

DELAWARE DEPARTMENT OF INSURANCE  
MARKET CONDUCT EXAMINATION REPORT

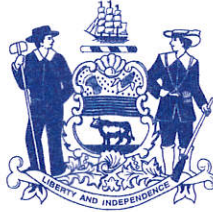
American Independent Insurance Company  
and affiliate entity, Good2Go

NAIC # 17957  
Examination Authority #17957-12-911  
1000 River Road, Suite 300  
Conshohocken, PA 19428

As of

December 31, 2012

Karen Weldin Stewart, CIR-ML  
Commissioner



Delaware Department of Insurance

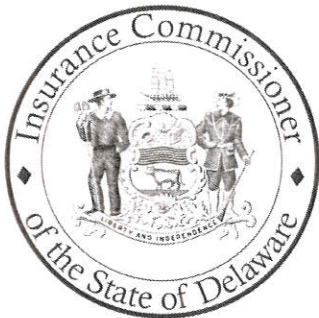
I, Karen Weldin Stewart, Insurance Commissioner of the State of Delaware, do hereby certify that the attached REPORT ON EXAMINATION, made as of December 31, 2012 on

**American Independent Insurance Company  
And affiliate entity, Good2Go**

is a true and correct copy of the document filed with this Department.

Attest By:

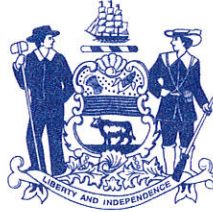
*Jenita Nemes*



In Witness Whereof, I have hereunto set my hand and affixed the official seal of this Department at the City of Dover.

*Karen Weldin Stewart*  
Karen Weldin Stewart, CIR-ML  
Insurance Commissioner

Karen Weldin Stewart, CIR-ML  
Commissioner



Delaware Department of Insurance

REPORT ON EXAMINATION

OF THE

**American Independent Insurance Company  
And affiliate entity, Good2Go**

AS OF

December 31, 2012

The above-captioned Report was completed by examiners of the Delaware Department of Insurance.

Consideration has been duly given to the comments, conclusions and recommendations of the examiners regarding the status of the Company as reflected in the Report.

This Report is hereby accepted, adopted and filed as an official record of this Department.



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Karen Weldin Stewart, CIR-ML  
Insurance Commissioner

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Honorable Karen Weldin Stewart CIR-ML  
Insurance Commissioner  
State of Delaware  
841 Silver Lake Boulevard  
Dover, Delaware 19904

Dear Commissioner Stewart:

In compliance with the instructions contained in Certificate of Examination Authority Number 17957-12-911, and pursuant to statutory provisions including 18 Del. C. §318-322, a market conduct examination has been conducted of the affairs and practices of:

**American Independent Insurance Company and affiliate entity, Good2Go**

The examination was performed as of January 1, 2011 to December 31, 2012. American Independent Insurance Company, hereinafter referred to as the "Company" or as "AIICO," was incorporated under the laws of Pennsylvania. The examination consisted of two phases, an on-site phase and an off-site phase. The on-site phase of the examination was conducted at the following Company location:

1000 River Road, Suite 300  
Conshohocken, PA 19428

The off-site examination phase was performed at the offices of the Delaware Department of Insurance, hereinafter referred to as the "Department" or "DDOI," or other suitable locations.

The report of examination herein is respectfully submitted.

## **EXECUTIVE SUMMARY**

American Independent Insurance Company is domiciled in Pennsylvania, with main administrative offices located in Conshohocken, Pennsylvania. AIICO writes personal automobile insurance in the nonstandard market segment. Nonstandard personal auto insurance is the primary line of business written by all of the underwriting subsidiaries in the group. The company actively writes business in Pennsylvania, Delaware and Georgia. AIICO writes nonstandard personal auto insurance in Delaware. Good2Go is an agency licensed to write insurance in Delaware. The Company's 2012 annual statement filed with the Department, reported total premiums written in Delaware of \$4,872,515.

The examination focused on the Company's private passenger automobile business in the following areas of operation: Company Operations and Management; Complaint Handling, Marketing and Sales. The examination scope was originally limited to January 1, 2012 through December 31, 2012 but was subsequently modified to include Claims for the period December 31, 2011 to December 31, 2012. The claims review included a specific focus on the timeliness of claim payments, the use of Independent Medical Examiners, Provider Review Organizations, Arbitration and surcharges after an at-fault accident claim.

