

**REPORT OF
MARKET CONDUCT EXAMINATION
OF**

**CLARENDON NATIONAL INSURANCE COMPANY
Princeton, New Jersey**

**AS OF
May 12, 2008**

COMMONWEALTH OF PENNSYLVANIA

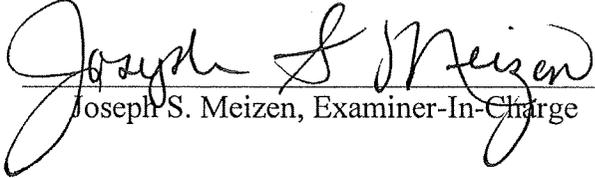


**INSURANCE DEPARTMENT
MARKET CONDUCT DIVISION**

Issued: June 27, 2008

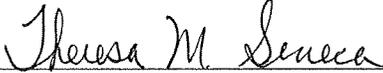
VERIFICATION

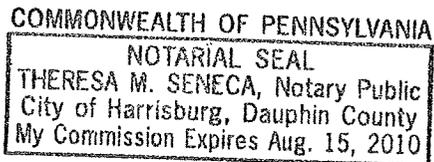
Having been duly sworn, I hereby verify that the statements made in the within document are true and correct to the best of my knowledge, information and belief. I understand that false statements made herein are subject to the penalties of 18 Pa. C.S. §4903 (relating to false swearing).


Joseph S. Meizen, Examiner-In-Charge

Sworn to and Subscribed Before me

This 28 Day of April, 2008


Notary Public



CLARENDON NATIONAL INSURANCE COMPANY

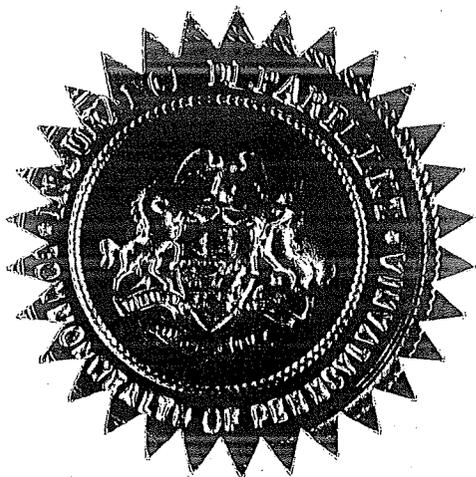
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BEFORE THE INSURANCE COMMISSIONER
OF THE
COMMONWEALTH OF PENNSYLVANIA

ORDER

AND NOW, this 6th day of July, 2007, in accordance with
Section 905(c) of the Pennsylvania Insurance Department Act, Act of May 17, 1921,
P.L. 789, as amended, P.S. § 323.5, I hereby designate Randolph L. Rohrbaugh, Deputy
Insurance Commissioner, to consider and review all documents relating to the market
conduct examination of any company and person who is the subject of a market conduct
examination and to have all powers set forth in said statute including the power to enter
an Order based on the review of said documents. This designation of authority shall
continue in effect until otherwise terminated by a later Order of the Insurance
Commissioner.





Joel S. Ario
Insurance Commissioner

BEFORE THE INSURANCE COMMISSIONER
OF THE
COMMONWEALTH OF PENNSYLVANIA

IN RE:	:	VIOLATIONS:
	:	
CLARENDON NATIONAL	:	Sections 641.1-A and 671-A of Act 147
INSURANCE COMPANY	:	of 2002 (40 P.S. §§ 310.41 and 310.71)
466 Lexington Avenue	:	
New York, NY 10017	:	Sections 4(a) and 4(h) of the Act of
	:	June 11, 1947, P.L. 538, No. 246
	:	(40 P.S. §§ 1184)
	:	
	:	Sections 1 and 3(a)(5) of the Act of
	:	July 3, 1986, P.L. 396, No. 86 (40 P.S.
	:	§§ 3401 and 3403)
	:	
	:	Section 5(a)(11) of the Unfair Insurance
	:	Practices Act, Act of July 22, 1974, P.L.
	:	589, No. 205 (40 P.S. § 1171.5)
	:	
	:	Title 31, Pennsylvania Code, Sections
	:	69.22(c), 69.42, 69.43 and 113.88
	:	
	:	Title 18, Pennsylvania Consolidated
	:	Statutes, Section 4117(k)
	:	
	:	Title 75, Pennsylvania Consolidated
	:	Statutes, Sections 1161(a) and (b),
	:	1786(e)(3), and 1822
	:	
	:	Pennsylvania Assigned Risk Plan
	:	Manual, Section 12(A)(3)
	:	
Respondent.	:	Docket No. MC08-06-001

