

**REPORT OF  
MARKET CONDUCT EXAMINATION  
OF**

**AMERICAN NATIONAL PROPERTY AND CASUALTY COMPANY  
Springfield, Missouri**

**AS OF  
November 5, 2007**

**COMMONWEALTH OF PENNSYLVANIA**

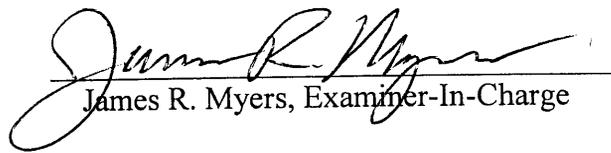


**INSURANCE DEPARTMENT  
MARKET CONDUCT DIVISION**

**Issued: December 17, 2007**

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).

  
James R. Myers, Examiner-In-Charge

Sworn to and Subscribed Before me

This *15* Day of *October*, 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 NATIONAL PROPERTY AND CASUALTY COMPANY

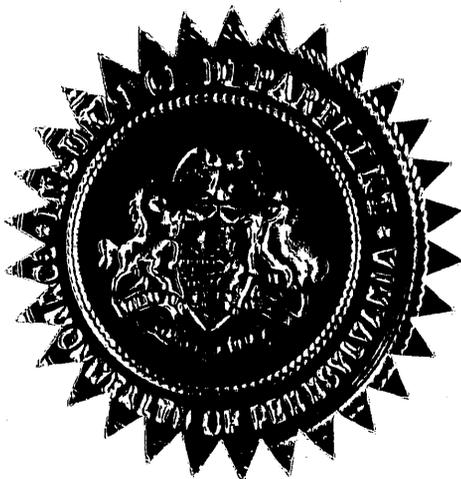
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BEFORE THE INSURANCE COMMISSIONER  
OF THE  
COMMONWEALTH OF PENNSYLVANIA

ORDER

AND NOW, this 6<sup>th</sup> 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:

AMERICAN NATIONAL PROPERTY  
AND CASUALTY COMPANY  
1949 East Sunshine  
Springfield, MO 65899-0001

VIOLATIONS:

Section 671-A of Act 147 of 2002  
(40 P.S. § 310.71)

Act 1990-6, Sections 1705(a)(1) and  
(4), 1716, 1738(d)(1) and (2),  
1791.1(a) and (b), 1793(b), and  
1797(b)(1) (Title 75, Pa.C.S.  
§§ 1705, 1716, 1738, 1793 and 1797)

Sections 5(a)(4), 5(a)(9) and 10(i)(ii)  
of the Unfair Insurance Practices Act,  
Act of July 22, 1974, P.L. 589,  
No. 205 (40 P.S. §§ 1171.5)

Sections 2002(c)(3), 2006, 2006(2),  
(4), (5), (6), and (7) of Act 68 of 1998  
(40 P.S. §§991.2002 and 991.2006)

Sections 7(c) of the Act of July 3,  
1986, P.L. 396, No. 86 (40 P.S. §3407)

Section 506.1 of the Insurance  
Company Law, Act of May 17, 1921,  
P.L. 682, No. 284 (40 P.S. § 636.1)

Title 31, Pennsylvania Code, Sections  
59.9(b), 69.52(1), (a), (b) and (e),  
69.53(a), 69.55(a), 146.6 and 146.7(a)(1)

Title 75, Pennsylvania Consolidated  
Statutes, Section 1161(a) and (b)

Respondent.

Docket No. MC07-11-013

CONSENT ORDER

AND NOW, this 17<sup>th</sup> day of *December*, 2007, 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 National Property and Casualty Company, and maintains its address at 1949 East Sunshine, Springfield, Missouri 65899-0001.

- (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 November 5, 2007, the Insurance Department issued a Market Conduct Examination Report to Respondent.
- (d) A response to the Examination Report was provided by Respondent on December 3, 2007.
- (e) The Examination Report notes violations of the following:
  - (i) 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).
  - (ii) Sections 1705(a)(1) & (4) of Act 1990-6, Title 75, Pa.C.S. § 1705, which requires every insurer, prior to the issuance of a private passenger motor vehicle liability insurance policy to provide each applicant an opportunity to elect a tort option. A policy may not be issued unless the applicant has been provided an opportunity to elect a tort option;

(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 1738(c)(d)(1)(2) of Act 1990-6, Title 75, Pa.C.S. § 1738, which requires the insurer to advise that named insured shall be informed that he may exercise the waiver for stacked uninsured and underinsured motorist coverage by signing written rejection forms;

(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(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;

(viii) Section 1797(b)(1) of Act 1990-6, Title 75, Pa.C.S. § 1797, which requires insurers to contract jointly or separately with any peer review organization established for the purpose of evaluating treatment, health care services,

products or accommodations provided to any injured person. Such evaluation shall be for the purpose of confirming that such treatment, products, services or accommodations conform to the professional standards of performance and are medically necessary. An insurer's challenge must be made to a PRO within 90 days of the insurer's receipt of the provider's bill for treatment or services or may be made at any time for continuing treatment or services;

(ix) Section 5(a)(4) of Act 205 (40 P.S. § 1171.5), which defines as an unfair method of competition or unfair or deceptive acts or practices as entering into any agreement to commit, or by any concerted action committing, any act of boycott, coercion or intimidation resulting in or tending to result in unreasonable restraint of, or monopoly in, the business of insurance;

(x) Section 5(a)(9) of Act 205 (40 P.S. §1171.5), which defines an unfair act or practice as: (9) cancelling any policy of insurance covering owner-occupied private residential properties or personal property of individuals that has been in force for 60 days or more or refusing to renew any such policy unless the policy was obtained through material misrepresentation, fraudulent statements, omissions or concealment of fact material to the acceptance of the risk or to the hazard assumed by the company; or there has been a substantial change or increase in hazard in the risk assumed by the company subsequent to the date the policy was issued; or there is a

substantial increase in hazards insured against by reason of willful or negligent acts or omissions by the insured; or the insured has failed to pay any premium whether such premium is payable directly to the company or its agent or indirectly under any premium finance plan or extension of credit; or for any other reasons approved by the Commissioner pursuant to rules and regulations promulgated by the Commissioner. No cancellation or refusal to renew by any person shall be effective unless a written notice of the cancellation or refusal to renew is received by the insured whether at the address shown in the policy or at a forwarding address;

- (xi) Section 10(i)(ii) of Act 205 (40 P.S. § 1171.5), which states any of the following acts, if committed or performed with such frequency as to indicate a business practice, shall constitute unfair claim settlement or compromise practices: misrepresenting pertinent facts or policy or contract provisions relating to coverage at issue, and failing to acknowledge and act promptly upon written or oral communications with respect to claims arising under insurance policies;
  
- (xii) Section 2002(c)(3) of Act 68 (40 P.S. § 991.2003), which requires that an insurer supply the insured with a written statement of the reasons for cancellation;

