

STATE OF NEW JERSEY
DEPARTMENT OF BANKING AND INSURANCE

IN THE MATTER OF:

Proceedings by the Commissioner of)	
Banking and Insurance, State of New)	
Jersey, with respect to American Bankers Life)	
Assurance Company of Florida, NAIC)	
No. 60275 and American Bankers Insurance)	CONSENT
Company of Florida, NAIC No 10111)	ORDER

TO: Assurant Solutions
11222 Quail Roost Drive
Miami, FL 33157-6596

This matter, having been opened to the Commissioner of Banking and Insurance (“Commissioner”), State of New Jersey, upon the filing of a Market Conduct Examination Report (“the Report”) containing the results of the July 1, 2009 through December 17, 2010 examination of Homeowner claims, rating and underwriting and credit life and health administration and licensing practices of American Bankers Life Assurance Company of Florida and American Bankers Insurance Company of Florida, (“the Companies”) performed by the Department of Banking and Insurance (“Department”) pursuant to the authority provided at N.J.S.A. 17:23-20 et seq.; and

WHEREAS, the market conduct examination revealed certain instances, as fully set forth in the Report, where the Companies practices did not accord fully with various provisions of New Jersey insurance statutes or regulations; and

WHEREAS, based on the documentation and information submitted by the Companies, the Department is satisfied that the Companies have taken or will take corrective measures pursuant to the recommendations of the Report.

NOW, THEREFORE, IT IS on this 20th day of June, 2011

ORDERED AND AGREED that the attached Report will be adopted and filed as an official record of the Department; and

IT IS FURTHER ORDERED AND AGREED that Companies shall comply with New Jersey insurance statutes and regulations and the recommendations contained in the attached Report; and

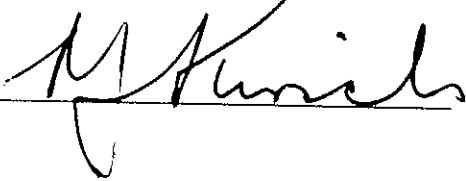
IT IS FURTHER ORDERED AND AGREED that pursuant to N.J.S.A. 17:23-24d(1), within 30 days of the adoption of the Report, the Companies shall file an affidavit with the Department's Market Conduct Unit, stating under oath that each director received a copy of the adopted Report.



Thomas B. Considine
Commissioner

Consented to as to form, content and entry

Name



Date:

06/09/11

ABLexamorder/amm

MARKET CONDUCT EXAMINATION

of the

**AMERICAN BANKERS LIFE ASSURANCE COMPANY OF FLORIDA
AMERICAN BANKERS INSURANCE COMPANY OF FLORIDA**

located in

MIAMI, FLORIDA

as of

DECEMBER 17, 2010

BY EXAMINERS

of the

STATE OF NEW JERSEY

**DEPARTMENT OF BANKING AND INSURANCE
OFFICE OF CONSUMER PROTECTION SERVICES
MARKET CONDUCT EXAMINATIONS**

and

ANTI-FRAUD COMPLIANCE SECTIONS

REPORT ADOPTED:

JUNE 23, 2011

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I. INTRODUCTION

This is a report of the Market Conduct activities of American Bankers Life Assurance Company of Florida and American Bankers Insurance Company of Florida (hereinafter collectively referred to as American Bankers or the Company). In this report, examiners of the New Jersey Department of Banking and Insurance (NJDOBI) present their findings, conclusions and recommendations as a result of their examination.

A. SCOPE OF EXAMINATION

The scope of the examination included homeowner insurance and credit life and credit health insurance sold by the Companies in New Jersey. The examiners evaluated American Bankers' compliance with the regulations and statutes pertaining to homeowner claims, rating and underwriting and credit life and health and agent licensing. The review period for the examination was July 1, 2009 to the present.

The examiners conducted their fieldwork at American Bankers' office in Miami, Florida between September 20, 2010 and October 1, 2010. On various dates following the fieldwork, the examiners completed additional review work and report writing in Trenton, N.J. The Market Conduct Examiners were Examiner-in-Charge Marleen Sheridan, Robert Only and Richard Segin.

The examiners randomly selected files and records from computer listings and documents provided by the Company. The random selection process is in accordance with the National Association of Insurance Commissioner's (NAIC) Market Regulation Handbook. The examiners used the NAIC Market Regulation Handbook, Chapters Sixteen (General Examination Standards), Seventeen (Conducting the Property and Casualty Examination) and Twenty-three (Conducting the Consumer Credit Examination), as a guide to examine the Company and write this report.