CONSENT ORDER

AND NOW, this 27th day of June, 2008, this Order is hereby
issued by the Insurance Department of the Commonwealth of Pennsylvania pursuant to
the statutes cited above and in disposition of the matter captioned above.

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

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

FINDINGS OF FACT

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

(a) Respondent is Clarendon National Insurance Company, and maintains its address at 466 Lexington Avenue, New York, New York 10017.

(b) A market conduct examination of Respondent was conducted by the Insurance Department covering the period from July 1, 2006 through June 30, 2007.

(c) On May 12, 2008, the Insurance Department issued a Market Conduct Examination Report to Respondent.

- (d) A response to the Examination Report was provided by Respondent on June 11, 2008.
- (e) The Examination Report notes violations of the following:
- (i) Section 641.1-A of Act 147 of 2002 prohibits any entity or the appointed agent of any entity from transacting the business of insurance through anyone acting without an insurance producer license (40 P.S. § 310.41a);
 - (ii) Section 671-A of Act 147 of 2002 prohibits producers from transacting business within this Commonwealth without written appointment as required by the Act (40 P.S. § 310.71).
 - (iii) Sections 4(a) and 4(h) of the Casualty and Surety Rate Regulatory Act, No. 246 (40 P.S. § 1184), which requires every insurer to file with the Insurance Commissioner every manual of classifications, rules and rates, every rating plan and every modification of any rating plan which it proposes to use in this Commonwealth and prohibits an insurer from making or issuing a contract or policy with rates other than those approved;
 - (iv) Section 1 of Act 86 (40 P.S. § 3401), which requires a policy of insurance covering property or casualty risks in this Commonwealth shall provide for

not less than 30 days advance notice to the named insured of an increase in renewal premium;

- (v) Section 3(a)(5) of Act 86 (40 P.S. § 3403), which requires that a nonrenewal notice state the specific reasons for the nonrenewal, identifying the condition, factor or loss experience which caused the nonrenewal;
- (vi) Section 5(a)(11) of the Unfair Insurance Practices Act, No. 205 (40 P.S. §1171.5), which requires a complete record of all complaints received during the preceding four years;
- (vii) Title 31, Pennsylvania Code, Section 69.22(c), which requires the insurer, when an insured's first-party limits have been exhausted, to provide notice to the provider and the insured within 30 days of the receipt of the provider's bill;
- (viii) Title 31, Pennsylvania Code, Section 69.42, which states an insurer shall make payments to providers in accordance with the Medicare Program as applied in this Commonwealth by the carrier and intermediaries. Care covered under the Medicare Program shall be reimbursed at 110% of the Medicare payment or a different allowance as may be determined under § 69.12(b). Medicare co-insurance and deductibles may not be excluded in payments made by the insurer;

(ix) Title 31, Pennsylvania Code, Section 69.43, which states an insurer shall pay the provider's usual and customary charge for services rendered when the charge is less than 110% of the Medicare payment or a different allowance as may be determined under § 69.12(b). An insurer shall pay 80% of the provider's usual and customary charge rendered if no Medicare payment exists. In calculating the usual and customary charge, an insurer may utilize the requested payment amount on the provider's bill for services or the data collected by the carrier or intermediaries to the extent that the data is made available. An insurer shall provide a complete explanation of the calculations made in computing its determination of the amount payable, including whether the calculation is based on 110% of the Medicare payment, 80% of the usual and customary charge or at a different allowance determined by the Commissioner under § 69.12(b). A bill submitted by the provider delineating the services rendered and the information from which a determination could be made by the insurer as to the appropriate payment amount will not be construed as a demand for payment in excess of the permissible payment amount;

(x) Title 31, Pennsylvania Code, Section 113.88, which requires the reason given for cancellation shall be clear and complete. It shall be stated so that a person of average intelligence and education can understand it. Phrases such as "losses" or "underwriting reasons" are not sufficiently specific reasons for cancellation.