- (xiii) Section 2006 of Act 68 of 1998 (40 P.S. § 991.2004), which requires that nonrenewal by an insurer of a policy of automobile insurance shall not be effective unless the insurer delivers or mails to the insured a written notice of the cancellation;
- (xiv) Section 2006(2) of Act 68 of 1998 (40 P.S. § 991.2006), which requires a cancellation or refusal to renew by an insurer of a policy of automobile insurance shall not be effective unless the insurer delivers or mails to the named insured at the address shown in the policy a written notice of the cancellation or refusal to renew. The notice shall: (2) state the date, not less than 60 days after the date of the mailing or delivery, on which cancellation or refusal to renew shall become effective. When the policy is being cancelled or not renewed for the reasons set forth in Section 2004(1) and (2), however, the effective date may be 15 days from the date of mailing or delivery;
- (xv) Section 2006(4) of Act 68 of 1998 (40 P.S. § 991.2006), which requires a cancellation notice advise the insured of his right to request in writing within 30 days of receipt of the notice of cancellation that the Insurance Commissioner review the action of the insurer;
- (xvi) Section 2006(5) of Act 68 of 1998 (40 P.S. § 991.2006), which requires that either in the cancellation notice or in an accompanying statement, the

insured be advised of his possible eligibility for insurance through the automobile assigned risk plan;

- (xvii) Section 2006(6) of Act 68 of 1998 (40 P.S. § 991.2006), which requires that a cancellation notice advise the insured that he must obtain compulsory automobile insurance coverage if he operates or registers a motor vehicle in this Commonwealth and that the insurer is notifying the Department of Transportation that the insurance is being cancelled and the insured must notify the Department of Transportation that he has replaced said coverage;
- (xviii) Section 2006(7) of Act 68 of 1998 (40 P.S. § 991.2006), which requires that a cancellation notice clearly state that when coverage is to be terminated due to nonresponse to a citation imposed under 75 Pa.C.S. § 1533, or nonpayment of a fine or penalty imposed under that section, coverage shall not terminate if the insured provides the insurer with proof that the insured has responded to all citations and paid all fines and penalties and that he has done so on or before the termination date of the policy;
- (xix) Section 7(c) of Act 86 (40 P.S. § 3407), which states this act does not apply to commercial property and casualty policies in effect less than 60 days, unless they are renewals. An insurer may cancel the policy provided it gives at least 30 days' notice of the termination and provided it gives notice no later

than the 60<sup>th</sup> day, unless the policy provides for a longer period of notification;

- (xx) Section 506.1 of the Insurance Company Law, No. 284 (40 P.S. § 636.1), which states basic property insurance shall be continued 180 days after the death of the named insured on the policy, or until the sale of the property, whichever event occurs first provided that the premiums for the coverage are paid;
- (xxi) Title 31, Pennsylvania Code, Section 59.9(b), which provides an insurer may cancel a policy in the first 60 days but must provide a notice of cancellation to the insured;
- (xxii) Title 31, Pennsylvania Code, Section 69.52(1), which states a PRO shall complete a reconsideration within 30 days after receipt of the information submitted. A PRO shall send written notification of the reconsideration determination to the insurer, which shall within 5 days of receipt, provide copies to providers and insureds. The written notice shall contain the basis and rationale for the reconsideration determination;
- (xxiii) Title 31, Pennsylvania Code, Section 69.52(a), which requires an insurer to refer a provider's bill to a PRO only when circumstances or conditions relating to medical and rehabilitative services provided cause a prudent

person, familiar with PRO procedures, standards and practices, to believe it necessary that a PRO determine the reasonableness and necessity of care, the appropriateness of the setting where the care is rendered, and the appropriateness of the delivery of the care. The insurer shall notify a provider, in writing, when referring bills for Pro review at the time of referral;

- (xxiv) 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;
- (xxv) Title 31, Pennsylvania Code, Section 69.52(e), which requires an insurer to provide copies of the Peer Review Organization's written analysis to the provider and the insured within 5 days of receipt;
- (xxvi) Title 31, Pennsylvania Code, Section 69.53(a), which requires a Peer Review Organization to contract, in writing, jointly or separately with an insurer for the provision of peer review services as authorized by Act 1990-6 and this chapter;
- (xxvii) Title 31, Pennsylvania Code, Section 69.55(a), which requires a PRO to apply in writing to the Commissioner for approval to contract with an insurer to provide peer review services in accordance with the act and this Chapter;

(xxviii) 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;

(xxix) 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; and

(xxx) 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.

## 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 Section 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 5(a)(4), 5(a)(9) and 10 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 Department for Respondent's violations of the Unfair Insurance Practices Act (40 P.S. §§ 1171.1 – 1171.5), the Department 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 2002 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 Section 7 of Act 86 (40 P.S. §§ 3407), are punishable under Section 8 (40 P.S. § 3408) of this act by one or more of the following causes of action:

(i) Order that the insurer cease and desist from the violation.

(ii) Impose a fine or not more than \$5,000 for each violation.

(g) Respondent's violations of Section 506.1 of The Insurance Company Law, No. 284 (40 P.S. § 635.1) are punishable by the following, under Section 655 of the Insurance Company Law (40 P.S. § 815), which provides that the Insurance Commissioner shall have the power to suspend or revoke the license of any insurance company which violates any provisions of this article.

(h) Respondent's violations of Title 31, Pennsylvania Code, Sections 146.6 and 146.7 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, 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 it 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 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.

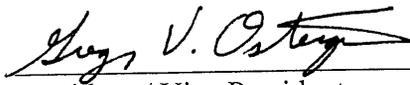
8. In any such enforcement proceeding, Respondent may contest whether a breach of the provisions of this Order has occurred but may not contest the Findings of Fact and Conclusions of Law contained herein.

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.

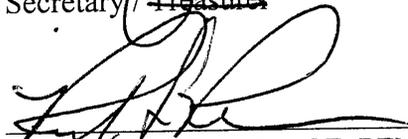
BY: AMERICAN NATIONAL PROPERTY AND  
CASUALTY COMPANY, Respondent



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



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



\_\_\_\_\_  
COMMONWEALTH OF PENNSYLVANIA

By: Randolph L. Rohrbaugh  
Deputy Insurance Commissioner

## I. INTRODUCTION

The market conduct examination was conducted at American National Property and Casualty Company's office located in Springfield, Missouri, from June 19, 2007, through August 9, 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.

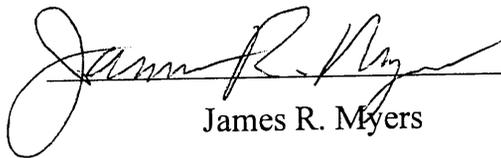
The courtesy and cooperation extended by the officers and employees of the Company during the course of the examination is hereby acknowledged.

