

**REPORT OF
MARKET CONDUCT EXAMINATION
OF**

**AMERICAN INDEPENDENT INSURANCE
COMPANY**

Conshohocken, Pennsylvania

**AS OF
December 4, 2007**

COMMONWEALTH OF PENNSYLVANIA



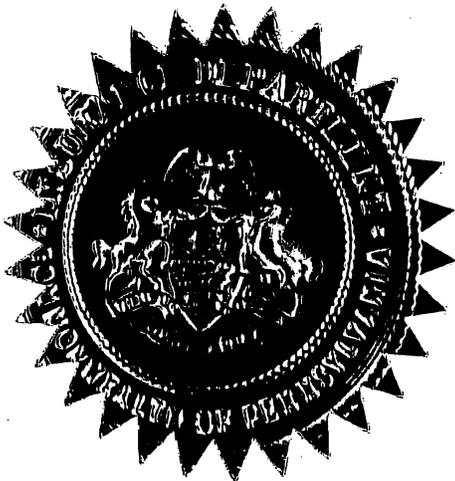
**INSURANCE DEPARTMENT
MARKET CONDUCT DIVISION**

Issued: January 17, 2008

BEFORE THE INSURANCE COMMISSIONER
OF THE
COMMONWEALTH OF PENNSYLVANIA

ORDER

AND NOW, this 6th day of July, 2007, 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 Randolph L. Rohrbaugh, 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.





Joel S. Ario
Insurance Commissioner

BEFORE THE INSURANCE COMMISSIONER
OF THE
COMMONWEALTH OF PENNSYLVANIA

IN RE:	:	VIOLATIONS:
	:	
AMERICAN INDEPENDENT	:	Sections 641.1-A and 671-A of Act 147
INSURANCE COMPANY	:	of 2002 (40 P.S. §§ 310.41 and 310.71)
1000 River Road	:	
Conshohocken, PA 19428	:	Act 1990-6, Sections 1716, 1731(c)(1),
	:	1791.1(a) and (b), 1793(c) and 1799.3(a)
	:	and (d) (Title 75, Pa.C.S. §§ 1716, 1731,
	:	1791, 1793 and 1799)
	:	
	:	Sections 4 and 5(a)(11) of the Unfair
	:	Insurance Practices Act, Act of July
	:	22, 1974, P.L. 589, No. 205 (40 P.S.
	:	§§ 1171.4 and 1171.5)
	:	
	:	Sections 2003(a)(1), 2003(a)(6) and (10),
	:	2004, 2005(c), 2006(2), and 2006(3)
	:	of Act 68 of 1998 (40 P.S. §§991.2003,
	:	991.2004, 991.2005 and 991.2006)
	:	
	:	Title 31, Pennsylvania Code, Sections
	:	62.3(e)(1) and (4), 69.52(b), 146.6
	:	and 146.7(a)(1)
	:	
	:	Title 75, Pennsylvania Consolidated
	:	Statutes, Sections 1161(a) and (b)
	:	and 1822
	:	
Respondent.	:	Docket No. MC07-12-001

CONSENT ORDER

AND NOW, this *17th* day of *January*, 2008, 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. Respondent 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. Respondent 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) Respondent is American Independent Insurance Company, which maintains its address at 1000 River Road, Conshohocken, Pennsylvania 19428.
- (b) A market conduct examination of Respondent was conducted by the Insurance Department covering the period from January 1, 2006 through December 31, 2006.
- (c) On December 4, 2007, the Insurance Department issued a Market Conduct Examination Report to Respondent.

- (d) A response to the Examination Report was provided by Respondent on January 2, 2008.
- (e) The Examination Report notes violations of the following:
- (i) Section 641.1-A of Act 147 of 2002 prohibits any entity or the appointed agent of any entity from transacting the business of insurance through anyone acting without an insurance producer license (40 P.S. § 310.41a);
 - (ii) Section 671-A of Act 147 of 2002 prohibits producers from transacting business within this Commonwealth without written appointment as required by the Act (40 P.S. § 310.71).
 - (iii) Section 1716 of Act 1990-6, Title 75, Pa. C.S. § 1716, which requires that benefits are overdue if not paid within 30 days after the insurer receives reasonable proof of the amount of benefits. If reasonable proof is not supplied as to all benefits, the portion supported by reasonable proof is overdue if not paid within 30 days after the proof is received by the insurer. Overdue benefits shall bear interest at the rate of 12% per annum from the date the benefits become due. In the event the insurer is found to have acted in an unreasonable manner in refusing to pay the benefits when due, the insurer shall pay, in addition to the benefits owed and the interest thereon, a reasonable attorney fee based upon actual time expended;

(iv) Section 1731(c)(1) of Act 1990-6, Title 75, Pa.C.S. § 1731(c)(1), 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;

(v) 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;

- (vi) 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;
- (vii) Section 1793(c) of Act 1990-6, Title 75, Pa. C.S. § 1793, which states when an insurer cancels an automobile policy, the insurer shall within 30 days of canceling the policy, return to the insured all premiums paid under the policy less any proration for the period the policy was in effect;
- (viii) Section 1799.3(a) of Act 1990-6, Title 75, Pa.C.S. § 1799, which prohibits insurers from applying a surcharge, rate penalty or driver record point assignment where, during the preceding three year period, the aggregate cost to the insurer for any person injured or property damaged is determined to be less than \$1,150 in excess of any self-insured retention or deductible applicable to the named insured;
- (ix) Section 1799.3(d) of Act 1990-6, Title 75, Pa.C.S. § 1799, which requires insurers who make a determination to impose a surcharge, rate penalty or driver record point assignment, to inform the named insured of the determination and specify the manner in which the surcharge, rate penalty or driver record point assignment was made and clearly identify the amount of the surcharge or rate penalty on the premium notice for as long as the surcharge or rate penalty is in effect;

- (x) Section 4 of Act 205 (40 P.S. § 1171.4), which states no person shall engage in this state in any trade practice which is defined or determined to be an unfair method of competition or an unfair or deceptive act or practice in the business of insurance pursuant to this act;
- (xi) Section 5(a)(11) of Act 205 (40 P.S. § 1171.5), which requires an insurer to maintain a complete record of all the complaints, which it has 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 time it took to process each complaint;
- (xii) Section 2003(a)(1) of Act 68 (40 P.S. § 991.2003), which prohibits an insurer from canceling or refusing to write or renew a policy of automobile insurance due to age;
- (xiii) Section 2003(a)(6) of Act 68 (40 P.S. § 991.2003), which states an insurer may not cancel or refuse to write or renew a policy of automobile insurance due to national origin;
- (xiv) Section 2003(a)(10) of Act 68 (40 P.S. § 991.2003), which states an insurer may not cancel or refuse to write or renew a policy of automobile insurance due to lawful occupation;

