

REPORT OF EXAMINATION
OF THE
MARKET CONDUCT AFFAIRS
OF
LOUISIANA WORKERS' COMPENSATION
CORPORATION

BATON ROUGE, LOUISIANA

AS OF

December 31, 2003

NAIC CODE 22350

NAIC ETS EXAM # MCD-04-020

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December 31, 2004

Honorable Robert Wooley
Commissioner of Insurance
P O Box 94214
Baton Rouge, Louisiana 70804-9214

Sir:

Pursuant to your instructions and authorization, and in compliance with statutory provisions, a limited market conduct examination has been made of the affairs of the

LOUISIANA WORKERS' COMPENSATION CORPORATION

2237 SOUTH ACADIAN THRUWAY

BATON ROUGE, LOUISIANA 70808

as of December 31, 2003 and the report of examination is herewith submitted.

FOREWORD

In accordance with **LSA-R.S. 22:1301 D.**, a market conduct examination was conducted on the activities of **LOUISIANA WORKERS' COMPENSATION CORPORATION** from January 1, 2001 through December 31, 2003. The examination was performed by test and all tests applied are included in this report.

PURPOSE AND SCOPE OF MARKET CONDUCT EXAMINATION

The market conduct examination of **LOUISIANA WORKERS' COMPENSATION CORPORATION**, hereinafter referred to as ("LWCC") or ("Company") was a limited routine market conduct examination authorized by the Louisiana Department of Insurance, hereinafter referred to as ("LDOI") or ("Department"). The examination was limited, in that not all examination procedures recommended by the National Association of Insurance Commissioners were performed.

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

- Company Overview,
- Complaints,
- Producer Licensing and Appointments,
- Marketing and Sales,
- Underwriting and Rating,
- Claims and
- Consumer Privacy Policy.

The purpose of this examination was to review compliance by the Company with Louisiana Insurance Laws, Regulations, Directives and the National Association of Insurance Commissioners ("NAIC") Guidelines. The NAIC Guidelines set the standard of conduct for a workers' compensation insurer and promote a program of fair treatment

of policyholders. Portions of the *NAIC Market Conduct Examiner's Handbook, Volume I* were used as a measure of compliance.

The ACL Program, a data manipulation program, provided by the LDOI was utilized in this examination. Samplings were utilized to test the Company's records and procedures for statutory compliance. The ACL Program was used, when possible, to automatically generate a random sampling of data records. "Random" is a theoretical concept meaning that all items in a population or file, before selection, have an equal chance of appearing in the sampling. In instances in which ACL was not used, a systematic (sequential) sampling of certain company record listings or a manual random sampling was performed.

Generally, a random or systematic sampling size of sixty (60) records will be selected for review. A minimum confidence level of ninety-five percent (95%) with a maximum error rate of five percent (5%) will be used for most samples. Based on a review of the sampling's error rate, additional samplings may be required.

COMPANY OVERVIEW

COMPANY HISTORY

LWCC is a private insurance company established by legislative approval of Act 814 of the 1991 Regular Session of the State of Louisiana Legislature. The main statutes governing LWCC are **LRS 23:1391** through **1415**. In addition, the Company is subject to all applicable laws of the Louisiana Insurance Code (Title 22) relative to an incorporated domestic mutual insurer, except as otherwise specifically provided by Title 23, Part 6.

If a conflict arises in the application of the law, the provisions of Part 6 of Title 23 govern first, followed by the Louisiana Insurance Code (Title 22), and finally, by the

provisions of Title 12 (relative to non-profit business corporations) of the Louisiana Revised Statutes of 1950.

TERRITORY AND PLAN OF OPERATIONS

LWCC markets workers' compensation business in the state of Louisiana. The Company was established by Legislative Act and is not required to obtain a certificate of authority from the Commissioner of Insurance.

The Company is authorized to write workers' compensation insurance which includes employer's liability and coverage under the USL&H Worker's Compensation Act. It may also provide Jones Act Coverage when such coverage is incidental to the issuance of a policy of Louisiana Workers' Compensation Insurance or United States Longshore and Harbor Worker's Compensation Act Insurance, provided that such coverage shall not exceed \$25,000 in the aggregate.

