



# Illinois Department of Insurance

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Bruce Rauner  
Governor

Anne Melissa Dowling  
Acting Director

January 5, 2017

John P. Heywood  
President  
American Heartland Insurance Company  
United Equitable Insurance Company  
5700 Old Orchard Road, Suite 300  
Skokie, IL 60077

Re: American Heartland Insurance Company, NAIC 10031  
United Equitable Insurance Company, NAIC 24910  
Market Conduct Examination Report Closing Letter

Dear Mr. Heywood:

The Department has reviewed your Companies' 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 and Stipulation and Consent Order available for public inspection as authorized by 215 ILCS 5/132. The examination report and corresponding orders are public documents under the Freedom of Information Action (FOIA) [5 ILCS 140/01 *et seq.*] and may be posted on the Department's website. 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. To the extent that the examination report contains information that the Companies deem private, personal or trade secret pursuant to Sections 7(1)(b), (c) or (g) of FOIA [5 ILCS 140/7(b), (c) and (g)], the Companies may request that the Department redact such information from the report. In making the request for confidentiality, the Companies must provide a factual basis for its assertions of confidentiality. The Department will consider the request and determine whether such information is exempt from disclosure under Section 7 of FOIA.

Sincerely,

A handwritten signature in cursive script that reads "Jack Engle".

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)

United Equitable Insurance Company  
American Heartland Insurance Company

## MARKET CONDUCT EXAMINATION REPORT

DATE OF EXAMINATION: October 15, 2013 through April 18, 2014

EXAMINATION OF: United Equitable Insurance Company,  
(P&C Domestic) NAIC #24910  
  
American Heartland Insurance Company,  
(P&C Domestic) NAIC #10031

LOCATION OF EXAMINATION: 5700 Old Orchard Road, Suite 300  
Skokie, Illinois 60077

PERIOD COVERED BY EXAMINATION: October 1, 2011 through September 30, 2012 for the Underwriting Survey and September 1, 2012 through August 31, 2013 for all other Surveys

EXAMINERS: Jack K. Engle  
Larry J. Nelson  
Roger O. Henschen  
Examiner-in-Charge

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## I. SUMMARY

1. The Companies were criticized under 215 ILCS 5/143.19 for canceling auto policies which had been in effect 60 days, or if such policy was a renewal policy, with reasons other than those permitted by statute.
2. The Companies were criticized under 215 ILCS 5/143.15 for failing to include on the notice of cancellation a specific explanation of the reason or reasons for cancellation of the auto policy.
3. The Companies were criticized under 215 ILCS 5/143.14 for failing to maintain the proof of mailing of the notice of cancellation of the auto policy.
4. The Companies were criticized under 215 ILCS 5/143.17(e) for failing to provide on the notice of nonrenewal a specific explanation of the reasons for nonrenewal of the auto policy.
5. The Companies were criticized under 215 ILCS 5/143.17(a) for failing to maintain the proof of mailing of the notice of nonrenewal of the auto policy.
6. The Companies were criticized under 215 ILCS 5/154 for rescinding auto policies when there was no evidence or proof of misrepresentation by the insured applicant.
7. The Companies were criticized under 215 ILCS 5/155.17 for failing to have the same bodily injury base rates for all divisions or districts within any municipality which has a population of 2,000,000 or more. The municipality is the city of Chicago.
8. The Companies were criticized under 50 Ill. Adm. Code 753.10(a)(3) for failing to use the auto application filed with the Illinois Department of Insurance.
9. The Companies were criticized under 50 Ill. Adm. Code 754.10(b)(1) for failing to use the rules, rates or rating plans, classifications or other schedules filed with the Illinois Department of Insurance when rating and issuing auto policies.
10. The Companies were criticized under 50 Ill. Adm. Code 919.80(b)(2) in the Auto First Party Paid Survey for failing to provide the insured with a reasonable and understandable written explanation for the delay when the claim remained unresolved for more than 40 calendar days.
11. The Companies were criticized under 50 Ill. Adm. Code 919.50(a)(1) in the Auto First Party Paid Survey for failing to provide the insured a written explanation of the basis of a lower settlement.

