

**REPORT OF  
MARKET CONDUCT EXAMINATION  
OF**

**FIRST ACCEPTANCE INSURANCE  
COMPANY, INC.  
Grand Prairie, Texas**

**AS OF  
May 2, 2011**

**COMMONWEALTH OF PENNSYLVANIA**

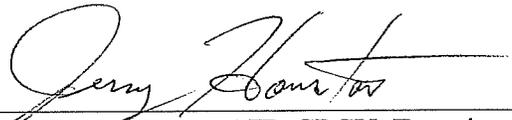


**INSURANCE DEPARTMENT  
MARKET CONDUCT DIVISION**

**Issued: June 22, 2011**

VERIFICATION

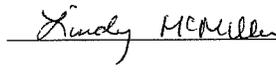
Having been duly sworn, I hereby verify that the statements made in the within document are true and correct to the best of my knowledge, information and belief. I understand that false statements made herein are subject to the penalties of 18 Pa. C.S. §4903 (relating to false swearing).

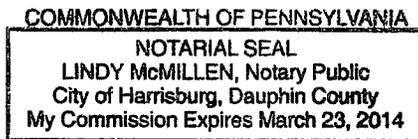


\_\_\_\_\_  
Jerry L. Houston, AIE, CPCU, Examiner-In-Charge

Sworn to and Subscribed Before me

This 7 Day of March , 2011

  
\_\_\_\_\_  
Notary Public



FIRST ACCEPTANCE INSURANCE COMPANY, INC.

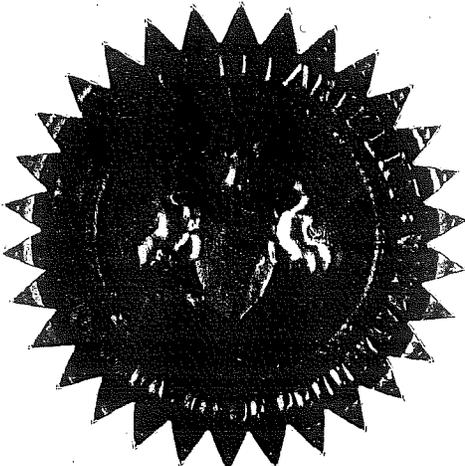
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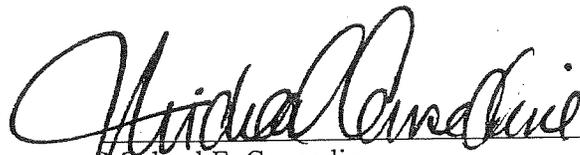
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BEFORE THE INSURANCE COMMISSIONER  
OF THE  
COMMONWEALTH OF PENNSYLVANIA

ORDER

AND NOW, this 27<sup>th</sup> day of April, 2011, 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.



  
Michael F. Consedine  
Insurance Commissioner



CONSENT ORDER

AND NOW, this 22<sup>nd</sup> day of June, 2011, 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 First Acceptance Insurance Company, and maintains its address at 3813 Green Hills Village Drive, Nashville, TN 37215.

- (b) The market conduct examination of Respondent was conducted by the Insurance Department covering the period from January 1, 2008 through December 31, 2008 and subsequently expanded to cover the period from July 1, 2005 through June 30, 2010.
  
- (c) On May 2, 2011, the Insurance Department issued a Market Conduct Examination Report to Respondent.
  
- (d) A response to the Examination Report was provided by Respondent on June 1, 2011.
  
- (e) The Examination Report notes violations of the following:
  - (i) Section 641.1A of Act 147 of 2002 (40 P.S. § 310.41a) prohibits any entity or the appointed agent of any entity from transacting the business of insurance through anyone acting without an insurance producer license;
  
  - (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) Section 903(a) of the Insurance Department Act (40 P.S. §323.3(a)), which requires every company subject to examination keep all records and documents relating to its business in such manner as may be required in order that the Department may verify whether the company has complied with the laws of this Commonwealth;
  
- (iv) 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;
  
- (v) Section 1725 of Act 1990-6, Title 75, Pa.C.S. § 1725, which requires every motor vehicle insurance policy to contain a notice whether the policy covers collision damage to rental vehicles, and any limitations on such coverage. The notice shall be written in clear, plain language and shall be printed on the first page of the policy in boldface capital letters;
  
- (vi) 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;

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

(viii) Section 1738(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;

(ix) 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;

- (x) 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;
- (xi) 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;
- (xii) 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;
- (xiii) 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;

(xiv) 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;

(xv) Section 2005(c) of Act 68 of 1998 (40 P.S. §991.2005), which requires all insurers to provide to insureds a detailed statement of the components of a premium and shall specifically show the amount of a 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;

(xvi) 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;

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

- (xviii) 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;
- (xix) Section 2006(3) of Act 68 of 1998 (40 P.S. § 991.2006), which requires an insurer to deliver or mail to the named insured a cancellation notice and state the specific reason or reasons of the insurer for cancellation;
- (xx) Title 31, Pennsylvania Code, Section 69.22(c), which requires the insurer, when an insured's first-party limits have been exhausted, to provide notice to the provider and the insured within 30 days of the receipt of the provider's bill;
- (xxi) 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;

- (xxii) Title 31, Pennsylvania Code, Section 146.6 states that if an investigation cannot be completed within 30 days, and every 45 days thereafter, the insurer shall provide the claimant with a reasonable written explanation for the delay and state when a decision on the claim may be expected;
- (xxiii) Title 31, Pennsylvania Code, Section 146.7(a)(1), which requires within 15 working days after receipt by the insurer of properly executed proofs of loss, the first-party claimant shall be advised of the acceptance or denial of the claim by the insurer;
- (xxiv) 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
- (xxv) 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 2005 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 146.6 and 146.7(a)(1) of the Unfair Insurance Practices Act, No. 205 (40 P.S. §§ 1171.5) are punishable by the following, under Section 9 of the Unfair Insurance Practices Act (40 P.S. § 1171.9):
  - (i) cease and desist from engaging in the prohibited activity;
  - (ii) suspension or revocation of the license(s) of Respondent.
  
- (f) In addition to any penalties imposed by the Commissioner for Respondent's violations of the Unfair Insurance Practices Act (40 P.S. §§ 1171.1 – 1171.5), the Commissioner may, under Sections 10 and 11 of the Unfair Insurance Practices Act (40 P.S. §§ 1171.10, 1171.11) file an action in which the Commonwealth Court may impose the following civil penalties:

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

ORDER

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

- (a) Respondent shall cease and desist from engaging in the activities described herein in the Findings of Fact and Conclusions of Law.
- (b) Respondent shall file an affidavit stating under oath that it will provide each of its directors, at the next scheduled directors meeting, a copy of the adopted Report and related Orders. Such affidavit shall be submitted within thirty (30) days of the date of this Order.
- (c) Respondent shall comply with all recommendations contained in the attached Report.

- (d) Respondent shall pay Ninety Thousand Dollars (\$90,000.00) 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.
- (f) After a period of 12 months from the date of this Order, Respondent shall be re-examined to verify corrective actions have been implemented.

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.

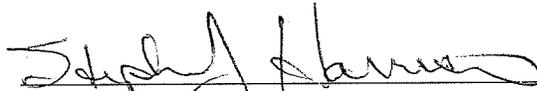
9. Respondent hereby expressly waives any relevant statute of limitations and application of the doctrine of laches for purposes of any enforcement of this Order.

