



OFFICE OF  
INSURANCE COMMISSIONER

In the Matter of	)	No. 15-0213
	)	
The Market Conduct Examination of	)	FINDINGS, CONCLUSIONS,
	)	AND ORDER ADOPTING REPORT
<b>American Pet Insurance Company, Inc.</b>	)	OF
	)	MARKET CONDUCT EXAMINATION
	)	
Authorized Foreign Insurer	)	

**BACKGROUND**

An examination of the market conduct of **American Pet Insurance Company, Inc.** (the Company) as of June 30, 2014 was conducted by examiners of the Washington Office of the Insurance Commissioner (OIC). The Company, domiciled in the state of New York, holds a Washington certificate of authority as a stock insurer. This examination was conducted in compliance with the laws and regulations of the state of Washington and in accordance with the procedures promulgated by the National Association of Insurance Commissioners and the OIC.

The examination report with the findings, instructions, and comments and recommendations (see Exhibit A) was transmitted to the Company for its comments on August 7, 2015. The Company's response to the report is attached to this order (see Exhibit B) only for the purpose of providing convenient review of the response.

The Commissioner or a designee has considered the report, the relevant portions of the examiners' work papers, and submissions by the Company.

Subject to the right of the Company to demand a hearing pursuant to Chapters 48.04 and 34.05 RCW, the Commissioner adopts the following findings, conclusions, and order.

**FINDINGS**

Findings in Examination Report. The Commissioner adopts as findings the findings of the examiners as contained in pages 3 through 76 of the report.



## CONCLUSIONS

It is appropriate and in accordance with law to adopt the attached examination report as the final report of the market conduct examination of **American Pet Insurance Company, Inc.** and to order the Company to take the actions described in the Instructions and Recommendations sections of the report. The Commissioner acknowledges that the Company may have implemented the Instructions prior to the date of this order. The Instructions in the report are an appropriate response to the matters found in the examination.

## ORDER

The market conduct examination report as filed, attached hereto as Exhibit A, and incorporated by reference, is hereby ADOPTED as the final examination report.

The Company is ordered as follows, this being the Instructions contained in the examination report on page 44.

1. The Company is ordered to comply with RCW 48.05.190 (1), RCW 48.30.050 and WAC 284-30-670 (5) and conduct all of its business in its own legal name. (Instruction 1, Page 44)
2. The Company is ordered to comply with RCW 48.05.280 and maintain full and adequate accounts and records of its assets, obligations, transactions and affairs. (Instruction 2, Page 44)
3. The Company is ordered to comply with RCW 48.18.480 and not make or permit any unfair discrimination between insureds or subjects of insurance having substantially like insuring risk, exposure factors and expense elements. (Instruction 3, Page 44)
4. The Company is ordered to comply with WAC 284-30-650 and promptly respond to any inquiry from the insurance commissioner relative to the business of insurance. (Instruction 4, Page 44)
5. The Company is ordered to comply with WAC 284-30-360 (2) and provide an adequate response to an inquiry from the commissioner within fifteen working days after receipt of the inquiry. (Instruction 5, Page 44)
6. The Company is ordered to comply with WAC 284-30-670 (5) and include the Company's NAIC code on all responses to inquiries from the commissioner. Instruction 6, Page 44)