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



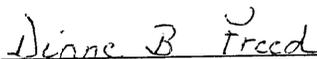
Chester A. Derk, Jr., AIE, HIA

Market Conduct Division Chief



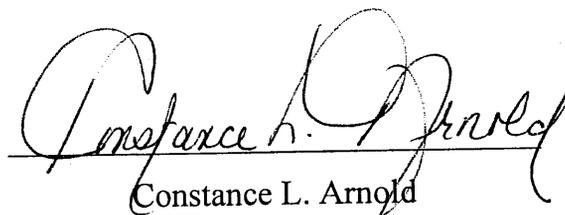
James R. Myers

Market Conduct Examiner



Diane B. Freed

Market Conduct Examiner



Constance L. Arnold

Market Conduct Examiner

## II. SCOPE OF EXAMINATION

The Market Conduct Examination was conducted on American National Property and Casualty Company, hereinafter referred to as "Company," at their office located in Springfield, Missouri. 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. Property
  - 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.
3. Commercial Property
  - Underwriting – Appropriate and timely notices of nonrenewal, midterm cancellations, 60-day cancellations and renewals.
4. Claims
5. Forms

6. Advertising

7. Complaints

8. Licensing

### III. COMPANY HISTORY AND LICENSING

American National Property and Casualty Company was incorporated on October 1, 1973, under the laws of Missouri and began business on January 2, 1974.

All of the outstanding capital stock is owned by the sponsor, American National Insurance Company, Galveston, Texas, a prominent Texas life insurance company.

#### LICENSING

American National Property and Casualty Company's Certificate of Authority to write business in the Commonwealth was last issued on April 1, 2007. The Company is licensed in District of Columbia, Puerto Rico and all states except Alaska, Connecticut, Hawaii, Maine, Massachusetts, and New York. The Company's 2006 annual statement reflects Direct Written Premium for all lines of business in the Commonwealth of Pennsylvania as \$22,749,803. Premium volume related to the areas of this review were: Homeowners Multiple Peril \$5,039,275; Private Passenger Automobile Direct Written Premium was reported as Other Private Passenger Auto Liability \$9,944,851 and Private Passenger Auto Physical Damage \$5,607,324.

#### 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, homeowners and tenant occupied dwelling fire. 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 finding was made:

*1 Violation Act 205, Section 5(a)(4) [40 P.S. §1171.5(a)(4)]*

Unfair Methods of Competition and Unfair or Deceptive Acts or Practices Defined. Entering into any agreement to commit, or by any concerted action committing, any act of boycott, coercion or intimidation resulting in or tending to result in unreasonable restraint of, or monopoly in, the business of insurance. The Company's homeowner underwriting guideline indicated the following: "Seasonal Dwelling – Acceptable if we insure the primary dwelling and secondary dwelling meets all underwriting guidelines". Requiring supporting coverage is prohibited.

## 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 43 private passenger automobile files identified as being cancelled in the first 60 days of new business, 15 files were selected for review. All 15 files were received and reviewed. The 11 violations noted were based on 11 files, resulting in an error ratio of 73%.

The following findings were made:

*11 Violations Act 68, Section 2002(c)(3) [40 P.S. §991.2002(c)(3)]*

*Adjudications: Tampa v. State Farm (P91-06-01, 1991)*

*Gorba v. Allstate (P92-02-92, 1993)*

Requires that an insurer supply the insured with a written statement of the reason for cancellation at least 15 days' notice to give insureds ample time to make other arrangements for insurance. The Company did not provide

15 days notice of 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 760 private passenger automobile files identified as midterm cancellations by the Company, 29 files were selected for review. All 29 files were received and reviewed. Of the 29 files reviewed, 3 were identified as nonrenewals. The 3 violations noted were based on 3 files, resulting in an error ratio of 10%.

The following findings were made:

### *3 Violations Act 68, Section 2006 [40 P.S. §991.2006]*

Requires that cancellation by an insurer of a policy of automobile insurance shall not be effective unless the insurer delivers or mails to the insured a written notice of the cancellation. The 3 files noted did not contain any evidence that a cancellation notice was sent to the insured.

### 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 77 private passenger automobile files identified as nonrenewals by the Company, 25 files were selected for review. All 25 files were received and reviewed. The 5 violations noted were based on one file, resulting in an error ratio of 4%.

The following findings were made:

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

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. The Company failed to provide 60 days notice of nonrenewal to the insured.

*1 Violation Act 68, Section 2006(4) [40 P.S. §991.2006(4)]*

Requires that a nonrenewal notice advise the insured of his right to request in writing that the Insurance Commissioner review the action of the insurer. The violation noted resulted from a cancellation notice which did not advise the insured of his right to request in writing a review by the Insurance Commissioner.

*1 Violation Act 68, Section 2006(5) [40 P.S. §991.2006(5)]*

Requires that either in the nonrenewal notice or in an accompanying statement, the insured be advised of this possible eligibility for insurance through the automobile assigned risk plan. The Company did not advise the insured of his or her eligibility for insurance through the assigned risk plan.

*1 Violation Act 68, Section 2006(6) [40 P.S. §991.2006(6)]*

Requires that a nonrenewal notice advise the insured that he must obtain compulsory automobile insurance coverage if he operates or registers a motor vehicle in this Commonwealth and that the insurer is notifying the Department of Transportation that the insurance is being cancelled and the insured must notify the Department of Transportation that he has replaced said coverage. The Company did not advise the insured that he must obtain compulsory automobile insurance coverage.

*1 Violation Act 68, Section 2006(7) [40 P.S. §991.2006(7)]*

Requires that a nonrenewal notice clearly state that when coverage is to be terminated due to nonresponse to a citation imposed under 75 Pa. C.S. §1533 (relating to suspension of operating privilege for failure to respond to a citation) or nonpayment of a fine or penalty imposed under that section, coverage shall not terminate if the insured provides the insurer with proof that the insured has responded to all citations and paid all fines and penalties and that he has done so on or before the termination date of the policy. The Company did not provide the required information on the nonrenewal notice.

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.

The universe of 5 private passenger automobile policies identified as being rescinded during the experience period was selected for review. All 5 files requested were received and reviewed. No violations were noted.

**B. Private Passenger Automobile – Assigned Risk**

The Company is an excused carrier under the assigned risk Limited Assignment Distribution procedure. Under this procedure groups of companies not under common ownership or management may form a

Limited Assignment Distribution (LAD) arrangement. Each LAD arrangement has one servicing company, which writes assigned risk business on behalf of those members, which choose to buy out from their private passenger quota. As part of this arrangement the Company wrote no assigned risk business during the experience period.

### **C. Property**

#### **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 205, Unfair Insurance Practices Act, Section 5(a)(7)(iii) [40 P.S. §1171.5(a)(7)(iii)], which prohibits an insurer from canceling a policy for discriminatory reasons and Title 31, Pennsylvania Code, Section 59.9(b), which requires an insurer who cancels a policy in the first 60 days to provide at least 30 days notice of the termination.

