

# REPORT OF MARKET REGULATION EXAMINATION

Examination Period: January 1, 2007 through September 1, 2009



**AAA Northern New England  
Insurance Agency  
68 Marginal Way  
PO Box 3544  
Portland, ME 04104-3544**

Federal ID: **01-0022895**  
NPN: **3684806**

Examination: **ME 114-ME3**  
Maine License: **AGR29500**

Pursuant to Title 24-A, M.R.S.A. § 222, I have caused a Targeted Market Regulation Examination to be conducted of AAA Northern New England Insurance. I hereby accept this Report of Examination and make it an official record of the Bureau of Insurance.

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Mila Kofman  
Superintendent of Insurance

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Date

**TABLE OF CONTENTS**

**EXECUTIVE SUMMARY**..... 4

**HISTORY OF ENGAGEMENT**..... 5

**SCOPE OF EXAMINATION**..... 5

**METHODOLOGY**..... 6

**FINDINGS**..... 6

**Business Structure**..... 6

**Overall Management and Administration**..... 6

**Response to Inquiries**..... 7

**Maintenance of Records**..... 7

Licensing Requirements..... 8

Producer Appointment Requirements..... 8

Superintendent Notification of Responsible Person..... 8

Superintendent Notification of Designated Individuals..... 8

Recommendations..... 9

Examination Report Submission..... 9

March 24, 2011

The Honorable Mila Kofman  
 Superintendent of Insurance  
 Bureau of Insurance  
 34 State House Station  
 Augusta, ME 04333-0034

Dear Superintendent Kofman:

Under the authority of 24-A M.R.S.A. § 222 and in conformity with your instructions, Bureau staff has made a targeted market conduct examination of:

**AAA Northern New England Insurance  
 (FEIN: 01-0022895)  
 hereinafter referred to as the “Agency”**

The following report is respectfully submitted.

**EXECUTIVE SUMMARY**

The Maine Bureau of Insurance (“Bureau”) examined the Agency’s organizational structure, business operations procedures, producer licensing and appointment records and policy records.

Non-compliant practices listed below were identified, some of which may extend to New Hampshire and Vermont. AAA Northern New England Insurance (“AAA NNE Insurance” or “Agency”) is directed to take immediate corrective action to demonstrate its ability and intention to conduct business according to the Maine insurance laws and regulations. When applicable, corrective action for other jurisdictions should be addressed.

- Producer licensing violations
- Producer appointment violations
- Records violations

The Agency became aware of the need for similar corrective action by way of notice from the State of New Hampshire on June 30, 2009.

## **HISTORY OF ENGAGEMENT**

This examination commenced pursuant to information received in the Bureau’s Licensing Division from a source who wanted to alert the Bureau of alleged statutory violations.

- Producers affiliated with the Agency are placing business with an insurance company without being appointed
- The Agency fails to advise insurance companies when Producers’ employment is terminated
- Producers who are not appointed with an insurance company are using the name of another producer, including those who have left the Agency, in order to write business through the carrier

The Bureau’s Licensing Division began an investigation on December 29, 2008, and requested information from the Agency. A second request for additional information was sent to the Agency on July 8, 2009. The investigation was turned over to the Market Regulation Unit on September 9, 2009, as there appeared to be a pattern of disregard for the producer appointment process and other requirements and an

inability to provide accurate records of licensed employees and producer appointments.

Market Regulation staff conducted an on-site examination at 63 Marginal Way, Portland, ME, 04104.

## **SCOPE OF EXAMINATION**

The targeted examination focused on:

- The Agency's business structure
- Overall management and administration
- The Agency's response to inquiries as set forth under 24-A M.R.S.A. § 220
- Maintenance of records as set forth under 24-A M.R.S.A. § 1447
- Producer licensing requirements as set forth under 24-A M.R.S.A. § 1420-B
- Producer appointment requirements as set forth under 24-A M.R.S.A. § 1420-M
- Producer authority as set forth under 24-A M.R.S.A. § 1442
- License, notification, and oversight requirements for business entities as set forth under 24-A M.R.S.A. § 1413

## **METHODOLOGY**

Market Regulation staff interviewed senior management, reviewed procedure manuals, human resource files, copies of applications, the Agency's filing system, production reports, producer licensing and appointment registers, and reports that were requested from the actual companies for comparison with the Agency's data.

## **FINDINGS**

### **The Agency's Business Structure**

AAA NNE Insurance was formerly structured as an independent agency. On January 31, 2003, AAA NNE Insurance became affiliated with the Automobile Club of Southern California ("ACSC"). AAA NNE Insurance is a controlled subsidiary of Auto Club Enterprises ("ACE"), a nonprofit corporation that is itself a controlled subsidiary of ACSC.

AAA NNE Insurance, the Agency, is a wholly-owned subsidiary of AAA NNE, the motor club.

The Portland office of AAA NNE provides underwriting and claims servicing for the Agency. The Agency has agents writing business in Maine, Vermont, New Hampshire and, to a limited extent, in Pennsylvania.

