

# **MARKET CONDUCT EXAMINATION REPORT**

## **HOMESITE INDEMNITY COMPANY**

NAIC # 20419; Group #501

99 Bedford Street

Boston, MA 02111

ETS # KS057-M10

As of

August 31, 2011



**KANSAS INSURANCE DEPARTMENT**

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The Honorable Sandy Praeger  
Insurance Commissioner  
Kansas Insurance Department  
420 SW Ninth Street  
Topeka, KS 66612

Dear Commissioner Praeger:

In accordance with your respective authorization, and pursuant to K.S.A. 40-222, a market conduct examination has been conducted on the business affairs of:

Homesite Indemnity Company  
NAIC # 20419  
99 Bedford Street  
Boston, MA 02111

hereafter referred to as “Homesite” or the “Company”, the following report of such examination is respectfully submitted,

Stacy Rinehart, FLMI, MCM, CIE, AIRC  
Market Conduct Manager  
Examiner-in-Charge

## **PURPOSE AND SCOPE OF REVIEW**

A targeted market conduct examination of Homesite Indemnity Company, also referred to as the “Company”, was conducted pursuant to, but not limited to K.S.A. 40-222.

The Kansas Insurance Department (KID) reviewed the Company’s operations and management, complaint handling and claims processing relating to homeowners insurance. The review was performed at KID on electronic files provided by the Company. The review was conducted according to the guidelines and procedures recommended in the 2011 NAIC Market Regulation Handbook (MRH). The exam team utilized the standards and tests recommended in the Handbook which allows an error tolerance of 7% for claims procedures and 10% for all other categories. This examination report is written by test rather than by exception, which means all standards that were used are described and the results indicated. Silence on any NAIC standard or Company practice does not imply KID acceptance or endorsement of such practices. Applicable statutes and regulations cited throughout the report may be found in Appendix A.

The examination included a review of complaint and claim files for the exam period of January 1, 2010 through August 31, 2011. Interrogatories were submitted to the Company prior to the file review segment of the examination, and written responses were provided. The examination included, but was not limited to, company operations and management, history and profile, prior market conduct examination reports, fines and penalties, Certificates of Authority, internal audit procedures, complaint handling and claim processing.

## **EXECUTIVE SUMMARY**

A targeted market conduct examination of Homesite Indemnity Company, also referred to as the “Company”, was conducted pursuant to, but not limited to K.S.A. 40-222. The examination period was from January 1, 2010 through August 31, 2011. The primary focus of the exam was operations and management, complaint handling and claim processing related to homeowners insurance. The examination was called due to an increase in complaints and untimely responses to KID on numerous complaint files.

There were two issues noted in the area of complaint handling. One issue was concerning inaccuracies in the complaint register. The other issue was failure to respond timely to the Kansas Insurance Department upon receipt of complaint correspondence. Relating to claims handling, the main issues found were not investigating timely, not accepting or denying timely after receipt of proof of loss, and not sending required notices when claim files were still open after 45 days. Other violations were noted, but were below the error tolerance and not considered to be business practices.

Prior to the finalization of this exam report, the Company submitted to KID a detailed listing of the corrective actions they have either already put into place or are planning to implement in order to address the complaint and claim handling issues noted in the exam report. The exam team will follow up with the Company at a later date to ensure the issues have properly been addressed.

The exam team has made several recommendations based on the violations found during the examination, regardless of whether the standard was passed or failed. Additional details on each standard including percentages of compliance are found within the individual sections of this report.

### **Recommendations**

#### **COMPLAINT HANDLING**

1. The Company must ensure the required dates on the complaint register are accurate. The Company also should have a consistent manner in which to reflect any follow-up complaints on the log.
2. The Company should ensure all relevant documents are saved in order to recreate the files if necessary.
3. The Company must ensure adequate responses are sent to the Kansas Insurance Department on complaint files within the required timeframe.

[Note: The Company has indicated that changes have been implemented to address the issues with the complaint log inaccuracies as well as improve efficiencies in complaint handling.]

## **CLAIM HANDLING**

1. The Company must have procedures in place to ensure claims are investigated timely. When independent adjusters are used, there should be a mechanism to follow up to ensure reports are received timely.
2. The Company must ensure procedures are in place to accept or deny claims timely after receipt of proof of loss as well as to provide necessary notifications when claims are still being investigated.
3. The Company should ensure procedures are in place to respond to correspondence from claimants in the required timeframe.
4. The Company should ensure procedures are in place to maintain adequate file documentation.
5. The Company should ensure procedures are in place to consistently make fair and adequate claim settlements based on the policy provisions.

