of Files in Error</b>	<b>Error %</b>
1, 3,4, 6 & 7	215 ILCS 5/462b	Failure to apply correct classifications, payrolls or other factors of a rating system to compute premium	772	113	8	7%
8	820 ILCS 305/8.2(d)(1)	Failure to make payment within 30 days	940	91	74	81 %
9	820 ILCS 305/8.2(d)(3)	Failure to pay interest due for late claim payments	940	91	74	81%
10	820 ILCS 305/19(o)	Failure to provide evidence of monthly reporting	772	46	8	17%
11	820 ILCS 305/19(o)	Failure to provide evidence of annual reporting	772	46	6	13%

## **II. BACKGROUND**

Continental Indemnity Company is a licensed property and casualty insurance company domiciled in Iowa and licensed to transact business in 48 states. The Company is a wholly owned subsidiary of North American Casualty Company, which is a wholly owned subsidiary of Applied Underwriters, Inc. Applied Underwriters, Inc. is an indirect subsidiary of Berkshire Hathaway Inc.

The Company's 2011, 2012 and 2013 NAIC Financial Annual Statement Page 19 (Illinois) reflects the following information:

Year	Line	Direct premium written	Direct premium earned	Direct losses paid	Direct losses incurred
2011	Workers' Compensation	\$12,404,463	\$12,404,463	\$4,638,204	\$6,209,032
2012	Workers' Compensation	\$16,849,921	\$16,849,921	\$4,951,318	\$6,529,057
2013	Workers' Compensation	\$26,553,299	\$26,553,299	\$5,947,015	\$9,509,826

### **III. METHODOLOGY**

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

1. Risk Selection;
2. Underwriting;
3. Claims;
4. Complaints; and
5. Producer Review.

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

To obtain the required samples and to assure a statistically sound selection, surveys were developed from Company-generated Excel spreadsheets. Random statistical printout reports were generated by the examiners and presented to the Company for retrieval.

#### Risk Selection

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

#### Underwriting

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

#### Claims

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

All claims were reviewed for compliance with policy contracts and endorsements, applicable sections of the Illinois Insurance Code (215 ILCS 5/1 *et seq.*) and the Illinois Workers' Compensation Act (820 ILCS 305/1 *et seq.*) and the Illinois Administrative Code (50 Ill. Admin. Code 101 *et seq.*)

Statutorily required claims reporting was also reviewed for compliance with applicable sections of the Illinois Insurance Code (215 ILCS 5/1 *et seq.*) and the Illinois Workers' Compensation Act (820 ILCS 305/1 *et seq.*) and the Illinois Administrative Code (50 Ill. Admin. Code 101 *et seq.*).

### Complaints

Complaints were reviewed for completion, accuracy and validity of the complaint based on complaints received by the Illinois Department of Insurance during the examination period.

### Producer Review

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



#### IV. SELECTION OF SAMPLE

<u>Survey</u>	<u>Population</u>	<u># Reviewed</u>	<u>% Reviewed</u>
Risk Selection:			
Workers' Compensation - Cancellations	49	32	65%
Workers' Compensation - Non-renewals	75	47	63%
Department Complaints	9	9	100%
Consumer Complaints	0	0	0%
Producer Terminations	0	0	0%
Producer Licensing	0	0	0%
Underwriting:			
Workers' Compensation - New Business	292	43	15%
Workers' Compensation - Renewals	480	70	15%
Claims:			
Workers' Compensation - Paid	940	91	10%
Workers' Compensation - Closed without Payment	164	16	10%

## V. FINDINGS

### A. Risk Selection

#### 1. Cancellations

A review of 32 cancelled policy files produced no criticisms.

#### 2. Non-renewals

A review of 47 non-renewed policy files produced no criticisms.

#### 3. Department Complaints

A review of nine Department complaint files produced no criticisms.

#### 4. Consumer Complaints

There were no consumer complaints for the exam period.

#### 5. Producer Terminations

The Company does not appoint producers. New business is produced through independent brokers.

#### 6. Producer Licensing

The Company does not appoint producers. New business is produced through independent brokers.

### B. Underwriting

A review of 113 underwriting files produced five (5) criticisms with a total of eight (8) errors for failure to apply correct classifications, payrolls or other factors to compute correct premium in violation of 215 ILCS 5/462b. The premium impact of these errors resulted in undercharges totaling \$19,243.

