

## MEMORANDUM

To: Commissioner Morrison  
From: Jeff Olson – Senior Market Conduct Examiner  
Re: Market Conduct Examination Report of Bristol West Insurance Company  
Date: March 3, 2009

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The purpose of this memorandum is to provide notice of a typographical error concerning the “As of Date” on the cover page of the attached market conduct examination report for Bristol West Insurance Company. The correct “As of Date” is March 1, 2005, as reflected on page two of the report.

I apologize for any confusion that may have resulted from this error.

Thank you.

**BRISTOL WEST INSURANCE COMPANY**

**1515 Market Street  
Philadelphia, PA 19102**

**NAIC COMPANY CODE 19658**

**MARKET CONDUCT EXAMINATION REPORT  
as of December 31, 2004**

**PREPARED BY INDEPENDENT CONTRACTORS FOR THE  
COLORADO DEPARTMENT OF REGULATORY AGENCIES  
DIVISION OF INSURANCE**

**BRISTOL WEST INSURANCE COMPANY**  
**1515 Market Street**  
**Philadelphia, PA 19102**

**MARKET CONDUCT**  
**EXAMINATION REPORT**  
**as of**  
**March 1, 2005**

**Prepared by**

**James T. Axman, CIE**

**Frederick T. Verny, Jr., AIE, FLMI**

**Independent Contract Examiners**

September 29, 2005

The Honorable David F. Rivera  
Commissioner of Insurance  
State of Colorado  
1560 Broadway Suite 850  
Denver, Colorado 80202

Commissioner Rivera:

In accordance with §§ 10-1-203 and 10-3-1106, C.R.S., a limited Market Conduct examination of the private passenger automobile business practices of BRISTOL WEST INSURANCE COMPANY has been conducted.

The Company's underwriting and claim records were examined at its Main Administrative Office, 5701 Stirling Rd., Davie, Florida 33314.

The examination covered the period from March 1, 2004 to March 1, 2005.

A report of the examination of BRISTOLWEST INSURANCE COMPANY is, herewith, respectfully submitted.

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James T. Axman, CIE

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Frederick T. Verny, Jr., AIE, FLMI

Independent Market Conduct Examiners

**MARKET CONDUCT  
EXAMINATION REPORT  
OF  
BRISTOL WEST INSURANCE COMPANY**

**TABLE OF CONTENTS**

<b><u>SECTION</u></b>	<b><u>PAGE</u></b>
I. COMPANY PROFILE.....	5
II. PURPOSE AND SCOPE OF EXAMINATION.....	6
III. EXAMINER’S METHODOLOGY.....	8
IV. EXAMINATION REPORT SUMMARY.....	11
V. PERTINENT FACTUAL FINDINGS.....	13
A. PRIVATE PASSENGER AUTO	
1. Company Operations and Management.....	14
2. Rating.....	17
3. Claims Practices.....	24
VI. SUMMARY OF RECOMMENDATIONS.....	27
VII. EXAMINATION REPORT SUBMISSION.....	28

**COMPANY PROFILE**

Bristol West Insurance Company (BWIC) was incorporated on February 9, 1968 in Michigan as Vista Insurance Company and commenced business on June 10, 1968. On March 31, 2001, BWIC became a wholly owned subsidiary of Coast National Insurance Company and was renamed Bristol West Insurance Company on November 21, 2001. BWIC maintains its home office in Philadelphia, Pennsylvania. The Company's main administrative office is located in Davie, Florida.

The Company was authorized to write insurance in Colorado on May 22, 2000, and its certificate of authority includes the following lines of business:

- Accident & Health
- Credit (Casualty, A&H)
- Crop
- Fidelity & Surety
- General Casualty
- General Property
- Mortgage Guaranty
- Motor Vehicle (Casualty)
- Motor Vehicle (Property)
- Professional Malpractice
- Workers' Compensation

The Company began writing Private Passenger Automobile insurance in March 2004, and as of the end of calendar year 2004, had reported premium of \$4,866,000, representing a .17 % market share.

\*Data as reported in the 2004 Colorado Insurance Industry Statistical report.

