

**REPORT OF
MARKET CONDUCT EXAMINATION
OF**

FIRST PATRIOT INSURANCE COMPANY
Lititz, Pennsylvania

**AS OF
March 10, 2004**

COMMONWEALTH OF PENNSYLVANIA



**INSURANCE DEPARTMENT
MARKET CONDUCT DIVISION**

Issued: April 20, 2004

FIRST PATRIOT INSURANCE COMPANY

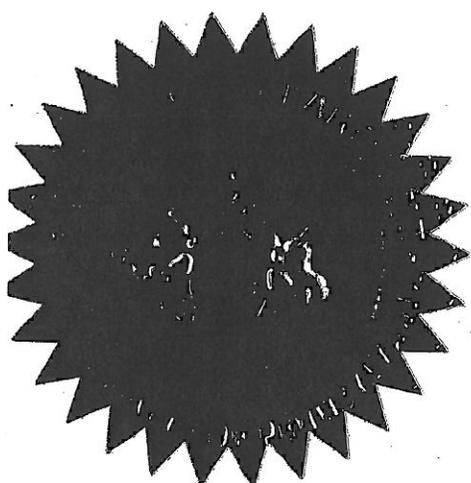
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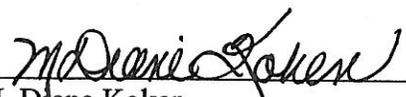
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BEFORE THE INSURANCE COMMISSIONER
OF THE
COMMONWEALTH OF PENNSYLVANIA

ORDER

AND NOW, this 29 day of April, 2002, in accordance with Section 905(c) of the Pennsylvania Insurance Department Act, Act of May 17, 1921, P.L. 789, as amended, P.S. § 323.5, I hereby designate Randolph L. Rohrbaugh, Deputy Insurance Commissioner, to consider and review all documents relating to the market conduct examination of any company and person who is the subject of a market conduct examination and to have all powers set forth in said statute including the power to enter an Order based on the review of said documents. This designation of authority shall continue in effect until otherwise terminated by a later Order of the Insurance Commissioner.





M. Diane Koken
Insurance Commissioner

BEFORE THE INSURANCE COMMISSIONER
OF THE
COMMONWEALTH OF PENNSYLVANIA

IN RE:	:	VIOLATIONS:
	:	
FIRST PATRIOT INSURANCE	:	Section 903(a) of the Insurance
COMPANY	:	Department Act, Act of May 17, 1921,
One Park Circle	:	P.L. 789, No. 285 (40 P.S. § 323.3)
Westfield Center, OH 44251	:	
	:	Sections 4(a) and 4(h) of the Act of
	:	June 11, 1947, P.L. 538, No. 246
	:	(40 P.S. § 1184)
	:	
	:	Act 1990-6, Sections 1799.3(a) and
	:	1799.3(d) (Title 75, Pa.C.S. §§ 1799.3)
	:	
	:	Sections 5(a)(9), 5(a)(11) and
	:	5(a)(13)(c)(1) of the Unfair Insurance
	:	Practices Act, Act of July 22, 1974,
	:	P.L. 589, No. 205 (40 P.S. §§ 1171.5)
	:	
	:	Sections 2003(a)(1), 2003(a)(13),
	:	2003(d) and 2005(c) of Act 68 of
	:	1998 (40 P.S. §§ 991.2003 and
	:	991.2005)
	:	
	:	Title 31, Pennsylvania Code, Section
	:	146.6
	:	
Respondent.	:	Docket No. MC04-03-033

CONSENT ORDER

AND NOW, this 20th day of April, 2004, this Order is hereby
issued by the Deputy Insurance Commissioner of the Commonwealth of

Pennsylvania pursuant to the statutes cited above and in disposition of the matter captioned above.

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

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

FINDINGS OF FACT

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

(a) Respondent is First Patriot Insurance Company and maintains its address at One Park Circle, Westfield Center, Ohio 44251.

(b) A market conduct examination of Respondent was conducted by the Insurance Department covering the period from July 1, 2002 through June 30, 2003.