This effort was conducted to ensure compliance with transacting insurance as defined by 18 Del. C. §103, and applicable statutes related to private passenger automobile insurance.

The following exceptions were noted in the areas of operation reviewed:

- Consumer Complaints – it was noted that the only complaints included in the Company's complaint listing were those received by the DDOI. It is recommended the Company complies with 18 Del. C. §2304 (17) and that it reviews their complaint handling procedures to ensure there is a process for capturing all written complaints received by the company rather than only those formally sent to the DDOI.
- Marketing & sales – 20 Exceptions – 18 Del. C. §2304. Unfair methods of competition and unfair or deceptive acts or practices defined.
  - Twenty (20) identified advertisements failed to provide or contain the Company's name and location or Good2Go's status as an insurance agency.
  - On the Company's website, AIIC refers to Good2Go as having been in business for "a quarter of a century", however Good2Go has only been in business since 2011 when a dormant agency was renamed from "C&L insurance agency" to "Good2Go".
- Marketing & sales – 7 Exceptions – 18 Del. C. §2304. Unfair methods of competition and unfair or deceptive acts or practices defined.
  - Seven (7) instances that were identified misrepresent or imply that

Good2Go is an Insurance Company in violation of 18 Del. C. §2304.

- Surcharges: 17 Exceptions - 18 Del. Admin 609 Limitations on Automobile Surcharges in Voluntary Markets and the Assigned Risk Plan § 5.1.3.
  - One (1) file was identified as having an amount surcharged by the Company that exceeded the losses paid by the Company.
  - Sixteen (16) files were identified as having an amount surcharged by the Company that exceeded the one year pro-rata surcharge amount based on the total claim amount paid.

## **SCOPE OF EXAMINATION**

The Market Conduct Examination was conducted pursuant to the authority granted by 18 Del. C. §318-322 and initially covered the experience period of January 1, 2012 through December 31, 2012, which included a review of the Company's relationship with Good2Go as well as the Company's processes for IME's, PRO's and Arbitration. The purpose of the examination was to determine compliance by the Company with Delaware insurance laws and regulations related to transacting insurance and the private passenger automobile market place.

The examination was subsequently expanded to include a claims review for period December 31, 2011 to December 31, 2012.

The examination was a target market conduct examination of the Company's private passenger automobile business in the following areas of operation: Company Operations and Management; Complaint Handling, Marketing and Sales. The examination scope was subsequently to include Claims for the period December 31, 2011 to December 31, 2012 with a specific focus on the use of the timeliness of claim payments and the use of Independent Medical Examiners, Provider Review Organizations, Arbitration and surcharges after the an at-fault claim.

## **METHODOLOGY**

This examination was performed in accordance with Market Regulation standards established by the Department and examination procedures suggested by the NAIC. While the examiners' report on the errors found in individual files, the examination also focuses on general business practices of the Company.

The Company identified the universe of files for each segment of the review. Based on the universe sizes, random sampling was utilized to select the files reviewed during this examination.

Delaware Market Conduct Examination Reports generally note only those items to which the Department, after review, takes exception. An exception is any instance of Company activity that does not comply with an insurance statute or regulation. Exceptions

contained in the Report may result in imposition of penalties. Generally, practices, procedures, or files that were reviewed by Department examiners during the course of an examination may not be referred to in the Report if no improprieties were noted. However, the Examination Report may include management recommendations addressing areas of concern noted by the Department, but for which no statutory violation was identified. This enables Company management to review these areas of concern in order to determine the potential impact upon Company operations or future compliance.

Throughout the course of the examination, Company officials were provided status memoranda, which referenced specific policy numbers with citation to each section of law violated. Additional information was requested to clarify apparent violations. An exit conference was conducted with Company officials to discuss the various types of exceptions identified during the examination and review written summaries provided on the exceptions found.

## **COMPANY HISTORY AND PROFILE**

American Independent Insurance Company was incorporated under the laws of Pennsylvania, on June 22, 1971, and commenced business on January 3, 1972. The Company started to write personal auto insurance in Delaware during 1999. The Company is domiciled in Pennsylvania and licensed in Delaware, Florida, Illinois, Kentucky, Maryland, Pennsylvania, South Carolina, Georgia and Virginia.