- (xi) Title 18, Pennsylvania Consolidated Statutes, Section 4117(k), which requires all applications for insurance and all claim forms shall contain or have attached thereto the following notice: “Any person who knowingly and with intent to defraud any insurance company or other person files an application for insurance or statement of claim containing any materially false information or conceals for the purpose of misleading, information concerning any fact material thereto commits a fraudulent insurance act, which is a crime and subjects such person to criminal and civil penalties.”

- (xii) Title 75, Pennsylvania Consolidated Statutes, Sections 1161(a) and (b), 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;

- (xiii) Title 75, Pennsylvania Consolidated Statutes, Section 1786(e)(3), Title 75, Pa.C.S. § 1786, which requires an insurer to notify the Department of Transportation if the insurance has been cancelled or terminated by the insured or by the insurer no later than 10 days following the effective date of the cancellation or termination;

- (xiv) Title 75, Pennsylvania Consolidated Statutes, Section 1822, which requires not later than May 1, 1990, all applications for insurance, renewals and claim forms shall contain a statement that clearly states, in substance, the

following: Any person who knowingly and with intent to injure or defraud any insurer files an application or claim containing any false, incomplete or misleading information shall, upon conviction, be subject to imprisonment for up to seven years and payment of a fine of up to \$15,000.00; and

- (xv) The Pennsylvania Assigned Risk Plan Manual, Section 12(A)(3), which states the assigned company shall mail a take-out notice to each insured eligible for take-out and the producer of record at least 45 days, but no more than 60 days, prior to the expiration of the Plan policy to be replaced.

CONCLUSIONS OF LAW

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

- (a) Respondent is subject to the jurisdiction of the Pennsylvania Insurance Department.
- (b) Respondent's violations of Sections 641.1-A and 671-A of Act 147 of 2002 are punishable by the following, under Section 691-A of Act 147 of 2002 (40 P.S. § 310.91):
 - (i) suspension, revocation or refusal to issue the certificate of qualification or license;

- (ii) imposition of a civil penalty not to exceed five thousand dollars (\$5,000.00) for every violation of the Act;
 - (iii) an order to cease and desist; and
 - (iv) any other conditions as the Commissioner deems appropriate.
- (c) Respondent's violations of Sections 4(a) and (h) of the Casualty and Surety Rate Regulatory Act, No. 246 (40 P.S. § 1184) are punishable under Section 16 of the Casualty and Surety Rate Regulatory Act:
- (i) imposition of a civil penalty not to exceed \$50 for each violation or not more than \$500 for each such wilful violation;
 - (ii) suspension of the license of any insurer which fails to comply with an Order of the Commissioner within the time limited by such Order, or any extension thereof which the Commissioner may grant.
- (d) Respondent's violations of Sections 1 and 3 of Act 86 (40 P.S. §§ 3401 and 3403) 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.

(e) Respondent's violations of Sections 5(a)(11) of the Unfair Insurance Practices Act, No. 205 (40 P.S. §§ 1171.5) are punishable by the following, under Section 9 of the Unfair Insurance Practices Act (40 P.S. § 1171.9):

- (i) cease and desist from engaging in the prohibited activity;
- (ii) suspension or revocation of the license(s) of Respondent.

(f) In addition to any penalties imposed by the Commissioner for Respondent's violations of the Unfair Insurance Practices Act (40 P.S. §§ 1171.1 – 1171.5), the Commissioner may, under Sections 10 and 11 of the Unfair Insurance Practices Act (40 P.S. §§ 1171.10, 1171.11) file an action in which the Commonwealth Court may impose the following civil penalties:

- (i) for each method of competition, act or practice which the company knew or should have known was in violation of the law, a penalty of not more than five thousand dollars (\$5,000.00);
- (ii) for each method of competition, act or practice which the company did not know nor reasonably should have known was in violation of the law, a penalty of not more than one thousand dollars (\$1,000.00).