B. ERROR RATIOS

Error ratios are the percentage of files reviewed which an insurer handles in error. A file is counted as an error when it is mishandled or the insured is treated unfairly, even if no statute or regulation is applicable. If a file contains multiple errors, the examiners will count the file only once in calculating error ratios. However, any file that contains more than one error will be cited more than once in the report. In the event that the insurer corrects an error as a result of a consumer complaint or due to the examiners' findings, the error will be included in the error ratio. If the insurer corrects an error independent of a complaint or NJDOBI intervention, the error is not included in the error ratios.

There may be errors cited in this report that define practices as specific acts that an insurer commits so frequently that it constitutes an improper general business practice. Whenever the examiners find that the errors cited constitute an improper general business practice, they have stated this in the report.

The examiners sometimes find improper general business practices or insurer errors that may be technical in nature or which did not have an impact on a consumer. Even though such errors or practices would not be in compliance with law, the examiners do not count each of these files as an error in determining error ratios. Whenever such business practices or errors do have an impact on the consumer, each of the files in error will be counted in the error ratio. The examiners indicate in the report whenever they did not count particular files in the error ratio.

The examiners submitted written inquiries to Company representatives on the errors cited in this report. These inquiries provided American Bankers the opportunity to respond to the examiners' findings and to provide exceptions to the statutory and/or regulatory errors or mishandling of files reported. In response to these inquiries, American Bankers agreed with some of the errors cited in this report. On those errors with which the Company disagreed, the examiners evaluated the individual merits of each response and gave due consideration to all comments. In some instances, the examiners did not cite the files due to the Company's explanatory responses. In others, the errors remained as cited in the examiners' inquiries. For the most part, this is a report by exception.

C. COMPANY PROFILE

American Bankers Insurance Company of Florida (ABIC) was incorporated in 1947. American Bankers Life Assurance Company of Florida (ABLAC) was incorporated in 1952. In 1980, American Bankers Insurance Group (ABIG), the holding company of ABIC and ABLAC was formed. In 1999, ABIG was acquired by Fortis, a large European banking and insurance group. In 2004, Fortis spun off its U.S. operations in an initial public offering. The U.S. operations are now known as Assurant, Inc., whose stock is traded on the New York Stock Exchange.

American Bankers Insurance Company of Florida is licensed as a property and casualty insurance company in 50 U.S. states, Puerto Rico, the U.S. Virgin Islands and Canada. Its primary product lines are property insurance (principally homeowners and mobile home physical damage) and credit insurance.

American Bankers Life Assurance Company of Florida is a life and health insurance company licensed in 49 U.S. states, Puerto Rico, the U.S. Virgin

Islands and Canada. Its product lines are credit insurance products. The Company markets its products principally through financial institutions and retailers.

II. TERMINATIONS

A. INTRODUCTION

N.J.A.C. 11:2-3.20(a) and N.J.S.A. 17B:29-8b state that, in the event of termination of insurance prior to the scheduled maturity date of indebtedness due to loan prepayment, an insurer must promptly refund any unearned premium to the insured debtor. During the review period July 1, 2009 to June 30, 2010 American Bankers Life Assurance Company of Florida had 15 files that were terminated prior to the scheduled maturity date. In order to test for compliance with the aforementioned requirements, the examiners reviewed all 15 cancelled files. Error ratios and the examiners' findings regarding premium refunds are outlined below.

B. ERROR RATIOS

The examiners calculated error ratios for the termination review by applying the procedure outlined in the introduction of this report. The following chart itemizes the review sample, the number of errors and the error ratio.

<u>Type of Review</u>	<u>Files Reviewed</u>	<u>Files in Error</u>	<u>Error Ratio</u>
Mid Term Cancellations	15	6	40%

C. EXAMINERS' FINDINGS

1. Failure to Issue Refund to Insured Debtor within 60 Days (Six Files in Error)

N.J.A.C. 11:2-3.20(a) and N.J.S.A. 17B:29-8b require an insurer to promptly, but in no event later than 60 days from termination of coverage, refund to a policyholder any refund of premium due on termination of insurance prior to the scheduled maturity date of the indebtedness. Contrary to these requirements American Bankers failed to issue a refund within 60 days on six out of 15 terminations. The delays ranged from four to 287 days beyond 60 calendar days. Total premium refund dollars in error ranged from a low of \$65.08 to a high of \$383.47, with an overall total of \$1,125.92.