- (c) On March 10, 2004, the Insurance Department issued a Market Conduct Examination Report to Respondent.
- (d) A response to the Examination Report was provided by Respondent on April 6, 2004.
- (e) The Examination Report notes violations of the following:
 - (i) Section 903(a) of the Insurance Department Act, No. 285 (40 P.S. § 323.3), which requires every company subject to examination keep all books, records, accounts, papers, documents and any or all computer or other recordings relating to its property, assets, business and affairs in such manner and for such time as may be required in order that the Department may verify whether the company has complied with the laws of this Commonwealth;
 - (ii) 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;

- (iii) Section 1799.3(a) of Act 1990-6, Title 75, Pa.C.S. § 1799.3(a), which prohibits insurers from applying a surcharge, rate penalty or driver record point assignment where, during the preceding three-year period, the aggregate cost to the insurer for any person injured or property damaged is determined to be less than \$950 in excess of any self-insured retention or deductible applicable to the named insured;
- (iv) Section 1799.3(d) of Act 1990-6, Title 75, Pa. C.S. § 1799.3(d), which 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 surcharge or rate penalty on the premium notice for as long as the surcharge or rate penalty is in effect;
- (v) Section 5(a)(9) of the Unfair Insurance Practices Act, No. 205 (40 P.S. § 1171.5), which prohibits canceling any policy of insurance covering owner-occupied private residential properties or personal property of individuals that has been in force for 60 days or more, or refusing to renew any such policy unless the policy was obtained through material misrepresentation, fraudulent statements, omissions or concealment of fact material to the acceptance of the risk or to the hazard assumed by the company; or there has been a substantial change or increase in hazard in the risk assumed by the company subsequent

to the date the policy was issued; or there is a substantial increase in hazard insured against by reason of willful or negligent acts or omissions by the insured; or the insured has failed to pay any premium when due or for any other reasons approved by the Commissioner;

- (vi) Section 5(a)(11) of the Unfair Insurance Practices Act, No. 205 (40 P.S. § 1171.5), which requires a complete record of all complaints received during the preceding four years;
- (vii) Section 5(a)(13)(c)(1) of the Unfair Insurance Practices Act, No. 205 (40 P.S. § 1171.5), which states nothing in subsection (a)(9) of this section shall apply if the insurer has manifested its willingness to renew by issuing or offering to issue a renewal policy, certificate or other evidence of renewal, including the mailing of a renewal premium notice to the insured not less than 30 days in advance of the expiration date of the policy;
- (viii) Section 2003(a)(1) of Act 68 of 1998 (40 P.S. § 991.2003), which prohibits an insurer from canceling or refusing to write or renew a policy of automobile insurance for any of the following reasons: Age;
- (ix) Section 2003(a)(13) of Act 68 of 1998 (40 P.S. § 991.2003), which prohibits an insurer from canceling or refusing to write or renew a policy of automobile insurance for any of the reasons specified in § 2003(a)(13);

- (x) Section 2003(d) of Act 68 of 1998 (40 P.S. § 991.2003), which states that an insurer may not cancel or refuse to renew existing policies written through the terminated agent without offering each such insured coverage on a direct basis or offering to refer the insured to one or more new agents in the event the terminated agent could not find a suitable insurer acceptable to the policyholder for such business;

- (xi) Section 2005(c) of Act 68 of 1998 (40 P.S. § 991.2005), which prohibits insurers from applying a surcharge, rate penalty or driver record point assignment where, during the preceding three-year period, the aggregate cost to the insurer for any person injured or property damaged is determined to be less than \$950 in excess of any self-insured retention or deductible applicable to the named insured; and

- (xii) 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.

CONCLUSIONS OF LAW

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

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

- (b) Respondent's violations of Sections 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.

- (c) Respondent's violations of Sections 5(a)(9), 5(a)(11) and 5(a)(13)(c)(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.

- (d) 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).
- (e) Respondent's violations of Section 2003(a)(1), 2003(a)(13), 2003(d) and 2005(c) 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).
- (g) Respondent's violations of Title 31, Pennsylvania Code, Section 146.6 are punishable under Sections 9, 10 and 11 of the Unfair Insurance Practices Act (40 P.S. §§ 1171.9, 1171.10 and 1171.11), as stated above.