## **PURPOSE AND SCOPE OF EXAMINATION**

This market conduct report was prepared by independent examiners contracting with the Colorado Division of Insurance for the purpose of auditing certain business practices of insurers licensed to conduct the business of insurance in the State of Colorado. This procedure is in accordance with Colorado Insurance Law §10-1-204, C.R.S., which empowers the Commissioner to supplement his resources to conduct market conduct examinations. The findings in this report, including all work products developed in producing it, are the sole property of the Colorado Division of Insurance.

The purpose of the examination was to determine the Company's compliance with Colorado insurance laws and with generally accepted operating principles related to Private Passenger Automobile insurance. Examination information contained in this report should serve only these purposes. The conclusions and findings of this examination are public record. The preceding statements are not intended to limit or restrict the distribution of this report.

This examination was governed by, and performed in accordance with, procedures developed by the National Association of Insurance Commissioners and the Colorado Division of Insurance. In reviewing material for this report the examiners relied primarily on records and material maintained by the Company. The examination covered a twelve (12) month period of the Company's operations, from March 1, 2004 to March 1, 2005.

File sampling was based on a review of underwriting and claims files that were systematically selected by using ACL™ software and computer data files provided by the company. Sample sizes were chosen based on procedures developed by the National Association of Insurance Commissioners. Upon review of each file any concerns or discrepancies were noted on comment forms and delivered to the Company for review. Once the Company was advised of a finding contained in a comment form, the Company had the opportunity to respond. For each finding the Company was requested to agree, disagree or otherwise justify the Company's noted action. At the conclusion of each sample the Company was provided a summary of the findings for that sample. The examination report is a report by exception. Therefore, much of the material reviewed is not addressed in this written report. Reference to any practices, procedures, or files, which manifested no improprieties, was omitted.

An error tolerance level of plus or minus ten dollars (\$10.00) was allowed in most cases where monetary values were involved. However, in cases where monetary values were generated by computer or other systemic methodology, a zero (\$0) tolerance level was applied in order to identify possible system errors. Additionally, a zero (\$0) tolerance level was applied in instances where there appeared to be a consistent pattern of deviation from the Company's established policies, procedures, rules and/or guidelines.

When sampling was involved, a minimum error tolerance level of five percent (5%) was established to determine reportable exceptions. However, if an issue appeared to be systemic, or when due to the sampling process it was not feasible to establish an exception percentage, a minimum error tolerance percentage was not utilized. Also, if more than one sample was reviewed in a particular area of the examination (e.g. timeliness of claims payment), and if one or more of the samples yielded an exception rate of five percent (5%) or more, the results of any other samples with exception percentages less than five percent (5%) were also included.

The report addresses Private Passenger Automobile and contains information regarding exceptions to Colorado insurance laws. The examination included review of the following:

1. Company Operations and Management
2. Complaints
3. Underwriting
4. Rating
5. Claims Practices

Certain unacceptable or non-complying practices may not have been discovered in the course of this examination. Additionally, findings may not be material to all areas that would serve to assist the Commissioner. Failure to identify or criticize specific Company practices does not constitute acceptance by the Colorado Division of Insurance. Examination findings may result in administrative action by the Division of Insurance.



**EXAMINERS' METHODOLOGY**

The examiners reviewed the Company's Private Passenger Automobile underwriting, rating, and claims practices to determine compliance with the Colorado insurance law as outlined in Exhibit 1.