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.

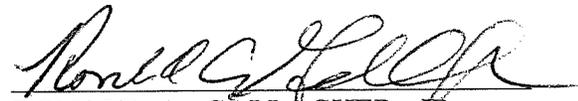
11. This Order shall be final upon execution by the Insurance Department. Only the Insurance Commissioner or a duly authorized delegee is authorized to bind the Insurance Department with respect to the settlement of the alleged violations of law

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

BY: FIRST ACCEPTANCE INSURANCE  
COMPANY, Respondent

  
\_\_\_\_\_  
President / Vice President CEO

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

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

## I. INTRODUCTION

The market conduct examination was conducted at First Acceptance Insurance Company, Inc.'s office located in Nashville, Tennessee, from December 28, 2009, through February 5, 2010. Subsequent review was conducted from August 30, 2010, through December 3, 2010, and additional follow-up was conducted in the office of the Pennsylvania Insurance Department.

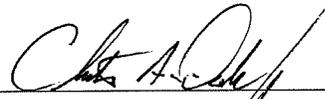
Pennsylvania Market Conduct Examination Reports generally note only those items to which the Department, after review, takes exception. However, the Examination Report may include management recommendations addressing areas of concern noted by the Department, but for which no statutory violation was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

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

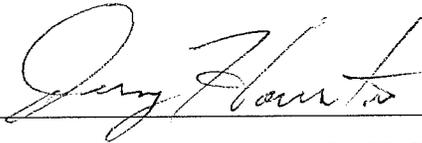
Throughout the course of the examination, Company officials were provided with status memoranda, which referenced specific policy numbers with citation to each section of law violated. Additional information was requested to clarify apparent violations. An exit conference was conducted with Company personnel to discuss the various types of violations identified during the examination and review written summaries provided on the violations found.

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

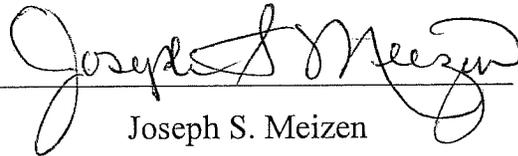
The undersigned participated in this examination and in preparation of this Report.



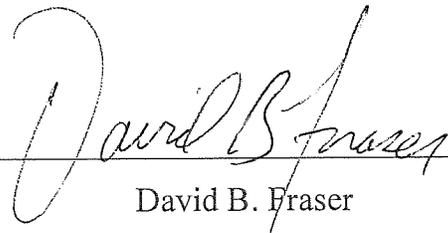
Chester A. Derk, Jr., AIE, HIA  
Market Conduct Division Chief



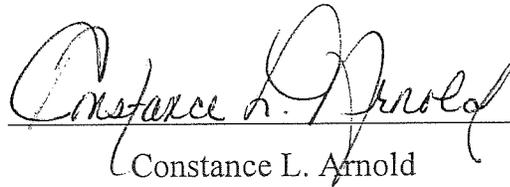
Jerry L. Houston, AIE, CPCU  
Market Conduct Examiner



Joseph S. Meizen  
Market Conduct Examiner



David B. Fraser  
Market Conduct Examiner



Constance L. Arnold  
Market Conduct Examiner

## II. SCOPE OF EXAMINATION

The Market Conduct Examination was conducted on First Acceptance Insurance Company, Inc., hereinafter referred to as “Company,” at their office located in Nashville, Tennessee. The examination was conducted pursuant to Sections 903 and 904 (40 P.S. §§323.3 and 323.4) of the Insurance Department Act and initially covered the experience period of January 1, 2008, through December 31, 2008. Subsequent to finalization of the Examination Report, the Department became aware of additional information. This resulted in the examination being re-opened and the experience period relative to rating, underwriting, marketing practices and licensing, being expanded to include the period of July 1, 2005, through June 30, 2010. The purpose of the examination was to determine the Company’s compliance with Pennsylvania insurance laws and regulations.

The examination focused on Company operations in the following areas:

1. Private Passenger Automobile
  - Underwriting – Appropriate and timely notices of nonrenewal, midterm cancellations, 60-day cancellations and rescissions.
  - Rating – Proper use of all classification and rating plans and procedures.
2. Claims
3. Forms
4. Advertising
5. Complaints

5. Complaints

6. Licensing

### III. COMPANY HISTORY AND LICENSING

First Acceptance Insurance Company, Inc. was incorporated in Tennessee on July 12, 1995, as US Auto Insurance Company. It commenced business on October 7, 1995. The current title was adopted on January 6, 2006.

#### LICENSING

First Acceptance Insurance Company, Inc.'s Certificate of Authority to write business in the Commonwealth was last issued on April 1, 2010. The Company is licensed in Alabama, Arizona, Arkansas, Colorado, Florida, Georgia, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Mississippi, Missouri, Nevada, New Mexico, Ohio, Oklahoma, Pennsylvania, South Carolina, Tennessee, Texas, Utah, Virginia and West Virginia. The Company's 2009 annual statement reflects Direct Written Premium for all lines of business in the Commonwealth of Pennsylvania as \$10,989,876. Premium volume related to the areas of this review were: Private Passenger Automobile Direct Written Premium was reported as Private Passenger Auto No-Fault (personal injury protection) \$1,340,660; Other Private Passenger Auto Liability \$6,075,124 and Private Passenger Auto Physical Damage \$3,574,092.

#### *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. The purpose of this review was to identify any inconsistencies which could be considered discriminatory, specifically prohibited by statute or regulation, or unusual in nature.

No violations were noted.

## V. UNDERWRITING

### A. Private Passenger Automobile

#### 1. 60-Day Cancellations

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

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

From the universe of 8,695 private passenger automobile files identified as being cancelled in the first 60 days of new business, 75 files were selected for review. All 75 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 2,805 private passenger automobile files identified as midterm cancellations, 100 files were selected for review. All 100 files were received and reviewed. The 3 violations noted were based on 3 files, resulting in an error ratio of 3%.

The following findings were made:

*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.

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

Requires that a cancellation notice be in a form acceptable to the Insurance Commissioner. The 2 files noted contained a cancellation notice that did not provide a mail date or a process date and is not acceptable.

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 39 private passenger automobile files identified as nonrenewals was selected for review. All 39 files were received and reviewed. The 53 violations noted were based on 37 files, resulting in an error ratio of 95%.

The following findings were made:

*15 Violations 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 15 files noted did not contain any evidence that a cancellation notice was sent to the insured.

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

Requires an insurer to deliver or mail to the named insured a nonrenewal notice and state the date, not less than sixty (60) days after the date of the mailing or delivery, on which cancellation shall become effective. When the policy is being cancelled for the nonpayment of premium, the effective date may be fifteen (15) days from the date of mailing or delivery. The Company failed to provide at least 60 days notice of nonrenewal for the 22 files noted.

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

Requires an insurer to deliver or mail to the named insured a nonrenewal notice and state the specific reason or reasons of the insurer for cancellation. The Company failed to provide a specific reason for nonrenewal for the 16 files noted.

## Expanded Experience Period Findings

### Year 2005

The Company did not report any nonrenewals.

### Year 2006

The universe of 2 private passenger automobile files identified as nonrenewals was selected for review. Both files were received and reviewed. The 4 violations noted were based on 2 files, resulting in an error ratio of 100%.

