

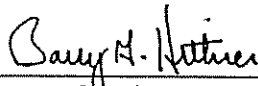
**STATE OF RHODE ISLAND
DEPARTMENT OF BUSINESS REGULATION
INSURANCE DIVISION**

The attached Report of Examination as of December 31, 1994, of the condition and affairs of The Beacon Mutual Insurance Company was recently completed by duly qualified examiners, pursuant to Chapters 13 and 13.1 of the Rhode Island Insurance Code.

Due consideration has been given to the comments of the examiners regarding the operation of the Companies and their market conduct condition, as reflected from the report. Due consideration has also been given to The Beacon Mutual Insurance Company's response to the examination report findings and recommendations.

It is therefore ORDERED that said Report be, and it is hereby, adopted and filed and made an official record of this department as of this date.

DEPARTMENT OF BUSINESS REGULATION



Barry G. Hittner
Director/Insurance Commissioner

ORDER NO. 96-055

DATED: 9/13/96

REPORT ON MARKET CONDUCT EXAMINATION

OF

THE BEACON MUTUAL INSURANCE COMPANY

1600 Division Road
West Warwick, Rhode Island 02893-2366

NAIC COMPANY CODE 24017

AS OF

DECEMBER 31, 1994
(WITH ADDITIONAL TEST WORK PERFORMED ON 1995 UNDERWRITING
CLASSIFICATIONS)

DEPARTMENT OF BUSINESS REGULATION
INSURANCE DIVISION
STATE OF RHODE ISLAND

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PROVIDENCE, RHODE ISLAND

September 13, 1996

Honorable Barry G. Hittner
Insurance Commissioner
State of Rhode Island

Dear Sir:

In accordance with your instructions and pursuant to the statutes of the State of Rhode Island, a Market Conduct Examination was conducted of

The Beacon Mutual Insurance Company
1600 Division Road
West Warwick, Rhode Island

which is hereinafter referred to as "Beacon" or "the Company." Our report is submitted as follows:

FOREWORD

Our Market Conduct Examination Report is in general, a report by exception. Practices, procedures, and/or files subject to review during the examination may have been omitted from the report if errors and/or improprieties were not evidenced.

SCOPE OF EXAMINATION

We conducted our examination in accordance with Title 27 Chapters 13 and 13.1 of the General Laws of Rhode Island. The examination covers the period the Company began writing business, on August 12, 1992, through December 31, 1994, with the exception of additional test work relating to the Company's classifications of residual (involuntary) and voluntary risks, for the period 1/1/95 through 7/1/95.

Performance of the examination was in accordance with procedures established by the National Association of Insurance Commissioners and standards established by the Rhode Island Department of Business Regulation, Insurance Division.

The examination was conducted at the Company's office at 1600 Division Road, West Warwick, Rhode Island. Areas examined include: Certificate of Authority, Consumer or Other Related

Complaints, Underwriting and Rate Application, Cancellations, and Claim Practices. The line of business examined was Workers Compensation, which, by law, is the only line the Company is authorized to write

The primary purpose of the examination was to evaluate the Company's compliance with Rhode Island Insurance Laws and Regulations, and to determine whether Rhode Island policyholders and claimants are being treated equitably and fairly. The test work performed during the examination satisfied this purpose, and forms the basis for the findings and recommendations presented in this report.

COMPANY OVERVIEW

History

The Beacon Mutual Insurance company, a non-profit public corporation, commenced operations on July 11, 1990, as The State Compensation Insurance Fund, under Title 27, Chapter 7 2 of the Rhode Island General Laws. The name of the fund was changed to The Beacon Mutual Insurance Company in July, 1992. The Company is organized and operated as a domestic mutual insurance company, for the sole purpose of insuring Rhode Island employers against liability for personal injuries for which their employees may be entitled to benefits under provisions of the Rhode Island Workers' Compensation, Federal Longshore and Harbor Workers, or Employers Liability Laws. The Company functions mainly as the residual market insurer for risks within the State of Rhode Island, however, it does write a small percentage of its business on a voluntary basis.