12. The Companies were criticized under 50 Ill. Adm. Code 919.30(c) for failing to maintain detailed documentation in the claim files to permit reconstruction of the Companies' activities relative to the resolution of claims.
13. The Companies were criticized under 50 Ill. Adm. Code 919.50(a)(1) in the Auto First Party Closed Without Payment Survey for failing to send the insured a denial letter when required.
14. The Companies were criticized under 215 ILCS 5/154.6(c), 5/154.6(d) and/or 5/154.6(r) in the Auto Third Party Closed Without Payment Survey for failing to adopt reasonable standards for the prompt investigation and settlement of claims and/or not attempting in good faith to effectuate prompt, fair and equitable settlements when liability was reasonably clear.
15. The Companies were criticized under 50 Ill. Adm. Code 919.80(d)(3) in the Auto Total Loss Survey for taking advance charge deductions from the total loss settlement when there was no explanation of the reason(s) the charges were excessive and there was no evidence the insured caused any excessive charges.
16. The Companies were criticized under 50 Ill. Adm. Code 919.80(c)(2)(E) in the Auto Total Loss Survey for failing to maintain complete documentation in the claim file of how the market value of the insured vehicle was determined.
17. The Companies were criticized under 50 Ill. Adm. Code 919.80(c)(2) in the Auto Total Loss Survey for failing to properly use or failing to provide evidence that they properly used the methodology of the source chosen (CCC) to determine the market value of the insured total loss vehicle and/or for failing to use one (1) of the sources.
18. The Companies were criticized under 50 Ill. Adm. Code 919.80(b)(2) in the Auto Total Loss Survey for failing to provide the insured with a reasonable and understandable written explanation for the delay when the claim remained unresolved for more than 40 calendar days.
19. The Companies were criticized under 50 Ill. Adm. Code 919.80(c) in the Auto Total Loss Survey for failing to provide the insured, at a minimum, the information contained in Exhibit A, or failing to provide that information in a timely manner.
20. The Companies were criticized under 50 Ill. Adm. Code 919.30(c) in the Subrogation Survey for failing to maintain detailed documentation in the claim files in order to permit reconstruction of the Companies' activities relative to the resolution of claims.

21. The Companies were criticized under 215 ILCS 5/143b in the Subrogation Survey for failing to return the full and correct *pro rata* share of the deductible to their insureds.
22. The Companies were criticized under 50 Ill. Adm. Code 926.50 for failing to maintain their complaint log on Department of Insurance Complaints as outlined in Exhibit A and as defined in Exhibit B.
23. The Companies were criticized under 215 ILCS 5/154 in the Department of Insurance Complaint Survey for rescinding policies when there was no proof or evidence of any misrepresentation or intent to deceive.
24. The Companies were criticized under 50 Ill. Adm. Code 926.40(a) for responding late to Department Complaints.
25. The Companies were criticized under 50 Ill. Adm. Code 919.80(c)(2) in the Department of Insurance Complaint Survey for taking UPD (unrelated prior damage) when the condition matrix of the source used to determine the value of the total loss vehicle (CCC) mirrored the vehicle conditioning.
26. The Companies were criticized under 50 Ill. Adm. Code 926.50 for failing to maintain their Consumer Complaint log as outlined in Exhibit A and as defined in Exhibit B.
27. The Companies were criticized under 215 ILCS 5/143d(b) in the Consumer Complaint Survey for failing to provide a written response to written complaints received from policyholders.

## From the INTERRELATED AND ADDITIONAL FINDINGS

1. The Companies are cautioned under 215 ILCS 5/143.17 for failing to renew policies unless a request to renew the policy was received. The Companies do not automatically renew policies unless the producer instructs them to renew.
2. The Companies are cautioned under 215 ILCS 5/143.25a for failing to inform automobile policyholders, prior to the first renewal, that they could purchase such renewal at a premium savings for collision and comprehensive coverage if higher deductibles were purchased.
3. The Companies are cautioned that when delay letters were due or sent to private passenger auto insureds or third party claimants, the Companies failed to provide a reasonable written explanation for the delay as required by and as outlined in 50 Ill. Adm. Code 919.80(b)(2) and 50 Ill. Adm. Code 919.80(b)(3).
4. The Companies are cautioned in the Auto First Party Paid Survey under 215 ILCS 5/154.6(d) for failing to return underpayment to the insured of the correct amount for storage reimbursement received from the third party carrier.
5. Throughout the examination process, it was noted that the claim files displayed lengthy delays by the Companies by not acknowledging correspondence timely, by not answering or returning phone calls, by requesting insureds and claimants provide copies of law enforcement reports, by not processing claims timely where liability was reasonably clear, and by asserting questionable theories of liability. It is evident that these behaviors contribute to the high complaint rates for the Companies. The Companies are cautioned to improve their practices in these areas or future findings under 215 ILCS 5/154.6 will be applicable.
6. The Companies are cautioned to improve their recordkeeping practices, pursuant to 50 Ill. Adm. Code 919.30(c), as many claim files lacked proper documentation to support claims action taken, and failed to maintain documentation to support actions and inactions during the claims process. Examples include, but are not limited to, missing pages of total loss evaluations, a lack of photo descriptions to support vehicle conditioning or unexplained property damage, lack of proper claims file investigation log documentation to support liability and payment issuance.
7. In multiple surveys, claimant contact was not established and claims remained unresolved for long periods of time. The Companies are cautioned under 215 ILCS 5/154.6(c) to pay or deny the claims in a timely manner.
8. The Companies are cautioned under 215 ILCS 5/154.6(f) for engaging in activities which result in a disproportionate number of meritorious complaints received by the Illinois Department of Insurance.



## II. BACKGROUND

The following Companies were the subject of the Market Conduct Exam:

### **UNITED EQUITABLE INSURANCE COMPANY**

#### **HISTORY**

United Equitable Insurance Company was incorporated May 29, 1959, under the laws of Illinois. It began business June 18, 1959. The company operated as Globe Security Insurance Company until April 5, 1972, when the present title was adopted.

