

**REPORT OF
MARKET CONDUCT EXAMINATION
OF**

**FOREMOST INSURANCE COMPANY GRAND
RAPIDS, MICHIGAN**
Caledonia, Michigan

**AS OF
July 29, 2009**

COMMONWEALTH OF PENNSYLVANIA

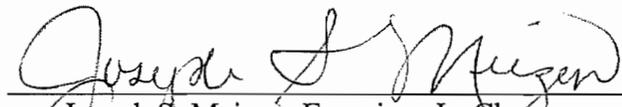


**INSURANCE DEPARTMENT
MARKET CONDUCT DIVISION**

Issued: September 18, 2009

VERIFICATION

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



Joseph S. Meizen, Examiner-In-Charge

Sworn to and Subscribed Before me

This 13 Day of April, 2009



Notary Public

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

FOREMOST INSURANCE COMPANY GRAND RAPIDS, MICHIGAN

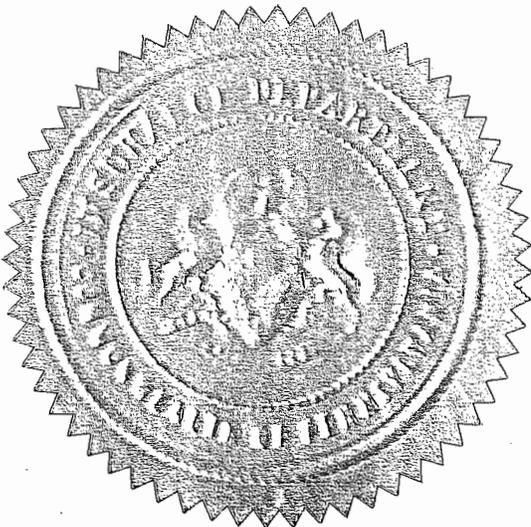
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BEFORE THE INSURANCE COMMISSIONER
OF THE
COMMONWEALTH OF PENNSYLVANIA

ORDER

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





Joel S. Ario
Insurance Commissioner

CONSENT ORDER

AND NOW, this 18th day of September, 2009, this Order is hereby issued by the Insurance Department of the Commonwealth of Pennsylvania pursuant to the statutes cited above and in disposition of the matter captioned above.

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

2. Respondent hereby waives all rights to a formal administrative hearing in this matter, and agrees that this Consent Order shall have the full force and effect of an order duly entered in accordance with the adjudicatory procedures set forth in the Administrative Agency Law, supra, or other applicable law. The Respondent neither admits nor denies the findings of fault contained herein.

FINDINGS OF FACT

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

- (a) Respondent is Foremost Insurance Company Grand Rapids, Michigan, and maintains its address at 5600 Beech Tree Lane, Caledonia, MI 49316.

(b) A market conduct examination of Respondent was conducted by the Insurance Department covering the experience periods from July 1, 2007 through June 30, 2008.

(c) On July 29, 2009, the Insurance Department issued a Market Conduct Examination Report to Respondent.

(d) A response to the Examination Report was provided by Respondent on August 28, 2009.

(e) The Examination Report notes violations of the following:

(i) Section 641.1-A of Act 147 of 2002 prohibits any entity or the appointed agent of any entity from transacting the business of insurance through anyone acting without an insurance producer license (40 P.S. § 310.41a);

(ii) Section 671-A of Act 147 of 2002 (40 P.S. § 310.71), which prohibits producers from transacting business within this Commonwealth without written appointment as required by the Act;

(iii) Sections 1705(a)(1) & (4) of Act 1990-6, Title 75, Pa.C.S. § 1705, which requires every insurer, prior to the issuance of a private passenger motor vehicle liability insurance policy to provide each applicant an opportunity to

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

- (iv) Section 1731.1(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;
- (v) Section 1738(c)(d)(1) and (2) of Act 1990-6, Title 75, Pa.C.S. § 1738, which requires the named insured to be informed that he may exercise the waiver of stacked limits for uninsured and underinsured motorist coverage by signing written rejection forms;
- (vi) Section 1791.1(a) of Act 1990-6, Title 75, Pa.C.S. § 1791, which requires that at the time of application for original coverage and every renewal thereafter, an insurer must provide to an insured an itemized invoice listing the minimum motor vehicle insurance coverage levels mandated by the commonwealth and the premium charge for the insured to purchase the minimum mandated coverages. The invoice must contain the following notice in print of no less than ten-point type: “The laws of the Commonwealth of Pennsylvania, as enacted by the General Assembly, only

require you to purchase liability and first-party medical benefit coverages. Any additional coverage 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;

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

- (viii) 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;

- (ix) Section 1799.3(f) of Act 1990-6, Title 75, Pa.C.S. §1799, which states if requested by the applicant, an agent for an insurer shall submit an application for automobile insurance to the insurer or provide the applicant written notice of the reasons for refusal to write on a form supplied by the insurer and approved by the Commissioner. An applicant receiving a notice of reasons under this subsection may obtain review by the Commissioner pursuant to the Automobile Insurance Policy Act. If either the applicant or insurer is aggrieved by the

Commissioner's review, the Commissioner may, in his discretion and for cause shown, hold a hearing pursuant to the Automobile Insurance Policy Act. No insurer shall take any action, overt or otherwise, against any agent or broker for complying with this subsection;

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

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

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

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

(4) The policy was obtained through fraudulent statements, omissions or concealment of fact material to the acceptance of the risk or to the hazard assumed by the company.

(5) The insured has failed to pay a premium when due, whether the premium is payable directly to the company or its agents or indirectly

under a premium finance plan or extension of credit.

(6) The insured has requested cancellation.

(7) Material failure to comply with policy terms, conditions or contractual duties.

(8) Other reasons that the Insurance Commissioner may approve.