YEAR LA PREMIUMS WRITTEN*

2001	\$ 186,491,197
2002	210,213,920
2003	231,523,064

*Schedule T of the Annual Statements

SERVICE AGREEMENTS

Effective December 31, 2002, LWCC entered into an administrative services agreement with Argonaut Insurance Company ("AIC"), a California domiciled insurance corporation, whereby AIC agrees to write workers' compensation insurance for out-of-state exposures of entities principally domiciled in the state of Louisiana and insured by LWCC. In addition, The United States Insurance Services, Inc. ("USIS"), a Maryland Corporation, will provide agency services on behalf of this business. This agreement will

remain in full force and effect until December 31, 2005, or until canceled in concurrence with the cancellation provisions of the quota share reinsurance agreement.

Also, effective December 31, 2002, LWCC entered into a one hundred percent (100%) quota share reinsurance agreement with Argonaut Insurance Company ("AIC") whereby AIC agrees to reinsure business written for LWCC on workers' compensation insurance on out-of-state exposures. The terms of this agreement coincides with the terms of the administrative services agreement previously described.

PARENT, SUBSIDIARIES AND AFFILIATED COMPANIES

On September 6, 1996, the Company created LWCC Multi-State Facility Agency, Inc. ("the Subsidiary") to solicit applicants for policies of insurance and to negotiate and issue policies of insurance on behalf of the Company and any insurer selected by the Company in effecting the Corporation's provision of multi-state coverage to Louisiana employers pursuant to LSA-R.S. 23:1393. The subsidiary was a wholly owned non-stock company. The Company has made no capital investment in the Subsidiary as of December 31, 2003.

Effective December 31, 2003, at 11:59 p.m. Central Standard Time, the Board of Directors of the Company and the Subsidiary voted to dissolve the Subsidiary and transfer all of its remaining assets and liabilities to the Company. At the time of the transfer, the assets totaled \$1,161,440, and the liabilities totaled \$1,520,440, for a net transfer of -\$359,000 to the Company.

RECOMMENDATIONS FROM PRIOR EXAMINATION REPORTS

The Company addressed the recommendations in the Market Conduct Examination Report as of December 31, 1999.

COMPLAINT REVIEW

This review was conducted in accordance with the provisions of **LSA-R.S.**

22:1214 Methods, acts, and practices which are defined herein as unfair or deceptive. Specifically **22:1214 (17)** states as follows:

“Failure to maintain adequate complaint handling procedures. Failure of any insurer to maintain a complete record of all the complaints that it received since the date of its last examination. This record shall indicate the total number of complaints, their classification by line of insurance, the nature of each complaint, the disposition of each complaint, and the time it took to process each complaint. For purposes of this Paragraph, “complaint” shall mean any written communication primarily expressing a grievance received by the insurer from the Department of Insurance.”

The Company had a small number of complaints during the period under examination. The Company's responses to the Department on these complaints were timely and appeared adequate.

The Company had no formal complaint procedures but personnel verbally explained the Company's procedures, which appeared appropriate for the timely processing of complaints.

During the examination, the Company provided a complaint register for the three (3)-year period, which was in compliance with the above Louisiana Statute.

PRODUCER REVIEW

The Company's procedures appeared to be adequate for determining that a producer is licensed with the Department in accordance with **LSA-R.S. 23:1407**.

The Company provided a listing of active producers as of April 30, 2004. A random sampling of fifty (50) producers was selected from this listing for review. This sampling was checked against the LDOI website to verify that the producer had a current license with the Department. No exceptions were noted during this review.

A random sampling of fifteen (15) terminated producers for the period under examination was selected from a CD of terminated producers for the period under examination. The Company promptly processed these terminations and no exceptions were noted during this review.

The Company was provided a copy of **Louisiana Bulletin #99-01** dated June 1, 1999 titled "Consent for Prohibited Person to engage in Insurance Business", 18 United States Code, Sections 1033 and 1034 and advised that its hiring practices of producers did not appear to be in compliance with this Louisiana Bulletin.