SEE APPENDIX A-1 FOR A LIST OF FILES IN ERROR

2. Failure to Pay Penalty on Delayed Premium Refunds (Six Files in Error)

N.J.S.A. 17:29C-4.1 requires a five per cent penalty computed on the gross unearned premium for any refunds paid beyond 60 days. The examiners

found that, on the same six cancelled policies addressed in item one above, the Company did not refund the unearned premiums within 60 days and failed to include the required 5% interest penalty.

SEE APPENDIX A-2 FOR A LIST OF FILES IN ERROR

III. UNDERWRITING AND RATING

A. INTRODUCTION

The examiners reviewed randomly selected homeowner, renters and mobile homeowner policy files from American Bankers Insurance Company of Florida's book of business that was in force during the review period July 1, 2009 to June 30, 2010. The Company had 733 homeowner policies, 20,072 renter's policies and 3,410 mobile homeowner policies in-force during the review period. The examiners checked for compliance with all applicable New Jersey statutes and regulations including N.J.S.A. 17:29A-6 and 15 (filed and approved rating methodologies), N.J.S.A. 17:23A-4 (Notice of Information Practices) and N.J.S.A. 17:29A-4(d) (rate reductions for structures equipped with operative smoke detection devices).

B. ERROR RATIOS

The examiners calculated error ratios for each random sample by applying the procedure outlined in the introduction of this report. Separate error ratios are determined for each review sample as indicated in the chart that follows.

<u>Type of Review</u>	<u>Files Reviewed</u>	<u>Files in Error</u>	<u>Error Ratio</u>
Underwriting Review			
New Business	16	0	0
Renewals	<u>26</u>	<u>0</u>	0
Total	42	0	0

C. EXAMINERS' FINDINGS

The examiners reviewed a random sample of 42 files and found that the Company was in compliance with applicable statutes and regulations. The examiners found no errors in this review.

IV. CLAIMS REVIEW

A. INTRODUCTION

This review covers paid and denied claims submitted under homeowner, renter and mobile homeowner insurance. Any such New Jersey claim closed between July 1, 2009 and June 30, 2010 was subject to review. During the review period, American Bankers closed 17 homeowner claims, 642 renter claims, and 319 mobile homeowner claims. The examiners randomly selected and reviewed 40 paid and 40 denied claims.

In reviewing each claim, the examiners checked for compliance with all applicable statutes and regulations that govern timeliness requirements in settling first party claims. The examiners conducted specific reviews placing particular emphasis on N.J.S.A. 17:29B-4(9) and N.J.A.C. 11:2-17 (Unfair Claims Settlement Practices). These requirements relate to Chapters Sixteen (General Exam Standards) and Seventeen (Property and Casualty Insurance Examinations) of the NAIC Market Regulation Handbook.

B. ERROR RATIOS

The examiners calculated the following error ratios by applying the procedure outlined in the introduction of this report. Error ratios are itemized separately based on the review samples as indicated in the following chart.

<u>Review Sample</u>	<u>Files Reviewed</u>	<u>Files in Error</u>	<u>Error Ratio</u>
Paid Claims	40	11	28%
Denied Claims	<u>40</u>	<u>0</u>	0
Total	80	11	14%

C. EXAMINERS' FINDINGS

1. Failure to Issue 60 - Day Holdback Letter on Replacement Cost Claim Settlements – 10 Files in Error (Improper General Business Practice)

N.J.A.C. 11:2-17.8(e) states that, "If a claimant is actively negotiating with an insurer for settlement of a claim, and the claimant's rights may be affected by a statute of limitations or a policy time limit, the insurer shall provide the claimant with written notice that the time limit may be expiring and may affect the claimant's rights. Such notice shall be given to claimants 60 calendar days before the date on which such time limit may expire."

Contrary to this regulation, the examiners found 10 files where the Company failed to issue the 60-day holdback letter on claims involving replacement cost.

