

**REPORT OF
MARKET CONDUCT EXAMINATION
OF**

THE CONTINENTAL INSURANCE COMPANY
Columbia, South Carolina

**AS OF
November 10, 2005**

COMMONWEALTH OF PENNSYLVANIA

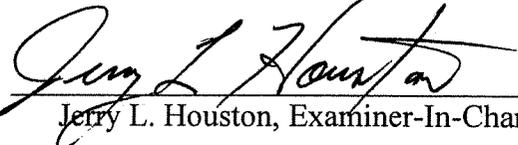


**INSURANCE DEPARTMENT
MARKET CONDUCT DIVISION**

Issued: January 6, 2006

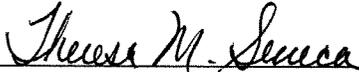
VERIFICATION

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


Jerry L. Houston, Examiner-In-Charge

Sworn to and Subscribed Before me

This 24 Day of October, 2005


Notary Public
COMMONWEALTH OF PENNSYLVANIA

NOTARIAL SEAL
THERESA M. SENECA, Notary Public
City of Harrisburg, Dauphin County
My Commission Expires Aug. 15, 2006

THE CONTINENTAL INSURANCE COMPANY

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BEFORE THE INSURANCE COMMISSIONER
OF THE
COMMONWEALTH OF PENNSYLVANIA

ORDER

AND NOW, this 29 day of April, 2002, 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.





M. Diane Koken
Insurance Commissioner

BEFORE THE INSURANCE COMMISSIONER
OF THE
COMMONWEALTH OF PENNSYLVANIA

IN RE: : VIOLATIONS:
: :
THE CONTINENTAL INSURANCE : Sections 641.1-A and 671-A of
COMPANY : Act 147 of 2002 (40 P.S. §§ 310.41
CNA Plaza : and 310.71)
Chicago, IL 60685 : :
: Section 903(a) of the Insurance
: Department Act, Act of May 17, 1921,
: 1921, P.L. 682, No. 284 (40 P.S.
: § 323.3)
: :
: Act 1990-6, Sections 1731(c)(1),
: 1797(b)(1), 1797(b)(5) and 1799.3(d)
: (Title 75, Pa.C.S. §§ 1731, 1797
: and 1799
: :
: Sections 1, 3(a)(1), 3(a)(2), 3(a)(6) and
: 4(b) of the Act of July 3, 1986, P.L.
: 396, No. 86 (40 P.S. §§ 3401, 3403
: and 3404)
: :
: Sections 2003(a)(13)(iii),
: 2003(a)(13)(ix), 2003(d), 2003(e),
: 2004 and 2006(1) of Act 68 of 1998
: (40 P.S. §§991.2003, 991.2004 and
: 991.2006)
: :
: Sections 4(a) and 4(h) of the Act of
: June 11, 1947, P.L. 538, No. 246
: (40 P.S. §§ 1184)
: :
: Sections 5(a)(4), 5(a)(9) and
: 5(a)(9)(i) 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
: 69.52(b), 146.6 and 146.7(a)(1)
: :
Respondent. : Docket No. MC05-12-009

CONSENT ORDER

AND NOW, this 6th day of January, 2006, this Order is hereby issued by the Deputy Insurance Commissioner 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. Respondent neither admits nor denies the Findings of Fact or Conclusions of Law contained herein.

FINDINGS OF FACT

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

- (a) Respondent is The Continental Insurance Company, and maintains its address at CNA Plaza, Chicago, Illinois 60685.

- (b) A market conduct examination of Respondent was conducted by the Insurance Department covering the period from July 1, 2003 through June 30, 2004.
- (c) On November 10, 2005, the Insurance Department issued a Market Conduct Examination Report to Respondent.
- (d) A response to the Examination Report was provided by Respondent on December 8, 2005.
- (e) The Examination Report notes violations of the following:
 - (i) Section 641.1-A of Act 147 of 2002 prohibits any entity or the appointed agent of any entity from transacting the business of insurance through anyone acting without an insurance producer license (40 P.S. § 310.41a);
 - (ii) Section 671-A of Act 147 of 2002 prohibits producers from transacting business within this Commonwealth without written appointment as required by the Act (40 P.S. § 310.71).
 - (iii) Section 903(a) of the Insurance Department Act, No. 285 (40 P.S. § 323.3), which requires every company or person subject to examination must keep all books, records, accounts, papers, documents and any or all computer or

other recordings relating to its property, assets, business and affairs in such manner and for such time periods as the Department may require, in order that its representatives may ascertain whether the company has complied with the laws of the Commonwealth;

- (iv) Section 1731(c)(1) of Act 1990-6, Title 75, Pa.C.S. § 1731, which requires on policies in which either uninsured or underinsured motorist coverage has been rejected, the policy renewals must contain notice in prominent type that the policy does not provide protection against damages caused by uninsured or underinsured motorists;

- (v) Section 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;

- (vi) Section 1797(b)(5) of Act 1990-6, Title 75, Pa.C.S. § 1797, which states if a PRO determines that medical treatment or rehabilitative services or merchandise were medically necessary, the insurer must pay to the provider the outstanding amount plus interest at 12% per year on any amount withheld by the insurer pending PRO review;

- (vii) Section 1799.3(d) of Act 1990-6, Title 75, Pa.C.S. § 1799, which requires insurers who make a determination to impose a surcharge, rate penalty or driver record point assignment, to inform the named insured of the determination and specify the manner in which the surcharge, rate penalty or driver record point assignment was made and clearly identify the amount of the surcharge or rate penalty on the premium notice for as long as the surcharge or rate penalty is in effect;

- (viii) 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;

- (ix) Section 3(a)(1) of Act 86 (40 P.S. § 3403), which requires that a nonrenewal notice be forwarded by registered mail or first class mail or delivered by the insurance company directly to the named insured or insureds;

- (x) Section 3(a)(2) of Act 86 (40 P.S. § 3403), which requires that a nonrenewal notice be forwarded directly to the named insured or insureds at least 60 days in advance of the effective date of the termination;
- (xi) Section 3(a)(6) of Act 86 (40 P.S. § 3403), which requires that a nonrenewal notice shall state that at the insured's request, the insurer shall provide loss information to the insured for at least three years or the period of time during which the insurer has provided coverage to the insured, whichever is less;
- (xii) Section 4(b) of Act 86 (40 P.S. § 3404), which requires that unearned premium be returned to the insured not later than 30 days after the effective date of termination where commercial property or casualty risks are cancelled in mid-term by the insured;
- (xiii) Section 2003(a)(13)(iii) of Act 68 of 1998 (40 P.S. § 991.2003), which prohibits an insurer from canceling or refusing to write or renew a policy of automobile insurance for any accident which occurred under the following circumstance: Automobile is struck in the rear by another vehicle;
- (xiv) Section 2003(a)(13)(ix) of Act 68 of 1998 (40 P.S. § 991.2003), which prohibits an insurer from canceling or refusing to write or renew a policy

of automobile insurance for any accident which occurred under the following circumstance: Any accident which occurred more than 36 months prior to the later of the inception of the policy or the upcoming anniversary date of the policy;

- (xv) Section 2003(d) of Act 68 of 1998 (40 P.S. § 991.2003), which 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;
- (xvi) Section 2003(e) of Act 68 of 1998 (40 P.S. § 991.2003), which states that an insurer may not cancel or refuse to renew a policy of automobile insurance for two or fewer moving violations in any jurisdiction or jurisdictions during a 24 month period when the operator's record indicates that the named insured presently bears five points or fewer;
- (xvii) Section 2004 of Act 68 of 1998 (40 P.S. § 991.2004), which requires that no insurer shall cancel a policy of automobile insurance except for nonpayment of premium, suspension or revocation of the named insured's driver license or motor vehicle registration or a determination that the insured has concealed a material fact or has made a material allegation contrary to fact or has made a misrepresentation of material fact and that such concealment, allegation or misrepresentation was material to the acceptance of the risk by the insurer;

- (xviii) Section 2006(1) of Act 68 of 1998 (40 P.S. § 991.2006), which requires that a nonrenewal notice be in a form acceptable to the Insurance Commissioner;
- (xix) 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;
- (xx) 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;
- (xxi) 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;

(xxii) Section 5(a)(9)(i) of Act 205 (40 P.S. § 1171.5), which requires that a cancellation notice be approved as to form by the Insurance Commissioner prior to use;

(xxiii) 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;

(xxiv) 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; and

(xxv) 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.

CONCLUSIONS OF LAW

4. In accord with the above Findings of Fact and applicable provisions of law, the Deputy Insurance Commissioner 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 Act 86 (40 P.S. §§ 3401, 3403 and 3404), 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.

(d) Respondent's violations of Sections 2003, 2004 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).

(e) 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.

(f) Respondent's violations of Sections 5(a)(4) and 5(a)(9) 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.