**Exhibit 1**

<b>Law</b>	<b>Subject</b>
Section 10-1-128	Fraudulent Insurance Acts.
Section 10-4-413	Records required to be maintained
Section 10-4-602	Basis for Cancellation.
Section 10-4-603	Notice.
Section 10-4-604	Nonrenewal.
Section 10-4-605	Proof of notice.
Section 10-4-609	Insurance protection against uninsured motorists-applicability.
Section 10-4-610	Property damage protection against uninsured motorists.
Section 10-4-611	Elimination of discounts – damage by uninsured motorist.
Section 10-4-613	Glass repair and replacement.
Section 10-4-614	Inflatable restraint systems - replacement - verification of claims.
Section 10-4-626	Prohibited reasons for nonrenewal or refusal to write auto
Section 10-4-627	Discriminatory standards-proof of financial responsibility
Section 10-4-628	Refusal to write – changes in – cancellation-nonrenewal prohibited
Section 10-4-629	Cancellation-renewal-reclassification
Section 10-4-630	Exclusion of named driver
Section 10-4-632	Reduction in rates for drivers aged 55 or older with drivers education
Section 10-4-633	Certification of policy and notice forms
Section 10-4-634	Assignment of payment for covered benefits
Section 10-4-642	Prompt payment of direct benefits - legislative declaration - definitions.
Section 10-3-1103	Unfair methods of competition and unfair or deceptive acts or practices prohibited.
Section 10-3-1104	Unfair methods of competition and unfair or deceptive acts or practices.
Regulation 1-1-7	Market Conduct Record Retention.
Regulation 1-1-8	Penalties And Timelines Concerning Division Inquiries And Document Requests
Regulation 5-1-2	Application and Binder Forms.
Regulation 5-1-10	Rate and Rule Filing Regulation
Regulation 5-1-16	Limitations on the Use of Credit Information or Insurance Scoring.
Regulation 5-2-1	Relative Value Schedule for No Fault.
Regulation 5-2-2	Renewal of Automobile Insurance Policies – Excluded Named Drivers.
Regulation 5-2-6	Automobile No Fault Cost Containment Options.
Regulation 5-2-8	Timely Payment of Personal Protection Benefits.
Regulation 5-2-9	Personal Injury Protection Examination Program.
Regulation 5-2-11	Transition from No-Fault Auto to Tort System.
Regulation 5-2-12	Automobile Insurance Consumer Protections.
Regulation 5-2-15	Concerning Consumer Protection for Vehicle Valuation and Rental Reimbursements
Regulation 6-1-1	Limiting coverage.
Regulation 6-2-1	Complaint Record Maintenance.

**Company Operations/Management**

The examiners reviewed Company management, implementation, and quality controls, record retention, installment payment plans, anti-fraud plan, forms certification, and timely cooperation with the examination process.

**Complaints**

The examiners compared the Division of Insurance complaint database log against the Company's log to determine complaint activity. Consumers filed two (2) written claims complaints during the period under examination.

**Contract Forms and Endorsements**

The following Private Passenger Automobile forms and endorsements were filed for certification with the Colorado Division of Insurance on March 04, 2004: During the course of the underwriting phases, the format, language, and disclosures contained on these forms were also reviewed for compliance with Colorado law.

<b>Title</b>	<b>Form</b>
Personal Auto Application	CO PP00002
Amendment of Policy Provisions	AM-00001
Quote Letter	CO0103
Policyholder EFT Authorization Agreement	CO0204
Uninsured/Underinsured Motorists – Election of Lower Limits	UM-00001
Named Driver Exclusion Endorsement	DREX-0001
Personal Auto Policy	CO PP00001
Additional Interest Endorsement	AI-00001
Extended Transportation Expenses	EXTR-00001
Towing and Labor Costs Coverage Endorsement	TL-00001
Customizing Equipment Endorsement	CEQ-00001
Colorado SR22	COSR-00001
Loss Payee Endorsement	LDED-00001
Summary Disclosure Form	CO SD001
ID Card	COID00001
Bristol West Privacy Notice	PN-00001
Personal Auto New Business Declarations Page	DCN-00001
Personal Auto Renewal Business Declarations Page	DCR-00001
Personal Auto Amended Declarations Page	DCA-00001
Notice of Cancellation – Company Request	N3A-00001
Notice of Cancellation – Insured Request	N3B-00001
Notice of Cancellation – Nonpayment of Premium	N3C-00001
Notice of Non-Renewal	NR-00001
Policy Rescission Notice	RC-00001

Final Cancellation Notice	N4-00001
Billing Summary	CO0507
Installment Bill	CO0608
Endorsement Bill	CO0709
Renewal Reminder	RB-00001
Notice of Premium Increase	COPI-00001
Reinstatement with Lapse Notice	RIL-00001
Reinstatement Notice	RI-00001
Underwriting Reinstatement	RIU-00001

