

OHIO DEPARTMENT OF INSURANCE

**A
MARKET CONDUCT EXAMINATION
OF
AMERICAN SERVICE INSURANCE COMPANY
NAIC# 42897**

As Of

December 31, 2008





Ted Strickland, Governor
Mary Jo Hudson, Director

50 W Town St Ste 300, Columbus, OH 43215
(614) 644-2658 www.ohioinsurance.gov

Honorable Mary Jo Hudson
Director
Ohio Department of Insurance
50 W. Town St. Ste. 300
Columbus, OH 43215

Director:

Pursuant to your instructions and in accordance with the powers vested under Title 39 of the Ohio Revised Code, a targeted market conduct desk examination was conducted on the Ohio business of:

American Service Insurance Company
NAIC Company Code 42897

A report of the examination is enclosed.

Respectfully submitted,

A handwritten signature in cursive script that reads 'Lynette A. Baker'.

11/12/09

Lynette Baker
Chief, Market Conduct Division

Date



Accredited by the National Association of Insurance Commissioners (NAIC)
Consumer Hotline: 1-800-686-1526 Fraud Hotline: 1-800-686-1527 OSHIP Hotline: 1-800-686-1578

TABLE OF CONTENTS

FOREWORD	2
SCOPE OF EXAMINATION.....	2
METHODOLOGY	2
COMPANY HISTORY	3
COMPANY OPERATIONS.....	3
GENERAL CLAIM PRACTICES	3
SUMMARY	19
COMPANY RESPONSE.....	20

FOREWORD

This examination was conducted under authority provided under Ohio Revised Code (“R.C.”) 3901.011.

SCOPE OF EXAMINATION

On January 2, 2009, the Market Conduct Division, Ohio Department of Insurance (“Department”), opened an examination into the business practices of American Service Insurance Company (“Company”) by sending a call letter. The examination was limited to a review of the Company’s activities for Ohio private passenger auto total loss, partial loss, and unpaid loss, collision, property damage, and comprehensive claims for the period of January 1, 2008, through December 31, 2008. The examination report is reported by test and was conducted in accordance with the standards and procedures established by the National Association of Insurance Commissioners (“NAIC”) and the state of Ohio’s applicable statutes and rules. Accordingly, the examination included a review of the Company’s operations and claims practices.

METHODOLOGY

Only Ohio policyholders’ files were reviewed. A series of tests were designed and applied to these files to determine the Company’s level of compliance with Ohio’s insurance statutes and rules. These tests are described and the results noted in this report.

The examiner used the NAIC’s standard of:

7% error ratio on claim files (93% compliance rate)

to determine whether an apparent pattern or practice of non-compliance existed for any given test. The results of each test applied to a sample are reported separately. Each test is expressed as a “yes/no” question. A “yes” response indicates compliance and a “no” response indicates a failure to comply. A “no” response may be referred to in this report as an “exception.”

In any instance where errors were noted, the examiner described the apparent error and asked the Company for an explanation. The Company responded to the examiner and either:

- Concurred with the findings;
- Had additional information for the examiners to consider; and/or
- Proposed remedial action(s) to correct the apparent deficiency.

The examiner’s recommendations are included in this report.

COMPANY HISTORY

American Service Insurance Company began writing specialty private passenger auto insurance in the Chicago, Illinois metro area in 1983. The Company currently writes personal and commercial insurance in 14 states. In Ohio, the Company currently writes non-standard auto, taxi, limousine, paratransit, and light commercial auto and artisan policies.

COMPANY OPERATIONS

As of December 31, 2008 the officers of the Companies were:

President & CEO	Thomas Ossmann
Senior Vice President and Treasurer	Michael Suerth
Chief Legal Officer & Assistant Secretary	Amy Condo
Secretary	Mary Ann Callaghan
Vice President	Robert Fattore
Vice President	Stephen Bosy
Vice President	Kevin Schulte
Vice President	Joseph Shugrue
Vice President	Jeffrey Spratt

GENERAL CLAIM PRACTICES

File Documentation

Ohio Administrative Code 3901-1-54(D)(2) requires an insurer to be able to reconstruct its activities in regard to any claim, by documentation appropriate for the type and size of the claim. The examiner found that claims notes were sometimes missing from claims files. The examiner required additional documentation to verify compliance. The examiner also found that documentation of sales tax letters, informing claimants of their right to be reimbursed for sales tax, were sometimes missing from claims files.