American Independent Insurance Company's Certificate of Authority to write business was issued January 3, 1972. The company started to write personal auto insurance in Delaware during 1999. The company is licensed in Delaware, Florida, Illinois, Kentucky, Maryland, Pennsylvania, South Carolina, Georgia and Virginia. The company's 2011 annual statement reflects direct written premium for all lines of business of \$36,304,895. Premium volume related to the areas of this review in Delaware during 2011 was \$4,818,919.

A dormant agency subsidiary, C&L Insurance Agency is renamed Good2Go Insurance during September of 2011. Good2Go (G2G) is utilized as a direct to consumer marketing platform writing in states where the group's underwriting subsidiaries write business.

Nonstandard personal auto insurance operations are conducted through the seven principal regulated subsidiaries. They are American Independent Insurance, Personal Service Insurance, Bankers Independent Insurance, Omni Insurance, Omni Indemnity Insurance, Apollo Casualty Company and Delphi Casualty Company. The other entities (except for G2G) are primarily used to provide billing and collection services.



## **COMPANY OPERATIONS AND MANAGEMENT**

### **INTERNAL AUDIT**

The Company was provided requests for information and documentation related to internal audits and internal market regulation audit reviews. Included with the requests was information regarding any regulatory actions and court actions taken against the Company, and Market Conduct Examination Reports.

The company stated “they do not have a separate internal audit department. If there was a need for any kind of audit, they would evaluate the need for potentially using an outside independent audit group to look at the situation or may assign internal resources to it.”

While no exceptions are noted, it is a concern that the company claims they have no internal audit department or function.

### **CONSUMER COMPLAINTS**

The Company provided a listing and the original files of all complaints filed with the Company and affiliated entities during the examination period. Also requested were the Complaint Handling guidelines, procedures with reports and summaries. All of the information was received and reviewed.

The complaint log was reviewed for compliance with 18 Del. C. §2304 (17). This Section of the Code requires maintenance of a complete record of all complaints received since the date of its last examination. The record shall indicate the total number of complaints, their classification by line of insurance, the nature of each complaint, the disposition of the complaint and the time it took to process each complaint. For purposes of this subsection, "complaint" shall mean any written communication primarily expressing a grievance. Written complaint files involving claims were also reviewed for compliance with 18 Del. Admin. Code 902 §1.2.1.2.

The Company reported a total of ten (10) complaints during the examination period, all of which were DDOI complaints. It was indicated that there are two separate complaint processes, one for handling claim complaints and the other for consumer complaints. There were a total of six (6) DDOI claim complaints reported and provided by the Company. The claim files were received and reviewed. There were four (4) other DDOI complaints filed by Delaware policyholders and reported by the Company. The complaints were received and reviewed. The Company has indicated there were no direct consumer complaints filed either for claims or other issues reported by the Company.

No exceptions noted during the course of the review of the Complaint listing, however the examiners typically expect to find more complaints listed on a Company's complaint log beyond what is filed with the DDOI. It is recommended the Company complies with 18 Del. C. §2304 (17) and that it reviews their complaint handling procedures to ensure there is a process for capturing all written complaints received by the company rather than only those formally sent to the DDOI.

## **PRODUCER LICENSING & OVERSIGHT**

The Company was requested to provide a list of policies issued during the examination period. The listing provided by the Company contained 4,415 files. A random sample of 50 files was selected for review. The policies were requested from the Company and were received and reviewed for compliance with applicable statutes and regulations.

In conjunction with the review of a sample of policies issued by the Company, the insurance producers listed on the policies were reviewed for proper licensing as required by 18 Del. C. §1703 & §1706.

There are no exceptions or concerns noted with this review.

## **MARKETING AND SALES**

The Company provided a list of 25 Marketing and Sales items. The 25 listed items were requested from the Company, received and reviewed. The files provided included the following type of materials:

- JPEG Banners,
- Mailing Envelopes with the corresponding Insurance offer letters,
- Signs,
- Bulletins and Newsletters,
- Training Manuals.

The 25 items were reviewed for compliance with applicable statutory requirements. The review indicated that four (4) of the items were training manuals. As for the 21 advertising items reviewed, 20 failed to identify the Company by providing the name and address of the Company. Of those 20 items, 19 were identified as Good2Go materials.

