



**COMMONWEALTH OF PENNSYLVANIA  
INSURANCE DEPARTMENT**

MARKET CONDUCT  
EXAMINATION REPORT

OF

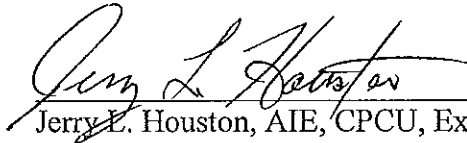
**SELECTIVE INSURANCE COMPANY OF  
THE SOUTHEAST  
BRANCHVILLE, NJ**

As of: June 3, 2013  
Issued: July 19, 2013

**BUREAU OF MARKET ACTIONS  
PROPERTY AND CASUALTY DIVISION**

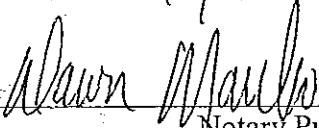
VERIFICATION

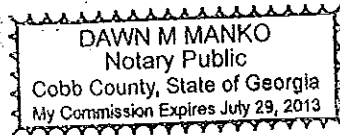
Having been duly sworn, I hereby verify that the statements made in the within document are true and correct to the best of my knowledge, information and belief. I understand that false statements made herein are subject to the penalties of 18 Pa. C.S. §4903 (relating to false swearing).

  
Jerry L. Houston, AIE, CPCU, Examiner-In-Charge

Sworn to and Subscribed Before me

This 14, Day of May, 2013

  
Notary Public



SELECTIVE INSURANCE COMPANY OF THE SOUTHEAST

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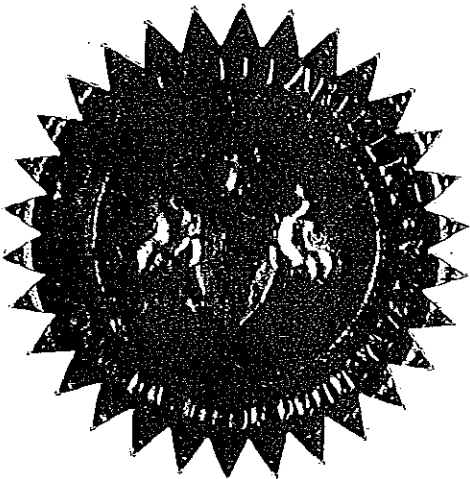
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BEFORE THE INSURANCE COMMISSIONER  
OF THE  
COMMONWEALTH OF PENNSYLVANIA

ORDER

AND NOW, this 27<sup>th</sup> day of April, 2011, in accordance with Section 905(c) of the Pennsylvania Insurance Department Act, Act of May 17, 1921, P.L. 789, as amended, P.S. § 323.5, I hereby designate Ronald A. Gallagher, Deputy Insurance Commissioner, to consider and review all documents relating to the market conduct examination of any company and person who is the subject of a market conduct examination and to have all powers set forth in said statute including the power to enter an Order based on the review of said documents. This designation of authority shall continue in effect until otherwise terminated by a later Order of the Insurance Commissioner.



  
Michael F. Consedine  
Insurance Commissioner

BEFORE THE INSURANCE COMMISSIONER  
OF THE  
COMMONWEALTH OF PENNSYLVANIA

IN RE: : VIOLATIONS:  
:  
SELECTIVE INSURANCE COMPANY : Section 4(h) of the Act of June 11,  
OF THE SOUTHEAST : 1947, P.L. 538, No. 246 (40 P.S. §  
SELECTIVE INSURANCE COMPANY : 1184  
OF AMERICA :  
SELECTIVE INSURANCE COMPANY : Act 1990-6, Sections 1725, 1731(c)(1)  
OF SOUTH CAROLINA : 1734, 1738(d)(1)(2), 1791,  
40 Wantage Avenue : 1791.1(a)(b), 1792(b)(1) and 1793(b)  
Branchville, NJ 07890 : (Title 75, Pa.C.S. §§1725, 1731, 1734  
: 1738, 1791, 1792 and 1793)  
:  
: Sections 2003(a)(1) and 2006(2) of  
: Act 68 of 1998 (40 P.S. §§991.2003  
: and 991.2006)  
:  
Respondents. : Docket No. MC13-06-002

CONSENT ORDER

AND NOW, this 19<sup>th</sup> day of July, 2013, this Order is hereby  
issued by the Insurance Department of the Commonwealth of Pennsylvania pursuant  
to the statutes cited above and in disposition of the matter captioned above.

1. Respondents hereby admits and acknowledges that it has received proper  
notice of its rights to a formal administrative hearing pursuant to the Administrative  
Agency Law, 2 Pa.C.S. §101, et seq., or other applicable law.

2. Respondents hereby waives all rights to a formal administrative hearing in this matter, and agrees that this Consent Order shall have the full force and effect of an order duly entered in accordance with the adjudicatory procedures set forth in the Administrative Agency Law, supra, or other applicable law.

### FINDINGS OF FACT

3. The Insurance Department finds true and correct each of the following Findings of Fact:

- (a) Respondents are Selective Insurance Company of the Southeast, Selective Insurance Company of America and Selective Insurance Company of South Carolina and maintains its offices at 40 Wantage Avenue, Branchville, New Jersey 07890.
- (b) A market conduct examination of Respondents was conducted by the Insurance Department covering the period from January 1, 2011 through December 31, 2011.
- (c) On June 3, 2013, the Insurance Department issued a Market Conduct Examination Report to Respondents.
- (d) A response to the Examination Report was provided by Respondents on July 2, 2013.