The universe of 24 property policies which were cancelled within the first 60 days of new business was selected for review. The policies consisted of homeowner and tenant homeowner. All 24 files were received and reviewed. The 3 violations noted were based on 3 files, resulting in an error ratio of 13%.

The following findings were made:

#### *3 Violations Title 31, Pa. Code, Section 59.9(b)*

Requires an insurer give at least 30 days notice of termination and provided it gives notice no later than the 60<sup>th</sup> day. The

Company did not provide the required 30 days notice of cancellation for the 3 files noted.

## 2. Midterm Cancellations

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

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

From the universe of 817 property policies which were cancelled midterm during the experience period, 48 files were selected for review. The property policies consisted of homeowners and tenant homeowners. All 48 files were received and reviewed. Of the 48 files reviewed, 8 were identified as 60-day cancellations. The 2 violations noted were based on 2 files, resulting in an error ratio of 4%.

The following findings were made:

### *2 Violations Insurance Company Law, Section 506.1 [40 P.S. §636.1]*

Requires that basic property insurance shall be continued one hundred and eighty days after the death of the named insured on the policy or until the sale of the property, whichever event occurs first provided that the premiums for the coverage are paid. The Company cancelled the policy within the 180 days of the death of the named insured for the 2 files noted.

### 3. Nonrenewals

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

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

The universe of 39 property policies which were nonrenewed during the experience period was selected for review. The property policies consisted of homeowner and tenant homeowner. All 39 files were received and reviewed. The 7 violations noted were based on 7 files, resulting in an error ratio of 18%.

The following findings were made:

#### *4 Violations Act 205, Section 5(a)(9) [40 P.S. §1171.5(a)(9)]*

Prohibits canceling any policy of insurance covering owner-occupied private residential properties or personal property of individuals that has been in force for sixty days or more or refusing to renew any such policy unless the policy was obtained through material misrepresentation, fraudulent statements, omissions or concealment of fact material to the acceptance of the risk or to the hazard assumed by the company; or there has been a substantial change or increase in hazard in the risk assumed by the company subsequent to the date the policy was issued; or there is a substantial

increase in hazards insured against by reason of willful or negligent acts or omissions by the insured; or the insured has failed to pay any premium when due or for any other reasons approved by the Commissioner.

*AND*

*Adjudication: Mohnal/Lebanon Mutual, P95-08-048 (1998).*  
When the insurer notifies its agent of an allegedly hazardous condition on the insureds' property together with recommendations to correct the condition but does not notify the insureds, a cancellation based upon a failure to comply with the recommendations violates Act 205. The Company did not provide a proper reason for nonrenewal for the 4 files noted. The Company did not send letters to the insureds to correct conditions of their property.

*1 Violation Act 205, Section 5(a)(9) [40 P.S. §1171.5(a)(9)]*

Prohibits canceling any policy of insurance covering owner-occupied private residential properties or personal property of individuals that has been in force for sixty days or more or refusing to renew any such policy unless the policy was obtained through material misrepresentation, fraudulent statements, omissions or concealment of fact material to the acceptance of the risk or to the hazard assumed by the company; or there has been a substantial change or increase in hazard in the risk assumed by the company subsequent to the date the policy was issued; or there is a substantial increase in hazards insured against by reason of willful or negligent acts or omissions by the insured; or the insured has failed to pay any premium when due or for any other reasons

approved by the Commissioner.

AND

*Adjudication: Penn Mutual/Jones, P191-12-07 (1992).*

When the insurer does not prove that unusually long reconstruction of a house was due to acts by the insureds, the cancellation violates Act 205. The Company nonrenewed the policy noted because of an increase in hazard due to the length of time under construction, but did not provide any evidence that the time of construction had been lengthened due to the insured.

*2 Violations Insurance Company Law, Section 506.1 [40 P.S. §636.1]*

Requires that basic property insurance shall be continued one hundred and eighty days after the death of the named insured on the policy or until the sale of the property, whichever event occurs first provided that the premiums for the coverage are paid. The Company cancelled the 2 files noted within the 180 days of the death of the named insured.

#### 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.

The universe of 9 property policies that were identified by the Company as being rescinded during the experience period was selected for review. All 9

files were received and reviewed. The property policies consisted of homeowner and tenant homeowner. Of the 9 files reviewed, one was identified as a 60-day cancellation. No violations were noted.

#### **D. Commercial Property**

##### **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 86, Section 7 (40 P.S. §3407), which requires an insurer, who cancels a policy that is in effect less than 60 days, to provide 30 days notice of termination no later than the 60<sup>th</sup> day unless the policy provides for a longer period of notification.

The universe of 6 tenant occupied dwelling fire policies that were identified by the Company as being cancelled in the first 60 days of new business was selected for review. All 6 files were received and reviewed. The 2 violations noted were based on 2 files, resulting in an error ratio of 33%.

The following findings were made:

##### *2 Violations Act 86, Section 7(c) [40 P.S. §3407(c)]*

This act does not apply to commercial property and casualty insurance policies that are in effect less than 60 days, unless they are renewals. An insurer may cancel the policy provided it gives at least 30 days' notice of the termination and provided it gives notice no later than the 60<sup>th</sup> day, unless the

policy provides for a longer period of notification. The Company failed to provide 30 days notice of cancellation for the 2 files noted.

## 2. Midterm Cancellations

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

The purpose of the review was to determine compliance with Act 86, Section 2 (40 P.S. §3402), which prohibits cancellation except for specified reasons and Section 3 (40 P.S. §3403), which establishes the requirements, which must be met regarding the form and condition of the cancellation notice.

From the universe of 90 tenant occupied dwelling fire policies which were cancelled during the experience period, 9 files were selected for review. All 9 files were received and reviewed. Of the 9 files reviewed, 8 were identified as 60-day cancellations. No violations were noted.

## 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 review was conducted to determine compliance with Act 86, Section 3 (40 P.S. §3403), which establishes the requirements that must be met regarding the form and condition of the nonrenewal notice.

The universe of 3 tenant occupied dwelling fire policies identified as nonrenewals was selected for review. All 3 files were received and reviewed. No violations were noted.

#### 4. 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 86, Section 1 (40 P.S. §3401), which requires 30 days advance notice of an increase in renewal premium.

From the universe of 991 tenant occupied dwelling fire policies renewed during the experience period, 25 files were selected for review. All 25 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 1,103 private passenger automobile policies identified as new business without surcharges, 25 files were selected for review. All 25 files were received and reviewed. The 3,311 violations noted were based on the universe of 1,103, resulting in an error ratio of 100%.

The following findings were made:

*1,103 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.

*1,103 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.

*1,103 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 did not provide the surcharge disclosure plan to the insured at the time of application. The Company's surcharge disclosure plan does not estimate the amount of increase per policy period.

*1 Violation Title 75, Pa. C.S. §1705(a)(1)&(4)*

Requires every insurer, prior to the first issuance of a private passenger motor vehicle liability insurance policy to provide each applicant with the notice required by paragraph (1). A policy may not be issued until the applicant has been provided an opportunity to elect a tort option. The notice shall be standardized form as adopted by the Commissioner. The Company failed to provide the signed limited tort selection form 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 form of stacked limits for uninsured and underinsured motorists coverage for the file noted.

