

**REPORT OF
MARKET CONDUCT EXAMINATION
OF**

**FARMERS NEW CENTURY INSURANCE
COMPANY**

Aurora, Illinois

**AS OF
June 11, 2010**

COMMONWEALTH OF PENNSYLVANIA

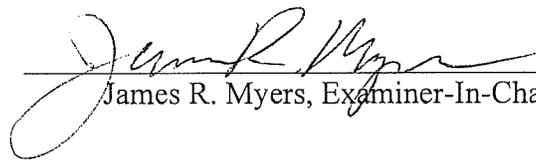


**INSURANCE DEPARTMENT
MARKET CONDUCT DIVISION**

Issued: August 5, 2010

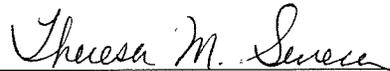
VERIFICATION

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 20 Day of *January*, 2010


Notary Public

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

FARMERS NEW CENTURY INSURANCE COMPANY

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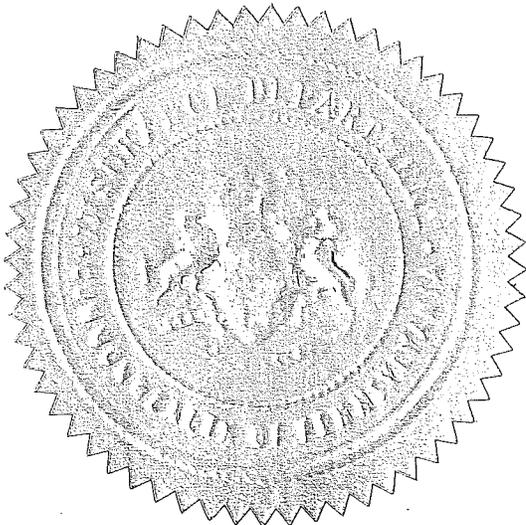
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BEFORE THE INSURANCE COMMISSIONER
OF THE
COMMONWEALTH OF PENNSYLVANIA

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

BEFORE THE INSURANCE COMMISSIONER
OF THE
COMMONWEALTH OF PENNSYLVANIA

IN RE: : VIOLATIONS:
: :
FARMERS NEW CENTURY : Sections 641.1A and 671-A of Act 147
INSURANCE COMPANY : of 2002 (40 P.S. §§ 310.41a and 310.71)
4680 Wilshire Boulevard :
Los Angeles, CA 90010 : Act 1990-6, Sections 1705(a)(1) and (4),
: 1716, 1731(b) & (c), 1734, 1738(c)(d)(1)&(2),
: 1738(e), 1791, 1791.1(a), (b) and (c),
: 1792(b)(1), 1793(b) and 1799.3(d)
: (Title 75 Pa.C.S. §§ 1705, 1716, 1731,
: 1734, 1738, 1791, 1792, 1793 and 1799)
: :
: Sections 4(a) and 4(h) of the Act of
: June 11, 1947, P.L. 538, No. 246
: (40 P.S. §§ 1184)
: :
: Sections 2003(a)(1), 2003(a)(13)(i),
: 2003(b), 2003(e), 2004, 2006 and 2006(2)
: of Act 68 of 1998 (40 P.S. §§991.2003,
: 2004 and 2006)
: :
: Sections 5(a)(9) and 5(a)(9)(v) of the
: Unfair Insurance Practices Act, Act of
: July 22, 1974, P.L. 589, No. 205 (40 P.S.
: §§ 1171.5)
: :
: Section 506.1 of the Insurance Company
: Law, Act of May 17, 1921, P.L. 682,
: No. 284 (40 P.S. §636.1)
: :
: Title 31, Pennsylvania Code, Section
: 69.42, 69.43, and 69.52(a), (b) and (e)
: :
: Title 18, Pennsylvania Consolidated
: Statutes, Section 4117(k)(1)
: :
: Title 75, Pennsylvania Consolidated

: Statutes, Sections 1161(a) and (b), and
: 1822
:
:
Respondent. : Docket No. MC10-06-019

CONSENT ORDER

AND NOW, this 5th day of August, 2010, 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. Respondent neither admits nor denies the Findings of Fact contained herein.

FINDINGS OF FACT

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

- (a) Respondent is Farmers New Century Insurance Company, and maintains its address at 4680 Wilshire Boulevard, Los Angeles, CA 90010.
- (b) A market conduct examination of Respondent was conducted by the Insurance Department covering the experience periods from January 1, 2008 through December 31, 2008.
- (c) On June 11, 2010, the Insurance Department issued a Market Conduct Examination Report to Respondent.
- (d) A response to the Examination Report was provided by Respondent on July 12, 2010.
- (e) The Examination Report notes violations of the following:
 - (i) Section 641.1A 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) Title 75, Pennsylvania Consolidated Statutes, Section 1716, states that benefits are overdue if not paid within 30 days after the insurer receives reasonable proof of the amount of benefits. If reasonable proof is not supplied as to all benefits, the portion supported by reasonable proof is overdue if not paid within 30 days after the proof is received by the insurer. Overdue benefits shall bear interest at the rate of 12% per annum from the date the benefits become due. In the event the insurer is found to have acted in an unreasonable manner in refusing to pay the benefits when due, the insurer shall pay, in addition to the benefits owed and the interest thereon, a reasonable attorney fee based upon actual time expended; and

(v) Section 1731(b) and (c) of Act 1990-6, Title 75, Pa.C.S. § 1731, which requires the named insured to be informed that he may reject uninsured and underinsured motorist coverage by signing a written rejection form;

(vi) Section 1734 of Act 1990-6, Title 75, Pa.C.S. § 1734, which allows a named insured to request in writing the issuance of coverages under

Section 1731 in amount equal to or less than the limits of liability for
bodily injury;

- (vii) 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;
- (viii) Section 1738(e) of Act 1990-6, Title 75, Pa.C.S. § 1738, which states the forms
described in subsection (d) must be signed by the first named insured and dated
to be valid. Any rejection form that does not comply with this section is void;
- (ix) Section 1791 of Act 1990-6, Title 75, Pa.C.S. § 1791, which states it shall
be presumed that the insured has been advised of the benefits available
under this chapter provided the notice is given to the insured at time of
application;
- (x) 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;

- (xi) 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;
- (xii) Section 1791.1(c) of Act 1990-6, Title 75, Pa.C.S. § 1791, which requires an insurer to provide an insured a notice stating that discounts are available for drivers who meet the requirements of Sections 1799, 1799.1 and 1799.2;
- (xiii) Section 1792(b)(1) of Act 1990-6, Title 75, Pa.C.S. § 1792(b)(1), which requires every private passenger automobile insurance policy providing collision coverage to provide a deductible in the amount of \$500.00 for collision coverage, unless the named insured signs a statement indicating the insured is aware that the purchase of a lower deductible is permissible and that

there is an additional cost of purchasing a lower deductible and the insured agrees to accept it;

(xiv) 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;

(xv) 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;

(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(a)(1) of Act 68 of 1998 (40 P.S. §991.2003(a)(1)), which states an insurer may not cancel or refuse to renew a policy of automobile insurance on the basis of age;

(xviii) Section 2003(a)(13)(i) of Act 68 of 1998 (40 P.S. §991.2003(a)(13)(i)), which states an insurer may not cancel or refuse to write or renew a policy of automobile insurance for any accident which occurred under the following circumstance: (i) automobile lawfully parked.