- (g) 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).
- (h) Respondent's violations of Title 31, Pennsylvania Code, Sections 146.6 and 146.7(a)(1) 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 Deputy Insurance Commissioner 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-Five Thousand Dollars (\$25,000.00) 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 Sharon L. Harbert, 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 Deputy Insurance Commissioner 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 Deputy Insurance Commissioner 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 Deputy Insurance Commissioner 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 Deputy Commissioner finds that there has been a breach of any of the provisions of this Order, the Deputy Commissioner 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.

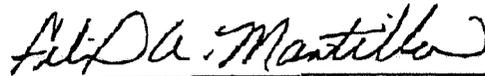
8. In any such enforcement proceeding, Respondent may contest whether a breach of the provisions of this Order has occurred but may not contest the Findings of Fact and Conclusions of Law contained herein.

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.

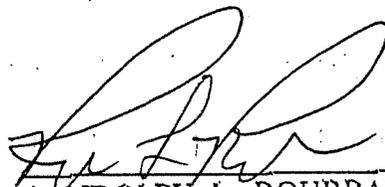
10. This Order constitutes the entire agreement of the parties with respect to the matters referred to herein, and it may not be amended or modified except by an amended order signed by all the parties hereto.

11. This Order shall be final upon execution by the Deputy Insurance Commissioner. Only the Insurance Commissioner or a duly authorized Deputy Insurance Commissioner 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 Deputy Insurance Commissioner.

BY: ALLSTATE INSURANCE COMPANY,
On behalf of THE CONTINENTAL
INSURANCE COMPANY, Respondent



ASSISTANT VICE PRESIDENT,
ASSISTANT GENERAL COUNSEL



RANDOLPH L. ROHRBAUGH
Deputy Insurance Commissioner
Commonwealth of Pennsylvania

I. INTRODUCTION

The market conduct examination was conducted at The Continental Insurance Company's offices located in Wyomissing, Pennsylvania, from July 12, 2005, through August 10, 2005. Subsequent review and follow-up was conducted in the office of the Pennsylvania Insurance Department.

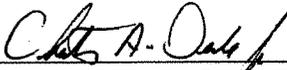
Pennsylvania Market Conduct Examination Reports generally note only those items to which the Department, after review, takes exception. However, the Examination Report may include management recommendations addressing areas of concern noted by the Department, but for which no statutory violation was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

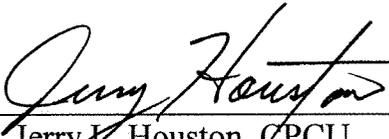
Throughout the course of the examination, Company officials were provided with status memoranda, which referenced specific policy numbers with citation to each section of law violated. Additional information was requested to clarify apparent violations. An exit conference was conducted with Company personnel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

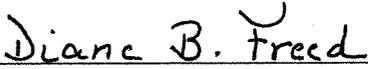
The undersigned participated in this examination and in preparation of this Report.



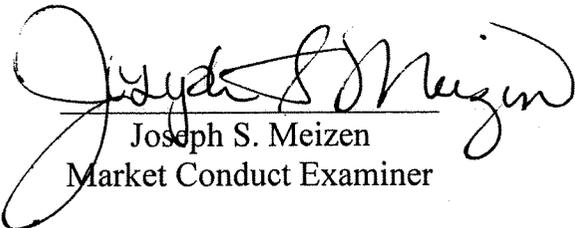
Chester A. Derk, Jr., AIE, HIA
Market Conduct Division Chief



Jerry L. Houston, CPCU
Market Conduct Examiner



Diane B. Freed
Market Conduct Examiner



Joseph S. Meizen
Market Conduct Examiner

II. SCOPE OF EXAMINATION

The Market Conduct Examination was conducted on The Continental Insurance Company, hereinafter referred to as "Company," at their offices located in Wyomissing, Pennsylvania. The examination was conducted pursuant to Sections 903 and 904 (40 P.S. §§323.3 and 323.4) of the Insurance Department Act and covered the experience period of July 1, 2003, through June 30, 2004, 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 and midterm cancellations.
 - Rating - Proper use of all classification and rating plans and procedures.

2. Personal Lines Property
 - Underwriting – Appropriate and timely notices of nonrenewal and midterm cancellations.
 - Rating – Proper use of all classification and rating plans and procedures.

3. Dwelling Fire
 - Rating – Proper use of all classification and rating plans and procedures.

4. Commercial Property
 - Underwriting – Appropriate and timely notices of nonrenewals, midterm cancellations and renewals.

5. Claims

6. Forms

7. Advertising

8. Complaints

9. Licensing

III. COMPANY HISTORY AND LICENSING

The Continental Insurance Company was organized under the laws of New Hampshire on June 16, 1977 to act as the vehicle for the transfer of corporate domicile of The Continental Insurance Company from New York to New Hampshire, effective December 31, 1977. The predecessor company was organized under the laws of New York and began business in January 1853.

On December 31, 2003, immediately following the contribution of Continental Casualty Company to The Continental Corporation, The Continental Corporation contributed the shares of The Continental Insurance Company to Continental Casualty Company. Continental Insurance Company redomesticated to South Carolina effective January 1, 2004.

LICENSING

Continental Insurance Company's Certificate of Authority to write business in the Commonwealth was last issued on April 1, 2005. The Company is licensed in all states, District of Columbia, American Samoa, Guam, Puerto Rico and U.S. Virgin Islands. The Company's 2004 annual statement reflects Direct Written Premium for all lines of business in the Commonwealth of Pennsylvania as \$109,012,241. Premium volume related to the areas of this review were: Fire \$1,631,685; Homeowners multiple peril \$27,696,466; Inland Marine \$4,602,504; Private Passenger Automobile Direct Written Premium was reported as Private Passenger Automobile No-Fault (personal injury protection) \$5,966,688; Other Private Passenger Automobile Liability \$33,701,945 and Private Passenger Automobile Physical Damage \$26,301,766.

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. Underwriting guides were furnished for private passenger automobile, personal lines property and 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 underwriting guide indicated motorcycles/mopeds, motor homes and recreation vehicles require supporting business of private passenger automobile.

V. UNDERWRITING

A. Private Passenger Automobile

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 3,688 private passenger automobile files identified as midterm cancellations by the Company, 150 files were selected for review. Of the 150 files selected, 149 were received and reviewed. The 3 violations noted were based on 3 files, resulting in an error ratio of 2%.

The following findings were made:

2 Violations Act 68, Section 2004 [40 P.S. §991.2004]

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

by the insurer. The 2 files noted were cancelled for other than permitted reasons.

1 Violation Insurance Department Act, Section 903(a) [40 P.S. §323.3]

Requires every company subject to examination to keep all books, records, accounts, papers, documents and any or all computer or other recordings relating to its business in such manner and for such time as may be required in order that the Department may readily verify whether the Company has complied with the laws of this Commonwealth. The file noted was not produced by the Company.

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 5,892 private passenger automobile files identified as nonrenewals by the Company, 150 files were selected for review. Of the 150 files selected, 149 were received and reviewed. The 87 violations noted were based on 87 files, resulting in an error ratio of 58%.

The following findings were made:

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

States that an insurer may not cancel or refuse to renew a policy of automobile insurance for two or fewer moving violations in any jurisdiction or jurisdictions during a twenty-four (24) month period when the operator's record indicates that the named insured presently bears five points or fewer unless the driver's license or motor vehicle registration of the named insured has been suspended or revoked. The nonrenewal was based on a license suspension of a person other than the named insured.

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

Requires that a nonrenewal notice be in a form acceptable to the Insurance Commissioner. The Company failed to send a nonrenewal notice on an acceptable form.

1 Violation Insurance Department Act, Section 903(a) [40 P.S. §323.3]

Requires every company subject to examination to keep all books, records, accounts, papers, documents and any or all computer or other recordings relating to its business in such manner and for such time as may be required in order that the Department may readily verify whether the Company has complied with the laws of this Commonwealth. The file noted was not produced by the Company.

B. Personal Lines 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 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 2,823 personal lines property policies which were cancelled midterm during the experience period, 316 files were selected for review. Of the 316 files requested, 309 were received and reviewed. The property policies consisted of homeowners, tenant homeowners, owner occupied dwelling fire and inland marine. The 41 violations noted were based on 24 files, which resulted in an error ratio of 8%.

The following findings were made:

17 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. The 17 files noted were identified as nonrenewals. The Company nonrenewed the 17 policies because the agent no longer represents the company, which is an improper reason.

17 Violations Act 205, Section 5(a)(9)(i) [40 P.S. §1171.5(a)(9)(i)]

Requires that a cancellation notice be approved as to form by the Insurance Commissioner prior to use. The Company used an improper form for nonrenewing the 17 policies. A letter was sent to the insured and not a notice that was approved by the Commissioner.

7 Violations Insurance Department Act, Section 903(a) [40 P.S. §323.3]

Requires every company subject to examination to keep all books, records, accounts, papers, documents and any or all computer or other recordings relating to its business in such manner and for such time as may be required in order that the Department may readily verify whether the Company has complied with the laws of this Commonwealth. The 7 files noted were not produced by the Company.