(xi) Section 3(a)(2) of Act 86 (40 P.S. § 3403), which requires that a nonrenewal notice be forwarded directly to the named insured or insureds at least 60 days in advance of the effective date of termination;

(xii) 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;

(xiii) Section 2008(b) of Act 68 of 1998 (40 P.S. § 991.2008), which requires any applicant for a policy who is refused such policy by an insurer shall be given a written notice of refusal to write by the insurer. Such notice shall state the specific reason or reasons of the insurer for refusal to write a policy for the applicant. Within 30 days of the receipt of such reasons, the applicant may

request in writing to the Commissioner that he review the action of the insurer in refusing to write a policy for the applicant;

(xiv) Section 5(a)(7)(iii) of Act 205 (40 P.S. § 1171.5), which defines and prohibits unfair methods of competition as making or permitting any unfair discrimination between individuals of the same class and essentially the same hazard with regard to underwriting standards and practices or eligibility requirements by reason of race, religion, nationality or ethnic group, age, sex, family size, occupation, place of residence or marital status;

(xv) Section 5(a)(9) of Act 205 (40 P.S. §1171.5(a)(9)), which defines an unfair act or practice as: (9) cancelling any policy of insurance covering owner-occupied private residential properties or personal property of individuals that has been in force for 60 days or more or refusing to renew any such policy unless the policy was obtained through material misrepresentation, fraudulent statements, omissions or concealment of fact material to the acceptance of the risk or to the hazard assumed by the company; or there has been a substantial change or increase in hazard in the risk assumed by the company subsequent to the date the policy was issued; or there is a substantial increase in hazards insured against by reason of willful or negligent acts or omissions by the insured; or the insured has failed to pay any premium whether such premium is payable directly to the company or

its agent or indirectly under any premium finance plan or extension of credit; or for any other reasons approved by the Commissioner pursuant to rules and regulations promulgated by the Commissioner. No cancellation or refusal to renew by any person shall be effective unless a written notice of the cancellation or refusal to renew is received by the insured whether at the address shown in the policy or at a forwarding address;

- (xvi) 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;
- (xvii) 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;
- (xviii) Title 18, Pennsylvania Consolidated Statutes, Section 4117(k), which requires all applications for insurance and all claim forms shall contain or have attached thereto the following notice: "Any person who knowingly and with intent to defraud any insurance company or other person files an application for insurance or statement of claim containing any materially false information or conceals for the purpose of misleading, information

concerning any fact material thereto commits a fraudulent insurance act, which is a crime and subjects such person to criminal and civil penalties”; and

- (xix) 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 641.1-A and 671-A of Act 147 of 2002 are punishable by the following, under Section 691-A of Act 147 of 2002 (40 P.S. § 310.91):

- (i) suspension, revocation or refusal to issue the certificate of qualification or license;
 - (ii) imposition of a civil penalty not to exceed five thousand dollars (\$5,000.00) for every violation of the Act;
 - (iii) an order to cease and desist; and
 - (iv) any other conditions as the Commissioner deems appropriate.
- (c) Respondent's violations of Act 86, Sections 2 and 3 (40 P.S. §§ 3402 and 3403) are punishable under Section 8 (40 P.S. § 3408) of this act by one or more of the following causes of action:
- (i) order that the insurer cease and desist from the violation.
 - (ii) impose a fine or not more than \$5,000 for each violation.
- (d) Respondent's violations of Sections 4(a) and (h) of the Casualty and Surety Rate Regulatory Act, No. 246 (40 P.S. § 1184) are punishable under Section 16 of the Casualty and Surety Rate Regulatory Act:
- (i) imposition of a civil penalty not to exceed \$50 for each violation or not more than \$500 for each such wilful violation;
 - (ii) suspension of the license of any insurer which fails to comply with an Order of the Commissioner within the time limited by such Order, or any extension thereof which the Commissioner may grant.

(e) Respondent's violations of Section 2008 of Act 68 of 1998 are punishable by the following, under Section 2013 of the Act (40 P.S. § 991.2013): Any individual or insurer who violates any of the provisions of this article may be sentenced to pay a fine not to exceed five thousand dollars (\$5,000.00).

(f) Respondent's violations of Sections 5(a)(7) and 5(a)(9) of the Unfair Insurance Practices Act, No. 205 (40 P.S. §§ 1171.5) are punishable by the following, under Section 9 of the Unfair Insurance Practices Act (40 P.S. § 1171.9):

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

(g) In addition to any penalties imposed by the Commissioner for Respondent's violations of the Unfair Insurance Practices Act (40 P.S. §§ 1171.1 – 1171.5), the Commissioner may, under Sections 10 and 11 of the Unfair Insurance Practices Act (40 P.S. §§ 1171.10, 1171.11) file an action in which the Commonwealth Court may impose the following civil penalties:

- (i) for each method of competition, act or practice which the company knew or should have known was in violation of the law, a penalty of not more than five thousand dollars (\$5,000.00);

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

- (h) Respondent's violations of Title 31, Pennsylvania Code, Sections 146.6 and 146.7(a)(1) are punishable under Sections 9, 10 and 11 of the Unfair Insurance Practices Act (40 P.S. §§ 1171.9, 1171.10 and 1171.11), as described above.

ORDER

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

- (a) Respondent shall cease and desist from engaging in the activities described herein in the Findings of Fact and Conclusions of Law.

- (b) Respondent shall file an affidavit stating under oath that it will provide each of its directors, at the next scheduled directors meeting, a copy of the adopted Report and related Orders. Such affidavit shall be submitted within thirty (30) days of the date of this Order.

- (c) Respondent shall comply with all recommendations contained in the attached Report.

(d) Respondent shall pay Fifty Thousand Dollars (\$50,000.00) to the Commonwealth of Pennsylvania in settlement of all violations contained in the Report.

(e) Payment of this matter shall be made by check payable to the Commonwealth of Pennsylvania. Payment should be directed to Sharon L. Fraser, Bureau of Market Conduct, 1227 Strawberry Square, Harrisburg, Pennsylvania 17120. Payment must be made no later than thirty (30) days after the date of this Order.

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

7. Alternatively, in the event the Insurance Department finds that there has been a breach of any of the provisions of this Order, the Department may declare this Order to be null and void and, thereupon, reopen the entire matter for appropriate

action pursuant to the Administrative Agency Law, supra, or other relevant provision of law.

