

STATE OF NEW JERSEY
DEPARTMENT OF BANKING AND INSURANCE

IN THE MATTER OF:

Proceedings by the Commissioner of)	
Banking and Insurance, State of New)	
Jersey, with respect to Allstate New Jersey)	CONSENT
Insurance Company NAIC No. 10852)	ORDER
and Allstate New Jersey Property & Casualty)	
Insurance Company, NAIC No. 12344)	

TO: Allstate Insurance Companies
721 US Highway 202-206 Suite 100
Bridgewater, NJ 08807-1759

This matter, having been opened to the Commissioner of Banking and Insurance ("Commissioner"), State of New Jersey, upon the filing of a Market Conduct Examination Report (the Report) containing the results of the November 1, 2008 through October 31, 2009 examination of total loss claim settlements processed by Allstate New Jersey Insurance Company and Allstate New Jersey Property & Casualty Insurance Company (the Companies) performed by the Department of Banking and Insurance (Department) pursuant to the authority provided at N.J.S.A. 17:23-20 et seq.; and

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

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

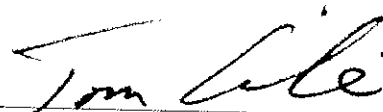
NOW, THEREFORE, IT IS on this 23rd day of Sep, 2010

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

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

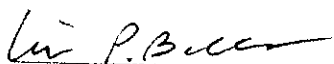
IT IS FURTHER ORDERED AND AGREED that pursuant to N.J.S.A. 17:23-24d(1), within 30 days of the adoption of the Report, the Companies shall file an affidavit with the Department's Market Conduct Unit, stating under oath that its directors have received a copy of the adopted Report; and

IT IS FURTHER ORDERED AND AGREED that in accordance with N.J.S.A. 17:23-24e (1) the Department shall hold the content of the examination confidential for a period of 90 days.



Thomas B. Considine
Commissioner

Consented to as to form, content and entry



Name

Date: 9-7-2010

MARKET CONDUCT EXAMINATION

of

**ALLSTATE NEW JERSEY INSURANCE COMPANY
and
ALLSTATE NEW JERSEY PROPERTY AND CASUALTY
INSURANCE COMPANY**

located in

WALL, NEW JERSEY

as of

January 22, 2010

by **EXAMINERS**

of the

STATE of NEW JERSEY

DEPARTMENT of BANKING and INSURANCE

OFFICER OF CONSUMER PROTECTION SERVICES

**MARKET CONDUCT EXAMINATION AND ANTI-FRAUD
COMPLIANCE**

DATE REPORT ADOPTED: SEPTEMBER 30, 2010

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I. INTRODUCTION

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

A. SCOPE OF EXAMINATION

The scope of the examination included private passenger automobile insurance sold by the Company in New Jersey. The examiners evaluated Allstate's compliance with the regulations and statutes pertaining to automobile total loss claims. The examiners placed specific emphasis on total loss claims that the Company settled after the Department issued Bulletin 09-23, dated July 27, 2009. This Bulletin advised insurers that New Jersey sales tax must be applied to salvage deductions incident to an owner's retention of a vehicle deemed to be a total loss. The review period for application of sales tax purposes on total loss settlements was July 27, 2009 to the present. The examiners also included a general review period of November 1, 2008 to October 31, 2009 solely for purposes of checking for proper settlement and informational disclosures to first and third party claimants.

The examiners conducted their fieldwork at Allstate's office in Wall, New Jersey between January 19, 2010 and January 21, 2010. On various dates following the fieldwork, the examiners completed additional review work and report writing. The Market Conduct Examiners were Examiner-in-Charge Ralph J. Boeckman, Thomas H. Goehrig and Richard Segin.

The examiners randomly selected files and records from computer listings and documents provided by the Company. The random selection process is in accordance with the National Association of Insurance Commissioner's (NAIC) Market Regulation Handbook. The examiners used the NAIC Market Regulation Handbook as a guide to examine the Company and write this report.