(xix) 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;

(xx) Section 2003(e) of Act 68 of 1998 (40 P.S. § 991.2003(e)), which states that an insurer may not cancel or refuse to renew a policy of automobile insurance for two or fewer moving violations in any jurisdiction or jurisdictions during a 24 month period when the operator's record indicates that the named insured presently bears five points or fewer;

- (xxi) 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;
- (xxii) Section 2006 of Act 68 of 1998 (40 P.S. § 991.2006), which requires that nonrenewal by an insurer of a policy of automobile insurance shall not be effective unless the insurer delivers or mails to the insured a written notice of the cancellation;
- (xxiii) 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;

(xxiv) 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;

(xxv) Section 5(a)(9)(v) of the Unfair Insurance Practices Act, No. 205 (40 P.S. § 1171.5(a)(9)(v)) requires that a cancellation notice shall advise the insured of his possible eligibility for insurance under The PA Fair Plan Act;

- (xxvi) Section 506.1 of the Insurance Company Law (40 P.S. §636.1), which requires that basic property insurance shall be continued 180 days after the death of the named insured on the policy or until the sale of the property, whichever event occurs first provided that the premiums for the coverage are paid;
- (xxvii) Title 31, Pennsylvania Code, Section 69.42, which states an insurer shall make payments to providers in accordance with the Medicare Program as applied in this Commonwealth by the carrier and intermediaries. Care covered under the Medicare Program shall be reimbursed at 110% of the Medicare payment or a different allowance as may be determined under § 69.12(b). Medicare co-insurance and deductibles may not be excluded in payments made by the insurer;
- (xxviii) Title 31, Pennsylvania Code, Section 69.43, which states an insurer shall pay the provider's usual and customary charge for services rendered when the charge is less than 110% of the Medicare payment or a different allowance as may be determined under § 69.12(b). An insurer shall pay 80% of the provider's usual and customary charge rendered if no Medicare payment exists. In calculating the usual and customary charge, an insurer may utilize the requested payment amount on the provider's bill for services or the data collected by the carrier or intermediaries to the extent that the data is made available. An insurer shall provide a complete explanation of the calculations made in computing its determination of the amount payable, including whether

the calculation is based on 110% of the Medicare payment, 80% of the usual and customary charge or at a different allowance determined by the Commissioner under § 69.12(b). A bill submitted by the provider delineating the services rendered and the information from which a determination could be made by the insurer as to the appropriate payment amount will not be construed as a demand for payment in excess of the permissible payment amount;

(xxix) Title 31, Pennsylvania Code, Section 69.52(a), which requires an insurer to refer a provider's bill to a PRO only when circumstances or conditions relating to medical and rehabilitative services provided cause a prudent person, familiar with PRO procedures, standards and practices, to believe it necessary that a PRO determine the reasonableness and necessity of care, the appropriateness of the setting where the care is rendered, and the appropriateness of the delivery of the care. The insurer shall notify a provider, in writing, when referring bills for PRO review at the time of referral;

(xxx) 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;

- (xxxi) Title 31, Pennsylvania Code, Section 69.52(e), which requires an insurer to provide copies of the Peer Review Organization's written analysis to the provider and the insured within five days of receipt;
- (xxxii) Title 18, Pennsylvania Consolidated Statutes, Section 4117(k)(1), which requires all applications for insurance and all claim forms shall contain or have attached thereto the following notice: "Any person who knowingly and with intent to defraud any insurance company or other person files an application for insurance or statement of claim containing any materially false information or conceals for the purpose of misleading, information concerning any fact material thereto commits a fraudulent insurance act, which is a crime and subjects such person to criminal and civil penalties";
- (xxxiii) Title 75, Pennsylvania Consolidated Statutes, Section 1161(a) and (b), which states an insurer who owns, possesses or transfers a vehicle located or registered in the Commonwealth which qualifies as a salvage vehicle shall make application to the Department for a certificate of salvage for that vehicle; and
- (xxxiv) Title 75, Pennsylvania Consolidated Statutes, Section 1822, which requires not later than May 1, 1990, all applications for insurance, renewals and claim forms shall contain a statement that clearly states, in substance, the following: Any person who knowingly and with intent to injure or defraud

any insurer files an application or claim containing any false, incomplete or misleading information shall, upon conviction, be subject to imprisonment for up to seven years and payment of a fine of up to \$15,000.00.

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 641.1A and 671-A of Act 147 of 2002 are punishable by the following, under Section 691-A of Act 147 of 2002 (40 P.S. § 310.91):
 - (i) suspension, revocation or refusal to issue the certificate of qualification or license;
 - (ii) imposition of a civil penalty not to exceed five thousand dollars (\$5,000.00) for every violation of the Act;
 - (iii) an order to cease and desist; and
 - (iv) any other conditions as the Commissioner deems appropriate.

(c) Respondent's violations of Sections 4(a) and (h) of the Casualty and Surety Rate Regulatory Act, No. 246 (40 P.S. § 1184) are punishable under Section 16 of the Casualty and Surety Rate Regulatory Act:

- (i) imposition of a civil penalty not to exceed \$50 for each violation or not more than \$500 for each such wilful violation;
- (ii) suspension of the license of any insurer which fails to comply with an Order of the Commissioner within the time limited by such Order, or any extension thereof which the Commissioner may grant.

(d) Respondent's violations of Sections 2003, 2004 and 2006 of Act 68 of 1998 are punishable by the following, under Section 2013 of the Act (40 P.S. § 991.2013): Any individual or insurer who violates any of the provisions of this article may be sentenced to pay a fine not to exceed five thousand dollars (\$5,000.00).

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

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

- (f) In addition to any penalties imposed by the Commissioner for Respondent's violations of the Unfair Insurance Practices Act (40 P.S. §§ 1171.1 – 1171.5), the Commissioner may, under Sections 10 and 11 of the Unfair Insurance Practices Act (40 P.S. §§ 1171.10, 1171.11) file an action in which the Commonwealth Court may impose the following civil penalties:
- (i) for each method of competition, act or practice which the company knew or should have known was in violation of the law, a penalty of not more than five thousand dollars (\$5,000.00);
 - (ii) for each method of competition, act or practice which the company did not know nor reasonably should have known was in violation of the law, a penalty of not more than one thousand dollars (\$1,000.00).
- (g) Respondent's violations of Section 506.1 of The Insurance Company Law, No. 284 (40 P.S. § 636.1) are punishable by the following, under Section 507 of the Insurance Company Law (40 P.S. § 637), which provides that the Insurance Commissioner may suspend or revoke the license of any offending entity, refuse to issue a new license, or impose a penalty of not more than \$1,000 for each violation of this section.

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 Sixty Thousand Dollars (\$60,000.00) 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.

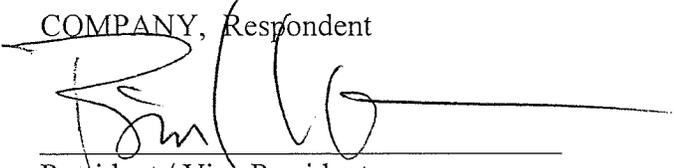
8. In any such enforcement proceeding, Respondent may contest whether a breach of the provisions of this Order has occurred but may not contest the Findings of Fact and Conclusions of Law contained herein.

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.

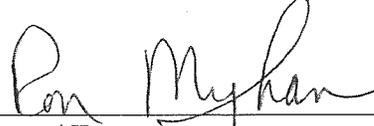
10. This Order constitutes the entire agreement of the parties with respect to the matters referred to herein, and it may not be amended or modified except by an amended order signed by all the parties hereto.