ORDER

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

- (a) Respondent shall cease and desist from engaging in the activities described herein in the Findings of Fact and Conclusions of Law.
- (b) Respondent shall file an affidavit stating under oath that it will provide each of its directors, at the next scheduled directors meeting, a copy of the adopted Report and related Orders. Such affidavit shall be submitted within thirty (30) days of the date of this Order.
- (c) Respondent shall comply with all recommendations contained in the attached Report.
- (d) Respondent shall pay Seven Thousand, Five Hundred Dollars (\$7,500.00) to the Commonwealth of Pennsylvania in settlement of all violations contained in the Report.
- (e) Payment of this matter shall be made by check payable to the Commonwealth of Pennsylvania. Payment should be directed to Sharon L. Harbert, Administrative Assistant, Bureau of Enforcement, 1311 Strawberry Square,

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

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

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

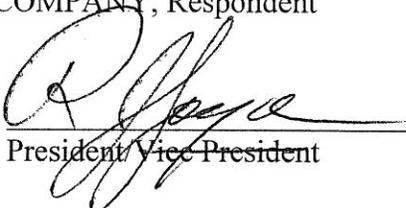
8. In any such enforcement proceeding, Respondent may contest whether a breach of the provisions of this Order has occurred but may not contest the Findings of Fact and Conclusions of Law contained herein.

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

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

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

BY: FIRST PATRIOT INSURANCE
COMPANY, Respondent



President/Vice President



Secretary/Treasurer



RANDOLPH L. ROHRBAUGH
Deputy Insurance Commissioner
Commonwealth of Pennsylvania

I. INTRODUCTION

The market conduct examination was conducted at First Patriot Insurance Company's office located in Lancaster, Pennsylvania, from October 8, 2003, through October 17, 2003. Subsequent review and follow-up was conducted in the office of the Pennsylvania Insurance Department.

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

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

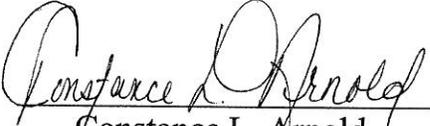
Throughout the course of the examination, Company officials were provided with status memoranda, which referenced specific policy numbers with citation to each section of law violated. Additional information was requested to clarify apparent violations. An exit conference was conducted with Company personnel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

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

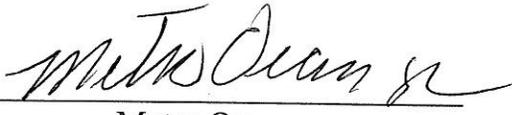
The undersigned participated in this examination and in preparation of this Report.



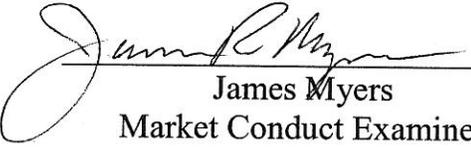
Chester A. Derk, Jr., AIE, HIA
Market Conduct Division Chief



Constance L. Arnold
Market Conduct Examiner



Metro Orange
Market Conduct Examiner



James Myers
Market Conduct Examiner

II. SCOPE OF EXAMINATION

The Market Conduct Examination was conducted on First Patriot Insurance Company, hereinafter referred to as "Company," at their office located in Lancaster, Pennsylvania. The examination was conducted pursuant to Sections 903 and 904 (40 P.S. §§323.3 and 323.4) of the Insurance Department Act and covered the experience period of July 1, 2002, through June 30, 2003, unless otherwise noted. The purpose of the examination was to determine the Company's compliance with Pennsylvania insurance laws and regulations.

The examination focused on Company operations in the following areas:

1. Personal Automobile
 - Underwriting - Appropriate and timely notices of nonrenewal and midterm cancellations.
 - Rating - Proper use of all classification and rating plans and procedures.

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

3. Workers' Compensation
 - Underwriting – Appropriate and timely notices of nonrenewals and midterm cancellations.

4. Claims

5. Forms

6. Advertising

7. Complaints

8. Licensing

III. COMPANY HISTORY AND LICENSING

Home Mutual Insurance Company of Pennsylvania originally was incorporated in Pennsylvania, as the Home Mutual Insurance Company of Lehigh County on December 14, 1882. After a merger with Monroe Mutual Insurance Company was completed in 1958, the name was changed to Home Mutual Insurance Company of Pennsylvania.