- (xv) Section 2004 of Act 68 of 1998 (40 P.S. § 991.2004), which requires that no insurer shall cancel a policy of automobile insurance except for nonpayment of premium, suspension or revocation of the named insured's driver license or motor vehicle registration or a determination that the insured has concealed a material fact or has made a material allegation contrary to fact or has made a misrepresentation of material fact and that such concealment, allegation or misrepresentation was material to the acceptance of the risk by the insurer;
- (xvi) Section 2005(c) of Act 68 (40 P.S. § 991.2005), which states all insurers shall provide to insureds a detailed statement of the components of a premium and shall specifically show the amount of a 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;
- (xvii) Section 2006(2) of Act 68 of 1998 (40 P.S. § 991.2006), which requires an insurer to deliver or mail to the named insured a nonrenewal notice and state the date, not less than 60 days after the date of the mailing or delivery, on which cancellation shall become effective. When the policy is being cancelled for nonpayment of premium, the effective date may be 15 days from the date of mailing or delivery;

- (xviii) Section 2006(3) of Act 68 of 1998 (40 P.S. § 991.2006), which requires an insurer to deliver or mail to the named insured a nonrenewal notice and state the specific reason or reasons of the insurer for cancellation;
- (xix) Title 31, Pennsylvania Code, Section 62.3(e)(1), which requires the replacement value of a motor vehicle be calculated by use of the Guide Source Method, the Actual Cost Method or the Dealer Quotation Method;
- (xx) Title 31, Pennsylvania Code, Section 62.3(e)(4), which requires that applicable sales tax on the replacement cost of a motor vehicle shall be included as part of the replacement value;
- (xxi) Title 31, Pennsylvania Code, Section 69.52(b), which requires an insurer to pay medical bills for care that are not referred to a Peer Review Organization within 30 days after the insurer receives sufficient documentation supporting the bill;
- (xxii) Title 31, Pennsylvania Code, Section 146.6, requires that every insurer shall complete investigation of a claim within 30 days after notification of the claim, unless such investigation cannot reasonably be completed within 30 days, and every 45 days thereafter, the insurer shall provide the claimant with a reasonable written explanation for the delay and state when a decision on the claim may be expected;

(xxiii) Title 31, Pennsylvania Code, Section 146.7(a)(1), which requires within 15 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;

(xxiv) Section 1161(a) and (b) of Title 75, Pa. C.S., which states an insurer who owns, possesses or transfers a vehicle located or registered in the Commonwealth which qualifies as a salvage vehicle shall make application to the Department for a certificate of salvage for that vehicle; and

(xxv) Title 75, Pa. C.S. § 1822, which requires, not later than May 1, 1990, all applications for insurance, renewals and claim forms shall contain a statement that clearly states, in substance, the following: Any person who knowingly and with intent to injure or defraud any insurer files an application or claim containing any false, incomplete or misleading information shall, upon conviction, be subject to imprisonment for up to seven years and payment of a fine of up to \$15,000.00.

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) Respondent is subject to the jurisdiction of the Pennsylvania Insurance Department.
- (b) Respondent's violations of Sections 641.1-A and 671-A of Act 147 of 2002 are punishable by the following, under Section 691-A of Act 147 of 2002 (40 P.S. § 310.91):
 - (i) suspension, revocation or refusal to issue the certificate of qualification or license;
 - (ii) imposition of a civil penalty not to exceed five thousand dollars (\$5,000.00) for every violation of the Act;
 - (iii) an order to cease and desist; and
 - (iv) any other conditions as the Commissioner deems appropriate.
- (c) Respondent's violations of Sections 4 and 5(a)(11) of the Unfair Insurance Practices Act, No. 205 (40 P.S. §§ 1171.5) are punishable by the following, under Section 9 of the Unfair Insurance Practices Act (40 P.S. § 1171.9):

- (i) cease and desist from engaging in the prohibited activity;
 - (ii) suspension or revocation of the license(s) of Respondent.
- (d) In addition to any penalties imposed by the Commissioner for Respondent's violations of the Unfair Insurance Practices Act (40 P.S. §§ 1171.1 – 1171.5), the Commissioner may, under Sections 10 and 11 of the Unfair Insurance Practices Act (40 P.S. §§ 1171.10, 1171.11) file an action in which the Commonwealth Court may impose the following civil penalties:
- (i) for each method of competition, act or practice which the company knew or should have known was in violation of the law, a penalty of not more than five thousand dollars (\$5,000.00);
 - (ii) for each method of competition, act or practice which the company did not know nor reasonably should have known was in violation of the law, a penalty of not more than one thousand dollars (\$1,000.00).
- (e) Respondent's violations of Sections 2003, 2004, 2005 and 2006 of Act 68 of 1998 are 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).

- (f) Respondent's violations of Title 31, Pennsylvania Code, Sections 146.6, are punishable under Sections 9, 10 and 11 of the Unfair Insurance Practices Act (40 P.S. §§ 1171.9, 1171.10 and 1171.11), as stated above.

ORDER

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

- (a) Respondent shall cease and desist from engaging in the activities described herein in the Findings of Fact and Conclusions of Law.
- (b) Respondent 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) Respondent shall comply with all recommendations contained in the attached Report.
- (d) Respondent shall pay Twenty-Two Thousand, Five Hundred Dollars (\$22,500.00) 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 Commonwealth of Pennsylvania. Payment should be directed to Sharon L. Fraser, Office Manager, Bureau of Enforcement, 1227 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 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, Respondent 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.

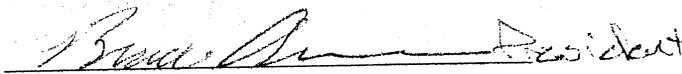
9. Respondent hereby expressly waives any relevant statute of limitations and application of the doctrine of laches for purposes of any enforcement of this Order.

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.

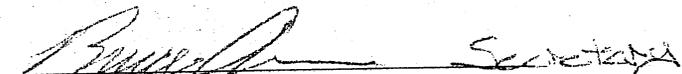
11. This Order shall be final upon execution by the Insurance Department. Only the Insurance Commissioner or a duly authorized delegee is authorized to bind the Insurance Department with respect to the settlement of the alleged violations of law

contained herein, and this Consent Order is not effective until executed by the Insurance Commissioner or a duly authorized delegee.

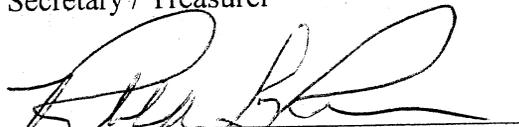
BY: AMERICAN INDEPENDENT INSURANCE
COMPANY, Respondent



President / Vice President



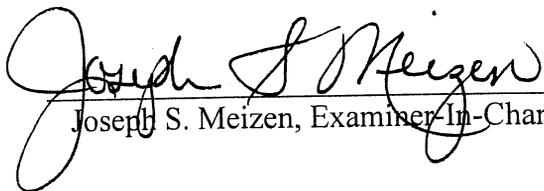
Secretary / Treasurer



RANDOLPH L. ROHRBAUGH
Deputy Insurance Commissioner
Commonwealth of Pennsylvania

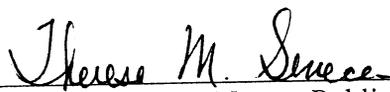
VERIFICATION

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).