### **Private Passenger Automobile Cancellations/Non-renewals/Surcharges/PIP Conversion/Renewals**

For the period under examination, systematically selected samples were taken as follows:

<b>Review Lists</b>	<b>Population</b>	<b>Sample Size</b>	<b>Percentage to Population</b>
Cancellations	3,017	50	2%
Nonrenewals	4	4	100%
Surcharges	0	0	0
Tort Conversion	0	0	0

### **Rating**

The examiners reviewed the rate and rule filings, statistical justifications, and methodology submitted to Colorado Division of Insurance for the period under examination. This information was compared against a sample of in-force policies, rated by coverage selection, to determine compliance with filed base rates, territory codes, symbols, class plans, discounts, tier-rating factors, and final premium calculations.

<b>Review Lists</b>	<b>Population</b>	<b>Sample Size</b>	<b>Percentage to Population</b>
Policy Rate Review	7,188	100	1%

### **Claims**

For the period under examination, the examiners systematically selected the following samples to determine compliance with claims handling practices and manual rules:

<b>Review Lists</b>	<b>Population</b>	<b>Sample Size</b>	<b>Percentage to Population</b>
Auto Claims Paid	373	50	13%
Auto Claims Paid - Medical	10	10	100%
Auto Claims - CWP	224	50	22%

### **EXAMINATION REPORT SUMMARY**

The examination resulted in five (5) issues arising from the Company's apparent failure to comply with Colorado insurance laws that govern all property and casualty insurers operating in Colorado.

#### **Company Operations and Management:**

In the area of company operations and management one (1) compliance issue is addressed in this report: The issue in this phase is identified as follows:

- **Failure to include some forms currently in use by the Company on the annual certification listing, and therefore non-certified for the period under examination.**

It is recommended that the Company review its company operations practices and procedures and make necessary changes to ensure future compliance with applicable statutes and regulations.

#### **Complaint Handling:**

In the area of complaint handling, no compliance issues are addressed in this report.

#### **Underwriting:**

In the area of underwriting, no compliance issues are addressed in this report.

#### **Rating:**

In the area of rating, three (3) compliance issues are addressed in this report. Issues arise from Colorado insurance law requirements involving rate, rule filings, statistical justifications, methodology and the rating of policies with compliance towards base rates, territory codes, symbols, class plans, discounts, tier-rating factors, and final premium calculations.

- **Failure to file an actuarial justification for placing applicants, without prior insurance, into a higher-priced rating tier program or plan.**
- **Failure to file a complete tier-rating plan with the Colorado Division of Insurance.**
- **Failure to establish a procedure to update credit score information.**

It is recommended that the Company review its underwriting practices and procedures and make necessary changes to ensure future compliance with applicable statutes and regulations as to each issue addressed.

**Claim Practices:**

In the area of claim practices, one (1) compliance issues is addressed in this report. The Issue arose from Colorado insurance law requirements dealing with the fair and equitable settlements, claims handling practices, and the accuracy of claim payments. The issue in this phase was identified as follows:

- **Failure, in some cases, to process Private Passenger Automobile claims properly.**

It is recommended that the Company review its claim handling practices and procedures and make necessary changes to ensure future compliance with applicable statutes and regulations as to the issue addressed.

A copy of the Company's response, if applicable, can be obtained by contacting the Company or the Colorado Division of Insurance.

Results of previous Market Conduct Exams are available on the Colorado Division of Insurance's website at [www.dora.state.co.us/insurance](http://www.dora.state.co.us/insurance) or by contacting the Colorado Division of Insurance.