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.

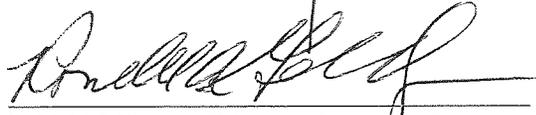
BY: FARMERS NEW CENTURY INSURANCE
COMPANY, Respondent



President / Vice President



Secretary / Treasurer



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

I. INTRODUCTION

The market conduct examination was conducted at Farmers New Century Insurance Company's offices located in Los Angeles, California and Olathe, Kansas, from October 5, 2009, through December 11, 2009. Subsequent review and follow-up was conducted in the office of the Pennsylvania Insurance Department.

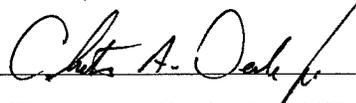
Pennsylvania Market Conduct Examination Reports generally note only those items to which the Department, after review, takes exception. However, the Examination Report may include management recommendations addressing areas of concern noted by the Department, but for which no statutory violation was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

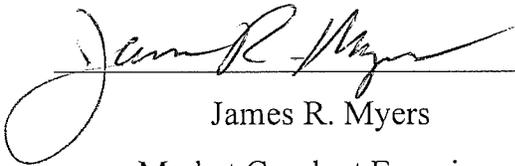
Throughout the course of the examination, Company officials were provided with status memoranda, which referenced specific policy numbers with citation to each section of law violated. Additional information was requested to clarify apparent violations. An exit conference was conducted with Company personnel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



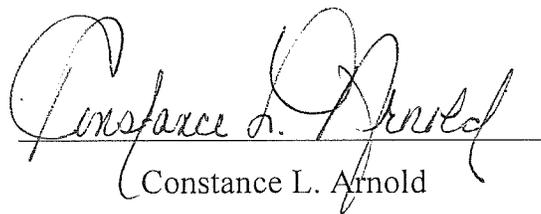
Chester A. Derk, Jr., AIE, HIA
Market Conduct Division Chief



James R. Myers
Market Conduct Examiner



June A. Coleman
Market Conduct Examiner



Constance L. Arnold
Market Conduct Examiner

II. SCOPE OF EXAMINATION

The Market Conduct Examination was conducted on Farmers New Century Insurance Company, hereinafter referred to as “Company,” at their offices located in Los Angeles, California and Olathe, Kansas. 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, 2008, through December 31, 2008, 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, 60-day cancellations and declinations.
 - Rating – Proper use of all classification and rating plans and procedures.
3. Claims
4. Forms
5. Advertising

6. Complaints

7. Licensing

III. COMPANY HISTORY AND LICENSING

Farmers New Century Insurance Company was incorporated in Illinois, on June 18, 1997, as Farmers Direct Insurance Company and commenced business on July 28, 1997. The present title was approved by the Illinois Department of Insurance on October 20, 1998.

LICENSING

Farmers New Century Insurance Company's Certificate of Authority to write business in the Commonwealth was last issued on April 1, 2010. The Company is licensed in Illinois, Maryland, New York and Pennsylvania. The Company's 2008 annual statement reflects Direct Written Premium for all lines of business in the Commonwealth of Pennsylvania as \$29,243,630. Premium volume related to the areas of this review were: Homeowners Multiple Peril \$10,243,950; Private Passenger Automobile Direct Written Premium was reported as Private Passenger Auto No-Fault (personal injury protection) \$2,403,291; Other Private Passenger Auto Liability \$9,320,371 and Private Passenger Auto Physical Damage \$6,919,263.

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 and homeowners. 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 68, Section 2003(a)(1) [40 P.S. §991.2003(a)(1)]

Discrimination Prohibited – (a) An insurer may not cancel or refuse to write or renew a policy of automobile insurance for any of the following reasons: Age. The Company cannot use years of driving experience as eligibility criteria.

V. UNDERWRITING

A. Private Passenger Automobile

1. 60-Day Cancellations

A 60-day cancellation is considered to be any policy, which was canceled 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 340 private passenger automobile files identified as being canceled in the first 60 days of new business, 50 files were selected for review. All 50 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 10,153 private passenger automobile files identified as midterm cancellations, 100 files were selected for review. All 100 files were received and reviewed. The 4 violations noted were based on 3 files, resulting in an error ratio of 3%.

The following findings were made:

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

Requires that no insurer shall cancel a policy of automobile insurance except for suspension or revocation of the named insured driver's license during the policy period. The Company canceled the 2 policies for an improper reason.

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

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

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

Requires an insurer to deliver or mail to the named insured a cancellation notice and state the date, not less than sixty (60) days after the date of the mailing or delivery, on which cancellation shall become effective. When the policy is being canceled 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.

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.

The universe of 36 private passenger automobile files identified as nonrenewals was selected for review. All 36 files were received and reviewed. The 5 violations noted were based on 5 files, resulting in an error ratio of 14%.

The following findings were made:

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

An insurer may not cancel or refuse to write or renew a policy of automobile insurance for any accident which occurred under the following circumstance: (i) automobile lawfully parked. The Company nonrenewed the policy for an improper reason. Three of the 4 accidents involved a parked vehicle.

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 Company nonrenewed the policy for an improper reason. Only one accident occurred within the past 3 years.

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

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

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

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

B. Private Passenger Automobile – Assigned Risk

The Company is an excused carrier under the assigned risk Limited Assignment Distribution procedure. Under this procedure groups of companies not under common ownership or management may form a Limited Assignment Distribution (LAD) arrangement. Each LAD arrangement has one servicing company, which writes assigned risk business on behalf of those members, which choose to buy out from their

private passenger quota. As part of this arrangement the Company wrote no assigned risk business during the experience period.

C. Property

1. 60-Day Cancellations

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

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

The universe of 37 property policies which were canceled within the first 60 days of new business was selected for review. The policies consisted of homeowner and tenant homeowner. All 37 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 4,414 personal property policies which were canceled midterm during the experience period, 125 files were selected for review. The property policies consisted of homeowner and tenant homeowner. All 125 files were received and reviewed. The violation resulted in an error ratio of .8%.

The following finding was made:

1 Violation Insurance Company Law, Section 506.1 [40 P.S. §636.1]

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

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 46 homeowner policies which were nonrenewed during the experience period, 20 files were selected for review. All 20 files were received and reviewed. Of the 20 files reviewed, two files were

identified as midterm cancellations. The 6 violations noted were based on 6 files, resulting in an error ratio of 30%.

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 canceled the policy because the home had a flat roof, which was not an increase in hazard since the roof was flat at inception.

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

Prohibits canceling any policy of insurance covering owner-occupied private residential properties or personal property of individuals that has been in force for sixty days or more or refusing to renew any such policy unless the policy was obtained through material misrepresentation, fraudulent

statements, omissions or concealment of fact material to the acceptance of the risk or to the hazard assumed by the company; or there has been a substantial change or increase in hazard in the risk assumed by the company subsequent to the date the policy was issued; or there is a substantial increase in hazards insured against by reason of willful or negligent acts or omissions by the insured; or the insured has failed to pay any premium when due or for any other reasons approved by the Commissioner.