Effective August 8, 1990, Lincolnwood National Life Insurance Company, formerly known as United Equitable Life Insurance Company, and its wholly owned subsidiary, United Equitable Insurance Company, were placed in rehabilitation. The Illinois Insurance Department petitioned the Cook County Circuit Court on December 18, 1990, for an order of liquidation with the finding of insolvency against both insurers. On December 20, 1991, the order of liquidation was dismissed against United Equitable Insurance Company and it was subsequently acquired by United Equitable Group, Ltd.

All of the capital stock of the company is owned by United Equitable Group, Ltd., a holding company, which purchased the company from the Illinois Department of Insurance on February 27, 1992. The company was under the Department's control as the previous owner, Lincolnwood National Life Insurance Company, had been placed under an order of rehabilitation on August 8, 1990.

Prior to the order of rehabilitation, the company was under the control of Lincolnwood National Life Insurance Company. Ownership was acquired in 1972 from the original sponsor, Security Mutual Casualty Company, Chicago, Illinois.

#### **BUSINESS PROFILE**

The company provides non-standard automobile liability and physical damage coverage exclusively in its domiciliary state of Illinois. Policies are written on a semi-annual or annual basis at basic statutory limits. All business is produced through Lakeshore Insurance Services, Inc., an affiliate, which is responsible for coordinating business through the company's network of independent agencies.

United Equitable Insurance Company has a management agreement with its parent, United Equitable Group, Inc., whereby the parent provides corporate shared services to all companies within the United Equitable Group organization, including United Equitable Insurance Company. Other affiliated organizations include, American Heartland Insurance Company, which is an insurance underwriter also under the United Equitable Group, and 7373 N. Cicero, a limited partnership jointly owned by United

Equitable Insurance and American Heartland, as well as companies that offer brokerage and premium finance services.

2013 State Page Exhibit – 019

	Direct premium written	Direct premium earned	Direct losses paid	Direct losses incurred
Other private passenger auto liability	8,477,160	7,931,215	3,535,067	4,400,578
Private passenger auto physical damage	5,350,004	5,123,405	1,835,571	1,809,944

**AMERICAN HEARTLAND INSURANCE COMPANY**

**HISTORY**

American Heartland Insurance Company commenced business on May 6, 1994, under the laws of Illinois. Paid-up capital totals \$1 million, which consists of 100,000 shares of common stock issued at a par value of \$9 per share and 100,000 preferred shares issued at a par value of \$1 per share.

The company is a wholly owned subsidiary of United Equitable Group, Ltd., an Illinois domiciled holding company which also owns United Equitable Insurance Company, and other insurance-related entities.

The affairs of American Heartland and its affiliate, United Equitable Insurance Company, are under the direction of Stephen J. Morrow, president and chief executive officer, who serves in the same capacity with the parent organization.

The company has several management contracts with its affiliated entities for which it receives various management, underwriting, claim handling, policy administration, marketing and policy issuance services. The Company is charged a fee or commission for these services.

**BUSINESS PROFILE**

The company provides non-standard automobile liability and physical damage coverage exclusively in its domiciliary state of Illinois. Policies are written on a semi-annual or annual basis at basic statutory limits. All business is produced through Lakeshore Insurance Services, Inc., an affiliate, which is responsible for coordinating business through the company's network of independent agencies. American Heartland has a management agreement with its parent, United Equitable Group, Ltd., whereby the parent

provides corporate shared services to all companies within the United Equitable Group organization, including American Heartland.

2013 State Page Exhibit – 019

	Direct premium Written	Direct premium earned	Direct losses paid	Direct losses incurred
Other private passenger auto liability	8,680,144	7,962,469	3,157,549	4,153,698
Private passenger auto physical damage	2,029,981	1,943,172	676,800	677,556

### III. METHODOLOGY

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

The following categories are the general areas examined:

1. Risk Selection
2. Underwriting
3. Claims
4. Complaints

The review of these categories is accomplished through examination of individual underwriting and claim files, written interrogatories, interviews with company personnel, analysis of policy forms and endorsements, and verification of computer rating accuracy. Each of these categories is examined for compliance with Department rules and regulations and applicable State laws.

The following methods were used to obtain the required samples to assure methodical selection:

#### Risk Selection

Cancellations and nonrenewals were requested on the basis of the effective date of the transaction falling within the period under examination. They were reviewed for compliance with statutory requirements, the accuracy and validity of reasons given, and for any possible discrimination.

#### Underwriting

New files were selected based on the inception date falling within the period under examination. New policies were reviewed for rating accuracy, use of filed rates, use of filed forms, compliance with Company underwriting guidelines, and to insure that the protection provided was as requested.

#### Claims

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

#### Complaints

Complaints were requested based on those received by the Companies during the period under examination.