**BRISTOL WEST INSURANCE COMPANY**

**PERTINENT FACTUAL FINDINGS**

**COMPANY OPERATIONS AND MANAGEMENT**

**Issue A: Failure to include some forms currently in use by the Company on the annual certification listing, and therefore non-certified for the period under examination.**

Section 10-4-633, C.R.S. Certification of policy and notice forms, states in part:

(1) All insurers providing automobile insurance and who are authorized by the commissioner to conduct business in Colorado shall submit an annual report to the commissioner listing any policy forms, endorsements, cancellation notices, renewal notices, disclosure forms, notices of proposed premium increases, notices of proposed reductions in coverage, and such other forms as may be requested by the commissioner issued or delivered to any policyholder in Colorado. Such listing shall be submitted no later than July 1 of each year and shall contain a certification by an officer of the organization that to the best of the officer's knowledge each policy form, endorsement, or notice form in use complies with Colorado law. The necessary elements of the certification shall be determined by the commissioner.

(2) All insurers providing automobile insurance and who are authorized by the commissioner to conduct business in Colorado shall also submit to the commissioner a list of any new policy form, endorsement, cancellation notice, renewal notice, disclosure form, notice of proposed premium increase, notice of proposed reductions in coverage, and any other form as may be requested by the commissioner at least thirty-one days before using such policy form, endorsement, cancellation notice, renewal notice, disclosure form, notice of proposed premium increase, notice of proposed reductions in coverage, and any other form as may be requested by the commissioner. Such listing shall also contain a certification by an officer of the organization that to the best of the officer's knowledge each new policy form, endorsement, or notice form proposed to be used complies with Colorado law. The necessary elements of the certification shall be determined by the commissioner.

(3) The commissioner shall have the power to examine and investigate insurers authorized to conduct business in Colorado to determine whether automobile policy forms, endorsements, cancellation notices, renewal notices, disclosure forms, notices of proposed premium increases, notices of proposed reductions in coverage, and such other forms as may be requested by the commissioner comply with the certification of the organization and statutory mandates.

Additionally, Colorado Regulation 1-1-6. Concerning the Elements of Certification for Accident and Health forms, Automobile Private Passenger Forms, and Claims-made Liability Forms, as promulgated under the authority of Section 10-1-109, C.R.S., states in part:



### III. Rules

#### A. Definitions

1. "Annual Report for automobile private passenger insurance" shall mean a list of all automobile private passenger policy forms, endorsements, cancellation notices, renewal notices, disclosure forms, notices of proposed premium increases, notices of reductions in coverage and any other such forms as requested by the commissioner currently in use and issued or delivered to any policyholder in Colorado, including the titles of the programs or products affected by the forms.

In the underwriting phase of the examination it was noted that the Company was using the following forms which were not contained on the form certification listing provided to the examiners. Colorado insurance law requires that the Company submit a complete annual certification report to the commissioner listing any form, disclosure, endorsement or rider delivered to any policyholder in Colorado. The annual form certification is due July of each year. The Company began writing new business in Colorado March of 2004. It appears they submitted a certification of forms in February of 2004. Since the forms listed below were omitted, the annual certification would therefore be considered incomplete with further implication that the Company was using non-certified forms during the period under examination.

The Forms relating to this issue are as follows:

- APVDEC (03/04) – Personal Auto Declaration
- APVDEC (05/95) – Personal Auto Declaration
- DREX-0001 (07/03) – Named Driver Exclusion Endorsement
- LDED-00001 (06/00) - Loss Payee Endorsement
- N9 (08/98) – Notice of Cancellation
- Point Letter (07/96) - Accident and Violation Disclosure
- Notice of Underwriting Decision and Information Practices (06/04)
- Opt Out Rights
- We Care About Our Customer's Privacy

In addition, it appears that the Company uses many electronic forms that also need to be certified.

The Company has indicated that it has begun surcharging and non-renewing policies as of March 2005. The surcharge and non-renewal notification forms must also be certified and listed on the annual certification or submitted when placed in use by the Company. The examiners noted that neither the surcharge nor the non-renewal notifications are listed on the April 2005 listing submitted to the Division of Insurance.

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#### **Recommendation # 1:**

Within thirty (30) days, the Company should provide documentation demonstrating why it should not be considered in violation of Section 10-4-633, C.R.S., and Colorado Regulation 1-1-6. In the event the Company is unable to provide such documentation, it should be required to provide evidence to the Division of Insurance that it has filed a complete annual certification which includes all forms currently being used in its operations and has implemented necessary changes in order to ensure compliance with the Colorado insurance law.