The Company obtained its authorization to write workers' compensation insurance from the State of Rhode Island, commenced its insurance business on August 12, 1992, and issued its first insurance policy shortly thereafter. Initial capitalization to fund voluntary business was provided under the enabling legislation in the form of a \$5,000,000 appropriation, evidenced by a surplus note from the Dr. John E. Donley Rehabilitation Center Fund (the "Donley Fund"), a special fund established in the Treasury Department of the State of Rhode Island.

Under the enabling statute, capitalization needed in order to support the Company's mandate to write involuntary workers' compensation insurance in Rhode Island was provided by the Rhode Island Department of Labor, through assessments of all insured employers doing business in the State of Rhode Island. As a result of the adequacy of the Company's surplus to support residual market writings, assessments were terminated on December 31, 1994, however, the Director of the Department of Business Regulation retains the authority to institute a capital assessment in the future if it becomes necessary to continue the residual market operations of Beacon.

Company Operations

Until January 1, 1993, Beacon wrote only voluntary workers' compensation insurance, with premium volume of approximately five hundred thousand dollars (\$500,000). In 1993, the

Company wrote approximately three million dollars (\$3,000,000) in voluntary market premiums and one hundred and sixteen million dollars (\$116,000,000) in residual market premiums. Rhode Island direct written workers' compensation premiums for the Company in 1994 were \$112,714,412, down slightly from 1993.

Management

At December 31, 1994, the Company's officers were as follows:

Chairman of the Board	Sheldon S. Sollosy
President	Donald G. Vass
Secretary	Thomas J. McHale
Vice-President	Jeffrey C. Johnson
Vice-President	Clifford L. Parent Jr.

CERTIFICATE OF AUTHORITY

A review of the Company's Rhode Island Certificate of Authority in conjunction with the Company's Rhode Island operations was performed to determine whether the Company was in compliance with Section 27-1-37 Compliance by Domestic Insurers, and Section 27-7.2 Workers Compensation Insurance Fund, of the General Laws of Rhode Island, for the period under examination.

The results of the review indicate that the Company is licensed in the State of Rhode Island to write workers' compensation insurance, and that the Company's operations are in compliance with said Certificate of Authority, with the exception of the violation noted in the Licensing of Agents, Brokers and Producers section of this report.

LICENSING OF AGENTS, BROKERS AND PRODUCERS

The examiners reviewed one hundred and twenty-one (121) workers' compensation files to determine whether the policies were all written through properly licensed insurance producers.

Seven (7) of the one hundred and twenty-one (121) policies reviewed indicated that the policies were written directly by the Company. While the Company clearly may write direct business, since the Company did not employ any licensed insurance producers, the business was written through unlicensed employees of the Company, which is a violation of Section 27-2.3-3(a)

License Requirement of the General Laws of Rhode Island. This law states that no person shall act or hold oneself out to be an insurance producer for any class of insurance unless duly licensed for such class or classes in accordance with Chapter 2.3.

The Company, however, contends that the company-specific provisions of Section 27-7 2-9.1(b)(1) provide the Company with the option of "writing insurance either directly, or through an insurance producer licensed by the State of Rhode Island."

It is recommended that the Company institute control procedures to ensure that, when insurance is not written through a licensed third-party producer, all individuals employed by Beacon acting as insurance producers (as defined in Section 27-2.3 of the General Laws of Rhode Island) are duly licensed producers as required by the generally applicable provisions of Section 27-2.3 of the General Laws of Rhode Island.

The Beacon has agreed to implement this recommendation.

CONSUMER OR OTHER RELATED COMPLAINTS

The Company's procedures for handling consumer or other related complaints were examined to determine whether the Company is in compliance with Section 27-29-3 General Prohibition and Section 27-29-4 "Unfair and Deceptive Acts" of the General Laws of Rhode Island, specifically, and in addition, any other applicable Rhode Island General Laws.