AND

Adjudications: Dunn/Allstate, P97-03-050 (1997); Alemhoca/Allstate, Ph97-05-037 (1998); Benkoski/State Auto, P96-11-021 (1999); Stevens/State Farm, PH99-11-001 (2000); State Farm/Rumford, P00-04-005 (2000); Smith/Erie, P04-10-004 (2005)

So long as an insurer acts reasonably in requesting information from its policyholder, an unreasonable failure to comply justifies termination of the policy. The failure of the insureds to respond to a letter and questionnaire from the insurer, without more, does not establish a substantial increase in hazard by reason of willful or negligent acts or omissions, unless insurer can also present evidence of an actual increase in a hazard. The Company cannot nonrenew a policy for not responding to a request for additional underwriting information when the request was sent to the producer and not to the policyholder.

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

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

AND

Adjudications: Dunn/Allstate, P97-03-050 (1997); Alemhoca/Allstate, Ph97-05-037 (1998); Benkoski/State Auto, P96-11-021 (1999); Stevens/State Farm, PH99-11-001 (2000); State Farm/Rumford, P00-04-005 (2000); Smith/Erie, P04-10-004 (2005)

The failure of the insureds to respond to a letter and questionnaire from the insurer, without more, does not establish a substantial increase in hazard by reason of willful or negligent acts or omissions, unless insurer can also present evidence of an actual increase in a hazard. The Company cannot nonrenew a policy when there was not an increase in hazard.

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

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

4. Declinations

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

The primary purpose of the review was to determine compliance with Act 205, Unfair Insurance Practices Act, Section 5(a)(7)(iii) [40 P.S. §1171.5(a)(7)(iii)], discriminatory reasons.

From the universe of 25 personal property files which were identified as declinations by the Company during the experience period, 11 files were selected and received for review. The files consisted of homeowner and tenant homeowner. Of the 11 policies reviewed, 8 were identified as 60-day cancellations, two policies were identified as nonrenewals and one policy was identified as a midterm cancellation. The 2 violations noted were based on 2 files, resulting in an error ratio of 18%.

The following findings were made:

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

Requires that a cancellation notice shall advise the insured of his possible eligibility for insurance under the act of July 31,

1968 (P.L. 738, No. 233), known as “The PA Fair Plan Act”.

AND

Adjudications: Donegal/Hunt, P87-4-15 (1987);

Pennsylvania National/Herron, P187-3-5 (1987); affirmed 551 A.2d 368 (Pa. Cmwlth. 1988), alloc. denied 559 A.2d 41 (Pa. 1989).

An insurer which cancels a homeowner policy that has been in force for less than 60 days must give an insured 30 days notice of cancellation and advise the insured of the possible availability of coverage under the Pennsylvania Fair Plan; the notice does not meet these requirements by merely advising the insured that bound application for homeowners liability policy was declined. The Company did not advise the insured of his possible eligibility under the Fair Plan for the 2 files noted.

The following concern was made:

Concern: The property cancellation notice that was provided informed the insured that “Please note that you have no insurance on your auto after the above date and time.” The Company needs to provide a cancellation notice for the appropriate line of business.

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 867 private passenger automobile policies identified as new business without surcharges, 25 files were selected for review. All 25 files were received and reviewed. The 2,700 violations noted were based on the universe of 867 files, resulting in an error ratio of 100%.

The following findings were made:

*37 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 failed to apply the proper Super Premier discount when the policy has stacked limits of uninsured motorist bodily injury, stacked limits of underinsured motorist bodily injury and stacked limits of underinsured motorist single limit, which resulted in overcharges of \$4,693.90.

10 Violations 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 Company failed to

provide the signed limited tort selection forms for the 10 files noted.

7 Violations Title 75, Pa. C.S. §1734

A named insured may request in writing the issuance of coverages under Section 1731 (relating to availability, scope and amount of coverage) in an amount equal to or less than the limits of liability for bodily injury. The Company failed to provide a written request for lower uninsured and underinsured motorist limits for the 7 files noted.

9 Violations 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 9 files noted.

17 Violations Title 75, Pa. C.S. §1791

Requires the Company to advise the insured of the benefits and limits available under this Chapter in bold print of at least ten-point type at the time of application for original coverage. The Company failed to provide the notice of available benefits and limits at the time of application.

867 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 itemized invoice listing the minimum coverage levels with the required wording at the time of application.

867 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.

18 Violations Title 75, Pa. C.S. §1791.1(c)

Requires an insurer to provide an insured a notice stating that discounts are available for drivers who meet the requirements of Sections 1799, 1799.1 and 1799.2. The Company failed to provide the notice of premium discounts at the time of application.

1 Violation Title 75, Pa. C.S. §1792(b)(1)

Requires every private passenger automobile insurance policy providing collision coverage to provide a deductible in the amount of \$500.00 for collision coverage, unless the named insured signs a statement indicating the insured is aware that the purchase of a lower deductible is permissible and that there is an additional cost of purchasing a lower deductible and the insured agrees to accept it. The Company failed to provide a signed statement from the insured requesting a deductible of less than \$500.

867 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 at the time of application.

The following concern was made:

Concern: The Company had received approved filed changes in its rate filing that were effective during the experience period. The Company did not update the rate manual to reflect the approved changes for such factors as liability limit, EFT discount, multiple line discount, Yes program discount and experience discount. The Company should update the rate

manual with the correct and approved changes.

Private Passenger Automobile - New Business With Surcharges

From the universe of 50 private passenger automobile policies identified as new business with surcharges by the Company, 25 files were selected for review. All 25 files were received and reviewed. The 225 violations noted were based on 50 files, resulting in an error ratio of 100%.

The following findings were made:

12 Violations 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 Company failed to provide the signed limited tort selection forms for the 12 files noted.

1 Violation Title 75, Pa. C.S. §1731(b) & (c)

The named insured shall be informed that he may reject uninsured and underinsured motorist coverage by signing a written rejection form. The Company failed to provide the signed written rejection form for underinsured motorist coverage.

4 Violations Title 75, Pa. C.S. §1734

A named insured may request in writing the issuance of coverages under Section 1731 (relating to availability, scope

and amount of coverage) in an amount equal to or less than the limits of liability for bodily injury. The Company failed to provide a written request for lower uninsured and underinsured motorist limits for the 4 files noted.

10 Violations 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 10 files noted.

1 Violation Title 75, Pa. C.S. 1738(e)

Signature and date. The forms described in subsection (d) must be signed by the first named insured and dated to be valid. Any rejection form that does not comply with this section is void. The Company failed to provide rejection of stacked limits for uninsured and underinsured motorist coverage signed by the first named insured.

19 Violations Title 75, Pa. C.S. §1791

Requires the Company to advise the insured of the benefits and limits available under this Chapter in bold print of at least ten-point type at the time of application for original coverage. The Company failed to provide the notice of available benefits and limits at the time of application.

50 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 itemized invoice listing the minimum coverage levels with the required wording at the time of application.

50 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.

20 Violations Title 75, Pa. C.S. §1791.1(c)

Requires an insurer to provide an insured a notice stating that discounts are available for drivers who meet the requirements of Sections 1799, 1799.1 and 1799.2. The Company failed to provide the notice of premium discounts at the time of application.

1 Violation Title 75, Pa. C.S. §1792(b)(1)

Requires every private passenger automobile insurance policy providing collision coverage to provide a deductible in the amount of \$500.00 for collision coverage, unless the named insured signs a statement indicating the insured is aware that the purchase of a lower deductible is permissible and that there is an additional cost of purchasing a lower deductible and the insured agrees to accept it. The Company failed to provide a signed statement from the insured requesting a deductible of less than \$500.

50 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 at the time of application.

7 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 clearly identify the amount of the surcharge on the premium notice.