### Selection of Samples

A.	Risk Selection	Total <u>Files</u>	# <u>Reviewed</u>	% <u>Reviewed</u>
1.	Private Passenger Auto Cancellations	513	116	22.62
2.	Private Passenger Auto Nonrenewals	522	96	18.39
3.	Private Passenger Auto Rescissions	152	80	52.63
4.	Producer Terminations	1	1	100.00
B.	Underwriting			
1.	Private Passenger Auto New Business	46,805	100	2.14
C.	Claims			
1.	Private Passenger Auto First Party Median & Paid	1548	109	7.05
2.	Private Passenger Auto First Party Closed Without Payment	1469	108	7.35
3.	Private Passenger Auto Third Party Median & Paid	2007	110	5.48
4.	Private Passenger Auto Third Party Closed Without Payment	1790	109	6.09
5.	Private Passenger Auto Total Losses – First Party	270	84	31.11
6.	Private Passenger Auto Subrogation	137	81	59.12
7.	Arbitration	195	80	41.03
D.	Complaints			
1.	Department of Insurance	174	174	100.00
2.	Consumer Complaints	10	10	100.00

## IV. FINDINGS

### A. Risk Selection

#### 1. Private Passenger Auto Cancellations

In 32 cancellations the policy had been in effect for more than 60 days when the notice of cancellation was mailed. After a policy has been effective for 60 days, or if such policy is a renewal policy, the insurer shall not exercise its option to cancel such policy except for one or more of the reasons listed in 215 ILCS 5/143.19. In 26 files (81.25% of the 32) the coverage was canceled for reasons other than allowed by the statute.

One hundred sixteen files were examined. In 55 files (47.41% of the 116) the Companies were in violation of 215 ILCS 5/143.15 for failing to include a specific explanation of the reason or reasons for cancellation.

In seven (7) files (6.03% of the 116 examined) the Companies failed to maintain proof of mailing of the notice of cancellation. The Companies were in violation of 215 ILCS 5/143.14.

#### 2. Private Passenger Auto Nonrenewals

In 25 files (26.04% of the 96 examined) the Companies were in violation of 215 ILCS 5/143.17(e) for failing to provide a specific explanation of the reasons for nonrenewal.

In five (5) files (5.21% of the 96 examined) the Companies were in violation of 215 ILCS 5/143.17(a) for failing to maintain proof of mailing of the notice of nonrenewal.

#### 3. Private Passenger Auto Rescissions

In 28 of the 80 rescissions reviewed (35%) the Companies were criticized for rescinding policies when there was no evidence/proof of any misrepresentation or of any intent to deceive on the part of the insured. The Companies were in violation of 215 ILCS 5/154.

#### 4. Producer Terminations

There were no criticisms.

B. Underwriting

1. Private Passenger Auto New Business

As required by 215 ILCS 5/155.17, the base rates for automobile bodily injury must be the same for all territories within a city with a population of 2,000,000 or more. Currently in Illinois, this applies only to the city of Chicago. The Companies rate filings indicate 22 rating territories for the city of Chicago. Five (5) territories do not have the same bodily injury rating factors as the other 17 territories in the city of Chicago. A 22.73% error percentage applies.

Ninety-eight new business applications were reviewed. Seventy-two applications (73.47% of the 98) were in violation of 50 Ill. Adm. Code 753.10(a)(3). The applications used were not the applications filed with the Illinois Department of Insurance.

In 17 of the 100 files rated (17.00%) the Companies failed to follow the rules for applying rates, rating plans, classifications and/or other schedules filed with the Illinois Department of Insurance for rating the new business, creating 16 annual undercharges totaling \$1413.00 and one (1) annual overcharge of \$110.00. The policy with the \$110.00 annual premium overcharge was canceled for nonpay 33 days after the policy was in force. Eight dollars was due and was returned to the insured. The Companies were in violation of 50 Ill. Adm. Code 754.10(b)(1).

C. Claims

1. Private Passenger Auto First Party Median & Paid

The median payment period was 28 days distributed as follows:

<u>Days</u>	<u>Number</u>	<u>Percent</u>
0-30	58	53.21
31-60	30	27.52
61-90	10	9.17
91-180	7	6.42
181-365	3	2.75
<u>over 365</u>	<u>1</u>	<u>0.92</u>
Total	109	100.00

One-hundred-and-nine files were examined. Forty-one files remained unresolved for more than 40 calendar days from the date the loss was reported, requiring a reasonable written explanation for the delay to be provided to the insured as outlined in 50 Ill. Adm. Code 919.80(b)(2). In seven (7) files (17.07% of 41) a written explanation was sent but was not reasonable and understandable.

In one (1) file the Companies were in violation of 50 Ill. Adm. Code 919.50(a)(1) for failing to provide the insured a written explanation of the basis of a lower settlement.

In one (1) file the Companies were in violation of 50 Ill. Adm. Code 919.30(c) for failing to maintain detailed documentation in the file to permit reconstruction of the Companies' activities relative to the handling of the claim.

2. Private Passenger Auto First Party Closed Without Payment

Denial letters were due in 18 files. The Companies failed to provide the denial letter in two (2) files (11.11% of the 18) and were in violation of 50 Ill. Adm. Code 919.50(a)(1).

In 10 files (9.26% of the 108 examined) the Companies failed to have detailed documentation in the claim files in order for the examiner to reconstruct the actions taken by the Companies relative to the resolution of the claims. The Companies were in violation of 50 Ill. Adm. Code 919.30(c).