A total of sixteen (16) complaints filed with the Department of Business Regulation were reviewed for proper handling, and compliance with applicable Rhode Island Laws and Regulations. Based upon the results of the examination work performed in this area, all complaints reviewed were processed in compliance the General Laws of Rhode Island.

It was noted during the review of consumer complaints, that Beacon did not maintain a complaint register, which is considered to be an unfair method of competition, an unfair and deceptive act and a violation of Section 27-29-3 General Prohibition of the Rhode Island General Laws. The number of complaints received by the Company could not be verified without a complaint register, nor could many of the complaints be examined, since separate complaint files were not maintained by Beacon.

It is recommended that Beacon take immediate action to ensure future compliance with Section 27-29-3 of the Rhode Island General Laws, which requires all insurers to maintain a complete record of all complaints received since the date of its last examination, and details exactly what information must be maintained.

UNDERWRITING / RATE APPLICATION

The examiners tested one hundred and twenty-one (121) workers' compensation files for proper rating and underwriting application. Various tests were conducted to determine whether the Company was in compliance with Section 27-7.1 Workers' Compensation Insurance and 7.2 Workers' Compensation Insurance Fund, of the General Laws of Rhode Island and any other Laws or Regulations relating to policy rate and form filings or unfair discrimination against the insured in the classification of a risk.

The test work performed resulted in the finding of thirty-eight (38) exceptions. The exceptions are summarized as follows:

One (1) of the files contained an application that was not signed by the producer. Therefore the company is not in compliance with the application section of their Broker and Applicant's Guidelines.

It is recommended that the Company institute control procedures to ensure that only applications with all of the required signatures present on the application are accepted from producers.

Two (2) of the files tested contained a policy inception date that was prior to the date stamp on the application. Therefore, the Company is not in compliance with their Broker and Applicant's Guideline, "Binding Procedures".

It is recommended that the Company institute control procedures to ensure that coverage is effected only as outlined in their published guidelines.

One (1) of the files reviewed had a policy inception date of April 11, 1993. There is neither a date stamp on the application, nor post mark date documentation in the policy file. The examiners were therefore, unable to verify that the inception date of the policy was in compliance with Beacon's Broker and Applicant's Guidelines, "Binding Procedures".

It is recommended that the Company institute control procedures to ensure that all documents necessary to underwrite, rate, and process new business are retained by the Company for a period of at least three years.

Ten (10) of the files tested did not contain payroll verification documentation for new business written, (prior insurers premium audit, federal tax form 941 (4 quarters), or Rhode Island tax and wage report DET-TX-17). Therefore, the Company is not in compliance with the application section of their Broker and Applicant's Guidelines.

It is recommended that the Company institute control procedures to ensure that payroll is verified with the proper documentation in order to establish the initial premium to be charged, and also to be in compliance with Beacon's written procedures.

Six (6) of the files reviewed did not contain a copy of the NCCI (National Council of Compensation Insurance) experience rating modification worksheet. The examiners were unable to verify that the correct experience modification was used by the Company in computing the total estimated annual premium.

It is recommended that the Company institute controls to ensure that a copy of the NCCI experience modification worksheet is retained in each underwriting file, so that the experience modification can be verified during an examination.

One (1) of the files tested did not list an employee on endorsement P0081092 (officer and other exclusion endorsement), even though the file contained a signed and dated DWC-11 (exclusion) form. Therefore the Company is in violation of Section 28-29-17 Waiver of Rights Under Common Law; Notice of Claim of Rights of the General Laws of Rhode Island, which states in part: "An employee of an employer subject to or who shall have elected to become subject to the provisions of chapters 29-38, inclusive, of this title as provided in § 28-29-8 shall be held to have waived his right of action at common law to recover damages for personal injury, if he shall not have given his employer at the time of his contract of hire notice in writing that he claims that right and within ten (10) days thereafter has filed a copy thereof with the director."

It is recommended that the Company amend this in force policy to include this employee on the schedule of excluded employees.