Joseph S. Meizen, Examiner-In-Charge

Sworn to and Subscribed Before me

This 26 Day of November, 2007


Notary Public
COMMONWEALTH OF PENNSYLVANIA

NOTARIAL SEAL
THERESA M. SENECA, Notary Public
City of Harrisburg, Dauphin County
My Commission Expires Aug. 15, 2010

AMERICAN INDEPENDENT INSURANCE COMPANY

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I. INTRODUCTION

The market conduct examination was conducted at American Independent Insurance Company's office located in Conshohocken, Pennsylvania, from August 27, 2007, through September 20, 2007. Subsequent review and follow-up was conducted in the office of the Pennsylvania Insurance Department.

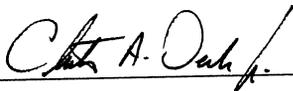
Pennsylvania Market Conduct Examination Reports generally note only those items to which the Department, after review, takes exception. However, the Examination Report may include management recommendations addressing areas of concern noted by the Department, but for which no statutory violation was 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%.

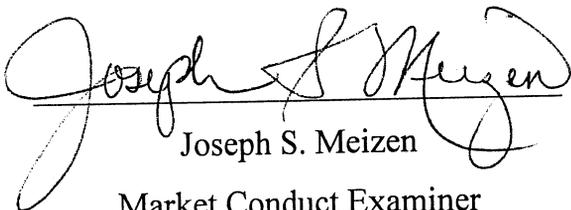
Throughout the course of the examination, Company officials were provided with status memoranda, which referenced specific policy numbers with citation to each section of law violated. Additional information was requested to clarify apparent violations. An exit conference was conducted with Company personnel 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.

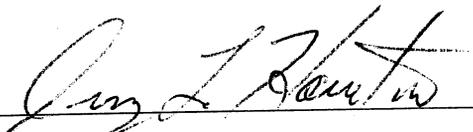
The undersigned participated in this examination and in preparation of this Report.



Chester A. Derk, Jr., AIE, HIA
Market Conduct Division Chief



Joseph S. Meizen
Market Conduct Examiner



Jerry L. Houston, AIE, CPCU
Market Conduct Examiner



Constance L. Arnold
Market Conduct Examiner

II. SCOPE OF EXAMINATION

The Market Conduct Examination was conducted on American Independent Insurance Company, hereinafter referred to as "Company," at their office located in Conshohocken, 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, 2006, through December 31, 2006, 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. Private Passenger Automobile
 - Underwriting – Appropriate and timely notices of nonrenewal, midterm cancellations, 60-day cancellations and rescissions.
 - Rating – Proper use of all classification and rating plans and procedures.

2. Assigned Risk Automobile
 - Underwriting – Appropriate and timely notices of nonrenewal and midterm cancellation.
 - Rating – Proper use of all classification and rating plans and procedures.

3. Claims

4. Forms

5. Advertising

6. Complaints

7. Licensing

III. COMPANY HISTORY AND LICENSING

American Independent Insurance Company was incorporated under the laws of Pennsylvania, on June 22, 1971, and commenced business on January 3, 1972.

LICENSING

American Independent Insurance Company's Certificate of Authority to write business in the Commonwealth was issued on January 3, 1972. The Company is licensed in Delaware, Florida, Illinois, Kentucky, Maryland, Pennsylvania, South Carolina and Virginia. The Company's 2006 annual statement reflects Direct Written Premium for all lines of business in the Commonwealth of Pennsylvania as \$74,246,110. Premium volume related to the areas of this review were: Private Passenger Automobile Direct Written Premium was reported as Private Passenger Auto No-Fault (personal injury protection) \$22,305,712; Other Private Passenger Auto Liability \$41,386,018 and Private Passenger Auto Physical Damage \$10,554,380.

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. Agency bulletins and Pennsylvania automobile product guides were furnished for private passenger automobile. The purpose of this review was to identify any inconsistencies which could be considered discriminatory, specifically prohibited by statute or regulation, or unusual in nature.

The following findings were made:

4 Violations Act 68, Section 2003(a)(6)&(10) [40 P.S. §991.2003(a)(6)&(10)]
Discrimination Prohibited – (a) An insurer may not cancel or refuse to write or renew a policy of automobile insurance due to national origin and lawful occupation (including military service. The Company's private passenger automobile guideline indicated the following as unacceptable risks: foreign exchange students, foreign business trainees, or persons with a foreign driver's license; operators that are not a year-round resident of Pennsylvania, including but not limited to, migratory risks and operators who are transient or have seasonal occupations; operators who are in the military and not permanently stationed in Pennsylvania for the term of the policy; and actors/actresses, athletes, celebrities, dancers, entertainers and persons of notoriety.

V. UNDERWRITING

A. Private Passenger Automobile

1. 60-Day Cancellations

A 60-day cancellation is considered to be any policy, which was cancelled within the first 60 days of the inception date of the policy.

The primary purpose of the review was to determine compliance with Act 68, Section 2003 (40 P.S. §991.2003), which establishes conditions under which action by the insurer is prohibited. These files were also reviewed for compliance with Act 68, Section 2002(b)(3) [40 P.S. §991.2002(b)(3)], which requires an insurer who cancels a policy of automobile insurance in the first 60 days, to supply the insured with a written statement of the reason for cancellation.

From the universe of 19,095 private passenger automobile files identified as being cancelled in the first 60 days of new business, 50 files were selected for review. All 50 files were received and reviewed. The 5 violations noted were based on 5 files, resulting in an error ratio of 10%.

The following findings were made:

3 Violations Title 75, Pa. C.S. §1793(c)

When an insurer cancels an automobile policy, the insurer shall within 30 days of canceling the policy, return to the insured all premiums paid under the policy less any proration for the period the policy was in effect. The Company failed to return the unearned premium within 30 days of cancellation for the 3 files noted.

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

An insurer may not cancel or refuse to write or renew a policy of automobile insurance due to age. The Company cancelled the policy due to age.

1 Violation Act 68, Section 2006(3) [40 P.S. §991.2006(3)]

Requires an insurer to deliver or mail to the named insured a cancellation notice and state the specific reason or reasons of the insurer for cancellation. The Company did not provide a specific reason for cancellation.

2. Midterm Cancellations

A midterm cancellation is any policy that terminates at any time other than the normal twelve-month policy anniversary date.

The primary purpose of the review was to determine compliance with Act 68, Section 2003 (40 P.S. §991.2003), which establishes conditions under which action by the insurer is prohibited, and Section 2006 (40 P.S. §991.2006), which establishes the requirements which must be met regarding the form and conditions of the cancellation notice.

From the universe of 28,572 private passenger automobile files identified as midterm cancellations by the Company, 50 files were selected for review. All 50 files were received and reviewed. Four files were identified as nonrenewals. The 4 violations noted were based on 3 files, resulting in an error ratio of 6%.

The following findings were made:

3 Violations Act 68, Section 2006(2) [40 P.S. §991.2006(2)]

Requires an insurer to deliver or mail to the named insured a cancellation 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. The Company failed to provide 60 days notice of nonrenewal for the 3 files noted.

1 Violation Act 68, Section 2004 [40 P.S. §991.2004]

Requires that no insurer shall cancel a policy of automobile insurance except for nonpayment of premium, suspension or revocation of the named insured's driver license or motor vehicle registration or a determination that the insured has concealed a material fact or has made a material allegation contrary to fact or has made a misrepresentation of material fact and that such concealment, allegation or misrepresentation was material to the acceptance of the risk by the insurer. The Company cancelled the policy based on an ineligible vehicle.