B. ERROR RATIOS

Error ratios are the percentage of files reviewed which an insurer handles in error. A file is counted as an error when it is mishandled or the insured is treated unfairly, even if no statute or regulation is applicable. If a file contains multiple errors, the examiners will count the file only once in calculating error ratios. However, any file that contains more than one error will be cited more than once in the report. In the event that the insurer corrects an error as a result of a consumer complaint or due to the examiners' findings, the error will

be included in the error ratio. If the insurer corrects an error independent of a complaint or NJDOBI intervention, the error is not included in the error ratios.

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

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

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

C. COMPANY PROFILE

Allstate New Jersey Insurance Company (ANJ) and Allstate New Jersey Property and Casualty Insurance Company (ANJP&C) are Illinois domiciled insurers licensed to write property and casualty business in the states of New Jersey and Illinois. Allstate New Jersey Holdings, Inc., a wholly-owned subsidiary of Allstate Insurance Company (AIC), owns all of the issued and outstanding common stock of ANJ and ANJP&C. AIC is 100% owned by The Allstate Corporation. As a result, The Allstate Corporation indirectly owns 100% of ANJ's and ANJP&C's outstanding shares. In 1997, ANJ received its certificate of authority to transact insurance business from the Illinois Department of Insurance. Later that same year, ANJ was licensed in New Jersey. ANJ is licensed to offer automobile and homeowners insurance. In 1999, AIC along with ANJ and Allstate Floridian Insurance Company (AFIC) completed the acquisition of the personal lines auto and homeowners insurance business of CNA, which was renamed Encompass Insurance. ANJ reinsures Encompass policies written only in New Jersey. In 2005, ANJP&C received its certificate of authority to transact insurance business from the Illinois

Department of Insurance. On June 21, 2006, ANJP&C was licensed in New Jersey. ANJP&C is licensed to offer all of the major property and casualty personal product lines, but currently writes only private passenger automobile insurance.

II. CLAIMS

A. INTRODUCTION

This review covers property damage, collision and comprehensive total loss claims submitted under private passenger automobile insurance. Any New Jersey total loss claim closed from November 1, 2008 to October 31, 2009 was subject to review. During the review period, Allstate paid 28,605 collision claims, 16,127 comprehensive claims and 24,732 property damage claims. Of these, 7,123 were total loss claims. The examiners selected for review a total of 37 total loss settlements that occurred after July 27, 2009 for purposes of testing Allstate's sales tax calculation methodology. The examiners selected and reviewed an additional 13 total loss claims (total of 50) to test the Company's compliance with total loss disclosure requirements.

In reviewing each total loss claim, the examiners checked for compliance with N.J.S.A. 17:29B-4(9), N.J.A.C. 11:2-17 (Unfair claim and settlement practices), N.J.A.C. 11:3-10 (automobile physical damage claims) and New Jersey Department of Banking and Insurance **Bulletin #09-23** issued July 27, 2009 (which reminds insurers that exclusion of sales tax on salvage retention deduction values results in total loss claim underpayments in a manner that is inconsistent with N.J.A.C. 11:3-10.4(a)).

B. ERROR RATIOS

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

<u>Random Sample</u>	<u>Files Reviewed</u>	<u>Files in Error</u>	<u>Error Ratio</u>
Collision	27	8	30%
Comprehensive	4	0	0%
Property Damage	<u>19</u>	<u>12</u>	63%
Total	50	20	40%

C. EXAMINERS' FINDINGS

1. Exclusion of Salvage Retention Value from Sales Tax Calculation of Total Losses – 0 Files in Error

N.J.A.C. 11:3-10.4(a) states in part that, "...if the insurer elects to make a cash settlement, it must bear in mind that the insured's position is that of a retail consumer, and that the settlement must be reasonable and fair for a person in that position..." Moreover, if the insurer elects to make a cash settlement, its offer is subject to additions and deductions plus applicable sales

tax. Permissible additions and deductions include betterment and depreciation (N.J.A.C. 11:3-10.3(i)), prior damage and condition (N.J.A.C. 11:3-10.3(j)) and mileage depreciation where applicable (N.J.A.C. 11:3-10.4(f)), or otherwise specified in N.J.A.C. 11:3-10.4(a) and (b).

Allstate utilizes Auto Source Valuation by Audatex (Auto Source) to establish the actual cash value and cash settlement offer referenced above. N.J.A.C. 11:3-10.2 defines actual cash value as a value for which the damaged vehicle can be replaced with one that is substantially similar. N.J.A.C. 11:3-10.2 further defines a substantially similar vehicle as one that is the same make, model, year and condition of the damaged vehicle at the time of loss.