The Director of Corporate Legal Services provided the following response to proposed compliance with **Louisiana Bulletin #99-01**:

"LWCC has reviewed Bulletin 99-01. La. R.S. 23:1407 provides that any insurance agent licensed to sell worker's compensation insurance in this state shall be authorized to sell insurance policies for the corporation (Louisiana Workers' Compensation Corporation) in compliance with the bylaws adopted by the corporation and La. R.S. 22:1113, (A)(3). Thus LWCC is required to do business with any licensed agent within the state. Bulletin 99-01 would have the consequence of requiring LWCC to perform a background check on nearly every agent within the state. LWCC currently is contracted with 1,349 agents. The feasibility of retroactivity providing background checks on all these agents, which we have done business with for a number of years, would be difficult. Currently in LWCC's contracting process, we review the status of the agent's license and require evidence of the agent's E&O policy. In addition, notifications on any new business written by an agent over the amount of \$25,000 is submitted to the management of the LWCC, with any issues or concerns appropriately researched and acted upon by agency relations representatives and/or management. We also have an ongoing review and communication between the LWCC Production Department and the LWCC Agency Relations Department for any discrepancies with applications submitted by agents or actions of the agent.

LWCC proposes on a going forward basis to conduct a background check on all newly contracted agents beginning in March 2005. LWCC is currently in the process of accepting proposals from vendors to perform such background checks and put such a process in place."

ACL was not used because the Company's producer database did not include the Department's producer license number. It is recommended that the Company add this license number to its database so that ACL can be utilized in future producer reviews.

MARKETING AND SALES REVIEW

The Company advertised through brochures, radio and television. The Company is committed to promoting safety in the policyholders' workplace. All advertisements appeared factual and in compliance with applicable statutes, rules and regulations.

The Company also produces a monthly magazine *AGENT ADVANTAGE*, which provides valuable underwriting and industry information to its producers. Also, a website www.lwcc.com, offers the producer a password protected access to policy and claims data.

UNDERWRITING AND RATING REVIEW

The Company provided underwriting guidelines that appeared adequate. The underwriting process requires that a detailed application be provided by the producer.

No submissions (applications) will be logged or accepted if not a complete submission which includes:

- A fully completed Acord form signed by both insured and agent,
- Loss runs for the current year and three (3) previous years and
- A current NCCI experience modification worksheet (if applicable).

The Company uses the Acord application which is the "standard" application form used for the workers' compensation policy.

The Company provided a CD containing all new business policies issued in 2001, 2002 and 2003 to Louisiana residents. ACL was utilized to select a random sampling of sixty (60) new business policies from the three (3) years under examination.

A review of this sampling indicated that applications were complete, signed and dated by the applicant and the writing producer. The sampled applications were processed timely in an average of eighteen (18) days.

It was noted that the sampling of new business files contained different revisions of the Acord Application: Acord 130 (8/94), (10/96), (7/98), (08/00) and (09/02). Acord 130 (8/94) did not contain any fraud statements. The other revisions did contain various fraud statements but none contained the exact wording of the fraud statement required by LSA-R.S. 40:1424 B which states as follows:

"All applications for insurance and all claim forms provided and required by an insurer or required by law as a condition of payment of a claim shall contain a statement, permanently affixed to or included as a part of the application or claim form, that clearly states in substance the following: "Any person who knowingly presents a false or fraudulent claim for payment of a loss or benefit or knowingly presents false information in an application for insurance is guilty of a crime and may be subject to fines and confinement in prison."

During this review, it was recommended that the Company communicate to its agency force the importance of using the latest revision of the Acord Application.

In response to the above recommendation, the Director of Policyholder Services Operations provided the following agreement:

"We are in agreement with the recommendation and will:

- Communicate to all agents that only Acord applications version 7/98 and later will be accepted after February 1, 2005.
- Train underwriting staff and input coordinators accordingly.
- Understand that any submission received prior to February 1, 2005 for quoting purposes, or any application with check received for binding prior to February 1, 2005 may not comply with this recommendation. We will work diligently to ensure that any coverage written during this time is in compliance with the intent of the statute."

The Company provided a CD of non-renewed policies for the three (3) year period under examination. ACL was utilized to select a random sampling of sixty (60) policies for review. The review indicated that primarily the Company non-renewed policies due to failure of the policyholders to satisfy their premium audit requirements. No exceptions were noted during this review and the reasons for non-renewal were in accordance with policy and statutory provisions.

A sampling of approximately ten (10) applications was selected from the initial sampling of sixty (60) new business policies in order to verify classification codes. These sampled ratings were verified with rates filed with the Department without exception.