3. Nonrenewals

A nonrenewal is considered to be any policy that was not renewed, for a specific reason, at the normal twelve-month policy anniversary date.

The purpose of the review was to determine compliance with Act 68, Section 2003 (40 P.S. §991.2003), which establishes conditions under which action by the insurer is prohibited, and Section 2006 (40 P.S. §991.2006), which establishes the requirements which must be met regarding the form and conditions of the cancellation notice.

From the universe of 4,374 private passenger automobile files identified as nonrenewals by the Company, 25 files were selected for review. All 25 files were received and reviewed. The 4 violations noted were based on 2 files, resulting in an error ratio of 8%.

The following findings were made:

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

Requires an insurer to deliver or mail to the named insured a cancellation 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. The Company failed to provide 60 days notice of nonrenewal for the 2 files noted.

1 Violation Act 68, Section 2006(3) [40 P.S. §991.2006(3)]

Requires an insurer to deliver or mail to the named insured a cancellation notice and state the specific reason or reasons of the insurer for cancellation. The Company failed to provide a specific reason for nonrenewal.

1 Violation Act 205, Section 4 [40 P.S. §1171.4]

Unfair methods of competition and unfair or deceptive acts or practices prohibited. No person shall engage in this state in any trade practice which is defined or determined to be an unfair method of competition or an unfair or deceptive act or practice in the business of insurance. The Company failed to continue coverage due to the age of a vehicle, when they had been insuring this vehicle for a few years.

4. Rescissions

A rescission is any policy, which was void *ab initio*.

The primary purpose of the review was to determine compliance with Act 205, Section 5(a)(9) [40 P.S. §1171.5(a)(9)], which establishes conditions under which cancellation of a policy is permissible along with the form requirements of the rescission notice.

From the universe of 516 private passenger automobile policies identified as being rescinded during the experience period, 50 files were selected for review. All 50 files were received and reviewed. No violations were noted.

B. Private Passenger Automobile – Assigned Risk

American Independent Insurance Company reports its premium writings for private passenger automobile to the Pennsylvania Assigned Risk Plan. As a result, the Company receives all assignments from the Pennsylvania Assigned Risk Plan.

1. Midterm Cancellations

A midterm cancellation is any policy that terminates at any time other than the normal twelve-month policy anniversary date.

The primary purpose of the review was to determine compliance with Title 75, Pennsylvania Consolidated Statutes, Sections 1742, 1743 and 1744 [75 Pa. C.S. §1742, 1743 and 1744], and all the rules of the Pennsylvania Assigned Risk Plan and Manual.

From the universe of 407 private passenger automobile assigned risk policies cancelled during the experience period, 50 files were selected for review. All 50 files selected were received and reviewed. No violations were noted.

2. Nonrenewal

A nonrenewal is considered to be any policy that was not renewed, for a specific reason, at the normal twelve-month anniversary date.

The purpose of the review was to determine compliance with Title 75, Pennsylvania Consolidated Statutes, Sections 1742, 1743, 1744 [75 Pa. C.S. §1742, 1743 and 1744], and all the rules of the Pennsylvania Assigned Risk Plan and Manual.

From the universe of 205 private passenger assigned risk policies nonrenewed during the experience period, 50 files were selected for review. All 50 files were received and reviewed. No violations were noted.

VI. 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 that 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 processes and issues personal automobile policies using an automated system. 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 – New Business Without Surcharges

From the universe of 43,594 private passenger automobile policies identified as new business without surcharges, 25 files were selected for review. All 25 files were received and reviewed. The 87,188 violations noted were based on the universe of 43,594, resulting in an error ratio of 100%.

The following findings were made:

43,594 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 required notice at the time of application.

43,594 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 did not provide the notice of tort options to the insured at the time of application.

Private Passenger Automobile - New Business With Surcharges

From the universe of 12,235 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. The 36,705 violations noted were based on the universe of 12,235, resulting in an error ratio of 100%.

The following findings were made:

12,235 Violations Act 68, Section 2005(c) [40 P.S. §991.2005(c)]

All insurers shall provide to insureds a detailed statement of the components of a premium and shall specifically show the amount of a 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.

AND

Title 75, Pa. C.S. §1799.3(d)

Requires insurers who make a determination to impose a surcharge, rate penalty or driver record point assignment, to inform the insured of the determination and specify the manner in which the surcharge, rate penalty or driver record point assignment was made and clearly identify the amount of the surcharge or rate penalty on the premium notice for as

long as the surcharge or rate penalty is in effect. The Company failed to show the amount of the surcharge or rate penalty on the premium notice.

12,235 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 required notice at the time of application.

12,235 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 did not provide the notice of tort options to the insured at the time of application.

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 processes and issues personal automobile policies using an automated system. 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 20,981 private passenger automobile policies renewed without surcharges during the experience period, 25 files were selected for

review. All 25 files were received and reviewed. The 20,770 violations noted were based on the universe of 20,981 files, resulting in an error ratio of 99%.

The following findings were made:

20,770 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 policy renewal did not reflect the prominent notice as required on the 20,770 files identified by the Company.

Private Passenger Automobile – Renewals With Surcharges

From the universe of 2,447 private passenger automobile policies renewed with surcharges during the experience period, 50 files were selected for review. All 50 files were received and reviewed. The 4,856 violations noted were based on the universe of 2,447 files, resulting in an error ratio of 100%.

The following findings were made:

2,409 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 policy renewal did not reflect the prominent notice as required on the 2,409 files identified by the Company.

2,447 Violations Act 68, Section 2005(c) [40 P.S. §991.2005(c)]

All insurers shall provide to insureds a detailed statement of the components of a premium and shall specifically show the amount of a 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.

AND

Title 75, Pa. C.S. §1799.3(d)

Requires insurers who make a determination to impose a surcharge, rate penalty or driver record point assignment, to inform the insured of the determination and specify the manner in which the surcharge, rate penalty or driver record point assignment was made and clearly identify the amount of the surcharge or rate penalty on the premium notice for as long as the surcharge or rate penalty is in effect. The Company failed to show the amount of the surcharge or rate penalty on the premium notice.

B. Private Passenger Automobile – Assigned Risk

American Independent Insurance Company reports its premium writings for private passenger automobile to the Pennsylvania Assigned Risk Plan. As a result, the Company receives all assignments from the Pennsylvania Assigned Risk Plan.

1. New Business

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

The primary purpose of the review was to determine compliance with Act 246, The Casualty and Surety Rate Regulatory Act, 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. Review was also made of all the rules and rates of the Assigned Risk Plan, compliance with all provisions of Act 6 of 1990, as well as Title 75, Pa. C.S. Sections 1741, 1742, 1743 and 1744 [40 P.S. §1741, 1742, 1743 and 1744], which establishes the Assigned Risk Plan and requires insurers to abide by the rules of the Plan.

Assigned Risk Private Passenger Automobile – New Business – Clean

From the universe of 897 assigned risk private passenger automobile new business policies written as clean during the experience period, 25 files were selected for review. All 25 files were received and reviewed. No violations were noted.