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

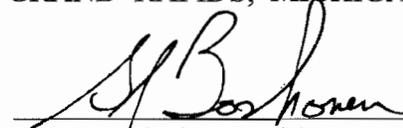
9. Respondent hereby expressly waives any relevant statute of limitations and application of the doctrine of laches for purposes of any enforcement of this Order.

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

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

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

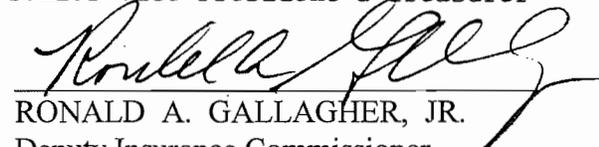
BY: FOREMOST INSURANCE COMPANY
GRAND RAPIDS, MICHIGAN, Respondent



President / Vice President, Stephen J. Boshoven
Senior Vice President & COO



Secretary / Treasurer, Jeffrey L. Pepper
Senior Vice President & Treasurer



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

I. INTRODUCTION

The market conduct examination was conducted at Foremost Insurance Company Grand Rapids, Michigan's office located in Caledonia, Michigan, from January 12, 2009, through March 13, 2009. Subsequent review and follow-up was conducted in the office of the Pennsylvania Insurance Department.

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

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

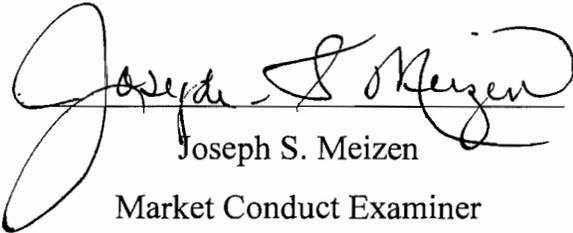
Throughout the course of the examination, Company officials were provided with status memoranda, which referenced specific policy numbers with citation to each section of law violated. Additional information was requested to clarify apparent violations. An exit conference was conducted with Company personnel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

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

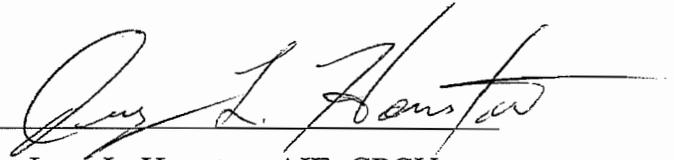
The undersigned participated in this examination and in preparation of this Report.



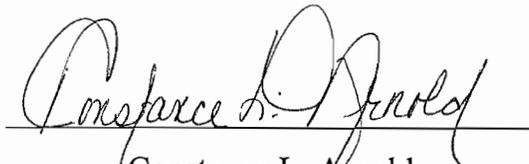
Chester A. Derk, Jr., AIE, HIA
Market Conduct Division Chief



Joseph S. Meizen
Market Conduct Examiner



Jerry L. Houston, AIE, CPCU
Market Conduct Examiner



Constance L. Arnold
Market Conduct Examiner

II. SCOPE OF EXAMINATION

The Market Conduct Examination was conducted on Foremost Insurance Company Grand Rapids, Michigan, hereinafter referred to as “Company,” at their office located in Caledonia, Michigan. 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, 2007, through June 30, 2008, unless otherwise noted. The purpose of the examination was to determine the Company’s compliance with Pennsylvania insurance laws and regulations.

The examination focused on Company operations in the following areas:

1. Automobile

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

2. Property

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

3. Commercial Property

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

4. Claims

5. Forms

6. Advertising

7. Complaints

8. Licensing

III. COMPANY HISTORY AND LICENSING

Foremost Insurance Company Grand Rapids, Michigan was incorporated with the title Foremost Insurance Company under the laws of Michigan on June 12, 1952, and began business the same day. The words "Grand Rapids, Michigan," were added to its name in 1963.

LICENSING

Foremost Insurance Company Grand Rapids, Michigan's Certificate of Authority to write business in the Commonwealth was last issued on April 1, 2009. The Company is licensed in all states and the District of Columbia. The Company's 2008 annual statement reflects Direct Written Premium for all lines of business in the Commonwealth of Pennsylvania as \$55,131,959. Premium volume related to the areas of this review were: Fire \$17,821,005; Homeowners Multiple Peril \$18,704,823; Private Passenger Automobile Direct Written Premium was reported as Private Passenger Auto No-Fault (personal injury protection) \$200,103; Other Private Passenger Auto Liability \$3,894,249 and Private Passenger Auto Physical Damage \$3,429,178.

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, travel trailer, motor home, motorcycle and off-road vehicles, homeowners, specialty dwelling fire and manufactured home 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 205, Section 5(a)(7)(iii) [40 P.S. §1171.5(a)(7)(iii)]

Unfair Methods of Competition and Unfair or Deceptive Acts or Practices Defined. “Unfair Methods of Competition” and “Unfair or Deceptive Practices” in the business of insurance means: Unfairly discriminating by means of: Making or permitting any unfair discrimination between individuals of the same class and essentially the same hazard with regard to underwriting standards and practices or eligibility requirements by reason of race, religion, nationality or ethnic group, age, sex, family size, occupation, place of residence or marital status. The terms “underwriting standards and practices” or “eligibility rules” do not include the promulgation of rates if made or promulgated in accordance with the appropriate rate regulatory act of this Commonwealth and regulations promulgated by the Commissioner pursuant to such act. The Company’s specialty dwelling and homeowner underwriting guidelines prohibited student occupied risks.

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.

The universe of 9 automobile files identified as being cancelled in the first 60 days of new business was selected for review. All 9 files were received and reviewed. The files consisted of antique auto and motor home policies. 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 1,450 automobile files identified as midterm cancellations, 75 files were selected for review. All 75 files were received and reviewed. The files consisted of antique auto and motor home policies. No violations were noted.

3. Nonrenewals

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

The 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 664 automobile files nonrenewed during the experience period, 53 files were selected for review. All 53 files were received and reviewed. The files consisted of antique auto and motor home policies. No violations were noted.