Later, Home Mutual was merged with Sunbury Mutual Insurance Company in 1963. Still later, Home Mutual was merged with Goschenhoppen Mutual Insurance Company in 1993. Goschenhoppen had been organized as Goschenhoppen Mutual Fire Insurance Company on March 3, 1843.

In 1997, Goschenhoppen-Home Mutual Insurance Company was demutualized and converted to a stock company under a conversion plan. The Company became a direct subsidiary of Old Guard Group, Inc. Effective November 1, 1997, Goschenhoppen-Home Mutual Insurance Company changed its name to First Patriot Insurance Company.

Old Guard Group, Inc. was itself purchased in 2000 by Ohio Farmers Insurance Company and First Patriot Insurance Company was divided up to become a direct subsidiary of Ohio Farmers Insurance Company.

LICENSING

First Patriot Insurance Company's Certificate of Authority to write business in the Commonwealth was issued on March 3, 1843. The Company is licensed in Pennsylvania. The Company's 2002 annual statement reflects Direct Written Premium for all lines of business in the Commonwealth of Pennsylvania as

\$4,765,566. Premium volume related to the areas of this review were:
Homeowners' Multiple Peril \$3,633,819; Workers; Compensation \$27,982;
Private Passenger Automobile Direct Written Premium was reported as Private
Passenger Auto No-Fault (personal injury protection) \$96,252; Private Passenger
Auto Liability \$528,057 and Private Passenger Auto Physical Damage \$431,045.

IV. UNDERWRITING PRACTICES AND PROCEDURES

As part of the examination, the Company was requested to supply manuals, underwriting guides, bulletins, directives or other forms of underwriting procedure communications for each line of business being reviewed. Underwriting guides were furnished for homeowners, dwelling fire and private passenger automobile and commercial lines. The purpose of this review was to identify any inconsistencies which could be considered discriminatory, specifically prohibited by statute or regulation, or unusual in nature.

The following findings were made:

2 Violations Act 68, Section 2003(a)(1) [40 P.S. §991.2003(a)(1)]

Discrimination Prohibited – (a) An insurer may not cancel or refuse to write or renew a policy of automobile insurance for any of the following reasons: Age. The Company’s guideline stated the following: “Driving Experience – Not licensed in the United States or Canada for the three years prior to date of application” and “Years Licensed – Principal Operators – 5 Years”.

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

Discrimination Prohibited – (a) An insurer may not cancel or refuse to write or renew a policy of automobile insurance for any of the reasons specified in 2003(a)(13). The Company’s guidelines stated the following: “Not at-fault accidents – 1 per operator, 2 total”.

During the experience period of the exam, the Company did not underwrite or issue any private passenger automobile policies.

V. UNDERWRITING

A. Private Passenger Automobile

1. Midterm Cancellations

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

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

From the universe of 104 private passenger automobile files identified as midterm cancellations by the Company, 50 files were selected for review. All 50 files selected were received and reviewed. No violations were noted.

2. Nonrenewals

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

The 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 623 private passenger automobile files identified as nonrenewals by the Company, 100 files were selected for review. All 100 files selected 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 68, Section 2003(d) [40 P.S. §991.2003(d)]

States that an insurer may not cancel or refuse to renew existing policies written through the terminated agent without offering each such insured coverage on a direct basis or offering to refer the insured to one or more new agents in the event the terminated agent could not find a suitable insurer acceptable to the policyholder for such business. The 6 files noted were the result of nonrenewal notices being issued for agency termination which did not provide the required information to the insured.

B. Private Passenger Automobile – Assigned Risk

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

C. Personal Lines Property

1. Midterm Cancellations

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

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

From the universe of 727 personal lines property policies, which were cancelled midterm during the experience period, 156 files were selected for review. The property policies consisted of homeowners and tenant homeowners. All 156 files requested were received and reviewed. No violations were noted.

2. Nonrenewals

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

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

From the universe of 6,925 personal lines property policies, which were nonrenewed during the experience period, 250 files were selected for

review. The property policies consisted of homeowners and tenant homeowners. All 250 files were received and reviewed. The 4 violations were based on 4 files, resulting in an error ratio of 2%.