The following findings were made:

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

Requires an insurer to deliver or mail to the named insured a nonrenewal notice and state the date, not less than sixty (60) days after the date of the mailing or delivery, on which cancellation shall become effective. When the policy is being cancelled for the nonpayment of premium, the effective date may be fifteen (15) days from the date of mailing or delivery. The Company failed to provide at least 60 days notice of nonrenewal for the 2 files noted.

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

Requires an insurer to deliver or mail to the named insured a nonrenewal notice and state the specific reason or reasons of the insurer for cancellation. The Company failed to provide a specific reason for nonrenewal for the 2 files noted.

## Year 2007

The universe of 13 private passenger automobile files identified as nonrenewals was selected for review. All 13 files were received and reviewed. The 16 violations noted were based on 8 files, resulting in an error ratio of 62%.

The following findings were made:

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

Requires an insurer to deliver or mail to the named insured a nonrenewal notice and state the date, not less than sixty (60) days after the date of the mailing or delivery, on which cancellation shall become effective. When the policy is being cancelled for the nonpayment of premium, the effective date may be fifteen (15) days from the date of mailing or delivery. The Company failed to provide at least 60 days notice of nonrenewal for the 8 files noted.

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

Requires an insurer to deliver or mail to the named insured a nonrenewal notice and state the specific reason or reasons of the insurer for cancellation. The Company failed to provide a specific reason for nonrenewal for the 8 files noted.

## Year 2008

The universe of 20 private passenger automobile files identified as nonrenewals was selected for review. All 20 files were received and reviewed. The 23 violations noted were based on 13 files, resulting in an error ratio of 65%.

The following findings were made:

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

Requires an insurer to deliver or mail to the named insured a nonrenewal notice and state the date, not less than sixty (60) days after the date of the mailing or delivery, on which cancellation shall become effective. When the policy is being cancelled for the nonpayment of premium, the effective date may be fifteen (15) days from the date of mailing or delivery. The Company failed to provide at least 60 days notice of nonrenewal for the 13 files noted.

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

Requires an insurer to deliver or mail to the named insured a nonrenewal notice and state the specific reason or reasons of the insurer for cancellation. The Company failed to provide a specific reason for nonrenewal for the 10 files noted.

**Year 2009**

The universe of 20 private passenger automobile files identified as nonrenewals was selected for review. All 20 files were received and reviewed. The 21 violations noted were based on 17 files, resulting in an error ratio of 85%.

The following findings were made:

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

Requires an insurer to deliver or mail to the named insured a nonrenewal notice and state the date, not less than sixty (60)

days after the date of the mailing or delivery, on which cancellation shall become effective. When the policy is being cancelled for the nonpayment of premium, the effective date may be fifteen (15) days from the date of mailing or delivery. The Company failed to provide at least 60 days notice of nonrenewal for the 17 files noted.

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

Requires an insurer to deliver or mail to the named insured a nonrenewal notice and state the specific reason or reasons of the insurer for cancellation. The Company failed to provide a specific reason for nonrenewal for the 4 files noted.

**Year 2010**

The universe of 14 private passenger automobile files identified as nonrenewals was selected for review. All 14 files were received and reviewed. The 21 violations noted were based on 12 files, resulting in an error ratio of 86%.

The following findings were made:

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

Requires an insurer to deliver or mail to the named insured a nonrenewal notice and state the date, not less than sixty (60) days after the date of the mailing or delivery, on which cancellation shall become effective. When the policy is being cancelled for the nonpayment of premium, the effective date may be fifteen (15) days from the date of mailing or delivery. The Company failed to provide at least 60 days notice of nonrenewal for the 12 files noted.

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

Requires an insurer to deliver or mail to the named insured a nonrenewal notice and state the specific reason or reasons of the insurer for cancellation. The Company failed to provide a specific reason for nonrenewal for the 9 files noted.

4. Rescissions

A rescission is any policy, which was void *ab initio*.

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. The review also determined compliance with the rescission requirements established by the Supreme Court of Pennsylvania in *Erie Insurance Exchange v. Lake*.

The universe of one private passenger automobile file identified as a rescission was selected for review. The file was received and reviewed. No violations were noted.

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

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

## 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 12,463 private passenger automobile policies identified as new business without surcharges, 50 files were selected for review. All 50 files were received and reviewed. The 66,858 violations noted were based on the universe of 12,463 files, resulting in an error ratio of 100%.

The following findings were made:

#### *12,463 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 premium charge for the minimum mandated coverages at the time of application.

*12,463 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.

*12,463 Violations Title 75, Pa. C.S. §1725*

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

*12,463 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.

*12,463 Violations Title 75, Pa. C.S. §1705(a)(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 premium comparisons of full and limited tort on the

election of tort options form prior to policy issuance.

*3 Violations Title 75, Pa. C.S. §1738(d)(1)&(2)*

The named insured shall be informed that he may exercise the waiver of stacked limits for uninsured and underinsured motorist coverage by signing written rejection forms. The Company did not provide the signed rejection form of stacked limits for uninsured and underinsured motorists coverage for the 3 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 a signed rejection form for uninsured and underinsured motorist coverage for the file noted.

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

Requires every insurer, prior to the issuance of a private passenger motor vehicle liability insurance policy to provide each applicant an opportunity to elect a tort option. A policy may not be issued unless the applicant has been provided an opportunity to elect a tort option. The Company failed to provide a signed tort option selection form for the file noted.

*4,538 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 rate policies during the experience period in accordance with their filed and approved rating plan which involved 3 producers, resulting in undercharges of \$116,098.

### **Expanded Experience Period Findings**

#### **Year 2005**

From the universe of 1,518 private passenger automobile policies identified as new business without surcharges, 100 files were selected for review. All 100 files were received and reviewed. The 99 violations noted were based on 99 files, resulting in an error ratio of 99%.

The following findings were made:

*99 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 rate policies during the experience period in accordance with their filed and approved rating plan. Rate credits for homeowner and/or prior

insurance with no lapse were applied. The files did not contain any proof to substantiate the credits applied, which involved 26 producers, resulting in undercharges of \$14,179.

### Year 2006

From the universe of 9,007 private passenger automobile policies identified as new business without surcharges, 120 files were selected for review. All 120 files were received and reviewed. The 89 violations noted were based on 89 files, resulting in an error ratio of 74%.

The following findings were made:

*89 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 rate policies during the experience period in accordance with their filed and approved rating plan. Rate credits for homeowner and/or prior insurance with no lapse were applied. The files did not contain any proof to substantiate the credits applied, which involved 30 producers, resulting in undercharges of \$11,769.

### Year 2007

From the universe of 12,624 private passenger automobile policies identified as new business without surcharges, 125 files were selected for

review. All 125 files were received and reviewed. The 51 violations noted were based on 51 files, resulting in an error ratio of 41%.

The following findings were made:

*51 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 rate policies during the experience period in accordance with their filed and approved rating plan. Rate credits for homeowner, prior insurance with no lapse or driver improvement course were applied. The files did not contain any proof to substantiate the credits applied, which involved 18 producers, resulting in undercharges of \$7,894.

**Year 2008**

From the universe of 13,149 private passenger automobile policies identified as new business without surcharges, 130 files were selected for review. All 130 files were received and reviewed. The 36 violations noted were based on 36 files, resulting in an error ratio of 28%.

