


**STATE OF RHODE ISLAND  
DEPARTMENT OF BUSINESS REGULATION  
INSURANCE DIVISION**

The attached Report of Examination as of December 31, 1992, of the condition and affairs of the Employers Insurance of Wausau A Mutual Company, was recently completed by duly qualified examiners, pursuant to the provision of the Rhode Island Insurance Code.

Due consideration has been given to the comments of the examiners regarding the operation of the Company and its market conduct condition, as reflected from the report.

It is therefore ORDERED that said Report be, and it is hereby, adopted and filed and made an official record of this department, as of this date.

DEPARTMENT OF BUSINESS REGULATION



Barry G. Hittner  
Director/Insurance Commissioner

Order No. 95-007

DATED: 2/21/95

**REPORT ON MARKET CONDUCT EXAMINATION**

**OF THE**

**EMPLOYERS INSURANCE OF WAUSAU A MUTUAL COMPANY**

**2000 Westwood Drive  
Wausau, Wisconsin 54401**

**NAIC CODE 21458**

**AS OF**

**DECEMBER 31, 1992**

**(WORKERS' COMPENSATION CLAIMS AS OF JUNE 30, 1993)**

**DEPARTMENT OF BUSINESS REGULATION  
INSURANCE DIVISION  
STATE OF RHODE ISLAND**

## TABLE OF CONTENTS

	<u>Page Number</u>
SALUTATION	1
FOREWORD	1
SCOPE OF EXAMINATION	1
COMPANY OVERVIEW	2
History	2
Company Operations	3
Management	3
CERTIFICATE OF AUTHORITY	4
CONSUMER AND OTHER RELATED COMPLAINTS	4
SALES AND ADVERTISING	5
AGENT AND BROKER LICENSING	5
UNDERWRITING AND RATING	6
Workers' Compensation and Employer's Liability Insurance	6
Commercial Auto	7
CANCELLATIONS AND NONRENEWALS	7
CLAIMS PRACTICES	8
SUMMARY OF RECOMMENDATIONS	9
ACKNOWLEDGMENT	10

**PROVIDENCE, RHODE ISLAND**

January 12, 1995

Honorable Barry G. Hittner  
Insurance Commissioner  
State of Rhode Island

Dear Sir:

In accordance with your instructions and pursuant to the statutes of the State of Rhode Island, a Market Conduct Examination was conducted of the

Employers Insurance of Wausau, A Mutual Company  
2000 Westwood Drive  
Wausau, Wisconsin

which is hereinafter referred to as the "Company." Our report is submitted as follows:

**FOREWORD**

Our Market Conduct Examination Report is in general, a report by exception. Discussions of practices, procedures, and/or files subject to review during the examination may have been omitted from the report if errors and/or improprieties were not evidenced.

**SCOPE OF EXAMINATION**

We conducted our examination in accordance with Title 27 Chapters 13 and 13.1 of the General Laws of Rhode Island. The examination covers the period from January 1, 1990, to December 31, 1992, (with the exception of workers' compensation claims practices which were examined for the period June 1, 1992, through June 1, 1993, for the purpose of ascertaining the Company's compliance with Rhode Island General Law 28-33-17 and 28-33-20 as amended in 1992). Performance of the examination was in accordance with procedures established by the National Association of Insurance Commissioners and standards established by the Rhode Island Department of Business Regulation, Insurance Division.

Areas examined included Sales and Advertising, Licensing of Agents and Brokers, Certificate of Authority, Underwriting, Rating, Consumer Complaints, Cancellations, Nonrenewals, and

Claims Practices. The lines of business examined were Workers' Compensation, Commercial Auto, and Commercial Liability.

The primary purpose of the examination was to evaluate the Company's compliance with Rhode Island Insurance laws and regulations and to determine whether Rhode Island policyholders and claimants are being treated fairly and equitably. The test work performed during the examination satisfied this purpose, and forms the basis for the findings and recommendations presented in this report.

## COMPANY OVERVIEW

### **History**

The Company was founded in Wausau, Wisconsin, by a group of businessmen who were primarily lumber men, and was incorporated on August 21, 1911, under the laws of Wisconsin. Operations began on September 1, 1911, under the name Employers Mutual Liability Insurance Company of Wisconsin.

Workers' Compensation was the first line of insurance sold by the Company. Since 1911, the Company has expanded its lines of insurance to include auto, liability, property and other lines. The Company is also involved in the servicing of worker's compensation assigned risk plans throughout the United States.