One (1) policy included the payroll of the officers in the calculation of the estimated premium in accordance with the information on the application. However, the policy was endorsed with form P0081092 (officer and other exclusion endorsement) on both the initial and renewal premium. In addition, there were no completed, dated and signed DWC-11 (exclusion) forms in the policy file. Therefore, the Company is in violation of Section 28-29-17 Waiver of Rights Under Common Law; Notice of Claim of Rights of the General Laws of Rhode Island.

It is recommended that the Company not process P0081092 endorsements unless completed, dated, and signed DWC-11 (exclusion) forms have been obtained from the employee to be excluded from coverage.

One (1) policy reviewed did not list endorsement P0081092 on the policy declaration page under 3c so as to agree with the signed DWC-11 (exclusion) form. Therefore, the Company is in violation of Section 28-29-17 Waiver of Rights Under Common Law; Notice of Claim of Rights of the General Laws of Rhode Island.

It is recommended that the Company include endorsement P0081092 (officer and other exclusion endorsement) on the declaration page, for all policies in which DWC-11 (exclusion) forms are completed.

Three (3) files excluded officers on the P0081092 endorsement form, but did not contain the required DWC-11 (exclusion) form in the file. Therefore the Company is in violation of Section

28-29-17 Waiver of Rights Under Common Law; Notice of Claim of Rights of the General Laws of Rhode Island.

It is recommended that the Company obtain signed and dated DWC-11 (exclusion) forms where officers/employees are excluded from coverage under the policy. The DWC-11 (exclusion) forms should become a permanent part of the underwriting file.

In three (3) files reviewed, it was determined that the policies were written in the Voluntary Risk Program, but did not contain documentation indicating that the employer was advised in writing of the optional deductibles available. Therefore the Company is in violation of Section 27-7.1-14 Optional Deductibles of the General Laws of Rhode Island, which requires the insurer to offer optional deductibles in writing.

It is recommended that the Company institute control procedures so that whenever the Company issues a new policy in the Voluntary Risk Program, proper notice is provided to the employer regarding optional deductibles.

Three (3) of the files tested indicated that the Company overcharged the insured for increased limits part two coverage. Therefore the Company is in violation of Section 27-7.2-9.1 Residual Risk Coverage, subsection (d) of the General Laws of Rhode Island, which requires the Company to use rates filed with the Director of Business Regulation and promulgated under NCCI filing Rule VIII Limits of Liability, Workers Compensation and Liability.

It is recommended that the Company refund the overcharges to these insureds, with an explanation that the overcharge was found during a market conduct examination performed by the Rhode Island Insurance Division.

One (1) of the files tested did not contain documentation to indicate that the employer received notification of the surcharge in accordance with Section 27-7.2-9.1 Residual Risk Coverage subsection (d) Residual Risk Rate Regulation (4) and (5) of the General Laws of Rhode Island.

It is recommended that the Company institute procedures to comply with Rhode Island law by providing notice to all insureds affected when a surcharge is assessed.

In two (2) of the files reviewed, which were subject to a minimum premium charge, the Company incorrectly applied the expense constant to the estimated premium. In both cases this resulted in a premium overcharge. Therefore, the Company is in violation of Section 27-7.2-9.1 Residual Risk Coverage of the General Laws of Rhode Island.

It is recommended that the Company refund the overcharges to the insureds, with an explanation that the overcharge was found during a market conduct examination performed by the Rhode Island Insurance Division.

28-29-17 Waiver of Rights Under Common Law; Notice of Claim of Rights of the General Laws of Rhode Island.

It is recommended that the Company obtain signed and dated DWC-11 (exclusion) forms where officers/employees are excluded from coverage under the policy. The DWC-11 (exclusion) forms should become a permanent part of the underwriting file.

In three (3) files reviewed, it was determined that the policies were written in the Voluntary Risk Program, but did not contain documentation indicating that the employer was advised in writing of the optional deductibles available. Therefore the Company is in violation of Section 27-7.1-14 Optional Deductibles of the General Laws of Rhode Island, which requires the insurer to offer optional deductibles in writing.

*Repealed
17/11/12*

It is recommended that the Company institute control procedures so that whenever the Company issues a new policy in the Voluntary Risk Program, proper notice is provided to the employer regarding optional deductibles.