The following findings were made:

*36 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 rate policies during the experience period in accordance with their filed and approved rating plan. Rate credits for homeowner, prior insurance with no lapse or driver improvement course were applied. The files did not contain any proof to substantiate the credits applied, which involved 11 producers, resulting in undercharges of \$3,638.

**Year 2009**

From the universe of 11,714 private passenger automobile policies identified as new business without surcharges, 130 files were selected for review. All 130 files were received and reviewed. The 14 violations noted were based on 14 files, resulting in an error ratio of 11%.

The following findings were made:

*14 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 rate policies during the experience period in accordance with their filed and approved rating plan. Rate credits for homeowner, prior insurance with no lapse or driver improvement course were applied. The files did not contain any proof to substantiate the credits applied, which involved 7 producers, resulting in undercharges of \$441.

### **Year 2010**

From the universe of 4,963 private passenger automobile policies identified as new business without surcharges, 85 files were selected for review. All 85 files were received and reviewed. The 2 violations noted were based on 2 files, resulting in an error ratio of 2%.

The following findings were made:

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

Requires every insurer to file with the Insurance Commissioner every manual of classifications, rules and rates, every rating plan and every modification of any rating plan, which it proposes to use in the Commonwealth. Also, no insurer shall make or issue a contract or policy except in accordance with filings or rates, which are in effect at the time of issue. The Company failed to rate policies during the experience period in accordance with their filed and approved

rating plan. Rate credits for homeowner, prior insurance with no lapse or driver improvement course were applied. The files did not contain any proof to substantiate the credits applied, which involved 2 producers, resulting in undercharges of \$133.

Private Passenger Automobile - New Business With Surcharges

From the universe of 3,644 private passenger automobile policies identified as new business with surcharges by the Company, 75 files were selected for review. All 75 files were received and reviewed. The 22,978 violations noted were based on the universe of 3,644 files, resulting in an error ratio of 100%.

The following findings were made:

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

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

*3,644 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 premium charge for the minimum mandated coverages at the time of application.

*3,644 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.

*3,644 Violations Title 75, Pa. C.S. §1725*

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

boldface capital letters.

*3,644 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.

*3,644 Violations Title 75, Pa. C.S. §1705(a)(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 premium comparisons of full and limited tort on the election of tort options form prior to policy issuance.

*3,644 Violations Act 68, Section 2005(c) [40 P.S. §991.2005(c)]*

All insurers shall provide to insureds a detailed statement of the components of a premium and shall specifically show the amount of a 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.

*AND*

*Title 75, Pa. C.S. §1799.3(d)*

Requires insurers who make a determination to impose a surcharge, rate penalty or driver record point assignment, to

inform the insured of the determination and specify the manner in which the surcharge, rate penalty or driver record point assignment was made and clearly identify the amount of the surcharge or rate penalty on the premium notice for as long as the surcharge or rate penalty is in effect. The Company failed to provide the surcharge amount and the manner in which the surcharge, rate penalty or driver record point assignment was determined.

*1,108 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 rate policies during the experience period in accordance with their filed and approved rating plan which involved 3 producers, resulting in undercharges of \$38,205.

*3 Violations Title 75, Pa. C.S. §1738(d)(1)&(2)*

The named insured shall be informed that he may exercise the waiver of stacked limits for uninsured and underinsured motorist coverage by signing written rejection forms. The Company did not provide the signed rejection form of stacked limits for uninsured and underinsured motorists coverage for the 3 files noted.

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

Requires every insurer, prior to the issuance of a private passenger motor vehicle liability insurance policy to provide each applicant an opportunity to elect a tort option. A policy may not be issued unless the applicant has been provided an opportunity to elect a tort option. The Company failed to provide a signed tort option selection form for the file noted.

**Expanded Experience Period Findings**

**Year 2005**

The universe of 17 private passenger automobile policies identified as new business with surcharges by the Company was selected for review. All 17 files were received and reviewed. The 7 violations noted were based on 7 files, resulting in an error ratio of 41%.

The following findings were made:

*7 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 rate policies during the experience period in accordance with their filed and approved rating plan. Rate credits for homeowner and/or prior insurance with no lapse were applied. The files did not

contain any proof to substantiate the credits applied, which involved 5 producers, resulting in undercharges of \$1,014.

### Year 2006

From the universe of 2,266 private passenger automobile policies identified as new business with surcharges by the Company, 95 files were selected for review. All 95 files were received and reviewed. The 75 violations noted were based on 75 files, resulting in an error ratio of 79%.

The following findings were made:

*75 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 rate policies during the experience period in accordance with their filed and approved rating plan. Rate credits for homeowner and/or prior insurance with no lapse were applied. The files did not contain any proof to substantiate the credits applied, which involved 24 producers, resulting in undercharges of \$5,947.

### Year 2007

From the universe of 3,279 private passenger automobile policies identified as new business with surcharges by the Company, 95 files were selected for review. All 95 files were received and reviewed. The 34 violations noted

were based on 34 files, resulting in an error ratio of 36%.

The following findings were made:

*34 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 rate policies during the experience period in accordance with their filed and approved rating plan. Rate credits for homeowner, prior insurance with no lapse or driver improvement were applied. The files did not contain any proof to substantiate the credits applied, which involved 14 producers, resulting in undercharges of \$1,191.

**Year 2008**

From the universe of 3,808 private passenger automobile policies identified as new business with surcharges by the Company, 100 files were selected for review. All 100 files were received and reviewed. The 29 violations noted were based on 29 files, resulting in an error ratio of 29%.

The following findings were made:

*29 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 rate policies during the experience period in accordance with their filed and approved rating plan. Rate credits for homeowner, prior insurance with no lapse or driver improvement course were applied. The files did not contain any proof to substantiate the credits applied, which involved 9 producers, resulting in undercharges of \$3,931.

**Year 2009**

From the universe of 4,748 private passenger automobile policies identified as new business with surcharges by the Company, 110 files were selected for review. All 110 files were received and reviewed. The 7 violations noted were based on 7 files, resulting in an error ratio of 6%.

The following findings were made:

*7 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 rate policies during the experience period in accordance with their filed and approved rating plan. Rate credits for homeowner, prior insurance with no lapse or driver improvement course were applied. The files did not contain any proof to substantiate the credits applied, which involved 5 producers, resulting in undercharges of \$138.

**Year 2010**

From the universe of 2,714 private passenger automobile policies identified as new business with surcharges by the Company, 85 files were selected for review. All 85 files were received and reviewed. The 6 violations noted were based on 6 files, resulting in an error ratio of 7%.

The following findings were made:

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

Requires every insurer to file with the Insurance Commissioner every manual of classifications, rules and rates, every rating plan and every modification of any rating plan, which it proposes to use in the Commonwealth. Also, no insurer shall make or issue a contract or policy except in accordance with filings or rates, which are in effect at the time of issue. The Company failed to rate policies during the experience period in accordance with their filed and approved

rating plan. Rate credits for homeowner, prior insurance with no lapse or driver improvement course were applied. The files did not contain any proof to substantiate the credits applied, which involved 6 producers, resulting in undercharges of \$450.

## 2. Renewals

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

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

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

and approved rating plans.

Private Passenger Automobile – Renewals Without Surcharges

From the universe of 1,950 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 11,065 violations noted were based on the universe of 1,950, resulting in an error ratio of 100%.