Examiner Recommendations:

- Claims employees should be trained on the importance of keeping detailed and proper adjuster notes.
- Claims notes should include contact dates with first and third party claimants to document compliance with Ohio Adm. Code 3901-1-54(F)(2).
- Claims files should contain copies of sales tax letters sent to all claimants eligible to be reimbursed for sales tax.

Collision Partial Losses Paid

Methodology:

The Company supplied a report of all Ohio collision partial loss files that were closed during the specified examination period.

- The examiner reviewed a sample of the supplied collision files to test for compliance.
- The examiner reviewed claim files to verify dates in the claims settlement process.
- The examiner reviewed the claim files to verify the Company's claim settlement practices.

1. Timely Initial Contact

Standard: The initial contact by the Company with the first party claimant is within required time frames.

Test: Did the Company make timely contact (15 days from receipt of notice) with claimants following the report of a claim in compliance with Ohio Adm. Code 3901-1-54(F)(2)?

Test Methodology:

- Any claimant not contacted within the required time frame was considered an exception.

Findings:

Population	Sample	Yes	No	Standard	Compliance
102	50	50	0	93%	100%

The standard of compliance is 93%. The Company's handling practices were above this standard.

2. Timeliness of Claim Payments

Standard: Claims are resolved in a timely manner.

Test: Did the Company make timely payments (10 days after acceptance) to first party claimants in compliance with Ohio Adm. Code 3901-1-54(G)(6)?

Test Methodology:

- Any claim on which the Company failed to make payment to a first party claimant (10 days after acceptance) once the amount was known and agreed as required by Ohio Adm. Code 3901-1-54(G)(6) was considered an exception.

Findings:

Population	Sample	Yes	No	Standard	Compliance
102	50	50	0	93%	100%

The standard of compliance is 93%. The Company's handling practices were above this standard.

3. Claims Handling

Standard: Claims are properly handled in accordance with policy provisions and applicable statutes, rules, and regulations.

Test: When applicable, did the estimate by or on behalf of the insurer clearly indicate the location of the licensed salvage dealer where the “like kind and quality” parts are to be obtained per Ohio Adm. Code 3901-1-54 (H)(4)?

Test Methodology:

- Any repair estimate that failed to clearly show the address and/or phone number of the licensed salvage dealer where the “like kind and quality” parts were obtained was considered to be an exception.

Findings:

Population	Sample	Yes	No	Standard	Compliance
102	50	50	0	93%	100%

The standard of compliance is 93%. The Company’s handling practices were above this standard.

4. Claims Handling

Standard: Claims are properly handled in accordance with policy provisions and required Ohio statutes and rules.

Test: When applicable, did the written estimate by or on behalf of the insurer clearly indicate the use of Non-OEM Equipment Manufacturer Aftermarket Crash Parts in compliance with Ohio Adm. Code 3901-1-54(H)(4) and was the required statutory wording included in the required disclosure per R.C. 1345.81?

Test Methodology:

- Any repair estimate that failed to clearly show that Non-OEM parts were included in the estimate was considered to be an exception.
- Any repair estimate that failed to include the statutory mandated disclosure wording required when Non-OEM parts are used to repair a vehicle was considered to be an exception.

Findings:

Population	Sample	Yes	No	Standard	Compliance
102	50	50	0	93%	100%

The standard of compliance is 93%. The Company’s handling practices were above this standard.

5. Claims Handling

Standard: Claims are properly handled in accordance with policy provisions and applicable statutes, rules, and regulations.

Test: Did the Company offer to first party claimants who have made fair and reasonable claims and in which liability has become clear, amounts which were fair and reasonable as shown by the insurer’s investigation of the claim, providing the amounts so offered were within policy limits in accordance with policy provisions including payment of all sales tax required per Ohio Adm. Code 3901-1-07(C)(6)?

Test Methodology:

- Any file that failed to document that the settlement amount offered and/or paid was fair and reasonable was considered to be an exception.

Findings:

Population	Sample	Yes	No	Standard	Compliance
102	50	49	1	93%	98%

The standard of compliance is 93%. The Company’s handling practices were above this standard.