10/11/12

Three (3) of the files tested indicated that the Company overcharged the insured for increased limits part two coverage. Therefore the Company is in violation of Section 27-7.2-9.1 Residual Risk Coverage, subsection (d) of the General Laws of Rhode Island, which requires the Company to use rates filed with the Director of Business Regulation and promulgated under NCCI filing Rule VIII Limits of Liability, Workers Compensation and Liability.

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It is recommended that the Company refund the overcharges to the insureds, with an explanation that the overcharge was found during a market conduct examination performed by the Rhode Island Insurance Division.

In two (2) of the files reviewed, the capital assessment was not applied as required by Section 27-7.2-20.1 Capital Assessment, (b) and (c). This resulted in an undercharge of premium on each of these policies.

It is recommended that the Company review its rating procedures to ensure that all of the correct rating factors, including capital assessments, are applied during the underwriting process, in compliance with Rhode Island Law.

In one (1) of the files tested, it was determined that the insurance policy was eligible for experience rating. However, the Company failed to apply any experience modification in rating the policy. It was also determined by the examiners that the premium surcharge amount was incorrectly computed by the Company. Therefore, the Company is in violation of Section 27-7.2-9.1 Residual Risk Coverage - subsection (d) of the General Laws of Rhode Island, which requires the Company to use rates filed with the Director of the Department of Business Regulation.

It is recommended that the Company rerate this policy, apply the appropriate experience modification to the total annual premium, and if applicable, refund any premium overcharge to the insured.

UNDERWRITING AND RATE APPLICATION - SUPPLEMENTAL PROCEDURES
PERFORMED FOR BUSINESS WRITTEN FROM 1/1/95 THROUGH 7/1/95

*Supplemental assessment
- appears to have been performed by Bob Jones*

A supplemental test of Beacon's classification of its residual and voluntary risk business was performed for the period beginning January 1, 1995, through July 1, 1995, to assess whether writings were classified by Beacon as "voluntary risks" or "residual risks" in accordance with their definitions as contained in Chapter 7.2 of the Rhode Island Insurance Laws.

The supplemental testing was performed by determining whether all of the business classified by Beacon as "residual risk" during the first half of 1995, actually met the definition of a "residual risk". The correctness of the classifications of risks by Beacon is important, due to the special assessments and tax credits provided in §27-7.2-20.3 of the Rhode Island General Laws for Beacon's "residual risk" writings only.

*RRR
6/9/95*

In addition, the Director of the Department of Business Regulation is responsible for periodically determining the rate of assessment at levels adequate to allow the fund to service the residual risk market and satisfy the reserve and surplus requirements of §27-7.2-20.2 of the Rhode Island General Laws.

In order to complete the supplemental test work, Beacon was asked to supply a listing of all "residual risks" written during the first half of 1995. Using the listing obtained by Beacon, a sample of twenty-seven nursing homes was selected, and Beacon was asked to provide

In two (2) of the files reviewed, the capital assessment was not applied as required by Section 27-7.2-20.1 Capital Assessment, (b) and (c). This resulted in an undercharge of premium on each of these policies.

It is recommended that the Company review its rating procedures to ensure that all of the correct rating factors, including capital assessments, are applied during the underwriting process, in compliance with Rhode Island Law.

In one (1) of the files tested, it was determined that the insurance policy was eligible for experience rating. However, the Company failed to apply any experience modification in rating the policy. It was also determined by the examiners that the premium surcharge amount was incorrectly computed by the Company. Therefore, the Company is in violation of Section 27-7.2-9.1 Residual Risk Coverage - subsection (d) of the General Laws of Rhode Island, which requires the Company to use rates filed with the Director of the Department of Business Regulation.

It is recommended that the Company rerate this policy, apply the appropriate experience modification to the total annual premium, and if applicable, refund any premium overcharge to the insured.