The following findings were made:

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

On policies in which either uninsured or underinsured motorist coverage has been rejected, the policy renewals must contain notice in prominent type that the policy does not provide protection against damages caused by uninsured or underinsured motorists. The Company failed to provide on the renewal in prominent type that the policy does not provide protection against uninsured or underinsured motorist coverage for the 11 files noted.

*1,950 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 renewal.

*1,950 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 minimum mandated coverage levels and the premium charge for the minimum coverage.

*1,950 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 renewal.

*1,950 Violations Title 75, Pa. C.S. §1725*

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

*858 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 as required at renewal.

*1,950 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 required notice at the time of renewal.

*446 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 rate policies during the experience period in accordance with their filed and approved rating plan which involved 3 producers, resulting in undercharges of \$13,123.50.

### **Expanded Experience Period Findings**

#### **Year 2005**

From the universe of 40 private passenger automobile policies renewed without surcharges during the experience period, 22 files were selected for review. All 22 files were received and reviewed. No violations were noted.

#### **Year 2006**

From the universe of 1,518 private passenger automobile policies renewed without surcharges during the experience period, 105 files were selected for review. All 105 files were received and reviewed. The 104 violations noted were based on 104 files, resulting in an error ratio of 99%.

The following findings were made:

*104 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 rate policies during the experience period in accordance with their filed and approved rating plan. Rate credits for homeowner, prior insurance with no lapse were applied. The files did not contain any proof to substantiate the credits applied, which involved 30 producers, resulting in undercharges of \$18,373.

### Year 2007

From the universe of 4,244 private passenger automobile policies renewed without surcharges during the experience period, 125 files were selected for review. All 125 files were received and reviewed. The 91 violations noted were based on 91 files, resulting in an error ratio of 73%.

The following findings were made:

*5 Violations Insurance Department Act, Section 903(a) [40 P.S. §323.3]*  
Requires every company subject to examination to keep all books, records, accounts, papers, documents and any or all computer or other recordings relating to its business in such manner and for such time as may be required in order that the Department may readily verify whether the Company has complied with the laws of this Commonwealth. The Company failed to provide sufficient file information for review to determine compliance, for the 5 files noted.

*86 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 rate policies during the experience period in accordance with their filed and approved rating plan. Rate credits for homeowner, prior insurance with no lapse were applied. The files did not contain any proof to substantiate the credits applied, which involved 28 producers, resulting in undercharges of \$12,925.

**Year 2008**

From the universe of 5,864 private passenger automobile policies renewed without surcharges during the experience period, 135 files were selected for review. All 135 files were received and reviewed. The 98 violations noted were based on 98 files, resulting in an error ratio of 73%.

The following findings were made:

*95 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 rate policies during the experience period in accordance with their filed and approved rating plan. Rate credits for homeowner, prior insurance with no lapse or driver improvement were applied. The files did not contain any proof to substantiate the credits applied, which involved 23 producers, resulting in undercharges of \$9,116.

*3 Violations Insurance Department Act, Section 903(a) [40 P.S. §323.3]*  
Requires every company subject to examination to keep all books, records, accounts, papers, documents and any or all computer or other recordings relating to its business in such manner and for such time as may be required in order that the Department may readily verify whether the Company has complied with the laws of this Commonwealth. The Company failed to provide sufficient file information for review to determine compliance, for the 3 files noted.

### Year 2009

From the universe of 6,523 private passenger automobile policies renewed without surcharges during the experience period, 135 files were selected for review. All 135 files were received and reviewed. The 61 violations noted were based on 61 files, resulting in an error ratio of 45%.

The following findings were made:

*59 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 rate policies during the experience period in accordance with their filed and approved rating plan. Rate credits for homeowner, prior insurance with no lapse or driver improvement were applied. The files did not contain any proof to substantiate the credits applied, which involved 19 producers, resulting in undercharges of \$5,478.

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

Requires every company subject to examination to keep all books, records, accounts, papers, documents and any or all computer or other recordings relating to its business in such manner and for such time as may be required in order that the Department may readily verify whether the Company has complied with the laws of this Commonwealth. The Company failed to provide sufficient file information for review to determine compliance, for the 2 files noted.

**Year 2010**

From the universe of 3,230 private passenger automobile policies renewed without surcharges during the experience period, 95 files were selected for

review. All 95 files were received and reviewed. The 27 violations noted were based on 27 files, resulting in an error ratio of 28%.

The following findings were made:

*26 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 rate policies during the experience period in accordance with their filed and approved rating plan. Rate credits for homeowner, prior insurance with no lapse or driver improvement were applied. The files did not contain any proof to substantiate the credits applied, which involved 17 producers, resulting in undercharges of \$4,574.

*1 Violation Insurance Department Act, Section 903(a) [40 P.S. §323.3]*  
Requires every company subject to examination to keep all books, records, accounts, papers, documents and any or all computer or other recordings relating to its business in such manner and for such time as may be required in order that the Department may readily verify whether the Company has complied with the laws of this Commonwealth. The Company failed to provide sufficient file information for

review to determine compliance, for the file noted.

Private Passenger Automobile – Renewals With Surcharges

From the universe of 890 private passenger automobile policies renewed with surcharges during the experience period, 75 files were selected for review. All 75 files were received and reviewed. The 5,970 violations noted were based on the universe of 890 files, resulting in an error ratio of 100%.

The following findings were made:

*890 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 minimum mandated coverage levels and

the premium charge for the minimum coverage.

*890 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 renewal.

*890 Violations Title 75, Pa. C.S. §1725*

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

*404 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 as required at renewal.

*890 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 required notice at the time of renewal.

*890 Violations Act 68, Section 2005(c) [40 P.S. §991.2005(c)]*

All insurers shall provide to insureds a detailed statement of the components of a premium and shall specifically show the amount of a 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.

*AND*

*Title 75, Pa. C.S. §1799.3(d)*

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

*214 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 rate policies during the experience period in accordance with their filed and approved rating plan which involved 3 producers, resulting in undercharges of \$8,275.70.

*890 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 renewal.

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

On policies in which either uninsured or underinsured motorist coverage has been rejected, the policy renewals must contain notice in prominent type that the policy does not provide protection against damages caused by uninsured or underinsured motorists. The Company failed to provide on the renewal in prominent type that the policy does not provide protection against uninsured or underinsured motorist

coverage for the 12 files noted.

### Expanded Experience Period Findings

#### Year 2005

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

#### Year 2006

From the universe of 649 private passenger automobile policies renewed with surcharges during the experience period, 75 files were selected for review. All 75 files were received and reviewed. The 13 violations noted were based on 13 files, resulting in an error ratio of 17%.

The following findings were made:

*13 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 rate policies during the experience period in accordance with their filed and approved rating plan. Rate credits for homeowner and/or prior insurance with no lapse were applied. The files did not contain any proof to substantiate the credits applied, which

involved 13 producers, resulting in undercharges of \$2,033.

### Year 2007

From the universe of 1,950 private passenger automobile policies renewed with surcharges during the experience period, 91 files were selected for review. All 91 files were received and reviewed. The 13 violations noted were based on 13 files, resulting in an error ratio of 14%.

The following findings were made:

*13 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 rate policies during the experience period in accordance with their filed and approved rating plan. Rate credits for homeowner and/or prior insurance with no lapse were applied. The files did not contain any proof to substantiate the credits applied, which involved 7 producers, resulting in undercharges of \$2,026.

