

DELAWARE DEPARTMENT OF INSURANCE

MARKET CONDUCT EXAMINATION REPORT

Liberty Mutual Fire Insurance Company  
Examination Authority # 23035-16-901

Liberty Insurance Corporation  
Examination Authority # 42404-16-902

The First Liberty Insurance Corporation  
Examination Authority # 33588-16-903

LM General Insurance Company  
Examination Authority # 36447-16-904

LM Insurance Corporation  
Examination Authority # 33600-16-905

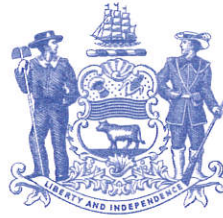
175 Berkeley Street

Boston, MA 02116

As of

December 31, 2015

Trinidad Navarro  
Commissioner



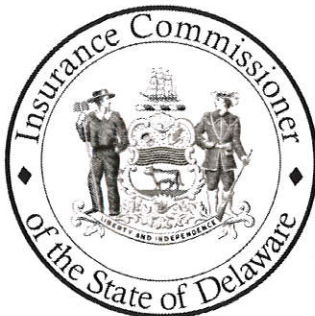
Delaware Department of Insurance

I, Trinidad Navarro, Insurance Commissioner of the State of Delaware, do hereby certify that the attached REPORT ON EXAMINATION, made as of December 31, 2015 on

**Liberty Mutual Fire Insurance Company  
Liberty Insurance Corporation  
The First Liberty Insurance Corporation  
LM General Insurance Company  
LM Insurance Corporation**

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

Attest By: \_\_\_\_\_



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

Trinidad Navarro  
Insurance Commissioner

Trinidad Navarro  
Commissioner



Delaware Department of Insurance

REPORT ON EXAMINATION

OF THE

**Liberty Mutual Fire Insurance Company**  
**Liberty Insurance Corporation**  
**The First Liberty Insurance Corporation**  
**LM General Insurance Company**  
**LM Insurance Corporation**  
AS OF

December 31, 2015

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.

  
\_\_\_\_\_  
Trinidad Navarro  
Insurance Commissioner

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Honorable Trinidad Navarro, Insurance Commissioner  
State of Delaware  
841 Silver Lake Boulevard  
Dover, Delaware 19904

Dear Commissioner Navarro:

In compliance with the instructions contained in Certificates of Examination Authority Numbers 23035-16-901, 42404-16-902, 33588-16-903, 36447-16-904 and 33600-16-905 and pursuant to statutory provisions including 18 Del. CODE §318-322, a market conduct examination has been conducted of the affairs and practices of:

**Liberty Mutual Fire Insurance Company**  
**Liberty Insurance Corporation**  
**The First Liberty Insurance Corporation**  
**LM General Insurance Company**  
**LM Insurance Corporation**

The examinations were performed as of December 31, 2015. Liberty Insurance Corporation, The First Liberty Insurance Corporation, LM General Insurance Company and LM Insurance Corporation are incorporated under the law of Illinois. Liberty Mutual Fire Insurance Company is incorporated under the laws of Wisconsin. The entities hereinafter will collectively be referred to as the "Company" or "Liberty". 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:

175 Berkeley Street  
Boston, MA 02116

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

Liberty Mutual Fire Insurance Company was incorporated under the laws of Wisconsin on October, 1908 and commenced business on November 5, 1908. Their 2014 annual statement filed with the Department reports \$49,984,233 direct written premium in Delaware.

Liberty Insurance Corporation was incorporated under the laws of Illinois on October 21, 1989 and commenced business on November 3, 1988. Their 2014 annual statement filed with the Department reports \$11,408,438 direct written premium in Delaware.

The First Liberty Insurance Corporation was incorporated under the laws of Illinois on June 16, 1988 and commenced business on June 22, 1989. Their 2014 annual statement filed with the Department reports \$2,187,629 direct written premium in Delaware.

LM General Insurance Company was incorporated under the laws of Illinois on November 17, 1978 and commenced business on December 29, 1978. Their 2014 annual statement filed with the Department reports \$29,205,820 direct written premium in Delaware.

LM General Insurance Corporation was incorporated under the laws of Illinois on June 16, 1989 and commenced business on June 22, 1989. Their 2014 annual statement filed with the Department reports \$10,572,849 direct written premium in Delaware.

The examination focused on the Company's private passenger and personal property lines of business in the following areas of operation: Company Operations and Management (Limited Review), Complaint Handling, Underwriting and Rating, and Claims.

The following exceptions were noted:

- Complaints – 2 Exceptions - 18 Del. Code §2304(26) Unfair Practices In The Insurance Business - Failure to respond to regulatory inquiries
  - For failure to respond to a DDOI complaint in a timely manner
- Rating – 3 Exceptions - 18 Del. Code §2504(a) – Rate Filings
  - For failure to follow filed and approved homeowner rate manual.
- Rating – 5 Exceptions - 18 Del. Code §2517 - Adherence to filings
  - For failure to follow filed and approved private passenger auto and homeowners manual rating.
  
- Cancellations – 5 Exceptions – 18 Del C. §320(c)(d) – Conduct of

- examination; access to record
  - For failure to provide documentation relative to rewrite of cancelled policies
- Claims – Paid – 2 Exceptions - 18 Del C. §320(c)(d) – Conduct of examination; access to record
  - For failure to provide documentation of requested claim bills and correspondence.
- Claims – Paid – 1 Exception -18 Del C. §902.1.2.1.2 – Prohibited Unfair Claims Settlement Practices
  - Failure to acknowledge and respond to claim correspondence with 15 working days.
- Claims – Paid – 1 Exception – 18 Del C §902.1.2.1.3 – Prohibited Unfair Claims Settlement Practices
  - Failure to implement prompt investigation within 10 working days.
- Claims – Paid – 1 Exception – 18 Del. C. §902.1.2.1.4 – Prohibited Unfair Claims Settlement Practices
  - Refusing to pay claims without conducting an investigation based on all available information when the notice of loss indicates an investigation is necessary.
- Claims – Paid – 8 Exceptions -18 Del C. §902.1.2.1.5 – Prohibited Unfair Claims Settlement Practices
  - For failure to affirm or deny coverage with 30 days or provide a reason for the inability to do so.
- Claims – Paid – 2 Exceptions – 18 Del C §902.1.2.1.6 – Prohibited Unfair Claims Settlement Practices
  - For failure to attempt in good faith to equitably settle the claim in a timely manner.
- Claims – Paid – 1 Exception – 18 Del. C. §903(4) – Prompt Payment of Settled Claim
  - For failure to Pay claim with 30 days from date of agreement memorialized in writing; final or by the court; or unappealed arbitration award.
- Claims – Denied – 1 Exception - 18 Del C. §320(c)(d) – Conduct of examination; access to record
  - Failure to provide documentation of requested claim bills and correspondence.
- Claims – Denied – 2 Exceptions -18 Del C. §902.1.2.1.2 – Prohibited Unfair