The following concern was made:

Concern: The Company had received approved filed changes in its rate filing that were effective during the experience period. The Company did not update the rate manual to reflect the approved changes for such factors as liability limit, EFT discount, multiple line discount, Yes program discount and experience discount. The Company should update the rate manual with the correct and approved changes.

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 13,262 private passenger automobile policies renewed without surcharges during the experience period, 50 files were selected for review. All 50 files were received and reviewed. The 13,480 violations noted were based on the universe of 13,262, resulting in an error ratio of 100%.

The following findings were made:

*218 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 failed to apply the proper Super Premier discount when the policy has stacked limits of uninsured motorist bodily injury, stacked limits of underinsured motorist bodily injury and stacked limits of underinsured motorist single limit, which resulted in overcharges of \$21,479.41.

13,262 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 itemized invoice listing the minimum coverage levels with the required wording at the time of renewal.

The following concern was made:

Concern: The Company had received approved filed changes in its rate filing that were effective during the experience period. The Company did not update the rate manual to reflect the approved changes for such factors as liability limit, EFT discount, multiple line discount, Yes program discount and experience discount. The Company should update the rate manual with the correct and approved changes.

Private Passenger Automobile – Renewals With Surcharges

From the universe of 992 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 1,005 violations noted were based on the universe of 992 files, resulting in an error ratio of 100%.

The following findings were 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 failed to apply the proper Super Premier discount when the policy has stacked limits of uninsured motorist bodily injury, stacked limits of underinsured motorist bodily injury and stacked limits of underinsured motorist single limit, which resulted in overcharges of \$339.90.

992 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 itemized invoice listing the minimum coverage levels with the required wording at the time of renewal.

12 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 clearly identify the amount of the surcharge on the premium notice.

The following concern was made:

Concern: The Company had received approved filed changes in its rate filing that were effective during the experience period. The Company did not update the rate manual to reflect the approved changes for such factors as liability limit, EFT discount, multiple line discount, Yes program discount and experience discount. The Company should update the rate manual with the correct and approved changes.

B. Private Passenger Automobile – Assigned Risk

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

C. Homeowners

1. New Business

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

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

Homeowner Rating – New Business Without Surcharges

From the universe of 123 homeowner 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.

Homeowner Rating – New Business With Surcharges

The universe of 3 homeowner policies written as new business with surcharges during the experience period was selected for review. All 3 files were received and reviewed. No violations were noted.

The following concern was made:

Concern: It is the Company's practice to issue a surcharge disclosure form with their homeowner policies. The disclosure describes what type of claims would be eligible for a surcharge; however, it does not advise the percentage of increase that would apply. The purpose of the disclosure is to

advise the insured of the possible impact any surcharge will have on them so they may make an informed decision on whether or not to file a claim. It is the Department's position that the surcharge disclosure shall contain the percentages of increase involved per their rate filing.

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 16,213 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 109 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.

The following concern was made:

Concern: It is the Company's practice to issue a surcharge disclosure form with their homeowner policies. The disclosure describes what type of claims would be eligible for a surcharge; however, it does not advise the percentage of increase that would apply. The purpose of the disclosure is to advise the insured of the possible impact any surcharge will have on them so they may make an informed decision on whether or not to file a claim. It is the Department's position that the surcharge disclosure shall contain the percentage of increase involved per their rate filing.

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

Tenant Homeowner Rating – New Business With Surcharges

The universe of 2 tenant homeowner policies written as new business with surcharges was selected, received and reviewed. No violations were noted.

The following concern was made:

Concern: It is the Company's practice to issue a surcharge disclosure form with their homeowner policies. The disclosure describes what type of claims would be eligible for a surcharge; however, it does not advise the percentage of increase that would apply. The purpose of the disclosure is to advise the insured of the possible impact any surcharge will have on them so they may make an informed decision on whether or not to file a claim. It is the Department's position that the surcharge disclosure shall contain the percentages of increase involved per their rate filing.

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 1,467 tenant homeowner policies renewed without surcharges during the experience period, 25 files were selected for review. All 25 files were received and reviewed. No violations were noted.

Tenant Homeowner Rating – Renewals With Surcharges

The universe of 1 tenant homeowner policy renewed with surcharges during the experience period was selected for review. The file was received and reviewed. No violations were noted.

The following concern was made:

Concern: It is the Company's practice to issue a surcharge disclosure form with their homeowner policies. The disclosure describes what type of claims would be eligible for a surcharge; however, it does not advise the percentage of increase that would apply. The purpose of the disclosure is to advise the insured of the possible impact any surcharge will have on them so they may make an informed decision on whether or not to file a claim. It is the Department's position that the surcharge disclosure shall contain the percentages of increase per their rate filing.

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

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 574 private passenger automobile property damage claims reported during the experience period, 25 files were selected for review. All 25 files were received and reviewed. No violations were noted.

B. Automobile Comprehensive Claims

From the universe of 364 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 746 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 305 private passenger automobile total loss claims reported during the experience period, 25 files were selected for review. All 25 files were received and reviewed. The 5 violations noted were based on 5 files, resulting in an error ratio of 20%.

The following findings were made:

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

(a) General rule – Except as provided in Sections 1162 and 1163, a person, including an insurer or self-insurer as defined in Section 1702 (relating to definitions), who owns, possesses or transfers a vehicle located or registered in the Commonwealth which qualifies as a salvage vehicle shall make application to the Department for a certificate of salvage for that vehicle.

(b) Application for certificate of salvage. – An owner who

transfers a vehicle to be destroyed or dismantled, salvaged or recycled shall assign the certificate of title to the person to whom the vehicle is transferred. Except as provided in Section 1163, the transferee shall immediately present the assigned certificate of title to the Department or an authorized agent of the Department with an application for a certificate of salvage upon a form furnished and prescribed by the Department. An insurer as defined in Section 1702 to which title to a vehicle is assigned upon payment to the insured or claimant of the replacement value of a vehicle shall be regarded as a transferee under this subsection. Of the 5 files noted, 3 files did not reflect a Pennsylvania salvage title was obtained, 2 files did not show evidence that the claimant produced evidence of an issued certificate of salvage on an owner retained vehicle prior to payment of the claim.

E. Automobile First Party Medical Claims

From the universe of 485 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 5 violations noted were based on 4 files, resulting in an error ratio of 8%.

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 medical bills within 30 days.

1 Violation Title 75, Pa. C.S. §1716

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

3 Violations Title 31, Pa. Code, Section 69.42

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

AND

Title 31, Pa. Code, Section 69.43

An insurer shall pay the provider's usual and customary charge for services rendered when the charge is less than 110% of the Medicare payment or a different allowance as

may be determined under §69.12(b). An insurer shall pay 80% of the provider's usual and customary charge rendered if no Medicare payment exists. In calculating the usual and customary charge, an insurer may utilize the requested payment amount on the provider's bill for services or the data collected by the carrier or intermediaries to the extent that the data is made available. An insurer shall provide a complete explanation of the calculations made in computing its determination of the amount payable including whether the calculation is based on 110% of the Medicare payment, 80% of the usual and customary charge or at a different allowance determined by the Commissioner under §69.12(b). A bill submitted by the provider delineating the services rendered and the information from which a determination could be made by the insurer as to the appropriate payment amount will not be construed as a demand for payment in excess of the permissible payment amount. The Company failed to have medical bills repriced or adjusted for cost containment for the 3 files noted.