The Agency has three main units involved in the sales and servicing of insurance products.

## **Overall Management and Administration**

### **New Producer Hire, Licensing and Appointment Process**

This examination found many statute violations for licensing and appointments that were a direct result of the agency not following their New Hire Operations Manual procedures such as submission of licensing applications, producer appointments and producer terminations. More details will be provided under the Findings section of this report. A producer register is now maintained and has been enhanced since the Bureau's call letter dated November 20, 2009.

### **New Business Procedures**

The primary insurance company used is also a subsidiary of ACSC. Policies are entered directly into the primary insurance company's system. The underwriting department audits 100% of all primary applications. A random 10 policies per quarter are audited by underwriting supervisors.

Clients that do not qualify for the primary company products can be written with a secondary insurance company.

For all secondary insurance company business, the producers enter applications directly into the respective secondary insurance companies' web-based system. There are no Agency audit procedures for these policies.

### **The Agency's response to inquiries as set forth under 24-A M.R.S.A. § 220**

The Agency failed to provide us with the information as specified.

### **Maintenance of records as set forth under 24-A M.R.S.A. § 1447**

#### **Producer Records**

The producer or business entity (Agency) is required to keep a copy of the written appointment from each insurer with which the producer or business entity has an appointment.

The Agency's Producer Register did not match the list of producers provided in this examination. When we looked at the individual human resource files, many of them had only a screen print of the Bureau's publicly available records, which were printed after the date of the Bureau's examination call letter.

## Policy Records

For primary insurance company business, the signed documents are all sent to the company and are scanned and available for viewing by the service and sales staff.

The Agency is contractually required by the secondary insurance companies to maintain policy records. Each company specifies how they are to maintain files and for how long.

Many of the problems identified in this examination stem from the Agency not following their established procedures with regards records retention.

The Bureau requested to review a sample of 68 secondary insurance company applications and 20 (29%) could not be found. The Bureau ran a second sample request of 63 applications, and of those 13 (20%) were not found.

Companies that contractually require agencies to maintain application documents usually specify what documents must be retained. Of the applications reviewed, there was no consistency as to what documents were retained. When Market Regulation staff asked if these secondary insurance companies conducted audits, the Agency's Examination Coordinator confirmed they did, but when asked for past audit reports, the Exam Coordinator could not provide them as they were not kept by the Agency.

## **License requirements for business entity as set forth under 24-A M.R.S.A. § 1413(1) and Producer licensing requirements as set forth under 24-A M.R.S.A. §1420-B**

### Unlicensed Producers

- Primary insurance carrier, 21 unlicensed producers wrote 596 policies
- Secondary insurance carrier (A), 3 unlicensed producers wrote 6 policies
- Secondary insurance carrier (B), 1 unlicensed producer wrote 1 policy

## **Producer appointment requirements as set forth under 24-A M.R.S.A. § 1420-M and Producer authority as set forth under 24-A M.R.S.A. § 1442**

We found that for all companies, the Agency failed to supervise the producers through the appointment process as specified in their procedures manual. This failure to supervise allowed the following:

- Primary insurance company, 69 producers wrote 8,140 policies without the proper appointment
- Secondary insurance company (A), 46 producers wrote 557 policies without the proper appointment
- Secondary insurance company (B), 23 producers wrote 78 policies without the proper appointment

In the process of reviewing Secondary insurance company applications, Market Regulation staff found several instances where the printed producer of record was crossed out and the name of a non-appointed producer written in. This confirmed the veracity of the original allegations that lead to this examination.

#### **Superintendent notification of changes in the designated responsible person as set forth under 24-A M.R.S.A. § 1413(3)**

On January 15, 2008, employment was terminated for the individual named as the designated responsible person for the Agency and, no new person was named. The Bureau identified the violation and sent a Termination Order on November 14, 2008. A new individual was named as the designated responsible person for the Agency effective November 17, 2008, and the termination order was rescinded.

#### **Superintendent notification of changes in individuals designated to act in the name of the entity as set forth under 24-A M.R.S.A. § 1413(4)**

The Agency did not seem to understand the process of producer affiliation notification to the Bureau. Their records of producer hire and termination dates were not consistent with the Bureau records.

#### **Recommendations**

The Agency should implement audit procedures for business placed with secondary carriers. Currently, only business placed with the primary carrier is audited. The audit should include document retention requirements and producer authority verification.

The Agency must understand and adhere to the Statutes regarding producer affiliation, producer licensing and producer appointment and conduct regular audits of their records to ensure proper and timely notification to the Superintendent.

## **Examination Report Submission**

The courteous cooperation extended to the examiners by the AAA NNE Insurance officers and employees during the course of the examination is gratefully acknowledged. In addition to the undersigned, Allan Armstrong, Mary Masi and Jan Smith participated in this examination and the preparation of this report.

Linette E. Gamache, CIC  
Sr. Insurance Examiner, Market Regulation