

**REPORT OF
MARKET CONDUCT EXAMINATION
OF**

ERIE INSURANCE EXCHANGE
Erie, Pennsylvania

**AS OF
January 20, 2009**

COMMONWEALTH OF PENNSYLVANIA

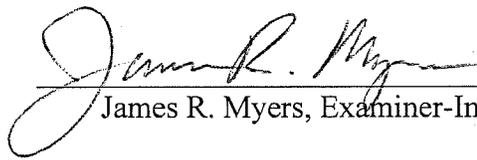


**INSURANCE DEPARTMENT
MARKET CONDUCT DIVISION**

Issued: March 3, 2009

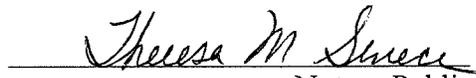
VERIFICATION

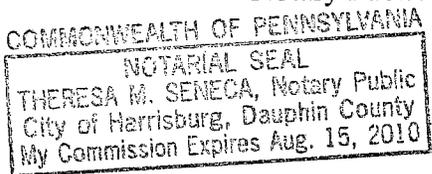
Having been duly sworn, I hereby verify that the statements made in the within document are true and correct to the best of my knowledge, information and belief. I understand that false statements made herein are subject to the penalties of 18 Pa. C.S. §4903 (relating to false swearing).


James R. Myers, Examiner-In-Charge

Sworn to and Subscribed Before me

This *14* Day of *January*, 200*9*


Notary Public



ERIE INSURANCE EXCHANGE

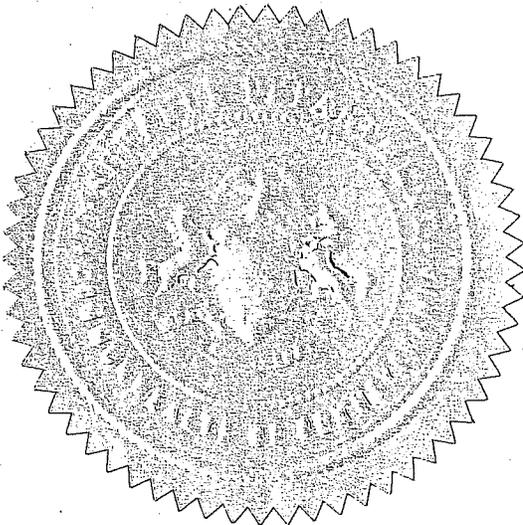
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BEFORE THE INSURANCE COMMISSIONER
OF THE
COMMONWEALTH OF PENNSYLVANIA

ORDER

AND NOW, this 22ND day of July, 2008, in accordance with Section 905(c) of the Pennsylvania Insurance Department Act, Act of May 17, 1921, P.L. 789, as amended, P.S. § 323.5, I hereby designate Ronald A. Gallagher, Deputy Insurance Commissioner, to consider and review all documents relating to the market conduct examination of any company and person who is the subject of a market conduct examination and to have all powers set forth in said statute including the power to enter an Order based on the review of said documents. This designation of authority shall continue in effect until otherwise terminated by a later Order of the Insurance Commissioner.





Joel S. Ario
Insurance Commissioner

CONSENT ORDER

AND NOW, this 3rd day of March, 2009, this Order is hereby issued by the Insurance Department of the Commonwealth of Pennsylvania pursuant to the statutes cited above and in disposition of the matter captioned above.

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

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

FINDINGS OF FACT

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

- (a) Respondent is Erie Insurance Exchange, and maintains its address at 100 Erie Insurance Place, Erie, Pennsylvania 16530.

- (b) A market conduct examination of Respondent was conducted by the Insurance Department covering the experience periods from January 1, 2007 through December 31, 2007.
- (c) On January 20, 2009, the Insurance Department issued a Market Conduct Examination Report to Respondent.
- (d) A response to the Examination Report was provided by Respondent on February 19, 2009.
- (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 (40 P.S. § 310.71), which prohibits producers from transacting business within this Commonwealth without written appointment as required by the Act;
 - (iii) Sections 1705(a)(1) & (4) of Act 1990-6, Title 75, Pa.C.S. § 1705, which requires every insurer, prior to the issuance of a private passenger motor vehicle liability insurance policy to provide each applicant an opportunity to

elect a tort option. A policy may not be issued unless the applicant has been provided an opportunity to elect a tort option;

(iv) Section 1725 of Act 1990-6, Title 75, Pa.C.S. § 1725, which requires every motor vehicle insurance policy to contain a notice whether the policy covers collision damage to rental vehicles, and any limitations on such coverage. The notice shall be written in clear, plain language and shall be printed on the first page of the policy in boldface capital letters;

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

(vi) Section 1791.1(a) of Act 1990-6, Title 75, Pa.C.S. § 1791, which requires that at the time of application for original coverage and every renewal thereafter, an insurer must provide to an insured an itemized invoice listing the minimum motor vehicle insurance coverage levels mandated by the Commonwealth and the premium charge for the insured to purchase the minimum mandated coverages. The invoice must contain the following notice in print of no less than ten-point type: “The laws of the Commonwealth of Pennsylvania, as enacted by the General Assembly, only require you to purchase liability and first-party medical benefit coverages.

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

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

(viii) Section 1793(b) of Act 1990-6, Title 75, Pa.C.S. § 1793, which requires the insurer to provide to the insured a surcharge disclosure plan. The insurer providing the surcharge disclosure plan shall detail the provisions of the plan and shall be delivered to each insured by the insurer at least once annually. Additionally, the surcharge information plan shall be given to each prospective insured at the time application is made for motor vehicle insurance coverage;

(ix) Section 1799.3(a) of Act 1990-6, Title 75, Pa.C.S. §1799, prohibits insurers from applying a surcharge, rate penalty or driver record point assignment where, during the preceding three-year period, the aggregate cost to the insurer for any person injured or property damaged is determined to be less than \$1,150 in

excess of any self insured retention or deductible applicable to the named insured;

(x) 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;

(xi) Section 2 of Act 86 (40 P.S. § 3402). which state canceling in midterm a policy of insurance covering commercial property and casualty risks is prohibited for any reason other than the following:

(1) A condition, factor or loss experience material to insurability has changed substantially or a substantial condition, factor or loss experience material to insurability has become known during the policy term.

(2) Loss of reinsurance or a substantial decrease in reinsurance has occurred, which loss or decrease shall, at the time of cancellation, be certified to the Insurance Commissioner as directly affecting in-force policies.

(3) The insured has made a material misrepresentation which affects the insurability of the risk.