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 Ten Thousand Dollars (\$10,000.00) to the Commonwealth of Pennsylvania in settlement of all violations contained in the Report.
- (e) Payment of this matter shall be made by check payable to the Commonwealth of Pennsylvania. Payment should be directed to Ginny Marquart, Administrative Assistant, Bureau of Enforcement, 1227 Strawberry Square, Harrisburg,

Pennsylvania 17120. Payment must be made no later than thirty (30) days after the date of this Order.

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

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

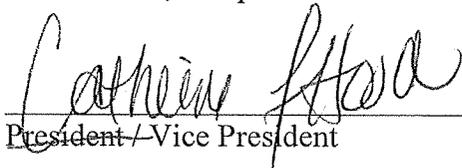
8. In any such enforcement proceeding, Respondent may contest whether a breach of the provisions of this Order has occurred but may not contest the Findings of Fact and Conclusions of Law contained herein.

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

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

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

BY: CLARENDON NATIONAL INSURANCE
COMPANY, Respondent



President / Vice President



Secretary / Treasurer



RANDOLPH L. ROHRBAUGH
Deputy Insurance Commissioner
Commonwealth of Pennsylvania

I. INTRODUCTION

The market conduct examination was conducted at Clarendon National Insurance Company's office located in Saddle Brook, New Jersey, from February 26, 2008, through March 14, 2008. Subsequent review and follow-up was conducted in the office of the Pennsylvania Insurance Department.

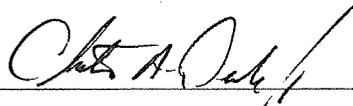
Pennsylvania Market Conduct Examination Reports generally note only those items to which the Department, after review, takes exception. However, the Examination Report may include management recommendations addressing areas of concern noted by the Department, but for which no statutory violation was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

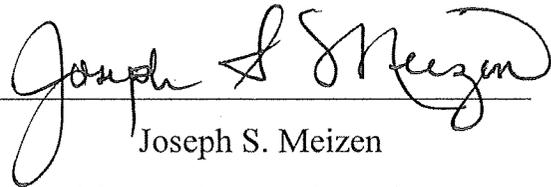
The undersigned participated in this examination and in preparation of this Report.



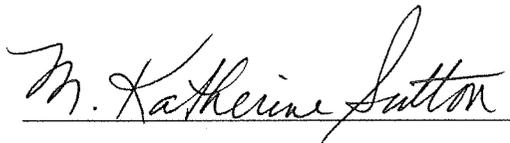
Chester A. Derk, Jr., AIE, HIA
Market Conduct Division Chief



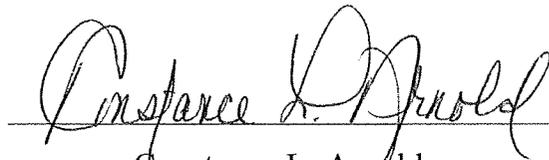
Jerry L. Houston, AIE, CPCU
Market Conduct Examiner



Joseph S. Meizen
Market Conduct Examiner



M. Katherine Sutton
Market Conduct Examiner



Constance L. Arnold
Market Conduct Examiner

II. SCOPE OF EXAMINATION

The Market Conduct Examination was conducted on Clarendon National Insurance Company, hereinafter referred to as “Company,” at their office located in Saddle Brook, New Jersey. 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 July 1, 2006, through June 30, 2007, 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 - Assigned Risk
 - Underwriting – Appropriate and timely notices of nonrenewal and midterm cancellations.
 - Rating – Proper use of all classification and rating plans and procedures.
2. Commercial Property
 - Underwriting – Appropriate and timely notices of nonrenewal, midterm cancellations, declinations and renewals.
3. Commercial Automobile
 - Underwriting – Appropriate and timely notices of nonrenewal, midterm cancellations and renewals.
4. Claims
5. Forms

6. Advertising

7. Complaints

8. Licensing

III. COMPANY HISTORY AND LICENSING

Clarendon National Insurance Company was incorporated as the Cavalier Insurance Corporation on July 21, 1941, under the laws of Maryland. It commenced business November 10, 1941. The present title was adopted in early 1986. On June 1, 1995, the Company redomesticated to New Jersey.