#### Claims Settlement Practices

- Failure to acknowledge and respond to claim correspondence with 15 working days.
- Claims – Denied – 2 Exceptions – 18 Del C §902.1.2.1.3 – Prohibited Unfair Claims Settlement Practices
  - Failure to implement prompt investigation within 10 working days.
- Claims – Denied – 1 Exception -18 Del C. §902.1.2.1.5 – Prohibited Unfair Claims Settlement Practices
  - Failure to affirm or deny coverage with 30 days or provide a reason for the inability to do so.
- Claims – Closed without Payment – 1 Exception -18 Del C. §902.1.2.1.2 – Prohibited Unfair Claims Settlement Practices
  - Establish acknowledge and respond with 15 working days.

It is also noted that throughout this report there are 15 exceptions regarding violations of 18 Del C §2304(16) – Unfair methods of competition and unfair deceptive acts or practices defined. These exceptions also correspond to violations of Prohibited Unfair Claims Settlement Practices and were noted in the above summary. Therefore the 18 Del C §2304(16) issues are not being included as separate violations for purposes of this Report. However, during the course of the examination, the Company was notified of these violations and that the issues should be corrected. .

## **SCOPE OF EXAMINATION**

The Market Conduct Examination was conducted pursuant to the authority granted by 18 Del. C. §318-322 and covered the experience period of January 1, 2014 through December 31, 2015.

The examination was a target market conduct examination of the Company's private passenger automobile and personal property lines of business in the following areas of operation: Company Operations and Management (Limited Review), Underwriting and Rating, Complaint Handling, and Claims.

## **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 focus is also on general business practices of the Company.

The Company identified the total 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. In some cases, due to the difficulty of rating private passenger



automobile and personal property policies, the number of files selected was reduced to an agreed amount with the understanding that if several exceptions had been noted, additional files would be selected and tested.

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 OPERATIONS AND MANAGEMENT**

### Company History

In business since 1912, and headquartered in Boston, Mass., today Liberty is a diversified insurer with operations in 28 countries and economies around the world. The company is the third largest property and casualty insurer in the U.S. based on 2013 direct premium written as reported by the National Association of Insurance Commissioners. Liberty is ranked 78th on the Fortune 100 list of largest corporations in the U.S. based on 2014 revenue. As of December 31, 2014, the company had \$124.3 billion in consolidated assets, \$104.0 billion in consolidated liabilities, and \$39.6 billion in annual consolidated revenue. Liberty employs more than 50,000 people in approximately 900 offices throughout the world, and we offer a wide range of insurance products and services, including personal automobile, homeowners, accident & health, commercial automobile, general liability, property, surety, workers compensation, group disability, group life, specialty lines, reinsurance, individual life and annuity products. The business of Liberty is headquartered in Boston, Massachusetts.

Their combined 2014 annual statements filed with the Department report total direct premium written for all companies under examination as \$103,360,969.

### Internal Audit

The Company provided a list of all internal audit conducted within the last three (3) years. Internal audits include those audits completed by an internal audit function within the company or conducted via a contracted vendor on behalf of the company.

A review of 10 different audit reports covering underwriting and claim operations and functions reveal no irregularities.

#### Anti-fraud and Special Investigation Units (SIU)

Anti-fraud procedures and annual reports were submitted by the Company for review. Interviews were conducted with chief Anti-Fraud and Special Investigation Unit personnel. The reviews and interview provided the examiner a more in-depth look at how the Company handles investigations.

A comparison was made between what the company has reported to the National Insurance Crime Bureau (NICB) and what the Delaware DOI has on files.

The Company was asked to submit a listing of closed SIU cases that had been referred to their fraud unit for further review. This list was compared to reported cases received by the DDOI from the NICB. In an effort to discover why the number of fraud cases reported by the Company is not on par with what NICB reports, it appears there is not a clear understanding of the reporting requirements of the DDOI. As a result of the in-person interviews conducted, a meeting was request between the company's SIU/Anti-Fraud representative and DDOI members. This meeting enabled a dialog between the two entities for further understanding of Department expectations.

No inconsistencies or exceptions were noted.

#### Board of Directors

A review of the Company's Board of Directors agendas, minutes and attachments for all meeting held during the experience was conducted. The review took place at the Company's corporate office in Boston, MA.

All information provided appeared to be in order and no abnormalities were discovered as a result of this review. No exceptions are noted.

### **COMPLAINT HANDLING**

For the examination period of January 1, 2014 through December 31, 2015, the Company reports 100 non-DOI complaints and 61 DOI complaints. The breakdown by company is a follows:

COMPANY	NON-DOI COMPLAINTS	DOI COMPLAINTS
Liberty Mutual Fire Ins Co	33	22
Liberty Insurance Corp	13	7
The First Liberty Ins Corp	0	0
LM General Insurance Co	49	29
LM Insurance Corp	5	3
<b>TOTALS</b>	100	61

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. Written complaint files involving claims were also reviewed for compliance with 18 Del. Admin. Code 902 §1.2.1.2.

