

**REPORT OF
MARKET CONDUCT EXAMINATION
OF**

ENCOMPASS INDEMNITY COMPANY
Northbrook, Illinois

**AS OF
September 17, 2007**

COMMONWEALTH OF PENNSYLVANIA

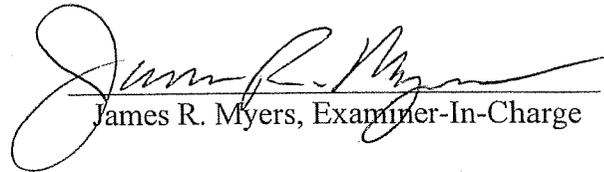


**INSURANCE DEPARTMENT
MARKET CONDUCT DIVISION**

Issued: November 1, 2007

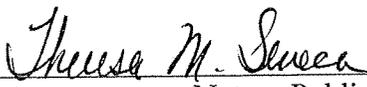
VERIFICATION

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


James R. Myers, Examiner-In-Charge

Sworn to and Subscribed Before me

This 6 Day of *September*, 2007



Notary Public

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

ENCOMPASS INDEMNITY COMPANY

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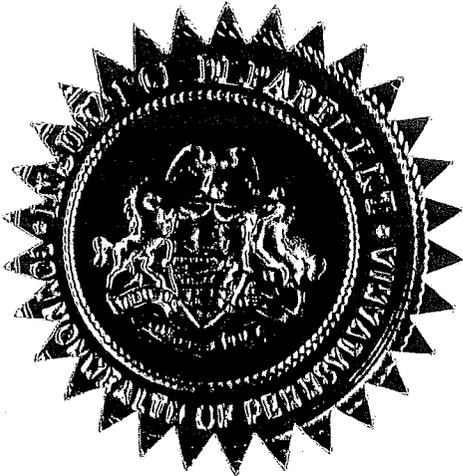
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BEFORE THE INSURANCE COMMISSIONER
OF THE
COMMONWEALTH OF PENNSYLVANIA

ORDER

AND NOW, this 6th day of July, 2007, in accordance with

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





Joel S. Ario
Insurance Commissioner

BEFORE THE INSURANCE COMMISSIONER
OF THE
COMMONWEALTH OF PENNSYLVANIA

IN RE:	:	VIOLATIONS:
	:	
ENCOMPASS INDEMNITY	:	Section 671-A of Act 147 of 2002
COMPANY	:	(40 P.S. § 310.71)
One Meridian Boulevard	:	
Wyomissing, PA 19610	:	Act 1990-6, Sections 1705(a)(1) and
	:	(4), 1725, 1731(c)(1), 1734,
	:	1738(d)(1)(2), 1791.1(a) and (b),
	:	1792(b)(1), and 1799.3(d) (Title 75,
	:	Pa.C.S. §§ 1705, 1725, 1731, 1734,
	:	1738, 1791, 1792 and 1799)
	:	
	:	Sections 5(a)(4), 5(a)(7)(iii), 5(a)(9)
	:	and 5(a)(11) of the Unfair Insurance
	:	Practices Act, Act of July 22, 1974,
	:	P.L. 589, No. 205 (40 P.S.
	:	§§ 1171.5)
	:	
	:	Sections 2003(a)(10), 2004 and
	:	2008(b) of Act 68 of 1998 (40 P.S.
	:	§§ 991.2003, 991.2006 and
	:	991.2008)
	:	
	:	Sections 2 and 3(a)(3) of the Act of
	:	Act of July 3, 1986, P.L. 396, No. 86
	:	(40 P.S. §§ 3402 and 3403)
	:	
	:	Title 75, Pennsylvania Consolidated
	:	Statutes, Sections 1161(a) and (b)
	:	
Respondent.	:	Docket No. MC07-09-021

CONSENT ORDER

AND NOW, this *1st* day of *November*, 2007, this Order is hereby
issued by the Insurance Department of the Commonwealth of Pennsylvania pursuant
to the statutes cited above and in disposition of the matter captioned above.

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

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

FINDINGS OF FACT

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

- (a) Respondent is Encompass Indemnity Company, and maintains its address at One Meridian Boulevard, Wyomissing, Pennsylvania 19610.
- (b) A market conduct examination of Respondent was conducted by the Insurance Department covering the period from July 1, 2005 through June 30, 2006.
- (c) On September 17, 2007, the Insurance Department issued a Market Conduct Examination Report to Respondent.