LICENSING

Merchants Mutual Insurance Company's Certificate of Authority to write business in the Commonwealth was last issued on April 1, 2007. The Company is licensed in all states, the District of Columbia and Puerto Rico. The Company's 2006 annual statement reflects Direct Written Premium for all lines of business in the Commonwealth of Pennsylvania as \$7,753,489. Premium volume related to the areas of this review were: Fire \$54,514; Commercial Multiple Peril (Non-liability portion) \$21,689; Commercial Multiple Peril (Liability portion) \$685,134; Inland Marine \$65,879; Private Passenger Automobile Direct Written Premium was reported as Private Passenger Auto No-Fault (personal injury protection) \$677,049; Other Private Passenger Auto Liability \$2,256,003 and Private Passenger Auto Physical Damage \$144,890; Commercial Automobile Direct Written Premium was reported as Commercial Auto No-Fault (personal injury protection) \$12,111; Other Commercial Auto Liability \$1,391,522 and Commercial Auto Physical Damage \$854,734.

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 commercial automobile, commercial fire, commercial inland marine and commercial property. 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.

No violations were noted.

V. UNDERWRITING

A. Private Passenger Automobile - Assigned Risk

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

1. Midterm Cancellations

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

The primary purpose of the review was to determine compliance with 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 1,547 assigned risk automobile policies cancelled midterm during the experience period, 75 files were selected for review. All 75 files were received and reviewed. The 1,547 violations noted were based on the universe of 1,547, resulting in an error ratio of 100%.

The following findings were made:

1,547 Violations Title 75, Pa. C.S. §1786(e)(3)

An insurer shall notify the Department of Transportation if the insurance has been cancelled or terminated by the insured or by the insurer no later than 10 days following the effective

date of the cancellation or termination. The Company did not notify the Department of Transportation of cancellations within 10 days.

2. 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 1,639 assigned risk automobile policies nonrenewed during the experience period, 50 files were selected for review. All 50 files were received and reviewed. No violations were noted.

B. Commercial Property

1. 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.

The universe of 6 commercial package policies cancelled midterm during the experience period was selected for review. All 6 files were received and reviewed. No violations were noted.

2. 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 11 commercial property policies nonrenewed during the experience period was selected for review. The commercial property policies consisted of commercial fire, commercial inland marine and commercial package. All 11 files were received and reviewed. The 6 violations noted were based on 6 files, resulting in an error ratio of 55%.

The following findings were made:

6 Violations Act 86, Section 3(a)(5) [40 P.S. §3403(a)(5)]

Requires that a nonrenewal notice shall state the specific reasons for the nonrenewal. The reasons shall identify the condition, factor or loss experience, which caused the nonrenewal. The notice shall provide sufficient information or data for the insured to correct the deficiency.

AND

Title 31, Pa. Code, Section 113.88

The reason given for nonrenewal shall be clear and complete.

It shall be stated so that a person of average intelligence and education can understand it. Phrases such as “losses” or “underwriting reasons” are not sufficiently specific reasons for nonrenewal. The Company did not provide a specific reason for nonrenewal for the 6 files noted.

3. 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.

The universe of 7 commercial package policies renewed during the experience period was selected for review. All 7 files were received and reviewed. The violation noted resulted in an error ratio of 14%.

The following finding was made:

1 Violation Act 86, Section 1 [40 P.S. §3401]

This section provides that notwithstanding any other provision of law, a policy of insurance covering commercial property or casualty risks in this Commonwealth shall provide for not less than 30 days advance notice to the named insured of an increase in renewal premium. This section does not apply to policies written on a retrospective rating plan. The Company did not provide at least 30 days advance notice to the named insured of an increase in renewal premium for

the file noted.

4. Declinations

A declination is any application that is received and the Company declines to write the coverage.

The primary purpose of the review was to determine compliance with Act 205, Section 5 [40 P.S. §1171.5], which defined unfair methods of competition and unfair or deceptive acts or practices.

The universe of 1 commercial property declination reported by the Company during the experience period was selected, received and reviewed. No violations were noted.

C. Commercial Automobile

1. 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.

The universe of 3 commercial automobile policies cancelled midterm during the experience period was selected for review. All 3 files were received and reviewed. No violations were noted.

2. 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 11 commercial automobile policies nonrenewed during the experience period was selected for review. All 11 files were received and reviewed. No violations were noted.

3. 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.