**RATING**

**Issue B: Failure to file an actuarial justification for placing applicants, without prior insurance, into a higher-priced rating tier program or plan.**

Section 10-4-628, C.R.S. Refusal to write-changes in -cancellation-non-renewal of policies prohibited states in part:

(II) Unless actuarial justification in support of the insurer's action that has been filed with the commissioner demonstrates that there is an increase in risk, no insurer shall refuse to write a policy for a new applicant, surcharge the premium of a new applicant, or place a new applicant in a higher-priced program or plan based solely upon:

- (A) The fact that the applicant had no prior insurance;
- (B) The identity of the applicant's prior insurer; or
- (C) The applicant's prior type of coverage, including assigned risk or residual market coverage or any plan other than a preferred plan.

(IV) An insurer shall not refuse to write a policy for a new applicant, surcharge the premium of a new applicant, or place a new applicant in a higher-priced program or plan solely because the applicant had no prior insurance if the applicant was not required to have insurance under Section 10-4-620 or under a similar law in another state.

Additionally, Colorado Regulation 5-2-12. Auto Accident Reparations Act (No-Fault) Rules And Regulations, jointly promulgated by the Commissioner of Insurance and the Executive Director of the Department of Revenue under the authority of Sections 42-1-204, 104-704, 10-4-718, 10-4-719.7, and 10-1-109, C.R.S. states, in part:

Section 5 Rules.

B. Rules Limiting Insurers Action To Refuse To Write, Cancel, Nonrenew, Increase Premium, Surcharge Or Reduce Coverages

1. Basis for refusal to write a policy of automobile insurance.

a. Colorado law prohibits discrimination solely based on age, color, sex, national origin, residence, marital status, or lawful occupation, including the military service. Prohibited underwriting or rating practices may not be used in combination with any other practice when use of the prohibited practice results in a rejection, cancellation non-renewal, reclassification or reduction in coverage which would not have occurred but for the prohibited practice.

b. Unless actuarial justification in support of the insurer's action has been filed with the Division of Insurance, insurers shall not refuse to write a policy for new applicants, surcharge premiums, of new applicants or place new applicants in higher priced programs or plans solely based on:

- (1) The fact that the applicant had no prior insurance;
- (2) The identity of the applicant's prior insurer; or
- (3) The applicants prior type of coverage, including assigned risk or residual market coverage or any plan other than a preferred plan.

Section 10-4-404.5, C.R.S., Rating plans - property and casualty Type II insurers - rules, states in part:

(1) The Commissioner may promulgate rules and regulations for type II insurers which establish reasonable standards for rating plans, including experience rating plans, schedule rating plans, and expense reduction plans, and which are designed to modify rates in the development of premiums for individual risks insured in the property and casualty insurance market. Such rules and regulations may permit recognition of expected differences in loss and expense characteristics and shall be designed so that such plans are reasonable and equitable in their application and are not unfairly discriminatory. Such rules and regulations shall not prevent the development of new rating methods which would otherwise comply with this part

4. The rules and regulations may establish maximum charges against and credits to the experience rating of an insured that may result from the application of a rating plan. The rules and regulations may encourage the use of loss control programs, safety programs, and other methods of risk management and may require insurers to maintain documentation of the basis for the charges and credits applied under any plan. The rules and regulation may also require the rating plans to include merit rating to the extent feasible.

In the Company's Colorado Personal Automobile Rule Guide, for the period under examination, on page 10 applicable to all filings, the tier placement requirement for new business is stated as follows:

"Tiers will be assigned at policy inception and will apply for the life of the policy. Tier placement will be based on valid prior insurance, the number of days of coverage lapse prior to the Bristol West effective date and advance purchase status."

It appears that the Company is using evidence of prior insurance in new business applications for tier placement, which also affects the premium. Those with no prior insurance are placed in a higher rated tier, whereas those with prior insurance documentation receive a lower premium. The Colorado Insurance law indicates that unless actuarial justification in support of the insurer's action has been filed with the Division of Insurance, new applicants cannot be placed in higher priced programs or plans solely based on the fact that the applicant had no prior insurance.