- (4) The policy was obtained through fraudulent statements, omissions or concealment of fact material to the acceptance of the risk or to the hazard assumed by the company.
 - (5) The insured has failed to pay a premium when due, whether the premium is payable directly to the company or its agents or indirectly under a premium finance plan or extension of credit.
 - (6) The insured has requested cancellation.
 - (7) Material failure to comply with policy terms, conditions or contractual duties.
 - (8) Other reasons that the Insurance Commissioner may approve.
-
- (xii) Section 3(a)(1) of Act 86 (40 P.S. § 3403), which states the midterm cancellation notice shall be forwarded by registered or first class mail or delivered by the insurance company directly to the named insured or insureds;
 - (xiii) 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 termination;
 - (xiv) Section 3(a)(5) of Act 86 (40 P.S. § 3403), which requires that a midterm cancellation or nonrenewal notice shall state the specific reasons for the cancellation or nonrenewal. The reasons shall identify the condition,

factor or loss experience which caused the midterm cancellation or nonrenewal. The notice shall provide sufficient information or data for the insured to correct the deficiency;

- (xv) Section 7(c) of Act 86 (40 P.S. § 3407), which states an insurer may cancel the policy provided it gives at least 30 days' notice of the termination and provided it gives notice no later than the 60th day, unless the policy provides for a longer period of notification;
- (xvi) 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;
- (xvii) Section 2003(b) of Act 68 of 1998 (40 P.S. § 991.2003(b)), which states that an insurer may not cancel or refuse to renew a policy of automobile insurance on the basis of one accident within the thirty-six (36) month period prior to the upcoming anniversary date of the policy;

- (xviii) 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;
- (xix) 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;
- (xx) Section 2006(2) of Act 68 of 1998 (40 P.S. § 991.2006), which prohibits a cancellation or refusal to renew from being effective unless the insurer delivers or mails a written notice of the cancellation or refusal to renew, which will include the date, not less than 60 days after the date of mailing or delivery, on which the cancellation or refusal to renew shall become effective. When the policy is being cancelled or not renewed for reasons set forth in Sections 2004(1) and (2), however, the effective date may be 15 days from the date of mailing or delivery;
- (xxi) Section 4 of Act 205 (40 P.S. § 1171.4), which prohibits any person to engage in this state in any trade practice which is defined or determined to be an unfair

method of competition or an unfair or deceptive act or practice in the business of insurance pursuant to this act;

- (xxii) Section 5(a)(4) of the Unfair Insurance Practices Act, No. 205 (40 P.S. §1171.5(a)(4)), which prohibits entering into any agreement to commit, or by any concerted action committing, any act of boycott, coercion or intimidation resulting in unreasonable restraint of, or monopoly in, the business of insurance;
- (xxiii) Section 5(a)(9) of Act 205 (40 P.S. §1171.5(a)(9)), 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;

- (xxiv) Section 5(a)(10)(ii)(iii) of Act 205 (40 P.S. §1171.5(a)(10)(ii)(iii), Unfair Methods of Competition and Unfair or Deceptive Acts or Practices in the business of insurance means any of the following acts, if committed or performed with such frequency as to indicate a business practice, shall constitute unfair claim settlement or compromise practices: Failing to acknowledge and act promptly upon written or oral communications with respect to claims arising under insurance policies and failing to adopt and implement reasonable standards for the prompt investigation of claims arising under insurance policies;

- (xxv) Title 31, Pennsylvania Code, Section 62.3(e)(7), which states the appraiser is responsible for ensuring that a copy of the total loss evaluation report be sent within 5 working days to the consumer by the appraiser after the appraisal is completed. If a settlement offer is extended before the consumer receives the total loss evaluation report, the consumer shall be advised of the total loss evaluation report's contents and of the consumer's right to be sent a copy within 5 days after its completion;

- (xxvi) Title 31, Pennsylvania Code, Section 67.33(b)(1), which states an insurer may not assess a premium surcharge for the payment of a claim arising from one or more accidents where the insured was not at-fault in causing or contributing to the accident;
- (xxvii) 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;
- (xxviii) Title 31, Pennsylvania Code, Section 113.88, which states the reason given for nonrenewal shall be clear and complete. It shall be stated so that a person of average intelligence and education can understand it. Phrases such as “losses” or “underwriting reasons” are not sufficiently specific reasons for nonrenewal;
- (xxix) Title 31, Pennsylvania Code, Section 146.5(a), which states every insurer, upon receiving notification of a claim, shall within ten working days, acknowledge the receipt of such notice, unless payment is made within such period. If an acknowledgement is made by means other than writing, an appropriate notation of such acknowledgment shall be made in the claim file of the insurer;

- (xxx) Title 31, Pennsylvania Code, Section 146.5(d), requires an insurer, upon receiving notification of a claim, shall provide within ten working days necessary claim forms, instructions and reasonable assistance so that first-party claimants can comply with policy conditions and reasonable requirements of the insurer;
- (xxxi) Title 31, Pennsylvania Code, Section 146.6 states that if an investigation cannot 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
- (xxxii) 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.

CONCLUSIONS OF LAW

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

- (a) Respondent is subject to the jurisdiction of the Pennsylvania Insurance Department.

(b) Respondent's violations of Sections 641.1-A and 671-A of Act 147 of 2002 are punishable by the following, under Section 691-A of Act 147 of 2002 (40 P.S. § 310.91):

- (i) suspension, revocation or refusal to issue the certificate of qualification or license;
- (ii) imposition of a civil penalty not to exceed five thousand dollars (\$5,000.00) for every violation of the Act;
- (iii) an order to cease and desist; and
- (iv) any other conditions as the Commissioner deems appropriate.

(c) Respondent's violations of Act 86, Sections 2, 3 and 7 (40 P.S. §§ 3402, 3403 and 3407) are punishable under Section 8 (40 P.S. § 3408) of this act by one or more of the following causes of action:

- (i) Order that the insurer cease and desist from the violation.
- (ii) Impose a fine or not more than \$5,000 for each violation.

(d) 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.

- (e) 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).

- (f) Respondent's violations of Sections 4, 5(a)(4), 5(a)(9) and 5(a)(10) of the Unfair Insurance Practices Act, No. 205 (40 P.S. §§ 1171.5) are punishable by the following, under Section 9 of the Unfair Insurance Practices Act (40 P.S. § 1171.9):
 - (i) cease and desist from engaging in the prohibited activity;
 - (ii) suspension or revocation of the license(s) of Respondent.

- (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 146.5, 146.6 and 146.7 are punishable under Sections 9, 10 and 11 of the Unfair Insurance Practices Act (40 P.S. §§ 1171.9, 1171.10 and 1171.11), as described above.

ORDER

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

- (a) Respondent shall cease and desist from engaging in the activities described herein in the Findings of Fact and Conclusions of Law.
- (b) Respondent shall file an affidavit stating under oath that it will provide each of its directors, at the next scheduled directors meeting, a copy of the adopted

Report and related Orders. Such affidavit shall be submitted within thirty (30) days of the date of this Order.

- (c) Respondent shall comply with all recommendations contained in the attached Report.
- (d) Respondent shall pay Twenty-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. Fraser, Bureau of Market Conduct, 1227 Strawberry Square, Harrisburg, Pennsylvania 17120. Payment must be made no later than thirty (30) days after the date of this Order.