### Year 2008

From the universe of 2,699 private passenger automobile policies renewed with surcharges during the experience period, 100 files were selected for review. All 100 files were received and reviewed. The 6 violations noted

were based on 6 files, resulting in an error ratio of 6%.

The following findings were made:

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

Requires every insurer to file with the Insurance Commissioner every manual of classifications, rules and rates, every rating plan and every modification of any rating plan, which it proposes to use in the Commonwealth. Also, no insurer shall make or issue a contract or policy except in accordance with filings or rates, which are in effect at the time of issue. The Company failed to rate policies during the experience period in accordance with their filed and approved rating plan. Rate credits for homeowner and/or prior insurance with no lapse were applied. The files did not contain any proof to substantiate the credits applied, which involved 5 producers, resulting in undercharges of \$868.

**Year 2009**

From the universe of 3,191 private passenger automobile policies renewed with surcharges during the experience period, 100 files were selected for review. All 100 files were received and reviewed. The 2 violations noted were based on 2 files, resulting in an error ratio of 2%.

The following findings were made:

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

Requires every insurer to file with the Insurance Commissioner every manual of classifications, rules and rates, every rating plan and every modification of any rating plan, which it proposes to use in the Commonwealth. Also, no insurer shall make or issue a contract or policy except in accordance with filings or rates, which are in effect at the time of issue. The Company failed to rate policies during the experience period in accordance with their filed and approved rating plan. Rate credits for homeowner and/or prior insurance with no lapse were applied. The files did not contain any proof to substantiate the credits applied, which involved 2 producers, resulting in undercharges of \$162.

**Year 2010**

From the universe of 1,501 private passenger automobile policies renewed with surcharges during the experience period, 85 files were selected for review. All 85 files were received and reviewed. The 8 violations noted were based on 8 files, resulting in an error ratio of 9%.

The following findings were made:

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

Requires every insurer to file with the Insurance Commissioner every manual of classifications, rules and rates, every rating plan and every modification of any rating plan, which it proposes to use in the Commonwealth. Also,

no insurer shall make or issue a contract or policy except in accordance with filings or rates, which are in effect at the time of issue. The Company failed to rate policies during the experience period in accordance with their filed and approved rating plan. Rate credits for homeowner and/or prior insurance with no lapse were applied. The files did not contain any proof to substantiate the credits applied, which involved 5 producers, resulting in undercharges of \$702.

**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.

## 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

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 2,609 private passenger automobile property damage claims reported during the experience period, 25 files were selected for review. All 25 files were received and reviewed. The 2 violations noted were based on 2 files, resulting in an error ratio of 8%.

The following findings were made:

*1 Violation Title 31, Pa. Code, Section 146.6*

Every insurer shall complete investigation of a claim within 30 days after notification of the claim, unless such investigation cannot reasonably be completed within 30 days, and every 45 days thereafter, the insurer shall provide the claimant with a reasonable written explanation for the delay and state when a decision on the claim may be expected. The Company did not provide a timely status letter for the claim noted.

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

Within 15 working days after receipt by the insurer of properly executed proofs of loss, the first-party claimant shall be advised of the acceptance or denial of the claim by the insurer. The Company failed to provide a denial letter to the insured for the file noted.

**B. Automobile Comprehensive Claims**

From the universe of 397 private passenger automobile comprehensive claims reported during the experience period, 25 files were selected for review. All 25 files were received and reviewed. The 3 violations noted were based on 3 files, resulting in an error ratio of 12%.

The following findings were made:

*2 Violations Title 31, Pa. Code, Section 146.6*

Every insurer shall complete investigation of a claim within 30 days after notification of the claim, unless such investigation cannot reasonably be completed within 30 days,

and every 45 days thereafter, the insurer shall provide the claimant with a reasonable written explanation for the delay and state when a decision on the claim may be expected. The Company did not provide a timely status letter for the 2 claims noted.

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

Within 15 working days after receipt by the insurer of properly executed proofs of loss, the first-party claimant shall be advised of the acceptance or denial of the claim by the insurer. The Company failed to provide a denial letter to the insured for the file noted.

**C. Automobile Collision Claims**

From the universe of 1,167 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 298 private passenger automobile total loss claims reported during the experience period, 60 files were selected for review. All 60 files were received and reviewed. The 3 violations noted were based on 3 files, resulting in an error ratio of 5%.

The following findings were made:

*2 Violations Title 31, Pa. Code, Section 146.6*

Every insurer shall complete investigation of a claim within 30 days after notification of the claim, unless such

investigation cannot reasonably be completed within 30 days, and every 45 days thereafter, the insurer shall provide the claimant with a reasonable written explanation for the delay and state when a decision on the claim may be expected. The Company did not provide a timely status letter for the 2 claims noted.

*1 Violation Title 75, Pa. C.S. §1161(a)&(b) – Certificate of Salvage Required.*

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

(b) Application for certificate of salvage. – An owner who transfers a vehicle to be destroyed or dismantled, salvaged or recycled shall assign the certificate of title to the person to whom the vehicle is transferred. Except as provided in Section 1163, the transferee shall immediately present the assigned certificate of title to the Department or an authorized agent of the Department with an application for a certificate of salvage upon a form furnished and prescribed by the Department. An insurer as defined in Section 1702 to which title to a vehicle is assigned upon payment to the insured or claimant of the replacement value of a vehicle shall be regarded as a transferee under this subsection. The salvage certificate was missing from the file noted.

## **E. Automobile First Party Medical Claims**

From the universe of 510 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 10 violations noted were based on 10 files, resulting in an error ratio of 20%.

The following findings were made:

### *8 Violations Title 31, Pa. Code, Section 69.52(b)*

Requires an insurer to pay bills for care that are not referred to a Peer Review Organization within 30 days after the insurer receives sufficient documentation supporting the bill. The Company failed to pay medical bills within 30 days for the 8 files noted.

### *2 Violations Title 31, Pa. Code, Section 69.22(c)*

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

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

Although no claims were referred to a peer review organization by the Company during the experience period, the Company was asked to provide a copy of all peer review contracts in place during the experience period. A contract was 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:

### *2 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 failed to provide a fraud warning statement on a power of attorney claim form and a bill of sale claim form.

## IX. ADVERTISING

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

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

The Company provided 43 pieces of advertising in use during the experience period. The advertising materials provided included: calendars, yellow pages, mail solicitation and newsletters. 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 33 consumer complaints received during the experience period and provided all consumer complaint logs requested. All 33 complaint files were requested, received and reviewed.

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

No violations were noted.

The following synopsis reflects the nature of the 33 complaints that were reviewed.

• 15	Cancellation/Nonrenewal	45%
• 14	Claims	42%
• 3	Underwriting	10%
• 1	Miscellaneous	3%
<hr/>		<hr/>
33		100%

## XI. LICENSING

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

The following findings were made:

*2 Violations Insurance Department Act, No. 147, Section 671-A  
(40 P.S. §310.71)*

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

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

(1) Delineates the services to be provided; and

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

(c) Notification to Department – An insurer that appoints an insurance producer shall file with the Department a notice of appointment. The notice shall state for which companies within the

insurer's holding company system or group the appointment is made.

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

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

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

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

Andrew Lockhart  
Robert Meta

### **Expanded Experience Period Findings**

*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.

Annette Marie Kelley  
Nicole Velez

*4 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.

