

STATE OF ARIZONA
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DEPT. OF INSURANCE

REPORT OF TARGET MARKET CONDUCT EXAMINATION

OF

NATIONWIDE INSURANCE COMPANY OF AMERICA

NAIC #25453

AS OF

December 31, 2008

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CHRISTINA URIAS
Director of Insurance

Honorable Christina Urias
Director of Insurance
State of Arizona
2910 North 44th Street
Suite 210, Second Floor
Phoenix, Arizona 85018-7269

Dear Director Urias:

Pursuant to your instructions and in conformity with the provisions of the Insurance Laws and Rules of the State of Arizona, a desk examination has been made of the market conduct affairs of the:

Nationwide Insurance Company of America
NAIC #25453

The above examination was conducted by Helene I. Tomme, CPCU, CIE, Market Examinations Supervisor, Examiner-in Charge, and Linda L. Hofman, AIE, MCM, FLMI, AIRC, CCP, Market Conduct Senior Examiner and Christopher G. Hobert, CIE, MCM, FLMI, AIRC, CCP, Market Conduct Senior Examiner.

The examination covered the period of January 1, 2008 through December 31, 2008.

As a result of that examination, the following Report of Examination is respectfully submitted.

Sincerely yours,

Helene I. Tomme, CPCU, CIE
Market Examinations Supervisor
Market Oversight Division

AFFIDAVIT

STATE OF ARIZONA)
)
County of Maricopa) ss.

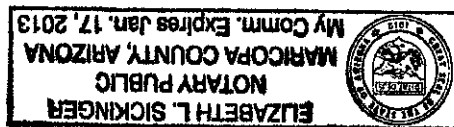
Helene I. Tomme, CPCU, CIE being first duly sworn, states that I am a duly appointed Market Examinations Examiner-in-Charge for the Arizona Department of Insurance. That under my direction and with my participation and the participation of Linda L. Hofman, AIE, MCM, FLMI, AIRC, CCP, Market Conduct Senior Examiner and Christopher G. Hobert, CIE, MCM, FLMI, AIRC, CCP, Market Conduct Senior Examiner on the Examination of Nationwide Insurance Company Of America, hereinafter referred to as the "Company" was performed at the office of the Arizona Department of Insurance. A teleconference meeting with appropriate Company officials in Columbus, Ohio was held to discuss this Report, but a copy was not provided to management as the Examination was incomplete and had not yet been finalized. The information contained in this Report, consists of the following pages, is true and correct to the best of my knowledge and belief and that any conclusions and recommendations contained in and made a part of this Report are such as may be reasonably warranted from the facts disclosed in the Examination Report.

Helene I. Tomme
Helene I. Tomme, CPCU, CIE
Market Examinations Supervisor
Market Oversight Division

Subscribed and sworn to before me this 3rd day of May, 2010.

Elizabeth L. Sickinger
Notary Public

My Commission Expires Jan. 17, 2013



FOREWORD

This targeted market conduct examination report of the Nationwide Insurance Company of America (herein referred to as, "NICOA", or the "Company"), was prepared by employees of the Arizona Department of Insurance (Department) as well as independent examiners contracting with the Department. A market conduct examination is conducted for the purpose of auditing certain business practices of insurers licensed to conduct the business of insurance in the state of Arizona. The Examiners conducted the examination of the Company in accordance with Arizona Revised Statutes (A.R.S.) §§ 20-142, 20-156, 20-157, 20-158 and 20-159. The findings in this report, including all work product developed in the production of this report, are the sole property of the Department.

The examination consisted of a review of the following Private Passenger Automobile (PPA) and Homeowners' (HO) lines of business operations:

1. Complaint Handling
2. Marketing and Sales
3. Producer Compliance
4. Underwriting and Rating
5. Cancellations and Non-Renewals
6. Claims Processing

Certain unacceptable or non-complying practices may not have been discovered in the course of this examination. Additionally, findings may not be material to all areas that would serve to assist the Director.

Failure to identify or criticize specific Company practices does not constitute acceptance of those practices by the Department.