### **20 Exceptions - 18 Del. C. §2304. Unfair methods of competition and unfair or deceptive acts or practices defined:**

*(2) False information and advertising generally. -- No person shall make, publish, disseminate, circulate or place before the public, or cause, directly or indirectly, to be made, published, disseminated, circulated or placed before the public, in a newspaper, magazine or other publication, or in the form of a notice, circular, pamphlet, letter or poster, or over any radio or television station, or in any other way, an advertisement, announcement or statement containing any assertion, representation or statement with respect to the business of insurance or with respect to any person in the conduct of the insurance business, which is untrue, deceptive or misleading.*

AIIC markets some of their business through an agency named Good2Go. The advertising for Good2Go does not inform the customer that it is an agency that is selling auto insurance policies that are underwritten by AIIC, but in fact advertises as if Good2Go is an actual insurance company. Without proper identification of Good2Go as an agency on the advertising and marketing materials, it can be construed as a deceptive

practice that can lead a customer to believe that Good2Go is an insurance company, with no affiliation to AIIC. In order to avoid any misrepresentation the materials used should clearly identify the Company, and Good2Go's status as an insurance agency should be clearly defined for consumers.

The 20 identified files failed to provide or contain the Company's name and location or Good2Go's status as an insurance agency.

**1 Exceptions - 18 Del. C. §2304. Unfair methods of competition and unfair or deceptive acts or practices defined:**

*(2) False information and advertising generally. -- No person shall make, publish, disseminate, circulate or place before the public, or cause, directly or indirectly, to be made, published, disseminated, circulated or placed before the public, in a newspaper, magazine or other publication, or in the form of a notice, circular, pamphlet, letter or poster, or over any radio or television station, or in any other way, an advertisement, announcement or statement containing any assertion, representation or statement with respect to the business of insurance or with respect to any person in the conduct of the insurance business, which is untrue, deceptive or misleading.*

On the Company's website, AIIC refers to Good2Go as having been in business for "a quarter of a century", however Good2Go has only been in business since 2011 when a dormant agency was renamed from "C&L insurance agency" to "Good2Go".

**7 Exceptions - 18 Del. C. §2304. Unfair methods of competition and unfair or deceptive acts or practices defined:**

*(9) Insurer name; deceptive use prohibited. -- No person who is not an insurer shall assume or use any name which deceptively implies or suggests that it is an insurer. This section shall not preclude a corporation heretofore or hereafter formed under the laws of this State from using such a name between the date it is incorporated and the date it begins to engage in any business, if during such period the corporate activities are limited to its organization or reorganization or to those activities it would be permitted to engage in, if it were an insurer, under § 4904(2) of this title.*

The seven (7) instances that were identified misrepresent or imply that Good2Go is an Insurance Company in violation of 18 Del. C. §2304.

Recommendation - It is recommended that the Company clearly identify the relationship of American Independent and Good2Go. In addition the status of Good2Go as an insurance agency rather than an insurance company should be clearly defined for consumers. In addition, the Company should not use verbiage in their advertising that may lead the consumer to believe that Good2Go is insurance company and not an agency. The consumer should clearly understand that their policy is issued and underwritten by American Independent Insurance Company.

## **CLAIMS**

### **A) Policies Terminated**

The Company provided two lists of policies terminated; those by American Independent Insurance Company and specifically those policies sold through the Good2Go agency. The American Independent Insurance Company contained 2,741 files and the policies sold through the Good2Go agency listing contained 158. A random sample of 75 American Independent Insurance Company and 24 files sold through the Good2Go agency was selected for review. The policies were requested from the Company and were received and reviewed. The policies were reviewed for compliance with applicable statutes and regulations.

There were no exceptions noted during the course of the review.

### **B) Independent Medical Examinations (IME)**

The Company was provided a listing of IME claims. The American Independent Insurance Company listing contained 56 IME files. All 56 American Independent Insurance Company were selected for review. The policies were requested from the Company and were received and reviewed. The policies were reviewed for compliance with applicable statutes and regulations.

There were no exceptions noted during the course of the review.

### **C) Peer Review Organizations**

The Company reported no peer reviews completed during the examination period.

There were no exceptions noted during the course of the review.

### **D) Arbitration Review**

The Company provided a listing of claims that included arbitration. The American Independent Insurance Company listing contained five claim files where arbitration was involved. All five were selected for review for compliance with applicable statutes and regulations.