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

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

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

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

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

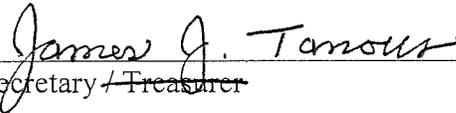
11. This Order shall be final upon execution by the Insurance Department. Only the Insurance Commissioner or a duly authorized delegee is authorized to bind the Insurance Department with respect to the settlement of the alleged violations of law

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

BY: ERIE INSURANCE EXCHANGE,
Respondent



President / ~~Vice President~~



Secretary / ~~Treasurer~~



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

I. INTRODUCTION

The market conduct examination was conducted at Erie Insurance Exchange's offices located in Johnstown, Pennsylvania and Erie, Pennsylvania, from August 4, 2008, through October 10, 2008. Subsequent review and follow-up was conducted in the office of the Pennsylvania Insurance Department.

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

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

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

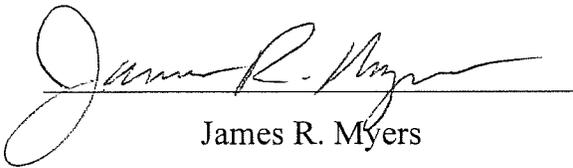
the various types of violations identified during the examination and review written summaries provided on the violations found.

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

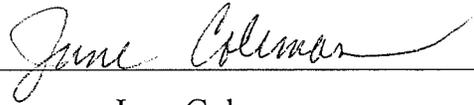
The undersigned participated in this examination and in preparation of this Report.



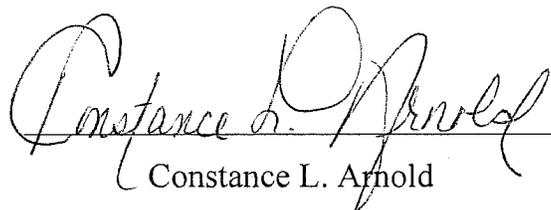
Chester A. Derk, Jr., AIE, HIA
Market Conduct Division Chief



James R. Myers
Market Conduct Examiner



June Coleman
Market Conduct Examiner



Constance L. Arnold
Market Conduct Examiner

II. SCOPE OF EXAMINATION

The Market Conduct Examination was conducted on Erie Insurance Exchange, hereinafter referred to as "Company," at their offices located in Johnstown, Pennsylvania and Erie, Pennsylvania. The examination was conducted pursuant to Sections 903 and 904 (40 P.S. §§323.3 and 323.4) of the Insurance Department Act and covered the experience period of January 1, 2007, through December 31, 2007, unless otherwise noted. The purpose of the examination was to determine the Company's compliance with Pennsylvania insurance laws and regulations.

The examination focused on Company operations in the following areas:

1. Private Passenger Automobile
 - Underwriting – Appropriate and timely notices of nonrenewal, midterm cancellations and 60-day cancellations.
 - Rating – Proper use of all classification and rating plans and procedures.

2. Property
 - Underwriting – Appropriate and timely notices of nonrenewal, midterm cancellations and 60-day cancellations.
 - Rating – Proper use of all classification and rating plans and procedures.

3. Commercial Property
 - Underwriting – Appropriate and timely notices of nonrenewal, midterm cancellations, 60-day cancellations and renewals.

4. Commercial Automobile
 - Underwriting – Appropriate and timely notices of nonrenewal, midterm cancellations, 60-day cancellations and renewals.

5. Workers' Compensation

- Underwriting – Appropriate and timely notices of nonrenewal and renewals.

6. Claims

7. Forms

8. Advertising

9. Complaints

10. Licensing

III. COMPANY HISTORY AND LICENSING

Erie Insurance Exchange was organized and licensed on April 1, 1925, under the laws of Pennsylvania. It began business on April 20 of the same year.

LICENSING

Erie Insurance Exchange's Certificate of Authority to write business in the Commonwealth was issued on April 20, 1925. The Company is licensed in Connecticut, Florida, Illinois, Indiana, Kentucky, Maine, Maryland, Minnesota, North Carolina, Ohio, Pennsylvania, Rhode Island, Tennessee, Virginia, West Virginia and Wisconsin and the District of Columbia. The Company's 2007 annual statement reflects Direct Written Premium for all lines of business in the Commonwealth of Pennsylvania as \$1,618,119,023. Premium volume related to the areas of this review were: Fire \$7,665,450; Homeowners Multiple Peril \$293,917,197; Commercial Multiple Peril (Non-liability portion) \$111,308,761; Commercial Multiple Peril (Liability portion) \$61,759,554; Inland Marine \$6,088,995; Workers' Compensation \$107,863,825; Private Passenger Automobile Direct Written Premium was reported as Private Passenger Auto No-Fault (personal injury protection) \$109,632,718; Other Private Passenger Auto Liability \$428,247,531 and Private Passenger Auto Physical Damage \$335,515,514; Commercial Automobile Direct Written Premium was reported as Commercial Auto No-Fault (personal injury protection) \$4,970,715; Other Commercial Auto Liability \$80,362,132 and Commercial Auto Physical Damage \$35,959,783.

IV. UNDERWRITING PRACTICES AND PROCEDURES

As part of the examination, the Company was requested to supply manuals, underwriting guides, bulletins, directives or other forms of underwriting procedure communications for each line of business being reviewed. Agency bulletins and underwriting guides were furnished for private passenger automobile, homeowners, dwelling fire and commercial lines. 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)(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. Claim history cannot be used as a basis for personal property nonrenewal. The Company's underwriting guideline stated that characteristics to be considered for renewal eligibility include loss frequency and liability claims involving dogs or other pets.

V. UNDERWRITING

A. Private Passenger Automobile

1. 60-Day Cancellations

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

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

From the universe of 1,720 private passenger automobile files identified as being cancelled in the first 60 days of new business, 25 files were selected for review. All 25 files were received and reviewed. No violations were noted.

2. Midterm Cancellations

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

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

From the universe of 46,861 private passenger automobile files identified as midterm cancellations by the Company, 50 files were selected for review. All 50 files were received and reviewed. The 7 violations noted were based on 6 files, resulting in an error ratio of 12%.

The following findings were made:

6 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 6 files noted were cancelled for other than permitted reasons.

1 Violation Act 205, Section 4 (40 P.S. §1171.4)

Unfair Methods of Competition and Unfair or Deceptive Acts or Practices Prohibited. No person shall engage in this state in any trade practice which is defined or determined to be an unfair method of competition or an unfair or deceptive act or practice in the business of insurance pursuant to this act. The Company added an additional named insured to the policy without a request from the named insured, then cancelled the policy because the named insured that was added did not have a current license.

Concern: It is a concern to the Department that the Company may be using coercive methods to have an insured respond to the Company's request to exclude an operator. The language in their letter from the producer of record infers that the insured could be in jeopardy of having their insurance cancelled if they do not return the exclusion form or respond in 10 days. This method of pressuring the insured is unsatisfactory to the Department. The Department requests the Company discontinue the use of the letter from the producer and revise their procedures. The Department also requests the Company submit to the Department their new procedures.

3. Nonrenewals

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

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

From the universe of 3,291 private passenger automobile files identified as nonrenewals by the Company, 50 files were selected for review. All 50 files were received and reviewed. The violation noted resulted in an error ratio of 2%.

The following finding was made:

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

States that an insurer may not cancel or refuse to renew a policy of automobile insurance on the basis of one accident within the thirty-six (36) month period prior to the upcoming anniversary date of the policy. The file noted was the result of a nonrenewal notice being issued based on one accident.