UNDERWRITING AND RATE APPLICATION - SUPPLEMENTAL PROCEDURES PERFORMED FOR BUSINESS WRITTEN FROM 1/1/95 THROUGH 7/1/95

A supplemental test of Beacon's classification of its residual and voluntary risk business was performed for the period beginning January 1, 1995, through July 1, 1995, to assess whether writings were classified by Beacon as "voluntary risks" or "residual risks" in accordance with their definitions as contained in Chapter 7.2 of the Rhode Island Insurance Laws.

The supplemental testing was performed by determining whether all of the business classified by Beacon as "residual risk" during the first half of 1995, actually met the definition of a "residual risk". The correctness of the classifications of risks by Beacon is important, due to the special assessments and tax credits provided in §27-7.2-20.3 of the Rhode Island General Laws for Beacon's "residual risk" writings only.

In addition, the Director of the Department of Business Regulation is responsible for periodically determining the rate of assessment at levels adequate to allow the fund to service the residual risk market and satisfy the reserve and surplus requirements of §27-7.2-20.2 of the Rhode Island General Laws.

In order to complete the supplemental test work, Beacon was asked to supply a listing of all "residual risks" written during the first half of 1995. Using the listing obtained by Beacon, a sample of twenty-seven nursing homes was selected, and Beacon was asked to provide

documentation supporting any that contained a schedule credit. Of the twenty-seven (27) nursing home accounts, seventeen (17) contained schedule credits, and were selected for review.

In seven (7) of the seventeen (17) accounts with schedule credits (forty-one percent (41%) of the accounts with schedule credits), the "schedule rating plan" sheets prepared by Beacon contained written statements which substantiate that the account was able to procure workers' compensation insurance at competitive rates through ordinary methods in the voluntary market. It was also evident in these seven (7) cases, that Beacon either matched or beat schedule credits offered by other voluntary insurers, in order to retain the business.

Once a competitive offer has been made to an employer, if Beacon undercuts or matches the schedule credits, the account should be classified by Beacon as a "voluntary risk" in order to be in compliance with Sections 27-7.2-1(5) and 27-7.2-9.1(2) of the Rhode Island General Laws.

According to Beacon's underwriting guidelines for voluntary business, Beacon cannot write nursing home policies on a voluntary basis. Since Beacon is also restricted from writing accounts as residual risks if the account meets the definition by law of a voluntary risk, it appears that Beacon should not have written any nursing home accounts which did not meet the definition of a residual risk.

A "residual risk" is defined by Chapter 7.2 of the Rhode Island Insurance Laws as "an employer who in good faith attempts to procure or retain workers' compensation insurance but is unable to do so at competitive rates through ordinary methods in the voluntary market with a qualified insurer and who is not self insured. The term also includes any legal entities that may be combined for experience rating purposes".

Beacon has incorrectly classified accounts as "residual risks" in forty-one percent (41%) of the 1995 accounts with schedule credits which were reviewed. Since our review was only limited to nursing home accounts, it cannot be determined whether the same error rate would apply to other types of employers insured by Beacon.

Beacon admits that due to surplus limitations, it did not have the capacity to write additional voluntary business. This capacity limitation did not however, give Beacon the authority to continue to write voluntary business by classifying the business as involuntary. To do so would allow Beacon an unfair tax credit which is not available to other insurers of voluntary business, and which was instituted only for residual market business, which by its definition, is business no other carrier would write at competitive rates.

Classifying voluntary business as involuntary would also expose others to the possibility of a capital assessment to fund residual market operations if Beacon under priced business in order to retain it, when it would have ordinarily been written voluntarily by another carrier at a competitive rate, without exposing others to a possible capital assessment and without necessitating a tax credit. Had this business been classified properly, the State of Rhode Island would have collected taxes on these premiums.

The Company strongly opposes the position of the Examiners with respect to the permissible scope of the residual program. The Company maintains that the position of the Examiners is contrary to the various filings of the Beacon specifically authorizing competitive rate reductions for the Residual Program, as have been approved by the Department of Business Regulation (DBR). It is the position of the Company that the confirmation of the scope of the Residual Program in the 1994 Legislation as introduced at the initiative of the DBR, was intended to encourage and further the very same Residual Program competition and premium reductions for which the Company is now being criticized.