SCOPE AND METHODOLOGY

The examination of the Company was conducted in accordance with the standards and procedures established by the National Association of Insurance Commissioners (NAIC) and the Department. The market examination of the Company covered the period of January 1, 2008 through December 31, 2008 for business reviewed. The purpose of the examination was to determine the Company's compliance with Arizona's insurance laws, and whether the Company's operations and practices are consistent with the public interest. This examination was completed by applying tests to each examination standard to determine compliance with the standard. Each standard applied during the examination is stated in this report and the results are reported beginning on page 8.

In accordance with Department procedures, the Examiners completed a Preliminary Finding ("Finding") form on those policies, claims and complaints not in apparent compliance with Arizona law. The finding forms were submitted for review and comment to the Company representative designated by Company management to be knowledgeable about the files. For each finding the Company was requested to agree, disagree or otherwise justify the Company's noted action.

The Examiners utilized both examinations by test and examination by sample. Examination by test involves review of all records within the population, while examination by sample involves the review of a selected number of records from within the population. Due to the small size of some populations examined, examination by test and by sample were completed without the need to utilize computer software.

File sampling was based on a review of underwriting and claim files that were systematically selected by using Audit Command Language (ACL) software and computer data files provided by the Company. Samples are tested for compliance with standards established by the NAIC and the Department. The tests applied to sample data will result in an exception ratio, which determines whether or not a standard is met. If the exception ratio found in the sample is, generally less than 5%, the standard will be considered as "met." The standard in the areas of procedures and form use will not be met if any exception is identified.

HISTORY OF THE COMPANY

(Provided by the Company)

Nationwide Insurance Company of America ("NICOA") was incorporated on June 30, 1960 in the State of California. Nationwide Mutual Insurance Company acquired 100% of the outstanding stock of NICOA from TIG Insurance Company on December 31, 1997 in conjunction with Nationwide Mutual Insurance Company's acquisition of the personal lines independent agency business of TIG Insurance Company and its affiliates. Effective January 1, 1999, NICOA re-domesticated from California to Wisconsin.

The company's name was changed from "TIG Countrywide Insurance Company" to "Nationwide Insurance Company of America" on January 2, 1999. In 1999, Nationwide Mutual Insurance Company contributed all of the issued and outstanding stock of NICOA to ALLIED Group, Inc., an Iowa holding company. Allied Group, Inc. directly owns four insurance companies, including NICOA.

PROCEDURES REVIEWED WITHOUT EXCEPTION

The Examiners review of the following Company departments¹ or functions indicates that they appear to be in compliance with Arizona statutes and rules:

Complaint Handling

Marketing and Sales

Producer Compliance

Underwriting and Rating

EXAMINATION REPORT SUMMARY

The examination identified four (4) compliance issues that resulted in 82 exceptions due to the Company's failure to comply with statutes and rules that govern all insurers operating in Arizona. These issues were found in two (2) of the six (6) sections of Company operations examined. The following is a summary of the Examiners' findings:

Cancellation and Non Renewals

In the area of Cancellations and Non Renewals, one (1) compliance issue is addressed in this Report as follows:

- The Company failed to provide a Summary of Rights on 9 PPA cancellations for underwriting reasons, 6 PPA Non Renewals, 10 HO cancellations for underwriting reasons and on 17 HO non renewals notices for a total of 42 policyholders/insureds cancelled or non renewed for an adverse underwriting decision.

Claims Processing

In the area of Claims Processing, three (3) compliance issues are addressed in this Report as follows:

¹ If a department name is listed there were no exceptions noted during the review.

- The Company failed to include a fraud warning statement in at least 12-point type on five (5) claim forms.
- The Company failed to pay the appropriate tax, license registration and/or air quality fees on one (1) PPA total loss claim, which resulted in a \$609.19 refund (including interest).
- The Company failed to include the appropriate company name on 9 HO CWP and 25 HO Paid claims correspondence for a total of 34.