[Note: The Company has indicated several procedures and system enhancements have been or are in the process of being implemented to improve the claim investigation and communication processes.]

## DESK EXAMINATION/ON-SITE EXAMINATION

### OPERATIONS AND MANAGEMENT

#### I. History and Profile

[Based on Company response to interrogatories:]

Homesite Indemnity Company (“Homesite”) is a Kansas company, licensed to transact property, casualty and miscellaneous lines of insurance in its state of domicile since 1947. Homesite holds certificates of authority to write similar types of insurance in the states of Arizona, Colorado, Missouri, Nebraska, Nevada, New Mexico, Oklahoma, South Dakota, North Dakota, Texas, Utah and Wyoming. Homesite is a wholly owned subsidiary of Homesite Group Incorporated, a Delaware corporation (“HGI”).

Homesite Indemnity Company (the “Company”) is a Kansas domestic insurer with its statutory and main administrative offices located at 99 Bedford Street, Boston, MA 02111. The Company was incorporated under the name Cimarron Casualty Company on February 14, 1949. On September 20, 1959, the Company changed its name to Plains Insurance Company. On August 20, 1990, American Fidelity Corporation acquired the Company’s parent, Cimarron Investment Company, Inc., and contributed the acquired companies to its wholly-owned subsidiary, American Fidelity Assurance Company, who then contributed them to its subsidiary, American Fidelity Insurance Company. The Company was purchased on October 13, 1994, by Insurance Acquisition Corporation, a wholly-owned subsidiary of Crop Growers Corporation (CGC). CGC and all of its subsidiaries were acquired on August 13, 1997, by Fireman’s Fund Insurance Company (Fireman’s Fund) who then, on January 4, 1999 sold the common stock of the Company to Homesite Group Incorporated (“HGI”), an insurance holding company incorporated in Delaware. As a condition of the sale, the Company was renamed Homesite Indemnity Company. Homesite Indemnity Company holds thirteen certificates of authority and currently is writing in ten states.

The Company distributes and sells full service homeowners insurance products through its call center, its website and, most significantly, its partnerships with large financial institutions (“partner(s)”). The partners through whom the Company sells its products utilize varied distribution channels including exclusive agencies, independent agents, and through the internet.

Kansas Premiums:

<b>Company Name</b>	<b>Cocode</b>	<b>2010 Direct Written Premium</b>	<b>2009 Direct Written Premium</b>	<b>2008 Direct Written Premium</b>
Homesite Indemnity Company	20419	\$4,359,528	\$2,863,429	\$1,588,949

## **II. Prior Market Conduct Examination Reports**

The KID examination team requested all market conduct exams completed within the last three years. The only examination was conducted by the Arizona Department of Insurance for the period 1/01/2010-12/31/2010. This report did not reveal any areas that warranted additional review beyond the scope of the Kansas targeted examination.

## **III. Fines and/or Penalties**

The KID examination team reviewed the actions from other states regarding fines and penalties for the last five years and found nothing that warranted additional inspection beyond the scope of this targeted examination.

## **IV. Tests for Company Operations and Management**

### **Standard 1**

The regulated entity has an up-to-date, valid internal or external audit program.

The Company provided an Internal Audit Charter outlining the responsibility of the internal audit department as well as the Audit Standards Manual. The Internal Audit Standards are detailed and provide guidance on staffing, planning, conducting, testing, reviewing, and reporting procedures. There are no items of concern.

Result: Pass

Recommendation: None

### **Standard 7**

Records are adequate, accessible, consistent and orderly and comply with state record retention requirements.

The Company maintained adequate records as required and provided items to the exam team as requested with a few exceptions.

Result: Pass

Recommendation: None

### **Standard 8**

The regulated entity is licensed for the lines of business that are being written.



The Kansas Certificates of Authority were reviewed and were in compliance with Kansas law.

Result: Pass

Recommendation: None

**Standard 9**

The regulated entity cooperates on a timely basis with examiners performing the examinations.

The Company provided the exam team with the necessary documents and responses in a timely fashion.

Result: Pass

Recommendation: None

**COMPLAINT HANDLING**

The examiners reviewed the Company's procedures for handling various types of complaints. Also, the examiners reviewed a sample which contained 48 complaints. This represents all closed complaints in the exam period, and includes complaints received from the Kansas Insurance Department, Partners, direct from consumers, and the BBB. The "Number of Errors" included in the samples below are defined as the total number of complaints in the sample which contained errors.