There were no exceptions noted during the course of the review.

## E) Surcharges

The Company was requested to provide a listing of policies for which surcharges were added after a claim. The listing included any policy for which a surcharge was paid during the examination period. A total of 74 policies with surcharges were reviewed. The following exception was noted:

### **17 Exceptions - 18 Del. Admin 609 Limitations on Automobile Surcharges in Voluntary Markets and the Assigned Risk Plan § 5.1.3.**

*No surcharge may be imposed for the first at-fault accident during any three year period which exceeds pro rata over a three year period the amount of the claim paid or reserved by the insurer. The amount of the claim shall be net of any deductible amounts assumed by the insured. Each insurer shall file a surcharge plan with the Department which in all but exceptional cases will comply with this subparagraph. An insured may question the amount of the surcharge whereupon a decision by the Department of Insurance shall be rendered within fifteen (15) business days after receiving the inquiry. In rendering its decision, the Department shall consult with the insurer to confirm the amount of the claim and the amount of the surcharge related thereto. If, after such review, the Department finds that the insurer's surcharge exceeds the standard required by this subsection, the Department may order the insurer to adjust the surcharge amount consistent with this subsection.*

One (1) file was identified as having a one-year surcharge which exceeded the losses paid by the Company.

Sixteen (16) files were identified as having an amount surcharged by the Company that exceeded the one year pro rata surcharge amount based on the total claim amount paid.

Recommendation: It is recommended the Company implement the necessary changes to comply with 18 Del. Admin 609 Limitations on Automobile Surcharges in Voluntary Markets and the Assigned Risk Plan § 5.1.3. It is further recommended that the Company issue a refund for the amount exceeding the losses incurred for the one exception.

## F) Denied Claims

The Company was requested to provide a listing of claims paid during the exam period. The listing provided contained 1017 claims of which 35 were denied. All 35 denied claims were selected for review. The claims were reviewed for compliance with DE Code 18.2304.16 Unfair Claim Settlement Practices and Regulation Title 18 603 Delaware Motorist Protection Act.

No exceptions were noted during the course of the review.

G) Claims (Closed without Payment)

The Company was requested to provide a listing of claims paid during the exam period. The listing provided contained 1017 claims of which 293 were closed without payment. Of the 293 claims closed without payment, 75 were selected for review. The claims were reviewed for compliance with DE Code 18.2304.16 Unfair Claim Settlement Practices and Regulation Title 18 603 Delaware Motorist Protection Act.

No exceptions were noted during the course of the review.

H) Paid Claims

The Company was requested to provide a listing of claims paid during the exam period. The listing provided contained 1017 claims of which 517 were denied. Of the 517 denied claims, 25 were selected for review. The claims were reviewed for compliance with DE Code 18.2304.16 Unfair Claim Settlement Practices and Regulation Title 18 603 Delaware Motorist Protection Act.

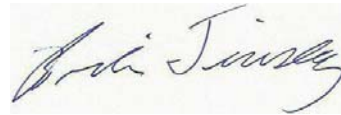
No exceptions were noted during the course of the review.

## CONCLUSION

The recommendations made below identify corrective measures the Department finds necessary as a result of the exceptions noted in the Report. Location in the Report is referenced in parenthesis.

1. It is recommended the Company complies with 18 Del. C. §2304 (17) and that it reviews their complaint handling procedures to ensure there is a process for capturing all written complaints received by the company rather than only those formally sent to the DOI.
2. It is recommended that the Company clearly identify the relationship of American Independent and Good2Go. In addition the status of Good2Go as an insurance agency, rather than an insurance company, should be clearly defined for consumers.
3. It is recommended that the Company use the date the name was changed in 2011 from C&L to Good2Go when referring to Good2Go's years in existence or experience.
4. It is recommended the Company implement the necessary changes to comply with 18 Del. Admin 609 Limitations on Automobile Surcharges in Voluntary Markets and the Assigned Risk Plan § 5.1.3. It is further recommended that the Company issue a refund for the amount exceeding the losses incurred for the one.

The examination conducted by Shelly Schuman, Brian Tinsley, Steven Misenheimer, John Rucidlo, Ronald Poplos and Jason Nemes is respectfully submitted.



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Brian Tinsley  
Examiner-in-Charge  
Market Conduct  
Delaware Department of Insurance