The universe of 17 commercial automobile policies renewed during the experience period was selected for review. All 17 files were received and reviewed. No violations were noted.

VI. RATING

A. Private Passenger Automobile – Assigned Risk

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

1. New Business

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

The primary purpose of the review was to determine compliance with Act 246, The Casualty and Surety Rate Regulatory Act, Sections 4(a) and (h) [40 P.S. §1184], which requires every insurer to file with the Insurance Commissioner every manual of classifications, rules and rates, every rating plan and every modification of any rating plan, which it proposes to use in the Commonwealth. Also, no insurer shall make or issue a contract or policy except in accordance with filings or rates, which are in effect at the time. Review was also made of all the rules and rates of the Assigned Risk Plan, compliance with all provisions of Act 6 of 1990, as well as Title 75, Pa. C.S. Sections 1741, 1742, 1743 and 1744 [40 P.S. §1741, 1742, 1743 and 1744], which establishes the Assigned Risk Plan and requires insurers to abide by the rules of the Plan.

Assigned Risk Private Passenger Automobile – New Business – Clean

From the universe of 1,274 assigned risk private passenger automobile new business policies written as clean during the experience period, 25 files were selected for review. All 25 files were received and reviewed. The 2

violations noted were based on 2 files, resulting in an error ratio of 8%.

The following findings were made:

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

Requires every insurer to file with the Insurance Commissioner every manual of classifications, rules and rates, every rating plan and every modification of any rating plan, which it proposes to use in the Commonwealth. Also, no insurer shall make or issue a contract or policy except in accordance with filings or rates, which are in effect at the time of issue. The 2 files noted were rated improperly, resulting in overcharges of \$189.07.

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

From the universe of 619 assigned risk private passenger automobile new business policies written as other than clean during the experience period, 50 files were selected for review. All 50 files were received and reviewed. No violations were noted.

Assigned Risk Private Passenger Automobile – Renewals – Clean

From the universe of 32 assigned risk private passenger automobile renewal policies written as clean during the experience period, 10 files were selected for review. All 10 files were received and reviewed. No violations were noted.

Assigned Risk Private Passenger Automobile – Renewals – Other Than Clean

The universe of 11 assigned risk private passenger automobile renewal policies written as other than clean during the experience period was selected for review. All 11 files were received and reviewed. The 3 violations noted were based on 3 files, resulting in an error ratio of 27%.

The following findings were made:

3 Violations Assigned Risk Plan Manual, Part 2, Section 12A3

The assigned Company shall mail a take-out notice to each insured eligible for take-out and the producer of record at least 45 days, but no more than 60 days, prior to the expiration of the Plan policy to be replaced. The Company did not send a take-out notice in accordance with Plan rules for the 3 files noted.

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
- E. Automobile First Party Medical Claims
- F. Automobile First Party Medical Claims Referred to a PRO

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 283 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 were noted.

B. Automobile Comprehensive Claims

The universe of 4 private passenger automobile comprehensive claims reported during the experience period was selected for review. All 4 files were received and reviewed. No violations were noted.

C. Automobile Collision Claims

The universe of 13 private passenger automobile collision claims reported during the experience period was selected for review. All 13 files were received and reviewed. No violations were noted.

D. Automobile Total Loss Claims

From the universe of 32 private passenger automobile total loss claims reported during the experience period, 10 files were selected for review. All 10 files were received and reviewed. The 7 violations noted were based on 7 files, resulting in an error ratio of 70%.

The following findings were made:

7 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 7 files noted did not reflect a Pennsylvania salvage title was obtained.

E. Automobile First Party Medical Claims

From the universe of 109 private passenger automobile first party medical claims reported during the experience period, 25 files were selected for review. All 25 files were received and reviewed. The 2 violations noted were based on 2 files, resulting in an error ratio of 8%.

The following findings were made:

1 Violation Title 31, Pa. Code, Section 69.22(c)

Requires the insurer when an insured's first-party limits have been exhausted, to provide notice to the provider and the insured within 30 days of the receipt of the provider's bill. The Company failed to notify the insured that the first party limits were exhausted.