CLAIMS REVIEW

The Claim Department consisted of sixty-six (66) employees: thirty-three (33) claim representatives, six (6) registered nurses, eight (8) clerical and one (1) Rehabilitation Service Coordinator. There were thirty-one (31) claim representatives in Baton Rouge and two (2) in Shreveport, Louisiana. The Claim Force is divided into five (5) claim teams that include one (1) registered nurse and one (1) field nurse.

The Company created Occupational Medicine Network (“OMNET”) that consists of more than two thousand (2,000) healthcare providers available to provide medical assistance to its policyholders’ employees because of work related injuries. Also, OMNET provides prescription drugs.

LWCC provides a directory of healthcare providers to its members along with an *Injury Reporting Quick Kit*. An OMNET Hotline and a website www.lwcc.com are available for healthcare provider information.

LWCC provided claim guidelines that appeared adequate for the proper processing of claims in accordance with policy provision, statutes and regulations.

According to the paid claim sampling, seventy-six percent (76%) of paid claim are received telephonically, sixteen percent (16%) by facsimile and eight percent (8%) by the Internet. The Company implemented its own claim system, Lagniappe, which provided easy access by monitor for this claim review.

ACL provides a program that can perform a time study on paid claims for any given period. However, because the 2003 paid claims provided by the Company

contained claim payments on disability claims dating back to 1994, the time study results were skewed. A time study was performed on the claim sampling selected by ACL.

The Company provided a CD of paid claims for 2003 once the total was reconciled with LWCC'S annual statement. ACL was utilized to select a random sampling of sixty (60) paid claims. A review of these sampled claims revealed claims were paid timely and in accordance with policy provision, statutes and regulations. A time study of these sampled paid claims revealed that claims were paid on an average of thirty-two (32) days.

LWCC provided a listing of four hundred and three (403) denied claims for the three (3) years under examination. A systematic sampling of sixty (60) denied claims was selected for review. Denied claims were handled promptly and in accordance with policy provisions, statutes and regulations.

CONSUMER PRIVACY POLICY REVIEW

The Company does have a privacy and confidentiality policy and procedures in place to secure information regarding policyholders and claimants, which are in compliance with the Louisiana Department of Insurance Regulation **76 / PRIVACY OF CONSUMER FINANCIAL INFORMATION**.

It should be noted that Section 9905 in Regulation 76 exempts the Company from providing privacy notices to Workers' Compensation policyholders.

COMMENTS AND RECOMMENDATIONS

The Company provided timely responses to the examination requests submitted during this examination.

PRODUCER REVIEW

During this review, the Company was provided a copy of **Louisiana Bulletin #99-01** dated June 1, 1999 titled "Consent for Prohibited Person to engage in Insurance Business", 18 United States Code, Sections 1033 and 1034 and advised that its hiring practices of producers did not appear to be in compliance with this Louisiana Bulletin.

The Director of Corporate Legal Services responded that on a go forward basis, LWCC will conduct a background check on all newly contracted producers beginning in March 2005. LWCC is currently in the process of accepting proposals from vendors to perform such background checks and put such a process in place.

Also, it is recommended that the Company add the Department's producer license number to its database so that ACL can be utilized in future producer reviews.

UNDERWRITING AND RATING REVIEW

During this review, it was recommended that the Company communicate to its agency force the importance of using the latest revision of the Acord Application.

In response to the above recommendation, the Director of Policyholder Services Operations provided the following agreement:

"We are in agreement with the recommendation and will:

- Communicate to all agents that only Acord applications version 7/98 and later will be accepted after February 1, 2005.
- Train underwriting staff and input coordinators accordingly.
- Understand that any submission received prior to February 1, 2005 for quoting purposes, or any application with check received for binding prior to February 1, 2005 may not comply with this recommendation. We will work diligently to ensure that any coverage written during this time is in compliance with the intent of the statute."

CONCLUSION

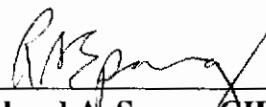
I, Richard A. Spong, do solemnly swear and affirm that I am an examiner for the Commissioner of Insurance of the State of Louisiana and that as such, I was assigned to conduct an examination of the market conduct activities of

LOUISIANA WORKERS' COMPENSATION CORPORATION

BATON ROUGE, LOUISIANA

That I made such examination and the above and foregoing is a true and correct copy of my report of such company and the same is true and correct to the best of my knowledge, information and belief

Respectfully submitted,



Richard A. Spong, CIE, CFE
Louisiana Department of Insurance