(e) The Examination Reports note violations of the following:

- (i) Section 4(h) of the Casualty and Surety Rate Regulatory Act, No. 246 (40 P.S. § 1184), which requires every insurer to file with the Insurance Commissioner every manual of classifications, rules and rates, every rating plan and every modification of any rating plan which it proposes to use in this Commonwealth and prohibits an insurer from making or issuing a contract or policy with rates other than those approved;
- (ii) Section 1725 of Act 1990-6, Title 75, Pa.C.S. § 1725, which requires every motor vehicle insurance policy to contain a notice whether the policy covers collision damage to rental vehicles, and any limitations on such coverage. The notice shall be written in clear, plain language and shall be printed on the first page of the policy in boldface capital letters;
- (iii) Section 1731(c)(1) of Act 1990-6, Title 75, Pa.C.S. § 1731, which states on policies in which either uninsured or underinsured motorist coverage has been rejected, the policy renewals must contain notice in prominent type that the policy does not provide protection against damages caused by uninsured or underinsured motorists;

- (iv) Section 1734 of Act 1990-6, Title 75, Pa.C.S. § 1734, which allows a named insured to request in writing the issuance of coverages under Section 1731 in amount equal to or less than the limits of liability for bodily injury;
- (v) Section 1738(d)(1)(2) of Act 1990-6, Title 75, Pa.C.S. §1738(d)(1)(2), which requires the named insured to be informed that he may exercise the waiver of stacked limits for uninsured and underinsured motorist coverage by signing written rejection forms;
- (vi) Section 1791 of Act 1990-6, Title 75, Pa.C.S. § 1791, which states it shall be presumed that the insured has been advised of the benefits available under this chapter provided the notice is given to the insured at time of application;
- (vii) Section 1791.1(a) of Act 1990-6, Title 75, Pa.C.S. § 1791, which requires that at the time of application for original coverage and every renewal thereafter, an insurer must provide to an insured an itemized invoice listing the minimum motor vehicle insurance coverage levels mandated by the commonwealth and the premium charge for the insured to purchase the minimum mandated coverages. The invoice must contain the following notice in print of no less than ten-point type: "The laws of the Commonwealth of Pennsylvania, as enacted by the General Assembly,



only require you to purchase liability and first-party medical benefit coverages. Any additional coverage or coverages in excess of the limits required by law are provided only at your request as enhancements to basic coverages.” The insurer shall provide the itemized invoice to the insured in conjunction with the declaration of coverage limits and premiums for the insured’s existing coverages;

(viii) Section 1791.1(b) of Act 1990-6, Title 75, Pa.C.S. § 1791, which requires an insurer to provide an insured with a notice of the availability of two alternatives of full tort insurance and limited tort insurance;

(ix) Section 1792(b)(1) of Act 1990-6, Title 75, Pa.C.S. § 1792(b)(1), which requires every private passenger automobile insurance policy providing collision coverage to provide a deductible in the amount of \$500.00 for collision coverage, unless the named insured signs a statement indicating the insured is aware that the purchase of a lower deductible is permissible and that there is an additional cost of purchasing a lower deductible and the insured agrees to accept it;

(x) Section 1793(b) of Act 1990-6, Title 75, Pa. C.S. § 1793, which requires the insurer to provide to the insured a surcharge disclosure plan. The insurer providing the surcharge disclosure plan shall detail the provisions of the plan and shall deliver the plan to each insured at least once annually.

Additionally, the surcharge information plan shall be given to each prospective insured at the time application is made for motor vehicle insurance coverage;

(xi) Section 2003(a)(1) of Act 68 (40 P.S. § 991.2003(a)(1)), which states that an insurer may not cancel or refuse to write a policy of automobile insurance based upon age;

(xii) Section 2006(2) of Act 68 of 1998 (40 P.S. § 991.2006), which prohibits a cancellation or refusal to renew from being effective unless the insurer delivers or mails a written notice of the cancellation or refusal to renew, which will include the date, not less than 60 days after the date of mailing or delivery, on which the cancellation or refusal to renew shall become effective. When the policy is being cancelled or not renewed for reasons set forth in Sections 2004(1) and (2), however, the effective date may be 15 days from the date of mailing or delivery;

#### CONCLUSIONS OF LAW

4. In accord with the above Findings of Fact and applicable provisions of law, the Insurance Department makes the following Conclusions of Law:

- (a) Respondents are subject to the jurisdiction of the Pennsylvania Insurance Department.
  
- (b) Respondents' violations of Section 4(h) of the Casualty and Surety Rate Regulatory Act, No. 246 (40 P.S. § 1184) is punishable under Section 16 of the Casualty and Surety Rate Regulatory Act:
  - (i) imposition of a civil penalty not to exceed \$50 for each violation or not more than \$500 for each such willful violation;
  
  - (ii) suspension of the license of any insurer which fails to comply with an Order of the Commissioner within the time limited by such Order, or any extension thereof which the Commissioner may grant.
  
- (c) Respondents' violations of Section 2003(a)(1), of Act 68 of 1998 (40 P.S. §§991.2003) is punishable under Section 2013 of Act 68 of 1998 (40 P.S. §991.2013), which establishes any individual or insurer who violates any provisions of this article may be sentenced to pay a fine not to exceed five thousand dollars (\$5,000).
  
- (d) Respondents' violations of Section 2006(2) of Act 68 of 1998 is punishable by the following, under Section 2013 of the Act (40 P.S. §991.2013): Any individual or insurer who violates any of the provisions of

this article may be sentenced to pay a fine not to exceed five thousand dollars (\$5,000.00).

ORDER

5. In accord with the above Findings of Fact and Conclusions of Law, the Pennsylvania Insurance Department orders and Respondents consent to the following:

- (a) Respondents shall cease and desist from engaging in the activities described herein in the Findings of Fact and Conclusions of Law.
- (b) Respondents shall file an affidavit stating under oath that it will provide each of its directors, at the next scheduled directors meeting, a copy of the adopted Report and related Orders. Such affidavit shall be submitted within thirty (30) days of the date of this Order.
- (c) Respondents shall comply with all recommendations contained in the attached Report.
- (d) Respondents shall pay Twenty Thousand Dollars (\$20,000.00) to the Commonwealth of Pennsylvania in settlement of all violations contained in the Report.

(e) Payment of this matter shall be made by check payable to the Pennsylvania Insurance Department. Payment should be directed to Cherie Leese, Administrative Officer, Bureau of Market Actions, 1321 Strawberry Square, Harrisburg, Pennsylvania 17120. Payment must be made no later than thirty (30) days after the date of this Order.