Private Passenger Automobile - New Business With Surcharges

From the universe of 98 private passenger automobile policies identified as new business with surcharges by the Company, 25 files were selected for review. All 25 files were received and reviewed. The 294 violations noted were based on the universe of 98, resulting in an error ratio of 100%.

The following findings were made:

*98 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.

*98 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.

*98 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 did not provide the surcharge disclosure plan to the insured at the time of application. The Company’s surcharge disclosure plan does not estimate the amount of increase per policy period.

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 1,481 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 1,481 violations noted were based on the universe of 1,481 files, resulting in an error ratio of 100%.

The following findings were made:

*1,481 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's surcharge disclosure plan did not provide the estimated increase per policy period.

Private Passenger Automobile – Renewals With Surcharges

From the universe of 115 private passenger automobile policies renewed with surcharges during the experience period, 25 files were selected for review. All 25 files were received and reviewed. The 115 violations noted were based on the universe of 115 files, resulting in an error ratio of 100%.

The following findings were made:

*115 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's surcharge disclosure plan did not provide the estimated increase per policy period.

#### Private Passenger Automobile – Renewals In a Higher Plan

The universe of 14 private passenger automobile policies identified as being renewed in a higher plan by the Company was selected for review. All 14 files were received and reviewed. No violations were noted.

#### **B. Private Passenger Automobile – Assigned Risk**

The Company is an excused carrier under the assigned risk Limited Assignment Distribution procedure. Under this procedure groups of companies not under common ownership or management may form a Limited Assignment Distribution (LAD) arrangement. Each LAD arrangement has one servicing company, which writes assigned risk business on behalf of those members, which choose to buy out from their private passenger quota. As part of this arrangement the Company wrote no assigned risk business during the experience period.

#### **C. Homeowners**

##### 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 purpose of the review was to measure compliance with Act 246, Sections 4(a) and (h) (40 P.S. §1184), which require 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.

### Homeowner Rating – New Business Without Surcharges

From the universe of 1,239 homeowner policies written as new business without surcharges during the experience period, 25 files were selected for review. All 25 files were received and reviewed. No violations were noted.

The following concern was noted:

**Concern:** Homeowner policies are subject to a surcharge for losses on non-weathered related claims. Therefore, it is a concern that no surcharge disclosure plan is provided to these policyholders. The disclosure plan should state what surcharge percentage applies for paid losses as provided in the Company's rate filing. Notification of the surcharge disclosure requirement was provided to all companies in an Important Notice dated 9/18/1998.

### 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 determine compliance with Act 246, Sections 4(a) and (h) (40 P.S. §1184), which require 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.

### Homeowner Rating – Renewals Without Surcharges

From the universe of 8,413 homeowner policies renewed without surcharges during the experience period, 25 files were selected for review. All 25 files were received and reviewed. No violations were noted.

The following concern was noted:

**Concern:** Homeowner policies are subject to a surcharge for losses on non-weathered related claims. Therefore, it is a concern that no surcharge disclosure plan is provided to these policyholders. The disclosure plan should state what surcharge percentage applies for paid losses as provided in the Company's rate filing. Notification of the surcharge disclosure requirement was provided to all companies in an Important Notice dated 9/18/1998.

## **D. Tenant Homeowners**

### 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 purpose of the review was to measure compliance with Act 246, Sections 4(a) and (h) (40 P.S. §1184), which require 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.

### Tenant Homeowner Rating – New Business Without Surcharges

From the universe of 415 tenant homeowner policies written as new business without surcharges during the experience period, 25 files were selected for review. All 25 files were received and reviewed. No violations were noted.

The following concern was noted:

**Concern:** Homeowner policies are subject to a surcharge for losses on non-weathered related claims. Therefore, it is a concern that no surcharge disclosure plan is provided to these policyholders. The disclosure plan should state what surcharge percentage applies for paid losses as provided in the Company's rate filing. Notification of the surcharge disclosure requirement was provided to all companies in an Important Notice dated 9/18/1998.

### 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 determine compliance with Act 246, Sections 4(a) and (h) (40 P.S. §1184), which require 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.

Tenant Homeowner Rating – Renewals Without Surcharges

From the universe of 718 tenant homeowner policies renewed without surcharges during the experience period, 25 files were selected for review. All 25 files were received and reviewed. No violations were noted.

The following concern was noted:

**Concern:** Homeowner policies are subject to a surcharge for losses on non-weathered related claims. Therefore, it is a concern that no surcharge disclosure plan is provided to these policyholders. The disclosure plan should state what surcharge percentage applies for paid losses as provided in the Company's rate filing. Notification of the surcharge disclosure requirement was provided to all companies in an Important Notice dated 9/18/1998.

## 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. Homeowner Claims
- H. Tenant Dwelling Fire 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 458 private passenger automobile property damage claims reported during the experience period, 25 files were selected for review. All 25 files were received and reviewed. No violations noted were noted.

## **B. Automobile Comprehensive Claims**

From the universe of 281 private passenger automobile comprehensive claims reported during the experience period, 25 files were selected for review. All 25 files were received and reviewed. No violations were noted.

## **C. Automobile Collision Claims**

From the universe of 716 private passenger automobile collision claims reported during the experience period, 25 files were selected for review. All 25 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 send a written denial to the insured for the claim noted.

## **D. Automobile Total Loss Claims**

From the universe of 290 private passenger automobile total loss claims reported during the experience period, 25 files were selected for review. All 25 files were received and reviewed. The 4 violations noted were based on 4 files, resulting in an error ratio of 16%.

The following findings were made:

*4 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 4 claim files noted did not reflect a Pennsylvania salvage title was obtained.

**E. Automobile First Party Medical Claims**

From the universe of 701 private passenger automobile first party medical claims reported during the experience period, 50 files were selected for review. All 50 files were received and reviewed. The 6 violations noted were based on 3 files, resulting in an error ratio of 6%.

The following findings were made:

*3 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 Company did not pay the medical bills within 30 days for the 3 claims noted.

*3 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 3 claims that were not paid within 30 days.

**F. Automobile First Party Medical Claims Referred to a PRO**

The universe of 12 private passenger automobile first party medical claims referred to a peer review organization was selected for review. All 12 files were received and reviewed. Of the 12 files reviewed, 11 were found to be independent medical evaluations. The Company was requested to provide

copies of any written contracts with the peer review organization it has contracted. The Company advised that they did not have any written contracts in place with a peer review organization. The 5 violations noted were based on 1 file, resulting in an error ratio of 8%.