On September 1, 1979, the Company's name was changed and the present name was adopted. The Company is the lead company of the companies collectively known as the Wausau Insurance Companies.

On November 23, 1985, the Company became affiliated with Nationwide Insurance Companies Group, ("Nationwide"), through an affiliation agreement and the sale of \$250 million in contribution notes to Nationwide. Nationwide assumed control of the Company by selecting the Company's Board of Directors and through the election of the Company's executive officers.

In 1988 Nationwide purchased \$50 million of additional contribution notes, and in 1992 the Company sold an additional \$100 million in contribution notes to Nationwide.

Because the Company is affiliated with Nationwide through the sale of contribution notes, the Company participates in Nationwide's pooling agreement with the Nationwide Companies. As of December 31, 1992, the Company's share in the pooling agreement was 13.8%.

The Company is licensed in all fifty states of the United States and all provinces of Canada, in addition to the District of Columbia, Puerto Rico, and the Virgin Islands. The Company is a mutual organization and issues non-assessable policies. Operations are conducted through

regional, branch and service offices. Brokers and salaried sales representatives are utilized to develop business.

### Company Operations

The 1992 direct written premiums of the Company were \$2,827,337,367. Rhode Island direct written premiums were \$36,315,962, which represents 1.28 % of the Company's direct written premiums. The following schedule outlines the Company's 1992 Rhode Island direct written premiums by line of business:

<u>Line of Business</u>	<u>1992 Direct Written Premiums</u>
Fire	\$ 40,833
Allied Lines	70,204
Commercial Multiple Peril (Fire and Allied Lines)	20,846
Inland Marine	6,980
Earthquake	2,882
Group Accident and Health	29,813
Workers' Compensation	34,993,313
Other Liability	588,583
Products Liability	110,899
Other Commercial Auto Liability	294,996
Commercial Auto Physical Damage	44,784
Fidelity	2,420
Surety	106,137
Burglary and Theft	89
Boiler and Machinery	<u>3,183</u>
1992 Direct Written Premium in Rhode Island	<u>\$ 36,315,962</u>

### Management

At December 31, 1992, the Company's officers were as follows:

General Chairman	John E. Fisher
Chairman	David O. Miller
President and Chief Executive Officer	Leon J. Weinberger
Executive Vice Presidents	Peter F Frenzer Thomas E. Kryshak Gordon E. McCutchan Carl J. Santillo Billy D. Wymore

Vice President & Associate General  
Counsel, & Secretary

Richard J. Byron

Vice President & Treasurer

Willard C. Sanford

### **CERTIFICATE OF AUTHORITY**

A review of the Company's Rhode Island Certificate of Authority in conjunction with the Company's Rhode Island operations was performed to determine whether the Company was in compliance with Section 27-2-11 of the General Laws of Rhode Island, for the period under examination.

The Company's Certificate of Authority was examined in conjunction with an analysis of its Rhode Island direct premiums written by line of business, as reported in the Company's 1990, 1991, and 1992 annual statements.

The results of the review indicate that the Company is licensed in the State of Rhode Island to write all lines of insurance except life and title insurance, and that the Company's operations are in compliance with said Certificate of Authority.

### **CONSUMER AND OTHER RELATED COMPLAINTS**

The Company's procedures for handling consumer or other related complaints were examined to determine whether the Company is in compliance with Section 27-29-3 of the General Laws of Rhode Island, General Prohibition and Section 27-29-4, Unfair and Deceptive Acts, relative to timely and adequate response to consumer or other related complaints.

All Rhode Island complaints (whether submitted to the Company indirectly by the Department of Business Regulation, or received directly by the Company from the consumer) were reviewed for the period under examination.

Based upon the results of the examination work performed in this area, it was determined that all complaints were handled by the Company in accordance with their established "Complaint Record Procedure" and in compliance with Sections 27-29-3 and 27-29-4 of the General Laws of Rhode Island.

## **SALES AND ADVERTISING**

A review of the Company's sales and advertising materials in use for the period under examination was performed to determine whether the Company has complied with the provisions of Section 27-29-4 of the General Laws of Rhode Island, Unfair and Deceptive Acts.

The Company was asked to provide copies of all sales and advertising materials used for the marketing and solicitation of Rhode Island insurance business. Twenty sales and advertising brochures were provided by the Company, all of which were reviewed.