4. Declinations

A declination is any application that is received by the Company and was declined to be written.

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.

From the universe of 152 automobile applicants declined during the experience period, 25 files were selected for review. All 25 files were received and reviewed. The files consisted of antique auto, modified auto and motor home applications. The 294 violations noted were based on 147 files, resulting in an error ratio of 97%.

The following findings were made:

147 Violations Act 68, Section 2008(b) [40 P.S. §991.2008(b)]

Any applicant for a policy who is refused such policy by an insurer shall be given a written notice of refusal to write by the insurer. Such notice shall state the specific reason or reasons of the insurer for refusal to write a policy for the applicant. Within 30 days of the receipt of such reasons, the applicant may request in writing to the Insurance Commissioner that he review the action of the insurer in refusing to write a policy for the applicant. The Company did not provide the right of review by the Insurance Commissioner on the notice for the 147 files noted.

147 Violations Title 75, Pa. C.S. §1799.3(f)

Notice of refusal to write. If requested by the applicant, an agent for an insurer shall submit an application for automobile insurance to the insurer or provide the applicant written notice of the reasons for refusal to write on a form supplied by the insurer and approved by the Commissioner. An applicant receiving a notice of reasons under this subsection may obtain review by the Commissioner pursuant to the Automobile Insurance Policy Act. If either the

applicant or insurer is aggrieved by the Commissioner's review, the Commissioner may, in his discretion and for cause shown, hold a hearing pursuant to the Automobile Insurance Policy Act. No insurer shall take any action, overt or otherwise, against any agent or broker for complying with this subsection. The Company's notice of refusal to write was not approved by the Commissioner for the 147 files noted.

B. Property

1. 60-Day Cancellations

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

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

From the universe of 361 property policies which were cancelled within the first 60 days of new business, 65 files were selected for review. The policies consisted of homeowner, mobile home, tenant mobile home, dwelling fire, boat and off-road vehicle. All 65 files were received and reviewed. No violations were noted.

2. Midterm Cancellations

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

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

From the universe of 4,738 property policies which were cancelled midterm during the experience period, 134 files were selected for review. The property policies consisted of homeowners, tenant mobile home, mobile home, dwelling fire, boat and off-road vehicles. All 134 files were received and reviewed. The 20 violations noted were based on 20 files, resulting in an error ratio of 15%.

The following findings were made:

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

Prohibits canceling any policy of insurance covering owner-occupied private residential properties or personal property of individuals that has been in force for sixty days or more or refusing to renew any such policy unless the policy was obtained through material misrepresentation, fraudulent statements, omissions or concealment of fact material to the acceptance of the risk or to the hazard assumed by the company; or there has been a substantial change or increase in hazard in the risk assumed by the company subsequent to

the date the policy was issued; or there is a substantial increase in hazards insured against by reason of willful or negligent acts or omissions by the insured; or the insured has failed to pay any premium when due or for any other reasons approved by the Commissioner. The Company failed to provide a proper reason for cancellation for the 20 files noted.

3. Nonrenewals

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

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

From the universe of 76 property policies which were nonrenewed during the experience period, 31 files were selected for review. The property policies consisted of homeowners, boat, off-road vehicles, mobile homeowners and owner occupied dwelling fire. All 31 files were received and reviewed. The 15 violations noted were based on 15 files, resulting in an error ratio of 48%.

The following findings were made:

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

Prohibits canceling any policy of insurance covering owner-occupied private residential properties or personal property of

individuals that has been in force for sixty days or more or refusing to renew any such policy unless the policy was obtained through material misrepresentation, fraudulent statements, omissions or concealment of fact material to the acceptance of the risk or to the hazard assumed by the company; or there has been a substantial change or increase in hazard in the risk assumed by the company subsequent to the date the policy was issued; or there is a substantial increase in hazards insured against by reason of willful or negligent acts or omissions by the insured; or the insured has failed to pay any premium when due or for any other reasons approved by the Commissioner. The Company failed to provide a proper reason for nonrenewal for the 15 files noted.

4. Declinations

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

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

From the universe of 312 property files which were identified as declinations by the Company during the experience period, 73 files were selected for review. The files consisted of homeowner, mobile home, tenant mobile home, dwelling fire, boat and off-road vehicles. All 73 files were received and reviewed. No violations were noted.

5. Rescissions

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

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

The universe of 2 property policies identified as rescissions were selected for review. The files consisted of mobile home and dwelling fire. Both files were received and reviewed. No violations were noted.

The following concern was made:

Concern: The Company issued cancellation notices for both rescissions. Rescissions are not cancellations and need not be expressed through the standardized cancellation forms which give a right of review by the Commissioner and required advance notice to terminate the policy. A rescission voids a contract thus providing no coverage and can be accomplished through the use of a letter format indicating the reason for the rescission.

C. **Commercial Property**

1. 60-Day Cancellations

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

The primary purpose of the review was to determine compliance with Act 86, Section 7 (40 P.S. §3407), which requires an insurer, who cancels a

policy that is in effect less than 60 days, to provide 30 days notice of termination no later than the 60th day unless the policy provides for a longer period of notification.

From the universe of 181 commercial property policies cancelled within the first 60 days, 27 files were selected for review. The commercial policies consisted of commercial mobile home and tenant occupied dwelling fire. All 27 files were received and reviewed. No violations were noted.

2. Midterm Cancellations

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

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

From the universe of 1,692 commercial property policies cancelled midterm during the experience period, 56 files were selected for review. The commercial property files consisted of commercial mobile home and tenant occupied dwelling fire. All 56 files were received and reviewed. The 6 violations noted were based on 6 files, resulting in an error ratio of 11%.

The following findings were made:

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

Grounds for cancellation. Cancelling in midterm a policy of insurance covering commercial property and casualty risks is prohibited for any reason other than those enumerated under this section. The 6 files noted were cancelled for other than permitted reasons.