SEE APPENDIX B-1 FOR A LIST OF FILES IN ERROR

2. Underpayment of Claim – 1 File in Error

N.J.S.A. 17:29B-4(9)(f) requires an insurer to effectuate prompt, fair and equitable settlements of claims. The Company's payment to the policyholder for claim number R09-045631 was based on the actual cash value amount of the loss instead of the replacement cost value. This resulted in an underpayment of \$86.74. The Company agreed with this error and issued an additional payment to the insured.

THIS FILE IS ALSO LISTED IN APPENDIX B-2

3. Erroneous Statement on Delay Letter – 4 Files in Error

The form delay notices for four claim files contained the following statement, "For your protection Arizona law requires the following statement to appear on this form. Any person who knowingly presents a false or fraudulent claim for payment of a loss is subject to criminal and civil penalties." Although the delay notices included valid reasons for delay, the erroneous statement may be confusing to claimants. The examiners did not count these files in the error ratio chart since the Company corrected this error in October 2009.

SEE APPENDIX B-3 FOR A LIST OF FILES IN ERROR

V. SALES AND ADVERTISING

A. LICENSING OF SALES STAFF

According to N.J.S.A. 17:22A-26 et seq. and N.J.A.C. 11: 17-1 through N.J.A.C. 11:17E-1, a person shall not sell, solicit or negotiate insurance in this State unless the person is licensed for a specific line or lines of authority. American Bankers provided the examiners with a list of 47 persons and/or entities that sell insurance for the Company in New Jersey. The examiners found no error in this review.

B. MARKETING AND SALES

According to N.J.S.A. 17:29B-4(2), insurers are prohibited from “Making, publishing, disseminating, circulating, or placing before the public...in the form of a notice, circular, pamphlet, letter...or in any other way, an advertisement, announcement or statement containing any assertion...which is untrue, deceptive or misleading.” The examiners reviewed 50 pieces of advertising material including the Company’s internet site for compliance with all statutory requirements. The examiners did not find any errors.

VI. RECOMMENDATIONS

American Bankers should inform all responsible personnel and third party entities who handle the files and records cited as errors in this report of the examiners' recommendations and remedial measures that follow in the report sections indicated. The examiners also recommend that American Bankers establish procedures to monitor compliance with these measures.

Throughout this report, the examiners cite and/or discuss all errors found. If the report cites a single error, the examiners often include a "reminder" recommendation because if a single error is found, more errors may have occurred.

Non-compliant activity was identified in this report which may extend to other jurisdictions. The Company is directed to take immediate corrective action to demonstrate its ability and intention to conduct business according to New Jersey law and regulations. When applicable, corrective action for other jurisdictions should be addressed.

The examiners acknowledge that during the examination American Bankers agreed and already complied with, either in whole or in part, some of the recommendations. For the purpose of obtaining proof of compliance and for the Company to provide its personnel with a document they can use for future reference, the examiners have listed all recommendations below.

A. GENERAL INSTRUCTIONS

All items requested for the Commissioner and copies of all written instructions, procedures, recommended forms, etc., should be sent to the Commissioner, c/o Clifton J. Day, Manager of the Market Conduct Examinations and Anti-Fraud Compliance Unit, Mary Roebling Building, 20 West State Street, PO Box 329, Trenton, N.J. 08625, within thirty (30) days of the date of the adopted report.

On all policies to be reopened with additional claim payments, American Bankers should provide the insured with a cover letter that contains the following first paragraph:

"During a review of your claim by Market Conduct Examiners of the New Jersey Department of Banking and Insurance, they found that we underpaid your claim. Enclosed is our payment in the amount of (insert amount) to correct our error."

On all policies to be reopened for interest payment on delayed refunds, American Bankers should provide the insured with a cover letter that contains the following first paragraph:

“During a review of your claim by Market Conduct Examiners of the New Jersey Department of Banking and Insurance, they found that we did not issue your premium refund within 60 days of coverage termination and did not pay the required interest during the period of delay. Enclosed is our payment in the amount of (insert amount) to correct our error.”

B. TERMINATIONS

1. Pursuant to N.J.S.A. 17B:29-8b and N.J.A.C. 11:2-3.20 (a), the Company must issue written instructions to appropriate personnel advising to promptly, and within a period not to exceed 60 calendar days from policy termination, refund or issue credits to an insured where a refund is due.

2. The Company must issue written instructions to appropriate personnel stating that N.J.S.A. 17:29C-4.1 requires a five percent penalty computed on the gross unearned premium for any refunds paid beyond 60 days. The Company should reopen the files listed in Appendix A-2 and issue the required interest payment for the period of delay.