F. Automobile First Party Medical Claims Referred to a PRO

The universe of 10 private passenger automobile first party medical claims that were referred to a peer review organization by the Company was selected for review. All 10 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. The 10 violations noted were based on 10 files, resulting in an error ratio of 100%.

The following findings were made:

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

Requires an insurer to refer a provider's bill to a PRO only when circumstances or conditions relating to medical and rehabilitative services provided cause a prudent person, familiar with PRO procedures, standards and practices, to believe it necessary that a PRO determine the reasonableness and necessity of care, the appropriateness of the setting where the care is rendered, and the appropriateness of the delivery of the care. The insurer shall notify a provider, in writing, when referring bills for PRO review at the time of referral. The Company failed to notify a provider in writing, when referring bills for PRO review at the time of the referral.

9 Violations Title 31, Pa. Code, Section 69.52(e)

Requires an insurer to provide copies of the Peer Review Organization's written analysis to the provider and the insured within 5 days of receipt. The Company failed to provide copies of the PRO report to providers and insureds within 5 days of receipt.

G. Homeowner Claims

From the universe of 937 homeowner claims reported during the experience period, 25 files were selected for review. All 25 files were received and reviewed. No violations were noted.

H. Tenant Homeowner Claims

From the universe of 32 tenant homeowner claims reported during the experience period, 10 files were selected for review. All 10 files were received and reviewed. No violations were noted.

VIII. FORMS

Throughout the course of the examination, all underwriting files were reviewed to identify the policy forms used in order to verify compliance with Insurance Company Law, Section 354 (40 P.S. §477b), Approval of Policies, Contracts, etc., Prohibiting the Use Thereof Unless Approved. During the experience period of the examination, Section 354 provided that it shall be unlawful for any insurance company to issue, sell, or dispose of any policy contract or certificate covering fire, marine, title and all forms of casualty insurance or use applications, riders, or endorsements in connection therewith, until the forms have been submitted to and formally approved by the Insurance Commissioner. All underwriting and claim files were also reviewed to verify compliance with Act 165 of 1994 [18 Pa. CS §4117(k)(1)] and Title 75, Pa. C.S. §1822, which requires all insurers to provide an insurance fraud notice on all applications for insurance, all claims forms and all renewals of coverage.

The following findings were made:

Private Passenger Automobile Rating – New Business Without Surcharges

20 Violations Title 75, Pa. C.S. §1822

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

Private Passenger Automobile Rating – New Business With Surcharges

22 Violations Title 75, Pa. C.S. §1822

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

Private Passenger Automobile Rating – Renewals Without Surcharges

13,262 Violations Title 75, Pa. C.S. §1822

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

Automobile Rating – Renewals With Surcharges

992 Violations Title 75, Pa. C.S. §1822

Warning notice on application for insurance and claim forms. Not later than May 1, 1990, all applications for insurance, renewals and claim forms shall contain a statement that clearly states in substance

the following: "Any person who knowingly and with intent to injure or defraud any insurer files an application or claim containing false, incomplete or misleading information shall, upon conviction, be subject to imprisonment for up to seven years and payment of a fine of up to \$15,000." The Company did not provide the fraud warning at the time of renewal.

Homeowner Rating – New Business Without Surcharges

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

Any person who knowingly and with intent to defraud any insurance company or other person files an application for insurance or statement of claim containing any materially false information or conceals for the purpose of misleading, information concerning any fact material thereto, commits a fraudulent insurance act, which is a crime and subjects such person to criminal and civil penalties. The Company did not provide the fraud statement on the application.

Homeowner Rating – New Business With Surcharges

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

Any person who knowingly and with intent to defraud any insurance company or other person files an application for insurance or statement of claim containing any materially false information or conceals for the purpose of misleading, information concerning any fact material thereto, commits a fraudulent insurance act, which is a crime and subjects such person to criminal and civil penalties. The Company did not provide the fraud statement on the application.

Tenant Homeowner Rating – New Business Without Surcharges

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

Any person who knowingly and with intent to defraud any insurance company or other person files an application for insurance or statement of claim containing any materially false information or conceals for the purpose of misleading, information concerning any fact material thereto, commits a fraudulent insurance act, which is a crime and subjects such person to criminal and civil penalties. The Company did not provide the fraud statement on the application.

Tenant Homeowner Rating – New Business With Surcharges

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

Any person who knowingly and with intent to defraud any insurance company or other person files an application for insurance or statement of claim containing any materially false information or conceals for the purpose of misleading, information concerning any fact material thereto, commits a fraudulent insurance act, which is a crime and subjects such person to criminal and civil penalties. The Company did not provide the fraud statement on the application.

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 47 pieces of advertising in use during the experience period. The advertising materials provided included: brochures, print ads, radio and television ads. 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 23 consumer complaints received during the experience period and provided all consumer complaint logs requested. All 23 complaint files reported 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 finding was made:

1 Violation Insurance Company Law, Section 506.1 [40 P.S. §636.1]

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

The following synopsis reflects the nature of the 23 complaints that were reviewed.

• 12	Cancellation/Nonrenewal	52%
• 8	Premium Related	35%
• 2	Agency Services	9%
• 1	Claims	4%
<hr/>		<hr/>
23		100%

XI. LICENSING

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

The following findings were made:

*2 Violations Insurance Department Act, No. 147, Section 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.

Richard Shade
Krombolz Agency, Inc.

6 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.

Atlantic GroupInsure, Inc.
Donlin Agency, Inc.
Malone & Nienstiel Ins. Ctr., Inc.
Myers & Bell Insurance Agency, Inc.
Robert B. Vahey
Robert Myers

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 and nonrenewal notice requirements of Act 68, Sections 2003, 2004 and 2006 [40 P.S. §991.2004 and 2006], so that the violations noted in the Report do not occur in the future.
2. The Company must review Act 205, Section 5(a)(9) [40 P.S. §1171.5(a)(9)] to ensure that the violations regarding the requirement for cancellation and nonrenewal notices, as noted in the Report, do not occur in the future.
3. The Company must review Insurance Company Law, Section 506.1 regarding the cancellation of property insurance after the death of the named insured to ensure that basic property coverage is maintained at least 180 days.
4. The Company must review Title 75, Pa. C.S. §1791 violations to ensure that the notice of available benefits is given to the insured at the time of application as noted in the Report.
5. 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.

6. The Company must review Title 75, Pa. C.S. §1791.1(c) to ensure that violations regarding the requirement to provide notice to insureds stating that discounts are available for drivers, as noted in the Report, do not occur in the future.
7. The Company must review Title 75, Pa. C.S. §1791.1(a) violations to ensure that an itemized invoice listing minimum coverages and premiums are provided at the time of application and every renewal thereafter as noted in the Report and do not occur in the future.
8. The Company must review Title 75, Pa. C.S. §1791.1(b) violations to ensure that tort options are provided at the time of application as noted in the Report and do not occur in the future.
9. 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.
10. 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.

11. The Company must review Title 75, Pa. C.S. §1734 to ensure that the insured signs a request for lower limits of liability for uninsured and underinsured motorist coverage and a copy kept in the file as noted in the Report.
12. The Company must revise underwriting procedures to ensure that the insured is aware that there is an additional cost for purchasing a lower deductible for collision coverage. This is to ensure that the violation noted under Title 75, Pa. C.S. §1792(b)(1) does not occur in the future.
13. 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 Act 68, Section 2005(c) [40 P.S. §991.2005(c)] and Title 75, Pa. C.S. §1799.3(d) do not occur in the future.
14. 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.
15. 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.
16. The Company must ensure that all applications and automobile renewal policies contain the required fraud warning notice.