3. Nonrenewals

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

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

The universe of 10 tenant occupied dwelling fire policies nonrenewed during the experience period was selected for review. All 10 files were received and reviewed. The violation noted resulted in an error ratio of 10%.

The following finding was made:

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

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

4. Declinations

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

The primary purpose of the review was to determine compliance with Act 205, Section 5 [40 P.S. §1171.5], which defines unfair methods of competition and unfair or deceptive acts or practices

The universe of 13 commercial mobile home files identified as declinations by the Company during the experience period was selected for review. All 13 files were received and reviewed. No violations were noted.

5. Renewals

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

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

From the universe of 2,243 commercial property policies renewed during the experience period, 20 files were selected for review. The commercial property policies consisted of tenant occupied dwelling fire and commercial mobile home. All 20 files were received and reviewed. No violations were noted.

VI. RATING

A. 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.

Automobile – New Business Without Surcharges

From the universe of 983 automobile policies identified as new business without surcharges, 15 files were selected for review. All 15 files were received and reviewed. The files consisted of antique, classic car and modified auto policies. The 3,050 violations were based on the universe of 983 files, resulting in an error ratio of 100%.

The following findings were made:

983 Violations Title 75, Pa. C.S. §1791:1(a)

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

983 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.

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

Requires every insurer, prior to the issuance of a private passenger motor vehicle liability insurance policy to provide each applicant an opportunity to elect a tort option. A policy may not be issued unless the applicant has been provided an opportunity to elect a tort option. The Company failed to provide the rate comparisons for full and limited tort on the election of tort options form.

983 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 of premium discounts at the time of application.

92 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 the policies in accordance with their filed and approved rating plan which resulted in overcharges of \$61 and undercharges of \$96.

The following concern was noted:

Concern: The Company has filed a 5% discount for mature drivers who have completed an acceptable accident prevention course. There is no question on the application regarding eligibility for this credit; therefore, it is a concern that some drivers may be eligible for the credit and are not receiving it since the question is not asked nor disclosed as required under Title 75, Pa. C.S. §1791.1(c).

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 16,924 private passenger automobile policies renewed without surcharges during the experience period, 25 files were selected for review. All 25 files were received and reviewed. The 48,847 violations noted were based on the universe of 16,924 files, resulting in an error ratio of 100%.

The following findings were made:

9,892 Violations Title 75, Pa. C.S. §1791.1(a)

Requires that at the time of application for original coverage and every renewal thereafter, an insurer must provide to an insured an itemized invoice listing the minimum motor vehicle insurance coverage levels mandated by the Commonwealth and the premium charge for the insured to purchase the minimum mandated coverages. The invoice must contain the following notice in print of no less than ten-point type: "The laws of the Commonwealth of

Pennsylvania, as enacted by the General Assembly, only require you to purchase liability and first-party medical benefit coverages. Any additional coverage or coverages in excess of the limits required by law are provided only at your request as enhancements to basic coverages.” The insurer shall provide the itemized invoice to the insured in conjunction with the declaration of coverage limits and premiums for the insured’s existing coverages. The Company failed to provide the required notice at renewal.

16,924 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 renewal.

16,924 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 of premium discounts at renewal.

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

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

*5,106 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 the policies in accordance with their filed and approved rating plan which resulted in overcharges of \$1,568 and undercharges of \$10,703.

The following concern was noted:

Concern: The Company has filed a 5% discount for mature drivers who have completed an acceptable accident prevention course. There is no question on the application regarding eligibility for this credit; therefore, it is a concern that some drivers may be eligible for the credit and are not receiving it since the question is not asked nor disclosed as required under Title 75, Pa. C.S. §1791.1(c).

B. MotorCycle

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 motorcycle 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.

From the universe of 2,894 motorcycle policies identified as new business without surcharges, 20 files were selected for review. All 20 files were received and reviewed. No violations were noted.

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 motorcycle 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.

From the universe of 14,851 motorcycle policies identified as renewals without surcharges, 20 files were selected for review. All 20 files were received and reviewed. The 4 violations noted were based on 4 files, resulting in an error ratio of 20%.

The following findings were made:

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

On policies in which either uninsured or underinsured motorist coverage has been rejected, the policy renewals must contain notice in prominent type that the policy does not provide protection against damages caused by uninsured or underinsured motorists. The policy renewal did not reflect the prominent notice as required for the 4 files noted.

C. Motor Home

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 motor home 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.

New Business Without Surcharges

From the universe of 51 motor home policies identified as new business without surcharges, 20 files were selected for review. All 20 files were received and reviewed. The 3 violations noted were based on 2 files, resulting in an error ratio of 10%.

The following findings were made:

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

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

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

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

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

Requires every insurer to file with the Insurance Commissioner every manual of classifications, rules and rates, every rating plan and every modification of any rating plan, which it proposes to use in the Commonwealth. Also, no insurer shall make or issue a contract or policy except in accordance with filings or rates, which are in effect at the time of issue. The Company applied an incorrect territory factor when rating the policy which resulted in an overcharge of \$112.

New Business With Surcharges

From the universe of 41 motor home policies identified as new business with surcharges, 15 files were selected for review. All 15 files were received and reviewed. The violation noted resulted in an error ratio of 7%.

The following finding was made:

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

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

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 motor home 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.

Renewals Without Surcharges

From the universe of 375 motor home policies identified as renewals without surcharges, 25 files were selected for review. All 25 policies files

were received and reviewed. No violations were noted.

Renewals With Surcharges

From the universe of 94 motor home policies identified as renewals with surcharges, 20 files were selected, received and reviewed. No violations were noted.

D. Homeowners

1. New Business

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

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

Homeowner Rating – New Business Without Surcharges

From the universe of 992 homeowner policies written as new business during the experience period, 50 files were selected for review. All 50 files were received and reviewed. No violations were noted.

Homeowner Rating – New Business With Surcharges

The universe of 104 homeowner policies written as new business with surcharges during the experience period, 25 files were selected for review. All 25 files were received and reviewed. No violations were noted.