3. Private Passenger Auto Third Party Median & Paid

After removing subrogation files, sixty files were used to compute the median. The median payment period was 50 days and distributed as follows:

<u>Days</u>	<u>Number</u>	<u>Percent</u>
0-30	19	31.7
31-60	17	28.3
61-90	8	13.3
91-180	13	21.7
181-365	2	3.3
<u>over 365</u>	<u>1</u>	<u>1.7</u>
Total	60	100.00



In three (3) files (2.73% of the 110 reviewed) the Companies failed to have detailed documentation in the claim files in order to permit reconstruction of the Companies' activities relative to the resolution of the claims, a violation of 50 Ill. Adm. Code 919.30(c).

4. Private Passenger Auto Third Party Closed Without Payment

In 26 files (23.85% of the 109 examined) the Companies failed to adopt and implement reasonable standards for the prompt investigation and settlement of claims arising under its policies in violation of 215 ILCS 5/154.6(c), and/or did not attempt in good faith to effectuate a prompt, fair and equitable settlement of the claim when liability was reasonably clear in violation of 215 ILCS 5/154.6(d), and/or also in violation of 215 ILCS 5/154.6(r).

In 15 files (13.76% of the 109 reviewed) detailed documentation was not contained in the claim file in order to permit reconstruction of the Companies' activities relative to the claim. The Companies were in violation of 50 Ill. Adm. Code 919.30(c).

5. Private Passenger Auto First Party Total Losses

In 25 total loss files the Companies took advance charge deductions for towing, storage and fees. In 100% of these 25 files the Companies failed to document the reason(s) for these deductions. Dollar amounts were provided but not the reason(s) those advance charges were excessive. Also, in five (5) of these files, deductions should not have been taken because the insured did nothing to cause any excessive charges, which resulted in underpayments totaling \$1,094.00. The Companies made reimbursements totaling \$545.00 but still owes \$549.00. The Companies were in violation of 50 Ill. Adm. Code 919.80(d)(3).

Eighty total losses were examined. The Companies were in violation of 50 Ill. Adm. Code 919.80(c)(2)(E) in 68 of these 80 files (85.00%) because the claim files failed to contain documentation of how the market value of the insured vehicles was determined. The values of these 68 vehicles were determined by CCC. The Companies failed to include all pages of the CCC valuation in the claim file in order for the examiner to determine if proper conditioning was given.

The Companies used CCC to determine the market value of the insured total loss vehicle in 68 of the 80 files. The Companies may use any of the sources described in 50 Ill. Adm. Code 919.80(c)(2) but whatever source is chosen, the Companies must use the methodologies of that source. There was no evidence that the Companies used CCC correctly in these 68 files (85.00% of the 80) due primarily to the fact that not all of the CCC

pages were in the claim file. Also in 22 of 68 files the Companies had CCC reduce the value because the vehicle was a rental/fleet vehicle. The reduction totaled \$41,877.00 for 21 vehicles (the 22<sup>nd</sup> vehicle was settled with Department assistance). The ACV developed by CCC includes statistical sales data that includes rental vehicle sales. CCC does not apply a deduction when a vehicle is a prior rental. If there is an adjustment due to the vehicle being a rental, it is a manual adjustment at the direction of the insurance company. Also, in an additional file, the Companies used the “Bill of Sale” to determine the value instead of using one of the sources described in 50 Ill. Adm. Code 919.80(c)(2) creating an underpayment of \$475.00. The Companies paid the \$475.00 but the \$41,877.00 has not been paid. In an additional eight (8) files the Companies failed to use the CCC conditioning matrix correctly creating underpayments totaling \$3,425.66. They agreed to payments totaling \$856.22.

Forty collision total losses took in excess of 40 calendar days to be resolved. As required by 50 Ill. Adm. Code 919.80(b)(2), when a first party physical damage claim remains unresolved in excess of 40 calendar days from the date the loss is reported, a reasonable written explanation for the delay is to be provided the insured by the 40<sup>th</sup> day. In four (4) files (10% of the 40) the explanation failed to provide a reasonable and understandable explanation.

As required by 50 Ill. Adm. Code 919.80(c), the Companies are to provide the insured with, at a minimum, the information contained in Exhibit A and provide that information within seven (7) days of the insured vehicle being determined a total loss. The Companies were in violation in 12 of the 80 total loss files (15.00%). In nine (9) files the Companies failed to send the insured Exhibit A and in three (3) files Exhibit A was sent late.

#### 6. Private Passenger Auto First Party Subrogation

In eight (8) files (9.88% of the 81 examined) the Companies were criticized under 50 Ill. Adm. Code 919.30(c) because the claim files failed to contain detailed documentation in order to permit reconstruction of the Companies’ activities relative to the resolution of the claim. A reimbursement check to an insured was issued in the amount of \$537.07.

In 26 files (32.10% of the 81 examined) the Companies failed to pay the full and correct *pro rata* deductible out of the net recovery in violation of 215 ILCS 5/143b. In three (3) files the incorrect amount was returned to the insured. In 18 files the deductible payment to the insured was not made and in five (5) files collections had ceased and no more payments received. The *pro rata* share of the deductible was due the insureds.

There were 25 payments to insureds totaling \$5,865.75 made as a result of this exam.

7. Arbitration

There were no criticisms.

D. Complaints

1. Department of Insurance Complaints

The Companies failed to maintain a Complaint Log for Department of Insurance Complaints as outlined in 50 Ill. Adm. Code 926.50, Exhibit A and as described in Exhibit B.