6. In the event the Insurance Department finds that there has been a breach of any of the provisions of this Order, based upon the Findings of Fact and Conclusions of Law contained herein may pursue any and all legal remedies available, including but not limited to the following: The Insurance Department may enforce the provisions of this Order in the Commonwealth Court of Pennsylvania or in any other court of law or equity having jurisdiction; or the Insurance Department may enforce the provisions of this Order in an administrative action pursuant to the Administrative Agency Law, supra, or other relevant provision of law.

7. Alternatively, in the event the Insurance Department finds that there has been a breach of any of the provisions of this Order, the Department may declare this Order to be null and void and, thereupon, reopen the entire matter for appropriate action pursuant to the Administrative Agency Law, supra, or other relevant provision of law.


8. In any such enforcement proceeding, Respondents may contest whether a breach of the provisions of this Order has occurred but may not contest the Findings of Fact and Conclusions of Law contained herein.

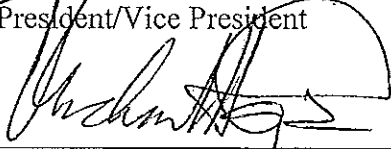
9. Respondents hereby expressly waive any relevant statute of limitations and application of the doctrine of laches for purposes of any enforcement of this Order.

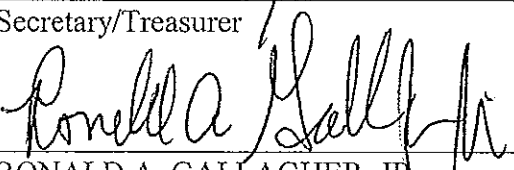
10. This Order constitutes the entire agreement of the parties with respect to the matters referred to herein, and it may not be amended or modified except by an amended order signed by all the parties hereto.

11. This Order shall be final upon execution by the Insurance Department. Only the Insurance Commissioner or a duly authorized delegee is authorized to bind the Insurance Department with respect to the settlement of the alleged violations of law contained herein, and this Consent Order is not effective until executed by the Insurance Commissioner or a duly authorized delegee.

BY: SELECTIVE INSURANCE COMPANY OF  
SOUTHEAST, SELECTIVE INSURANCE  
COMPANY OF AMERICA AND  
SELECTIVE INSURANCE COMPANY OF  
SOUTH CAROLINA,  
Respondents

  
\_\_\_\_\_  
President/Vice President

  
\_\_\_\_\_  
Secretary/Treasurer

  
\_\_\_\_\_  
RONALD A. GALLAGHER, JR.  
Deputy Insurance Commissioner  
Commonwealth of Pennsylvania

## I. INTRODUCTION

The Market Conduct Examination was conducted at Selective Insurance Company of the Southeast, hereinafter referred to as "Company", located in Branchville, New Jersey, from September 24, 2012 through February 14, 2013, and in the office of the Pennsylvania Insurance Department.

The Pennsylvania Market Conduct Examination Report, hereinafter referred to as "Report", generally notes only those items to which the Department, after review, takes exception. However, the Report may include management recommendations addressing areas of concern noted by the Department, but for which no statutory violation was identified. This enables Company management to review those areas of concern in order to determine the potential impact upon Company operations or future compliance. A violation is any instance of Company activity that does not comply with an insurance statute or regulation. Violations contained in the Report may result in imposition of penalties.

In certain areas of review listed in this Report, the examiners will refer to "error ratio." This error ratio is calculated by dividing the number of policies with violations by the total number of policies reviewed. For example, if 100 policies are reviewed and it is determined that there are 20 violations on 10 policies, the error ratio would be 10%.

Throughout the course of the examination, Company officials were provided with status memoranda, which referenced specific policy numbers with citation to each section of law violated. Additional information was requested to clarify apparent violations. An exit conference was conducted with Company personnel to discuss the various types of violations identified during the examination and review written summaries provided on the violations found.



The courtesy and cooperation extended by the officers and employees of the Company during the course of the examination is hereby acknowledged.

The following examiners participated in this examination and in preparation of the Report.

Constance L. Arnold, MCM  
Market Conduct Division Chief

Jerry L. Houston, AIE, CPCU  
Market Conduct Examiner

## II. SCOPE OF EXAMINATION

The Market Conduct Examination was conducted on Selective Insurance Company of the Southeast at its office located in Branchville, New Jersey, and in the office of the Pennsylvania Insurance Department in Harrisburg, Pennsylvania. The examination was conducted pursuant to Sections 903 and 904 (40 P.S. §§323.3 and 323.4) of the Insurance Department Act and covered the experience period of January 1, 2011 through December 31, 2011, unless otherwise noted. The purpose of the examination was to determine the Company's compliance with Pennsylvania insurance laws and regulations.

The examination focused on Company operations in the following areas:

1. Underwriting Practices and Procedures
2. Private Passenger Automobile
  - Rating – Proper use of all classification and rating plans and procedures.
3. Forms
4. Complaints
5. Data Integrity

### III. COMPANY HISTORY AND LICENSING

Selective Insurance Company of the Southeast is a stock corporation. The Company was incorporated as Southeast Insurance Company (SIC) under the laws of North Carolina on September 26, 1980, to serve as the vehicle for an internal change in ownership of the Southeastern Fire Insurance Company (SFIC) which was acquired by Selective Insurance Company of America on July 1, 1980 from Barclays American Corporation in Charlotte, North Carolina. SIC merged with the former SFIC on March 2, 1981 and changed its name to Selective Insurance Company of the Southeast.

#### LICENSING

Selective Insurance Company of the Southeast's Certificate of Authority to write business in the Commonwealth was last issued on April 1, 2013. The Company is currently licensed in Alabama, Connecticut, Delaware, District of Columbia, Florida, Georgia, Illinois, Indiana, Iowa, Kentucky, Louisiana, Maine, Maryland, Massachusetts, Michigan, Minnesota, Mississippi, Missouri, New Jersey, New York, North Carolina, Ohio, Oklahoma, Oregon, Pennsylvania, Rhode Island, South Carolina, South Dakota, Tennessee, Texas, Virginia, West Virginia and Wisconsin. The Company's 2010 annual statement reflects Direct Written Premium for all lines of business in the Commonwealth of Pennsylvania as \$45,353,585. Premium volume related to the area of this review was: Private Passenger Automobile Direct Written Premium was reported as Private Passenger Auto No-Fault \$1,988,834; Other Private Passenger Auto Liability \$9,661,273 and Private Passenger Auto Physical Damage \$6,780,291.