The following findings were made:

*1 Violation Title 31, Pa. Code, Section 69.52(a)*

Requires an insurer to refer a provider's bill to a PRO only when circumstances or conditions relating to medical and rehabilitative services provided cause a prudent person, familiar with PRO procedures, standards and practices, to believe it necessary that a PRO determine the reasonableness and necessity of care, the appropriateness of the setting where the care is rendered, and the appropriateness of the delivery of the care. The insurer shall notify a provider, in writing, when referring bills for PRO review at the time of referral. The Company did not notify the provider, in writing, when referring bills to a peer review organization.

*1 Violation Title 31, Pa. Code, Section 69.52(e)*

Requires an insurer to provide copies of the Peer Review Organization's written analysis to the provider and the insured within 5 days of receipt. The Company failed to provide a copy of the peer review report to the insured within 5 days of receipt.

*1 Violation Title 31, Pa. Code, Section 69.52(1)*

A PRO shall complete a reconsideration within 30 days after receipt of the information submitted. A PRO shall send written notification of the reconsideration determination to the insurer, which shall within 5 days of receipt, provide copies to providers and insureds. The written notice shall contain the basis and rationale for the reconsideration determination. The Company failed to provide a copy of the reconsideration report to the provider and insured within 5 days of receipt.

*1 Violation Title 31, Pa. Code, Section 69.53(a)*

A Peer Review Organization shall contract, in writing, jointly or separately with an insurer for the provision of peer review services as authorized by Act 1990-6 and this chapter.

AND

*Title 75, Pa. C.S. §1797(b)(1)*

Peer review plan for challenges to reasonableness and necessity of treatment. Peer review plan. Insurers shall contract jointly or separately with any peer review organization established for the purpose of evaluating treatment, health care services, products or accommodations provided to any injured person. Such evaluation shall be for the purpose of confirming that such treatment, products, services or accommodations conform to the professional standards of performance and are medically necessary. An insurer's challenge must be made to a PRO within 90 days of the insurer's receipt of the provider's bill for treatment or services or may be made at any time for continuing treatment

or services. The Company utilized a peer review organization without having a written contract in place.

*1 Violation Title 31, Pa. Code, Section 69.55(a)*

A PRO shall apply in writing to the Commissioner for approval to contract with an insurer to provide peer review services in accordance with the act and this Chapter. The Company was using the service of a peer review organization that was not approved by the Commissioner.

**G. Homeowner Claims**

From the universe of 426 homeowner claims reported during the experience period, 25 files were selected for review. All 25 files were received and reviewed. The 8 violations noted were based on 8 files, resulting in an error ratio of 32%.

The following findings were made:

*8 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 8 claims noted.

## **H. Tenant Dwelling Fire Claims**

From the universe of 29 tenant dwelling fire claims reported during the experience period, 15 files were selected for review. All 15 files were received 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 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.

## *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 provided 39 pieces of advertising in use during the experience period, which included brochures, power point presentations on CDs and a newsletter. Internet advertising was also 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 22 consumer complaints received during the experience period and provided all consumer complaint logs requested. All 22 complaints 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 following findings were made:

### *1 Violation Act 205, Section 10(i)(ii) [40 P.S. §1171.10(i)(ii)]*

Any of the following acts if committed or performed with such frequency as to indicate a business practice shall constitute unfair claim settlement or compromise practices: misrepresenting pertinent facts or policy or contract provisions relating to coverage at issue and; failing to acknowledge and act promptly upon written or oral communications with respect to claims arising under insurance policies. The Company failed to acknowledge the claimant's request for the appraisal process within the time frame as provided in the policy provisions.

*1 Violation Title 75, Pa. C.S. §1797(b)(1)*

Peer review plan for challenges to reasonableness and necessity of treatment. Peer review plan. Insurers shall contract jointly or separately with any peer review organization established for the purpose of evaluating treatment, health care services, products or accommodations provided to any injured person. Such evaluation shall be for the purpose of confirming that such treatment, products, services or accommodations conform to the professional standards of performance and are medically necessary. An insurer's challenge must be made to a PRO within 90 days of the insurer's receipt of the provider's bill for treatment or services or may be made at any time for continuing treatment or services. The Company used an independent medical examination to establish an ongoing need for treatment instead of utilizing a peer review.

The following synopsis reflects the nature of the 22 complaints that were reviewed.

•	12	Cancellation/Nonrenewal	55%
•	6	Claims Related	27%
•	2	Premium Related	9%
•	2	Agency Service	9%
	<hr/>		<hr/>
	22		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:

*2 Violations 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 producers were found to be writing policies but were 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.

Neil Young  
Don Strohm

## 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 2002 and 2006 [40 P.S. §§991.2002 and 991.2006], so that the violations noted in the Report do not occur in the future.
2. The Company must review Act 205, Section 5(a)(9) [40 P.S. §1171.5(a)(9)] to ensure that the violation regarding the requirement for nonrenewal notices, as noted in the Report, does not occur in the future.
3. The Company must review Insurance Company Law, Section 506.1 regarding the cancellation of property insurance after the death of the named insured to ensure that basic property coverage is maintained at least 180 days.
4. The Company must review Title 31, Pa. Code, Section 59.9(b) to ensure that violations regarding the requirements for cancellation notices, as noted in the Report, do not occur in the future.
5. The Company must review and revise internal control procedures to ensure compliance relative to commercial cancellation and nonrenewal requirements of Act 86, Section 7 [40 P.S. §3407], so that the violations noted in the Report do not occur in the future.

6. 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.
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 and that the plan estimates the amount of increase per policy period, as noted in the Report, do not occur in the future.
8. The Company must revise its underwriting procedures to ensure that each applicant for private passenger automobile liability insurance is provided an opportunity to elect a tort option and that signed tort option selection forms are obtained and retained with the underwriting file. This is to ensure that violations noted under Title 75, Pa. C.S. §1705(a)(1)(4) do not occur in the future.
9. 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.
10. The Company must review Title 75, Pa. C.S. §1161(a)&(b) with its claim staff to ensure that Pennsylvania salvage certificates are obtained and are retained with the claim file.

11. 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 claim denials, as noted in the Report, do not occur in the future.
12. The Company must review Title 31, Pa. Code, Section 69.53(a) and Title 75, Pa. C.S. §1797(b)(1) with its claim staff to ensure that a written contract is in place with an approved peer review organization established for the purpose of evaluating treatment, health care services, products or accommodations provided to any injured person. Such evaluation shall be for the purpose of confirming that such treatment, products, services or accommodations conform to the professional standards of performance and are medically necessary.
13. The Company must review Title 31, Pa. Code, Section 69.52(a) with its claim staff to ensure that providers are notified in writing when referring bills for PRO review at the time of referral.
14. The Company must review Title 31, Pa. Code, Section 69.52(1) with its claim staff to ensure that providers and insureds are provided copies of a reconsideration determination from a peer review organization within 5 days of receipt.
15. The Company must review Title 31, Pa. Code, Section 69.55(a) with its claim staff to ensure that the Company uses services only from an approved peer review organization.