Property Damage Partial Losses Paid

Methodology:

The Company supplied a report of all property damage partial loss files that were closed during the specified examination period.

- The examiner reviewed a sample of the supplied property damage files to test for compliance.
- The examiner reviewed claim files to verify dates in the claims settlement process.
- The examiner reviewed the claim files to verify the Company’s claim settlement practices.

1. Timely Initial Contact

Standard: The initial contact by the Company with the claimant is within required time frames.

Test: Did the Company make timely contact (15 days from receipt of notice) with claimants following the report of a claim in compliance with Ohio Adm. Code 3901-1-54(F)(2)?

Test Methodology:

- Any claimant not contacted within the required time frame was considered an exception.

Findings:

Population	Sample	Yes	No	Standard	Compliance
217	45	44	1	93%	98%

The standard of compliance is 93%. The Company’s handling practices were above this standard.

2. Timeliness of Claim Payments

Standard: Claims are resolved in a timely manner.

Test: Did the Company make timely payments (5 working days of receipt of agreement) to third party claimants in compliance with Ohio Adm. Code 3901-1-07(C)(16)?

Test Methodology:

- Any claim on which the Company failed to make payment to a third party claimant (within 5 days of acceptance) once the amount was known and agreed as required by Ohio Adm. Code 3901-1-07(C)(16) was considered an exception.

Findings:

Population	Sample	Yes	No	Standard	Compliance
217	45	44	1	93%	98%

The standard of compliance is 93%. The Company's handling practices were above this standard.

3. Claims Handling

Standard: Claims are properly handled in accordance with policy provisions and applicable statutes, rules, and regulations.

Test: When applicable did the estimate by or on behalf of the insurer clearly indicate the location of the licensed salvage dealer where the "like kind and quality" parts are to be obtained per Ohio Adm. Code 3901-1-54(H)(4)?

Test Methodology:

- Any repair estimate that failed to clearly show the address and/or phone number of the licensed salvage dealer where the "like kind and quality" parts were obtained was considered to be an exception.

Findings:

Population	Sample	Yes	No	Standard	Compliance
217	45	45	0	93%	100%

The standard of compliance is 93%. The Company's handling practices were above this standard.

4. Claims Handling

Standard: Claims are properly handled in accordance with policy provisions and applicable statutes, rules, and regulations.

Test: When applicable, did the written estimate by or on behalf of the insurer clearly indicate the use of Non-OEM Equipment Manufacturer Aftermarket Crash Parts in compliance with Ohio Adm. Code 3901-1-54(H)(4) and was the required statutory wording included in the required disclosure per R.C. 1345.81?

Test Methodology:

- Any repair estimate that failed to clearly show that Non-OEM parts were included in the estimate was considered to be an exception.
- Any repair estimate that failed to include the statutory mandated disclosure wording required when Non-OEM parts are used to repair a vehicle was considered to be an exception.

Findings:

Population	Sample	Yes	No	Standard	Compliance
217	45	45	0	93%	100%

The standard of compliance is 93%. The Company’s handling practices were above this standard.

5. Claims Handling

Standard: Claims are properly handled in accordance with policy provisions and applicable statutes, rules, and regulations.

Test: Did the Company offer to claimants who have made fair and reasonable claims and in which liability has become clear, amounts which were fair and reasonable as shown by the insurer’s investigation of the claim, providing the amounts so offered were within policy limits in accordance with policy provisions including payment of all sales tax required per Ohio Adm. Code 3901-1-07(C)(6)?

Test Methodology:

- Any file that failed to document that the settlement amount offered and/or paid was fair and reasonable was considered to be an exception.

Findings:

Population	Sample	Yes	No	Standard	Compliance
217	45	45	0	93%	100%

The standard of compliance is 93%. The Company’s handling practices were above this standard.

Comprehensive Losses Paid

Methodology:

The Company supplied a report of all comprehensive loss files that were closed during the specified examination period.

- The examiner reviewed 100% of the supplied comprehensive loss files to test for compliance.

- The examiner reviewed claim files to verify dates in the claims settlement process.
- The examiner reviewed the claim files to verify the Company’s claim settlement practices.

1. Timely Initial Contact

Standard: The initial contact by the Company with the claimant is within required time frames.

Test: Did the Company make timely contact (15 days from receipt of notice) with claimants following the report of a claim in compliance with Ohio Adm. Code 3901-1-54(F)(2)?