B. Private Passenger Automobile – Assigned Risk

Erie Insurance reports its premium writings for private passenger automobile to the Pennsylvania Assigned Risk Plan for its companies under Flagship City Insurance Company. As a result, Erie Insurance Exchange does not receive any assignments from the Pennsylvania Assigned Risk Plan.

C. Property

1. 60-Day Cancellations

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

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

From the universe of 1,307 property policies which were cancelled within the first 60 days of new business, 9 files were selected for review. The policies consisted of homeowner and tenant homeowner. All 9 files were

received and reviewed. No violations were noted.

2. Midterm Cancellations

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

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

From the universe of 25,978 property policies which were cancelled midterm during the experience period, 96 files were selected for review. The property policies consisted of homeowners, tenant homeowners, inland marine, mobile home and owner occupied dwelling fire. All 96 files were received and reviewed. The violation noted resulted in an error ratio of 1%.

The following finding was 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 reason for cancellation was: "Substantial change and increase in hazard in the risk assumed by the Company subsequent to the date the policy was issued. You have vacated the insured location." The insured did not vacate the property and therefore an increase in hazard did not occur.

3. Nonrenewals

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

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

From the universe of 418 property policies which were nonrenewed during the experience period, 65 files were selected for review. The property policies consisted of homeowner, tenant homeowner, personal inland marine and owner occupied dwelling fire. All 65 files were received and reviewed. The 2 violations noted were based on 2 files, resulting in an error ratio of 3%.

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 Company nonrenewed the policy because the risk was a mobile home, but the risk has been a double wide mobile home since policy inception.

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 nonrenewed the policy due to no supporting coverage, which is prohibited.

D. Commercial Property

1. 60-Day Cancellations

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

The primary purpose of the review was to determine compliance with Act 86, Section 7 (40 P.S. §3407), which requires an insurer, who cancels a policy that is in effect less than 60 days, to provide 30 days notice of termination no later than the 60th day unless the policy provides for a longer period of notification.

From the universe of 138 commercial package policies cancelled within the first 60 days, 6 files were selected for review. All 6 files were received and reviewed. No violations were noted.

2. Midterm Cancellations

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

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

From the universe of 7,284 commercial property policies cancelled midterm during the experience period, 38 files were selected for review. The commercial property files consisted of commercial package, commercial inland marine, commercial fire and tenant occupied dwelling

fire. All 38 files were received and reviewed. Of the 38 files reviewed, 7 were identified as 60-day cancellations. The 6 violations noted were based on 6 files, resulting in an error ratio of 16%.

The following findings were made:

5 Violations Act 86, Section 2 [40 P.S. §3402]

Grounds for cancellation. Canceling in midterm a policy of insurance covering commercial property and casualty risks is prohibited for any reason other than those enumerated under this section. The 5 files noted were cancelled for other than permitted reasons.

1 Violation Act 86, Section 3(a)(1) [40 P.S. §3401]

The midterm cancellation notice shall be forwarded by registered or first class mail or delivered by the insurance company directly to the named insured or insureds. The Company did not provide any documentation in the file noted to indicate a notice of cancellation was mailed to the insured, the reason for cancellation or if the notice met format requirements.

3. Nonrenewals

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

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

From the universe of 215 commercial property policies nonrenewed during the experience period, 85 files were selected for review. The commercial property policies consisted of tenant occupied dwelling fire, commercial fire, commercial inland marine and commercial package. All 85 files were received and reviewed. The 5 violations noted were based on 5 files, resulting in an error ratio of 6%.

The following findings were made:

4 Violations 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 4 files noted.

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

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

AND

Title 31, Pa. Code, Section 113.88

The reason given for nonrenewal shall be clear and complete. It shall be stated so that a person of average intelligence and education can understand it. Phrases such as “losses” or “underwriting reasons” are not sufficiently specific reasons for nonrenewal. The reason for nonrenewal was not specific.

4. Renewals

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

The purpose of the review was to measure compliance with Act 86, Section 1 (40 P.S. §3401), which requires 30 days advance notice of an increase in renewal premium.

From the universe of 95,733 commercial property policies renewed during the experience period, 85 files were selected for review. The commercial property policies consisted of tenant occupied dwelling fire, commercial fire, commercial inland marine and commercial package. All 85 files were received and reviewed. No violations were noted.

E. Commercial Automobile

1. 60-Day Cancellations

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

The primary purpose of the review was to determine compliance with Act 86, Section 7 (40 P.S. §3407), which requires an insurer, who cancels a policy that is in effect less than 60 days, to provide 30 days notice of termination no later than the 60th day unless the policy provides for a longer period of notification.

From the universe of 139 commercial automobile policies cancelled within the first 60 days of new business, 18 files were selected for review. All 18 files were received and reviewed. The violation noted resulted in an error ratio of 6%.

The following finding was made:

1 Violation Act 86, Section 7(c) [40 P.S. §3407(c)]

This act does not apply to commercial property and casualty insurance policies that are in effect less than 60 days, unless they are renewals. An insurer may cancel the policy provided it gives at least 30 days' notice of the termination and provided it gives notice no later than the 60th day, unless the policy provides for a longer period of notification. The Company failed to provide 30 days notice of cancellation.

2. Midterm Cancellations

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

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

From the universe of 4,553 commercial automobile policies cancelled midterm during the experience period, 25 files were selected for review. All 25 files were received and reviewed. No violations were noted.

3. Nonrenewals

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

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

From the universe of 135 commercial automobile policies nonrenewed during the experience period, 25 files were selected for review. All 25 files were received and reviewed. The 2 violations noted were based on 2 files, resulting in an error ratio of 8%.

The following findings were made:

2 Violations Act 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.

4. Renewals

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

The purpose of the review was to measure compliance with Act 86, Section 1 (40 P.S. §3401), which requires 30 days advance notice of an increase in renewal premium.

From the universe of 47,052 commercial automobile policies renewed during the experience period, 25 files were selected for review. All 25 files were received and reviewed. No violations were noted.

F. Workers' Compensation

1. 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 review was conducted to determine compliance with Act 86, Section 3 (40 P.S. §3403), which establishes notice requirements for nonrenewals.

From the universe of 167 workers' compensation policies nonrenewed during the experience period, 25 files were selected for review. All 25 files were received and reviewed. The 2 violations noted were based on 2 files, resulting in an error ratio of 8%.

The following findings were made:

1 Violation 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.

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

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

AND

Title 31, Pa. Code, Section 113.88

The reason given for nonrenewal shall be clear and complete. It shall be stated so that a person of average intelligence and education can understand it. Phrases such as “losses” or “underwriting reasons” are not sufficiently specific reasons for nonrenewal. The reason for nonrenewal was not specific.

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

From the universe of 22,703 workers’ compensation policies which were renewed during the experience period, 25 files were selected for review. All 25 files were received and reviewed. No violations were noted.

VI. RATING

A. Private Passenger Automobile

1. New Business

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

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

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

Private Passenger Automobile – New Business Without Surcharges

From the universe of 53,055 private passenger automobile policies identified as new business without surcharges, 25 files were selected for review. All 25 files were received and reviewed. The 212,222 violations noted were based on the universe of 53,055 files, resulting in an error ratio of 100%.