Assigned Risk Private Passenger Automobile – New Business – Other Than Clean

From the universe of 83 assigned risk private passenger automobile new business policies written as other than clean during the experience period, 15 files were selected for review. All 15 files were received and reviewed. The 83 violations noted were based on the universe of 83, resulting in an error ratio of 100%.

The following findings were made:

83 Violations Act 68, Section 2005(c) [40 P.S. §991.2005(c)]

All insurers shall provide to insureds a detailed statement of the components of a premium and shall specifically show the amount of a 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.

AND

Title 75, Pa. C.S. §1799.3(d)

Requires insurers who make a determination to impose a surcharge, rate penalty or driver record point assignment, to inform the insured of the determination and specify the manner in which the surcharge, rate penalty or driver record point assignment was made and clearly identify the amount of the surcharge or rate penalty on the premium notice for as long as the surcharge or rate penalty is in effect. The Company failed to show the amount of the surcharge or rate penalty on the premium notice.

Assigned Risk Private Passenger Automobile – Renewals – Clean

From the universe of 275 assigned risk private passenger automobile renewal policies written as clean during the experience period, 25 files were selected for review. All 25 files were received and reviewed. The 252 violations noted were based on the universe of 275, resulting in an error ratio of 92%.

The following findings were made:

252 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 policy renewal did not reflect the prominent notice as required on the 252 files identified by the Company.

Assigned Risk Private Passenger Automobile – Renewals – Other Than Clean

The universe of 36 assigned risk private passenger automobile renewal policies written as other than clean during the experience period was selected for review. All 36 files were received and reviewed. The 68 violations noted were based on the universe of 36, resulting in an error ratio of 100%.

The following findings were made:

32 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 policy renewal did not reflect the prominent notice as required on the 32 files identified by the Company.

36 Violations Act 68, Section 2005(c) [40 P.S. §991.2005(c)]

All insurers shall provide to insureds a detailed statement of the components of a premium and shall specifically show the amount of a 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.

AND

Title 75, Pa. C.S. §1799.3(d)

Requires insurers who make a determination to impose a surcharge, rate penalty or driver record point assignment, to inform the insured of the determination and specify the manner in which the surcharge, rate penalty or driver record point assignment was made and clearly identify the amount of the surcharge or rate penalty on the premium notice for as long as the surcharge or rate penalty is in effect. The Company failed to show the amount of the surcharge or rate penalty on the premium notice.

VII. CLAIMS

The Company was requested to provide copies of all established written claim handling procedures utilized during the experience period. Written claim handling procedures were received and reviewed for any inconsistencies, which could be considered discriminatory, specifically prohibited by statute or regulation, or unusual in nature. No violations were noted.

The Claims review consisted of the following areas of review:

- A. Automobile Property Damage Claims
- B. Automobile Comprehensive Claims
- C. Automobile Collision Claims
- D. Automobile Total Loss Claims
- E. Automobile First Party Medical Claims
- F. Automobile First Party Medical Claims Referred to a PRO
- G. Property Claims

The primary purpose of the review was to determine compliance with Title 31, Pennsylvania Code, Chapter 146, Unfair Claims Settlement Practices. The files were also reviewed to determine compliance with Act 205, Section 4 (40 P.S. §1171.4) and Section 5(a)(10)(vi) [40 P.S. §1171.5(a)(10)(vi)], Unfair Insurance Practices Act.

A. Automobile Property Damage Claims

From the universe of 13,868 private passenger automobile property damage claims reported during the experience period, 40 files were selected for review. All 40 files were received and reviewed. No violations noted were noted.

B. Automobile Comprehensive Claims

From the universe of 380 private passenger automobile comprehensive claims reported during the experience period, 28 files were selected for review. All 28 files were received and reviewed. The violation noted resulted in an error ratio of 4%.

The following finding was made:

1 Violation Title 31, Pa. Code, Section 146.7(a)(1)

Within 15 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. The Company failed to provide a copy of the denial letter for the claim noted.

C. Automobile Collision Claims

From the universe of 1,907 private passenger automobile collision claims reported during the experience period, 30 files were selected for review. All 30 files were received and reviewed. No violations were noted.

D. Automobile Total Loss Claims

From the universe of 1,000 private passenger automobile total loss claims reported during the experience period, 74 files were selected for review. All 74 files were received and reviewed. The 10 violations noted were based on 10 files, resulting in an error ratio of 14%.

The following findings were made:

2 Violations Title 31, Pa. Code, Section 146.6

Every insurer shall complete investigation of a claim within 30 days after notification of the claim, unless such investigation cannot reasonably be completed within 30 days, and every 45 days thereafter, the insurer shall provide the claimant with a reasonable written explanation for the delay and state when a decision on the claim may be expected. The Company did not provide timely status letters for the 2 claims noted.

5 Violations Title 31, Pa. Code, Section 62.3(e)(1)

Requires the replacement value of a motor vehicle be calculated by use of the Guide Source Method, the Actual Cost Method or the Dealer Quotation Method. The Company did not calculate the replacement value by using one of the approved methods for the 5 claims noted.

1 Violation Title 31, Pa. Code, Section 62.3(e)(4)

Requires that applicable sales tax on the replacement cost of a motor vehicle shall be included as part of the replacement value. The file noted did not have sales tax included in the replacement value of the vehicle.

2 Violations Title 75, Pa. C.S. §1161(a)&(b) – Certificate of Salvage Required.

(a) General rule – Except as provided in Sections 1162 and 1163, a person, including an insurer or self-insurer as defined in Section 1702 (relating to definitions), who owns, possesses or transfers a vehicle located or registered in the

Commonwealth which qualifies as a salvage vehicle shall make application to the Department for a certificate of salvage for that vehicle.

(b) Application for certificate of salvage. – An owner who transfers a vehicle to be destroyed or dismantled, salvaged or recycled shall assign the certificate of title to the person to whom the vehicle is transferred. Except as provided in Section 1163, the transferee shall immediately present the assigned certificate of title to the Department or an authorized agent of the Department with an application for a certificate of salvage upon a form furnished and prescribed by the Department. An insurer as defined in Section 1702 to which title to a vehicle is assigned upon payment to the insured or claimant of the replacement value of a vehicle shall be regarded as a transferee under this subsection. The 2 files noted did not reflect a Pennsylvania salvage title was obtained.

E. Automobile First Party Medical Claims

From the universe of 8,411 private passenger automobile first party medical claims reported during the experience period, 75 files were selected for review. All 75 files were received and reviewed. The 8 violations noted were based on 4 files, resulting in an error ratio of 5%.

The following findings were made:

4 Violations Title 31, Pa. Code, Section 69.52(b)

Requires an insurer to pay bills for care that are not referred to a Peer Review Organization within 30 days after the

insurer receives sufficient documentation supporting the bill. The 4 violations noted resulted because the bills were not paid within 30 days.

4 Violations Title 75, Pa. C.S. §1716

Payment of Benefits. Benefits are overdue if not paid within 30 days after the insurer receives reasonable proof of the amount of benefits. If reasonable proof is not supplied as to all benefits, the portion supported by reasonable proof is overdue if not paid within 30 days after the proof is received by the insurer. Overdue benefits shall bear interest at the rate of 12% per annum from the date the benefits become due. In the event the insurer is found to have acted in an unreasonable manner in refusing to pay the benefits when due, the insurer shall pay, in addition to the benefits owed and the interest thereon, a reasonable attorney fee based upon actual time expended. The Company did not pay interest on 4 claims that were not paid within 30 days.