Test Methodology:

- Any claimant not contacted within the required time frame was considered an exception.

Findings:

Population	Sample	Yes	No	Standard	Compliance
33	33	33	0	93%	100%

The standard of compliance is 93%. The Company’s handling practices were above this standard.

2. Timeliness of Claim Payments

Standard: Claims are resolved in a timely manner.

Test: Did the Company make timely payments (10 days after acceptance) to first party claimants per Ohio Adm. Code 3901-1-54(G)(6)?

Test Methodology:

- Any claim on which the Company failed to make payment to a first party claimant (10 days after acceptance) once the amount was known and agreed as required by Ohio Adm. Code 3901-1-54(G)(6) was considered an exception.

Findings:

Population	Sample	Yes	No	Standard	Compliance
33	33	33	0	93%	100%

The standard of compliance is 93%. The Company’s handling practices were above this standard.

3. Claims Handling

Standard: Claims are properly handled in accordance with policy provisions and applicable statutes, rules, and regulations.

Test: When applicable did the estimate by or on behalf of the insurer clearly indicate the location of the licensed salvage dealer where the “like kind and quality” parts are to be obtained per Ohio Adm. Code 3901-1-54(H)(4)?

Test Methodology:

- Any repair estimate that failed to clearly show the address and/or phone number of the licensed salvage dealer where the “like kind and quality” parts were obtained was considered to be an exception.

Findings:

Population	Sample	Yes	No	Standard	Compliance
33	33	33	0	93%	100%

The standard of compliance is 93%. The Company’s handling practices were above this standard.

4. Claims Handling

Standard: Claims are properly handled in accordance with policy provisions and applicable statutes, rules, and regulations.

Test: When applicable did the written estimate by or on behalf of the insurer clearly indicate the use of Non-OEM Equipment Manufacturer Aftermarket Crash Parts in compliance with Ohio Adm. Code 3901-1-54(H)(4) and was the required statutory wording included in the required disclosure per R.C. 1345.81?

Test Methodology:

- Any repair estimate that failed to clearly show that Non-OEM parts were included in the estimate was considered to be an exception.
- Any repair estimate that failed to include the statutory mandated disclosure wording required when Non-OEM parts are used to repair a vehicle was considered to be an exception.

Findings:

Population	Sample	Yes	No	Standard	Compliance
33	33	33	0	93%	100%

The standard of compliance is 93%. The Company’s handling practices were above this standard.

5. Claims Handling

Standard: Claims are properly handled in accordance with policy provisions and applicable statutes, rules, and regulations.

Test: Did the Company offer to claimants who have made fair and reasonable claims and in which liability has become clear, amounts which were fair and reasonable as shown by the insurer’s investigation of the claim, providing the amounts so offered were within policy limits

in accordance with policy provisions including payment of all sales tax required per Ohio Adm. Code 3901-1-07(C)(6)?

Test Methodology:

- Any file that failed to document that the settlement amount offered and/or paid was fair and reasonable was considered to be an exception.

Findings:

Population	Sample	Yes	No	Standard	Compliance
33	33	31	2	93%	94%

The standard of compliance is 93%. The Company’s handling practices were above this standard.

Collision Total Losses Paid

Methodology:

The Company supplied a report of all collision total loss files that were closed during the specified examination period.

- The examiner reviewed 100% of the supplied collision total loss files to test for compliance.
- The examiner reviewed claim files to verify dates in the claims settlement process.
- The examiner reviewed the claim files to verify the Company’s claim settlement practices.

1. Timely Initial Contact

Standard: The initial contact by the Company with the claimant is within required time frames.

Test: Did the Company make timely contact (15 days from receipt of notice) with claimants following the report of a claim in compliance with Ohio Adm. Code 3901-1-54(F)(2)?

Test Methodology:

- Any claimant not contacted within the required time frame was considered an exception.

Findings:

Population	Sample	Yes	No	Standard	Compliance
25	25	25	0	93%	100%

The standard of compliance is 93%. The Company’s handling practices were above this standard.

2. Timeliness of Claim Payments

Standard: Claims are resolved in a timely manner.

Test: Did the Company make timely payments (5 working days of receipt of agreement) to first party claimants per Ohio Adm. Code 3901-1-54(G)(6)?