2. Renewals

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

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

Homeowner Rating – Renewals Without Surcharges

From the universe of 3,759 homeowner policies renewed during the experience period, 50 files were selected for review. All 50 files were received and reviewed. No violations were noted.

Homeowner Rating – Renewals With Surcharges

From the universe of 551 homeowner policies renewed with surcharges during the experience period, 25 files were selected for review. All 25 files were received and reviewed. No violations were noted.

E. Mobile Home

1. New Business

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

The purpose of the review was to measure compliance with Act 246, Sections 4(a) and (h) (40 P.S. §1184), which require every insurer to file

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

From the universe of 2,262 mobile homeowner policies written as new business without surcharges during the experience period, 30 files were selected for review. All 30 files were received and reviewed. No violations were noted.

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.

From the universe of 11,883 mobile homeowner policies renewed without surcharges during the experience period, 30 files were selected for review. All 30 files were received and reviewed. No violations were noted.

F. Tenant Mobile Home

1. New Business

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

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

From the universe of 103 tenant mobile homeowner policies written as new business during the experience period, 15 files were selected for review. All 15 files were received and reviewed. The 57 violations noted were based on the universe of 103, resulting in an error ratio of 55%.

The following findings were made:

*57 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 the 57 policies in

accordance with their filed and approved rating plan. The Company's automated rating system performed double rounding which caused a \$1 overcharge on each policy, resulting in overcharges of \$57.

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.

From the universe of 175 tenant mobile homeowner policies renewed during the experience period, 15 files were selected for review. All 15 files were received and reviewed. No violations were noted.

G. Dwelling Fire

1. New Business

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

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

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

From the universe of 2,338 dwelling fire policies written as new business during the experience period, 25 files were selected for review. All 25 files were received and reviewed. No violations were noted.

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.

From the universe of 5,558 dwelling fire policies renewed during the experience period, 25 files were selected for review. All 25 files were received and reviewed. No violations were noted.

VII. CLAIMS

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

The Claims review consisted of the following areas of review:

- A. Automobile Property Damage Claims
- B. Automobile Comprehensive Claims
- C. Automobile Collision Claims
- D. Automobile Total Loss Claims
- E. Automobile First Party Medical Claims
- F. Mobile Home Claims
- G. Specialty Dwelling Claims
- H. Tenant Mobile Home Claims

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

A. Automobile Property Damage Claims

From the universe of 106 private passenger automobile property damage claims reported during the experience period, 49 files were selected for review. All 49 files were received and reviewed. The violation noted resulted in an error ratio of 2%.

The following finding was made:

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

Within 15 working days after receipt by the insurer 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 send a denial letter to the claimant.

B. Automobile Comprehensive Claims

From the universe of 265 private passenger automobile comprehensive claims reported during the experience period, 55 files were selected for review. All 55 files were received and reviewed. The violation noted resulted in an error ratio of 2%.

The following finding was 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.

C. Automobile Collision Claims

From the universe of 334 private passenger automobile collision claims reported during the experience period, 65 files were selected for review. All 65 files were received and reviewed. The violation resulted in an error ratio of 2%.

The following finding was 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.

D. Automobile Total Loss Claims

From the universe of 114 private passenger automobile total loss claims reported during the experience period, 56 files were selected for review. All 56 files were received and reviewed. No violations were noted.

E. Automobile First Party Medical Claims

From the universe of 229 private passenger automobile first party medical claims reported during the experience period, 25 files were selected for review. All 25 files were received and reviewed. No violations were noted.

F. Mobile Home Claims

From the universe of 2,019 mobile home claims reported during the experience period, 50 files were selected for review. All 50 files were received and reviewed. No violations were noted.

G. Specialty Dwelling Claims

From the universe of 2,953 specialty dwelling claims reported during the experience period, 50 files were selected for review. All 50 files were received and reviewed. The violation resulted in an error ratio of 2%.

The following finding was 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.

H. Tenant Mobile Home Claims

The universe of 8 tenant mobile homeowner claims reported during the experience period was selected for review. All 8 files were received and reviewed. No violations were noted.

VIII. FORMS

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

The following findings were made:

1 Violation 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."

AND

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

Any person who knowingly and with intent to defraud any insurance company or other person files an application for insurance or statement of claim containing any materially false information or conceals for the purpose of misleading, information concerning any fact material thereto, commits a fraudulent insurance act, which is a crime and subjects such person to criminal and civil penalties. The Company failed to include the fraud warning notice on the application for travel trailer insurance.

Automobile Rating – Renewals Without Surcharges

16,924 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."

AND

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

Any person who knowingly and with intent to defraud any insurance company or other person files an application for insurance or statement of claim containing any materially false information or conceals for the purpose of misleading, information concerning any fact material thereto, commits a fraudulent insurance act, which is a crime and subjects such

person to criminal and civil penalties. The Company failed to provide the required fraud warning at renewal.

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 153 pieces of advertising in use during the experience period. The advertising materials provided included: brochures, agent's kits, mail solicitation, bulletins and newsletters. Internet advertising was also reviewed on the Company's website at www.foremost.com. 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 44 consumer complaints received during the experience period and provided all consumer complaint logs requested. Of the 44 complaint files reported, 25 files were requested, received and reviewed.

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

The following findings were made:

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

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

premium when due or for any other reasons approved by the Commissioner. The Company provided improper reasons for termination for the 2 files noted.

The following synopsis reflects the nature of the 25 complaints that were reviewed.

| | | |
|-------|-------------------------|-------|
| • 13 | Cancellation/Nonrenewal | 52% |
| • 2 | Rating | 8% |
| • 10 | Claims | 40% |
| <hr/> | | <hr/> |
| 25 | | 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:

*1 Violation 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 producer was found to be writing and /or soliciting policies but was not found in Insurance Department records as holding a Pennsylvania producer license.

Neilson, Donald J. – d/b/a Hereford Estates

55 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.