2. 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.

From the universe of 6,082 personal lines property policies which were nonrenewed during the experience period, 269 files were selected for review. The property policies consisted of homeowners, tenant homeowners, inland marine and owner occupied dwelling fire. All 269 files were received and reviewed. The 86 violations noted were based on 45 files, resulting in an error ratio of 17%.

The following findings were made:

45 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. The Company did not provide a proper reason for nonrenewal. Of the 45 files noted, 3 were nonrenewed due to losses and the remaining 42

files were nonrenewed because the agency no longer represents the Company.

41 Violations Act 205, Section 5(a)(9)(i) [40 P.S. §1171.5(a)(9)(i)]

Requires that a cancellation notice be approved as to form by the Insurance Commissioner prior to use. A letter was sent to the insured and not a notice that was approved by the Commissioner.

C. 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.

From the universe of 181 tenant occupied dwelling fire policies which were cancelled during the experience period, 50 files were selected for review. Of the 50 files selected, 48 files were received and reviewed. The 9 violations noted were based on 9 files, resulting in an error ratio of 18%.

The following findings were made:

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

Requires that a cancellation notice shall state that at the insured's request, the insurer shall provide loss information to the insured for at least three years or the period of time during which the insurer has provided coverage to the insured, whichever is less. The 5 files noted contained a cancellation notice which did not provide the required information.

2 Violations Act 86, Section 4(b) [40 P.S. §3404(b)]

Requires that unearned premium be returned to the insured not later than 30 days after the effective date of termination where commercial property or casualty risks are cancelled in mid-term by the insured. The Company did not return the unearned premium to the insured within 30 days after the effective date of termination.

2 Violations Insurance Department Act, Section 903(a) [40 P.S. §323.3]

Requires every company subject to examination to keep all books, records, accounts, papers, documents and any or all computer or other recordings relating to its business in such manner and for such time as may be required in order that the Department may readily verify whether the Company has complied with the laws of this Commonwealth. The 2 files noted were not produced by the Company.

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.

From the universe of 268 tenant occupied dwelling fire policies identified as nonrenewals by the Company, 50 files were selected for review. All 50 files selected were received and reviewed. The 7 violations noted were based on 4 files, resulting in an error ratio of 8%.

The following findings were made:

1 Violation Act 86, Section 3(a)(2) [40 P.S. §3403(a)(2)]

Requires that a nonrenewal notice be forwarded directly to the named insured or insureds at least 60 days in advance of the effective date of the termination. The Company did not provide at least 60 days notice of nonrenewal for the file noted.

2 Violations Act 86, Section 3(a)(1) [40 P.S. §3403(a)(1)]

Requires that a nonrenewal notice be forwarded by registered mail or first class mail or delivered by the insurance company directly to the named insured or insureds. The Company did not provide any evidence that a notice of nonrenewal was mailed to the insured for the 2 files noted.

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

Requires that a nonrenewal notice shall state that at the insured's request, the insurer shall provide loss information to the insured for at least three years or the period of time during

which the insurer has provided coverage to the insured, whichever is less. The 4 files noted contained a nonrenewal notice which did not provide the required information.

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.

From the universe of 1,163 tenant occupied dwelling fire policies which were renewed during the experience period, 50 files were selected for review. All 50 files selected were received and reviewed. The violation noted resulted in an error ratio of 2%.

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.

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 did not write any new private passenger automobile business during the experience 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 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 – Renewals Without Surcharges

From the universe of 17,396 private passenger automobile policies renewed without surcharges during the experience period, 150 files were selected for review. All 150 files selected were received and reviewed. The 7 violations noted were based on 7 files, resulting in an error ratio of 5%.

The following findings were made:

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

On policies in which either uninsured or underinsured motorist coverage has been rejected, the policy renewals must contain notice in prominent type that the policy does not provide protection against damages caused by uninsured or underinsured motorists. The policy renewal did not reflect the prominent notice as required for the 7 files noted.

Concern: The Company is currently not itemizing the premium amounts by coverage for the invoice required under Title 75, Pa. C.S. §1791.1(a). The Company must implement this procedure going forward.

Private Passenger Automobile – Renewals With Surcharges

From the universe of 261 policies renewed with surcharges during the experience period, 100 files were selected for review. All 100 files selected were received and reviewed. The 49 violations noted were based on 45 files, resulting in an error ratio of 45%.

The following findings were made:

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

On policies in which either uninsured or underinsured motorist coverage has been rejected, the policy renewals must contain notice in prominent type that the policy does not provide protection against damages caused by uninsured or underinsured motorists. The policy renewal did not reflect the prominent notice as required for the 3 files noted.

*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 applied an incorrect surcharge to the policy. In both instances, the policies were cancelled flat prior to the insured paying the higher premium and did not result in an overcharge.

44 Violations Title 75, Pa. C.S. §1799.3(d)

Requires insurers who make a determination to impose a surcharge, rate penalty or driver record point assignment, to inform the insured of the determination and specify the manner in which the surcharge, rate penalty or driver record point assignment was made and clearly identify the amount of the surcharge or rate penalty on the premium notice for as long as the surcharge or rate penalty is in effect. The Company failed to provide a surcharge statement on the premium notice for the 44 files noted.

Concern: The Company is currently not itemizing the premium amounts by coverage for the invoice required under Title 75, Pa. C.S. §1791.1(a). The Company must implement this procedure going forward.

B. 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.

The Company did not write any new homeowner business during the experience 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 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 – Renewals Without Surcharges

From the universe of 8,369 homeowner policies renewed without surcharges during the experience period, 75 files were selected for review. All 75 files selected were received and reviewed. No violations were noted.

Homeowner – Renewals With Surcharges

From the universe of 3,111 homeowner policies renewed with surcharges during the experience period, 100 files were selected for review. All 100 files selected were received and reviewed. No violations were noted.

C. Dwelling Fire

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.

The Company did not write any dwelling fire new business during the experience 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 determine 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.

From the universe of 167 dwelling fire policies renewed during the experience period, 25 files were selected for review. All 25 files selected were received and reviewed. No violations were 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 Claims
- E. Automobile First Party Medical Claims
- F. Automobile First Party Medical Claims Referred to a PRO
- G. Property Claims

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

A. Automobile Property Damage Claims

From the universe of 4,474 private passenger automobile property damage claims reported during the experience period, 100 files were selected for review. All 100 files selected were received and reviewed. The 4 violations noted were based on 4 files, resulting in an error ratio of 4%.

The following findings were made:

4 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 4 claims noted.

B. Automobile Comprehensive Claims

From the universe of 4,594 private passenger automobile comprehensive claims reported during the experience period, 100 files were selected for review. All 100 files requested were received and reviewed. No violations were noted.

C. Automobile Collision Claims

From the universe of 6,730 private passenger automobile collision claims reported during the experience period, 100 files were selected for review. All 100 files requested were received and reviewed. No violations were noted.

D. Automobile Total Loss Claims

From the universe of 688 private passenger automobile total loss claims reported during the experience period, 75 files were selected for review. All 75 files selected were received and reviewed. The 4 violations noted were based on 4 files, resulting in an error ratio of 5%.

The following findings were made:

4 Violations Title 31, Pa. Code, Section 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 4 claims noted.

E. Automobile First Party Medical Claims

From the universe of 1,407 private passenger automobile first party medical claims reported during the experience period, 100 claim files were selected for review. All 100 files requested were received and reviewed. The violation noted resulted in an error ratio of 1%.

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 or properly executed proofs of loss, the first-party claimant shall be advised of the acceptance or denial of the claim by the insurer. The violation noted resulted from failure to accept or deny the claim within 15 working days after proof of loss was received.

F. Automobile First Party Medical Claims Referred to a PRO

The universe of 21 automobile first party medical claims that were referred to a peer review organization by the Company was selected for review. All 21 files selected were received and reviewed. The Company was also asked to provide a copy of all peer review contracts in place during the experience period. The 3 violations noted were based on 1 file, resulting in an error ratio of 5%.

The following findings were made:

1 Violation 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 violation noted resulted because the bill was not paid within 30 days.

1 Violation Title 75, Pa. C.S. §1797(b)(5)

If a PRO determines that medical treatment or rehabilitative services or merchandise were medically necessary, the insurer must pay to the provider the outstanding amount plus interest at 12% per year on any amount withheld by the insurer pending PRO review. The Company did not provide any evidence that the interest was paid.

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 utilized a peer review organization without having a contract in place.

G. Property Claims

From the universe of 4,680 homeowner and dwelling fire claims reported during the experience period, 100 files were selected for review. All 100 files selected were received and reviewed. The 9 violations noted were based on 8 files, resulting in an error ratio of 8%.

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.

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

Within 15 working days after receipt by the insurer or properly executed proofs of loss, the first-party claimant shall be advised of the acceptance or denial of the claim by the insurer. The denial must be given to the claimant in writing and the claim file of the insurer shall contain a copy of the denial. The violation noted resulted from failure to accept or deny the claim within 15 working days after proof of loss was received.