**Standard 1**

All complaints are recorded in the required format on the company complaint register.

<b>Sample Type</b>	<b>Sample Size</b>	<b>Number of Errors</b>	<b>Percent Compliance</b>
Complaints	48	7	85%

The complaint log contained numerous inaccuracies related to the dates received and dates of final disposition. Seven of the initial complaints had an incorrect date on the log. There were also inconsistencies in the dates on follow up complaints and how they were recorded. As there are enough errors in the dates to not accurately reflect the complaints, the company is in violation of K.S.A. 40-2404(10).

Result: Fail

Recommendation: The Company must ensure the required dates on the complaint register are accurate. The Company should also have a consistent manner in which to reflect any follow-up complaints on the log.

**Standard 2**

The regulated entity has adequate complaint handling procedures in place and communicates such procedures to policyholders.

Sample Type	Sample Size	Number of Errors	Percent Compliance
Complaints	48	0	100%

Result: Pass

Recommendation: None

**Standard 3**

The regulated entity takes adequate steps to finalize and dispose of the complaint in accordance with applicable statutes, rules and regulations, and contract language.

Sample Type	Sample Size	Number of Errors	Percent Compliance
Complaints	48	4	92%

There were four claim-related complaint files that did not contain all related documentation and are in violation of K.A.R. 40-1-34, Section 4.

Result: Pass

Recommendation: The Company should ensure all relevant documents are saved in order to recreate the files if necessary.

**Standard 4**

The time frame within which the company responds to complaints is in accordance with applicable statutes, rules and regulations.

Sample Type	Sample Size	Number of Errors	Percent Compliance
Complaints	48	14	71%

There were 14 complaint files in which the Company did not respond to the Kansas Insurance Department within the required time frame. This is a violation of K.A.R. 40-1-34, Section 6(b).

Result: Fail

Recommendation: The Company must ensure adequate responses are sent to the Kansas Insurance Department on complaint files within the required timeframe.

**CLAIM HANDLING**

The examiners reviewed the Company’s claims procedures in addition to a review of actual claim files. The file review consisted of 106 claims processed during the exam period. The “Number of Errors” included in the samples below are defined as the total number of claims in the sample which contained errors.

**General Claim Standards**

**Standard 1**

The initial contact by the regulated entity with the claimant is within the required time frame.

Sample Type	Sample Size	Number of Errors	Percent Compliance
Claims	106	0	100%

Result: Pass

Recommendation: None

**Standard 2**

Timely investigations are conducted.

Sample Type	Sample Size	Number of Errors	Percent Compliance
Claims	106	18	83%

There were 18 claim files in which the Company failed to investigate within 30 days. Many of the files had the estimate performed by the independent adjuster in a timely manner, but they failed to submit it to the Company timely and the Company did not follow up within 30 days. This is a violation of K.A.R. 40-1-34, Section 7 as well as K.S.A. 40-2404(9)(c).

Result: Fail

Recommendation: The Company must ensure procedures are in place to investigate claims timely. When independent adjusters are used, there should be a mechanism to follow up to ensure reports are received timely.

**Standard 3**

Claims are resolved in a timely manner.

Sample Type	Sample Size	Number of Errors	Percent Compliance
Claims	106	15	86%

There were seven claim files that the company failed to accept or deny a claim within fifteen working days of receiving proof of loss as required by K.A.R. 40-1-34, Section 8(a). An issue observed in some of the files was a system error in which the claims staff was not notified of new claims documentation in the system, which led to some of the

delays. There were 11 claim files in which the company failed to send notice to the claimant after forty-five days with reasons the file was still being investigated as required by K.A.R. 40-1-34, Section 8(c).

Result: Fail

Recommendation: The Company must ensure procedures are in place to accept or deny claims timely and to provide necessary notifications when claims are still being investigated.

**Standard 4**

The regulated entity responds to claim correspondence in a timely manner.

Sample Type	Sample Size	Number of Errors	Percent Compliance
Claims	106	4	96%

There were four claim files in which the Company failed to respond to communications from the claimant within ten working days as required by K.A.R. 40-1-34, Section 6(c).

Result: Pass

Recommendation: The Company should ensure procedures are in place to respond to claimants timely.

**Standard 5**

Claim files are adequately documented.