#### IV. UNDERWRITING PRACTICES AND PROCEDURES

As part of the examination, the Company was requested to supply manuals, underwriting guides, bulletins, directives or other forms of underwriting procedure communications for each line of business being reviewed. MATRIX Automobile General Eligibility Guidelines and Binding Authority was provided for review.

The following finding was made:

*1 Violation Act 68, Section 2003(a)(1) [40 P.S. §991.2003(a)(1)]*

*Adjudication: Aetna Casualty & Surety Companies, MC90-03-24 (1991).*

Discrimination Prohibited – (a) An insurer may not cancel or refuse to write or renew a policy of automobile insurance for any of the following reasons: Age. Underwriting guidelines which require an insured to have 5 to 9 years of driving experience unfairly discriminate against youthful operators and are impermissible. The Company cannot discriminate by not allowing drivers with less than 6 years driving experience to be eligible.

## V. RATING

### **A. Private Passenger Automobile**

#### 1. New Business

New business, for the purpose of this examination, is defined as policies written for the first time by the Company during the experience period.

The primary purpose of the review was to measure compliance with Act 246, Sections 4(a) and (h) [40 P.S. §1184], which requires every insurer to file with the Insurance Commissioner every manual of classifications, rules and rates, every rating plan and every modification of any rating plan, which it proposes to use in the Commonwealth. Also, no insurer shall make or issue a contract or policy except in accordance with filings or rates, which are in effect at the time. Files were also reviewed to determine compliance with all provisions of Act 6 of 1990 and Act 68, Section 2005(c) [40 P.S. §991.2005(c)], which requires insurers to provide to insureds a detailed statement of the components of a premium and shall specifically show the amount of surcharge or other additional amount that is charged as a result of a claim having been made under a policy of insurance, or as a result of any other factors.

The Company uses an automated system to process and issue personal automobile policies. In order to verify the automated system, several policies were manually rated to ensure the computer had been programmed correctly. Once the computer programming had been verified, only the input data needed to be verified. By reviewing base premiums, territory assignments, rating symbols, classifications and surcharge disclosures, the examiners were able to determine compliance with the Company's filed and approved rating plans.

Automobile Rating – New Business without Surcharges

From the universe of 1,723 private passenger automobile policies identified as new business without surcharges by the Company, 75 files were selected for review. All 75 files were received and reviewed. One hundred ninety-one (191) violations identified by the Company occurred during the years 2004 through 2011. The remaining 5,172 violations noted were based on the universe of 1,723, resulting in an error ratio of 100%.

The following findings were made:

*191 Violations Act 246, The Casualty and Surety Rate Regulatory Act,  
Section 4 (40 P.S. §1184)*

Requires every insurer to file with the Insurance Commissioner every manual of classifications, rules and rates, every rating plan and every modification of any rating plan, which it proposes to use in the Commonwealth. Also, no insurer shall make or issue a contract or policy except in accordance with filings or rates, which are in effect at the time of issue. The examiners identified a rating error regarding the driver improvement discount and asked the Company to provide information relative to this error and the number of policies affected. The Company advised the Department of a computer programming error which failed to apply a 5% mature driver improvement course discount to the increased limits portion of uninsured and underinsured motorist coverage which resulted in overcharges of \$2,716.44.

*1 Violation Title 75, Pa. C.S. §1791*

Requires the Company to advise the insured of the benefits and limits available under this Chapter in bold print of at least ten-point type at the time of application for original coverage. The notice provided by the Company contained different amounts of coverage than the statutory form.

*1,723 Violations Title 75, Pa. C.S §1791.1(b)*

Requires an insurer to provide an insured a notice of the availability of two alternatives of full tort insurance and limited tort insurance. The Company failed to provide the notice of tort options to the insured at the time of application.

*1,723 Violations Title 75, Pa. C.S. §1793(b)*

Requires the insurer to provide to the insured a copy of their surcharge disclosure plan. The insurer providing the surcharge disclosure plan shall detail the provisions of the plan and the plan shall be delivered to each insured by the insurer at least once annually. Additionally, the surcharge information plan shall be given to each prospective insured at the time application is made for motor vehicle insurance coverage. The Company failed to provide the notice at the time of application.

*2 Violations Title 75, Pa. C.S. §1738(d)(1)&(2)*

The named insured shall be informed that he may exercise the waiver of stacked limits for uninsured and underinsured motorist coverage by signing written rejection forms. The Company did not provide the signed rejection forms of

stacked limits for uninsured and underinsured motorists coverage for the 2 files noted.

*1,723 Violations Title 75, Pa. C.S. §1725*

Every motor vehicle insurance policy shall contain a notice as to whether the policy covers collision damage to rental vehicles, and any limitations on such coverage. The notice shall be written in clear, plain language and shall be printed on the first page of the policy in boldface capital letters. The Company provided the required notice but it was not in boldface print.

Auto Rating – New Business with Surcharges

From the universe of 213 private passenger automobile policies identified as new business with surcharges by the Company, 50 files were selected for review. All 50 files were received and reviewed. Twenty-six (26) violations identified by the Company occurred during the years 2004 through 2011. The remaining 644 violations noted were based on the universe of 213, resulting in an error ratio of 100%.

The following findings were made:

*26 Violations Act 246, The Casualty and Surety Rate Regulatory Act, Section 4 (40 P.S. §1184)*

Requires every insurer to file with the Insurance Commissioner every manual of classifications, rules and rates, every rating plan and every modification of any rating plan, which it proposes to use in the Commonwealth. Also, no insurer shall make or issue a contract or policy except in



accordance with filings or rates, which are in effect at the time of issue. The examiners identified a rating error regarding the driver improvement discount and asked the Company to provide information relative to this error and the number of policies affected. The Company advised the Department of a computer programming error which failed to apply a 5% mature driver improvement course discount to the increased limits portion of uninsured and underinsured motorist coverage which resulted in overcharges of \$338.22.