Test Methodology:

- Any claim on which the Company failed to make payment to a first party claimant (10 days after acceptance) once the amount was known and agreed as required by Ohio Adm. Code 3901-1-54(G)(6) was considered an exception.

Findings:

Population	Sample	Yes	No	Standard	Compliance
25	25	25	0	93%	100%

The standard of compliance is 93%. The Company's handling practices were above this standard.

3. Claims Handling

Standard: Claims are properly handled in accordance with policy provisions and applicable statutes, rules, and regulations.

Test: Did the Company calculate actual cash value on total losses in a manner conformed to Ohio Adm. Code 3901-1-54(H)(6)(a-d) and (H)(7)(a-e)?

Test Methodology:

Any claim with an incorrect calculation of actual cash value on a total loss was considered to be an exception.

Findings:

Population	Sample	Yes	No	Standard	Compliance
25	25	25	0	93%	100%

The standard of compliance is 93%. The Company's handling practices were above this standard.

4. Claims Handling

Standard: Claims are properly handled in accordance with policy provisions and applicable statutes, rules, and regulations.

Test: Did the Company conform to the sales tax provisions of Ohio Adm. Code 3901-1-54 (6)(c) and (H)(7)(f)(g)?

Test Methodology:

Any claim not containing a letter notifying the claimant of their right to be reimbursed for sales tax upon proof of purchase of a replacement vehicle within 33 days of settlement was considered to be an exception.

Findings:

Population	Sample	Yes	No	Standard	Compliance
25	25	23	2	93%	92%

The standard of compliance is 93%. The Company's handling practices were below this standard.

Examiner Recommendation:

The Company should assure that copies of sales tax letters are maintained in the claims files.

Property Damage Total Losses Paid

Methodology:

The Company supplied a report of all property damage total loss files that were closed during the specified examination period.

- The examiner reviewed 100% of the supplied property damage total loss files to test for compliance.
- The examiner reviewed claim files to verify dates in the claims settlement process.
- The examiner reviewed the claim files to verify the Company's claim settlement practices.

1. Timely Initial Contact

Standard: The initial contact by the Company with the claimant is within required time frames.

Test: Did the Company make timely contact (15 days from receipt of notice) with claimants following the report of a claim in compliance with Ohio Adm. Code 3901-1-54(F)(2)?

Test Methodology:

- Any claimant not contacted within the required time frame was considered an exception.

Findings:

Population	Sample	Yes	No	Standard	Compliance
18	18	18	0	93%	100%

The standard of compliance is 93%. The Company's handling practices were above this standard.

2. Timeliness of Claim Payments

Standard: Claims are resolved in a timely manner.

Test: Did the Company make timely payments (5 working days of receipt of agreement) to third party claimants per Ohio Adm. Code 3901-1-07(C)(16)?

Test Methodology

- Any claim on which the Company failed to make payment to a third party claimant (5 days after acceptance) once the amount was known and agreed as required by Ohio Adm. Code 3901-1-07(C)(16) was considered an exception.

Findings:

Population	Sample	Yes	No	Standard	Compliance
18	18	18	0	93%	100%

The standard of compliance is 93%. The Company's handling practices were above this standard.

3. Claims Handling

Standard: Claims are properly handled in accordance with policy provisions and applicable statutes, rules, and regulations.

Test: Did the Company calculate actual cash value on total losses in a manner conformed to Ohio Adm. Code 3901-1-54(H)(6)(a-d) and (H)(7)(a-e)?

Test Methodology:

Any claim with an incorrect calculation of actual cash value on a total loss was considered to be an exception.

Findings:

Population	Sample	Yes	No	Standard	Compliance
18	18	17	1	93%	94%

The standard of compliance is 93%. The Company's handling practices were above this standard.

4. Claims Handling

Standard: Did the Company conform to the sales tax provisions of Ohio Adm. Code 3901-1-54 (6)(c) and (H)(7)(f)(g)?

Test Methodology:

Any claim not containing a letter notifying the claimant of their right to be reimbursed for sales tax upon proof of purchase of a replacement vehicle within 33 days of settlement was considered to be an exception.

Findings:

Population	Sample	Yes	No	Standard	Compliance
18	18	15	3	93%	83%

The standard of compliance is 93%. The Company's handling practices were below this standard.