C. CLAIMS

3. In order to comply with N.J.A.C. 11:2-17.8(e), American Bankers must provide written instruction to all appropriate personnel stating that insurers must send written notice to insureds, not represented by an attorney, advising that their rights may be affected by a policy time limit on the settlement of a claim. Specifically, in instances where payment is made based on actual cash value (ACV), this notice must state that the policy provides up to 180 days from notice of loss for the insured to make claim for additional liability which includes depreciation holdback, in the event that a claim is settled on an actual cash value basis where replacement or repair costs exceed the actual replacement cost. The notice must be sent 60 calendar days before expiration of the 180-day time limit.

4. American Bankers should reopen the claims listed in Appendix B-1 and allow the claimant the option to pursue recoupment of the depreciation amount that was deducted from the replacement cost settlement value. In the event that the claimant submits documentation necessary to demonstrate eligibility, American Bankers should issue supplemental payment as warranted. See general instructions for appropriate cover letter to the insured.

5. American Bankers must issue a written reminder to all appropriate personnel stating that:

- a. claim settlements must be prompt, fair and equitable;
- b. all form letters must not contain erroneous information.

APPENDIX A – Termination Errors

1. Failure to Issue Refund to Insured Debtor within 60 Days (Six Files in Error)

<u>Contract #</u>	<u>Date Co. Notified of Cancellation</u>	<u>Refund Date</u>	<u>Days Over 60</u>
0A31399352	10/20/09	12/24/09	5
0A3553973	11/13/09	1/25/10	13
0A31735286	11/10/09	1/21/10	12
0A31398824	11/10/09	1/13/10	4
0A3553054	11/13/09	10/26/10	287
0A3278867	10/1/09	12/24/09	24

2. Failure to Pay Penalty on Delayed Premium Refunds (Six Files in Error)

<u>Contract Number</u>	<u>Date Co. Notified of Cancellation</u>	<u>Refund Date</u>	<u>Refund Amount</u>	<u>Days Over 60</u>
0A31399352	10/20/09	12/24/09	\$203.41	5
0A3553973	11/13/09	1/25/10	\$ 65.08	13
0A31735286	11/10/09	1/21/10	\$285.84	12
0A31398824	11/10/09	1/13/10	\$268.53	4
0A3553054	11/13/09	10/26/10	\$123.00	287
0A3278867	10/1/09	12/24/09	\$383.47	24
Total			\$1,125.92	

APPENDIX B – CLAIM ERRORS

1. Failure to Issue 60 - Day Holdback Letter on Replacement Cost Claim Settlements – 10 Files in Error (Improper General Business Practice)

<u>Claim Number</u>	<u>Date of Loss</u>
00100787082	1/5/10
00100811586	3/14/10
00100754372	10/9/09
00100799941	2/10/10
00100830840	5/2/10
R10-054229	4/5/10
00100793014	1/23/10
00100712748	6/12/09
00100796976	2/3/10
00100850513	6/5/09

2. Underpayment of Claim – 1 File in Error

<u>Claim Number</u>	<u>Date of Loss</u>
R09-045631	12/2/09

3. Erroneous Statement on Delay Letter – 4 Files in Error

<u>Claim Number</u>	<u>Date on Delay Letter</u>
00100739033	9/14/2009
00100731307	1/13/2010
00100740338	10/01/2009
00100761095	11/06/2009

VII. VERIFICATION PAGE

I, Marleen J. Sheridan, am the Examiner-in-Charge of the Market Conduct Examination of American Bankers Life Assurance Company of Florida and American Bankers Insurance Company of Florida conducted by examiners of the New Jersey Department of Banking and Insurance. This verification is based on my personal knowledge as acquired in my official capacity.

The findings, conclusions and recommendations contained in the foregoing report represent, to the best of my knowledge, a full and true statement of the Market Conduct examination of American Bankers Life Assurance Company of Florida and American Bankers Insurance Company of Florida as of December 17, 2010.

I certify that the foregoing statements are true. I am aware that if any of the foregoing statements made by me is willfully false, I am subject to punishment.

2/8/11

Date

Marleen Sheridan

Marleen Sheridan
Examiner-In-Charge
New Jersey Department
of Banking and Insurance