7. The Company is ordered to comply with RCW 48.30.040 and not make, publish or disseminate any false, deceptive or misleading representation or advertising in the conduct of the business of insurance, or relative to the business of insurance. (Instruction 7, Page 44)
8. The Company is ordered to comply with RCW 48.30.060 and not assume or use any name which deceptively infers or suggests that it is an insurer. (Instruction 8, Page 44)
9. The Company is ordered to comply with RCW 48.30.140 (1) and RCW 48.30.140 (4) and stop using advertisements offering incentives that are not part of the Company's approved form filing. (Instruction 9, Page 44)
10. The Company is ordered to comply with RCW 48.30.150 (1)(c) and cease offering any prizes, goods, wares or merchandise of an aggregate value in excess of twenty five dollars as an inducement, or in connection with any insurance transaction. (Instruction 10, Page 44)
11. The Company is ordered to comply with RCW 48.17.060 (1) and RCW 48.17.490 (1, 4) and cease accepting insurance business from and paying commissions to producers in Washington state who are not licensed. (Instruction 11, Page 44)
12. The Company is ordered to comply with RCW 48.17.160 (1), RCW 48.17.160 (2) and WAC 284-17-429 (2) and cease accepting insurance business in Washington state from producers who are not appointed with the Company. (Instruction 12, Page 45)
13. The Company is ordered to comply with RCW 48.18.100 and only use policy forms that have been filed with and approved by the commissioner. (Instruction 13, Page 45)
14. The Company is ordered to comply with RCW 48.18.140 (2)(a)-(f) and to list all forms that constitute a complete policy on the policy Declarations. (Instruction 14, Page 45)
15. The Company is ordered to comply with RCW 48.18.190 and cease using unfiled emails to communicate policy modifications that are not made part of the policy. (Instruction 15, Page 45)
16. The Company is ordered to comply with WAC 284-20B-030 (4) and to assign a unique identifying number each form in use to provide a way to distinguish it

from other editions of the same form. (Instruction 16, Page 45)

17. The Company is ordered to comply with WAC 284-92-260 (1) and to cease selling policies in connection with purchasing groups without filed and approved rates and forms. (Instruction 17, Page 45)
18. The Company is ordered to comply with RCW 48.19.040 (6) and to cease issuing insurance contracts not in accordance with its rate filing then in effect. (Instruction 18, Page 45)
19. The Company is ordered to comply with RCW 48.18.260 (1) and to deliver a complete policy contract, including all endorsements and ancillary coverage forms to the insured or to the person entitled thereto within a reasonable period of time after its issuance. (Instruction 19, Page 45)
20. The Company is ordered to comply with RCW 48.18.290 (1)(c) and to mail cancellation notices to insureds at least ten days before the effective date of the cancellation. (Instruction 20, Page 45)
21. The Company is ordered to comply with RCW 48.18.290 (2) and to mail all cancellation notices in a sealed envelope, directed to the addressee at his or her last address as known to the insurer, with proper prepaid postage affixed, in a letter depository of the United States post office. The insurer shall retain in its records any such item so mailed together with its envelope, which was returned by the post office. (Instruction 21, Page 45)
22. The Company is ordered to comply with WAC 284-30-570 and to give the true and actual reason for canceling, denying, or refusing to renew insurance in clear and simple language on all policy cancellations, denials and renewals. (Instruction 22, Page 45)
23. The Company is ordered to comply with WAC 284-04-200 and to provide an initial notice of the Company's privacy policies and practices when it establishes a customer relationship with a customer. (Instruction 23, Page 46)
24. The Company is ordered to comply with WAC 284-04-205 and to provide an annual notice of the Company's privacy policies and practices to all customers until the termination of the customer relationship. (Instruction 24, Page 46)
25. The Company is ordered to comply with WAC 284-30-590 (8)(b) and to cancel policies that include conditions allowing the insured to cancel the policy effective the date the insured requests cancellation. (Instruction 25, Page 46)

IT IS FURTHER ORDERED THAT, the Company file with the Chief Market Conduct Examiner, within 90 days of the date of this order, a detailed report specifying how the Company has addressed each of the requirements of this order.

ENTERED at Olympia, Washington, this day of September 22, 2015.



MIKE KREIDLER  
Insurance Commissioner



August 31, 2015

**VIA USPS AND ELECTRONIC MAIL (TO: JEANETTEP@OIC.WA.GOV AND LESLIEK@OIC.WA.GOV)**

Gayle D. Pasero, CPCU  
Acting Deputy Insurance Commissioner  
Company Supervision Division  
P.O. Box 40255  
Olympia, WA 98504-0255

**RE: American Pet Insurance Company, NAIC #12190  
Market Conduct Examination Comments**

To Whom It May Concern:

Pursuant to your letter request dated on August 7, 2015, please find enclosed for your review a copy of our comments to the Draft Report of Market Conduct Examination of American Pet Insurance Company.