Lisa L. Oberdorf  
Jean Marie Miller  
Robert Dennis Meta  
Leslie Gramsky

## 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, Section 2006 [40 P.S. §991.2006], so that the violations noted in the Report do not occur in the future.
2. The Company must review Title 75, Pa. C.S. §1791.1(a) and (b) violations to ensure that an itemized invoice listing minimum coverages and tort options are provided at the time of application and every renewal thereafter as noted in the Report do not occur in the future.
3. 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.
4. The Company must review Act 246, Section 4(a) and (h) [40 P.S. §1184] and take appropriate measures to ensure that rating violations resulting from improperly applied discounts, as noted in the Report, do not occur in the future.
5. The Company must review Title 75, Pa. C.S. §1725 to ensure that a notice as to whether the policy covers collision damage to rental

vehicles, and any limitations on such coverage shall be printed on the first page of the policy in boldface capital letters.

6. The Company must revise its underwriting procedures to ensure that each applicant for private passenger automobile liability insurance is provided an opportunity to exercise the waiver for uninsured and underinsured motorist coverage forms are obtained and retained with the underwriting file. This is to ensure that the violation noted under Title 75, Pa. C.S. §1731(b) & (c) does not occur in the future.
7. The Company must review Title 75, Pa. C.S. 1793(b) to ensure that violations regarding the requirement to provide the insured with a surcharge disclosure plan at the time of renewal, as noted in the Report, does not occur in the future.
8. 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 the violation noted under Title 75, Pa. C.S. §1738(d)(1) and (2) does not occur in the future.
9. The Company must reinforce its internal underwriting controls to ensure that all records and documents are maintained in accordance with Insurance Department Act, Section 903(a) [40 P.S. §323.3], so that violations noted in the Report do not occur in the future.

10. 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.
11. 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. Premium comparisons of full and limited tort must be provided at the time of application. This is to ensure that violations noted under Title 75, Pa. C.S. §1705(a)(1)(4) do not occur in the future.
12. The Company should review and revise internal control procedures to ensure compliance with the claims handling requirements of Title 31, Pennsylvania Code, Chapter 146, Unfair Claims Settlement Practices so that the violations relating to status letters and denials, as noted in the Report, do not occur in the future.
13. 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.
14. The Company must review Title 31, Pa. Code, Section 69.22(c) with its claim staff to ensure that the insured is properly notified when first-party medical benefits have been exhausted.

15. The Company must ensure all producers are properly appointed, as required by Section 671-A [40 P.S. §310.71] of the Insurance Department Act No. 147, prior to accepting any business from any producer.
  
16. The Company must ensure that all claim forms contain the required fraud warning notice.

*XIII. COMPANY RESPONSE*



**VIA FEDEX and EMAIL**

May 31, 2001

Mr. Chester A. Derk, Jr.  
Market Conduct Division Chief  
Office of Market Regulation  
Bureau of Market Conduct  
Property and Casualty Division  
1227 Strawberry Square  
Harrisburg, Pennsylvania 17120

Re: Response to Report of Examination Warrant Number: 09-M30-016

Dear Mr. Derk:

Please accept this as the response of First Acceptance Insurance Company, Inc. ("First Acceptance" or "the Company"), to the Report of Examination ("the Report") which we received with your cover letter dated May 2, 2011. We have thoroughly reviewed the Report and thank the Department for its observations. Our response will address each of the issues cited by the examiners. We will clearly describe all corrective action taken to address the concerns raised during the examination and identified in the Report. Our response does not address areas examined for which no violations were found.

The Report identifies a significant number of violations in a small number of operational areas which are considered universal. These violations and First Acceptance's remedial efforts are addressed in detail below. The Report also identifies violations which are more limited in scope and number. As detailed below, First Acceptance considers those items isolated occurrences.

Notwithstanding the number of violations identified, we believe there is no indication of consumer harm or anticompetitive behavior in these findings. The vast majority of the identified violations fall into two categories, Underwriting and Rating. The fact that there were either few or no violations identified in the remainder of our operational areas (e.g., Claims) demonstrates our strong commitment to customer service.

We would also like to reiterate that many of the violations noted were identified and corrected by First Acceptance during the normal course of their internal audit efforts prior to being identified by the examiners. We accept the Report constructively in an effort to improve

our procedures and we are implementing the recommendations of the Department not already addressed to further strengthen our compliance efforts.

Following are our responses to the Recommendations in the order they appear in the Report under Section XII:

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

**Response:** First Acceptance previously responded to the Department on this issue and explained that the inability to provide a copy of the mailed notice was due to a programming issue. We were able, however, to provide the examiners with copies of the expiration notices and system screen prints which showed the date(s) of mailing.

First Acceptance began working on programming to resolve the issue of listing specific reasons on the Notices of Non-Renewal in 2008. The programming changes were placed into production on January 20, 2009, so that specific reasons are now used for cancellations and non-renewals. We continue to monitor these notices on a regular basis to ensure continued compliance with the Department's recommendations with respect to content and timing.

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

**Response:** First Acceptance identified this issue through its internal audit procedures and made the necessary corrections in March of 2009. Our current invoice lists the minimum coverages and tort options at the time of application and for every renewal thereafter. We will continue to monitor these forms on a regular basis to ensure compliance with the Department's recommendations.

3. 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.

**Response:** First Acceptance made the necessary corrections to the notices during the audit review in 2010 so that the required language would appear regarding discounts available for drivers. We will continue to monitor these notices on a regular basis to ensure compliance with the Department's recommendations.

4. The Company must review Act 246, Section 4(a) and (h) [40 P.S. §1184] and take appropriate measures to ensure that rating violations resulting from improperly applied discounts, as noted in the Report, do not occur in the future.

**Response:** First Acceptance disputes the Department's position with respect to alleged violations of Section 1184 of the Casualty and Surety Rate Regulatory Act (40 P.S. §1184) to the extent the violations are based on instances where Pennsylvania consumers were "undercharged" as the result of the application of discounts on policies of automobile insurance.

The stated legislative purpose of the Casualty and Surety Rate Regulatory Act is to "promote the public welfare by regulating insurance rates to the end that they shall not be excessive, inadequate or unfairly discriminatory . . ." 40 P.S. §1181 (emphasis supplied). In an "undercharge" situation, there is no excessive, inadequate or unfairly discriminatory rate charged to the insured, i.e., there is no harm to the Pennsylvania insurance consumer. To the contrary, where there is an "undercharge" to the consumer, it is the insurer, First Acceptance, that loses out, insofar as First Acceptance in those circumstances received less premium than it otherwise would have received if the discounts at issue had not been applied.

A violation of the Casualty and Surety Rate Regulatory Act is premised on a rate charge to the consumer that is in some manner excessive, inadequate or unfairly discriminatory. The "undercharges" to consumers resulting from the application of discounts identified by the Department by First Acceptance did not result in any harm to the consumers involved and cannot be said to have been in any manner excessive, inadequate or unfairly discriminatory. Stated simply, while there may have been technical violations of the Casualty and Surety Rate Regulatory Act, there were no violations of the spirit of the Casualty and Surety Rate Regulatory Act. The "undercharges" at issue simply did not and do not implicate the principal purpose of the Casualty and Surety Rate Regulatory Act, i.e., the protection of the insurance consumers from excessive rates. 40 P.S. §1181.