In 25 complaints (14.37% of the 174 examined), the Companies were in violation of 215 ILCS 5/154 for rescinding policies when there was no proof of misrepresentation or actual intent to deceive.

In four (4) files (2.30% of the 174 examined) the Companies were in violation of 50 Ill. Adm. Code 926.40(a) for responding late to the Department regarding complaint inquiries.

In one (1) file the Companies took UPD (unrelated prior damage) when the vehicle without UPD mirrored the condition matrix of the source used to determine the value of the total loss vehicle. The Companies were in violation of 50 Ill. Adm. Code 919.80(c)(2).

2. Consumer Complaints

The Companies failed to maintain a Complaint Log for Consumer Complaints as outlined in 50 Ill. Adm. Code 926.50 Exhibit A and as described in Exhibit B.

The Complaint Log for Consumer Complaints indicated ten complaints were received directly from policyholders. The Companies failed to provide a written response in two (2) files (20.00%) and were in violation of 215 ILCS 5/143d(b).

V. INTERRELATED and ADDITIONAL FINDINGS

1. While examining new business and reviewing company manuals, the following was discovered by the examiners: In the Companies’ rules, regarding “RENEWALS”, it reads “1. Policies are not automatically renewed and there is no automatic coverage or grace period after the expiration date. 2. There will be a lapse of coverage between the expiration date and the renewal request date, but after 30 days a new application must be submitted.” The Companies must renew the policy unless they send a notice of nonrenewal to the insured or the Companies receive a proper request to terminate the policy. Their rules indicate they do neither and they will renew only when there is a renewal request. The Companies are cautioned under 215 ILCS 5/143.17 for failing to renew policies when they did not send a notice of nonrenewal or receive a proper request to terminate the policy.
  
2. From the response to an Interrogatory, it was found that the Companies failed to inform automobile policyholders, prior to the first renewal, that they could purchase such renewal at a premium savings for collision and comprehensive coverage if higher deductibles were purchased. The Companies are cautioned under 215 ILCS 5/143.25a to provide such notices to policyholders.
  
3. When delay letters were due or sent to private passenger auto insureds or third party claimants, the Companies failed to provide reasonable written explanation for the delay as required by and as outlined in 50 Ill. Adm. Code 919.80(b)(2) and 50 Ill. Adm. Code 919.80(b)(3) in 46 out of 240 instances (19.17% overall error percentage). Below is a summary of the various surveys. The Companies are cautioned to come into compliance with these provisions.

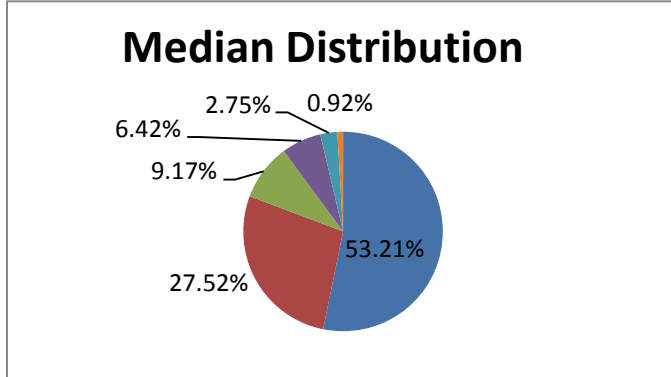
<u>Survey</u>	<u># of times delay letter was due</u>	<u># of times not sent or sent incorrectly</u>
First Party Auto Paid	41	6
First Party Auto C.W.P.	74	11
Third Party Auto Paid	36	9
Third Party Auto C.W.P	49	17
Total Losses	<u>40</u>	<u>3</u>
	240	46

4. In one (1) file, the Companies paid the insured for collision damage and subrogated against the third party carrier. They settled on 90% and agreed to \$100.00 of the \$210.00 storage bill the insured paid. The Companies returned \$90.00 instead of the \$100.00 for the storage. As a result of this examination, the Companies paid the insured the \$10.00 difference. The Companies are cautioned to return the proper amounts to the insureds or face potential violations of 215 ILCS 5/154.6(d).

5. Throughout the examination process, it was noted the claim files displayed lengthy delays because of the Companies not acknowledging correspondence timely, not answering or returning phone calls, requesting insureds and claimants provide copies of law enforcement reports, not processing claims timely where liability was reasonably clear, and by asserting questionable theories of liability. It is evident these behaviors contribute to the high complaint rates for the Companies. The Companies are cautioned to improve their practices in these areas or future findings under 215 ILCS 5/154.6 will be applicable.
6. Throughout the exam, many claim files lacked proper documentation to support claims action taken and failed to maintain documentation to support actions and inactions during the claims process. Examples include, but are not limited to, missing pages of total loss evaluations, a lack of photo descriptions to support vehicle conditioning or unexplained property damage, and a lack of proper claims file investigation log documentation to support liability decisions. Another concern is payment issuance. The Companies should document why payments are issued to an insured and repair facility if there is no lienholder listed on the Declarations Page of the policy. The insured should have the option to have payment issued directly to them if there is no lienholder as the policy contract is with the insured and not the repair facility. The Companies are cautioned to improve their claims file documentation preservation practices and to document all decisions made on files with sufficient support under 50 Ill. Adm. Code 919.30(c).
7. In multiple surveys, claimant contact was not established and claims remained unresolved for long periods of time. The Companies are cautioned under 215 ILCS 5/154.6(c) to pay or deny the claims in a timely manner. If the company was under the impression that the claimants were not pursuing their claims, they should have sent a letter indicating that they were closing the matter by an established date in writing if there was no response to any documented contact attempts.
8. The complaint ratio was 6.82 per \$1 million in direct written premiums for United Equitable Insurance Company and 6.59 per \$1 million in direct written premiums for American Heartland Insurance Company in the year 2012. For the same period, the IL Private Passenger Automobile Insurance Industry's mean was .48 per \$1 million in direct written premiums. The Companies are cautioned under 215 ILCS 5/154.6(f) to engage in activities which will result in a more proportionate number of meritorious complaints received by the Illinois Department of Insurance.