The following findings were made:

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

Prohibits canceling any policy of insurance covering owner-occupied private residential properties or personal property of individuals that has been in force for sixty days or more or refusing to renew any such policy unless the policy was obtained through material misrepresentation, fraudulent statements, omissions or concealment of fact material to the acceptance of the risk or to the hazard assumed by the company; or there has been a substantial change or increase in hazard in the risk assumed by the company subsequent to the date the policy was issued; or there is a substantial increase in hazards insured against by reason of willful or negligent acts or omissions by the insured; or the insured has failed to pay any premium when due or for any other reasons approved by the Commissioner. The 4 violations noted were the result of an improper reason to nonrenew the policy.

D. Workers Compensation

1. Midterm Cancellations

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

The purpose of the review was to determine compliance with Insurance Company Law, Section 653 (40 P.S. §813), which prohibits Midterm cancellation with exceptions for nonpayment of premium or by request of the insured.

The universe of 4 workers' compensation policies, which were cancelled during the experience period, was selected for review. All 4 files selected were received and reviewed. No violations were noted.

2. Nonrenewals

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

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

The universe of 6 workers' compensation policies, which were nonrenewed during the experience period, was selected for review. All 6 files selected were received and reviewed. No violations were noted.

VI. RATING

A. Private Passenger Automobile

1. New Business

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

Private Passenger Automobile – New Business

The Company did not write any automobile new business during the experience period.

2. Renewals

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

The purpose of the review was to 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

The universe of 15 private passenger automobile policies identified as renewals without surcharges by the Company, was selected for review. All 15 files selected were received and reviewed. No violations were noted.

Private Passenger Automobile – Renewals With Surcharges

The universe of 3 private passenger automobile policies renewed during the experience period with surcharges, was selected for review. All 3 files selected were received and reviewed. The 4 violations noted were based on 3 files, resulting in an error ratio of 100%.

The following findings were made:

3 Violations Act 1990-6, Section 19, 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 3 files noted did not disclose a statement listing the dates of accidents and violations which resulted in a surcharge on the premium notice.

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

Requires every insurer to file with the Insurance Commissioner every manual of classifications, rules and rates, every rating plan and every modification of any rating plan, which it proposes to use in the Commonwealth. Also, no insurer shall make or issue a contract or policy except in accordance with filings or rates, which are in effect at the time of issue. The violation noted was the result of an incorrect surcharge applied to the policy, which resulted in an overcharge of \$473.

Private Passenger Automobile – Renewals In a Higher Plan

The universe of 2 automobile policies renewed in a higher plan, was selected for review. Both files were received and reviewed. The 3 violations were based on 2 files, resulting in an error ratio of 100%.

The following findings were made:

2 Violations Act 1990-6, Section 19, 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.

AND

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. The 2 violations noted were the result of the Company failing to provide a surcharge disclosure statement listing the dates of accidents and violations which resulted in a surcharge on the premium notice.

1 Violation Act 1990-6, Section 19, Title 75, Pa. C.S. §1799.3(a)

Prohibits insurers from applying a surcharge, rate penalty or driver record point assignment where, during the preceding three-year period, the aggregate cost to the insurer for any person injured or property damaged is determined to be less than \$950 in excess of any self insured retention or deductible applicable to the named insured. The Company applied a rate penalty when the aggregate cost was less than \$950, which resulted in an overcharge of \$47.

The following concern was noted:

Policies are being transferred to higher rating tiers on a date other than the anniversary rating date. This practice should be discontinued.

B. Private Passenger Automobile – Assigned Risk

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

C. Homeowners

1. New Business

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

The Company did not write any homeowner new business during the experience period.

2. Renewals

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

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

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

Homeowners – Renewals Without Surcharges

From the universe of 2,376 homeowner policies renewed without surcharges during the experience period, 100 files were selected for review. All 100 files selected were received and reviewed. No violations were noted.

VII. CLAIMS

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

The Claims review consisted of the following areas of review:

- A. Automobile Property Damage Claims
- B. Automobile Comprehensive Claims
- C. Automobile Collision Claims
- D. Automobile Total Loss Claims
- E. Automobile First Party Medical Claims
- F. Homeowner Claims

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

A. Automobile Property Damage Claims

The universe of 44 private passenger automobile property damage claims reported during the experience period was selected for review. All 44 files requested were received and reviewed. No violations were noted.