1 Violation Title 31, Pa. Code, Section 69.42

An insurer shall make payments to providers in accordance with the Medicare Program as applied in this Commonwealth by the carrier and intermediaries. Care covered under the Medicare Program shall be reimbursed at 110% of the Medicare payment or a different allowance as may be determined under §69.12(b). Medicare co-insurance and deductibles may not be excluded in payments made by the insurer.

AND

Title 31, Pa. Code, Section 69.43

An insurer shall pay the provider's usual and customary charge for services rendered when the charge is less than 110% of the Medicare payment or a different allowance as may be determined under §69.12(b). An insurer shall pay 80% of the provider's usual and customary charge rendered if no Medicare payment exists. In calculating the usual and customary charge, an insurer may utilize the requested payment amount on the provider's bill for services or the data collected by the carrier or intermediaries to the extent that the data is made available. An insurer shall provide a complete explanation of the calculations made in computing its determination of the amount payable including whether the calculation is based on 110% of the Medicare payment, 80% of the usual and customary charge or at a different allowance determined by the Commissioner under §69.12(b). A bill submitted by the provider delineating the services rendered and the information from which a determination could be made by the insurer as to the appropriate payment amount

will not be construed as a demand for payment in excess of the permissible payment amount. The Company failed to have medical bills repriced or adjusted for cost containment.

F. Automobile First Party Medical Claims Referred to a PRO

The Company was asked to provide a list of all private passenger automobile first party medical claims that were referred to a peer review organization during the experience period. The Company did not report any claims. The Company was also asked to provide copies of any written contracts with the peer review organization it has contracted. The Company furnished a copy of a peer review contract in place during the experience period.

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.

The following finding was made:

1 Violation Title 75, Pa. C.S. §1822

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

AND

Act 165 of 1994 [18 Pa. C.S. §4117(k)(1)]

Any person who knowingly and with intent to defraud any insurance company or other person files an application for insurance or statement of claim containing any materially false information or conceals for the purpose of misleading, information concerning any fact material thereto, commits a fraudulent insurance act, which is a crime and subjects such person to criminal and civil penalties. The Company failed to use the correct fraud warning notice on the application for benefits form.

IX. ADVERTISING

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

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

The Company stated they did not advertise during the experience period. The Company's website was reviewed. No violations were noted.

X. CONSUMER COMPLAINTS

The Company was requested to identify all consumer complaints received during the experience period and provide copies of their consumer complaint logs for the preceding four years. The Company identified 2 consumer complaints received during the experience period and provided all consumer complaint logs requested. Upon review, it was revealed the 2 complaints were not insureds of Clarendon; therefore, the complaint files were not 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:

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

Requires an insurer to maintain a complete record of all the complaints, which it has received during the preceding four years. This record shall indicate the total number of complaints, their classification by line of insurance, the nature of each complaint, the disposition of these complaints and time it took to process each complaint. The Company failed to maintain a record of all complaints and provide a complaint register for 2003, 2004 and 2005.

XI. LICENSING

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

The following findings were made:

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

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

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

JBA Associates

3 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.

Jeffrey W. Hughes
Professional Governmental Underwriters, Inc.
UIS Brokers East, LTD

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 Title 75, Pa. C.S. §1786(e)(3), to ensure that violations regarding notification to the Department of Transportation if an automobile policy has been cancelled do not occur in the future.
2. The Company must review and revise internal control procedures to ensure compliance relative to commercial nonrenewal requirements of Act 86, Section 3 [40 P.S. §3403], so that the violations noted in the Report do not occur in the future.
3. The Company must review Act 86, Section 1 [40 P.S. §3401], to ensure that violations regarding notification to the insured of an increase in premium do not occur in the future.
4. The Company must review the Pennsylvania Assigned Risk Plan Manual and take appropriate measures to ensure the violations relative to take-out notices listed in the Report do not occur in the future.
5. The Company must review Act 246, Section 4(a) and (h) [40 P.S. §1184] and take appropriate measures to ensure the rating violations listed in the report do not occur in the future.