The following findings were made:

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

Requires every insurer, prior to the issuance of a private passenger motor vehicle liability insurance policy to provide each applicant an opportunity to elect a tort option. A policy may not be issued unless the applicant has been provided an opportunity to elect a tort option. The violation noted was the result of a policy issued with limited tort and no evidence of a signed limited tort selection form.

53,055 Violations Title 75, Pa. C.S. §1725

Every motor vehicle insurance policy shall contain a notice as to whether the policy covers collision damage to rental vehicles, and any limitations on such coverage. The notice shall be written in clear, plain language and shall be printed on the first page of the policy in boldface capital letters. The Company failed to place the notice on the first page of the policy in boldface capital letters.

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

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

53,055 Violations Title 75, Pa. C.S. §1791.1(a)

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

53,055 Violations Title 75, Pa. C.S §1791.1(b)

Requires an insurer to provide an insured a notice of the availability of two alternatives of full tort insurance and limited tort insurance. The Company did not provide the notice of tort options to the insured at the time of application.

53,055 Violations Title 75, Pa. C.S. §1793(b)

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

Private Passenger Automobile - New Business With Surcharges

From the universe of 6,746 private passenger automobile policies identified as new business with surcharges by the Company, 50 files were selected for review. All 50 files were received and reviewed. The 26,998 violations noted were based on the universe of 6,746 files, resulting in an error ratio of 100%.

The following findings were made:

6,746 Violations Title 75, Pa. C.S. §1725

Every motor vehicle insurance policy shall contain a notice as to whether the policy covers collision damage to rental

vehicles, and any limitations on such coverage. The notice shall be written in clear, plain language and shall be printed on the first page of the policy in boldface capital letters. The Company failed to place the notice on the first page of the policy in boldface capital letters.

6,746 Violations Title 75, Pa. C.S. §1791.1(a)

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

6,746 Violations Title 75, Pa. C.S. §1791.1(b)

Requires an insurer to provide an insured a notice of the availability of two alternatives of full tort insurance and limited tort insurance. The Company did not provide the

notice of tort options to the insured at the time of application.

6,746 Violations Title 75, Pa. C.S. §1793(b)

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

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

Prohibits insurers from applying a surcharge, rate penalty or driver record point assignment where, during the preceding three-year period, the aggregate cost to the insurer for any person injured or property damaged is determined to be less than \$1,150 in excess of any self insured retention or deductible applicable to the named insured. The Company surcharged the policy for an accident when the aggregate cost was less than \$1,150, which resulted in an overcharge of \$70.

4 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 the amount of the surcharge on the premium notice for the 4 files noted.

8 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 Company rated the 8 files noted incorrectly, resulting in overcharges of \$354 and undercharges of \$240.

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

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

AND

Title 31, Pa. Code, Section 67.33(b)(1)

An insurer may not assess a premium surcharge for the

payment of a claim arising from one or more accidents where the insured was not at-fault in causing or contributing to the accident. The file noted contained an improper accident surcharge applied to the policy, which resulted in an overcharge of \$312.

2. Renewals

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

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

The Company processes and issues personal automobile policies using an automated system. In order to verify the automated system, several policies were manually rated to ensure the computer had been programmed correctly. Once the computer programming had been verified, only the input data needed to be verified. By reviewing base premiums, territory assignments, rating symbols, classifications and surcharge disclosures, the

examiners were able to determine compliance with the Company's filed and approved rating plans.

Private Passenger Automobile – Renewals Without Surcharges

From the universe of 715,499 private passenger automobile policies renewed without surcharges during the experience period, 25 files were selected for review. All 25 files were received and reviewed. The 715,500 violations noted were based on the universe of 715,499 files, resulting in an error ratio of 100%.

The following findings were made:

715,499 Violations Title 75, Pa. C.S. §1725

Every motor vehicle insurance policy shall contain a notice as to whether the policy covers collision damage to rental vehicles, and any limitations on such coverage. The notice shall be written in clear, plain language and shall be printed on the first page of the policy in boldface capital letters. The Company failed to place the notice on the first page of the policy in boldface capital letters.

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

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

time of issue. The Company rated the policy with an improper territory, resulting in an overcharge of \$24.

Private Passenger Automobile – Renewals With Surcharges

From the universe of 59,977 private passenger automobile policies renewed with surcharges during the experience period, 50 files were selected for review. All 50 files were received and reviewed. The 59,980 violations noted were based on the universe of 59,977 files, resulting in an error ratio of 100%.

The following findings were made:

3 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 Company rated the 3 policies with an incorrect territory, resulting in an overcharge of \$213 and undercharges of \$545.

59,977 Violations Title 75, Pa. C.S. §1725

Every motor vehicle insurance policy shall contain a notice as to whether the policy covers collision damage to rental vehicles, and any limitations on such coverage. The notice shall be written in clear, plain language and shall be printed

on the first page of the policy in boldface capital letters. The Company failed to place the notice on the first page of the policy in boldface capital letters.

B. Private Passenger Automobile – Assigned Risk

Erie Insurance reports its premium writings for private passenger automobile to the Pennsylvania Assigned Risk Plan for its companies under Flagship City Insurance Company. As a result, Erie Insurance Exchange does not receive any assignments from the Pennsylvania Assigned Risk Plan.

C. Homeowners

1. New Business

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

The purpose of the review was to measure compliance with Act 246, Sections 4(a) and (h) (40 P.S. §1184), which require every insurer to file with the Insurance Commissioner every manual of classifications, rules and rates, every rating plan and every modification of any rating plan, which it proposes to use in the Commonwealth. Also, no insurer shall make or issue a contract or policy except in accordance with filings or rates, which are in effect at the time.

Homeowner Rating – New Business Without Surcharges

From the universe of 40,537 homeowner policies written as new business without surcharges during the experience period, 25 files were selected for review. All 25 files were received and reviewed. The 3 violations noted were based on 3 files, resulting in an error ratio of 12%.

The following findings were made:

*3 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 Company rated the 3 policies with an incorrect territory, resulting in an overcharge of \$12 and undercharges of \$373.

Homeowner Rating – New Business With Surcharges

From the universe of 1,421 homeowner policies written as new business with surcharges during the experience period, 25 files were selected for review. All 25 files were received and reviewed. The 2 violations noted were based on 2 files, resulting in an error ratio of 8%.

The following findings were made:

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

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

accordance with filings or rates, which are in effect at the time of issue. The Company rated the 2 policies with an incorrect territory, resulting in overcharges of \$45.

2. Renewals

A renewal is considered to be any policy, which was previously written by the Company and renewed on the normal twelve-month anniversary date. The purpose of the review was to determine compliance with Act 246, Sections 4(a) and (h) (40 P.S. §1184), which require every insurer to file with the Insurance Commissioner every manual of classifications, rules and rates, every rating plan and every modification of any rating plan which it proposes to use in the Commonwealth. Also, no insurer shall make or issue a contract or policy except in accordance with filings or rates which are in effect at the time.