The Notice to All Insurers sent February 1998, as a result of Senate Bill 98-12, further defines Actuarial justification as follows:

"Actuarial justification means numerical demonstration of a difference in expected risk between a person with prior insurance and those without, after other risk affecting considerations such as age and geographic location have been factored out. You are strongly encouraged to re-file if your current filing is not supported by proper actuarial justification as defined herein."

**Recommendation # 2:**

Within thirty (30) days, the Company should provide documentation demonstrating why it should not be considered in violation of Sections 10-4-405.5 and 10-4-628, C.R.S. and Colorado Regulation 5-2-12. In the event the Company is unable to provide such documentation, it should be required to provide evidence to the Division of Insurance that it has filed an actuarial justification for using no prior insurance as a factor for placing applicants in a higher-priced program and implemented necessary procedural changes in order to ensure compliance with Colorado insurance law.

**Issue C: Failure to file a complete tier-rating plan with the Colorado Division of Insurance.**

Section 10-4-404.5, C.R.S., Rating plans - property and casualty Type II insurers - rules and regulations, states in part:

The Commissioner may promulgate rules and regulations for type II insurers which establish reasonable standards for rating plans, including experience rating plans, schedule rating plans, and expense reduction plans, and which are designed to modify rates in the development of premiums for individual risks insured in the property and casualty insurance market. Such rules and regulations may permit recognition of expected differences in loss and expense characteristics and shall be designed so that such plans are reasonable and equitable in their application and are not unfairly discriminatory. Such rules and regulations shall not prevent the development of new rating methods which would otherwise comply with this part 4. The rules and regulations may establish maximum charges against and credits to the experience rating of an insured that may result from the application of a rating plan. The rules and regulations may encourage the use of loss control programs, safety programs, and other methods of risk management and may require insurers to maintain documentation of the basis for the charges and credits applied under any plan. The rules and regulation may also require the rating plans to include merit rating to the extent feasible.

Additionally, Colorado Regulation 5-1-10 (III)(B)(1), Rate and Rule Filing, promulgated under the authority of Section 10-1-109, C.R.S., states, in part:

**B. RATE AND RULE FILING REQUIREMENTS.**

1. Every property and casualty insurer, including workers' compensation and title insurers, are required to file insurance rates, minimum premiums, schedule of rates, rating plans, dividend plans, individual risk modification plans, deductible plans, rating classifications, territories, rating rules, rate manuals and every modification of any of the foregoing which it proposes to use. Such filings must state the proposed effective date thereof, and indicate the character and extent of the coverage contemplated.

The Company is required to file a *complete rate filing including any information on rating tier plans* used in the selection criteria and placement of all new automobile insurance business and every modification of any of the foregoing which it proposes to use. *The filing is required to include an overall methodology, i.e. key factors, table elements, information describing the overall plan, modification, risk selection, placement criteria, etc.* [Emphases added.]

In review of the Company rate filing for new business 05/18/2004, filing Number CO0504RR, although several tables and factors are present, there is no methodology as to how applicants are placed in tiers. The absence of this methodology causes the filing to be ambiguous, incomplete and therefore not in compliance with the Colorado insurance law.

**Recommendation # 3:**

Within thirty (30) days, the Company should provide documentation demonstrating why it should not be considered in violation of Section 10-4-404.5, C.R.S. and Colorado Regulation 5-1-10. In the event the Company is unable to provide such documentation, it should be required to provide evidence to the Division of Insurance that it has filed a complete methodology for its tier rating plan and implemented necessary changes in order to ensure compliance with Colorado insurance law.

**Issue D: Failure to establish a procedure to update credit score information.**

Section 10-4-116, C.R.S. Use of credit information states, in part.

(1) An insurer that offers personal lines of property and casualty insurance shall not:

(g) Use credit information unless, not later than every thirty-six months following the last time that the insurer obtained current information for the consumer, the insurer recalculates the consumer's insurance score or obtains an updated credit report. Notwithstanding any provision of this section to the contrary, an insurer:

(I) At annual renewal, upon the request of a consumer or the consumer's agent, shall re-underwrite and re-rate the policy based upon a current credit report or insurance score. An insurer may recalculate the insurance score or obtain the updated credit report of a consumer more frequently than once during a twelve-month period.