*213 Violations Title 75, Pa. C.S §1791.1(b)*

Requires an insurer to provide an insured a notice of the availability of two alternatives of full tort insurance and limited tort insurance. The Company failed to provide the notice of tort options to the insured at the time of application.

*213 Violations Title 75, Pa. C.S. §1793(b)*

Requires the insurer to provide to the insured a copy of their surcharge disclosure plan. The insurer providing the surcharge disclosure plan shall detail the provisions of the plan and the plan shall be delivered to each insured by the insurer at least once annually. Additionally, the surcharge information plan shall be given to each prospective insured at the time application is made for motor vehicle insurance coverage. The Company failed to provide the notice at the time of application.

*1 Violation Title 75, Pa. C.S. §1791*

Requires the Company to advise the insured of the benefits and limits available under this Chapter in bold print of at least ten-point type at the time of application for original coverage. The notice provided by the Company contained different amounts of coverage than the statutory form.

*2 Violations Title 75, Pa. C.S. §1792(b)(1)*

Requires every private passenger automobile insurance policy providing collision coverage to provide a deductible in the amount of \$500.00 for collision coverage, unless the named insured signs a statement indicating the insured is aware that the purchase of a lower deductible is permissible and that there is an additional cost of purchasing a lower deductible and the insured agrees to accept it. The Company failed to provide the signed statement from the insured requesting a deductible less than \$500.

*1 Violation Title 75, Pa. C.S. §1734*

A named insured may request in writing the issuance of coverages under Section 1731 (relating to availability, scope and amount of coverage) in an amount equal to or less than the limits of liability for bodily injury. The Company failed to provide a signed written request for lower uninsured and underinsured limits for the file noted.

*1 Violation Title 75, Pa. C.S. §1738(d)(1)&(2)*

The named insured shall be informed that he may exercise the waiver of stacked limits for uninsured and underinsured

motorist coverage by signing written rejection forms. The Company did not provide the signed rejection forms of stacked limits for uninsured and underinsured motorists coverage for the file noted.

*213 Violations Title 75, Pa. C.S. §1725*

Every motor vehicle insurance policy shall contain a notice as to whether the policy covers collision damage to rental vehicles, and any limitations on such coverage. The notice shall be written in clear, plain language and shall be printed on the first page of the policy in boldface capital letters. The Company provided the required notice but it was not in boldface print.

2. Renewals

A renewal is considered to be any policy, which was previously written by the Company and renewed on the normal twelve-month anniversary date.

The purpose of the review was to measure compliance with Act 246, Sections 4(a) and (h) [40 P.S. §1184], which requires every insurer to file with the Insurance Commissioner every manual of classifications, rules and rates, every rating plan and every modification of any rating plan, which it proposes to use in the Commonwealth. Also, no insurer shall make or issue a contract or policy except in accordance with filings or rates, which are in effect at the time. Files were also reviewed to determine compliance with Act 68, Section 2005(c) [40 P.S. §991.2005(c)], which requires insurers to provide to insureds a detailed statement of the components of a premium and shall specifically show the amount of surcharge or other additional

amount that is charged as a result of a claim having been made under a policy of insurance, or as a result of any other factors.

The Company uses an automated system to process and issue personal automobile policies. In order to verify the automated system, several policies were manually rated to ensure the computer had been programmed correctly. Once the computer programming had been verified, only the input data needed to be verified. By reviewing base premiums, territory assignments, rating symbols, classifications and surcharge disclosures, the examiners were able to determine compliance with the Company's filed and approved rating plans.

Private Passenger Automobile – Renewals without Surcharges

From the universe of 9,733 private passenger automobile policies identified as renewals without surcharges by the Company during the experience period, 75 files were selected for review. All 75 policy files requested were received and reviewed. One hundred seventy-five (175) violations identified by the Company occurred during the years 2004 through 2011. The remaining 29,202 violations noted were based on the universe of 9,733, resulting in an error ratio of 100%.

The following findings were made:

*175 Violations Act 246, The Casualty and Surety Rate Regulatory Act,  
Section 4 (40 P.S. §1184)*

Requires every insurer to file with the Insurance  
Commissioner every manual of classifications, rules and  
rates, every rating plan and every modification of any rating  
plan, which it proposes to use in the Commonwealth. Also,

no insurer shall make or issue a contract or policy except in accordance with filings or rates, which are in effect at the time of issue. The examiners identified a rating error regarding the driver improvement discount and asked the Company to provide information relative to this error and the number of policies affected. The Company advised the Department of a computer programming error which failed to apply a 5% mature driver improvement course discount to the increased limits portion of uninsured and underinsured motorist coverage which resulted in overcharges of \$1,660.74.

*3 Violations Title 75, Pa. C.S. §1731(c)(1)*

On policies in which either uninsured or underinsured motorist coverage has been rejected, the policy renewals must contain notice in prominent type that the policy does not provide protection against damages caused by uninsured or underinsured motorists. The Company failed to include a notice in prominent type that the policy does not provide protection against damages caused by uninsured or underinsured motorists.

*9,733 Violations Title 75, Pa. C.S §1791.1(b)*

Requires an insurer to provide an insured a notice of the availability of two alternatives of full tort insurance and limited tort insurance. The Company failed to provide the statutory language for the required notice.

*9,733 Violations Title 75, Pa. C.S. §1791.1(a)*

Requires that at the time of application for original coverage and every renewal thereafter, an insurer must provide to an insured an itemized invoice listing the minimum motor vehicle insurance coverage levels mandated by the Commonwealth and the premium charge for the insured to purchase the minimum mandated coverages. The invoice must contain the following notice in print of no less than ten-point type: "The laws of the Commonwealth of Pennsylvania, as enacted by the General Assembly, only require you to purchase liability and first-party medical benefit coverages. Any additional coverage or coverages in excess of the limits required by law are provided only at your request as enhancements to basic coverages." The insurer shall provide the itemized invoice to the insured in conjunction with the declaration of coverage limits and premiums for the insured's existing coverages. The Company failed to provide the statutory language for the required notice.