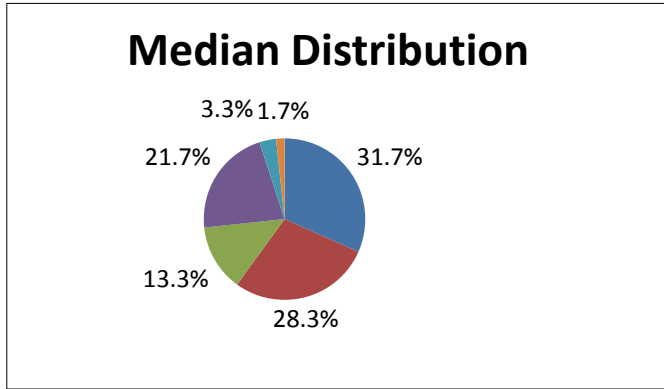
VI. TECHNICAL APPENDICES

A. Private Passenger Auto First Party Median - 28 days



MEDIAN DISTRIBUTION		
# Days	Number	Percent
0-30	58	53.21%
31-60	30	27.52%
61-90	10	9.17%
91-180	7	6.42%
181-365	3	2.75%
over 365	1	0.92%
<b>Total</b>	<b>109</b>	<b>100.0%</b>

B. Private Passenger Auto Third Party Median - 50 days



<b>MEDIAN DISTRIBUTION</b>		
<b># Days</b>	<b>Number</b>	<b>Percent</b>
<b>0-30</b>	<b>19</b>	<b>31.7%</b>
<b>31-60</b>	<b>17</b>	<b>28.3%</b>
<b>61-90</b>	<b>8</b>	<b>13.3%</b>
<b>91-180</b>	<b>13</b>	<b>21.7%</b>
<b>181-365</b>	<b>2</b>	<b>3.3%</b>
<b>over 365</b>	<b>1</b>	<b>1.7%</b>
<b>Total</b>	<b>60</b>	<b>100.0%</b>

STATE OF ILLINOIS            )  
  ) ss  
COUNTY OF COOK            )

Roger O. Henschen, being first duly sworn upon his/her 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 United Equitable Insurance Company, NAIC #24910, and American Heartland Insurance Company, NAIC #10031 (the "Companies").

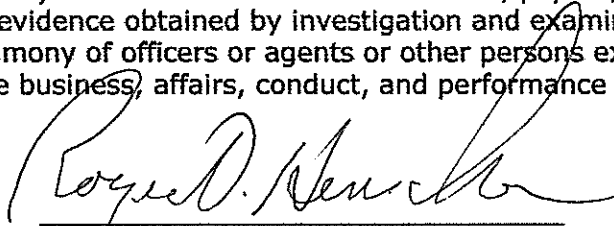
That the Examiner-In-Charge was directed to make a full and true report to the Director of the examination with a full statement of the condition and operation of the business and affairs of the Companies with any other information as shall in the opinion of the Examiner-In-Charge be requisite to furnish the Director with a statement of the condition and operation of the Companies' business and affairs and the manner in which the Companies 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 Companies nor any of the Companies' 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 Companies pursuant to the authority vested in the Examiner-In-Charge by the Director of Insurance of the State of Illinois;

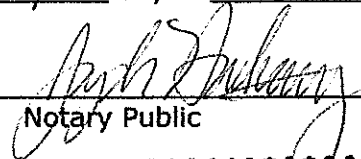
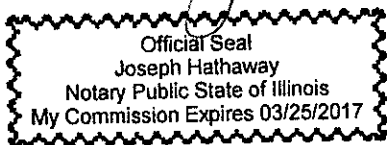
That she/he was the Examiner-in-Charge of said examination and the attached report of examination is a full and true statement of the condition and operation of the insurance business and affairs of the Companies for the period covered by the Report as determined by the examiners;

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 Companies.



Examiner-In-Charge

Subscribed and sworn to before me  
this 4<sup>th</sup> day of June, 2014.