B. Automobile Comprehensive Claims

The universe of 18 private passenger automobile comprehensive claims reported during the experience period was selected for review. All 18 files requested were received and reviewed. No violations were noted.

C. Automobile Collision Claims

The universe of 59 private passenger automobile collision claims reported during the experience period was selected for review. All 59 files requested were received and reviewed. The 2 violations were based on 2 files, resulting in an error ratio of 3%.

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 2 violations noted were absent any evidence this requirement was complied with.

D. Automobile Total Loss Claims

The universe of 3 private passenger automobile total loss claims reported during the experience period was selected for review. All 3 files selected were received and reviewed. No violations were noted.

E. Automobile First Party Medical Claims

The universe of 22 private passenger automobile first party medical claims reported during the experience period was selected for review. All 22 files requested were received and reviewed. Although no claims were reported to a peer review organization within the experience period, the Company does have a signed contract in place with a peer review organization. No violations were noted.

F. Homeowner Claims

From the universe of 490 homeowner claims reported during the experience period, 50 files were selected for review. All 50 files selected were received and reviewed. The 7 violations were based on 7 files, resulting in an error ratio of 14%.

The following findings were made:

7 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 7 violations noted were absent any evidence this requirement was complied with.

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 Act 6 of 1990 [75 Pa. CS §1822] which requires all insurers to provide an insurance fraud notice on all applications for insurance, all claims forms and all renewals of coverage. No violations were noted.

IX. ADVERTISING

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

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

The Company did not report any advertising material during the experience period, as they no longer write new business in Pennsylvania.

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 37 consumer complaints received during the experience period. All 37 consumer complaints were selected. Of the 37 complaints selected, 14 files were received and reviewed.

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

The following findings were made:

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

Requires an insurer to maintain a complete record of all the complaints, which it has received during the preceding four years. This record shall indicate the total number of complaints, their classification by line of insurance, the nature of each complaint, the disposition of these complaints and time it took to process each complaint. The 4 violations noted were the result of the Company not maintaining a complete complaint record for the preceding four years.

29 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. Of the 29 violations noted, 23 complaint files were not produced by the Company and the remaining 6 violations were due to absent information relating to the date of receipt and response.

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

States that an insurer may not cancel or refuse to renew existing policies written through the terminated agent without offering each such insured coverage on a direct basis or offering to refer the insured to one or more new agents in the event the terminated agent could not find a suitable insurer acceptable to the policyholder for such business. The file noted was the result of a nonrenewal notice being issued for agency termination and did not provide the required information to the insured.

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

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

acceptance of the risk or to the hazard assumed by the company; or there has been a substantial change or increase in hazard in the risk assumed by the company subsequent to the date the policy was issued; or there is a substantial increase in hazards insured against by reason of willful or negligent acts or omissions by the insured; or the insured has failed to pay any premium when due or for any other reasons approved by the Commissioner. The 2 files contained an improper reason to nonrenew or cancel the policy.

2 Violations Act 205, Section 5(a)(13)(c)(1) [40 P.S. §1171.5(a)(13)(c)(1)]

Nothing in subsection (a)(9) of this section shall apply if the insurer has manifested its willingness to renew by issuing or offering to issue a renewal policy, certificate or other evidence of renewal, including the mailing of a renewal premium notice to the insured not less than thirty days in advance of the expiration date of the policy. The Company did not provide the renewal to the insureds at least thirty days prior to the expiration date of the policy.

The following synopsis reflects the nature of the 14 complaints that were reviewed.

• 13	Cancellation/Nonrenewal	93%
• 1	Renewal	7%
—		—
14		100%

XI. LICENSING

In order to determine compliance by the Company and its agency force with the licensing requirements applicable to Section 605 (40 P.S. §235) and Section 623 (40 P.S. §253) of the Insurance Department Act, the Company was requested to furnish a list of all active agents during the experience period and a listing of all agents terminated during the experience period. Underwriting files, applications, agency contracts and commission statements were also checked to verify proper licensing and appointment. No violations were noted.