FACTUAL FINDINGS

RESULTS OF PREVIOUS MARKET CONDUCT EXAMINATIONS

During the past three (3) years, there were two (2) Market Conduct Examinations completed by the states of Colorado and Pennsylvania. There were no significant patterns of non-compliance noted.

CANCELLATIONS AND NON-RENEWALS

Private Passenger Automobile (PPA):

The Examiners reviewed 52 PPA cancellation files for non-payment of premium (including 2 sample files) out of a population of 2,251, 52 PPA cancellation files for underwriting reasons (including 2 sample files) out of a population of 195 and 25 PPA non renewals (including 2 sample files) out of a population of 25. This cancellation/non renewal review included a total sample size of 129 PPA files from a total population of 2,471.

Homeowners (HO):

The Examiners reviewed 52 HO cancellation/declination files for non-payment of premium (including 2 sample files) out of a population of 1,186, 52 HO cancellation files for underwriting reasons (including 2 sample files) out of a population of 195 and 36 HO non renewals (including 2 sample files) out of a population of 36. This cancellation/non renewal review included a total sample size of 140 HO files from a total population of 1,417.

All cancellation and nonrenewal files were reviewed to ensure compliance with Arizona Statutes and Rules.

The following Cancellation and Non Renewal Standard was met:

#	STANDARD	Regulatory Authority
2	Cancellation and Non-Renewal notices comply with state laws, company guidelines and policy provisions, including the amount of advance notice required and grace period provisions to the policyholder and shall not be unfairly discriminatory.	A.R.S. §§ 20-191, 20-443, 20-448, 20-1631, 20-1632, 20-1632.01, 20-1651 through 20-1656

The following Cancellation and Non Renewal Standard failed:

#	STANDARD	Regulatory Authority
1	Declinations, Cancellations and Non-Renewals shall comply with state laws and company guidelines including the Summary of Rights to be given to the policyholder and shall not be unfairly discriminatory.	A.R.S. §§ 20-448, 20-2108, 20-2109, 20-2110

Cancellation and Nonrenewal, Standard #1 - failed

Preliminary Finding 005 – Summary of Rights – The Examiners identified 9 PPA cancellations for underwriting reasons, 6 PPA non renewals, 10 HO cancellations for underwriting reasons and 17 HO non renewal notices for a total of 42 insureds that were cancelled or non renewed for an adverse underwriting decision and the notices failed to provide the required Summary of Rights language, an apparent violation of A.R.S. §§ 20-2108, 20-2109 and 20-2110.

PRIVATE PASSENGER AUTOMOBILE CANCELLATIONS

Failed to provide a Summary of Rights in the event of an adverse underwriting decision A.R.S. §§ 20-2108, 20-2109 and 20-2110

Population	Sample	# of Exceptions	% to Sample
195	52	9	17%

A 17% error ratio does not meet the Standard; therefore, a recommendation is warranted.

PRIVATE PASSENGER AUTOMOBILE NON RENEWALS

Failed to provide a Summary of Rights in the event of an adverse underwriting decision A.R.S. §§ 20-2108, 20-2109 and 20-2110

Population	Sample	# of Exceptions	% to Sample
25	25	6	24%

A 24% error ratio does not meet the Standard; therefore, a recommendation is warranted.

HOMEOWNERS' CANCELLATIONS

Failed to provide a Summary of Rights in the event of an adverse underwriting decision A.R.S. §§ 20-2108, 20-2109 and 20-2110

Population	Sample	# of Exceptions	% to Sample
195	52	10	19%

A 19% error ratio does not meet the Standard; therefore, a recommendation is warranted.

HOMEOWNERS' NON RENEWALS

Failed to provide a Summary of Rights in the event of an adverse underwriting decision A.R.S. §§ 20-2108, 20-2109 and 20-2110

Population	Sample	# of Exceptions	% to Sample
36	36	17	47%

A 47% error ratio does not meet the Standard; therefore, a recommendation is warranted.

Recommendation #1

Within 90 days of the filed date of this report provide the Department with documentation that Company procedures are in place so that the Summary of Rights is sent with all cancellation, non renewal or declination notices that involve an adverse underwriting decision by the Company.