The enclosure is attached hereto as *Exhibit A*.

If you have any questions or comments, please feel let us know. Thank you.

Very Respectfully,

Tim Graff  
President, American Pet Insurance Company

Enclosure

cc: Louis Chames, AVP Regulatory and Compliance, American Pet Insurance Company  
Asher Bearman, General Counsel and Corporate Secretary, American Pet Insurance Company  
James T. Odiorne, Chief Deputy Insurance Commissioner  
Leslie A. Krier, Market Conduct Oversight Manager  
Jeanette Plitt, Chief Market Conduct Examiner

Order No. 15-0213  
American Pet Insurance Company, Inc.  
Exhibit B

907 NW Ballard Way  
Seattle, WA. 98107  
AmericanPetInsurance.com  
877.589.1841

**EXHIBIT A**

**Comments to the Draft Report of Market Conduct Examination of  
American Pet Insurance Company**

## **EXECUTIVE SUMMARY (Page 7)**

As a general matter, we believe it would be appropriate to include a subsequent events paragraph to each section where American Pet Insurance Company (the “Company”) has corrected the deficiencies noted during examination. We’ve included some of the subsequent events that we believe are pertinent and warrant inclusion below.

### **Background (Page 7)**

Opening Paragraph: We believe it’s more accurate to say that the Examiners determined that Company did not *consistently* use its full legal name in various aspects of its operations, which was not entirely resolved by June 2014.

### **Company Operations and Management (Page 8)**

We note that this section (and later sections) seem to use the terms ‘deficiency’ and ‘violation’ interchangeably when referring to an exam finding. We believe the concerns flagged should be classified as deficiencies, rather than ‘violations’; the latter implies that a legal conclusion has been made while the former suggests a finding of fact.

We also believe it is not accurate to say that the Company’s divisions had ‘no’ Legal/Compliance oversight – we assume the intended term was ‘insufficient’.

Finally, this section states in a couple of places that the Company did not have formal or informal audit policies or procedures or record retention policies; we agree that no formal policies existed in this regard, but the Company did have informal practices in all of these areas.

### **Producer Activity (Page 9)**

We request that a subsequent event sentence be added to clarify that we have since addressed this concern and obtained licensing for contact center representatives who might be engaged in sales/solicitations.

## **EXAMINATION FINDINGS (Page 11)**

### **Internal Audit (Page 13)**

As noted above, we disagree with the finding that the Company had no informal audit practices during the examination period.

It is true that the Company did not have formal audit procedures during the examination period; however, the Company has since implemented formal audit processes and procedures.

## **GENERAL EXAMINATION STANDARDS (Page 13)**

### **Standard #1 (Page 14)**

The statement that the Company presented the registered trademark brand name Trupanion in a way that insinuated it was the insurance company is a legal conclusion and is drafted in a way to suggest there was an intentional deception on the part of the Company, which we dispute. While we agree with the findings that the Company's legal name was not used consistently during the examination period, we do not believe that the Company's presentation to customers, in aggregate, was confusing in the manner suggested.

The Company's practices since the examination period have been modified, in addition to the subsequent event already noted, to address the Examiners' concerns:

*Subsequent events: 1) Starting in Q4 2014 the Company changed training in its contact center to ensure that existing and potential customers are not confused as to the insuring entity and 2) Also starting in Q4 2014 the marketing and communications team re-focused on the need to ensure that, in all forms of communication, the insured is not confused as to the insuring entity (and appreciates that American Pet Insurance Company is the insuring entity).*

### **Standard #2 (Page 15)**

We note that the findings in this section should be in the past tense to refer to the examination period.