F. Automobile First Party Medical Claims Referred to a PRO

The Company did not report any private passenger automobile first party medical claims referred to a peer review organization. The Company was requested to provide copies of all peer review contracts in place during the experience period. A contract was provided and reviewed. No violations were noted.

VIII. 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. All underwriting and claim files were also reviewed to verify compliance with 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.

The following findings were made:

2 Violations Title 75, Pa. C.S. §1822

Warning notice on application for insurance and claim forms. Not later than May 1, 1990, all applications for insurance, renewals and claim forms shall contain a statement that clearly states in substance the following: "Any person who knowingly and with intent to injure or defraud any insurer files an application or claim containing false, incomplete or misleading information shall, upon conviction, be subject to imprisonment for up to seven years and payment of a fine of up to \$15,000." The Company did not provide the fraud warning on a property damage release form and an application for benefits form.

IX. ADVERTISING

The Company was requested to provide copies of all advertising, sales material and internet advertisements in use during the experience period.

The purpose of this review was to determine compliance with Act 205, Section 5 [40 P.S. §1171.5], which defines unfair methods of competition and unfair or deceptive acts or practices in the business of insurance, as well as Title 31, Pennsylvania Code, Section 51.2(c) and Section 51.61.

The Company advised that there was no advertising used during the experience period. The Company's website was reviewed. No violations were noted.

X. 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 200 consumer complaints received during the experience period and provided all consumer complaint logs requested. Of the 200 complaints reported, 50 were selected for review.

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 following findings were made:

4 Violations Act 205, Section 5(a)(11) [40 P.S. §1171.5(a)(11)]

Requires an insurer to maintain a complete record of all the complaints, which it has 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 time it took to process each complaint. The Complaint logs for years 2005, 2004, 2003 and 2002 were incomplete. The Company failed to include the total number of complaints, classification by line, nature, disposition and time it took to process each complaint.

1 Violation Title 75, Pa. C.S. §1799.3(a)

Prohibits insurers from applying a surcharge, rate penalty or driver record point assignment where, during the preceding three-year period, the aggregate cost to the insurer for any person injured or property damaged is determined to be less than \$1,150 in excess of any self insured retention or deductible applicable to the named insured. The Company surcharged for a claim which resulted in an overcharge of \$496.

1 Violation Act 205, Section 4 [40 P.S. §1171.4]

Unfair methods of competition and unfair or deceptive acts or practices prohibited. No person shall engage in this state in any trade practice which is defined or determined to be an unfair method of competition or an unfair or deceptive act or practice in the business of insurance. The Company failed to continue coverage due to the age of a vehicle, when they had been insuring this vehicle for 4 years.

The following synopsis reflects the nature of the 50 complaints that were reviewed.

• 25	Cancellation/Nonrenewal	50%
• 25	Renewal	50%
<hr/>		<hr/>
50		100%

XI. LICENSING

In order to determine compliance by the Company and its agency force with the licensing requirements applicable to Section 641.1(a) [40 P.S. §310.41(a) and Section 671-A [40 P.S. §310.71] of the Insurance Department Act No. 147, the Company was requested to furnish a list of all active producers during the experience period and a listing of all producers terminated during the experience period. Underwriting files were checked to verify proper licensing and appointment.

The following findings were made:

*1 Violation Insurance Department Act, No. 147, Section 641.1A
[40 P.S. §310.41a]*

(a) Any insurance entity or licensee accepting applications or orders for insurance from any person or securing any insurance business that was sold, solicited or negotiated by any person acting without an insurance producer license shall be subject to civil penalty of no more than \$5,000.00 per violation in accordance with this act. This section shall not prohibit an insurer from accepting an insurance application directly from a consumer or prohibit the payment or receipt of referral fees in accordance with this act.

The following producer was found to be writing and/or soliciting policies but was not found in Insurance Department records as holding a Pennsylvania producer license.

Xpert Insurance

*1 Violation Insurance Department Act, No. 147, Section 671-A
(40 P.S. §310.71)*

(a) Representative of the insurer – An insurance producer shall not act on behalf of or as a representative of the insurer unless the insurance producer is appointed by the insurer. An insurance producer not acting as a representative of an insurer is not required to be appointed.

(b) Representative of the consumer – An insurance producer acting on behalf of or representing an insurance consumer shall execute a written agreement with the insurance consumer prior to representing or acting on their behalf that:

(1) Delineates the services to be provided; and

(2) Provides full and complete disclosure of the fee to be paid to the insurance producer by the insurance consumer.

(c) Notification to Department – An insurer that appoints an insurance producer shall file with the Department a notice of appointment. The notice shall state for which companies within the insurer's holding company system or group the appointment is made.

(d) Termination of appointment – Once appointed, an insurance producer shall remain appointed by an insurer until such time as the insurer terminates the appointment in writing to the insurance producer or until the insurance producer's license is suspended, revoked or otherwise terminated.

(e) Appointment fee – An appointment fee of \$12.50 will be billed annually to the insurer for each producer appointed by the insurer during the preceding calendar year regardless of the length of time the producer held the appointment with the insurer. The appointment fee may be modified by regulation.

(f) Reporting – An insurer shall, upon request, certify to the Department the names of all licensees appointed by the insurer.

The following producer was found to be writing policies but was not found in Insurance Department records as having an appointment. The Company failed to file a notice of appointment and submit appointment fees to the Department.

The Sill Agency

XII. 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 and revise internal control procedures to ensure compliance with cancellation notice requirements of Act 68, Sections 2003, 2004 and 2006 [40 P.S. §§991.2003, 2004 and 2006], so that the violations noted in the Report do not occur in the future.
2. The Company must review Title 75, Pa. C.S. §1791.1(a) and (b) to ensure that an itemized invoice listing minimum coverages and tort options is provided at the time of application, as noted in the Report, and does not occur in the future.
3. When a surcharge is imposed on a private passenger automobile policy the Company must provide a surcharge disclosure and clearly identify the amount of the surcharge on the premium notice. This procedure must be implemented within 30 days of the Report issue date. This is to ensure that violations noted under Act 68, Sec. 2005(c) [40 P.S. §991.2005(c)] and Title 75, Pa. C.S. §1799.3(d) do not occur in the future.
4. 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.

5. The Company must review Title 75, Pa. C.S. §1799.3(a) to ensure that a policy is not surcharged where, during the preceding three-year period, the aggregate cost to the insurer for any person injured or property damaged is determined to be less than \$1,150 in excess of any self-insured retention or deductible applicable to the named insured.
6. The Company should review and revise internal control procedures to ensure compliance with the claims handling requirements of Title 31, Pennsylvania Code, Chapter 146, Unfair Claims Settlement Practices so that the violations relating to status letters and denials as noted in the Report do not occur in the future.
7. The Company must review Title 31, Pa. Code, Section 69.52(b) with its claim staff to ensure that first party medical bills are paid within 30 days.
8. The Company must review the first party medical claims, which have not been paid within 30 days. Those claims that have not been paid within 30 days shall bear interest at the rate of 12% annum from the date the benefits become due as required by Title 75, Pa. C.S. §1716. The interest amount must be paid to the claimant and proof of such payment must be provided to the Insurance Department within 30 days of the Report issue date.
9. The Company must review Title 31, Pa. Code, Section 62.3(e)(1) with its claim staff to ensure that replacement value of a motor vehicle be

calculated by use of the Guide Source Method, the Actual Cost Method or the Dealer Quotation Method. The Company must recalculate the claim files noted in the Report and provide claimants with any refunds. Proof of the recalculation and any refunds to claimants must be provided to the Insurance Department within 30 days of the Report issue date.