(II) May obtain current credit information upon a renewal before the thirty-sixth month of coverage, if obtaining current credit information is consistent with the insurer's underwriting guidelines;

In the Company's Colorado Personal Automobile Rule Guide, for the period under examination, on page 10, applicable to all filings, the tier placement procedure is stated as follows:

"Tiers will be assigned at policy inception and will apply for the life of the policy"

The Company uses credit scoring as a criteria for tier placement and credit group assignment, but does not have a provision in its underwriting manual rules to ensure the recalculation of credit scoring information will be updated no later than every thirty-six (36) months following the last time this information was obtained. The current provision indicates that tiers will be assigned for the life of the policy, which is not in compliance with the Colorado Insurance Law.

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**Recommendation # 4:**

Within thirty (30) days, the Company should provide documentation demonstrating why it should not be considered in violation of Section 10-4-116, C.R.S. In the event the Company is unable to provide such documentation, it should be required to provide evidence to the Division of Insurance that it has reviewed its credit score updating procedure and implemented necessary rule changes in order to ensure compliance with Colorado insurance law.



**CLAIMS PRACTICES**

**Issue E: Failure, in some cases, to process Private Passenger Automobile claims properly.**

Section 10-3-1104, C.R.S., Unfair methods of competition and unfair or deceptive acts or practices, provides, in part:

(1) The following are defined as unfair methods of competition and unfair or deceptive acts or practices in the business of insurance:

(h) Unfair claim settlement practices: Committing or performing, either in willful violation of this part 11 or with such frequency as to indicate a tendency to engage in a general business practice, any of the following:

(VI) Not attempting in good faith to effectuate prompt, fair, and equitable settlements of claims in which liability has become reasonably clear;

The following chart illustrates the significance of error versus the population and sample examined:

**Private Passenger Automobile Claims Paid**

<b>Population</b>	<b>Sample Size</b>	<b>Number of Exceptions</b>	<b>Percentage to Sample</b>
373	50	4	8%

An examination of fifty (50) paid Automobile claim files, representing 13% of all paid claim files processed by the Company during the examination period, showed four (4) exceptions (8% of the sample) wherein the Company failed to process the claims properly as required by Colorado insurance law.

The incidence of error for this issue was further defined by the following table:

<b>Description of error</b>	<b>Over/Under Payment</b>
Multiple instances of total loss transfer fees paid at \$7.50 in lieu of \$9.50	General trend in all total loss files, counted as 1 instance above
Deductible taken twice when already calculated in ACV before arriving at final settlement	\$500 underpayment
Claim paid when an excluded driver was listed	\$2166 overpayment
Failure to reimburse deductible after receiving 100% subrogation recovery	\$500 underpayment

**Recommendation # 5:**

Within thirty (30) days, the Company should provide documentation demonstrating why it should not be considered in violation of Section 10-3-1104, C.R.S. In the event the Company is unable to provide such documentation, it should be required to provide evidence to the Division of Insurance that it has reviewed its claims handling practices and implemented necessary procedural changes in order to ensure compliance with Colorado insurance law.

**Summary of Recommendations****Bristol West Insurance Company**

ISSUE	REC #	CF	PAGE
<b>Company Operations and Management</b>			
<b>A:</b> Failure to include some forms currently in use by the Company on the annual certification listing, and therefore non-certified for the period under examination.	1	3	16
<b>Rating</b>			
<b>B:</b> Failure to file an actuarial justification for placing applicants without prior insurance into a higher-priced rating tier program or plan.	3	1	20
<b>C:</b> Failure to file a complete tier-rating plan with the Colorado Division of Insurance.	4	2	22
<b>D:</b> Failure to establish a procedure to update credit score information.	5	8	23
<b>Claims Handling</b>			
<b>E:</b> Failure in some cases, to process Private Passenger Automobile claims properly.	6	9 & 10	26

Independent Market Conduct Examiners

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Participated in this examination and in the preparation of this report