The following exceptions and concern were noted:

***2 Exceptions - 18 Del. C. §2304 (26) Unfair methods of competition and unfair or deceptive acts or practices defined.***

*(26) Failure to respond to regulatory inquiries. – No person shall, with such frequency as to indicate a general business practice, fail to provide preliminary substantive responses to inquiries from the Department of Insurance regarding the denial of claims, cancellation, nonrenewal, or refusal of benefits, refusal to pre-authorize benefits, or violations of this title, with 21 calendar days of such inquiry. A response in compliance with this paragraph shall not preclude the provision of additional information responsive to the inquiry.*

The Company failed to provide a preliminary substantive response to an inquiry from the DDOI within 21 days. In the two exceptions noted, the Company did not respond until 23 days from the date of receipt of correspondence.

*Recommendation: The Company shall revise its complaint handling procedures to ensure all attempts will be made to supply a substantive respond to DOI complaint correspondence with 21 calendar days in accordance with 18 Del. C. §2304(26) Unfair methods of competition and unfair or deceptive acts or practices defined..*

**CONCERN:** A concern is an observation made by the examiners that does not rise to the level of an exception, but is nonetheless noteworthy.

**CONCERN #1:** The examiners observed that, on occasion, the Company does not follow its complaint handling timeliness guidelines in response to and/or in resolution of non-claim related and/or non-DOI complaints. The Company is advised to provide

additional training for its employees regarding timely complaint response and resolution, and adherence to the Company's written guidelines regarding the proper handling of complaints.

**CONCERN #2:** In reviewing consumer complaints, two complaints were noted in which policyholders expressed dissatisfaction with the Company's lack of communication regarding opportunities for potential reduction of premium by switching to the GEARS program. The policyholders contended that the Company failed to notify them of the existence of the program and of any requisite steps necessary to have their policies re-evaluated for potential savings that could result should they be eligible for participation in the GEARS program.

In the first complaint, the consumer called the Company to inquire about his steadily increasing auto premiums over the years. The call prompted the Company to conduct a policyholder re-evaluation, which was completed on 9/24/15. Part of the re-evaluation process involved obtaining additional information from the policyholder and receiving permission to run a credit check. The Company concluded its investigation and informed the customer that, by switching from the old rating program (Legacy program) to the new rating program (GEARS), he was eligible to realize a savings in premium. Four days later, on 9/28/15 the Company received a complaint from the customer. In the complaint, the customer expressed dissatisfaction with the Company. The consumer felt that the Company failed to act in his best interest by failing to inform him about the existence of the new GEARS rating program. He contended that, had he been made aware of the program earlier, he would have taken action sooner and could have realized a savings of premium at a much earlier point in time.

In its response to the consumer's complaint, the Company explained that all consumers are notified about the process for re-evaluation in statutorily-defined language contained within each renewal notice. The Company explained that the policyholder had received this notice in each renewal packet he had received since inception of the GEARS program in 2011. (As a point of reference, renewal notices are issued to policyholders every six (6) months). The Company further explained that, per Company policy, in order to obtain a customer's credit history/financial stability score, the customer's permission is required. Moreover, for many customers, additional information not previously supplied to the Company is required in order to calculate the premium for a customer in the newer GEARS program.

In yet another complaint, a similar scenario took place. The policyholder called the Company to inquire about the possibility of reducing her premium. The Company provided a response similar to that noted in the prior complaint. The Company stated its "policy (is) not to order information without "(1) first notifying (the consumer) and (2) obtaining (the consumer's) approval."

The Company's apparent stance is that it (1) notified consumers by incorporating language pursuant to 18 Del. Admin. Code § 6 into each six-month renewal notice, and (2) obtained the consumer's approval when the consumer either completed the form

contained in the renewal notice and returned the completed form to the Company or placed a call to the Company to inquire about rates and, as part of the call, granted permission for a credit check over the phone.

In light of the Company's responses to these consumer complaints, the following observations were made:

The notice placed in each six-month statement:

- Is required by Delaware law and is language specific.
- Is limited in scope. It only addresses credit score related re-evaluations.
- Places the consumer on notice that action on his part is required in order for a credit score to be ordered. (The Company does not unilaterally take upon itself the task of re-evaluating each policyholder's credit score due to the fact that policyholder permission is required before a credit score can be ordered).
- Explains that the consumer is entitled to one credit score re-evaluation per year.
- Explains that an unimproved credit score will not affect any credit score factors used in calculating the consumer's premium.

The Notice does not address noncredit score related re-evaluations, which are required as part of the process in determining whether or not rewriting an existing policyholder qualifies for the GEARS program.

Whether or not a savings in premium could be realized by a policyholder is dependent upon a re-evaluation. A re-evaluation cannot take place without customer permission. The customer must be proactive in granting that permission. In order for the consumer to be proactive, he must be aware. Awareness is the key. For that reason, it is recommended that, in addition to the requisite credit-related notification placed in each six-month invoice packet, a separate notification be placed included every six months inviting the policyholder to contact the Company for a full re-evaluation to determine whether or not he is eligible for participation in the GEARS program.

## **UNDERWRITING AND RATING**

### Rating

The examiners were provided a total universe of 9,055 private passenger automobile and 8,019 personal property policies for all companies under review that were written as new business during the examination period. The examiners were also provided a total universe of 58,920 private passenger automobile and 55,248 personal property policies that were renewed during the examination period. The sampling of policies reviewed was selected according to the NAIC Market Regulation Coordinators Handbook guidelines. Random sampling was use through ACL programming. Examination of the underwriting and rating files was held to verify the Company's compliance with NAIC guidelines and Delaware Insurance Department bulletins and regulations.

The selections for newly issued and renewed private passenger automobile and newly issued and renewed personal property were reduced to 5 randomly selected policies for all companies to be tested for rating accuracy for the Gears and Elements programs. The reason for the reduction of policies to be rate tested is due to the extreme complexity and time consuming steps of the Company's rating procedures. The Company agreed that should there be any exceptions noted additional policies would be tested.

The Company/Group used three types of rating procedures for the private passenger auto and personal property policies issued and renewed during the examination period. The procedures were Legacy for primarily renewal business for both private passenger automobile and personal property, Gears for new private passenger automobile business and Elements for new personal property lines of business.