AAI Insurance Agency, LLC – T/A Derry Insurance Agency
Ashmead Insurance Associates, Inc.
Colonial-Fleming, Inc.
Consolidated Insurance Services, Inc.
Craig Friedly Potter & Moore Insurance Agency
Jack Crossin Real Estate and Insurance, Inc.
CSI & Associates, Inc.
Cupp Insurance Agency, Inc.
Dimeling & Schort, Inc.
Driscoll Insurance Enterprises, Inc.
Earley-Polli Agency, Inc.
Eber & Associates, Inc.
Ensminger Ronald N. Insurance Agency, Inc.
Evans Insurance Services, Inc.
Ferullo Insurance Agencies, LLC
Paul A. Fisher Insurance Services, LLC
Frees, David M. Insurance, Inc.
Fredericktown Real Estate Company
Girio Agency, Inc. (The)
Griffin & Griffin Financial Services, Inc.
Gordnercoombs Insurance, Inc.
Laurel Highlands Insurance Group
Life & Health Insurance Services, Inc.
Lehigh Valley Insurance Services, Inc.
Karschner William R. & Sons
Malvern Insurance Associates, LLC
McDermott, Thomas M., Inc.
McKeighan Insurance Agency, Inc.
Mittelman Agency, Inc. (The)
Myers-Pepper Insurance Agency, LLC
Nolfi, Thomas A., Inc.

Norman-Spencer McKernan, Inc.
Odell Studner Group, LLC (The)
Research Underwriters, LLC
Roush Insurance Group, Inc.
Richard B. Ryon Insurance
Sausman Insurance Agency, Inc.
Sculley Protection Team, Inc. (The)
Securus Group, Inc. (The)
Shuck, Jack M. Agency, Inc.
Robert J. Stillwell Agency, Inc.
Susquehanna Insurance Management, LTD
Starr, Michael A. Insurance, Inc.
Thomas & McMenamin, Inc.
Towsend Insurance Agency, Inc.
Tucker Johnston & Smelzer, Inc.
Whetstone Insurance Associates, Inc.
Zinn, Clifford R. & Son, Inc.
Acosta Agency, LLC
Elko, John L.
First National Insurance Agency, LLC
Garland Insurance Agency, LLC
Pluff, Diane L.
Shoemaker, Andrew L.
Mrozek, Kenneth J.

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 procedures to ensure compliance with notice requirements of Act 68, Section 2008 [40 P.S. §991.2008] and Title 75, Pa. C.S. §1799.3(f), so that the violations regarding refusals to write as noted in the Report do not occur in the future.
2. The Company must review Act 205, Section 5(a)(9) [40 P.S. §1171.5(a)(9)] to ensure that the violations regarding the requirement for cancellation and nonrenewal notices, as noted in the Report, do not occur in the future.
3. The Company must review and revise internal control procedures to ensure compliance relative to commercial cancellation and nonrenewal requirements of Act 86, Sections 2 and 3 [40 P.S. §§3402 and 3403], so that the violations noted in the Report do not occur in the future.
4. 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.

5. The Company must revise its underwriting procedures to ensure that each applicant for private passenger automobile liability insurance is provided the rate comparisons for full and limited tort on the election form. This is to ensure that violations noted under Title 75, Pa. C.S. §1705(a)(1)(4) do not occur in the future.
6. The Company must review Title 75, Pa. C.S. §1791.1(c) to ensure that violations regarding the requirement to provide notice to insureds stating that discounts are available for drivers, as noted in the Report, do not occur in the future.
7. On policies in which either uninsured or underinsured coverage has been rejected, the policy renewal must contain notice in prominent type that the policy does not provide protection against damages caused by uninsured or underinsured motorists. This procedure must be implemented within 30 days of the Report issue date. This is to ensure that violations noted under Title 75, Pa. C.S. §1731(c)(1) do not occur in the future.
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 violations noted under Title 75, Pa. C.S. §1738(d)(1) and (2) do not occur in the future.
9. The Company must review Act 246, Section 4(a) and (h) [40 P.S. §1184] and take appropriate measures to ensure the rating violations listed in the report do not occur in the future.

10. The premium overcharges noted in the rating section of this report must be refunded to the insureds and proof of such refunds must be provided to the Insurance Department within 30 days of the report issue date.
11. The Company should review and revise internal control procedures to ensure compliance with the claims handling requirements of Title 31, Pennsylvania Code, Chapter 146, Unfair Claims Settlement Practices so that the violations relating to claim status letters and denials, as noted in the Report, do not occur in the future.
12. The Company must ensure all producers are properly licensed and appointed, as required by Section 641.1(a) and Section 671-A [40 P.S. §310.41(a) and 40 P.S. §310.71] of the Insurance Department Act No. 147, prior to accepting any business from any producer.
13. The Company must revise and reissue their underwriting guidelines for use in Pennsylvania to ensure that guidelines are in compliance with Act 205, Section 5(a)(7)(iii) [40 P.S. §1171.5(a)(7)(iii)] and do not prohibit student occupied risks.
11. The Company must ensure that all claim forms and automobile renewals contain the required fraud warning notice.

XIII. COMPANY RESPONSE



CRAIG J. SIETSEMA
Compliance Coordinator

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August 28, 2009

Via E-mail and FedEx

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

RE: Market Conduct Examination Warrant Number: 08-M30-008
Foremost Insurance Company Grand Rapids, Michigan ("Foremost")
Response to the Division's Report of Examination

Dear Mr. Derk:

Thank you for the opportunity to review the Division's *Report of Examination*. We agree that examinations serve a useful role in helping insurers identify areas deserving attention and action. The Division conducted a very professional and courteous exam, and for this we express our appreciation to you, Ms. Constance Arnold, Mr. Joe Meizen and Mr. Jerry Houston.

The Report of Examination identifies 14 recommendations. We repeat the Division's recommendations for ease of reference and follow with our responses.

- 1. The Company must review and revise internal procedures to ensure compliance with notice requirements of Act 68, Section 2008 [40 P.S. § 991.2008] and Title 75, Pa. C.S. § 1799.3(f), so that violations regarding refusals to write as noted in the Report do not occur in the future.***

The finding that occasioned this recommendation pertained to our two programs designed to insure antique and modified automobiles. This entire book of business is underwritten by a Pennsylvania general agent, J.C. Taylor (JCT). We have worked with the Division to establish what corrective actions are necessary, and have collaborated with our agent to revise internal procedures accordingly. A declination form approved by the Department of Insurance is now implemented for all refusals to write.