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 Title 31, Pa. Code, Section 69.52(a) with its claim staff to ensure that a provider is notified in writing when referring bills for PRO review at the time of referral.
19. The Company must review Title 31, Pa. Code, Section 69.52(e) with its claim staff to ensure that the insured is provided a copy of a PRO evaluation in a timely manner.
20. The Company must review the first party medical claim, which has not been paid within 30 days. The claim that has not been paid within 30 days shall bear interest at the rate of 12% annum from the date the benefits become due as required by Title 75, Pa. C.S. §1716. The interest amount must be paid to the claimant and proof of such payment must be provided to the Insurance Department within 30 days of the Report issue date.
21. The Company must review Title 75, Pa. C.S. §1161(a)&(b) with its claim staff to ensure that salvage certificates are obtained and are retained with the claim file.
22. The Company must review Title 31, Pa. Code, Sections 69.42 and 69.43 with its claim staff to ensure that provider bills are repriced for cost containment as required.

23. 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.

24. The Company must revise and reissue their underwriting guidelines for use in Pennsylvania to ensure that the guidelines do not exclude applicants from being eligible to obtain insurance for reasons established in Section 2003 of Act 68 [40 P.S. §991.2003].

XIII. COMPANY RESPONSE



FARMERS

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July 12, 2010

Chester A. Derk Jr., AIE, HIA
Market Conduct Division Chief
Pennsylvania Insurance Department
Bureau of Market Conduct
Property and Casualty Division
1227 Strawberry Square
Harrisburg, Pennsylvania 17120

Faxed to: (717)772-4334

RE: Examination Warrant Number 09-M22-009
Farmers New Century Insurance Company

Dear Mr. Derk:

On behalf of Farmers New Century Insurance Company (the "Company"), please allow this letter to serve as our response to the Report of Examination Warrant Number 09-M22-009 (the "Report"), which was received with your cover letter dated June 11, 2010.

The following is our response to the findings, recommendations and concerns contained in the Report. First, we would like to thank you, the Department, and the examination team for the cooperation and courtesies shown to us during the exam process.

Before we address particular areas of the Report, we wish to point out that the member Companies and Exchanges of the Farmers Insurance Group of Companies® seriously consider all insurance department examinations and recommendations by the examiners. Therefore, we have thoroughly reviewed each of the findings and comments.

Please note that neither these comments nor any of our actions are an admission on our part of any violation, wrongdoing or fault, and should not be interpreted by the Department or any other party as constituting any admissions. Please further note that we are providing these comments and taking actions without waiver of any defense, legal or equitable, and without waiver of any applicable privilege in connection with the information provided.

Department Concerns

The Department noted the following Concerns in The Report:

The Department noted that the property cancellation notice that was provided informed the insurer that "Please note that you will have no insurance on your auto after the above date and time." The Company needs to provide a cancellation notice for the appropriate line of business.

The Company respectfully disagrees with this summary and concern and would ask the Department to please reconsider. The cancellation notices for both policies were erroneously reconstructed; however once discovered, this oversight was corrected and correct reconstructed copies were provided to the examiners. We have also included copies for your review. The cancellation notice the insured received did advise the insured of the possible availability of coverage under the Pennsylvania Fair Plan and did not include the following language: "Please note that you will have no insurance on your auto after the above date and time." Exhibit A – Cancellation Notice for Policy 936021539 and Exhibit B – Cancellation Notice for Policy 936074963.

The Department also noted that the Company had received approved filed changes in its rate filing that were effective during the experience period. The Company did not update the rate manual to reflect the approved changes for such factors as liability limit, EFT discount, multiple line discount, Yes program discount and experience discount. The Company should update the rate manual with the correct and approved changes.

The Company made the manual page corrections and they have been filed, received and approved by the Department on February 22, 2010. Please note that the approved filing numbers are SERF FARM-126508012 Reference number, APA 1001-600790, and SERF FARM – 126507122, Reference number, HPA 1003-600780. We ask for reconsideration regarding the filings and request that the Department remove this concern.

The Department was concerned about the Company's practice to issue a surcharge disclosure form with their homeowner policies. The disclosure describes what type of claims would be eligible for a surcharge, however it does not advise the percentage of increase that would apply. The purpose of the disclosure is to advise the insured of the possible impact any surcharge will have on them so they may make an informed decision on whether or not to file a claim. It is the Department's position that the surcharge disclosure shall contain the percentages of increase involved per their rate filing.

The Company respectfully disagrees with this concern and would ask the Department to please reconsider. It appears clear that the "Important Notice" dated September 18, 1998, by itself, does not contain a requirement that we must disclose the exact percentage of the increase that would apply. It would seem that the purpose of the disclosure, which is to advise the insured of the possible impact surcharges will have on them as regards to certain losses, has been satisfied by our various notices. It is our position that there is no violation of any written requirement.

Recommendations:

Below is the Companies response to the recommendations made by the Department.

1. The Company must review and revise internal control procedures to ensure compliance with cancellation and nonrenewal notice requirements of Act 68, Sections 2003, 2004 and 2006 [40 P.S. §991.2004 and 2006], so that the violations noted in the Report do not occur in the future.

The Company has conducted on-site internal training in order to reinforce the cancellation and non-renewal notification requirements to the insured. Policy termination, proper legal notice, and permitted reasons for cancellation and non-renewal action were included in this training in order to ensure compliance with Act 68, Sections 2003, 2004 and 2006 [40 P.S. §991.2004 and 2006].

2. 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.

The Company has conducted on-site internal training in order to reinforce the cancellation and non-renewal notification requirements to the insured. Policy termination, proper legal notice, and permitted reasons for cancellation and non-renewal action were included in this training in order to ensure compliance with Act 205, Section 5(a)(9) [40 P.S. §1171.5(a)(9)].

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

The Company has conducted on-site internal training in order to reinforce the cancellation and non-renewal notification requirements to the insured. Policy termination, proper legal notice, and permitted reasons for cancellation and non-renewal action were included in this training in order to ensure compliance with Section 506.1.

4. The Company must review Title 75, Pa. C.S. §1791 violations to insure that the notice of available benefits is given to the insured at the time of application as noted in the Report.

The Company strongly believes that it is the agent's responsibility to administer and retain the notice of available benefits forms in his office. Communication documents have been published and released to the Pennsylvania agency force which reinforced the necessity for agents to obtain and retain the signed notice of available benefits forms at the time of application to ensure compliance with Title 75, Pa. C.S. §1791.

5. 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.

The Company strongly believes that it is the agent's responsibility to provide the surcharge disclosure plan notice to the insured at the time of application. Communication documents have been published and released to the Pennsylvania agency force which reinforced the necessity for agents to provide the insured with the surcharge disclosure plan notice at time of application in order to ensure compliance with Title 75, Pa. C.S. §1793(b).

6. The Company must review Title 75, Pa. C.S. §1791.1(c) to ensure that violations regarding the requirement to provide notice to insureds stating that discounts are available for drivers, as noted in the Report, do not occur in the future.

The Company strongly believes that it is the agent's responsibility to administer and retain the notice of available discounts forms in his office. Communication documents have been published and released to the Pennsylvania agency force which reinforced the necessity for agents to obtain and retain the signed notice of available discounts forms at the time of application to ensure compliance with Title 75, Pa. C.S. §1791.1(c).

7. The Company must review Title 75, Pa. C.S. §1791.1(a) violations to ensure that an itemized invoice listing minimum coverages and premiums are provided at the time of application and every renewal thereafter as noted in the Report and do not occur in the future.