Legacy policies that were issued or renewed during the examination period were sampled and manually rated. The Legacy rating process involves the application of a rating factor that is based upon characteristics of a risk, an attribute and or policyholder. Generally this is the result of looking up in the Company's rating manual a factor based upon some attribute of the policy. For example a discount factor, which is a number less than 1.0, would be applied to a base premium rate resulting in a reduced premium. In the case of a private automobile policy this could be due to an Anti-Theft Devices or the vehicle usage. Surcharges, those factors above 1.0 and applied to the base premium rate, could be a result of claims or vehicular driving violations, as an example and would result in an increase in the base premium. For a property policy, it could be due to Protective Devices installed in the home that would result in a decrease in premium and for paid claims that would result in an increase in the premium.

The factors are applied in a specific order with specific rounding rules that result in the calculation of the final premium. The rules and rates that are used are based upon an approved filing to the DDOI.

In contrast to the Legacy rating process, which is a straight linear calculation resulting from a look up of various rating factors directly, the Gears and Element process is more complex.

The Gears Program for private passenger automobile is a newer concept in rate development. Attempting to manually rate policies from this program proved to be a challenge to the examiners. The Company also was challenged to provide the examiners with an understandable explanation of the Gears rate process. The process includes not only the standard application of rating factors to attributes such as territory and operators but also involves a complex calculation of 120 rate variables for the rating of the vehicle. Due to the complexity of the rating program, the examiners were only able to verify the rating of 5 policies that were identified as either new business or a renewal.

The Elements Program for personal property is a peril based rating program. Policies are rated according to 14 different perils. The rating is broken down into the following four

rating components: Property, Customer, Location and Coverage. Each component is separately formulated to providing a factor used in the final calculation of the premium. Due to the complexity of the rating program, the examiners were only able to verify the rating of 5 policies that were identified as either new business or a renewal.

The following exceptions were noted:

**3 Exceptions: 18 Del. C. 2504(a) - Rate filings.**

*(a) Every insurer shall file with the Commissioner, except as to inland marine risks which by general custom of the business are not written according to manual rates or rating plans, every manual, minimum, class rate, rating schedule or rating plan and every other rating rule, and every modification of any of the foregoing which it proposes to use. Every such filing shall state the proposed effective date thereof, and shall indicate the character and extent of the coverage contemplated.*

Policy files were missing the rating table which would describe the credits for the Safe Homeowners Program in the Company's 2014 Legacy rating manual for the homeowners.

*Recommendation: The Company shall revise its homeowners rating manual to ensure all correct tables and rating factors are included in accordance with 18 Del C §2504(a) Rate Filings.*

**5 Exceptions. 18 Del. C. 2517 - Adherence to filings.**

*No insurer shall make or issue a contract or policy except in accordance with the filings which are in effect for the insurer as provided in this chapter or in accordance with § 2505 (exemption from filing) or §2509 (excess rates) of this title. This section shall not apply to contracts or policies for inland marine risks as to which filings are not required.*

Policy files were missing the rating table which would describe the credits for the Safe Homeowners Program in the Company's 2014 Legacy rating manual for three (3) homeowners policies. In addition, the insurer issued five (5) new business or renewal policies that were not in accordance with the filings in effect for the insurer at the time of issuance. The manual provided to the examiners listed incorrect rates for rental towing coverages.

*Recommendation: The Company shall revise its homeowners rating manual to ensure all correct tables and rating factors are included in accordance with 18 Del C §2504(a) Rate Filings.*

Cancellations

The Company was asked to identify all policies that were cancelled during the

examination period. Each company supplied the examiners with universes of both private passenger automobile and personal property files from which random samples were selected using guidelines from the NAIC Market Regulation Handbook. The following table identifies the company and the number of files identified and the number randomly selected. The files identified below have been reviewed for compliance with 18 Del. C. §§ 3904 and 3905. The files were also reviewed for compliance with standards from Chapter 17 of the NAIC Market Regulation Handbook.

<b>COMPANY – Cancellations</b>	Auto Univ	Auto per NAIC	Property Univ	Property per NAIC
Liberty Mutual Fire Ins Co	4,319	114	2,904	95
Liberty Insurance Corp	63	27	2,602	95
The First Liberty Ins Corp	193	52	0	0
LM General Ins Co	3,219	113	0	0
LM Insurance Corp	307	79	578	79
<b>TOTALS</b>	8,101	385	6,084	269

The following exceptions and concern were noted:

**5 Exceptions: 18 Del. C. §320(c). Conduct of examination; access to records; correction.**

*(c) Every person being examined, the person’s officers, attorneys, employees, agents and representatives, shall make freely available to the Commissioner, or the Commissioner’s examiners, the accounts, records, documents, files, information, assets and matters of such person, in the person’s possession or control, relating to the subject of the examination and shall facilitate the examination.*

The company failed to document the events that prompted the cancellation and subsequent rewrite of private passenger automobile policies.

*Recommendation: The Company shall strengthen record keeping procedures to ensure all pertinent underwriting documents are retained in accordance with 18 Del C §320(c) Conduct of examination, access to records.*

A concern was raised when reviewing the personal property cancellations. The Company was placed on notice that the policyholder no longer had an insurable interest in the property. Once notified, the Company failed to exercise due diligence in effectuating the cancellation process. Unearned premium should be retroactive to the date of title transfer. It is a concern the Company has not been processing the cancellations of personal property that has been foreclosed upon notice by a financial organization.



### Declinations

The Company identified a total universe of 8,383 private passenger automobile declinations and 1,744 personal property declinations issued by all companies under examinations during the examination period. Of the total from each universe, the examiners reviewed 115 private passenger files and 113 personal property files. The files reviewed were randomly chosen through the use of ACL in accordance with guidelines from the NAIC Market Regulation Handbook. All files were reviewed for compliance with 18 Del. C. §§ 3904 and 3905. The files were also reviewed for compliance with standards from Chapter 17 of the NAIC Market Regulation Handbook.

No exceptions were noted during the review.