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

These findings predominantly involved personnel errors rather than a lack of procedure. Nevertheless, we have taken and are taking measures to reinforce existing procedures in an effort to prevent such errors in the future.

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

These findings involved personnel errors rather than a lack of procedure. Nevertheless, we have taken and are taking measures to reinforce existing procedures in an effort to prevent such errors in the future.

4. ***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.***

The findings that occasioned this recommendation pertained to our two programs designed to insure antique and modified automobiles. This entire book of business is underwritten by our Pennsylvania general agent. We have worked with the Division to establish what corrective actions are necessary, and have collaborated with our agent to revise or establish the necessary forms. Compliance with the minimum coverages requirement was implemented on July 9, 2009.

5. ***The Company must revise its underwriting procedures to ensure that each applicant for private passenger automobile liability insurance is provided the rate comparisons for full and limited tort on the election form. This is to ensure that violations noted under Title 75, Pa. C.S. § 1705 (a)(1)(4) do not occur in the future.***

The finding that occasioned this recommendation pertained to our two programs designed to insure antique and modified automobiles. This entire book of business is underwritten by our Pennsylvania general agent. We have worked with the Division to establish what corrective actions are necessary, and have collaborated with our agent to revise or establish the necessary forms. Compliance with the full and limited tort election requirements was implemented on July 9, 2009.

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

The finding that occasioned this recommendation pertained to our two programs designed to insure antique and modified automobiles. This entire book of business is underwritten by our Pennsylvania general agent. We have worked with the Division to establish what corrective actions are necessary, and have collaborated with our agent to revise or establish the necessary forms. Compliance with the full and limited tort election requirements was implemented on July 9, 2009. We are also in the process of notifying all current and former policyholders that they may be eligible for refunds if they provide evidence of eligibility for the available discounts.

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

We have worked with the Division to establish what corrective actions are necessary, and have worked to make the necessary revisions. We are preparing to comply with the uninsured / underinsured rejection "prominent type" notice requirement in accordance with the assigned deadline.

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

These couple findings were exceptions to our normal practice. Nevertheless, we are taking measures to reinforce existing procedure in an effort to prevent such errors in the future.

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

We have taken actions to ensure that our rates match our state filed, approved rate manuals. In addition, we have designed and are implementing enhancements to our internal control procedures in order to both monitor and increase our assurance that filed, approved rates are properly implemented and active in our policy-writing systems.

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

Tenant mobile home refunds issuance is near completion. Proof of refunds will be provided in separate correspondence to the Market Conduct Division in accord with the assigned deadline.

Antique and modified auto refunds issuance is complete. Proof of refunds will be provided in separate correspondence to the Market Conduct Division in accord with the assigned deadline.

- 11. 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 violations relating to claims status letters and denials, as noted in the Report, do not occur in the future.**

These findings involved personnel errors rather than a lack of procedure. Nevertheless, we are taking measures to reinforce existing procedures in an effort to prevent such errors in the future. These measures include upgrading our claims handling system to use automatic reminders in the near future.

12. The Company must ensure all producers are properly licensed and appointed, as required by Section 641.1 (a) and Section 671-A [40 P.S. §§ 310.41 (a) and 40 P.S. §§ 310.71] of the Insurance Department Act No. 147, prior to accepting any business from any producer.

A considerable number of these findings involved producers who referred business to an appointed Foremost agent. Although these producers were licensed, they were found to be unappointed agents who also had received a portion of the commission from that appointed agent. Foremost was not involved in that sharing of commission. Section 40-25-1272 [40 P.S. s 310.72] allows insurance licensees to distribute commissions to other licensees, and even permits payment to unlicensed individuals under certain circumstances. Likewise, Section 40-25-1273 [40 P.S. s 310.73] allows insurance licensees to accept commissions from other licensees. The law does not preclude referrals of applicants from licensed producers to another licensed producer who is appointed by an insurer. The fact that the law authorizes fee payment to unlicensed referrers infers the propriety under the Pennsylvania Insurance Code of "for compensation" referrals from unappointed licensees.

We have been grappling with this issue since it was first raised during the exam, and have continued wrestling with this even until now. Rather than taking exception to the findings and this recommendation, we respectfully request that the appointment findings be deferred until we can confer with the Department of Insurance more closely on this issue. We see this as an issue of legal clarity and business continuity that may have an impact on the industry as a whole.

13. The Company must revise and reissue their underwriting guidelines for use in Pennsylvania to ensure that guidelines are in compliance with Act 205, Section 5 (a) (7) (iii) [40 P.S. §§ 1171.5 (a)(7)(iii)] and do not prohibit student occupied risks.

We have revised our underwriting guidelines as directed, and are in the process of reissuing these guidelines. Re-issuance is scheduled for completion by the end of September.

14. The Company must ensure that all claim forms and automobile renewals contain the required fraud warning notice.

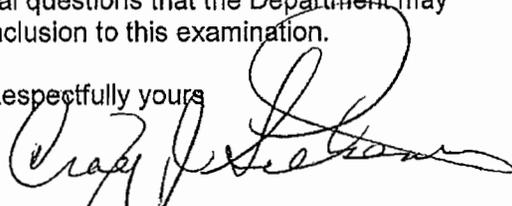
The fraud notice was added to our travel trailer application and implemented on June 1, 2009.

The fraud notice was added to our antique and modified auto renewals and implemented on July 9, 2009.

Mr. Chester A. Derk, Market Conduct Division Chief—Bureau of Enforcement
Commonwealth of Pennsylvania Insurance Department
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Response to the Division's Report of Examination
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In conclusion, we stand ready to answer any additional questions that the Department may have, and to work with you towards a satisfactory conclusion to this examination.

Respectfully yours



Craig J. Sietsema