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 20 advertising brochures which described various products and services. 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 62 consumer complaints received during the experience period and provided all consumer complaint logs requested. Of the 62 complaints reported, 50 were selected, 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 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. The violation noted was due to an improper reason for cancellation.

2 Violations Act 68, Section 2003(e) [40 P.S. §991.2003(e)]

States that an insurer may not cancel or refuse to renew a policy of automobile insurance for two or fewer moving violations in any jurisdiction or jurisdictions during a twenty-four (24) month period when the operator's record indicates that the named insured presently bears five points or fewer. The Company sent an improper notice of cancellation based upon 2 violations which were beyond the twenty-four month period.

1 Violation Act 68, Section 2003(a)(13)(iii) [40 P.S. §991.2003(a)(13)(iii)]

Discrimination Prohibited. An insurer may not cancel or refuse to write or renew a policy of automobile insurance for any accident which occurred under the following circumstance: Automobile is struck in the rear by another vehicle. The Company sent an improper notice of cancellation for an accident that was not at-fault.

1 Violation Act 68, Section 2003(a)(13)(ix) [40 P.S. §991.2003(a)(13)(ix)]

Discrimination Prohibited. An insurer may not cancel or refuse to write or renew a policy of automobile insurance for any accident which occurred under the following circumstance: Any accident which occurred more than 36 months prior to the later of the inception of the insurance policy or the upcoming anniversary date of the policy. The Company sent an improper notice of cancellation for an accident that occurred more than 36 months prior to the anniversary date.

2 Violations Act 68, Section 2003(d) [40 P.S. §991.2003(d)]

States that an insurer may not cancel or refuse to renew existing policies written through the terminated agent without offering each such insured coverage on a direct basis or offering to refer the insured to one or more new agents in the event the terminated agent could not find a suitable insurer acceptable to the policyholder for such business. The Company failed to offer to write the insured on a direct basis for the 2 files noted.

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

• 29	Cancellation/Nonrenewal	59%
• 15	Claims Related	30%
• 2	Rating	3%
• 4	Miscellaneous	8%
<hr/> 50		<hr/> 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 violations were noted.

*5 Violations 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 producers were found to be writing and /or soliciting policies but were not found in Insurance Department records as holding a Pennsylvania producer license.

A & A Insurance
Hadfield Agency, Inc.
Matthews Insurance Group
Doty & Hench, Inc.
Ott, Albert W. Agency

179 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 for casualty insurance while writing automobile insurance.

AAA East Penn Insurance
AAA Southern PA Travel & Insurance
Absure Insurance Agency
AIS Insurance Group, Inc.
AISC/Peterman Company (Affiliated Insurance Service Corp)
Allison Insurance Agency
Allman and Company Incorporated
Allsurance, Inc.
America Insurance Agency, Inc.
American Ins. Mgmt., Inc.
American Insurance Administrators, Inc.
American Insuring Group, Ltd
Arbor Insurance Group, Inc.
AWA Agency, Ltd.
Baily Insurance Agency
Barnett Insurance of Pleasant Hills, Inc.
Bartos-Hunsicker, Inc.
BCG Ins./Gallen Ins. Inc.
Benedict J. Serratore t/a South Pittsburgh Realty Co.
Best Insurance Agency, Inc.
Beynon & Company, Inc.
Big A Insurance Agency
Black, Ron Agency
Block Insurance Agency, Inc.
Bowman Insurance Agency
Breuninger, F. Frederick & Son Ins Inc.
Brown & Brown of Lehigh Valley, Inc.
Burns & Burns/Bradford
Byrne, J. Agency, Inc.
Century Ins Cons Ltd
Chamberlin & Reinheimer Insurers, Inc.
Christi Ins Group, Inc.

Citizens Insurance Services
CLA Insurance
Clare Agency, Inc.
Collens-Wagner Agency, Inc/Stein
Commerce Insurance Svcs Inc.
Consumers Ins. Agency, Inc.
Consumers Insurance Group, Inc.
CSC Insurance Options
Davis Insurance Group, Inc.
Dillon-Haney Agency, Inc.
Dimeling & Schrot, Inc.
Dougherty & Conrad Ins. Services Inc.
Dunlop Group
Eastern Insurance Group, Inc.
Engle Habright & Davies
Evans Hauseman & Richard
Exchange Underwriters
Farina Insurance, Ltd.
Fedele Insurance Services, Inc.
Firm Personal, Inc.
First Insurance Center, Inc.
First National Insurance Agency, Inc.
Fleet Insurance Services
Fritz Insurance Agency, Inc.
Fritz Insurance Agency, The
Gallagher Associates, Inc.
Gallen Insurance Inc.
Gallina, William H. dba Gallina & Sons
Garrison-Simonsen, Inc.
Gelvin Jackson & Starr Inc. (Roger Janes)
Gerrity, Baker, Williams, Inc.
Gibbons Insurance Agency
Glatfelter Agency, Inc., The
Goins & Hewitt
Gooder Agency, Inc.
Greenwald Berk Agency/Popky Agency
Gregory-Allison Group, The
H R Woolridge Company (John W. Gilliland)
Halderman, Edward F. & Associates, Inc.
Hart, Richard I. Inc.
Harte, Hawke & Zupsic
Hartzok, Frank B. Ins. Agency
Harvey Insurance Group, LLC
Hauser Agency Inc.
Hazelton Insurance Alliance
Henderson Brothers/Weidner

Hess Company, Inc., The
Hicks Heim Mustio
Hilb, Rogal and Hamilton Co. of Pittsburgh, LLC
Hoaster Gebhard & Co.
Hood Ins. Associates
Howard Hanna Ins Services, Inc.
Iddings, James I. t/a Iddings Ins. Agency
Ins. Counsellors of Bryn Mawr, Inc.
Insurance Associates of PA
Insurance Consultants of Pittsburgh
Insurance Incorporated
Insurance Store of Oxford Valley
Ivantage Select Agency, Inc.
Kasky Insurance and Financial Services
Kenco Associates, Inc.
Kennedy-Meeder Insurance, Inc.
Kincel & Company LTD
Kinross, Daniel P.
Knowles Associates
Lake Erie Ins. Services
Larose George Insurance LTD
Lauersen Agency, Inc.
Laurel, Coe & Associates, Inc.
Lehigh Underwriters Agency
Liberty Insurance Agency, Inc.
Little, Compton & Rooney, Inc.
Lupas, A. J. Insurance
M & M Insurance Group, Inc.
Mallalieu-Golder Insurance Agency
Man, Levy & Nogi Insurance
Manfred Insurance Agency
Martin & Nettrour, Inc.
Martin, Homer M. Agency, Inc.
Mary & Gooder Insurance Agency
Mason, J. N. Agency, Inc.
Matson Ins. Agency, Inc.
Mayville Tremaine Inc.
McCormick & Reinmuth Insurance Agency, Inc.
McDole Edge Corporation
McDowell Assoc Inc
McKeever-Egan Insurance
Mogle Insurance Associates
Morrell Butz & Junker Inc.
Morrisey, B. C. Insurance, Inc.
Motor Club Agency, Inc. T/A AAA Ins.
Mulligan, William

Myers Insurance Agency
Perfetto, Chester Agency, Inc.
Pflueger Insurance Agency, Inc.
Pierson & Scott, Inc.
Reading Fire Ins Agency George W Billman & Co.
Reed, George A. Agency, Inc.
Reed-Dallas Insurance Agency
Reinard Agency Inc.
Reinhardt's Agency, Inc.
Reschini Insurance Agency
Ricci & Associates
Richardson Agency, The
Robinson Insurance Agency, Inc.
Robinson, David W. Ins. Agency
Rodgers Agency, Inc., The
Roehrs & Company, Inc.
Rugh, J. A. , AG, Inc. T/A J. A. Rugh Agency
Russell Insurance Group
Ryon, Richard B. Insurance
Safeguard Insurance Agency, Inc.
Scargill/McClurken Insurance
Selzer Company, The
Serratore, Benedict J. t/a South Pittsburgh Realty Co.
Seubert & Associates, Inc.
Sheaffer, Paul I. Insurance Agency, Inc.
Shoemaker & Besser Ins Group Inc
Sidney Sacks Agency, Inc.
Small & Son Inc.
Smathers, R. James Agency, Inc.
Snyder-Moore Agencies, Inc.
Spodek Insurance Agency
St. Marys Insurance Agency, Inc.
Stefkovich & Sorokes T/A Walker
Stirling, Inc. Robert C.
Strategic Insurance Group, Inc.
Strickler Insurance Agency, Inc.
Stuber Insurance Agency
Teeter Insurance Agency, Inc.
Thomson & Sproull
Truschel, E. J. Co
USI Midatlantic
Wagner Gilbin Insurance Agency
Waypoint Insurance Group, Inc.
Weichert Insurance Agency
Wetzel & Lanzi, Inc.
Whitford Insurance Network