### Forms

A listing of all forms used for underwriting, rating and claims was submitted by the Company for review. During the course of file review, forms were examined for their content and their approval for use by the DOI.

No exceptions were noted.

## **CLAIMS**

### Paid Claims

The Company was asked to provide the total number of paid claims during the examination period. The company identified 46,173 private passenger automobile claims and 6,679 personal property claims from all USAA property and casualty group of insurers.

In an effort to streamline the examination process, the examiners reviewed a random combined sample of 200 private passenger automobile claim files from all company rather than the 427 files that would have been reviewed under NAIC guidelines, with the provision that if inconsistencies were discovered, additional files would be called for review. In addition, a random sample of 120 personal property claims was reviewed rather than the 300 files that would have been reviewed under NAIC guidelines. The breakdown of claims review by company is as follows:

<b>COMPANY – Paid</b>	Auto	Auto	Auto	Property	Property	Property
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Claims	Univ	per NAIC	Selected	Univ	per NAIC	Selected
Liberty Mutual Fire Ins Co	20,115	109	45	3,957	105	50
Liberty Insurance Corp	239	59	20	2,510	105	50
The First Liberty Ins Corp	824	76	45	0	0	0
LM General Ins Co	23,539	109	45	0	0	0
LM Insurance Corp	1,456	76	45	212	76	20
<b>TOTALS</b>	<b>46,173</b>	<b>427</b>	<b>200</b>	<b>6,679</b>	<b>286</b>	<b>120</b>

The files were reviewed for compliance with 18 Del. C. §§ 902, 903, and 18 Del. C. § 2304. The files were also reviewed for compliance with NAIC Market Regulation Handbook standards from Chapters 16 and 17.

The following exceptions were noted:

**2 Exceptions - 18 Del. C. §320(c)(d) – Conduct of examination; access to records; correction**

*(c) Every person being examined, the person’s officers, attorneys, employees, agents and representatives, shall make freely available to the Commissioner, or the Commissioner’s examiners, the accounts, records, documents, files, information, assets and matters of such person, in the person’s possession or control, relating to the subject of the examination and shall facilitate the examination.*

*(d) If the Commissioner or examiner finds any accounts or records to be inadequate or inadequately kept or posted, the Commissioner may employ experts to reconstruct, rewrite, post or balance them at the expense of the person being examined if such person has failed to maintain, complete or correct such records or accounting, after the Commissioner or examiner has given the person written notice and a reasonable opportunity to do so.*

The Company failed to maintain requested documentation of events and claim information including copies of bills and correspondence.

*Recommendation: The Company shall revise its record keeping procedures to ensure that all claim documents are available for review by examiners in accordance with 18 Del. C. §320(c)(d) – Conduct of examination; access to records; correction*

**1 Exception - 18 Del. Admin. Code §902.1.2.1.2 Prohibited Unfair Claim Settlement Practices**

*1.2.1 The Following Claim Settlement Practices When Committed or Performed with such Frequency as to Indicate a General Practice are Prohibited:*

*1.2.1.2 Failing to acknowledge and respond within 15 working days, upon receipt by the insurer, to communications with respect to claims by insureds arising under insurance policies.*

The Company failed to establish appropriate contact with the claimant in a timely manner. Contact was not made with claimant until 226 working days after receipt of communications.

*Recommendation: The Company shall revise its claim handling procedures to ensure acknowledgement and response are within 15 working days in accordance with 18 Del. Admin. Code §902.1.2.1.2 Prohibited Unfair Claim Settlement Practices.*

***1 Exception - 18 Del. Admin. Code §902.1.2.1.3 Prohibited Unfair Claim Settlement Practices***

*1.2.1 The Following Claim Settlement Practices When Committed or Performed with such Frequency as to Indicate a General Practice are Prohibited:*

*1.2.1.3 Failing to implement prompt investigation of claims arising under insurance policies within 10 working days upon receipt of the notice of loss by the insurer.*

The company failed to initiate a timely investigation within 10 working days upon receipt of notice of loss. The Company had been put on notice that a police report was available but failed to order same as the insured was unavailable for interview.

*Recommendation: The Company shall revise its claim handling procedures to ensure that timely initiation of investigation is within 10 working days upon receipt of notice of loss in accordance with 18 Del. Admin. Code §902.1.2.1.3 Prohibited Unfair Claim Settlement Practices.*

***1 Exception - 18 Del. Admin. Code §902.1.2.1.4 Prohibited Unfair Claim Settlement Practices***

*1.2.1 The Following Claim Settlement Practices When Committed or Performed with such Frequency as to Indicate a General Practice are Prohibited:*

*1.2.1.4 Refusing to pay claims without conducting an investigation based upon all available information when the notice of loss received by the insurer indicates that such an investigation is necessary to properly determine such a denial of payment.*

The Company failed to conduct a timely investigation based upon all the information provided. The Company failed to deny the claim in writing or other means in order to provide a reason for the inability to do so.

*Recommendation: The Company shall revise its claim handling procedures to ensure that it does not refuse to pay claims without conducting an investigation upon all available information in accordance with 18 Del. Admin. Code §902.1.2.1.4 Prohibited Unfair Claim Settlement Practices. (Claims Paid)*

**8 Exceptions - 18 Del. Admin. Code §902.1.2.1.5 Prohibited Unfair Claim Settlement Practices**

*1.2.1 The Following Claim Settlement Practices When Committed or Performed with such Frequency as to Indicate a General Practice are Prohibited:*

*1.2.1.5 Failing to affirm or deny coverage or a claim or advise the person presenting the claim, in writing, or other proper legal manner, of the reason for the inability to do so, within 30 days after proof of loss statements have been received by the insurer.*

The Company failed to affirm or deny coverage within 30 days after proof of loss statements had been received. The number of working days the Company took, in the eight exceptions noted, to affirm or deny coverage were 45, 38, 86, 48, 949, 33, 122 and 290 days.