The Company's practices since the examination period have been modified, which is relevant and should be noted:

*Subsequent events: Effective Q1 2014 we implemented more extensive recording of all inbound sales calls and migrated to a more robust call recording platform. We also introduced a validation process that compares the number of calls we are recording against the number of calls we received so we can react if we see variance. Starting in Q4 2014 the Company changed training in its contact center to reinforce that (a) personal email folders are not part of the process used to retain/store emails from and/or to customers, and (b) customer specific documents are not maintained and/or stored in individual email accounts. As respects the storage of policy documents, the Company has amended its policy administration system so all emailed policy renewal/change notices and declaration pages are stored and can be viewed. In phase two, to be completed near the end of 2015, a system change will be made that archives all sent emails. This will allow a user to view the sent email and all attached policy documents in the same manner WA OIC auditors viewed the documents. This archive system will permanently keep these records.*

### **Standard #7 (Page 16)**

The Company's practices since the examination period have been modified, which is relevant and should be noted:

*Subsequent events: In light of the Examiners' stated concerns, the Company is in the process of creating a formal system to allow customers to sign up without an email address, it being understood that the Company is constrained from executing an easy and fast solution to address this issue by the paperless design/processes inherent in its policy administration system.*

### **COMPLAINT ACTIVITY (Page 17)**

#### **Findings (Page 18)**

The Company's practices since the examination period have been modified, which is relevant and should be noted after the first paragraph:

*Subsequent events: Starting in Q1 2015 the Company has developed a new company-wide complaint log tracking tool to better define a 'complaint' and to track and manage the very low number of complaints it receives to ensure that a) any complaints are tracked and managed consistently, b) responses to its customers are made on a timely basis and in compliance with applicable laws such as WAC 284-30-360(2), and (c) responses to customers that have made a complain clearly identify APIC as the insurer and state APIC's NAIC code.*

### **MARKETING AND SALES (Page 19)**

#### **Standard #1 (Page 22)**

The Company's practices since the examination period have been modified, which is relevant and should be noted:

*Subsequent Event: 1) Starting in Q4 2014, the Company changed training in its contact center to ensure that existing and potential customers are not confused as to the insuring entity, and 2) also starting in Q4 2014, the Company re-trained the marketing and communications team to ensure awareness of the need to ensure that, in all forms of communication, the insured is not confused as to the insuring entity within Trupanion, Inc.'s corporate structure.*

#### **PetPartners Policy (Page 23)**

The Company's practices since the examination period have been modified, which is relevant and should be noted:

*Subsequent Event: The Company has worked extensively with PetPartners, Inc. to ensure that policies and certificates issued in the state of Washington are consistent with the*

*rates, rules and forms approved in the state. The Company has re-trained PetPartners to ensure that they include the legal name of the Company in advertising materials and follows the formal process for approving advertising. The Company can confirm that PetPartners, Inc. no longer uses their former 60 day trials.*

## **PRODUCER ACTIVITY (Page 25)**

### **Producer Activity Review (Page 25)**

The Company's practices since the examination period have been modified, which should be noted at the end of this introductory section:

*Subsequent Event: In light of the Examiners' stated concerns, the Company now ensures that its call center representatives have the applicable Washington State insurance producer licenses if they might be engaged in activities that could be considered sales or solicitations with residents of the state of Washington. As a result, all sales calls with Washington residents that could be treated as a sale or solicitation are now being handled by a licensed representative.*

### **Trupanion Policy (Page 25)**

#### **Standard #1 (Page 26)**

In addition to the subsequent event noted, the Company's practices with animal shelters since the examination period have been modified, which is relevant and should be noted:

*Subsequent Event: Effective Q1 2015, the Company renegotiated all of its agreements with animal shelters. Under the terms of the new agreements, there is no requirement for certificate activations or conversions and there is no payment made to the shelter that is tied to any form of activity by the shelter; any payments to the shelter are donations that are made regardless of certificate activation or conversion.*

#### **Standards #2 and #3 (Page 27-28)**

The Company's practices since the examination period have been modified, which is relevant and should be noted:

*Subsequent Event: The Company previously terminated its relationship with The Glenkirk Agency and Country Financial and has provided WA OIC with copies of the termination notices.*

#### **Standards #5 and #6 (Page 28)**

We believe the findings in this section should be characterized in the past-tense and we would ask that our subsequent remediation (per the above standards) be reflected here as well.