Homeowner Rating – Renewals Without Surcharges

From the universe of 500,475 homeowner policies renewed without surcharges during the experience period, 25 files were selected for review. All 25 files were received and reviewed. No violations were noted.

Homeowner Rating – Renewals With Surcharges

From the universe of 12,702 homeowner policies renewed with surcharges during the experience period, 25 files were selected for review. All 25 files were received and reviewed. No violations were noted.

D. Tenant Homeowners

1. New Business

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

The purpose of the review was to measure compliance with Act 246, Sections 4(a) and (h) (40 P.S. §1184), which require every insurer to file with the Insurance Commissioner every manual of classifications, rules and rates, every rating plan and every modification of any rating plan, which it proposes to use in the Commonwealth. Also, no insurer shall make or issue a contract or policy except in accordance with filings or rates, which are in effect at the time.

Tenant Homeowner Rating – New Business Without Surcharges

From the universe of 18,595 tenant homeowner policies written as new business without surcharges during the experience period, 25 files were selected for review. All 25 files were received and reviewed. The 4 violations noted were based on 4 files, resulting in an error ratio of 16%.

The following findings were made:

*4 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 Company rated the 4 policies with an incorrect territory, resulting in an overcharge of \$8 for one policy. The remaining 3 policies did not have a change in premium.

Tenant Homeowner Rating – New Business With Surcharges

From the universe of 233 tenant homeowner policies written as new business with surcharges during the experience period, 25 files were selected for review. All 25 files were received and reviewed. The 2 violations noted were based on 2 files, resulting in an error ratio of 8%.

The following findings were made:

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

Requires every insurer to file with the Insurance Commissioner every manual of classifications, rules and rates, every rating plan and every modification of any rating plan, which it proposes to use in the Commonwealth. Also, no insurer shall make or issue a contract or policy except in accordance with filings or rates, which are in effect at the time of issue. The Company rated the 2 policies with an incorrect territory, resulting in an undercharge of \$16 for one policy. The remaining policy did not have a change in premium.

2. Renewals

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

The purpose of the review was to determine compliance with Act 246, Sections 4(a) and (h) (40 P.S. §1184), which require every insurer to file with the Insurance Commissioner every manual of classifications, rules and rates, every rating plan and every modification of any rating plan which it

proposes to use in the Commonwealth. Also, no insurer shall make or issue a contract or policy except in accordance with filings or rates which are in effect at the time.

Tenant Homeowner Rating – Renewals Without Surcharges

From the universe of 59,906 tenant homeowner policies renewed without surcharges during the experience period, 25 files were selected for review. All 25 files were received and reviewed. The 6 violations noted were based on 6 files, resulting in an error ratio of 24%.

The following findings were made:

6 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 Company rated the 6 policies with an incorrect territory, resulting in overcharge of \$5 for one policy and undercharges in \$8 for 2 policies. The remaining 3 policies did not have a change in premium.

Tenant Homeowner Rating – Renewals With Surcharges

From the universe of 220 tenant homeowner policies renewed with surcharges during the experience period, 25 files were selected for review. All 25 files were received and reviewed. The violation noted resulted in an

error ratio of 4%.

The following finding was made:

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

Requires every insurer to file with the Insurance Commissioner every manual of classifications, rules and rates, every rating plan and every modification of any rating plan, which it proposes to use in the Commonwealth. Also, no insurer shall make or issue a contract or policy except in accordance with filings or rates, which are in effect at the time of issue. The Company rated the policy with an incorrect territory, resulting in an overcharge of \$4.

E. 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.

Dwelling Fire Rating – New Business

From the universe of 2,381 dwelling fire policies written as new business during the experience period, 25 files were selected for review. All 25 files were received and reviewed. No violations were noted.

Dwelling Fire Rating – Renewals

From the universe of 5,879 dwelling fire policies renewed during the experience period, 25 files were selected for review. All 25 files were received and reviewed. No violations were noted.

VII. CLAIMS

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

The Claims review consisted of the following areas of review:

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

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

A. Automobile Property Damage Claims

From the universe of 41,068 private passenger automobile property damage claims reported during the experience period, 25 files were selected for review. All 25 files were received and reviewed. The 2 violations noted

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

The following findings were made:

1 Violation Title 31, Pa. Code, Section 146.5(a)

Every insurer, upon receiving notification of a claim, shall, within ten working days, acknowledge the receipt of such notice unless payment is made within such period of time. If an acknowledgment is made by means other than writing, an appropriate notation of such acknowledgment shall be made in the claim file of the insurer and dated. Notification given to an agent of an insurer shall be notification to the insurer, dating from the time the insurer receives notice. The Company did not acknowledge the claim within 10 working days.

1 Violation 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 a timely status letter for the claim noted.

B. Automobile Comprehensive Claims

From the universe of 67,800 private passenger automobile comprehensive claims reported during the experience period, 25 files were selected for review. All 25 files were received and reviewed. No violations were noted.

C. Automobile Collision Claims

From the universe of 62,727 private passenger automobile collision claims reported during the experience period, 25 files were selected for review. All 25 files were received and reviewed. No violations were noted.

D. Automobile Total Loss Claims

From the universe of 13,707 private passenger automobile total loss claims reported during the experience period, 75 files were selected for review. All 75 files were received and reviewed. The 4 violations noted were based on 3 files, resulting in an error ratio of 4%.

The following findings were made:

3 Violations Title 31, Pa. Code, Section 62.3(e)(7)

The appraiser is responsible for ensuring that a copy of the total loss evaluation report be sent within 5 working days to the consumer by the appraiser after the appraisal is completed. If a settlement offer is extended before the consumer receives the total loss evaluation report, the consumer shall be advised of the total loss evaluation report's contents and of the consumer's right to be sent a copy of within 5 days after its completion. The Company did not provide a copy of the total loss evaluation to the insured

within 5 days for the 3 claims noted.

1 Violation 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 a timely status letter for the claim noted.

E. Automobile First Party Medical Claims

From the universe of 15,100 private passenger automobile first party medical claims reported during the experience period, 50 files were selected for review. All 50 files were received and reviewed. The 3 violations noted were based on 3 files, resulting in an error ratio of 6%.

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 Company failed to pay the medical bill within 30 days.

2 Violations Title 31, Pa. Code, Section 146.5(d)

Requires an insurer, upon receiving notification of a claim, shall provide within ten working days necessary claim forms,

instructions and reasonable assistance so that first-party claimants can comply with policy conditions and reasonable requirements of the insurer. The Company did not provide the application for benefits to the claimant within ten working days for the 2 claims noted.

E. Automobile First Party Medical Claims Referred to a PRO

From the universe of 134 automobile first party medical claims referred to a peer review organization by the Company, 25 files were selected for review. All 25 files 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 contracts were received and reviewed. No violations were noted.

F. Homeowner Claims

From the universe of 29,601 homeowner claims reported during the experience period, 25 files were selected for review. All 25 files were received and reviewed. The 5 violations noted were based on 5 files, resulting in an error ratio of 20%.

The following findings were made:

5 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 a timely status letter for the 5 claims noted.