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 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 claim violations noted in the Report do not occur in the future.
2. During the experience period of the exam, the Company did not underwrite or issue any private passenger automobile policies. If the Company resumes underwriting or issuing any private passenger automobile business in the future, the Company must revise their underwriting practices and procedures to ensure compliance with Act 68, Section 2003(a) [40 P.S. §991.2003(a)] and Act 205, Section 5(a)(4) [40 P.S. §1171.5(a)(4)].
3. The Company must review Act 205, Section 5(a)(9) [40 P.S. §1171.5] to ensure compliance with cancellation and nonrenewal notice requirements so that the violations noted in the Report do not occur in the future.
4. The Company must review and revise internal control procedures to ensure compliance with cancellation notice requirements of Act 68, Section 2003(d) [40 P.S. §991.2003(d)] so that the violations noted in the Report do not occur in the future.

5. The premium overcharges noted in the rating section of this report must be refunded to the insured and proof of such refunds must be provided to the Insurance Department within 30 days of the report issue date.
6. The Company must review and revise internal control procedures to ensure compliance with Act 1990-6, Section 19, Title 75, Pa. C.S. §1799.3(d) so that the violations noted in the Report do not occur in the future.
7. 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.
8. The Company must maintain a complete record of all complaints received during the preceding four years, to ensure compliance with Act 205, Section 5(a)(11) [40 P.S. §1171.5(a)(11)], so that violations noted in the Report do not occur in the future.

XIII. COMPANY RESPONSE



WESTFIELD
GROUPSM

April 5, 2004

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

Overnight Mail

RE: Examination No. 03-M08-015 – First Patriot Insurance Company

Dear Mr. Derk:

Pursuant to your letter of March 10, 2004 and Pennsylvania law, enclosed please find our response to the Department's Report of Examination of First Patriot Insurance Company, covering the period between July 1, 2002 and June 30, 2003. We have taken steps to resolve the issues raised by the examination and trust that our company's response will reflect that.

Thank you again for the diligence and professionalism with which all of the members of your staff pursued their work during the examination.

Sincerely,

John T. H. Batchelder
Corporate Secretary

JTHB/dkl
Enclosure

Sharing knowledge and building trust through insurance and banking.

One Park Circle • P.O. Box 5001 • Westfield Center, Ohio 44251-5001 • 1.800.243.0210 • fax 330.887.0840 • www.westfieldgrp.com

**FIRST PATRIOT INSURANCE COMPANY
EXAMINATION WARRANT NUMBER 03-M08-015
COMPANY RESPONSE**

IV. UNDERWRITING PRACTICES AND PROCEDURES

We acknowledge the Department's findings, but wish to advise the Department that prior to the audit (but after the actual period audited), we already had discovered and removed the underwriting guidelines cited and advised the underwriters of that removal.

V. UNDERWRITING

A. Private Passenger Automobile

2. Nonrenewals

We acknowledge the Department's findings but would report that we had discovered the procedural flaw ourselves during the actual period audited, corrected the error and advised the underwriters of the correction; the errors cited preceded those corrections, however.

C. Personal Lines Property

2. Nonrenewals

We acknowledge the Department's findings but would report that we had discovered the procedural flaw ourselves during the actual period audited, corrected the error and advised the underwriters of the correction; the errors cited preceded those corrections, however.

VI. RATING

A. Private Passenger Automobile

2. Renewals

Private Passenger Automobile - Renewals With Surcharges

Consistent with 75 Pennsylvania Statutes, Section 1799.3(d), our declarations page does advise the insured that a "surcharge for accident involvement amount is included in premiums" and the "total surcharge amount included in above premiums" is followed by the actual amount of the surcharge. While we did not list the specific accident or violation dates, the statute does not state that the surcharge must refer to specific accident or violation dates. The legislature could have made such specific requirements had they chosen to do so, but they did not. Accordingly, we believed and continue to believe that we were in compliance with the Statute, as written. That said, we have revised our procedures to include the information that the Department has asked us to add.

Additionally, for the violation cited of 40 Pennsylvania Statutes, Section 1184, we rereated the policy cited, removed the incorrect surcharge and issued a refund check to the insured; proof of that rewrite, correction and payment was submitted to the Department during the examination.