Williams, Robert C. Ins. Agency Inc.
Wilson Baum Agency Inc.
Woodland Services Group, Inc. (appointed 4-14-04)
Woolridge, H. R. Co.
Wright Agency, The
Wright-Gardner Ins., Inc.
Yerkes Insurance , Inc.
Yorke Agency, Inc., The
Zikos, Peter J. Agency

XII. RECOMMENDATIONS

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

1. The Company must review and revise internal control procedures to ensure compliance with cancellation notice requirements of Act 68, Sections 2003, 2004 and 2006 [40 P.S. §§991.2003, 2004 and 2006], so that the violations noted in the Report do not occur in the future.
2. The Company must review Act 205, Section 5(a)(9) [40 P.S. §1171.5(a)(9)] to ensure compliance with cancellation and nonrenewal notice requirements so that the violations noted in the Report do not occur in the future.
3. The Company must review and revise internal control procedures to ensure compliance relative to commercial cancellation and 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.
4. The Company must review Act 246, Section 4 [40 P.S. §1184] and take appropriate measures to ensure the rating violations listed in the Report do not occur in the future.
5. When a surcharge is imposed on a private passenger automobile policy the Company must inform the insured of the determination and specify the manner in which the surcharge, rate penalty or driver record point assignment was made including the specific dates of accidents and

citations and clearly identify the amount of the surcharge or rate penalty on the premium notice for as long as it is in effect. This procedure must be implemented within 30 days of the Report issue date. This is to ensure that violations noted under Title 75, Pa. C.S. §1799.3(d) do not occur in the future.

6. On policies in which either uninsured or underinsured coverage has been rejected, the policy renewal must contain notice in prominent type that the policy does not provide protection against damages caused by uninsured or underinsured motorists. This procedure must be implemented within 30 days of the Report issue date. This is to ensure that violations noted under Title 75, Pa. C.S. §1731(c)(1) do not occur in the future.
7. 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 claim acknowledgement and status letters, as noted in the Report, do not occur in the future.
8. 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.
9. The Company must review the first party medical claims referred to a peer review organization where the peer review organization determined that treatment was necessary. The Company must pay to the provider the outstanding amount plus interest at 12% per year on any amount withheld by the Company pending the PRO review as required by Title

75, Pa. C.S. §1797(b)(5). Proof of such payment must be provided to the Insurance Department within 30 days of the Report issue date.

10. The Company must review Title 75, Pa. C.S. §1797(b)(1) with its claim staff to ensure that a contract is in place 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.
11. The Company must revise and reissue their underwriting guidelines for use in Pennsylvania to ensure that guidelines do not require supporting private passenger automobile business in order to write motorcycles, mopeds, motor homes and recreation vehicles.
12. The Company must reinforce its internal underwriting controls to ensure that all records and documents are maintained in accordance with Insurance Department Act, Section 903(a) [40 P.S. §323.3], so that violations noted in the Report do not occur in the future.
13. 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.

XIII. COMPANY RESPONSE



Debra J. Groves, AU, API, AIS
Senior Risk Management Consultant
Underwriting Governance

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Email: debra.groves@encompassins.com

December 7, 2005

Commonwealth of Pennsylvania Insurance Department
Bureau of Enforcement
ATTN: Mr. Chester A. Derk, Jr., AIE, HIA
Market Conduct Division Chief
1321 Strawberry Square
Harrisburg, PA 17120

RE: Examination Warrant Number: 04-M19-042
The Continental Insurance Company
Examination Period July 1, 2003 through June 30, 2004

Dear Mr. Derk:

Encompass Insurance Company has reviewed the Report of Examination of the Continental Insurance Company covering the period July 1, 2003 through June 30, 2004, which was included with your letter dated November 10, 2005. We respectfully submit rebuttals for the following violations:

IV. UNDERWRITING PRACTICES AND PROCEDURES

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 underwriting guide indicated motorcycles/mopeds, motor homes and recreation vehicles require supporting business of private passenger automobile.

Company Response: We respectfully submit that the policy of requiring miscellaneous vehicle types to be written with a qualifying private passenger type vehicle complies with all applicable Pennsylvania laws and does not constitute an unreasonable restraint of, or monopoly in, the business of insurance under Act 205, Section 5(a)(4) [40 P.S. 1171.5(a)(4)].

The Continental Insurance Company would only write these Miscellaneous Vehicle Types as part of a package policy. For instance, the Company would not write a stand-alone motorcycle policy. Thus, the sale of coverage for Miscellaneous Vehicle Types is not conditioned on the purchase of another policy with The Continental Insurance Company, but instead is an accommodation to a customer with an existing private passenger auto policy.

Further, it is Continental Insurance Company's opinion that this underwriting policy does not result in any restraint of trade or monopoly, nor does it have an anti-competitive effect because Continental Insurance Company does not have a sufficient market share to result in an unreasonable restraint of, or monopoly in, the business of insurance.

Although the Sherman Act is federal law and does not govern the conduct at issue in the instant matter, it does provide guidance in determining whether a monopoly exists. Section 2 of the Sherman Act (15 U.S.C.A. §2) makes monopolization or attempted monopolization an unlawful practice. A key element in establishing monopolization or attempted monopolization is the possession of monopoly power in the relevant market or the "dangerous probability of achieving monopoly power." *ID Security Systems Canada, Inc. v. Checkpoint Systems, Inc.*, 249 F.Supp.2d 622, 648 (E.D. Penn. 2003). A major factor in determining the existence of monopoly power is the percentage of the share of that market maintained by a party. *See Picante Inc. v. Jiminez Food Products, Inc.*, 1982 WL 1891 (W.D. Tex. 1982).

As a matter of law, a market share of less than 30 percent is presumptively insufficient to establish the market power that is a prerequisite to a defendant's enjoying a dangerous probability of achieving monopoly power. *See ID Security Systems*, 249 F.Supp.2d at 648. Courts are even reluctant to find monopoly power where the defendant business controls less than fifty percent of the given market. *See Brunson Communications, Inc. v. Arbitron, Inc.*, 239 F.Supp.2d 550, 568 (E.D. Penn. 2002).

Although the Pennsylvania courts have not construed Act 205, Section 5(a)(4) [40 P.S. 1171.5(a)(4)], the Pennsylvania Superior Court has interpreted the federal antitrust laws where an independent insurance agency sued an insurer seeking an injunction to enforce the noncompete covenant in the parties' contract. *See Volunteer Firemen's Insurance Services, Inc. v. Cigna Property & Casualty Ins. Agency*, 693 A.2d 1330 (Pa. Super. Ct. 1997). In *Volunteer Firemen's*, the Court held that the federal antitrust laws did not bar the enforcement of the noncompete provision where the plaintiff, who controlled between 30% and 40% of the relevant market, did not have the resources or market share to create a monopoly. *See id.* at 1342.

Similarly, in the instant matter, Continental Insurance Company does not have the resources or market share necessary to create an unreasonable restraint of, or monopoly in, the business of insurance. Continental Insurance Company only had a market share of less than 1.8% in 2002.¹ It would be virtually impossible for Continental Insurance Company to create an unreasonable restraint of or monopoly in the business of insurance.

Additionally, this underwriting policy does not result in any restraint of trade or monopoly, nor does it have an anti-competitive effect because the guideline does not require that applicants purchase another policy with the Continental Insurance Company at the time they apply for an

¹Continental Insurance Company was a CNA company in 2002. CNA had a total market share of 1.8% (1.7% Auto and 2.4% Personal Property). Continental Insurance Company made up approximately 90% of CNA's business.

auto policy. Our corporate policy prohibits the sale of an auto policy in any way being conditioned on the purchase of another policy with the Continental Insurance Company.

By allowing existing customers to purchase insurance for miscellaneous vehicle types, we are able to provide a valuable service to pre-existing customers, who might otherwise be without this type of insurance.

V. UNDERWRITING

A. Private Passenger Automobile

2. Nonrenewals

85 Violations

Act 68, Section 2006(1) [40 P.S. §991.2006(1)] Requires that a nonrenewal notice be in a form acceptable to the Insurance Commissioner. The Company failed to send a nonrenewal notice on an acceptable form.

Company Response: The Company respectfully disagrees with these violations. The agency contract for each of the captioned policies was terminated. The Company's practice prior to the Market Conduct Examination of The Fidelity and Casualty Company of New York conducted in 2003 was to send the offer to renew through another agent or directly with the Company on a non-renewal notice. The Company was cited during this examination for sending a non-renewal notice due to agency termination. The Department indicated at that time that sending an offer to renew, through another agent or directly with the Company, on a non-renewal notice was confusing to the policyholder. Agency termination is not a valid reason for non-renewal; thus, sending a non-renewal notice is inappropriate.