If the insurer elects to make a cash settlement in lieu of providing an actual replacement, its offer (actual cash value as defined under N.J.A.C. 11:3-10.2 and as further established by the company's use of Auto Source pursuant to N.J.A.C. 11:3-10.4(a)2 and 3) is subject to valuation additions and deductions plus applicable sales tax.

While reviewing 37 total losses that Allstate settled after the Department issued Bulletin, 09-23 on July 27, 2009, the examiners found that Allstate properly applied sales tax to the salvage retention value where the claimant retained the damaged vehicle. This method of settlement is also consistent with the approved deduction and settlement calculation methodology outlined in N.J.A.C. 11:3-10.4(a) and N.J.A.C. 11:3-10.2.

2. Failure to Provide Right of Recourse Notice in Total Loss Claim Files- 19 Files in Error - Improper General Business Practice

N.J.A.C. 11:3-10.4(c) requires insurers to provide claimants with a written notice of the right of recourse at the time a total loss settlement draft is issued, and to retain a copy of the notice in the claim file.

The examiners reviewed 50 paid total loss claims and found that contrary to this regulation, Allstate failed to provide the required written rights of recourse on eleven-property damage and eight collision total loss claims.

See Appendix A-1 for a List of Files in Error

3. Failure to Issue Notice of Termination of Storage Charges Timely – 2 Files in Error

N.J.A.C. 11:2-17.10(a)9 requires an insurer to provide notice to a claimant three working days prior to the termination of payment for automobile storage charges and place a copy of such notice in the claim file. On two-property damage claims, the examiners found that the Company did send the required

letters advising that storage charges were being terminated; however, Allstate did not provide the required three working days notice prior to termination.

See Appendix A-2 for a List of Files in Error

III. RECOMMENDATIONS

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

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

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

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

A. GENERAL INSTRUCTIONS

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

B. CLAIMS REVIEW

1. Allstate must issue written instructions to all appropriate personnel stating that, pursuant to N.J.A.C. 11:3-10.4(c), insurers must provide first and third party claimants with a written notice of the right of recourse at the time of payment on total loss claims and that a copy of this notice must be retained in the claim file.
2. Allstate should issue a written reminder to all appropriate personnel stating that N.J.A.C. 11:2-17.10(a)9 requires an insurer to provide notice to a claimant three working days prior to the termination of

payment for automobile storage charges and place a copy of such notice in the appropriate claim file.

APPENDIX A- CLAIM ERRORS

1. Failure to Provide Right of Recourse Notice in Total Loss Claim Files- 19 Files in Error - Improper General Business Practice

Collision Claims

Claim Number	Claim Number
1426308829	0143629210
0141293894	0143539526
1426305998	0152390233
0141765859	0142972934

Property Damage Claims

Claim Number	Claim Number
0142065929	0143736023
0146786314	0142990621
0141721126	0143479681
0147051841	0151130689
0142161918	0143700847
0141964932	

2. Failure to Issue Notice of Termination of Storage Charges Timely – 2 Files in Error

Claim Number	Date Notification Sent	Storage Termination Date	Working Days Notice
0146786314	9/9/2009	9/11/2009	2
0145156485	8/21/2009(Fri.)	8/24/2009(Mon.)	1

IV. VERIFICATION PAGE

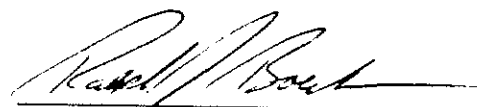
I, Ralph J. Boeckman, am the Examiner-in-Charge of the Market Conduct Examination of Allstate New Jersey conducted by examiners of the New Jersey Department of Banking and Insurance. This verification is based on my personal knowledge as acquired in my official capacity.

The findings, conclusions and recommendations contained in the foregoing report represent, to the best of my knowledge, a full and true statement of the Market Conduct Examination of Allstate New Jersey as of January 29, 2010.

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

4/30/2010

Date: _____



Ralph J. Boeckman

Examiner-In-Charge

New Jersey Department

of Banking and Insurance