The conclusion that there is no violation of the Casualty and Surety Rate Regulatory Act where the insured is "undercharged" is consistent with the Department's own application of that statute ancillary to its enforcement function. Typically, Consent Orders citing violations of Section 1184 of the Casualty and Surety Rate Regulatory Act involve "overcharges", not "undercharges". See, e.g., In re Great American Spirit Ins. Co., Docket No. CO03-12-008 (January 12, 2003); In re Bankers Life & Cas. Co., Docket No. CO0401-038 (April 16, 2004).

Finally, the conclusion that that there is no violation of the Casualty and Surety Rate Regulatory Act where the insured is "undercharged" is fortified by other Pennsylvania statutes which are frequently used by insurance consumers as a

means of redress for alleged wrongs, and which are premised on some negative “loss” to the consumer, including Pennsylvania’s Unfair Trade Practices & Consumer Protection Law (“UTPCPL”). See, e.g., Hampton v. Geico Gen. Ins. Co., Civ. No. 09-327, 2010 U.S. Dist. LEXIS 131450 (W.D. Pa. Nov. 26, 2010). As the Court noted in Geico, the purpose of the UTPCPL is to protect consumers from unfair or deceptive business practices, and the Legislature:

Included in the UTPCPL a private right of action for any person who purchase . . . goods or services primarily for personal, family or household purposes and thereby suffers any ascertainable loss of money or property . . .

Id., \*49-50 (emphasis supplied).

For each of these reasons, the “undercharges” identified by the Department did not result in violations of the Casualty and Surety Rate Regulatory Act.

First Acceptance has fully investigated the areas of concern detailed in the audit and took several steps to ensure that discounts were applied properly and that no further rating violations could occur. First, all Pennsylvania producers have been trained on the use of discounts and the need to obtain proper documentary support. First Acceptance also instituted additional system checks so that discounts can be given only with underwriting review of supporting documentation and approval. Further, the violations identified in this item are not indicative of the Company’s commitment to compliance with Pennsylvania. Changes in management, training, and procedures have worked collectively to ensure that this problem does not arise in the future and that all policies will be issued in accordance with filed rates.

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

**Response:** First Acceptance has made the necessary corrections to the forms so that we are in compliance with Title 75, Pa. C.S. §1725. We continue to monitor these forms on a regular basis to ensure continued compliance with the Department’s recommendations.

6. The Company must revise its underwriting procedures to ensure that each applicant for private passenger automobile liability insurance is provided an opportunity to exercise the waiver for uninsured and underinsured motorist coverage forms are obtained and retained with the underwriting file. This is to ensure that the violation noted under Title 74, Pa. C.S. §1731(b) & (c) does not occur in the future.

**Response:** First Acceptance has always required its agents to obtain the required waivers for uninsured and underinsured motorist coverage. This is currently a manual process in our offices and requires the agent to print and then scan the executed form. In some isolated instances, the forms were either not executed or scanned into file. We have worked to strengthen our procedures so that all necessary forms are obtained and scanned for review. The importance of obtaining and retaining all executed forms has been emphasized with our Pennsylvania producers. First Acceptance believes its improvements in this regard will minimize these errors in the future.

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

**Response:** First Acceptance identified this problem and took corrective action in 2008. The requisite programming changes were made and First Acceptance currently provides the required notice to its policyholders. We continue to monitor these renewals on a regular basis to ensure continued compliance with the Department's recommendations.

8. 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 the violation noted under Title 75, Pa. C.S. §1738(d)(1) and (2) does not occur in the future.

**Response:** This violation is limited to only three (3) forms in an experience period of five years. The point of sale procedure in our offices is currently a manual process and requires the agent to print and then scan the executed forms. In some isolated instances, the forms were either not executed or scanned into file. These are isolated incidents and not reflective of our overall level of compliance. The importance of obtaining and retaining all executed forms has been emphasized with our Pennsylvania producers. We continually strive to strengthen our Underwriting procedures so that all necessary forms are obtained and scanned for review.

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

**Response:** This violation was limited to but a handful of files in a very large universe. The point of sale procedure in our offices is currently a manual process and requires the agent to print and then scan the executed forms. In some isolated instances, the forms were either not executed or scanned into file. These are isolated incidents and not reflective of our overall level of

compliance. We continually strive to strengthen our Underwriting procedures so that all necessary forms are obtained and scanned for review.

10. 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.

**Response:** Based on the Department's recommendations we are modifying our premium notices to clearly detail each surcharge and the total dollar amount for the surcharges or rate penalties. We also detail the surcharge on the application. Although we accept the Department's recommendations and are making the requisite form modifications, we can point to our consistent inclusion of the Surcharge Disclosure Statement in point of sale documents and transmission to the customers at renewal. Again, we believe this is further evidence of the Company's intent to comply with the Department's recommendations.

11. 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. Premium comparisons of full and limited tort must be provided at the time of application. This is to ensure that violations noted under Title 75, Pa. C.S. §1705(a)(1)(4) do not occur in the future.

**Response:** First Acceptance proactively identified this problem and took corrective action in March of 2009. Our current application now lists the premium amounts for the full and limited tort options. We will continue to monitor these forms on a regular basis to ensure compliance with the Department's recommendations.

12. The Company should review and revise internal control procedures to ensure compliance with the claims handling requirements of Title 31, Pennsylvania Code, Chapter 146, Unfair Claims Settlement Practices so that the violations relating to status letters and denials, as noted in the Report, do not occur in the future.

**Response:** First Acceptance believes that the small number of violations noted indicate that these are isolated occurrences that do not reflect our overall level of compliance. We will continue to reinforce training and file audits to ensure compliance with the Department's recommendations.

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

**Response:** First Acceptance believes that the small number of violations noted indicate that these are isolated occurrences that do not reflect our overall level of compliance. We will continue to reinforce training and file audits to ensure compliance with the Department's recommendations.

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

**Response:** First Acceptance believes that the small number of violations noted indicate that these are isolated occurrences that do not reflect our overall level of compliance. We will continue to reinforce training and file audits to ensure compliance with the Department's recommendations.

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

**Response:** First Acceptance has worked diligently over the last three years to improve its licensing and appointment processes. In mid-2008, the Company hired a Licensing Administrator in Nashville to handle all licensing, appointments, and continuing education for our employee agents and customer service representatives. Those functions had not previously been handled in a coordinated manner by one individual. We created and implemented an in-house software program that helps us maintain licensure and appointment information and alerts us to upcoming expirations on both licenses and CE's to avoid oversights such as these in the future. When a new producer is hired, our Licensing Administrator immediately receives an email notification and then takes the necessary steps to license and/or appoint the producer in all applicable states. This has been most beneficial in improving the company's records and processes in this regard, and the Company has not had any further issues in this regard since that time. The violations identified in the Report predate the Company's efforts described in this response.

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

**Response:** First Acceptance made the necessary changes to include the fraud warning notice on the required claim forms during the audit review in 2010. We will continue to monitor these forms and notices on a regular basis to ensure compliance with the Department's recommendations.

First Acceptance highly values its relationship with the Department and with our customers in Pennsylvania. We sincerely appreciate the high level of professionalism with which the Department's examiners conducted this examination and welcome this opportunity to respond to the Report.

Sincerely,

A handwritten signature in black ink that reads "Mark P. Reineke". The signature is written in a cursive, slightly slanted style.

Mark P. Reineke

cc: Sarannah McMurtry, Esq.  
Debra Carroll, Esq.