To resolve this criticism, the Company agreed, on a prospective basis, to extend the offer to renew on a Conditional Renewal Notice, which was submitted to the Department on March 10, 2004. The notice informs the insured of the termination of the agency contract and provides the insured with replacement options – it does not purport to non-renew the insured. The notice specifically provided that failure to return the notice in the postage paid envelope would be considered a refusal of renewal coverage. Please note that this notice and form were provided to the PA DOI when we enumerated the corrective actions being taken following the 2003 state examination of Fidelity & Casualty Insurance Company. The company did not receive any suggestions to change the notice at that time.

We believe our current practice complies with the corrective actions set forth during the Market Conduct Examination of The Fidelity and Casualty Company of New York. We respectfully request the removal of these violations.

B. Personal Lines Property

1. Midterm Cancellations

17 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 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. The 17 files noted were identified as nonrenewals. The Company nonrenewed the 17 policies because the agent no longer represents the company, which is an improper reason.

Company Response: The Company respectfully disagrees with these violations. The agency contract for each of the captioned policies was terminated. In accordance with 40 P.S. § 243, the Company continued the policy for a period of 12 months from the date of the agency termination. The Departmental Position, provided by Leonard D'Amico from the PA Insurance Department Consumer Services Division to the Company's termination vendor, ODEN Insurance Services, Inc. on 2/10/2004, states:

"An agent may not refuse to renew or reissue a policy due to the termination of an agent. Insurer must offer to continue coverage through the agent for a period of 12 months from the effective date of agent's termination. Subsequent to the 12 month period following the agent's termination, an insurer must offer coverage on a direct basis or offer to refer the insured to one or more new agents if the terminated agent has not found an insurer acceptable to the policyholder."

The Company made this offer by sending "Important Information Notices" to the insured prior to the renewal date, alerting them to this situation. This notice was used, instead of a non-renewal notice, in accordance with directions received from the PA DOI arising from the 2003 market conduct exam completed on The Fidelity and Casualty Company of New York.

The notice informs the insured of the termination of the agency contract and provides the insured with replacement options – it does not purport to non-renew the insured. The notice specifically provided that failure to return the notice in the postage paid envelope would be considered a refusal of renewal coverage. Please note that this notice and form were provided to the PA DOI when we enumerated the corrective actions being taken following the 2003 state examination of Fidelity & Casualty Insurance Company. The company did not receive any suggestions to change the notice at that time. We believe this action was not a non-renewal and complied with the corrective actions set forth during the 2003 market conduct exam of The Fidelity and Casualty Company of New York and with the Departmental Position provided by the Department's Consumer Services Division. We respectfully request the removal of these violations.

17 Violations

Act 205, Section 5(a)(9)(i) [40 P.S. §1171.5(a)(9)(i)] Requires that a cancellation notice be approved as to form by the Insurance Commissioner prior to use. The Company used an improper

form for nonrenewing the 17 policies. A letter was sent to the insured and not a notice that was approved by the Commissioner.

Company Response: The Company respectfully disagrees with these violations. The agency contract for each of the captioned policies was terminated. The Company's practice prior to the Market Conduct Examination of The Fidelity and Casualty Company of New York conducted in 2003 was to send the offer to renew through another agent or directly with the Company on a non-renewal notice. The Company was cited during this examination for sending a non-renewal notice due to agency termination. The Department indicated at that time that sending an offer to renew, through another agent or directly with the Company, on a non-renewal notice was confusing to the policyholder. Agency termination is not a valid reason for non-renewal; thus, sending a non-renewal notice is inappropriate.

To resolve this criticism, the Company agreed, on a prospective basis, to extend the offer to renew on a Conditional Renewal Notice, which was submitted to the Department on March 10, 2004. The notice informs the insured of the termination of the agency contract and provides the insured with replacement options – it does not purport to non-renew the insured. The notice specifically provided that failure to return the notice in the postage paid envelope would be considered a refusal of renewal coverage. Please note that this notice and form were provided to the PA DOI when we enumerated the corrective actions being taken following the 2003 state examination of Fidelity & Casualty Insurance Company. The company did not receive any suggestions to change the notice at that time.

We believe our current practice complies with the corrective actions set forth during the Market Conduct Examination of The Fidelity and Casualty Company of New York. We respectfully request the removal of these violations.

2. Nonrenewals

45 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 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. The Company did not provide a proper reason for nonrenewal. Of the 45 files noted, 3 were nonrenewed due to losses and the remaining 42 files were nonrenewed because the agency no longer represents the Company.

Company Response: The Company respectfully disagrees with the 42 violations relating to nonrenewal due to agency termination. The agency contract for the each of the captioned policies was terminated. In accordance with 40 P.S. § 243, the Company continued the policy for a period of 12 months from the date of the agency termination. The Departmental Position, provided by Leonard D'Amico from the PA Insurance Department Consumer Services Division to the Company's termination vendor, ODEN Insurance Services, Inc. on 2/10/2004, states:

"An agent may not refuse to renew or reissue a policy due to the termination of an agent. Insurer must offer to continue coverage through the agent for a period of 12 months from the effective date of agent's termination. Subsequent to the 12 month period following the agent's termination, an insurer must offer coverage on a direct basis or offer to refer the insured to one or more new agents if the terminated agent has not found an insurer acceptable to the policyholder."

The Company made this offer by sending "Important Information Notices" to the insured prior to the renewal date, alerting them to this situation. This notice was used, instead of a non-renewal notice, in accordance with directions received from the PA DOI arising from the 2003 market conduct exam completed on The Fidelity and Casualty Company of New York.

The notice informs the insured of the termination of the agency contract and provides the insured with replacement options – it does not purport to non-renew the insured. The notice specifically provided that failure to return the notice in the postage paid envelope would be considered a refusal of renewal coverage. Please note that this notice and form were provided to the PA DOI when we enumerated the corrective actions being taken following the 2003 state examination of Fidelity & Casualty Insurance Company. The company did not receive any suggestions to change the notice at that time. We believe this action was not a non-renewal and complied with the corrective actions set forth during the 2003 market conduct exam of The Fidelity and Casualty Company of New York and with the Departmental Position provided by the Department's Consumer Services Division. We respectfully request the removal of these violations.

41 Violations

Act 205, Section 5(a)(9)(i) [40 P.S. §1171.5(a)(9)(i)] Requires that a cancellation notice be approved as to form by the Insurance Commissioner prior to use. A letter was sent to the insured and not a notice that was approved by the Commissioner.

Company Response: The Company respectfully disagrees with these violations. The agency contract for each of the captioned policies was terminated. The Company's practice prior to the Market Conduct Examination of The Fidelity and Casualty Company of New York conducted in 2003 was to send the offer to renew through another agent or directly with the Company on a non-renewal notice. The Company was cited during this examination for sending a non-renewal notice due to agency termination. The Department indicated at that time that sending an offer to renew, through another agent or directly with the Company, on a non-renewal notice was confusing to the policyholder. Agency termination is not a valid reason for non-renewal; thus, sending a non-renewal notice is inappropriate.

To resolve this criticism, the Company agreed, on a prospective basis, to extend the offer to renew on a Conditional Renewal Notice, which was submitted to the Department on March 10, 2004. The notice informs the insured of the termination of the agency contract and provides the insured with replacement options – it does not purport to non-renew the insured. The notice specifically provided that failure to return the notice in the postage paid envelope would be considered a refusal of renewal coverage. Please note that this notice and form were provided to the PA DOI when we enumerated the corrective actions being taken following the 2003 state examination of Fidelity & Casualty Insurance Company. The company did not receive any suggestions to change the notice at that time.

We believe our current practice complies with the corrective actions set forth during the Market Conduct Examination of The Fidelity and Casualty Company of New York. We respectfully request the removal of these violations.

C. Commercial Property

1. Midterm Cancellations

5 Violations

Act 86, Section 3(a)(6) [40 P.S. §3403(a)(6)] Requires that a cancellation notice shall state that at the insured's request, the insurer shall provide loss information to the insured for at least three years or the period of time during which the insurer has provided coverage to the insured, whichever is less. The 5 files noted contained a cancellation notice, which did not provide the required information.

Company Response: The Company acknowledges that the loss information was not included on the captioned policies; however, this issue was identified and corrected during the 2003 Market Conduct Examination of the Fidelity and Casualty Company of New York. At that time, we notified the Department that our system correction was scheduled for December 1, 2003. All of the policies identified above cancelled prior to December 1, 2003; therefore, we do not believe we should be cited. We respectfully request the removal of these violations.

2. Nonrenewals

2 Violations

Act 86, Section 3(a)(1) [40 P.S. §3403(a)(1)] Requires that a nonrenewal notice be forwarded by registered mail or first class mail or delivered by the insurance company directly to the named insured or insureds. The Company did not provide any evidence that a notice of nonrenewal was mailed to the insured for the 2 files noted.

Company Response: The Company respectfully disagrees with these violations. The agency contract for each of the captioned policies was terminated. The Company's practice prior to the Market Conduct Examination of The Fidelity and Casualty Company of New York conducted in 2003 was to send the offer to renew through another agent or directly with the Company on a non-renewal notice. The Company was cited during this examination for sending a non-renewal notice due to agency termination. The Department indicated at that time that sending an offer to renew, through another agent or directly with the Company, on a non-renewal notice was

confusing to the policyholder. Agency termination is not a valid reason for non-renewal; thus, sending a non-renewal notice is inappropriate.