Subsequent to the close of the examination, the dispute as to the prospective scope of the former Residual Program and the Voluntary Program was rendered moot by the 1996 legislative revision to Chapter 27-7.2 of the General Laws of Rhode Island, which among other things, has eliminated the distinction between the Residual Program and the Voluntary Program, and has made the statutory exemptions and capital assessment mechanism applicable to the operations of The Beacon on a consolidated basis. Since there is therefore no prospective dispute as to the future market conduct of the Company, it is not necessary to resolve the disputed interpretation of the former provisions of Section 27-7.2.

CANCELLATIONS

A review of the Company's Workers' Compensation cancellation practices was performed to determine whether the Company was in compliance with Section 27-7.1-19 Grounds for midterm policy cancellation, Section 27-7.2-9.1 Residual risk coverage, Section 28-33-4 Commencement of Benefits, and Section 28-36-12 Reporting of Policy Status, of the General Laws of Rhode Island.

For the period under examination, the examiners tested eighty-two (82) Company generated workers' compensation cancellation files.

The test work performed resulted in a total of twenty-five (25) exceptions. The Company was not able to provide a copy of the written notice of cancellation required in the Company's contract of insurance for twenty-one (21) of the files examined. The Company's contract of insurance as filed with the Department of Business Regulation Insurance Division states; "we must mail or deliver to you not less than ten days' advance written notice stating when the cancellation is to take effect". Therefore, the Company is in violation of their policy contract in not providing written notice of cancellation to the insured.

In addition, four (4) exceptions were noted in which the Company was not able to provide the examiners with documentation that a "Notice to the Director" was mailed to the Department of Labor upon issuing a notice of cancellation to the insured. Therefore, the Company is in violation of Section 28-36-12 Reporting of Policy Status of the Rhode Island General Laws, which states in part "Upon the cancellation of the policy or failure to renew the same, every insurance company

having written such policy shall immediately notify the director of the cancellation or failure to renew".

It is recommended that the Company retain in its underwriting files, a copy of the written notice of cancellation, in order to establish that the policy was canceled in accordance with its contractual language.

As of January 1, 1995, the Company developed a procedure in which the underwriting technician is required to send a written notice of cancellation to the insured along with a "Notice to the Director," by certificate of mailing.

The examiners recommend that the procedure for mailing notice to the director be amended from certificate of mailing to certified mail, return receipt requested. This change would allow for verification that the Department of Labor received the cancellation notice as required by Section 28-36-12 of the General Laws of Rhode Island.

CLAIM PRACTICES

The examiners performed a review of the Company's Workers' Compensation indemnity payments to determine whether the Company was in compliance with Section 28-32-1 Employer Reports of Injury, Section 28-33-12 Death Benefits, Section 28-33-17 Total Disability; Dependents, Section 28-33-18 Partial Disability, Section 28-33-20 Average Weekly Wage: Computation, Section 28-35-8 Non-Prejudicial Memorandum of Agreement, Section 28-35-42 Penalty for Late Payments; Exemption and Section 28-33-4 Commencement of Benefits, of the General Laws of Rhode Island.

For the period under examination, the examiners tested one hundred and twenty-one (121) workers compensation indemnity claim payments. The test work performed resulted in two (2) exceptions. The first exception was the result of the Company overpaying an indemnity payment. The second was due to the inability of the Company to provide to the examiner the initial indemnity check issued in payment of the claim. This did not allow the examiner to verify that payment was actually made. Therefore, the Company is in violation of Section 28-33-18 Partial Disability, of the General Laws of Rhode Island.

It is recommended that the Company institute control procedures to assure that all indemnity payments are properly calculated, and that documentation of all payments is maintained for audit purposes.

SUMMARY OF RECOMMENDATIONS

Page 6

It is recommended that the Company institute control procedures to ensure that, when insurance is not written through a licensed third party producer, all individuals employed by Beacon, acting as insurance producers (as defined in Section 27-2.3 of the General Laws of Rhode Island) are duly licensed producers as required by the generally applicable provisions of Section 27-2.3 of the General Laws of Rhode Island.