16. The Company must review Title 31, Pa. Code, Section 69.52(e) with its claim staff to ensure that the insured is provided a copy of a PRO evaluation in a timely manner.
17. 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.
18. 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.
19. The Company must ensure all producers are properly appointed, as required by Section 671-A [40 P.S. §310.71] of the Insurance Department Act No. 147, prior to accepting any business from any producer.
20. The Company must revise and reissue their underwriting guidelines for use in Pennsylvania to ensure that guidelines do not require supporting primary dwelling coverage in order to bind seasonal dwellings.
21. The Company must review Act 205, Section 10(i)(ii) [40 P.S. §1171.10(i)(ii)], to ensure claims are settled fairly and promptly.

**XIII. COMPANY RESPONSE**



American National Corporate Centre  
1949 East Sunshine  
Springfield, MO • 65899-0001  
417-887-0220 • Fax 417-887-1801  
<http://www.anpac.com>

American National Property And Casualty Co.  
American National General Insurance Co.  
American National Lloyds Insurance Co.  
Pacific Property And Casualty Co.  
ANPAC Louisiana Insurance Co.  
American National County Mutual Insurance Co.

November 30, 2007

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

Re: American National Property & Casualty Company  
Market Conduct Examination Warrant Number: 07-M22-016

Dear Mr. Derk:

The American National Property & Casualty Insurance Company (ANPAC) is in receipt of your letter of November 5, 2007 and the Department's Report of Examination. Please accept this letter as ANPAC's response to the Department's Report.

Our response specifically addresses each of the Department's recommendations found on Page 46 of the Report and following. We believe that the exceptions noted herein fall mostly in the category of human error or in a difference of interpretation of Pennsylvania law. As compliance with Pennsylvania's laws is a top priority for ANPAC, we take this Report constructively and will work to address those issues that the Department has identified.

ANPAC appreciates the professional courtesy your staff provided throughout the examination process. We also look forward to working with you to reach a mutually agreeable resolution to this Report. Please do not hesitate to contact me with any questions or concerns.

Sincerely,

John McCaskill, Assistant Vice President  
UW Systems, Projects & Compliance



"Members of the American National Family of Companies"

## **Recommendations**

### **Recommendation 1**

**The Company must review and revise internal control procedures to ensure compliance with cancellation notice requirements of Act 68, Sections 2002 and 2006 [40 P.S. §§991.2002 and 991.2006], so that the violations noted in the Report do not occur in the future.**

#### Company Response

ANPAC has reviewed its internal control procedures regarding cancellation notice requirements under Act 68, Sections 2002 and 2006. Due to the time period of cancellation being that of 12:01 a.m., programming has been changed to add one additional day to the system calculation.

### **Recommendation 2**

**The Company must review Act 205, Section 5(a)(9) [40 P.S. §1171.5(a)(9)] to ensure that the violation regarding the requirement for nonrenewal notices, as noted in the Report, does not occur in the future.**

#### Company Response

ANPAC has reviewed its internal control procedures regarding the requirement for nonrenewal notices. The company's Pennsylvania Underwriting procedures have been updated to include these items:

- When a material increase in hazard occurs, we must first notify the insured, in writing, of the increase in hazard and allow a "reasonable" time for the insured to correct the increased hazard.
- In order to cancel or non-renew due to the length of time the dwelling is under construction, we must prove the length of time to construct results in an increase in hazard and is due to acts of the insured. This will provide the full notice required.

### **Recommendation 3**

**The Company must review Insurance Company Law, Section 506.1 regarding the cancellation of property insurance after the death of the named insured to ensure that basic property coverage is maintained at least 180 days.**

#### Company Response

ANPAC has reviewed its internal control procedures regarding the cancellation of property insurance after the death of the named insured under Insurance Company Law, Section 506.1. Underwriting Procedures have been changed to the following: Home policy must be continued for 180 days after the death of the named insured on the policy or until the sale of the property, whichever occurs first, provided the premium for the coverage is paid.

#### **Recommendation 4**

**The Company must review Title 31, Pa. Code, Section 59.9(b) to ensure that violations regarding the requirements for cancellation notices, as noted in the Report, do not occur in the future.**

#### Company Response

ANPAC has reviewed its internal control procedures regarding cancellation notice requirements under Title 31, Pa. Code, Section 59.9(b). Due to the time period of cancellation being that of 12:01a.m., programming has been changed to add one additional day to the system calculation. This change will provide the full notice required.

#### **Recommendation 5**

**The Company must review and revise internal control procedures to ensure compliance relative to commercial cancellation and nonrenewal requirements of Act 86, Section 7 [40 P.S. §3407], so that the violations noted in the Report do not occur in the future.**

#### Company Response

ANPAC has reviewed its internal control procedures regarding cancellation notice requirements under Act 86, Section 7. Due to the time period of cancellation being that of 12:01a.m., programming has been changed to add one additional day. This change will provide the full notice required.

#### **Recommendation 6**

**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

ANPAC has reviewed its internal control procedures regarding Title 75, Pa. C.S. §1791.1(a) and (b). In regard to form IA-309, ANPAC was providing the form to the applicant upon issuance of their policy. Form IA-300 was also being distributed to new business customers at the time of policy issuance and to renewal customers at each renewal. ANPAC is implementing a programming change that will allow the agent to print these forms and provide them to the applicant at the time of application.

### **Recommendation 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 and that the plan estimates the amount of increase per policy period, as noted in the Report, do not occur in the future.**

### Company Response

ANPAC has reviewed its internal control procedures regarding Title 75, Pa. C.S. 1793(b). The surcharge disclosure plan, form IA-121, is currently delivered to new business customers upon issuance of the policy and to existing customers at each renewal. Programming is being completed to revise the form to include a description of conditions that would assess a premium surcharge to an insured along with the estimated increase of the surcharge per policy period. The time frame of the surcharge is also being modified to clarify the period as 3 years instead of 36 months.

### **Recommendation 8**

**The Company must revise its underwriting procedures to ensure that each applicant for private passenger automobile liability insurance is provided an opportunity to elect a tort option and that signed tort option selection forms are obtained and retained with the underwriting file. This is to ensure that violations noted under Title 75, Pa. C.S. §1705(a)(1)(4) do not occur in the future.**

### Company Response

ANPAC has reviewed its internal control procedures regarding Title 75, Pa. C.S. §1705(a)(1)(4). ANPAC has always had an underwriting procedure in place requiring each applicant for private passenger automobile liability insurance to complete a selection/rejection form for election of tort option. The one file found in the examination was human error. However, ANPAC is now enhancing its procedure via an electronic checklist that company personnel will review once the application is submitted. This will further eliminate the opportunity for human error.

## **Recommendation 9**

**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

ANPAC has reviewed its internal control procedures regarding Title 75, Pa. C.S. §1738(d)(1) and (2). ANPAC has an underwriting procedure in place requiring each applicant for private passenger automobile liability insurance to complete a waiver to reject stacked uninsured or underinsured motorist coverage. The one file found in the examination was the result of human error. ANPAC has enhanced the procedures with an electronic checklist that will reduce the opportunity of the selection/rejection form being overlooked.