To resolve this criticism, the Company agreed, on a prospective basis, to extend the offer to renew on a Conditional Renewal Notice, which was submitted to the Department on March 10, 2004. The notice informs the insured of the termination of the agency contract and provides the insured with replacement options – it does not purport to non-renew the insured. The notice specifically provided that failure to return the notice in the postage paid envelope would be considered a refusal of renewal coverage. Please note that this notice and form were provided to the PA DOI when we enumerated the corrective actions being taken following the 2003 state examination of Fidelity & Casualty Insurance Company. The company did not receive any suggestions to change the notice at that time. We did provide evidence to the examiner that the Conditional Renewal Notices were sent to the insured via certificate of mailing.

We believe our current practice complies with the corrective actions set forth during the Market Conduct Examination of The Fidelity and Casualty Company of New York. We respectfully request the removal of these violations.

4 Violations

Act 86, Section 3(a)(6) [40 P.S. §3403)(a)(6)] Requires that a nonrenewal notice shall state that at the insured's request, the insurer shall provide loss information to the insured for at least three years or the period of time during which the insurer has provided coverage to the insured, whichever is less. The 4 files noted contained a nonrenewal notice, which did not provide the required information.

Company Response: We respectfully disagree with the 2 violations relating to nonrenewal due to agency termination. In accordance with 40 P.S. § 243, the Company continued the policy for a period of 12 months from the date of the agency termination. The Departmental Position, provided by Leonard D'Amico from the PA Insurance Department Consumer Services Division to the Company's termination vendor, ODEN Insurance Services, Inc. on 2/10/2004, states: *"An agent may not refuse to renew or reissue a policy due to the termination of an agent. Insurer must offer to continue coverage through the agent for a period of 12 months from the effective date of agent's termination. Subsequent to the 12 month period following the agent's termination, an insurer must offer coverage on a direct basis or offer to refer the insured to one or more new agents if the terminated agent has not found an insurer acceptable to the policyholder."*

The Company made this offer by sending "Important Information Notices" to the insured prior to the renewal date, alerting them to this situation. This notice was used, instead of a non-renewal notice, in accordance with directions received from the PA DOI arising from the 2003 market conduct exam completed on The Fidelity and Casualty Company of New York.

The notice informs the insured of the termination of the agency contract and provides the insured with replacement options – it does not purport to non-renew the insured. The notice specifically provided that failure to return the notice in the postage paid envelope would be considered a

refusal of renewal coverage. Please note that this notice and form were provided to the PA DOI when we enumerated the corrective actions being taken following the 2003 state examination of Fidelity & Casualty Insurance Company. The company did not receive any suggestions to change the notice at that time. We believe this action was not a non-renewal and complied with the corrective actions set forth during the 2003 market conduct exam of The Fidelity and Casualty Company of New York and with the Departmental Position provided by the Department's Consumer Services Division. We respectfully request the removal of these violations.

VI. RATING

A. Private Passenger Automobile

Private Passenger Automobile – Renewals Without Surcharges

7 Violations

Title 75, Pa. C.S. §1731(c)(1) – On policies in which either uninsured or underinsured coverage has been rejected, the policy renewals must contain in prominent type that the policy does not provide protection against damages caused by uninsured or underinsured motorists. The policy renewal did not reflect the prominent notice as required for the 7 files noted.

Company Response: The Company respectfully disagrees with these violations. The renewal declaration page for each of these renewals include the following bolded notice:

PLEASE READ THIS IMPORTANT INFORMATION CONCERNING YOUR POLICY

Under this notice, Form G-15399-A Ed. 03-90 YOUR WAIVER OF UNINSURED/UNDERINSURED MOTORIST COVERAGE is listed. Further, form G-15399-A Ed. 03-90 YOUR WAIVER OF UNINSURED/UNDERINSURED MOTORIST COVERAGE was provided in the policyholders' renewal packet.

Section 1731 (c) (1) requires that:

On policies in which either uninsured or underinsured coverage has been rejected, the policy renewals must contain in prominent type that the policy does not provide protection against damages caused by uninsured or underinsured motorists.

Section 1731 does not provide where this notice should occur or what qualifies as "prominent type." Pennsylvania Insurance Regulation 31 § 89b.1, which addresses general filing provisions, defines "prominent type" as follows:

- (i) Font or formatting techniques, which differentiate selected text from other text.
- (ii) The term includes, for example, capital letters, contrasting color and underscoring.

The renewal declaration page both bolds and capitalizes the following: "**PLEASE READ THIS IMPORTANT INFORMATION CONCERNING YOUR POLICY.**" Additionally, the waiver notice, which provides:

YOUR WAIVER OF UNINSURED/UNDERINSURED MOTORIST COVERAGE

is bolded, capitalized, and appears in a large font. We respectfully submit that both notices employ font or formatting techniques, which differentiate the above-cited text from other text and qualify as “prominent type.”

We believe that the above process satisfies the prominent type requirement Title 75, Pa. C.S. §1731(c)(1). We respectfully request the removal of these violations.

Concern: The Company is currently not itemizing the premium amounts by coverage for the invoice required under Title 75, Pa. C.S. §1791.1(a). The Company must implement this procedure going forward.

Company Response: The Company respectfully disagrees with this concern. An itemized invoice listing the minimum motor vehicle insurance coverage levels is provided to the insured in conjunction with the declaration of coverage limits and premiums for the insured’s existing coverage. The Company believes that form G-15401-B Ed. 06-95 NOTICE OF MINIMUM REQUIRED AUTOMOBILE COVERAGES complies with Title 75, Pa. C.S. §1791.1(a) for the following reasons:

1. The law states: *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.* Our form provides an itemized list of the minimum motor vehicle insurance coverage levels mandated by the Commonwealth. The minimum coverage levels are based on the insured’s current tort option.
2. The form provides the premium charge for the insured to purchase the minimum mandated coverages. The law does not specify that premiums must be shown per coverage. The premium is calculated based on the insured’s current tort option and provides the premium charge for the insured to purchase the minimum mandated coverages.
3. The minimum mandated coverages cannot be purchased separately - the insured cannot opt to purchase Liability Coverage without First Party Medical Benefit Coverage - thus, a total premium amount is appropriate.

The Company believes that this form complies with the requirements outlined in Title 75, Pa. C.S. §1791.1(a). We respectfully request the removal of this concern.

Private Passenger Automobile – Renewals With Surcharges

Concern: The Company is currently not itemizing the premium amounts by coverage for the invoice required under Title 75, Pa. C.S. §1791.1(a). The Company must implement this procedure going forward.

Company Response: The Company respectfully disagrees with this concern. An itemized invoice listing the minimum motor vehicle insurance coverage levels is provided to the insured in

conjunction with the declaration of coverage limits and premiums for the insured's existing coverage. The Company believes that form G-15401-B Ed. 06-95 NOTICE OF MINIMUM REQUIRED AUTOMOBILE COVERAGES complies with Title 75, Pa. C.S. §1791.1(a) for the following reasons:

1. The law states: *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.* Our form provides an itemized list of the minimum motor vehicle insurance coverage levels mandated by the Commonwealth. The minimum coverage levels are based on the insured's current tort option.
2. The form provides the premium charge for the insured to purchase the minimum mandated coverages. The law does not specify that premiums must be shown per coverage. The premium is calculated based on the insured's current tort option and provides the premium charge for the insured to purchase the minimum mandated coverages.
3. The minimum mandated coverages cannot be purchased separately - the insured cannot opt to purchase Liability Coverage without First Party Medical Benefit Coverage - thus, a total premium amount is appropriate.

The Company believes that this form complies with the requirements outlined in Title 75, Pa. C.S. §1791.1(a). We respectfully request the removal of this concern.

X. CONSUMER COMPLAINTS

2 Violations

Act 68, Section 2003(d) [40 P.S. §991.2003(d)] States that an insurer may not cancel or refuse to renew existing policies written through the terminated agent without offering each such insurer coverage on a direct basis or offering to refer the insured to one or more new agents in the event the terminated agent could not find a suitable insurer acceptable to the policyholder for such business. The Company failed to offer to write the insured on a direct basis for the 2 files noted.

Company Response: The Company respectfully disagrees with these violations. We send an Information Notice to policyholders who have a policy with an agency whose contract has been terminated. The notice states "*The Commonwealth of Pennsylvania Insurance Department requires that we provide you with an offer of renewal on a direct basis or through another agent who represents Encompass Insurance.*"

We believe that our actions fulfill the requirements of Act 68, Section 2003(d) [40 P.S. §991.2003(d)]. Please note that this notice and form were provided to the PA DOI when we enumerated the corrective actions being taken following the 2003 state examination of Fidelity & Casualty Insurance Company. The company did not receive any suggestions to change the notice at that time nor at the time that any complaints, including the two cited above, were received from the department. Copies of this Information Notice were provided to the examiner. We respectfully request the removal of these violations.