*Recommendation: The Company shall revise its claim handling procedures to ensure claims are confirmed or denied within 30 days after receipt of proof of loss in accordance with 18 Del. Admin. Code §902.1.2.1.5 Prohibited Unfair Claim Settlement Practices.*

**2 Exceptions - 18 Del. Admin. Code § 902.1.2.1.6 Prohibited Unfair Claim Settlement Practices**

*1.2.1 The Following Claim Settlement Practices When Committed or Performed with such Frequency as to Indicate a General Practice are Prohibited:*

*1.2.1.6 Not attempting in good faith to effectuate prompt, fair and equitable settlement of claims in which liability has become clear.*

The Company failed to effectuate a prompt, fair and equitable settlement in two claims. In one case, the Company paid an inaccurate amount. The Company has subsequently paid the additional amount due. In the other case, the Company failed to settle the claim until 234 after the loss date.

*Recommendation: The Company shall revise its claim handling procedures to ensure all attempts will be made to settle all claims in good faith and to effectuate prompt, fair and equitable settlements in accordance with 18 Del. Admin. Code §902.1.2.1.6 Prohibited Unfair Claim Settlement Practices.*

***1 Exception - 18 Del. Admin. Code §903(4) – Prompt Payment of Settled Claim***

*4.0 Prompt Payment. For the purpose of this regulation prompt payment is defined as remittance of the check within 30 days from: the date of agreement, memorialized in writing; final order by the court; or unappealed arbitration award.*

The Company failed to act promptly in recovering subrogation thereby delaying the insured's receipt of their \$500.00 deductible.

*Recommendation: The Company shall revise its claim handling procedures to ensure that payment of claims within 30 days from the date of agreement memorialized in writing in accordance with 18 Del C §903(4) – Prompt Payment of Settled Claim*

***1 Exception – 18 Del. C. §2304(16)(b) – Unfair methods of competition and unfair or deceptive acts or practices defined.***

*The following are hereby defined as unfair methods of competition and unfair or deceptive acts or practices in the business of insurance:*

*(16) Unfair claim settlement practices. — No person shall commit or perform with such frequency as to indicate a general business practice any of the following:*

*b. Failing to acknowledge and act reasonably promptly upon communication with respect to claims arising under insurance policies;*

The Company failed to establish appropriate contact with the claimant in a timely manner. Contact with claimant was not until 226 days after claim was reported to Company.

*Recommendation: The Company shall revise its claim handling procedures to ensure acknowledgement and response within a reasonable period of time in accordance with 18 Del. C §2304(16)(b) Unfair methods of competition and unfair or deceptive acts or practices defined.*

***1 Exception – 18 Del. C. §2304(16)(c) Unfair methods of competition and unfair or deceptive acts or practices defined.***

*The following are hereby defined as unfair methods of competition and unfair or deceptive acts or practices in the business of insurance:*

*(16) Unfair claim settlement practices. — No person shall commit or perform with such frequency as to indicate a general business practice any of the following:*

*c. Failing to adopt and implement reasonable standards for the prompt investigation of claims arising under insurance policies;*

The Company failed to implement a reasonable prompt investigation of an insurance claim. The Company had been put on notice that a police report was available but failed to order same since the insured was unavailable for interview.

*Recommendation: The Company shall revise its claim handling procedures to ensure to adopt and implement standards for the prompt investigation of claims in accordance with 18 Del. C §2304(16)(c) Unfair methods of competition and unfair or deceptive acts or practices defined.*

**6 Exceptions – 18 Del. C. §2304(16)(e) Unfair methods of competition and unfair or deceptive acts or practices defined.**

*The following are hereby defined as unfair methods of competition and unfair or deceptive acts or practices in the business of insurance:*

*(16) Unfair claim settlement practices. — No person shall commit or perform with such frequency as to indicate a general business practice any of the following:*

*e. Failing to affirm or deny coverage of claims within a reasonable time after proof of loss statements have been completed;*

The Company failed to promptly affirm or deny coverage within a reasonable time after proof of loss statements had been completed. The Company did not pay claims until 86, 48, 949, 33, 45 and 38 days after receipt of proof of loss.

*Recommendation: The Company shall revise its claim handling procedures to ensure the affirmation or denial of coverage is completed within a reasonable time after receipt of proof of loss in accordance with 18 Del. C §2304(16)(e) Unfair methods of competition and unfair or deceptive acts or practices defined.*

**1 Exception – 18 Del. C. §2304(16)(f) Unfair methods of competition and unfair or deceptive acts or practices defined.**

*The following are hereby defined as unfair methods of competition and unfair or deceptive acts or practices in the business of insurance:*

*(16) Unfair claim settlement practices. — No person shall commit or perform with such frequency as to indicate a general business practice any of the following:*

*f. Not attempting in good faith to effectuate prompt, fair and equitable settlements of claims in which liability has become reasonably clear;*

The Company failed to promptly, fairly and equitably effectuate the settlement of a claim when liability of the company was reasonable clear.

*Recommendation: The Company shall revise its claim handling procedures to ensure prompt, fair and equitable settlements of claims in accordance with 18 Del. C §2304(16)(f) Unfair methods of competition and unfair or deceptive acts or practices defined.*

Denied Claims

The Company was asked to provide the total number of denied claims during the examination period. The Company reported 1,177 private passenger automobile and 638 personal property claims that were denied. The table below identifies the number of files for each company under review and the number of files randomly selected by the use of ACL. The number of files sample was selected by using NAIC guidelines from the Market Regulation Handbook.

<b>COMPANY – Denied Claims</b>	Auto Univ	Auto per NAIC	Property Univ	Property per NAIC
Liberty Mutual Fire Ins Co	502	82	377	76
Liberty Insurance Corp	12	12	232	76
The First Liberty Ins Corp	21	21	0	0
LM General Ins Co	605	82	0	0
LM Insurance Corp	37	37	29	29
<b>TOTALS</b>	1,177	234	638	181

The files were reviewed for compliance with 18 Del. C. §§ 902, 903, and 18 Del. C. § 2304. The files were also reviewed for compliance with NAIC Market Regulation Handbook standards from Chapters 16 and 17.

The following exceptions were noted during the review.