Examiner Recommendation:

The Company should assure that copies of sales tax letters are maintained in the claims files.

Collision Unpaid Losses

Methodology:

The Company supplied a report of all collision unpaid loss files that were closed during the specified examination period.

- The examiner reviewed a sample of the supplied collision unpaid loss files to test for compliance.
- The examiner reviewed claim files to verify dates in the claims settlement process.
- The examiner reviewed the claim files to verify the Company's claim settlement practices.

1. Timely Initial Contact

Standard: The initial contact by the Company with the claimant is within required time frames.

Test: Did the Company make timely contact (15 days from receipt of notice) with claimants following the report of a claim in compliance with Ohio Adm. Code 3901-1-54(F)(2)?

Test Methodology:

- Any claimant not contacted within the required time frame was considered an exception.

Findings:

Population	Sample	Yes	No	Standard	Compliance
106	50	49	1	93%	98%

The standard of compliance is 93%. The Company's handling practices were above this standard.

2. Claims Handling

Standard: Claims are properly handled in accordance with policy provisions and applicable statutes, rules, and regulations.

Test: Did the Company conform to the standards for denial of payments as required per Ohio Adm. Code 3901-1-54(G)(1)(2)(3) and (5) 3901-1-07 (C)(14)?

Test Methodology:

The examiner considered any of the following to be an exception:

- Failure to make a decision on whether to pay or deny the claim, or ask for additional information within 21 days of receipt of a properly executed proof of loss
- The Company denied the claim solely on the basis that the proof of loss is not on the insurer's usual form when the form of the proof of loss is not material
- Failure to notify the Department of any indication of fraud within 60 days of proof of loss
- Failure to include in its denial a specific reference to the provision, exclusion, or condition that was the basis for the claim denial
- A claim denied to a first party claimant on consideration that others should assume the responsibility for payment

- Failure to provide claimant with at least 60 days notice of the expiration of the statute of limitations when the claimant was not represented by legal counsel
- Any denial based on the insured's request to do so, without independent evaluation of insured's liability
- Failure of the company to disclose all coverages and benefits available to the claimant

Findings:

Population	Sample	Yes	No	Standard	Compliance
106	50	50	0	93%	100%

The standard of compliance is 93%. The Company's handling practices were above this standard.

Property Damage Unpaid Losses

Methodology:

The Company supplied a report of all property damage unpaid loss files that were closed during the specified examination period.

- The examiner reviewed a sample of the supplied property damage unpaid loss files to test for compliance.
- The examiner reviewed claim files to verify dates in the claims settlement process.
- The examiner reviewed the claim files to verify the Company's claim settlement practices.

1. Timely Initial Contact

Standard: The initial contact by the Company with the claimant is within required time frames.

Test: Did the Company make timely contact (15 days from receipt of notice) with claimants following the report of a claim in compliance with Ohio Adm. Code 3901-1-54(F)(2)?

Test Methodology:

- Any claimant not contacted within the required time frame was considered an exception.

Findings:

Population	Sample	Yes	No	Standard	Compliance
187	50	48	2	93%	96%

The standard of compliance is 93%. The Company's handling practices were above this standard.

2. Claims Handling

Standard: Claims are properly handled in accordance with policy provisions and applicable statutes, rules, and regulations.

Test: Did the Company conform to the standards for denial of payments as required per Ohio Adm. Code 3901-1-54(G)(1)(2)(3) and (5) 3901-1-07 (C)(14)?

Test Methodology:

The examiner considered any of the following to be an exception:

- Failure to make a decision on whether to pay or deny the claim, or ask for additional information within 21 days of receipt of a properly executed proof of loss
- The Company denied the claim solely on the basis that the proof of loss is not on the insurer’s usual form when the form of the proof of loss is not material
- Failure to notify the Department of any indication of fraud within 60 days of proof of loss
- Failure to include in its denial a specific reference to the provision, exclusion, or condition that was the basis for the claim denial
- A claim denied to a first party claimant on consideration that others should assume the responsibility for payment
- Failure to provide claimant with at least 60 days notice of the expiration of the statute of limitations when the claimant was not represented by legal counsel
- Any denial based on the insured’s request to do so, without independent evaluation of insured’s liability
- Failure of the company to disclose all coverages and benefits available to the claimant

Findings:

Population	Sample	Yes	No	Standard	Compliance
187	50	49	1	93%	98%

The standard of compliance is 93%. The Company’s handling practices were above this

Comprehensive Unpaid Losses

Methodology:

The Company supplied a report of all comprehensive unpaid loss files that were closed during the specified examination period.