Based upon the results of the examination work performed in this area, all materials reviewed were found to be in compliance with Section 27-29-4 of the General Laws of Rhode Island, Unfair and Deceptive Acts.

## **AGENT AND BROKER LICENSING**

A review of agents and brokers used by the Company during the examination period was performed to determine whether the Company was in compliance with the following Sections of the General Laws of Rhode Island: Section 27-3-2 License Requirement; Section 27-3-16 Foreign Agents: License Requirement; Section 27-2-17 Reciprocal Fees; Non-resident Agents; and Section 27-3-29 Brokers: License Requirements. A review was also performed to determine whether the Company was in compliance with Rhode Island Insurance Regulation XXX §4 Section 2B - Filing Requirements.

The Company was asked to provide lists of all agents appointed by the Company to write business in the State of Rhode Island and of all Rhode Island licensed brokers that developed business for the Company during the period under examination. The Company's list of Agents and Brokers was checked against licensing records maintained by the Rhode Island Department of Business Regulation, Insurance Division.

While reviewing the listing of licensed agents obtained from the Department of Business Regulation, Insurance Division, it was noted that the Company did not have a licensed resident agent for the time period from May 14, 1990, until May 22, 1992, which is a violation of Regulation XXX - Filing Requirements (Section 2B), which states that all foreign insurance companies must appoint a licensed resident agent.

It is recommended that the Company establish written procedures to assure that a licensed resident agent is appointed in Rhode Island in order to comply with the requirement for foreign insurance companies. In addition, personnel responsible for the licensing of agents should be informed of the requirement that a foreign insurance company licensed in Rhode Island must have a properly licensed Rhode Island resident agent.



It was also noted during a review of the Company's policy files that the Company was unable to verify whether one of its producing brokers was properly licensed in the State of Rhode Island.

Per our review of the Rhode Island Insurance Division records, this individual did not hold a valid Rhode Island brokers license for the period under examination. Therefore, the Company is in violation of Section 27-3-29 of the General Laws of Rhode Island, Brokers: License Requirements.

As a result of this exception, it is recommended that the Company's licensing and termination procedures for agents and brokers be reviewed to determine how an unlicensed broker can be producing business for the Company. The Company should immediately implement procedures to monitor the licensing of all of its agents and brokers to ensure that all agents and brokers for the Company are properly licensed.

## UNDERWRITING AND RATING

### **Workers' Compensation and Employer's Liability Insurance**

The Company's underwriting and rating procedures for workers' compensation and employer's liability insurance were reviewed to determine whether the Company was in compliance with policy forms, endorsements, and rate filings promulgated by the National Council on Compensation Insurance ("NCCI") and approved by the Insurance Division of the Rhode Island Department of Business Regulation for the period under examination.

Approximately ninety percent of the workers' compensation and employer's liability writings of the Company in the State of Rhode Island for the period under examination pertain to involuntary workers' compensation business assigned to the Company by the NCCI. The NCCI administers both the National Workers' Compensation Reinsurance Pool and the Workers' Compensation Assigned Risk Pool in the State of Rhode Island. The Company was a member and servicing carrier of both pools for the period under examination, and was thereby subject to the NCCI's administrative decrees to account for and cede all NCCI assigned workers' compensation premiums less servicing carrier fees to the NCCI. In addition, the Company issued the appropriate policies, provided the necessary services to the policyholders and/or claimants, and was reimbursed by the NCCI for all losses less certain loss adjustment expenses.

As of January 1, 1993, the Company withdrew as a servicing carrier for workers' compensation and employer's liability insurance in the State of Rhode Island.

We selected a sample of sixty-two policy files in this area to test the Company's underwriting and rate application. Of the sixty-two files examined, four workers' compensation and employer's liability policy files did not contain an application for workers' compensation and employer's liability insurance.

It is recommended that Company management implement written procedures to ensure that proper file documentation is maintained in all of the Company's policy files.

It is also recommended that the Company provide copies of the written procedures to all personnel involved in the maintenance of the Company's policy files to assure implementation of this procedure.

### **Commercial Auto**

The Company's underwriting and rate application practices for the commercial auto insurance line of business were reviewed. The review was conducted to determine whether the Company was in compliance with Section 27-44-5 of the General Laws of Rhode Island, Rate Standards. An examination of rates, policy forms and endorsement forms was performed to determine whether the Company has properly filed and received approval of its rates, policy forms and endorsement forms by the Insurance Division of the Rhode Island Department of Business Regulation.