***1 Exception - 18 Del. C. §320 – Conduct of examination; access to records; correction***

*(c) Every person being examined, the person’s officers, attorneys, employees, agents and representatives, shall make freely available to the Commissioner, or the Commissioner’s examiners, the accounts, records, documents, files, information, assets and matters of such person, in the person’s possession or control, relating to the subject of the examination and shall facilitate the examination.*

The Company failed to include a copy of a denial letter in claim file.

*Recommendation: The Company shall revise its record keeping procedures to ensure that all claim documents are available for review by examiners in accordance with 18 Del. C. §320(c) – Conduct of examination; access to records; correction*

**2 Exceptions - 18 Del. C. §902.1.2.1.2 – Prohibited Unfair Claims Settlement Practices**

*1.2.1 The Following Claim Settlement Practices When Committed or Performed with such Frequency as to Indicate a General Practice are Prohibited:*

*1.2.1.2 Failing to acknowledge and respond within 15 working days, upon receipt by the insurer, to communications with respect to claims by insureds arising under insurance policies.*

The Company failed to respond to communication within 15 working days. Request for PIP application for benefits was responded to in 56 working days. The Company also failed to acknowledge the insured until 38 working days after receipt of a claim notice.

*Recommendation: The Company shall revise its claim handling procedures to ensure acknowledgement and response are within 15 working days in accordance with 18 Del. Admin. Code §902.1.2.1.2 Prohibited Unfair Claim Settlement Practices.*

**2 Exceptions - 18 Del. C. §902.1.2.1.3 – Prohibited Unfair Claims Settlement Practices**

*1.2.1 The Following Claim Settlement Practices When Committed or Performed with such Frequency as to Indicate a General Practice are Prohibited:*

*1.2.1.3 Failing to implement prompt investigation of claims arising under insurance policies within 10 working days upon receipt of the notice of loss by the insurer.*

The company failed to initiate a timely investigation within 10 working days upon receipt of notice of loss. The Company had been put on notice that photos were available but failed to review them after they had been received. Arbitration was initiated by the other Company 2 years later and at that time the photos were reviewed. The Company paid claim on the basis of the photographic evidence. The Company also failed to initiate a time investigation on a claim which led to a delayed response in subrogation.

*Recommendation: The Company shall revise its claim handling procedures to ensure that timely initiation of investigation is within 10 working days upon receipt of notice of loss in accordance with 18 Del. Admin. Code §902.1.2.1.3 Prohibited Unfair Claim Settlement Practices.*

**1 Exception - 18 Del. C. §902.1.2.1.5 – Prohibited Unfair Claims Settlement Practices**

*1.2.1 The Following Claim Settlement Practices When Committed or Performed with such Frequency as to Indicate a General Practice are Prohibited:*

*1.2.1.5 Failing to affirm or deny coverage or a claim or advise the person presenting the claim, in writing, or other proper legal manner, of the reason for*



*the inability to do so, within 30 days after proof of loss statements have been received by the insurer.*

The Company failed to make a coverage decision within a reasonable time after receipt of relative information. Denial of coverage was issued 3 months after pertinent claim information was received.

*Recommendation: The Company shall revise its claim handling procedures to ensure claims are confirmed or denied within 30 days after receipt of proof of loss in accordance with 18 Del. Admin. Code §902.1.2.1.5 Prohibited Unfair Claim Settlement Practices.*

**2 Exceptions – 18 Del. C. § 2304(16)(b) Unfair methods of competition and unfair or deceptive acts or practices defined.**

*The following are hereby defined as unfair methods of competition and unfair or deceptive acts or practices in the business of insurance:*

*(16) Unfair claim settlement practices. — No person shall commit or perform with such frequency as to indicate a general business practice any of the following:*

*b. Failing to acknowledge and act reasonably promptly upon communication with respect to claims arising under insurance policies;*

The Company failed to respond to communication within 15 working days. Request for PIP application for benefits was responded to in 56 working days. The Company also failed to acknowledge the insured until 38 working days after receipt of a claim notice.

*Recommendation: The Company shall revise its claim handling procedures to ensure acknowledgement and response within a reasonable period of time in accordance with 18 Del. C. §2304(16)(b) Unfair methods of competition and unfair or deceptive acts or practices defined.*

**2 Exceptions – 18 Del. C. § 2304(16)(c) Unfair methods of competition and unfair or deceptive acts or practices defined.**

*The following are hereby defined as unfair methods of competition and unfair or deceptive acts or practices in the business of insurance:*

*(16) Unfair claim settlement practices. — No person shall commit or perform with such frequency as to indicate a general business practice any of the following:*

*c. Failing to adopt and implement reasonable standards for the prompt investigation of claims arising under insurance policies;*

The company failed to initiate a timely investigation within 10 working days upon receipt of notice of loss. The Company had been put on notice that photos were available but

failed to review them after they had been received. Arbitration was initiated by the other Company 2 years later and at that time the photos were reviewed. The Company paid claim on the basis of the photographic evidence. The Company also failed to initiate a time investigation on a claim which lead to a delayed response in subrogation.

*Recommendation: The Company shall revise its claim handling procedures to ensure to adopt and implement standards for the prompt investigation of claims in accordance with 18 Del. C. §2304(16)(c) Unfair methods of competition and unfair or deceptive acts or practices defined.*

***1 Exception – 18 Del. C. § 2304(16)(e) Unfair methods of competition and unfair or deceptive acts or practices defined.***

*The following are hereby defined as unfair methods of competition and unfair or deceptive acts or practices in the business of insurance:*

*(16) Unfair claim settlement practices. — No person shall commit or perform with such frequency as to indicate a general business practice any of the following:*

*e. Failing to affirm or deny coverage of claims within a reasonable time after proof of loss statements have been completed;*

The Company failed to promptly affirm or deny coverage within a reasonable time after proof of loss statements had been completed.

*Recommendation: The Company shall revise its claim handling procedures to ensure the affirmation or denial of coverage is completed within a reasonable time after receipt of proof of loss in accordance with 18 Del. C. §2304(16)(e) Unfair methods of competition and unfair or deceptive acts or practices defined.*

**Claims Closed without Payment**

The Company was asked to provide the total number of paid claims closed without payment during the examination period. The company identified 15,995 private passenger automobile claims and 6,679 personal property claims from all USAA property and casualty group of insurers.