G. Tenant Homeowner Claims

From the universe of 1,083 tenant homeowner claims reported during the experience period, 25 files were selected for review. All 25 files were received and reviewed. The 7 violations noted were based on 5 files, resulting in an error ratio of 20%.

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.

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

Within 15 working days after receipt by the insurer of properly executed proofs of loss, the first-party claimant shall be advised of the acceptance or denial of the claim by the insurer. The denial must be given to the claimant in writing and the claim file of the insurer shall contain a copy of the denial. The written denial letter was not contained in the file for 2 claims noted. The Company failed to advise the

claimant of the acceptance or denial of the claim within 15 working days for the remaining claim file.

H. Dwelling Fire Claims

From the universe of 104 dwelling fire claims reported during the experience period, 25 files were selected for review. All 25 files were received and reviewed. The 4 violations noted were based on 3 files, resulting in an error ratio of 12%.

The following findings were made:

3 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 3 claims noted.

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

Within 15 working days after receipt by the insurer of properly executed proofs of loss, the first-party claimant shall be advised of the acceptance or denial of the claim by the insurer. The Company failed to advise the claimant of the acceptance or denial of the claim within 15 working days.

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 427 pieces of advertising in use during the experience period, which included brochures, newspaper and magazine advertisements, billboards and Company magazines. 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 575 consumer complaints received during the experience period and provided all consumer complaint logs requested. Of the 575 complaints, 60 files were requested, received and reviewed.

The purpose of the review was to determine compliance with the Unfair Insurance Practices Act, No. 205 (40 P.S. §1171). Section 5(a)(11) of the Act requires a Company to maintain a complete record of all complaints received during the preceding four years. This record shall indicate the total number of complaints, their classification by line of insurance, the nature of each complaint, the disposition of these complaints and the time it took to process each complaint.

The following findings were made:

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

States that an insurer may not cancel or refuse to renew a policy of automobile insurance on the basis of one accident within the thirty-six (36) month period prior to the upcoming anniversary date of the policy. The 2 files noted were nonrenewed based on one accident.

1 Violation 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 used an improper form to cancel an automobile policy.

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

Requires an insurer to deliver or mail to the named insured a nonrenewal notice and state the date, not less than sixty (60) days after the date of the mailing or delivery, on which cancellation shall become effective. When the policy is being cancelled for the nonpayment of premium, the effective date may be fifteen (15) days from the date of mailing or delivery. The Company failed to provide 60 days notice of cancellation or refusal to renew for the 3 files noted.

2 Violations Act 205, Section 5(a)(10)(ii)(iii) [40 P.S. §1171.5(a)(10)(ii)(iii)]

“Unfair Methods of Competition” and “Unfair or Deceptive Acts or Practices” in the business of insurance means any of the following acts if committed or performed with such frequency as to indicate a business practice shall constitute unfair claim settlement or compromise practices: failing to acknowledge and act promptly upon written or oral communications with respect to claims arising under insurance policies and failing to adopt and implement reasonable standards for the prompt investigation of claims arising under insurance policies. The Company failed to promptly acknowledge and investigate claim settlements for the 2 claim files noted.

The following synopsis reflects the nature of the 60 complaints that were reviewed.

•	27	Claims Related	45%
•	26	Nonrenewal/Cancellation	43%
•	7	Premium Related	12%
	<hr/>		<hr/>
	60		100%

XI. LICENSING

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

The following findings were made:

*3 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.

Gretz Ins Services
Lakeview Insurance

Wilson & Associates IPM

2 Violations Insurance Department Act, No. 147, Section 671-A

(40 P.S. §310.71)

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

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

(1) Delineates the services to be provided; and

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

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

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

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

the producer held the appointment with the insurer. The appointment fee may be modified by regulation.

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

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

Graham Insurance, Inc.
Jeffrey Keith Nicolls

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 4 [40 P.S. §§1171.4] to ensure that the violation relative to unfair discrimination does not occur in the future.
3. The Company must review Act 205, Section 5(a)(9) [40 P.S. §1171.5(a)(9)] to ensure that the violations regarding the requirement for cancellation and nonrenewal notices, as noted in the Report, do not occur in the future.
4. The Company must review and revise internal control procedures to ensure compliance relative to commercial cancellation and nonrenewal requirements of Act 86, Sections 2, 3 and 7 [40 P.S. §§3402, 3403 and 3407], so that the violations noted in the Report do not occur in the future.
5. The Company must review Act 205, Section 5(a)(4) [40 P.S. §1171.5(a)(4)] to ensure that the violation relative to supporting coverage noted in the Report does not occur in the future.

6. The Company must revise its underwriting procedures to ensure that each applicant for private passenger automobile liability insurance is provided an opportunity to elect a tort option and that signed tort option selection forms are obtained and retained with the underwriting file. This is to ensure that violations noted under Title 75, Pa. C.S. §1705(a)(1)(4) do not occur in the future.
7. The Company must revise underwriting procedures to ensure that the insured is aware that he may exercise the waiver of stacked limits for uninsured and underinsured motorist coverage by signing written rejection forms. This is to ensure that violations noted under Title 75, Pa. C.S. §1738(d)(1) and (2) do not occur in the future.
8. The Company must review Title 75, Pa. C.S. 1793(b) to ensure that violations regarding the requirement to provide the insured with a surcharge disclosure plan at the time of application, as noted in the Report, do not occur in the future.
9. The Company must review Title 75, Pa. C.S. §1791.1(a) and (b) violations to ensure that an itemized invoice listing minimum coverages and tort options are provided at the time of application as noted in the Report and does not occur in the future.
10. The Company must review Title 75, Pa. C.S. §1799.3(a) to ensure that a policy is not surcharged where, during the preceding three-year period, the aggregate cost to the insurer for any person injured or property damaged is determined to be less than \$1,150 in excess of any self-insured retention or deductible applicable to the named insured.

11. The Company must review Title 75, Pa. C.S. §1725 to ensure that a notice as to whether the policy covers collision damage to rental vehicles, and any limitations on such coverage shall be printed on the first page of the policy in boldface capital letters.
12. When a surcharge is imposed on a private passenger automobile policy the Company must specify the manner in which the surcharge was made and clearly identify the amount of the surcharge and give notice to the insured. 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.
13. The Company must review Act 246, Section 4(a) and (h) [40 P.S. §1184] and take appropriate measures to ensure the rating violations listed in the report do not occur in the future.
14. The premium overcharges noted in the rating section of this report must be refunded to the insureds and proof of such refunds must be provided to the Insurance Department within 30 days of the report issue date.
15. 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 acceptance and denials, acknowledgement, sending claim forms and status letters, as noted in the Report, do not occur in the future.

16. The Company must review Title 31, Pa. Code, Section 62.3(e)(7) with its claim staff to ensure that the consumer receives the total loss evaluation report within 5 working days after the appraisal is completed.
17. The Company must review Title 31, Pa. Code, Section 69.52(b) with its claim staff to ensure that first party medical bills are paid within 30 days.
18. The Company must review Act 205, Section 5(a)(10)(ii) & (iii) with its claim staff to ensure that claims are acknowledged and investigated and settled in a timely manner.
19. 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.
20. The Company must revise and reissue their underwriting guidelines for use in Pennsylvania to ensure that guidelines do not reference loss frequency and liability claims as characteristics to be considered for renewal eligibility.