*9,733 Violations Title 75, Pa. C.S. §1725*

Every motor vehicle insurance policy shall contain a notice as to whether the policy covers collision damage to rental vehicles, and any limitations on such coverage. The notice shall be written in clear, plain language and shall be printed on the first page of the policy in boldface capital letters. The Company provided the required notice but it was not in boldface print.

Private Passenger Automobile – Renewals with Surcharges

From the universe of 1,236 private passenger automobile policies identified as renewals with surcharges, 100 files were selected for review. All 100 policy files requested were received and reviewed. Fifteen (15) violations identified by the Company occurred during the years 2004 through 2011. The remaining 3,710 violations noted were based on the universe of 1,236, resulting in an error ratio of 100%.

The following findings were made:

*15 Violations Act 246, The Casualty and Surety Rate Regulatory Act,  
Section 4 (40 P.S. §1184)*

Requires every insurer to file with the Insurance Commissioner every manual of classifications, rules and rates, every rating plan and every modification of any rating plan, which it proposes to use in the Commonwealth. Also, no insurer shall make or issue a contract or policy except in accordance with filings or rates, which are in effect at the time of issue. The examiners identified a rating error regarding the driver improvement discount and asked the Company to provide information relative to this error and the number of policies affected. The Company advised the Department of a computer programming error which failed to apply a 5% mature driver improvement course discount to the increased limits portion of uninsured and underinsured motorist coverage which resulted in overcharges of \$142.34.

*2 Violations Title 75, Pa. C.S. §1731(c)(1)*

On policies in which either uninsured or underinsured motorist coverage has been rejected, the policy renewals must contain notice in prominent type that the policy does not provide protection against damages caused by uninsured or underinsured motorists. The Company failed to include a notice in prominent type that the policy does not provide protection against damages caused by uninsured or underinsured motorists.

*1,236 Violations Title 75, Pa. C.S §1791.1(b)*

Requires an insurer to provide an insured a notice of the availability of two alternatives of full tort insurance and limited tort insurance. The Company failed to provide the statutory language for the required notice.

*1,236 Violations Title 75, Pa. C.S. §1791.1(a)*

Requires that at the time of application for original coverage and every renewal thereafter, an insurer must provide to an insured an itemized invoice listing the minimum motor vehicle insurance coverage levels mandated by the Commonwealth and the premium charge for the insured to purchase the minimum mandated coverages. The invoice must contain the following notice in print of no less than ten-point type: "The laws of the Commonwealth of Pennsylvania, as enacted by the General Assembly, only require you to purchase liability and first-party medical benefit coverages. Any additional coverage or coverages in excess of the limits required by law are provided only at your



request as enhancements to basic coverages.” The insurer shall provide the itemized invoice to the insured in conjunction with the declaration of coverage limits and premiums for the insured’s existing coverages. The Company failed to provide the statutory language for the required notice.

*1,236 Violations Title 75, Pa. C.S. §1725*

Every motor vehicle insurance policy shall contain a notice as to whether the policy covers collision damage to rental vehicles, and any limitations on such coverage. The notice shall be written in clear, plain language and shall be printed on the first page of the policy in boldface capital letters. The Company provided the required notice but it was not in boldface print.

## VI. FORMS

Throughout the course of the examination, all underwriting files were reviewed to identify the policy forms used in order to verify compliance with Insurance Company Law, Section 354 (40 P.S. §477b), Approval of Policies, Contracts, etc., Prohibiting the Use Thereof Unless Approved. During the experience period of the examination, Section 354 provided that it shall be unlawful for any insurance company to issue, sell, or dispose of any policy contract or certificate covering fire, marine, title and all forms of casualty insurance or use applications, riders, or endorsements in connection therewith, until the forms have been submitted to and formally approved by the Insurance Commissioner. Files were also reviewed to verify compliance with Act 165 of 1994 [18 Pa. CS §4117(k)(1)] and Title 75, Pa. C.S. §1822, which requires all insurers to provide an insurance fraud notice on all applications for insurance, all claims forms and all renewals of coverage.

No violations were noted.

## VII. CONSUMER COMPLAINTS

The Company was requested to identify all consumer complaints received during the experience period and provide copies of their consumer complaint logs for the preceding four years. The Company identified 13 consumer complaints received during the experience period and provided all consumer complaint logs requested. All 13 complaint files reported were requested, received and reviewed.

The purpose of the review was to determine compliance with the Unfair Insurance Practices Act, No. 205 (40 P.S. §1171). Section 5(a)(11) of the Act requires a Company to maintain a complete record of all complaints received during the preceding four years. This record shall indicate the total number of complaints, their classification by line of insurance, the nature of each complaint, the disposition of these complaints and the time it took to process each complaint. The individual complaint files were reviewed for the relevancy to applicable statutes and to verify compliance with Title 31, PA. Code, Section 146.5(b)(c).

The following findings were made:

*1 Violation Act 246, The Casualty and Surety Rate Regulatory Act,  
Section 4 (40 P.S. §1184)*

Requires every insurer to file with the Insurance Commissioner every manual of classifications, rules and rates, every rating plan and every modification of any rating plan, which it proposes to use in the Commonwealth. Also, no insurer shall make or issue a contract or policy except in accordance with filings or rates, which are in effect at the time of issue. The Company failed to apply the driver improvement course credit to the increased limits portion of the uninsured and underinsured motorist coverage, which resulted in an

overcharge of \$9.

*1 Violation Act 68, Section 2006(2) [40 P.S. §991.2006(2)]*

*Adjudication: Manley/Nationwide, P00-02-012 (2000)*

Requires an insurer to deliver or mail to the named insured a nonrenewal notice and state the date, not less than sixty (60) days after the date of the mailing or delivery, on which cancellation shall become effective. When the policy is being cancelled for the nonpayment of premium, the effective date may be fifteen (15) days from the date of mailing or delivery. When computing the time period required for notice prior to termination which occurs at 12:01 a.m. on the terminal day, the first and terminal days are excluded. The Company failed to provide the required number of days notice for nonrenewal.