The Company has initiated a project in order to revise the current form to include the premiums associated with the basic coverages and create a form for the agency workforce to provide to the insured at the time of application. The form will also be sent to the insured at each renewal to ensure compliance with Title 75, Pa. C.S. §1791.1(a).

8. The Company must review Title 75, Pa. C.S. §1791.1 (b) violations to ensure that tort options are provided at the time of application as noted in the Report and do not occur in the future.

The Company has initiated a project to address this issue so that the notice of tort options is made available at the time of application to the insured in order to ensure compliance with Title 75, Pa. C.S. §1791.1(b).

9. 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. §1750(a)(1)(4) do not occur in the future.

The Company strongly believes that it is the agent's responsibility to administer and retain the election for tort options forms in his office. Communication documents have been published and released to the Pennsylvania agency force which reinforced the necessity for agents to obtain and retain the signed election of tort options forms at the time of application in order to ensure compliance with Title 75, Pa. C.S. §1705(a)(1)(4).

10. 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.

The Company strongly believes that it is the agent's responsibility to administer and retain the signed waiver of stacked limits for uninsured and underinsured motorist coverage forms in his office. Communication documents have been published and released to the Pennsylvania agency force which necessitate the importance of agents obtaining the signed waiver of stacked limits for uninsured and underinsured motorist coverage at the time of application in order to ensure compliance with Title 75, Pa. C.S. §1738(d)(1) and (2).

11. The Company must review Title 75, Pa. C.S. §1734 to ensure that the insured signs a request for lower limits of liability for uninsured and underinsured motorist coverage and a copy kept in the file as noted in the Report.

The Company strongly believes that it is the agent's responsibility to administer and retain the signed request for lower limits of liability for uninsured and underinsured motorist coverage. Communication documents have been published and released to the agency force which addressed the necessity of agents obtaining and retaining the signed request for lower limits of liability for uninsured and underinsured motorist coverage at the time of application in order to ensure compliance with Title 75, Pa. C.S. §1734.

12. The Company must revise underwriting procedures to ensure that the insured is aware that there is an additional cost for purchasing a lower deductible for collision coverage. This is to ensure that the violations noted under Title 75, Pa. C.S. §1792(b)(1) does not occur in the future.

The Company strongly believes that it is the agent's responsibility to administer and retain the signed request form(s) to purchase a lower deductible for collision coverage. Communication documents have been published and released to the Pennsylvania agency force which addressed the necessity of agents to provide the form(s) to the insured that advise there is an additional cost for purchasing a lower deductible for collision coverage and to maintain the signed form(s) in order to ensure compliance with Title 75, Pa. C.S. §1792(b)(1).

13. 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 Act 68, Sections 2005 (c) [40 P.S. §991.2005(c)] and Title 75, Pa. C.S. § 1799.3(d) do not occur in the future.

The Company currently has a form in place which notifies the insured of the surcharge and the amount associated with the surcharge. A scheduled fix is in place in order to ensure this notification will be sent to all insureds for which a policy surcharge exists to ensure compliance with Act 68, Section 2005(c) [40 P.S. §991.2005(c)] and Title 75, Pa. C.S. §1799.3(d).

14. 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.

The Company has implemented a project to address this issue and has sent refund checks or applied account credits to the insureds in order to ensure compliance with Act 246, Section 4(a) and (h) [40 P.S. §1184].

15. 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.

At the request of the Department, the Company has mailed refund checks or applied account credits to the insureds prior to the conclusion of the examination. The Company has also provided documentation of refunds or credits to the Department.

16. The Company must ensure that all applications and automobile renewal policies contain the required fraud warning notice.

The Company strongly believes that it is the agent's responsibility to administer and retain the insured's signed application which contains the fraud warning language. Communication documents have been published and released to the agency force which addressed the necessity of agents obtaining and retaining the signed application in order to ensure compliance. Also, a project has been initiated to address this issue so that the fraud warning language is provided to the insured at the time of renewal.

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.

The Company continues to reinforce claims best practices with all claims representatives. Follow up training in automobile first party medical claims was held and completed on October 23, 2009 with appropriate claims staff. Claims management conducts regular reviews of claims files and provides on-going training and counseling with claims representatives on an individual and group basis to assure compliance with Title 31, Pa code, Section 69.52(b) to ensure that first party medical bills are paid within 30 days.

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

The Company continues to reinforce claims best practices with all claims representatives. Follow up training in automobile first party medical claims was held and completed on October 23, 2009 with appropriate claims staff. Claims management conducts regular reviews of claims files and provides on-going training and counseling with claims representatives on an individual and group basis to assure compliance with Title 31, Pa code, Section 69.52(a) to ensure that a provider is notified in writing when referring bills for PRO review at the time of referral.

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

The Company continues to reinforce claims best practices with all claims representatives. Follow up training in automobile first party medical claims was held and completed on October 23, 2009 with appropriate claims staff. Claims management conducts regular reviews of claims files and provides on-going training and counseling with claims representatives on an individual and group basis to assure compliance with Title 31, Pa code, Section 69.52(e) to ensure that the insured is provided a copy of a PRO evaluation in a timely manner.

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

The Company has reviewed the claim referenced in the report, located the bill in question and paid the interest at 12% annum within 30 days from the issue of the Report. Proof of payment will be provided to the Department under separate cover.

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

Reference materials have been updated and training was provided to ensure that salvage certificates are obtained on owner retained vehicles pursuant to Title 75, Pa. C.S. 1161 (a) & (b). Training continues on an ongoing basis. In addition, the Company's claim handling system was updated to automatically upload certificates when salvage is disposed of by a salvage pool.

The data is available through our vendor's website at all times and access can be granted to allow further review. We provided the Department copies of the salvage certificates during the exam.

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

The Company continues to reinforce claims best practices with all claims representatives. Follow up training in automobile first party medical claims was held and completed on October 23 2009 with appropriate claims staff. Claims management conducts regular reviews of claims files and provides on-going training and counseling with claims representatives on an individual and group basis to assure compliance with Title 31, Pa code, Sections 69.42 and 69.43 to ensure provider bills are repriced for cost containment as required.

23. 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.

The Company implemented a programming change in June 2009 to provide a central repository for agent contracts, licenses, appointments, and renewal information. The program provides a greater assurance of compliance with respect to properly licensed and appointed producers by mitigating the potential risk of data inconsistency associated with data entry error. Additionally, the application provides increased license and appointment validation tools to support the ongoing auditing and reconciliation of agent licensing and appointment records.

24. The Company must revise and reissue their underwriting guidelines for use in Pennsylvania to ensure that the guidelines do not exclude applicants from being eligible to obtain insurance for reasons established in Section 2003 of Act 68 [40 P.S. §991.2003].

The Company has revised and reissued our underwriting guidelines to ensure compliance with Section 2003 of Act 68 [40 P.S. §991.2003].

As set forth in this letter, we have attempted to address the findings, recommendations and concerns outlined in the Market Conduct Examination Report in an expeditious and responsible manner. We would hope that there is not further action anticipated by the Department in connection with this Examination.

Once again, we wish to thank you and your exam team for your professionalism throughout the examination of our market conduct practices. We await the release of the final report. Please feel free to contact me if there is anything further you may need with regards to this report.

Very truly yours,

A handwritten signature in cursive script that reads "Burt Garavaglia" followed by a small circular mark.

Burt Garavaglia
Assistant Vice President
Regulatory Affairs