10. The Company must review Title 31, Pa. Code, Section 62.3(e)(4) with its claim staff to ensure that sales tax is included in the replacement value of a motor vehicle. The Company must review all claims where sales tax was not included in the replacement value of a motor vehicle. The sales tax must be paid to the claimant and proof of such payment must be provided to the Insurance Department within 30 days of the Report issue date.
11. The Company must review Title 75, Pa. C.S. §1161(a)&(b) with its claim staff to ensure that salvage certificates are obtained and are retained with the claim file.
12. The Company must ensure all producers are properly licensed and appointed, as required by Sections 641.1A and 671-A [40 P.S. §§310.41a and 310.71] of the Insurance Department Act No. 147, prior to accepting any business from any producer.
13. The Company must review Act 205, Section 4 [40 P.S. §1171.4] to ensure that the violations relative to nonrenewals noted in the Report do not occur in the future.

14. The Company must revise and reissue their underwriting guidelines for use in Pennsylvania to ensure that the guidelines do not discriminate based on national origin and lawful occupation as established in Section 2003 of Act 68 [40 P.S. §991.2003].

15. The Company must review Act 205, Section 5(a)(11) [40 P.S. §1171.5(a)(11)], to ensure that the violations relative to complaint records noted in the Report does not occur in the future.

16. The Company must ensure that all claim forms contain the required fraud warning notice.

XIII. COMPANY RESPONSE



AMERICAN INDEPENDENT INSURANCE COMPANY

P.O. BOX 3000, PLYMOUTH MEETING, PA 19462
(610) 832-4940 • FAX (610) 832-5323

December 31, 2007

Chester A. Derk, Jr., AIE, HIA
Market Conduct Division Chief
Pennsylvania Insurance Department
1227 Strawberry Square
Harrisburg, PA 17120

Re: American Independent Insurance Company, a Pennsylvania corporation,
Market Conduct Examination

Dear Mr. Derk:

American Independent Insurance Company (the "Company") is in receipt of your letter dated December 4, 2007 and the Department's Report of Examination covering the period of January 1, 2006 to December 31, 2006 ("Report"). Kindly accept this letter as the Company's response to the Report.

As you know, the Company serves the unique segment of the market, namely, the non-standard automobile insurance market, in which most of its customers are interested in purchasing just the minimum level of statutory coverage. We value the opportunity to fill this significant market need and strive to maintain this coverage at affordable levels and in a very consumer friendly environment.

Our response below addresses each of the Department's recommendations starting on page 36 of the Report. Although we believe the exceptions noted in the Report relate mostly to categories of either human error (which we believe are statistically insignificant) or to differing interpretations of Pennsylvania law, we accept the Report constructively in an effort to improve procedures, and the Company is implementing the recommendations of the Department to further strengthen our compliance. To the extent the Department views certain matters to be a violation of Pennsylvania law, given the circumstances, the Company respectfully submits that none of such actions should be viewed as an intentional violation of the law or any general pattern or practice of noncompliance.

The Company appreciates the professional courtesy of your staff throughout the examination process. We look forward to working with you to reach a mutually agreeable resolution in the Report. If you have any questions in connection with the letter or you require any further information, please do not hesitate to call me.

Office of Insurance Regulation
December 5, 2007
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Respectfully submitted,

A handwritten signature in black ink, appearing to read "Bruce Arneson", with a long horizontal flourish extending to the right.

Bruce Arneson
President
American Independent Insurance Co.

The Company response will parallel the order of the findings as noted in XII-RECOMMENDATIONS of the Report of the Market Conduct Examination for American Independent Insurance Company.

1. The Company must review and revise internal control procedures to ensure compliance with cancellation notice requirements of Act 68, Sections 2003, 2004 and 2006 [40 P.S. §§991.2003, 2004 and 2006], so that the violations noted in the Report do not occur in the future.

Company response:

We are continuing to evaluate our internal control procedures as recommended by the Department. We have made adjustments to the response system contained within our computer system that checks and monitors the timing of these notices. We have also developed and implemented uniform but specifically tailored, reasons to be used for cancellations and non-renewals. We have provided additional training to our staff in this area. We believe these actions will reduce the risk of any future problems in the area of cancellations.

2. The Company must review Title 75, Pa. C.S. §1791.1(a) and (b) to ensure that an itemized invoice listing minimum coverages and tort options is provided at the time of application, as noted in the Report, and does not occur in the future.

Company response:

We have reviewed the Departments recommendations pertaining to Title 75, Pa. C.S. 1791.1 (a) and (b). Based upon the Departments recommendations, we have undertaken steps to modify our forms pertaining to itemized invoices and tort options to enhance our compliance on a prospective basis. We plan to send a copy of the modified forms pertaining to minimum limits and tort options to the Department under separate cover.

Although we have modified our forms and procedures, we do not agree that our forms are inconsistent with the requirements of Title 75, Pa. C.S. 1791.1 (a) and (b). We would like to point out that the minimum motor vehicle insurance coverage levels and the corresponding premium charge to purchase the minimum coverage is currently provided on all declaration pages and as a result, the required information was made available to all policyholders.

We would also like to point out the tort options were explained to the insured by the agent prior to selection. In addition, the tort options are identified and explained in the tort selection form contained in the application.

Even if the Department still views the Company's notice to be technically deficient, we believe the Company's notice or disclosure provided the customer with sufficient information to make an informed decision.

3. When a surcharge is imposed on a private passenger automobile policy the Company must provide a surcharge disclosure and clearly identify the amount of the surcharge on the premium notice. This procedure must be implemented within 30 days of the Report issue date. This is to ensure that violations noted under Act 68, Sec. 2005(c) [40 P.S. §991.2005(c)] and Title 75, Pa. C.S. §1799.3(d) do not occur in the future.

Company response:

Based upon the recommendations made by the Department and to improve our compliance, we are modifying our declaration pages and premium notices to more clearly set forth the surcharge by providing the exact dollar amount for the surcharge or rate penalty. We have implemented the new procedure by placing the suggested form in our automated system for testing. We plan to send a copy of the revised notice to the Department under separate cover.

Although we have accepted the Departments recommendations and made the modifications, we do not agree that our forms and procedures are inconsistent with the requirements of Act 68, Sec. 2005 (c) [40 P.S. 991.2005 (c) and Title 75, Pa. C.S. 1799.3 (d). In that the nature of the surcharge, the rate penalty in terms of points, and a surcharge disclosure statement was provided, this allows the individual to calculate the surcharge or rate penalty.