The following synopsis reflects the nature of the 13 complaints that were reviewed.

•	11	Cancellation/Nonrenewal	85%
•	1	Claims	7.5%
•	1	Rating	7.5%
	<hr/>		<hr/>
	13		100%

### VIII. DATA INTEGRITY

As part of the examination, the Company was sent a preliminary examination packet in accordance with NAIC uniformity standards and provided specific information relative to the exam. The purpose of the packet was to provide certain basic examination information, identify preliminary requirements and to provide specific requirements for requested data call information. Once the Company provided all requested information and data contained within the data call, the Department reviewed and validated the data to ensure its accuracy and completeness to determine compliance with Insurance Department Act, Section 904(b) [40 P.S. §904(b)] .

No violations were noted.

## IX. RECOMMENDATIONS

The recommendations made below identify corrective measures the Department finds necessary as a result of the number of some violations, or the nature and severity of other statutory or regulatory violations, noted in the Report.

1. The Company must review Act 246, Section 4(a) and (h) [40 P.S. §1184] and take appropriate measures to ensure the rating violations listed in the report do not occur in the future.
2. The premium overcharges noted in the rating section of this report must be refunded to the insured and proof of such refund must be provided to the Insurance Department within 30 days of the report issue date.
3. On policies in which either uninsured or underinsured coverage has been rejected, the policy renewal must contain notice in prominent type that the policy does not provide protection against damages caused by uninsured or underinsured motorists. This procedure must be implemented within 30 days of the Report issue date. This is to ensure that violations noted under Title 75, Pa. C.S. §1731(c)(1) do not occur in the future.
4. The Company must review Title 75, Pa. C.S. §1791.1(b) violations to ensure that the proper tort options are provided at the time of application and every renewal thereafter as noted in the Report do not occur in the future.
5. The Company must review Title 75, Pa. C.S. §1791.1(a) violations to ensure that a proper itemized invoice listing minimum coverages are

provided at every renewal, as noted in the Report, and do not occur in the future.

6. The Company must review Title 75, Pa. C.S. §1791 violations to ensure that the proper notice of available benefits is given to the insured at the time of application as noted in the Report.
7. The Company must review Title 75, Pa. C.S. 1793(b) to ensure that violations regarding the requirement to provide the insured with a surcharge disclosure plan at the time of application, as noted in the Report, do not occur in the future.
8. The Company must review Title 75, Pa. C.S. §1734 to ensure that the insured signs a request for lower limits of liability for uninsured and underinsured motorist coverage and a copy kept in files as noted in the Report.
9. The Company must revise underwriting procedures to ensure that the insured is aware that there is an additional cost for purchasing a lower deductible for collision coverage. This is to ensure that violations noted under Title 75, Pa. C.S. §1792(b)(1) do not occur in the future.
10. The Company must revise underwriting procedures to ensure that the insured is aware that he may exercise the waiver of stacked limits for uninsured and underinsured motorist coverage by signing written rejection forms. This is to ensure that violations noted under Title 75, Pa. C.S. §1738(d)(1) and (2) do not occur in the future.

11. The Company must review Title 75, Pa. C.S. §1725 to ensure that a notice as to whether the policy covers collision damage to rental vehicles, and any limitations on such coverage shall be printed on the first page of the policy in boldface capital letters.
  
12. The Company must review and revise internal control procedures to ensure compliance with nonrenewal notice requirements of Act 68, Sections 2006 [40 P.S. §991.2006], so that the violation noted in the Report do not occur in the future.
  
13. The Company must revise and reissue their underwriting guidelines for use in Pennsylvania to ensure that the guidelines do not exclude applicants from being eligible to obtain insurance for reasons established in Section 2003 of Act 68 [40 P.S. §991.2003].



*X. COMPANY RESPONSE*



SELECTIVE®

Selective Insurance Company of America  
40 Wantage Avenue  
Branchville, NJ 07890  
Tel: (973) 948-3000

July 2, 2013

Constance Arnold, MCM  
Chief, Property and Casualty Division  
Pennsylvania Insurance Department – Bureau of Market Actions  
1227 Strawberry Square  
Harrisburg, PA 17120

Re: Market Conduct Examination – Warrant Number 11-M19-043  
Selective Insurance Company of the Southeast (“The Company”)

Dear Ms. Arnold,

Thank you for the opportunity to respond to the Insurance Department’s final report from the market conduct examination of the Selective Insurance Company of the Southeast personal auto program, which covered the period of January 1, 2011 – December 31, 2011.

We respectfully submit the attached comments to the recommendations presented in Section IX of the final report.

We also would like to extend our appreciation for the professionalism and courtesies that you and your staff extended to us throughout the examination.

Sincerely,

Debra Weiler, AIS, API, MCM  
Sr. Compliance Specialist

Attachment

SELECTIVE INSURANCE COMPANY OF THE SOUTHEAST

X. COMPANY RESPONSE

1. The Company must review Act 246, Section 4(a) and (h) [40 P.S. §1184] and take appropriate measures to ensure the rating violations listed in the Report do not occur in the future.

***Company Response:***

***The Company has reviewed ACT 246, Section 4(a) and (h) [40 P.S. §1184] and has examined existing controls and reinforced existing practices and procedure to prevent recurrence of rating violations in the future.***

2. The premium overcharges noted in the rating section of this report must be refunded to the insured and proof of such refund must be provided to the Insurance Department within 30 days of the Report issue date.

***Company Response:***

***Prior to the commencement of the market conduct examination, the Company issued premium refunds to policyholders improperly overcharged as the result of a computer programming error in which in the 5% mature driver discount was not applied to the additional premium charge for increased UM/UIM coverage limits. A simple interest rate of 6% was applied to refunds for policy terms that were prior to the January 1, 2011 - December 31, 2011 scope of the market conduct examination.***

***Evidence of the refunds was provided to the Department of Insurance as required.***

3. On policies in which either uninsured or underinsured coverage has been rejected, the policy renewal must contain notice in prominent type that the policy does not provide protection against damages caused by uninsured or underinsured motorists. This procedure must be implemented within 30 days of the Report issue date. This is to insure that violations under Title 75, Pa. C.S. § 1731(c)(1) do not occur in the future.