XII. RECOMMENDATIONS

We have reviewed the recommendations and offer the following corrective measures:

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

Company Response: The Company has revised its' automobile cancellation and nonrenewal procedures to ensure compliance as follows:

- a) We have revised our practice to offer a driver exclusion for a license suspension for persons other than the named insured;
- b) We have conducted training sessions with the underwriters to ensure that that proper termination procedures and acceptable reasons, as outlined in Act 68, are used.

We respectfully submit that we believe our procedures relating to terminated agency policies comply with the corrective actions set forth during the 2003 market conduct exam of The Fidelity and Casualty Company of New York and with the Departmental Position provided by the Department's Consumer Services Division.

2. The Company must review Act 205, Section 5(a)(9)[40 P.S. §1171.5(a)(9)] to ensure compliance with cancellation and nonrenewal notice requirements so that the violations noted in the Report do not occur in the future.

Company Response: The Company has revised its' private residential property cancellation and nonrenewal procedures to ensure compliance as follows:

- a) We have conducted training sessions with the underwriters to ensure that the proper termination procedures and acceptable reasons, as outlined in Act 205, are used.

We respectfully submit that we believe our procedures relating to terminated agency policies complies with the corrective actions set forth during the 2003 market conduct exam of The Fidelity and Casualty Company of New York and with the Departmental Position provided by the Department's Consumer Services Division.

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

Company Response: The Company has revised its' commercial tenant-occupied dwelling fire procedures to ensure compliance as follows:

- a) We have conducted training sessions with the underwriters to ensure that proper termination procedures and acceptable reasons, at outlined in Act 86, are used.

We respectfully submit that we believe our procedures relating to terminated agency policies complies with the corrective actions set forth during the 2003 market conduct exam of The Fidelity and Casualty Company of New York and with the Departmental Position provided by the Department's Consumer Services Division.

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

Company Response: A coding error resulted in applying 2 surcharge points for two minor moving violations. This coding error was corrected in early 2004. We will order an extract to identify any automobile policy with two minor moving violations to ensure that policies with two minor moving violations have been corrected to reflect only 1 surcharge point.

5. When a surcharge is imposed on a private passenger automobile policy the Company must inform the insured of the determination and specify the manner in which the surcharge, rate penalty or driver record point assignment was made including the specific dates of accidents and citations and clearly identify the amount of the surcharge or rate penalty on the premium notice for as long as it is in effect. This procedure must be implemented within 30 days of the Report issue date. This is to ensure that violations noted under Title 75, Pa. C.S. § 1799.3(d) do not occur in the future.

Company Response: A procedure is already in place to notify the insured of the determination and specific manner in which the surcharge, rate penalty or driver record point assignment was made. The policies identified in this examination were 2003 renewals. The Company identified a system issue in 2003 that resulted in the PA surcharge disclosure statement not printing on the declaration page. The system programming correction was implemented on April 7, 2004.

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

Company Response: We respectfully submit that we believe Form G-15399-A Ed. 03-90 YOUR WAIVER OF UNINSURED/UNDERINSURED MOTORIST COVERAGE complies with the prominent type requirements outlined under Title 75, Pa. C.S. § 1731(c)(1). Our reasons are included in the rebuttal listed under: A. Private Passenger Automobile Private Passenger Automobile – Renewals Without Surcharges; and Private Passenger Automobile – Renewals With Surcharges.

7. 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 claim acknowledgement and status letters, as noted in the Report, do not occur in the future.

Company Response: We have held training sessions reinforcing compliance with the requirement to provide 30-day status letters to claimants and created a second level of diary management for

timely issuance of these letters with claim processors. Claim files are, and will, continue to be periodically audited for compliance with regulations.

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

Company Response: We have conducted training sessions with claim staff, regarding paying claims within the required timeframe.

9. The Company must review the first party medical claims referred to a peer review organization where the peer review organization determined that treatment was necessary. The Company must pay to the provider the outstanding amount plus interest at 12% per year on any amount withheld by the Company pending the PRO review as required by Title 75 Pa. C.S. § 1797 (b)(5). Proof of such payment must be provided to the Insurance Department within 30 days of the Report issue date.

Company Response: One violation was noted. (Bill for service in the amount of \$75.65 for services on 10/15/2003 was received 10/23/2003 and \$75.65 was paid 3/29/2004). Interest in the amount of \$3.02 was paid to the provider on August 11, 2005.

10. The Company must review Title 75, Pa. C.S. § 1797 (b)(1) with its claim staff to ensure that a contract is in place 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.

Company Response: In limited application we utilized PEER Review services through Rehabilitation Planning, Incorporated. They are an approved PEER Review vendor. Through an oversight, a written service agreement was not put into place. With respect to Peer Review Organizations, we have a written agreement, now in place with vendor Rehabilitation Planning Inc.

11. The Company must revise and reissue their underwriting guidelines for use in Pennsylvania to ensure that guidelines do not require supporting private passenger automobile business in order to write motorcycles, mopeds, motor homes and recreation vehicles.

Company Response: We respectfully submit that the policy of requiring miscellaneous vehicle types to be written with a qualifying private passenger type vehicle complies with all applicable Pennsylvania laws and does not constitute an unreasonable restraint of, or monopoly in, the business of insurance under Act 205, Section 5(a)(4) [40 P.S. 1171.5(a)(4)]. Our reasons are included in the rebuttal listed under: IV. UNDERWRITING PRACTICES AND PROCEDURES.

12. The Company must reinforce its internal underwriting controls to ensure that all records and documents are maintained in accordance with Insurance Department Act, Section 903(a) [40 P.S. §323.3], so that violations noted in the Report do not occur in the future.

Company Response: Our agents retain a majority of the source documents in the agency file and remit copies to the Company upon request. The Company conducts ongoing trailing document audits to ensure that our agents are retaining the required source documents. We have reminded our agents of the legal requirement to retain paper documents on our behalf.

13. 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.

Company Response: We agree that a large number of agencies were not appointed in Continental Insurance Company during the period covered by this exam, July 1, 2003 through June 30, 2004. Our research shows that this was largely due to a miscommunication with the CNA licensing office. That office, upon learning that Buckeye Union, rather than Continental Insurance Company, would be used to write all new Encompass business in Pennsylvania, effective July 15, 2002, terminated all Continental Insurance Company appointments, believing that all business would now be in Buckeye Union. Of course, Continental Insurance Company appointments were still necessary as agents continued to have renewal policies in this company. This error was discovered in August of 2004 and the majority of active agencies were reappointed in Continental Insurance Company at that time.

Please note that the situation that resulted in this error no longer exists. Agency licensing and appointment had to be coordinated between CNA Insurance Company, Encompass Insurance Company, and Allstate Insurance Company under the terms of the purchase agreement between CNA and Allstate. Those functions are now centrally located and coordinated in the Encompass Sales & Agency Operations area. In addition, the purchase agreement required the use of numerous underwriting companies at various points in time, requiring agents to be appointed in many companies. The purchase has been finalized on October 1, 2005, drastically reducing the number of underwriting company changes needed. All of these changes are stabilizing the agency licensing and appointment process, and eliminating the types of problems found in this exam.

In addition, Encompass no longer uses Continental Insurance Company as an underwriting company, so there is no need to appoint these agents to Continental Insurance Company. We will review all PA agencies with active Encompass contracts and ensure that appropriate company appointments are in place.

Lastly, in some cases, non-PA agents, who were not licensed or appointed in Continental Insurance Company, wrote PA business in that company. Until July of 2002, we managed out-of-state business by conducting spot checks of new business and checking our records to verify that the agency was appointed in the appropriate company. Starting in July of 2002, new PA business is issued via our Interlink system. We've programmed this system to identify business where the

policy state differs from the agency's state, and then to check for the issuing company and the companies in which the agency is appointed. The company's marketing department is responsible for maintaining this information in the system. This programming will be activated shortly. When in place, if an agency attempts to issue business in a company for which there is no agency appointment, the system will not permit the agency to issue the policy. This method of managing out-of-state business will eliminate problems with unappointed non-resident agents. In the meantime, PA business written by non-PA agents will be reviewed on a regular basis to ensure that the writing agency is appointed in the appropriate company.

We are confident that the corrective measures put in place will help us to avoid compliance issues in the future.

We wish to thank you and your staff of examiners for the courtesy and cooperation given during the examination process. We find this process to be most helpful and the most effective way to ensure that our procedures and practices comply with the law.

If you have any questions or concerns, please contact me at 1-800-345-7542 extension 12609.

Sincerely,



Debra J. Groves, AU, API, AIS
Senior Risk Management Consultant

Copies to: Steve Burbick
Sam Giarratano
James Hanlon
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Tim Knapp
Nancy Komessar
Meghan Mulvihill
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