XIII. COMPANY RESPONSE



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February 18, 2009

Mr. Chester A. Derk, Jr., AIE, HIA
Market Conduct Division Chief
Office of Market Conduct Regulation
Bureau of Market Conduct
Property & Casualty Division
1227 Strawberry Square
Harrisburg, PA 17120

Re: Erie Insurance Exchange
Exam Period: 1/1/07 through 12/31/07
Examination Warrant #08-M22-012

Dear Mr. Derk:

On January 21, 2009, we received the Report of Examination of Erie Insurance Exchange covering the period January 1, 2007 through December 31, 2007, as of the close of business on January 20, 2007.

We have had an opportunity to review the Report of Examination, and we are providing below our responses to Section XII – Recommendations.

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.

Response: Personal Lines Underwriting Management will conduct meetings with all Pennsylvania Underwriters and Supervisors to review the internal control procedures necessary to ensure compliance with the cancellation notice requirements of Act 68, Sections 2003, 2004, and 2006 [40 P.S. 991.2003, 2004 and 2006].

2. The Company must review Act 205, Section 4 [40 P.S. 1171.4] to ensure that the violation relative to unfair discrimination does not occur in the future.

Response: Personal Lines Underwriting Management will conduct meetings with all Pennsylvania Underwriters and Supervisors to review the provisions of Act 205, Section 4 [40 P.S. 1171.4] to ensure compliance.

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

Market Conduct Letter Public.doc

Response: Personal Lines Underwriting Management will conduct meetings with all Pennsylvania Underwriters and Supervisors to review the provisions of Act 205, Section 5(a) (9) [40 P.S. 1171.5(a) (9)] to ensure compliance.

4. The Company must review and revise internal control procedures to ensure compliance relative to commercial cancellation and nonrenewal requirements of Act 86, Section 2, 3 and 7 [40 P.S. 3402, 3403 and 3407], so that the violations noted in the Report do not occur in the future.

Response: Commercial Underwriting has reviewed and revised its internal control procedures to ensure future compliance relative to the commercial cancellation and nonrenewal requirements of Act 86, Section 2, 3, and 7 [40 P.S. 3402, 3403, and 3407].

5. The Company must review Act 205, Section 5(a) (4) [40 P.S. 1171.5(a) (4)] to ensure that the violation relative to supporting coverage noted in the Report does not occur in the future.

Response: Personal Lines Underwriting Management will conduct meetings with all Pennsylvania Underwriters and Supervisors to review the provisions of Act 205, Section 5(a)(4) [40 P.S. 1171.5(a)(4)] to ensure that the violations relative to supporting coverage noted in the report do not occur in the future.

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

Response: ERIE has revised its underwriting procedures to ensure that each applicant for private passenger automobile liability insurance is provided an opportunity to elect a tort option and that signed tort option selection forms are obtained and retained with the Agent file.

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

Response: ERIE has revised its underwriting procedures to ensure that the insured is aware that they may exercise the waiver of stacked limits for uninsured and underinsured motorist coverage by signing written rejection forms. Our Private Passenger Auto Rules are available to Independent Agents to ensure they know how to handle this situation.

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



Response: ERIE's application process will be updated to ensure that a copy of our Defensive Driver Plan (surcharge plan) is provided to the insured at the time of application.

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

Response: ERIE's application process will be updated to include the required notice with an itemized listing of the minimum coverages and tort options.

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

Response: Personal Lines Underwriting Management will conduct a meeting with all Pennsylvania Underwriters and Supervisors to review the provisions of Title 75, Pa. C.S. §1799.3(a) to ensure compliance.

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

Response: ERIE will be moving the notice concerning collision damage to a rental vehicle to the first page of the declarations and it will appear in boldface capital letters in compliance with Title 75, Pa. C.S. §1725.

12. When a surcharge is imposed on a private passenger automobile policy the Company must specify the manner in which the surcharge was made and clearly identify the amount of the surcharge and give notice to the insured. 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.

Response: ERIE will specify on the declarations the manner in which a surcharge was made and clearly identify the annual amount of the surcharge in order to ensure compliance with Title 75, Pa. C.S. §1799.3(d).

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

Response: ERIE has reviewed Act 246, Section 4(a) and (h) [40 P.S. §1184] and taken appropriate measures to ensure that the rating violations listed in the Report do not occur in the future.

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



Response: The premium overcharges have been refunded to affected insureds. ERIE detailed the premium overcharges and refunds in our response to the Exit Summary dated December 4, 2008 and in an email to Constance Arnold dated December 29, 2008.

15. 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 acceptance and denials, acknowledgement, sending claim forms and status letters, as noted in the Report, do not occur in the future.

Response: ERIE will review internal procedures with our claims personnel to ensure that they are attentive to the claims handling procedures specified in Title 31, Pennsylvania Code, Chapter 146, Unfair Claims Settlement Practices.

16. The Company must review Title 31, Pa. Code, Section 62.3(e) (7) with its claim staff to ensure that the consumer receives the total loss evaluation report within 5 working days after the appraisal is completed.

Response: ERIE will review internal procedures with our claims staff to make sure that the consumer receives the total loss evaluation report within 5 working days after the appraisal is completed, to ensure compliance with Title 31, Pa. Code, Section 62.3(e)(7).

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

Response: ERIE will review Title 31, Pa. Code, Section 69.52(b) with its claim staff to ensure that first party medical bills are paid within 30 days.

18. The Company must review Act 205, Section 5(a) (10) (ii) & (iii) with its claim staff to ensure that claims are acknowledged and investigated and settled in a timely manner.

Response: ERIE will review Act 205, Section 5(a) (10) (ii) & (iii) with its claim staff to ensure that claims are acknowledged and investigated and settled in a timely manner.

19. 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.

Response: Erie has reviewed its internal procedures and will ensure that 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.

20. The Company must revise and reissue their underwriting guidelines for use in Pennsylvania to ensure those guidelines do not reference loss frequency and liability claims as characteristics to be considered for renewal eligibility. [This paragraph needs to be indented, but I'm not very good at stuff like that.]

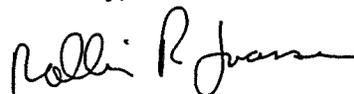
Response: The Pennsylvania HomeProtector Underwriting Guidelines were revised effective 9/15/2008. The revisions include the elimination of any reference to loss frequency and liability claims as characteristics to be considered in renewal eligibility.



We trust that the responses to these recommendations are sufficient, and believe they address the Department's concerns. If you have any further questions, please contact me at 1-800-458-0811, extension 2390.

We thank the examiners for their cooperative spirit and constructive approach to the Examination, which we believe will benefit the Pennsylvania consumers.

Sincerely,



Rollin R. Swanson
Assistant Vice President & Manager
Executive Assistants to the
Office of the President

RS: mjn/BM



The ERIE Is Above All In Service®. We commit, care and serve. It's our true blue promise.