  
\_\_\_\_\_  
Notary Public



# STATE OF ILLINOIS

## DEPARTMENT OF INSURANCE



IN THE MATTER OF:

**United Equitable Insurance Company and  
American Heartland Insurance Company  
5700 Old Orchard Road, Suite 300  
Skokie, Illinois 60077**

### STIPULATION AND CONSENT ORDER

WHEREAS, the Acting 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, United Equitable Insurance Company, NAIC 24910 and American Heartland Insurance Company, NAIC 10031 (collectively “the Company”), are authorized under the insurance laws of this State and by the Acting Director to engage in the business of soliciting, selling and issuing insurance policies; and

WHEREAS, a Market Conduct Examination of the Companies 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 which is an official document of the Department; and

WHEREAS, the Market Conduct Examination Report cited various areas in which the Companies were 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 Companies 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 Companies; and

WHEREAS, the Companies are aware of and understand the various rights of the Companies 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 Companies understand and agree 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 Acting 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 Acting 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 Acting 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 Acting Director that the Company shall:

1. Institute and maintain policies and procedures whereby the Company will not exercise its option to cancel auto policies that have been in effect 60 days, or renewal policies, except for reasons permitted by statute as required by 215 ILCS 5/143.19.
2. Institute and maintain policies and procedures whereby the Company will include a specific explanation of the reason(s) for cancellation of the auto policy on its notice of cancellation as required by 215 ILCS 5/143.15.
3. Institute and maintain policies and procedures whereby the Company will provide on the notice of nonrenewal, a specific explanation of the reasons for nonrenewal of the auto policy as required by 215 ILCS 5/143.17(e).
4. Institute and maintain policies and procedures whereby the Company will not rescind auto policies without evidence or proof of misrepresentation by the insured applicant as required by 215 ILCS 5/154.
5. Institute and maintain policies and procedures whereby the Company will use the auto application filed with the Illinois Department of Insurance as required by 50 Ill. Adm. Code 753.10(a)(3).
6. Institute and maintain policies and procedures whereby the Company will use the rules, rates or rating plans, classifications or other schedules filed with the Illinois Department of Insurance when rating and issuing auto policies as required by 50 Ill. Adm. Code 754.10(b)(1).
7. Institute and maintain policies and procedures whereby the Company will maintain detailed documentation in claim files in order to permit reconstruction of the company's activities relative to the resolution of the claim as required by 50 Ill. Adm. Code 919.30(c).
8. Institute and maintain policies and procedures whereby the Company will effectuate prompt, fair and equitable settlements to the third party when liability is reasonably clear as required by 215 ILCS 5/154.6(d); and will have standards to promptly investigate and settle third party claims as required by 215 ILCS 5/154.6(c) and 215 ILCS 5/154.6(r).

9. Institute and maintain policies and procedures whereby the Company will make no advance charge deductions from total loss settlements when there is no explanation of the reason(s) the charges were excessive, and no evidence the insured caused the excessive charges as required by 50 Ill. Adm. Code 919.80(d)(3).
10. Institute and maintain policies and procedures whereby the Company will maintain complete documentation in the claim file of how the market value of an insured vehicle was determined as required by 50 Ill. Adm. Code 919.80(c)(2)(E).
11. Institute and maintain policies and procedures whereby the Company will provide proper evidence that it used the methodology of one (1) of the sources chosen (CCC) to determine the market value of the insured total loss vehicle as required by 50 Ill. Adm. Code 919.80(c)(2).
12. Institute and maintain policies and procedures whereby the Company will provide the insured who experienced a total loss the information contained in Exhibit A and will provide that information within seven (7) days of the insured vehicle being determined a total loss as is required by 50 Ill. Adm. Code 919.80(c).
13. Institute and maintain policies and procedures whereby the Company will return the full and correct pro-rata share of the deductible to their insureds as required by 215 ILCS 5/143b.
14. Institute and maintain policies and procedures whereby when receiving a written complaint directly from the policyholder, the Company shall respond to the complaint in a written format as required by 215 ILCS 5/143d(b).
15. Submit to the Acting Director of Insurance, State of Illinois, proof of compliance with the above fourteen orders within 30 days of execution of this Order.
16. Pay to the Acting Director of Insurance, State of Illinois, a civil forfeiture in the amount of \$150,000 to be paid within 30 days of execution of this Order.
17. Hearing 14-HR-0851 shall be dismissed upon the Company's compliance with Orders 1-16.

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 United Equitable Insurance Company and American Heartland Insurance Company

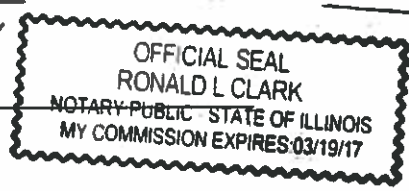
  
Signature

Jason P. Heyward  
Name

President / C. O. O.  
Title

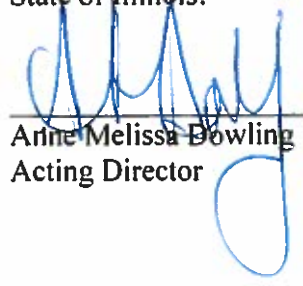
Subscribed and sworn to before me this  
31<sup>st</sup> day of October 2016.

  
Notary Public



DEPARTMENT OF INSURANCE of the State of Illinois:

DATE 11-1-16

  
Arnie Melissa Dowling  
Acting Director