### **PetPartners Policy (Page 28)**

We reiterate our general comments above. In addition, the Company's practices with respect to the licensing of PetPartners contact center staff since the examination period have been modified, which is relevant and should be noted:

*Subsequent Event: PetPartners Inc. as the corporate entity and its contact center staff are now fully and appropriately licensed and appointed as a corporate entity, as reflected in documentation provided to WA OIC.*

### **FORM FILING (Page 29)**

#### **Trupanion Policy (Page 30)**

The Company's practices since the examination period have been modified, which is relevant and should be noted:

*Subsequent Events: Commencing in Q2 2015, the company amended its customer renewal billing process such that on the required annual anniversary notification date, the customer receives a new declaration page and their applicable policy wording, including any coverage riders that the customer may have added to their policy. Also, additional quality assurance testing and review procedures have been implemented to confirm the use of correct document versions.*

#### **PetPartners Policy (Page 32)**

The Company's practices since the examination period have been modified, which is relevant and should be noted:

*Subsequent Events: The Company has worked extensively with PetPartners, Inc. to ensure that policies and certificates issued in the state of Washington are consistent with the rates, rules and forms approved in the state. The Company can confirm that PetPartners, Inc. no longer uses their former 60 day trials.*

### **RATE FILING (Page 34)**

#### **Standard #3 (Page 35)**

These findings should be expressed in the past tense.

In addition to the subsequent event noted, the Company's practices since the examination period have been modified, which is relevant and also should be noted:

*Subsequent Event: The Company determined that the deductible structure associated with its certificate program was too complex to be administered correctly on a consistent basis. Accordingly, the Company elected to amend the program to consistently apply a*

*\$250 deductible regardless of pet age, the comprehensiveness of the exam, etc. The revised program has been filed and approved in 48 states and one simple, consistent and easy to understand deductible of \$250 now applies in all states where the certificate program exists. Due to our ongoing dialogue with WA OIC regarding our February 2014 rate filing, the \$250 deductible program has not yet been approved in Washington. To resolve this timing issue, we are temporarily offering Washington residents only a \$250 deductible option, which we believe is a) contemplated by our current approved filing, b) non-discriminatory and c) and an improvement in the customer experience for WA residents.*

## **POLICY ADMINISTRATION AND UNDERWRITING (Page 38)**

### **Standard #3 (Page 40)**

As previously noted, the Company's practices since the examination period have been modified, which is relevant and should be noted.

### **Standards #6, #7 and #12 (Page 41)**

The Company's practices since the examination period have been modified, which is relevant and should be noted:

*Subsequent Events: In light of the Examiners' comments, the Company has revised its cancellation notices to clarify the reasons for cancellation. The Company also changed its systems to ensure that it can more easily track the date and time cancellation notices are sent. Finally, the Company has been developing plans to allow it to issue physical, hard copy cancellation notices via US Postal Service. We note that, as the company operates via a paperless, email, website driven platform there is no easy or fast solution to some of the stated concerns; however, we are currently exploring options with external printing vendors to fulfill paper cancellation printing and mailing.*

### **Standard #14 and #15 (Page 41-42)**

The Company's practices since the examination period have been modified, which is relevant and should be noted:

*Subsequent Event: Effective in Q4 2015, the Company will implement a change within its policy administration system that will send all of its customers its Privacy Policy with enrollment and on an annual basis.*

**Standard #16 (Page 42)**

The Company's practices since the examination period have been modified, which is relevant and should be noted:

*Subsequent Event: Effective in Q1 2015, the Company implemented new processes to ensure that cancellations are processed to be effective on the date requested by the customer.*