Subsequent Events: During the course of the Phase I Examination, the Company agreed with the Examiner's finding that its Summary of Rights was not included on the cancellation and non renewal notices. However, the Company provided proof that it had updated its system to include the required Summary of Rights language on its notices during the examination period (production dates: April and May 2008). Cancellation and non renewal notices generated after those dates have the required language. The finding stands as written.

CLAIMS PROCESSING

Private Passenger Automobile (PPA):

The Examiners reviewed 50 PPA claims closed without payment from a population of 137; 50 PPA paid claims from a population of 2,198; 50 total loss PPA claims out of a population of 607 and 44 PPA subrogation claims out of a population of 44. This claim review included a total sample size of 194 PPA claims files from a total population of 2,986.

Homeowners (HO):

The Examiners reviewed 50 HO claims closed without payment from a population of 124 and 50 HO paid claims from a population of 171. This claim review included a total sample size of 100 HO claims files from a total population of 295.

All claim files were reviewed to ensure compliance with Arizona Statutes and Rules.

The Following Claim Standards were met:

#	STANDARD	Regulatory Authority
1	The initial contact by the Company with the claimant is within the required time frame.	A.R.S. § 20-461, A.A.C. R20-6-801
2	Timely investigations are conducted.	A.R.S. § 20-461, A.A.C. R20-6-801
4	Claim files are adequately documented in order to be able to reconstruct the claim.	A.R.S. §§ 20-461, 20-463, 20-466.03, A.A.C. R20-6-801
6	The company uses reservation of rights and excess of loss letters, when appropriate.	A.R.S. § 20-461, A.A.C. R20-6-801
7	Deductible reimbursement to insureds upon subrogation recovery is made in a timely and accurate manner.	A.R.S. §§ 20-461, 20-462, A.A.C. R20-6-801
8	The company responds to claim correspondence in a timely manner.	A.R.S. § 20-461, 20-462, A.A.C. R20-6-801
9	Denied and Closed Without Payment claims are handled in accordance with policy provisions and state law.	A.R.S. §§ 20-461, 20-462, 20-463, 20-466, 20-2110, A.A.C. R20-6-801
10	No insurer shall fail to fully disclose to first party claimants all pertinent benefits, coverages or other provisions of an insurance policy or insurance contract under which a claim is presented.	A.A.C.R20-6-801
11	Adjusters used in the settlement of claims are properly licensed	A.R.S. §§ 20-321 through 20-321.02

The following Claim Standards failed:

#	STANDARD	Regulatory Authority
3	The Company claim forms are appropriate for the type of product and comply with statutes, rules and regulations.	A.R.S. §§ 20-461, 20-466.03, 20-2106, A.A.C. R20-6-801
5	Claims are properly handled in accordance with policy provisions and applicable statutes, rules and regulations.	A.R.S. §§ 20-268, 20-461, 20-462, A.A.C. R20-6-801

The following Claim Standard passed with comment:

#	STANDARD	Regulatory Authority
5	Claims are properly handled in accordance with policy provisions and applicable statutes, rules and regulations.	A.R.S. §§ 20-268, 20-461, 20-462, A.A.C. R20-6-801

Claims Processing Standard #3 - failed

Preliminary Finding 002 – Fraud Warning Statement. The Company failed to include the Fraud Warning statement in at least twelve-point type on five (5) claim forms/letters, an apparent violation of A.R.S. § 20-466.03.

Forms without a Fraud Warning Statement

Burglary/Robbery/Theft Affidavit
Affidavit Of Personal Property Theft
Records Release
Contents Loss Inventory
Total Loss Supplement

Recommendation #2

Within 90 days of the filed date of this report provide the Department with documentation that Company procedures are in place to include the Fraud Warning statement in at least twelve-point type on the five (5) claim forms/letters identified above.

Subsequent Events: During the course of the Phase I Examination, the Company agreed with the finding and provided corrected forms to the Department prior to completion of the Examination. The finding stands as written.