6. The premium overcharges noted in the rating section of this report must be refunded to the insured and proof of such refund must be provided to the Insurance Department within 30 days of the report issue date.
7. The Company must review Title 31, Pa. Code, Section 69.22 with its claim staff to ensure that the insured is properly notified that first-party medical benefits have been exhausted.
8. The Company must review Title 31, Pa. Code, Sections 69.42 and 69.43 with its claim staff to ensure that provider bills are repriced for cost containment as required.
9. The Company must review Title 75, Pa. C.S. §1161(a)&(b) with its claim staff to ensure that salvage certificates are obtained and are retained with the claim file.
10. The Company must ensure all producers are properly licensed and appointed, as required by Section 641.1(a) and Section 671-A [40 P.S. §310.41(a) and 40 P.S. §310.71] of the Insurance Department Act No. 147, prior to accepting any business from any producer.
11. The Company must review Act 205, Section 5(a)(11) [40 P.S. §1171.5(a)(11)], to ensure that the violations relative to complaint records noted in the Report do not occur in the future.
12. The Company must ensure that all claim forms contain the required fraud warning notice.

XIII. COMPANY RESPONSE

June 11, 2008

Chester A. Derk Jr.
Market Conduct Division Chief
Insurance Department, Bureau of Enforcement
Market Conduct Division
1227 Strawberry Square
Harrisburg, PA 17120

Re: Pennsylvania Market Conduct Examination – Clarendon Insurance Warrant: 07-M29-044

Dear Mr. Derk,

Enclosed please find Clarendon National Insurance Company's responses the recommendations (section XIII) of your Report on the Examination of the Clarendon National Insurance Company that was sent to us on May 12, 2008.

Please feel free to contact me with any questions or concerns you may have with the information provided, (212) 790-9762.

Sincerely,



Catherine Hood
SVP – Compliance

w/encl

XIII Company Responses

1. The Company must review Title 75, Pa C.S. 1786(e)(3), to ensure that violations regarding notification to the Department of Transportation if an automobile policy has been cancelled do not occur in the future.

CNIC: The system is currently being programmed to automatically notify the Dept of Transportation upon a cancellation of a policy. We expect this to be implemented by 2009.

2. The Company must review and revise internal control procedures to ensure compliance relative to commercial nonrenewal requirements of Act 86, Section 3 [40 P.S. 3403], so that violations noted in the Report do not occur in the future.

CNIC: Company has revised procedures as of May 2008 to ensure compliance with Commercial non-renewal requirements.

3. The Company must review Act 86, Section 1 [40 P.S. 3401], to ensure that violations regarding notification to the insured of an increase in premium do not occur in the future.

CNIC: Company has a procedure in place to ensure compliance regarding notification to an insured of an increase in premium. We have reviewed the procedure with staff as of May 2008.

4. The Company must review the Pennsylvania Assigned Risk Plan Manual and take appropriate measures to ensure the violations relative to take - out notices listed in the Report do not occur in the future.

CNIC: The Company will take the appropriate measures to ensure it sends the take-out notice in accordance with the Pennsylvania Assigned Risk Plan Manual.

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

CNIC: Company has instituted quality control measures as of May 2008 to periodically review rates.

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

CNIC: Policy #500662101, endorsement was processed and credit of \$13.07 has been issued. Copy of return premium check attached.

7. The Company must review Title 31, Pa. Code, Section 69.22 with its claim staff to ensure that the insured is properly notified that first-party medical benefits have been exhausted.

CNIC: Company has reviewed this section with the claim staff as of May 2008 to ensure that the insured or their attorney once we have received a letter of representation are notified that first-party medical benefits have been exhausted.

8. The Company must review Title 31, Pa. Code 69.42 and 69.43 with its claim staff to ensure that provider bills are repriced for cost containment as required.

CNIC: Company has reviewed this section with the claim staff as of May 2008 to ensure that provider bills are re-priced for cost containment as required.

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

CNIC: Company has revised our procedures for salvage in Pennsylvania approximately July 1, 2007.

10. The Company must review Act 205, Section 5(a)(11)[40 P.S. 310.41 (a) and 40 P.S. 310.71] of the Insurance Department Act No 147, prior to accepting any business from any producer.

CNIC: The Company is no longer writing business but if circumstances changed and we were to accept PA business from a producer Clarendon would verify that the producer is currently licenses with PA and appointed with the Company.

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

CNIC: Company's Legal Department implemented the proper keeping proper logs in 2006.

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

CNIC: Company has reviewed all claim forms and believes they contain the required fraud warning as of May 2008.