## **Recommendation 10**

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

### Company Response

ANPAC has reviewed its internal control procedures regarding Title 75, Pa. C.S. §1161(a)&(b). While we agree with the importance of this law and the need for compliance, we do disagree with the findings in three of the four files mentioned in the report. Three files involved a salvage pool that declared bankruptcy without notice. The titles were in their possession awaiting processing to complete the required certificates. The Probate Courts considered the salvage as assets and divided it up among the creditors. ANPAC was not able to procure the certificates due to the fact of bankruptcy. ANPAC's business practice is to ensure that Pennsylvania salvage certificates are obtained and retained with the claim file.

## **Recommendation 11**

**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 claim denials, as noted in the Report, do not occur in the future.**

### Company Response

ANPAC has reviewed its internal control procedures to ensure compliance with the claims handling requirements of Title 31, Pennsylvania Code, Chapter 146, Unfair Claims Settlement Practices. ANPAC's programming is being revised and a review of procedures was completed within the Claim Department.

### **Recommendation 12**

**The Company must review Title 31, Pa. Code, Section 69.53(a) and Title 75, Pa. C.S. §1797(b)(1) with its claim staff to ensure that a written contract is in place with an approved peer review organization established for the purpose of evaluating treatment, health care services, products or accommodations provided to any injured person. Such evaluation shall be for the purpose of confirming that such treatment, products, services or accommodations conform to the professional standards of performance and are medically necessary.**

### Company Response

ANPAC has reviewed Title 31, Pa. Code, Section 69.53(a) and Title 75, Pa. C.S. §1797(b)(1) for compliance. In the file cited by the examiner, the Claims Representative had asked a medical reviewer to handle a PA case. The medical reviewer agreed to handle this case without being licensed or knowledgeable of PA requirements. ANPAC no longer uses the medical reviewer involved. The Claims Representative no longer handles medical cases in PA. ANPAC took immediate action and is pursuing a peer review organization (QRS aka 'Procura') approved in PA.

### **Recommendation 13**

**The Company must review Title 31, Pa. Code, Section 69.52(a) with its claim staff to ensure that providers are notified in writing when referring bills for PRO review at the time of referral.**

### Company Response

ANPAC has reviewed Title 31, Pa. Code, Section 69.52(a). ANPAC agrees that claim staff members are to contact providers in writing when referring bills for PRO review at the time of referral. It is a standard procedure that this practice is followed by ANPAC employees. These procedures have been reviewed with staff members.

#### **Recommendation 14**

**The Company must review Title 31, Pa. Code, Section 69.52(1) with its claim staff to ensure that providers and insureds are provided copies of a reconsideration determination from a peer review organization within 5 days of receipt.**

#### Company Response

ANPAC has reviewed with its claim staff Title 31, Pa. Code, Section 69.52(1) to ensure that providers and insureds are provided copies of a reconsideration determination from a peer review organization within 5 days of receipt.

#### **Recommendation 15**

**The Company must review Title 31, Pa. Code, Section 69.55(a) with its claim staff to ensure that the Company uses services only from an approved peer review organization.**

#### Company Response

ANPAC has reviewed Title 31, Pa. Code, Section 69.55(a) for compliance. In the file cited by the examiner, the Claims Representative had asked a medical reviewer to handle a PA case. The medical reviewer agreed to handle this case without being licensed or knowledgeable of PA requirements. ANPAC no longer uses the medical reviewer involved. The Claims Representative no longer handles medical cases in PA. ANPAC has taken immediate action and is pursuing a peer review organization (QRS aka 'Procura') that is approved in PA. The claim staff is advised of these proceedings.

#### **Recommendation 16**

**The Company must review Title 31, Pa. Code, Section 69.52(e) with its claim staff to ensure that the insured is provided a copy of a PRO evaluation in a timely manner.**

#### Company Response

ANPAC has reviewed Title 31, Pa. Code, Section 69.52(e) for compliance. In the file cited by the examiner, the Claims Representative had asked a medical reviewer to handle a PA case. The medical reviewer agreed to handle this case without being licensed or knowledgeable of PA requirements. ANPAC no longer uses the medical reviewer involved. The Claims Representative no longer handles medical cases in PA. ANPAC took immediate action and is pursuing a peer review organization (QRS aka 'Procura') approved in PA. The claim staff is advised of these proceedings and the procedures required to ensure that the insured is provided a copy of a PRO evaluation in a timely manner.

### **Recommendation 17**

**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

ANPAC has reviewed Title 31, Pa. Code, Section 69.52 (b) with its claim staff to ensure that first party medical bills are paid within 30 days.

### **Recommendation 18**

**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 require 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

ANPAC agrees and has made interest payments at a rate of 12% annum on each of the three files. The number of days interest over the 30 days and the amount of interest paid for each of the three files is:

- 15 days – payment of \$ 2.21 interest
- 33 days – payment of \$ 22.81 interest
- 47 days – payment of \$ 17.47 interest

### **Recommendation 19**

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

#### Company Response

ANPAC has reviewed its internal control procedures regarding appointment of agents prior to accepting business from a producer, Section 671-A [40 P.S. §310.71] of the Insurance Department Act No 147. A human error did occur but once found ANPAC was proactive and had the agent appointed in 06/07/06, one year prior to the Market Conduct examination. The other individual mentioned was a Home Office Employee who held a PA non-resident license. This individual is no longer an employee with the company. ANPAC strives to comply with the laws of Pennsylvania and will be even

more diligent to ensure that all agents are appointed before accepting any business from them.

#### **Recommendation 20**

**The Company must revise and reissue their underwriting guidelines for use in Pennsylvania to ensure that guidelines do not require supporting primary dwelling coverage in order to bind seasonal dwellings.**

#### Company Response

ANPAC has reviewed its underwriting guidelines. Effective 11-15-07, the company has revised the homeowner underwriting guidelines to eliminate the requirement that a seasonal dwelling require primary homeowners coverage to be eligible. This change was also communicated to our agents on 10-08-07.

#### **Recommendation 21**

**The Company must review Act 205, Section 10(i)(ii) [40 P.S. §1171.10(i)(ii)], to ensure claims are settled fairly and promptly.**

#### Company Response

We have reviewed the statute and will remain vigilant in compliance. This loss was reported to the company on July 2, 2004. The claim was paid and closed October 14, 2004. We were advised of a dispute fifteen months later, on February 20, 2006. On March 17, 2006 we received the claimant's request for appraisal. We accepted this request verbally on April 21, 2006. Review of the file indicates that we proceeded with the agreement for the appraisal process, despite the fact that the home had already been demolished and the site cleared. We continued to work with the insured to reach an amicable agreement despite the lack of physical evidence or advance notice of the demolition. The file was amicably resolved and it is our opinion the delay did not result in detriment to the claimant.