Claims Processing Standard #5 - passed with comment

Preliminary Finding 001 - The Examiners identified one (1) first party total loss settlements, in which the Company failed to pay appropriate tax, license registration and/or air quality fees. This is an apparent violation of A. R. S. §§ 20-461(A)(6), 20-462(A) and A.A.C. R20-6-801 (H)(1)(b).

PRIVATE PASSENGER TOTAL LOSSAUTOMOBILE CLAIMS

Failed to pay appropriate taxes on a total loss
A.R.S. §§ 20-461(A)(6), 20-462(A) and A.A.C. R20-6-801 (H)(1)(b)

Population	Sample	# of Exceptions	% to Sample
607	50	1	2%

A 2% error ratio does meet the standards; therefore, no recommendation is warranted

Subsequent Events: During the course of Phase I Examination, the Company agreed and made a restitution payment to the first party insured in the amount of \$545.79 plus \$63.40 in interest for a total of \$609.19. The Company also paid restitution to another first party insured in the amount of a \$1.20 which included \$0.20 in interest. Copies of letters of explanation and payments were sent to the Department prior to completion of the Examination.

Claims Processing Standard #5 – failed

Preliminary Finding 003 –Wrong Company name identified on claims correspondence: -

The Company failed to identify the appropriate insuring company as Nationwide Insurance Company Of America on written correspondence sent to insureds or claimants on 9 HO CWP claims and 25 HO Paid claims for a total of 34 which is an apparent violation of A.R.S. § 20-461(A)(1).

**Summary of Findings – Standard 5 File Review
Failure to identify applicable insurer
A.R.S. § 20-461(A)(1)**

Files Reviewed	Population	Sample	Exceptions	PF #
HO CWP	124	50	9	002
HO Paid	171	50	25	003
Totals	295	100	34	
			Error Ratio	34%

A 34% error ratio does not meet the standard; therefore a recommendation is warranted.

Recommendation # 3

Within 90 days of the filed date of this report provide the Department with documentation that the Company's procedures are in place to identify the appropriate insuring Company on all Private Passenger Automobile correspondence including but not limited to claim forms and or letters sent by the Company.

Subsequent Events: During the course of the Phase I Examination, the Company agreed the wrong Company name appeared on 34 written claims correspondence. A reminder notice was sent to the claim staff regarding the importance of verifying that the correct underwriting company is displayed on all claim correspondence. A copy of the notice was provided to the Department prior to completion of the Examination.

SUMMARY OF FAILED STANDARDS

EXCEPTIONS	Rec. No.	Page No.
CANCELLATIONS AND NON RENEWALS		
<u>Standard #1</u> Declinations, Cancellations and Non-Renewals shall comply with state laws and company guidelines including the Summary of Rights to be given to the policyholder and shall not be unfairly discriminatory.	1	14
CLAIM PROCESSING		
<u>Standard #3</u> The Company claim forms are appropriate for the type of product and comply with statutes, rules and regulations.	2	17
<u>Standard #5</u> Claims are properly handled in accordance with policy provisions and applicable statutes, rules and regulations.	3	19

SUMMARY OF PROPERTY AND CASUALTY STANDARDS

Complaint Handling

#	STANDARD	PAGE	PASS	FAIL
1	The Company takes adequate steps to finalize and dispose of the complaints in accordance with applicable statutes, rules, regulations and contract language. (A.R.S. § 20-461 and A.A.C. R20-6-801)	8	X	
2	The time frame within which the Company responds to complaints is in accordance with applicable statutes, rules and regulations. (A.R.S. § 20-461 and A.A.C. R20-6-801)	8	X	

Marketing and Sales

#	STANDARD	PAGE	PASS	FAIL
1	All advertising and sales materials are in compliance with applicable statutes, rules and regulations. (A.R.S. §§ 20-442 and 20-443)	8	X	

Producer Compliance

#	STANDARD	PAGE	PASS	FAIL
1	The producers are properly licensed in the jurisdiction where the application was taken. (A.R.S. §§ 20-282, 20-286, 20-287 and 20-311 through 311.03)	8	X	
2	An insurer shall not pay any commission, fee, or other valuable consideration to unlicensed producers. (A.R.S. § 20-298)	8	X	