Thirty randomly selected commercial auto policy files from the examination period were selected for review. While there were no rating or underwriting exceptions, the Company was unable to provide us with three of the thirty files selected for review. Of the files provided by the Company, two did not contain an application for Business Automobile Insurance.

It is again recommended that the Company implement procedures to ensure proper file documentation for all of its policy files. All appropriate personnel should receive a copy of the written procedures for immediate implementation. It is also recommended that the Company review its record retention and filing policies, and implement the changes necessary to assure that files can be located as needed for examination by auditors, or for the use of Company personnel.

### **CANCELLATIONS AND NONRENEWALS**

Testing of the Company's cancellation and nonrenewal procedures was performed to determine the Company's compliance with Rhode Island Insurance Regulation XXXVIII - Commercial Insurance Cancellation, Nonrenewal, and Premium or Coverage Changes; and the Statutory cancellation and nonrenewal provisions of Section 28-36-12(b) of the Rhode Island General Laws, Reporting of Policy Status.

Based upon the results of our test of a sample of thirty-six workers' compensation and employers' liability and commercial general liability cancellation and nonrenewal files, the Company's nonrenewal and cancellation procedures appear to be in compliance with the applicable Rhode Island Insurance Laws and Regulations.

## CLAIMS PRACTICES

A limited scope review of the Company's open workers' compensation and employer's liability claims was performed to ascertain the Company's compliance with Section 28-33-17 Total Disability, Dependents, and 28-33-20 Average Weekly Wage, Computation, of the General Laws of Rhode Island.

Based upon the results of the examination work performed, an exception was found in which the Company had not correctly computed a claimant's average weekly wage in compliance with Section 28-33-20 of the General Laws of Rhode Island, which in turn caused the Company to overpay the claimant. After notifying the Company of this error, we were told that the Company would take corrective action to remedy the overpayments already made to the claimant, and to assure that all future payments made to the claimant would be calculated properly.

It is recommended that the Company institute procedures to monitor and assure their compliance with Section 28-33-20 of the General Laws of Rhode Island, Average Weekly Wage, Computation, which provides the basis for the calculation of a claimant's average weekly wage for the purposes of determining workers' compensation benefits.

## SUMMARY OF RECOMMENDATIONS

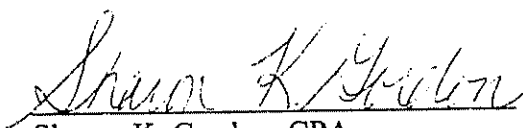
	<u>Page</u>
It is recommended that the Company establish written procedures to assure that a licensed resident agent is appointed in Rhode Island in order to comply with the requirement for foreign insurance companies. In addition, personnel responsible for the licensing of agents should be informed of the requirement that a foreign insurance company licensed in Rhode Island must have a properly licensed Rhode Island resident agent.	5
As a result of this exception, it is recommended that the Company's licensing and termination procedures for agents and brokers be reviewed to determine how an unlicensed broker can be producing business for the Company. The Company should immediately implement procedures to monitor the licensing of all of its agents and brokers to ensure that all agents and brokers for the Company are properly licensed.	6
It is recommended that Company management implement written procedures to ensure that proper file documentation is maintained in all of the Company's policy files.	7
It is also recommended that the Company provide copies of the written procedures to all personnel involved in the maintenance of the Company's policy files to assure implementation of this procedure.	7
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It is also recommended that the Company review its record retention and filing policies; and implement the changes necessary to assure that files can be located as needed for examination by auditors, or for the use of Company personnel.	7
It is recommended that the Company institute procedures to monitor and assure their compliance with Section 28-33-20 of the General Laws of Rhode Island, Average Weekly Wage, Computation, which provides the basis for the calculation of a claimant's average weekly wage for the purposes of determining workers' compensation benefits.	8

## **ACKNOWLEDGMENT**

Acknowledgment is made of the courteous cooperation extended by the Company's officers and employees during the course of the examination.

Assisting in the examination with the undersigned was John Carr, CPCU, Principal Market Conduct Examiner, for the Rhode Island Insurance Division.

Respectfully submitted,

A handwritten signature in cursive script, reading "Sharon K. Gordon".

Sharon K. Gordon, CPA  
Insurance Examiner-In-Charge  
State of Rhode Island