Sample Type	Sample Size	Number of Errors	Percent Compliance
Claims	106	4	96%

There were four claim files that did not contain adequate documentation to reconstruct the claim as required by K.A.R. 40-1-34, Section 4.

Result: Pass

Recommendation: The Company should ensure procedures are in place to maintain adequate file documentation.

**Standard 6**

Claims are properly handled in accordance with policy provisions and applicable statutes (including HIPAA), rules and regulations.

Sample Type	Sample Size	Number of Errors	Percent Compliance
Claims	106	5	95%

There was one claim file in which the Company failed to provide necessary forms and/or instructions after receiving notification of the claim as required by K.A.R. 40-1-34,

Section 6(d). There were four claim files in which the Company attempted to settle the claim at an amount well below what was adequate to make repairs, and are in violation of K.A.R. 40-1-34, Section 8(e). Three claim files are in violation of K.S.A. 40-2404(9)(f) for not attempting in good faith to offer fair and equitable settlements. Two claim files are in violation of K.S.A. 40-2404(9)(a) for misrepresenting policy provisions related to the coverages.

Result: Pass

Recommendation: The Company should ensure procedures are in place to consistently make fair and adequate claim settlements based on the policy provisions.

**Standard 8**

Claim files are reserved in accordance with the regulated entity’s established procedures.

Sample Type	Sample Size	Number of Errors	Percent Compliance
Claims	106	0	100%

Result: Pass

Recommendation: None

**Standard 9**

Denied and closed-without-payment claims are handled in accordance with policy provisions and state law.

Sample Type	Sample Size	Number of Errors	Percent Compliance
Claims	106	0	100%

Result: Pass

Recommendation: None

**Standard 11**

Claim handling practices do not compel claimants to institute litigation, in cases of clear liability and coverage, to recover amounts due under policies by offering substantially less than is due under the policy.

Sample Type	Sample Size	Number of Errors	Percent Compliance
Claims	106	0	100%

Result: Pass

Recommendation: None

## **SUMMARIZATION**

This examination was conducted to review the operations and management, complaint handling and claim handling of the Company. Regarding complaint handling, there were issues noted in the exam period with discrepancies on the complaint register as well as the company not responding timely to the Kansas Insurance Department on complaint correspondence. On the claim handling review, the main problems noted were failure to investigate timely, failure to pay or deny after receiving proof of loss, and failure to send appropriate letters when a claim is still ongoing after 45 days. There were other violations found that do not appear to be business practices.

### **Recommendations**

#### **COMPLAINT HANDLING**

1. The Company must ensure the required dates on the complaint register are accurate. The Company also should have a consistent manner in which to reflect any follow-up complaints on the log.
2. The Company should ensure all relevant documents are saved in order to recreate the files if necessary.
3. The Company must ensure adequate responses are sent to the Kansas Insurance Department on complaint files within the required timeframe.

#### **CLAIM HANDLING**

1. The Company must have procedures in place to ensure claims are investigated timely. When independent adjusters are used, there should be a mechanism to follow up to ensure reports are received timely.
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3. The Company should ensure procedures are in place to respond to correspondence from claimants in the required timeframe.
4. The Company should ensure procedures are in place to maintain adequate file documentation.

5. The Company should ensure procedures are in place to consistently make fair and adequate claim settlements based on the policy provisions.

### CONCLUSION

I would like to acknowledge the cooperation and courtesy extended to the examination team by the Homesite Indemnity Company staff. The following examiners from the Office of the Commissioner of Insurance in the State of Kansas participated in the review:

#### Market Conduct Division

Stacy Rinehart  
Market Conduct Manager

Mary Lou Maritt  
Market Conduct Examiner

Claudia Perney  
Market Conduct Examiner

Respectfully submitted,



Stacy Rinehart, FLMI, MCM, CIE, AIRC  
Market Conduct Manager  
Examiner-In-Charge

## APPENDIX A

### **Related Kansas Insurance Statutes and Administrative Regulations**

#### **K.S.A. 40-222. Examinations**

(a) Whenever the commissioner of insurance deems it necessary but at least once every five years, the commissioner may make, or direct to be made, a financial examination of any insurance company in the process of organization, or applying for admission or doing business in this state. In addition, at the commissioner's discretion the commissioner may make, or direct to be made, a market regulation examination of any insurance company doing business in this state.