## C. Claims

### 1. Paid Claims Analysis

The Company is criticized for failure to make timely claim payments as required by 820 ILCS 305/8.2(d)(1). A review of 91 paid claim files indicated 74 files contained 332 late payments to providers.

The Company is criticized for failure to make interest payments as required by 820 ILCS 305/8.2(d)(3). A review of 91 paid claim files indicated 74 files contained 332 late payments requiring interest payments.

The Company is criticized for failure to provide evidence of monthly claims reporting required by 820 ILCS 305/19(o) for eight (8) of 46 insureds included in the paid claim sample.

The Company is criticized for failure to provide evidence of annual claims reporting required by 820 ILCS 305/19(o) for six (6) of 46 insureds included in the paid claim sample.

### 2. Denied and Closed Without Payment Claims

A review of 16 files produced no criticisms.

STATE OF ILLINOIS            )  
  ) ss  
COUNTY OF COOK            )

Timothy R. Nutt, 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 Continental Indemnity Company, (the "Company"), NAIC #28258;


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

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

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

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

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

  
Examiner-In-Charge

Subscribed and sworn to before me  
this Twelfth day of AUGUST, 2014.

  
Notary Public



# STATE OF ILLINOIS

## DEPARTMENT OF INSURANCE



IN THE MATTER OF:

CONTINENTAL INDEMNITY COMPANY, NAIC # 28258  
526 SECOND AVENUE SE  
PO BOX 2457  
CEDAR RAPIDS, IA 52406-2457

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

WHEREAS, a Market Conduct Examination of the Company was conducted by a duly qualified examiner of the Department pursuant to Sections 132, 401, 402, 403, 407, and 425 of the Illinois Insurance Code (215 ILCS 5/132, 5/401, 5/402, , 5/403, 5/407, and 5/425); and

WHEREAS, as a result of the Market Conduct Examination, the Department examiner filed a Market Conduct Examination Report 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 its various rights in connection with the examination and report, including the right to counsel, notice, hearing and appeal under Sections 132, 401, 402, and 407, 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:

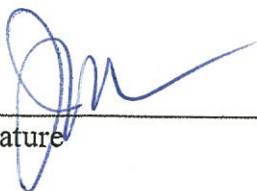
1. The Market Conduct Examination indicated various areas in which the Company was not in compliance with provisions of the Illinois Insurance Code and Department Regulations; and
2. The Director and the Company consent to this Order requiring the Company to take certain actions to come into compliance 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 procedures to ensure that workers compensation claims submitted by providers are paid within thirty (30) days of receipt of the bill which contains substantially all of the required data elements necessary to adjudicate the bill as required by 820 ILCS 305/8.2(d)(1).
2. Institute and maintain procedures to ensure interest is paid at a rate of one percent (1%) per month on any bill or portion therefore not paid within such thirty (30) day period as required by 820 ILCS 305/8.2(d)(3).
3. Institute and maintain procedures to notify each insured employer by the 15<sup>th</sup> day of each month of any compensable claim incurred during the preceding month and the amounts paid or reserved on the claim including a summary of the claim and a brief statement of the reasons for compensability as required by 820 ILCS 305/19(o).
4. Institute and maintain procedures to furnish to each insured employer a cumulative report of all claims incurred during the preceding calendar year or continued from the previous year by the 30<sup>th</sup> day of each January as required by 820 ILCS 305/19(o).
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 this Order.
6. Pay to the Director of Insurance, State of Illinois, a civil forfeiture in the amount of \$67,400 to be paid within 30 days of execution of this Order.

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

On behalf of CONTINENTAL INDEMNITY COMPANY



Signature

Jeffrey A. Silver

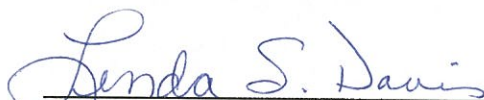
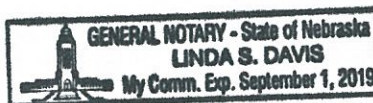
Name

Secretary

Title

Subscribed and sworn to before me this

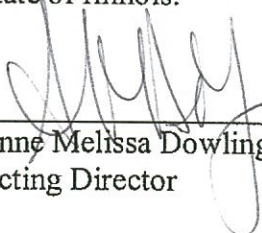
1 day of October 2015.

  
Notary Public

DEPARTMENT OF INSURANCE of the  
State of Illinois:

DATE

10/16/15

  
Anne Melissa Dowling  
Acting Director