In an effort to streamline the examination process, the examiners reviewed a random combined sample of 200 private passenger automobile claim files from all company rather than the 442 files that would have been reviewed under NAIC guidelines, with the provision that if inconsistencies were discovered, additional files would be called for review. In addition, a random sample of 120 personal property claims was reviewed rather than the 236 files that would have been reviewed under NAIC guidelines. The breakdown of claims reviewed by company is as follows:

<b>COMPANY – CWOP Claims</b>	Auto Univ	Auto per NAIC	Auto Selected	Property Univ	Property per NAIC	Property Selected
Liberty Mutual Fire Ins Co	6,562	109	45	956	86	50
Liberty Insurance Corp	72	72	20	673	86	50
The First Liberty Ins Corp	275	76	45	0	0	0
LM General Ins Co	8,604	109	45	0	0	0
LM Insurance Corp	482	76	45	71	64	20
<b>TOTALS</b>	15,996	442	200	1700	236	120

The files were reviewed for compliance with 18 Del. C. §§ 902, 903, and 18 Del. C. § 2304. The files were also reviewed for compliance with NAIC Market Regulation Handbook standards from Chapters 16 and 17.

The following exceptions were noted during the review:

***1 Exception - 18 Del. Admin. Code §902.1.2.1.2 Prohibited Unfair Claim Settlement Practices***

1.2.1 The Following Claim Settlement Practices When Committed or Performed with such Frequency as to Indicate a General Practice are Prohibited:

1.2.1.2 Failing to acknowledge and respond within 15 working days, upon receipt by the insurer, to communications with respect to claims by insureds arising under insurance policies.

The Company failed to establish appropriate contact with the claimant in a timely manner. The Company failed to follow-up with written correspondence after leaving numerous voice messages for the claimant.

*Recommendation: The Company shall revise its claim handling procedures to ensure acknowledgement and response are within 15 working days in accordance with 18 Del. Admin. Code §902.1.2.1.2 Prohibited Unfair Claim Settlement Practices.*

***1 Exception – 18 Del. C. § 2304(16)(b) Unfair methods of competition and unfair or deceptive acts or practices defined.***

*The following are hereby defined as unfair methods of competition and unfair or deceptive acts or practices in the business of insurance:*

*(16) Unfair claim settlement practices. — No person shall commit or perform with such frequency as to indicate a general business practice any of the following:*

*b. Failing to acknowledge and act reasonably promptly upon communication with respect to claims arising under insurance policies;*

The Company failed to establish appropriate contact with the claimant in a timely

manner. The Company failed to follow-up with written correspondence after leaving numerous voice messages for the claimant.

*Recommendation: The Company shall revise its claim handling procedures to ensure to acknowledge and act reasonably promptly upon communication with respect to claims in accordance with 18 Del. C §2304(16)(b) Unfair methods of competition and unfair or deceptive acts or practices defined.*

## CONCLUSION

The recommendation made below identify corrective measure the Department finds necessary as a result of the exception noted in the Report.

1. It is recommended that the Company strengthen its record keeping procedures to ensure that all claim documents are available for review by examiners in accordance with 18 Del. C. §320(c)(d) – Conduct of examination; access to records; correction (Cancellations & Claims Denied)
2. It is recommended that the Company revise its claim handling procedures to ensure acknowledgement and response are within 15 working days in accordance with 18 Del. Admin. Code §902.1.2.1.2 Prohibited Unfair Claim Settlement Practices. (Claims Paid, Claims Denied and & Claims Closed without Payment).
3. It is recommended that the Company revise its claim handling procedures to ensure that timely initiation of investigation is within 10 working date upon receipt of notice of loss in accordance with 18 Del. Admin. Code §902.1.2.1.3 Prohibited Unfair Claim Settlement Practices. (Claims Paid & Claims Denied)
4. It is recommended that the Company revise its claim handling procedures to ensure not to refuse to pay claims without conducting an investigation upon all available information in accordance with 18 Del. Admin. Code §902.1.2.1.4 Prohibited Unfair Claim Settlement Practices. (Claims Paid)
5. It is recommended that the Company revise its claim handling procedures to ensure to promptly pay, affirm, deny, or provide a reason for the inability to make a claim decision within 30 days of receipt of proof of loss in accordance with 18 Del. Admin. Code § 902.1.2.1.5 Prohibited Unfair Claim Settlement Practices. (Claims Paid & Claims Denied)
6. It is recommended that the Company revise its claim handling procedures to ensure all attempts will be made to settle all claims in good faith and to effectuate prompt, fair and equitable settlements in accordance with 18 Del. Admin. Code § 902.1.2.1.6 Prohibited Unfair Claim Settlement Practices. (Claims Paid & Claims Denied)
7. It is recommended that the Company revise its claim handling procedures to ensure that payment of claims within 30 days from the date of agreement memorialized in writing in accordance with 18 Del C §903(4) – Prompt Payment of Settled Claim (Claims Paid)
8. It is recommended that the Company revise its complaint handling procedures to ensure that all consumer complaints relative to claims receives a response within 21 working days in accordance with 18 Del. C. §2304(26). (Complaints)

9. It is recommended the Company revise its homeowners rating manual to ensure all correct tables and rating factors are included in accordance with 18 Del C §2504(a) Rate Filings. (Rating)
  
10. It is recommended the Company revise its homeowners rating manual to ensure all correct tables and rating factors are included in accordance with 18 Del C §2504(a) Rate Filings. (Rating)

The Examiners would like to express their appreciation for the cooperation and considerations the Company and its representatives have shown throughout the course of this examination.

The examination conducted by Shelly Schuman, James Myers, Linda Armstrong, Steve Misenheimer and Jack Rucidlo is respectfully submitted.

A handwritten signature in black ink, reading "James R. Myers". The signature is written in a cursive style with a large initial "J" and "M".

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James R Myers, AMCM  
Examiner-in-Charge