(b) In scheduling and determining the nature, scope and frequency of examinations of financial condition, the commissioner shall consider such matters as the results of financial statement analyses and ratios, changes in management or ownership, actuarial opinions, reports of independent certified public accountants and other criteria as set forth in the examiner's handbook adopted by the national association of insurance commissioners and in effect when the commissioner exercises discretion under this subsection.

(c) For the purpose of such examination, the commissioner of insurance or the persons appointed by the commissioner, for the purpose of making such examination shall have free access to the books and papers of any such company that relate to its business and to the books and papers kept by any of its agents and may examine under oath, which the commissioner or the persons appointed by the commissioner are empowered to administer, the directors, officers, agents or employees of any such company in relation to its affairs, transactions and condition.

...

(g) The refusal of any company, by its officers, directors, employees or agents, to submit to examination or to comply with any reasonable written request of the examiners shall be grounds for suspension or refusal of, or nonrenewal of any license or authority held by the company to engage in an insurance or other business subject to the commissioner's jurisdiction. Any such proceedings for suspension, revocation or refusal of any license or authority shall be conducted in accordance with the provisions of the Kansas administrative procedures act.

...

#### **K.S.A. 40-2404. Unfair methods of competition and unfair or deceptive acts or practices**

(9) Unfair claim settlement practices. It is an unfair claim settlement practice if any of the following or any rules and regulations pertaining thereto are: (A) Committed flagrantly and in conscious disregard of such provisions, or (B) committed with such frequency as to indicate a general business practice.

(a) Misrepresenting pertinent facts or insurance policy provisions relating to coverages at issue;



...

(c) failing to adopt and implement reasonable standards for the prompt investigation of claims arising under insurance policies;

...

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

...

(10) Failure to maintain complaint handling procedures. Failure of any person, who is an insurer on an insurance policy, to maintain a complete record of all the complaints which it has received since the date of its last examination under K.S.A. 40-222, and amendments thereto; but no such records shall be required for complaints received prior to the effective date of this act. The record shall indicate the total number of complaints, their classification by line of insurance, the nature of each complaint, the disposition of the complaints, the date each complaint was originally received by the insurer and the date of final disposition of each complaint. For purposes of this subsection, "complaint " means any written communication primarily expressing a grievance related to the acts and practices set out in this section.

#### **K.A.R. 40-1-34, Section 4. File and Record Documentation**

The insurer's claim files shall be subject to examination by the (Commissioner) or by his duly appointed designees. Such files shall contain all notes and work papers pertaining to the claim in such detail that pertinent events and the dates of such events can be reconstructed.

#### **K.A.R. 40-1-34, Section 6. Failure to Acknowledge Pertinent Communications**

...

(b) Every insurer, upon receipt of any inquiry from the insurance department respecting a claim shall, within fifteen working days of receipt of such inquiry, furnish the department with an adequate response to the inquiry.

(c) An appropriate reply shall be made within ten working days on all other pertinent communications from a claimant which reasonably suggest that a response is expected.

(d) Every insurer, upon receiving notification of claim, shall promptly provide necessary claim forms, instructions, and reasonable assistance so that first party claimants can comply with the policy conditions and the insurer's reasonable requirements. Compliance with this paragraph within ten working days of notification of a claim shall constitute compliance with subsection (a) of this section.

**K.A.R. 40-1-34, Section 7. Standards for Prompt Investigation of Claims**

Every insurer shall complete investigation of a claim within thirty days after notification of claim, unless such investigation cannot reasonably be completed within such time.

**K.A.R. 40-1-34, Section 8. Standards for Prompt, Fair and Equitable Settlements Applicable to All Insurers**

(a) Within fifteen working days after receipt by the insurer of properly executed proofs of loss, the first party claimant shall be advised of the acceptance or denial of the claim by the insurer. No insurer shall deny a claim on the grounds of a specific policy provision, condition, or exclusion unless reference to such provision, condition, or exclusion is included in the denial. The denial must be given to the claimant in writing and the claim file of the insurer shall contain a copy of the denial.

...

(c) If the insurer needs more time to determine whether a first party claim should be accepted or denied, it shall so notify the first party claimant within fifteen working days after receipt of the proofs of loss, giving the reasons more time is needed. If the investigation remains incomplete, the insurer shall, forty-five days from the date of the initial notification and every forty-five days thereafter, send to such claimant a letter setting forth the reasons additional time is needed for investigation.

...

(e) An insurer shall not attempt to settle a loss with a first party claimant on the basis of a cash settlement which is less than the amount the insurer would pay if repairs were made, other than in total loss situations, unless such amount is agreed to by the insured.

...