Underwriting and Rating

#	STANDARD	PAGE	PASS	FAIL
1	The rates charged for the policy coverage are in accordance with filed rates (if applicable) or the Company Rating Plan. (A.R.S. §§ 20-341 through 20-385)	8	X	

#	STANDARD	PAGE	PASS	FAIL
2	Disclosures to insureds concerning rates and coverage are accurate and timely. (A.R.S. §§ 20-259.01, 20-262, 20-263, 20-264, 20-266, 20-267, 20-2110)	8	X	
3	All mandated disclosures are documented and in accordance with applicable statutes, rules and regulations, including, but not limited to, the Notice of Insurance Information Practices and the Authorization for Release of Information. (A.R.S. §§ 20-2104, 20-2106, 20-2110 and 20-2113)	8	X	
4	All forms and endorsements forming a part of the contract should be filed with the director (if applicable). (A.R.S. § 20-398)	8	X	
5	Policies and endorsements are issued or renewed accurately, timely and completely. (A.R.S. §§ 20-1120, 20-1121, 20-1654)	8	X	
6	Rescissions are not made for non-material misrepresentations. (A.R.S. §§ 20-463, 20-1109)	8	X	

Declinations, Cancellation and Non-Renewals

#	STANDARD	PAGE	PASS	FAIL
1	Declinations, Cancellations and Non-Renewals shall comply with state laws and company guidelines including the Summary of Rights to be given to the policyholder and shall not be unfairly discriminatory. (A.R.S. §§ 20-448, 20-2108, 20-2109 and 20-2110)	12		X
2	Cancellations and Non-Renewal notices comply with state laws, company guidelines and policy provisions, including the amount of advance notice required and grace period provisions to the policyholder, nonrenewal based on condition of premises, and shall not be unfairly discriminatory. (A.R.S. §§ 20-191, 20-443, 20-448, 20-1631, 20-1632, 20-1632.01, 20-1651 through 20-1656).	12	X	

Claims Processing

#	STANDARD	PAGE	PASS	FAIL
1	The initial contact by the company with the claimant is within the required time frame. (A.R.S. § 20-461 and A.A.C. R20-6-801)	16	X	
2	Timely investigations are conducted. (A.R.S. § 20-461, and A.A.C. R20-6-801)	16	X	
3	The Company claim forms are appropriate for the type of product and comply with statutes, rules and regulations. (A.R.S. §§ 20-461, 20-466.03, 20-2106, and A.A.C. R20-6-801)	17		X
4	Claim files are adequately documented in order to be able to reconstruct the claim. (A.R.S. §§ 20-461, 20-463, 20-466.03 and A.A.C. R20-6-801)	16	X	
5	Claims are properly handled in accordance with policy provisions and applicable statutes, rules and regulations. (A.R.S. §§ 20-268, 20-461, 20-462 and A.A.C. R20-6-801)	17		X
6	The Company uses reservation of rights and excess of loss letters, when appropriate. (A.R.S. § 20-461 and A.A.C. R20-6-801)	16	X	
7	Deductible reimbursement to insureds upon subrogation recovery is made in a timely and accurate manner. (A.R.S. §§ 20-461, 20-462 and A.A.C. R20-6-801)	16	X	
8	The Company responds to claim correspondence in a timely manner. (A.R.S. § 20-461, 20-462 and A.A.C. R20-6-801)	16	X	
9	Denied and closed without payment claims are handled in accordance with policy provisions and state law. (A.R.S. §§ 20-461, 20-462, 20-463, 20-466, 20-2110 and A.A.C. R20-6-801)	16	X	
10	No insurer shall fail to fully disclose to first party insureds all pertinent benefits, coverages, or other provisions of an insurance policy or insurance contract under which a claim is presented. (A.A.C. R20-6-801)	16	X	
11	Adjusters used in the settlement of claims are properly licensed (A.R.S. §§ 20-321 through 20-321.02)	16	X	