It is recommended that Beacon take immediate action to ensure future compliance with Section 27-29-3 of the Rhode Island General Laws, which requires all insurers to maintain a complete record of all complaints received since the date of its last examination, and details exactly what information must be maintained.

Page 7

It is recommended that the Company institute control procedures to ensure that only applications with all of the required signatures present on the application are accepted from producers

It is recommended that the Company institute control procedures to ensure that coverage is effected only as outlined in their published guidelines.

It is recommended that the Company institute control procedures to ensure that all documents necessary to underwrite, rate, and process new business are retained by the Company for a period of at least three years.

It is recommended that the Company institute control procedures to ensure that payroll is verified with the proper documentation in order to establish the initial premium to be charged, and also to be in compliance with Beacon's written procedures.

Page 8

It is recommended that the Company institute controls to ensure that a copy of the NCCI experience modification worksheet is retained in each underwriting file, so that the experience modification can be verified during an examination.

It is recommended that the Company amend this in force policy to include this employee on the schedule of excluded employees.

It is recommended that the Company not process P0081092 endorsements unless completed, dated, and signed DWC-11 (exclusion) forms have been obtained from the employee to be excluded from coverage.

SUMMARY OF RECOMMENDATIONS (continued)

Page 8 (continued)

It is recommended that the Company include endorsement P0081092 (officer and other exclusion endorsement) on the declaration page, for all policies in which DWC-11 (exclusion) forms are completed.

Page 9

It is recommended that the Company obtain signed and dated DWC-11 (exclusion) forms where officers/employees are excluded from coverage under the policy. The DWC-11 (exclusion) forms should become a permanent part of the underwriting file.

It is recommended that the Company institute control procedures so that whenever the Company issues a new policy in the Voluntary Risk Program, proper notice is provided to the employer regarding optional deductibles.

It is recommended that the Company refund the overcharges to these insureds, with an explanation that the overcharge was found during a market conduct examination performed by the Rhode Island Insurance Division.

It is recommended that the Company institute procedures to comply with Rhode Island law by providing notice to all insureds affected when a surcharge is assessed.

It is recommended that the Company refund the overcharges to the insureds, with an explanation that the overcharge was found during a market conduct examination performed by the Rhode Island Insurance Division.

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It is recommended that the Company review its rating procedures to ensure that all of the correct rating factors, including capital assessments, are applied during the underwriting process, in compliance with Rhode Island Law.

It is recommended that the Company rerate this policy, apply the appropriate experience modification to the total annual premium, and if applicable, refund any premium overcharge to the insured.

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It is recommended that the Company retain in its underwriting files, a copy of the written notice of cancellation, in order to establish that the policy was canceled in accordance with its contractual language.

SUMMARY OF RECOMMENDATIONS (Continued)

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The examiners recommend that the procedure for mailing notice to the director be amended from certificate of mailing to certified mail, return receipt requested. This change would allow for verification that the Department of Labor received the cancellation notice as required by Section 28-36-12 of the General Laws of Rhode Island.

It is recommended that the Company institute control procedures to assure that all indemnity payments are properly calculated, and that documentation of all payments is maintained for audit purposes.

ACKNOWLEDGMENT

Acknowledgment is made of the courteous cooperation extended by the Company's officers and employees during the course of the examination.

Assisting the undersigned in the conduct of this examination, all from the Rhode Island Insurance Division, were John Carr, CPCU, AIE, Robert G. Arrow, FLMI, AIE, Senior Market Conduct Examiner, Ronald R. Radtke, Senior Market Conduct Examiner, and Deborah A. Bradford, Market Conduct Examiner.

A handwritten signature in cursive script that reads "Sharon K. Gordon". The signature is written in black ink and is positioned above a horizontal line.

Sharon K. Gordon, CPA, AFE
Insurance Examiner-In-Charge
Rhode Island Insurance Division