- The examiner reviewed 100% of the supplied comprehensive unpaid loss files to test for compliance.
- The examiner reviewed claim files to verify dates in the claims settlement process.
- The examiner reviewed the claim files to verify the Company’s claim settlement practices.

1. Timely Initial Contact

Standard: The initial contact by the Company with the claimant is within required time frames.

Test: Did the Company make timely contact (15 days from receipt of notice) with claimants following the report of a claim in compliance with Ohio Adm. Code 3901-1-54(F)(2)?

Test Methodology:

- Any claimant not contacted within the required time frame was considered an exception.

Findings:

Population	Sample	Yes	No	Standard	Compliance
22	22	21	1	93%	95%

The standard of compliance is 93%. The Company's handling practices were above this standard.

2. Claims Handling

Standard: Claims are properly handled in accordance with policy provisions and applicable statutes, rules, and regulations.

Test: Did the Company conform to the standards for denial of payments as required per Ohio Adm. Code 3901-1-54(G)(1)(2)(3) and (5) 3901-1-07 (C)(14)?

Test Methodology:

The examiner considered any of the following to be an exception:

- Failure to make a decision on whether to pay or deny the claim, or ask for additional information within 21 days of receipt of a properly executed proof of loss
- The Company denied the claim solely on the basis that the proof of loss is not on the insurer's usual form when the form of the proof of loss is not material
- Failure to notify the Department of any indication of fraud within 60 days of proof of loss
- Failure to include in its denial a specific reference to the provision, exclusion, or condition that was the basis for the claim denial
- A claim denied to a first party claimant on consideration that others should assume the responsibility for payment
- Failure to provide claimant with at least 60 days notice of the expiration of the statute of limitations when the claimant was not represented by legal counsel
- Any denial based on the insured's request to do so, without independent evaluation of insured's liability
- Failure of the company to disclose all coverages and benefits available to the claimant

Findings:

Population	Sample	Yes	No	Standard	Compliance
22	22	22	0	93%	100%

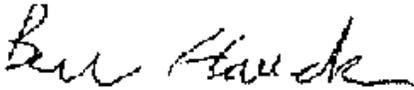
The standard of compliance is 93%. The Company's handling practices were above this standard.

SUMMARY

The examination found the Company to be out of compliance in the following areas:

<u>Areas of Review</u>	<u>Compliance Standard</u>	<u>Compliance Rate</u>
Collision Total Paid Loss Claims Did the file document that sales tax was paid on total loss settlements to conform with Ohio Adm. Code 3901-1-54 (6)(c) and (H)(7)(f)(g)?	93%	92%
Property Damage Total Paid Loss Claims Did the file document that sales tax letters were mailed on total loss settlements to conform with Ohio Adm. Code 3901-1-54(H)(7)(f)(g)?	93%	83%

This concludes the report of the Market Conduct Examination of American Service Insurance Company. The examiners, Ben Hauck and Angela Dingus would like to acknowledge the assistance and cooperation provided by the management and the employees of the Company.



11/12/09

Ben Hauck
Examiner-in-Charge

Date

COMPANY RESPONSE



November 2, 2009

Ohio Department of Insurance

RE: American Service Insurance Market Conduct

Dear Ben Hauck:

The Company has reviewed the files that fell below the 93% standard of compliance. The sales tax letter was not sent on any of them; therefore, American Service Insurance issued additional payments to the consumer based on local sales tax up to the respective settlements.

To remedy this error, American Service Insurance Company will re-train all OH adjusters and supervisors in regards to Ohio total loss regulations.

In addition, the Company will be conducting regular audits to assure claims best practices inclusive of state regulatory matters.

If you have any questions or concerns please feel free to contact me at (847) 472-6096.

Sincerely,

Joseph Mase

Claims Assistant Vice President

Direct: (847) 472-6096

E-mail: jmase@kingswayamerica.com

Enclosure: Copies of sales tax settlement checks

Sample letter that will be sent to consumer

The Kingsway America Group of Companies