Private Passenger Automobile – Renewals in a Higher Plan

Consistent with 75 Pennsylvania Statutes, Section 1799.3(d), our declarations page does advise the insured that a “surcharge for accident involvement amount is included in premiums” and the “total surcharge amount included in above premiums” is followed by the actual amount of the surcharge. While we did not list the specific accident or violation dates, the statute does not state that the surcharge must refer to specific accident or violation dates. The legislature could have made such specific requirements had they chosen to do so, but they did not. Accordingly, we believed and continue to believe that we were in compliance with the Statute, as written. That said, we have revised our procedures to include the information that the Department has asked us to add.

Additionally, for the violation cited of 75 Pennsylvania Statutes, Section 1799.3(a), we rereated the policy cited, removed the incorrect surcharge and issued a refund check to the insured; proof of that rewrite, correction and payment was submitted to the Department during the examination.

Finally, we already had addressed the Department’s concern about transferring policies to a rating tier on a date other than the anniversary rating date, which had arisen because of the existence of six-month term policies. That practice has been discontinued.

VII. CLAIMS

C. Automobile Collision Claims

While we acknowledge the Department’s findings, we would like to reassure the Department that we were in telephone communication with the insureds in both of the two files cited and were actively working with them toward a resolution of their claims at the time of the expiration of the deadline. We have taken this opportunity to again advise the adjusters involved of the requirements of this law and the necessity for full and consistent compliance with it.

F. Homeowner Claims

We acknowledge the Department’s findings and have taken the opportunity to again advise the adjusters involved of the requirements of this law and the necessity for full and consistent compliance with it.

X. CONSUMER COMPLAINTS

While we acknowledge the Department's findings in this area, we would like to provide some explanation. In transitioning, after the purchase of First Patriot Insurance Company by Ohio Farmers Insurance Company, those who took over the complaint handling on the underwriting side were not aware of the formal requirements for complaint recordkeeping. While they handled and resolved all complaints in a timely and fair manner, they did not always formalize the steps taken. As a result of this audit, the people now handling complaints on the underwriting side have been made aware of the formal requirements under Pennsylvania law and regulations, and will document and keep those formal records, consistent with the law and regulations. Additionally, we have advised the various Pennsylvania Insurance Department Complaint Handlers to refer all of First Patriot's complaints to the individual responsible at First Patriot Insurance Company, providing e-mail, telephone and fax contact information, to ensure full compliance with the laws and regulations.

XII. RECOMMENDATIONS

1. First Patriot Insurance Company agrees with the first recommendation and is issuing a bulletin to all Pennsylvania adjusters regarding the necessity for compliance with unfair claims settlement practices, and the regional executive has followed up with the Pennsylvania claims adjusters, in person, to emphasize that.
2. First Patriot Insurance Company acknowledges recommendation 2. Currently, the Company has no intention of resuming underwriting or issuing any private passenger automobile insurance in the future; indeed Westfield Group intends to continue to depopulate First Patriot with the ultimate goal of merging it into one of our other companies or dissolving it.
3. The Company acknowledges recommendation 3 and the regional executive is issuing a bulletin to all affected personnel regarding the necessity for compliance with cancellation and non-renewal notice requirements and has followed up with the underwriters at in person meetings, as well.
4. The Company acknowledges recommendation 4 and the regional executive is issuing a bulletin to all affected personnel regarding the necessity for compliance with cancellation and non-renewal notice requirements and has followed up with the underwriters at in person meetings, as well.
5. All premium overcharges have been refunded already, and proof has been provided to the Department of those refunds.
6. The Company acknowledges recommendation 6 and the regional executive is issuing a bulletin to all adjusters regarding the requirements of that law and the necessity for full compliance with it, as well as following up at in person meetings with the individuals involved.

7. The Company acknowledges recommendation 7. The regional executive is issuing a bulletin to all affected personnel regarding the necessity for compliance with cancellation and non-renewal notice requirements and has followed up with the underwriters at in person meetings, as well.
8. The Company acknowledges recommendation 8. The head of the Compliance Department has sent a bulletin to the individuals affected regarding the keeping of adequate records on the handling of complaints, consistent with Pennsylvania law and regulations.

Again, we would thank the Department for the courtesy and professionalism extended to our employees throughout the examination process, and we would thank the Department for the opportunity to respond to its findings.