***Company Response:***

***The Company filed and received approval from the Department of Insurance for policy declarations changes including language that will display on the policy declarations when uninsured and/or underinsured motorist coverage has been rejected in***

*accordance with Title 75, Pa. C.S. § 1731 (c) (1). This change was implemented within the time frame required by the Department of Insurance.*

*Prior to implementation of the declarations change, the Company mailed a letter to current policyholders who had rejected uninsured and/or underinsured motorist coverage in order to notify them that the policy does not provide protection against damages caused by uninsured or underinsured motorists. The letter included contact information so the policyholder could request more information or have the coverage added to the policy.*

4. The Company must review Title 75, Pa. C.S. §1791.1(b) violations to ensure that the proper tort options are provided at the time of application and every renewal thereafter as noted in the Report do not occur in the future.

***Company Response:***

*The Company filed and received approval for adoption of The Insurance Services Office, Inc. (ISO) Notice of Tort Options form PP U 013 03 11. This Notice of Tort Options form has been fully implemented and is provided at time of application and at every renewal.*

5. The Company must review Title 75, Pa. C.S. §1791.1(a) violations to ensure that a proper itemized invoice listing minimum coverages are provided at every renewal, as noted in the Report, and do not occur in the future.

***Company Response:***

*The Company filed and received approval for revisions to our Notice to Insured-Minimum Required Coverage and Tort Options form. The revisions are in accordance with Title 75, Pa. C.S. §1791.1(a). The proper invoice will be provided at every renewal.*

6. The Company must review Title 75, Pa. C.S. §1791 violations to ensure that the proper notice of available benefits is given to the insured at the time of application as noted in the Report.

***Company Response:***

*The Company filed and received approval for a revision to our existing form to correct the two amounts of coverage that differed from the statutory form. The approved form will replace the prior form available in our policy-writing system for easy access by our agency partners for completion at time of application.*

7. The Company must review Title 75, Pa. C.S. §1793(b) to ensure that violations regarding the requirement to provide the insured with a surcharge disclosure plan at the time of application, as noted in the Report, do not occur in the future.

***Company Response:***

***The Company's policy-writing system is being updated to facilitate easier access to our Surcharge Disclosure Statement form by our agency partners at time of application. An agency communication was sent as a reminder that the Surcharge Disclosure Statement must be presented at the time of application. The communication also provided an alternate site from which agents can obtain the form. The Company will continue to provide the Surcharge Disclosure Statement with new and renewal policies.***

8. The Company must review Title 75, Pa. C.S. §1734 to ensure that the insured signs a request for lower limits of liability for uninsured and underinsured motorist coverage and a copy kept in files as noted in the Report.

***Company Response:***

***It is The Company's practice to require that agents obtain insureds' signatures on requests for lower limits of liability for uninsured and underinsured limits. Agents must retain a copy in their files and the signed forms must be made available upon request. We have a program to audit retention of these and other signed forms by our agents. The cited violations are the result of human error and The Company has requested that the agent-of-record for the policy in violation obtain a fully completed form.***

9. The Company must revise underwriting procedures to ensure that the insured is aware that there is an additional cost for purchasing a lower deductible for collision coverage. This is to ensure that the violations noted under Title 75, Pa. C.S. §.1792(b)(1) do not occur in the future.

***Company Response:***

***It is The Company's practice to require that agents obtain insureds' signatures on requests for a collision deductible that is lower than \$500. The prescribed form makes the insured aware that lower deductibles are available and that there is an additional cost if a deductible lower than \$500 is selected. Agents must retain a copy of the signed form in their files and make them available upon request. We have a program***

*to audit retention of these and other signed forms by our agents. The cited violations are the result of human error and The Company has requested that the agents-of-record for the two policies in violation obtain fully completed forms.*

10. The Company must revise underwriting procedures to ensure that the insured is aware that he may exercise the waiver of stacked limits for uninsured and underinsured motorist coverage by signing written rejection forms. This is to ensure that violations noted under Title 75, Pa. C.S. §1738 (d)(1) and (2) do not occur in the future.

***Company Response:***

*It is The Company's practice to require that agents obtain insureds' signatures on a prescribed form that describes the option to exercise a waiver for stacked limits for uninsured and underinsured motorist coverage. Agents must retain a copy of the signed form in their files and make them available upon request. We have a program to audit retention of these and other signed forms by our agents. The cited violations are the result of human error and The Company has requested that the agent-of-record for the policy in violation obtain a fully completed form.*

11. The Company must review Title 75, Pa. C.S. §1725 to ensure that a notice as to whether the policy covers collision damage to rental vehicles, and any limitations on such coverage shall be printed on the first page of the policy in boldface capital letters.

***Company Response:***

*The required notice verbiage currently displayed on The Company's policy declarations will be modified to bold print.*

12. The Company must review and revise internal control procedures to ensure compliance with nonrenewal notice requirements of Act 68, Sections 2006 [40 P.S. §991.2006], so that the violation noted in the Report does not occur in the future.

***Company Response:***

*Our underwriting non-renewal procedures follow the statutorily required no less than 60 day notice lead time. It is also our general practice to include two additional days for mailing. Therefore, our standard of providing no less than a 62-day number of days for notice of non-renewal is compliant with the cited adjudication, Manley / Nationwide, P00-02-012 (2000). The violation cited is not representative of our underwriting practice and was caused by human error.*

13. The Company must revise and reissue their underwriting guidelines for use in Pennsylvania to ensure that the guidelines do not exclude applicants from being eligible to obtain insurance for reasons established in section 2003 of Act 68 {40 P.S. §991.2003}.

***Company Response:***

***The Company's underwriting guidelines were focused on the evaluation of risk exposure without intent to unfairly target or impact any individual or group. We understand the Department's concern regarding the use of the existing guidelines and have revised them accordingly.***