Even if the Department still views the Company's notice to be technically deficient, we believe the Company's notice or disclosure provided the customer with sufficient information to understand the amount of the surcharge.

4. 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.

Company response:

We have reviewed the recommendations made by the Department. Accordingly, we are modifying the form we will use for our renewal offers and declaration pages on a prospective basis. We have implemented the new procedure by placing the suggested form in our automated system for testing. We plan to send a copy of the revised form to the Department under separate cover.

Although we have accepted the Department's recommendations and made the modifications, we do not agree that our forms and procedures are inconsistent with the requirements of Title 75, Pa. C.S. 1731 (c) (1). Our renewal offer forms and declaration forms provide this notice of coverage through the premium calculation. If there is no premium indicated on the declaration page or the renewal offer, the policyholder is clearly advised the policy does not afford coverage for uninsured motorists or underinsured motorists.

Even if the Department still views the Company's notice to be technically deficient, we believe the Company's notice or disclosure provided the customer with sufficient information to make an informed decision regarding uninsured and underinsured coverage.

5. The Company must review Title 75, Pa. C.S. §1799.3(a) to ensure that a policy is not surcharged where, during the preceding three-year period, the aggregate cost to the insurer for any person injured or property damaged is determined to be less than \$1,150 in excess of any self-insured retention or deductible applicable to the named insured.

Company response:

Upon review of our procedures, we have identified this as an individual error. Once the error was discovered, the surcharge had been removed and the policy credited accordingly. To reduce the risk of this error occurring, additional training was conducted in this area.

6. The Company should review and revise internal control procedures to ensure compliance with the claims handling requirements of Title 31, Pennsylvania Code, Chapter 146, Unfair Claims Settlement Practices so that the violations relating to status letters and denials as noted in the Report do not occur in the future.

Company response:

The Company has completed a review of the three violations of Chapter 146 and determined that they were due to isolated cases in which there was a

deviation from the AIICO procedures. To improve compliance with the statute the Company has provided additional training to the appropriate personnel.

7. The Company must review Title 31, Pa. Code, Section 69.52(b) with its claim staff to ensure that first party medical bills are paid within 30 days.

Company response:

The Company has completed a training session on October 9, 2007 and reviewed Title 31, Pa. Code, Section 69.52(b) with the No Fault representatives and supervisors to reinforce the understanding that first party medical bills are to be paid within thirty days of receiving sufficient documentation to process the bill. Internal auditing processes have been implemented to strengthen compliance with Section 69.52(b).

8. The Company must review the first party claims, which have not been paid within 30 days. Those claims that have not been paid within 30 days shall bear interest at the rate of 12% annum from the date the benefits become due as required by Title 75, Pa. C.S. §1716. The interest amount must be paid to the claimant and proof of such payment must be provided to the Insurance Department within 30 days of the Report issue date.

Company response:

The Company has reviewed the isolated first party claims identified as failing to include interest which were paid past thirty days. The Company issued the interest payments which were owed. Copies of the cashed checks are provided under separate cover. Additional training was provided to remind the appropriate staff of the requirement to pay interest on payments not processed within thirty days.

9. The Company must review Title 31, Pa. Code, Section 62.3(e)(1) with its claims staff to ensure that the replacement value of a motor vehicle be calculated by use of the Guide Source Method, the Actual Cost Method or the Dealer Quotation Method. The Company must recalculate the claim files noted in the Report and provide claimants with any refunds. Proof of the recalculation and any refunds to claimants must be provided to the Insurance Department within 30 days of the Report issue date.

Company response:

We have reviewed the requirements of Title 31, Pa. Code Section 62.3 (e) (1) with the applicable claim staff. For those isolated cases where mistakes were

made in calculating the appropriate replacement value of vehicles, supplemental payments have been issued, except on one loss. A recalculated settlement offer was extended on December 28, 2007. Our attempts to contact the owner prior to that time were unsuccessful. Copies of the cashed checks are provided under separate cover. One check has not yet been cashed. A copy of the check, which was sent to the owner's last known address, is provided under separate cover. To strengthen compliance, we have provided training to the appropriate personnel.

10. The Company must review Title 31, Pa. Code, Section 62.3(e)(4) with its claim staff to ensure that sales tax is included in the replacement value of a motor vehicle. The Company must review all claims where sales tax was not included in the replacement value of a motor vehicle. The sales tax must be paid to the claimant and proof of such payment must be provided to the Insurance Department within 30 days of the Report issue date.

Company response:

We have reviewed the requirements of Title 31, Pa. Code, Section 62.3(e)(4) with the applicable claim staff. We have reviewed the one file, and agreed that due to an oversight we did not include the sales tax. We have issued a supplemental payment to the vehicle owner. A copy of the cashed check is provided under separate cover.

11. The Company must review Title 75, Pa. C.S. §1161(a)&(b) with its claim staff to ensure that salvage certificates are obtained and are retained with the claim file.

Company response:

We have reviewed the requirements of Title 75, Pa. C.S. 1161(a) & (b) with the applicable claim staff. We reviewed these two isolated incidents, which involved two out of state vehicles. To strengthen compliance, we have provided additional training to the appropriate personnel to strengthen compliance with Title 75 to ensure that salvage certificates are obtained and retained with the claim file.

12. The Company must ensure all producers are properly licensed and appointed, as required by Sections 641.1A and 671-A [40 P.S §§310.41a and 310.71] of the Insurance Department Act No. 147, prior to accepting any business from any producer.

Company response:

In light of the recommendations made by the Department, we have reviewed our appointment process. All producers are appointed and will continue to be appointed in accordance to Sections 641.1A and 671-A [40 P.S. 310.41a and 310.71] of the Insurance Department Act No. 147. We have provided additional training to our staff to ensure compliance.

13. The Company must review Act 205, Section 4 [40 P.S. §1171.4] to ensure that the violations relative to nonrenewals noted in the Report do not occur in the future.

Company response:

We have reviewed our procedures and have determined the error relates to the misapplication of the underwriting guidelines for new business to existing business. We have provided additional training to the applicable personnel in this area to strengthen compliance in this area.

14. The Company must revise and reissue their underwriting guidelines for use in Pennsylvania to ensure that the guidelines do not discriminate based on national origin and lawful occupation as established in Section 2003 of Act 68 [40 P.S. §991.2003].

Company response:

Based upon the recommendations made by the Department, we reviewed our underwriting guidelines and have reissued the underwriting guidelines to our staff. We have amended the unacceptable risk section of the Company's private passenger automobile guidelines. The amendments were made to ensure compliance to Section 2003 of Act 68 [40 P.S. 991.2003].

15. The Company must review Act 205, Section 5(a)(11) [40 P.S. §1171.5(a)(11)], to ensure that the violations relative to complaint records noted in the Report does not occur in the future.

Company response:

Based upon the recommendations made by the Department, we reviewed our complaint log. We have modified the format of our complaint log to address the recommendations of the Department.

16. The Company must ensure that all claim forms contain the required fraud warning notice.

Company response:

The Company completed a review of the two files which were identified as failing to include the required fraud warning notice on a claim form. To strengthen compliance in this area we have initiated the implementation of a change in programming which will systematically enter the fraud warning notice on applicable Pennsylvania claims forms.