- (d) A response to the Examination Report was provided by Respondent on October 12, 2007.
- (e) The Examination Report notes violations of the following:
- (i) Section 671-A of Act 147 of 2002 prohibits producers from transacting business within this Commonwealth without written appointment as required by the Act (40 P.S. § 310.71).
 - (ii) 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;
 - (iii) Section 1725 of Act 1990-6, Title 75, Pa.C.S. § 1725, which requires every motor vehicle policy to contain a notice whether the policy covers collision damage to rental vehicles, and any limitations on such coverage. The notice shall be written in clear language and printed on the first page of the policy in bold, capital letters;
 - (iv) Section 1731(c)(1) of Act 1990-6, Title 75, Pa.C.S. § 1731, which states on policies in which either uninsured or underinsured motorist coverage has been rejected, the policy renewals must contain notice in prominent type that the

policy does not provide protection against damages caused by uninsured or underinsured motorists;

- (v) Section 1734 of Act 1990-6, Title 75, Pa.C.S. § 1734, which allows a named insured to request in writing the issuance of coverages under Section 1731 in amount equal to or less than the limits of liability for bodily injury;
- (vi) Section 1738(d)(1)(2) of Act 1990-6, Title 75, Pa.C.S. § 1738, which requires the insurer to advise that named insured shall be informed that he may exercise the waiver for stacked uninsured and underinsured motorist coverage by signing written rejection forms;
- (vii) 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;

- (viii) 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;
- (ix) Section 1792(b)(1) of Act 1990-6, Title 75, Pa.C.S. § 1792, which requires every private passenger automobile insurance policy providing collision coverage to provide a deductible in the amount of \$500 for collision coverage, unless the named insured signs a statement indicating the insured is aware that the purchase of a lower deductible is permissible and that there is an additional cost of purchasing a lower deductible and the insured agrees to accept it;
- (x) Section 1799.3(d) of Act 1990-6, Title 75, Pa.C.S. § 1799, which requires insurers who make a determination to impose a surcharge, rate penalty or driver record point assignment, to inform the named insured of the determination and specify the manner in which the surcharge, rate penalty or driver record point assignment was made and clearly identify the amount of the surcharge or rate penalty on the premium notice for as long as the surcharge or rate penalty is in effect;

- (xi) Section 5(a)(4) of Act 205 (40 P.S. § 1171.5), which defines as an unfair method of competition or unfair or deceptive acts or practices as entering into any agreement to commit, or by any concerted action committing, any act of boycott, coercion or intimidation resulting in or tending to result in unreasonable restraint of, or monopoly in, the business of insurance;

- (xii) Section 5(a)(7)(iii) of the Unfair Insurance Practices Act, No. 205 (40 P.S. §1171.5), which prohibits discrimination with regard to underwriting standards and practices or eligibility requirements by reason of occupation;

- (xiii) Section 5(a)(9) of Act 205 (40 P.S. §1171.5), 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;

- (xiv) Section 5(a)(11) of the Unfair Insurance Practices Act, No. 205 (40 P.S. § 1171.5), which requires a complete record of all complaints received during the preceding four years;

- (xv) Section 2003(a)(10) of Act 68 of 1998 (40 P.S. § 991.2003), which prohibits an insurer from canceling or refusing to write or renew a policy of automobile insurance for any of the following reasons: Lawful occupation, including military service;

- (xvi) Section 2004 of Act 68 of 1998 (40 P.S. § 991.2004), which requires that no insurer shall cancel a policy of automobile insurance except for nonpayment of premium, suspension or revocation of the named insured's driver license or motor vehicle registration or a determination that the insured has concealed a material fact or has made a material allegation contrary to fact or had made a misrepresentation of material fact and that such concealment, allegation or misrepresentation was material to the acceptance of the risk by the insurer;

(xvii) 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;

(xviii) Section 2 of Act 86 (40 P.S. § 3402), which requires that canceling in mid-term 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 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;

(xix) Section 3(a)(3) of Act 86 (40 P.S. § 3403), which requires a written notice of cancellation in the manner prescribed in this section must be forwarded directly to the named insured or insureds at least 60 days in advance of the effective date of termination; and

(xx) Section 1161(a) and (b) of Title 75, Pa. C.S., which states an insurer who owns, possesses or transfers a vehicle located or registered in the Commonwealth which qualifies as a salvage vehicle shall make application to the Department for a certificate of salvage for that vehicle.

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

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

(c) Respondent's violations of Sections 5(a)(4), 5(a)(7), 5(a)(9) and 5(a)(11) of the Unfair Insurance Practices Act, No. 205 (40 P.S. §§ 1171.5) are punishable by the following, under Section 9 of the Unfair Insurance Practices Act (40 P.S. § 1171.9):

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

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

- (i) for each method of competition, act or practice which the company knew or should have known was in violation of the law, a penalty of not more than five thousand dollars (\$5,000.00);
 - (ii) for each method of competition, act or practice which the company did not know nor reasonably should have known was in violation of the law, a penalty of not more than one thousand dollars (\$1,000.00).
- (e) Respondent's violations of Sections 2003, 2004 and 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 2 and 3(a)(3) of Act 86 (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.

ORDER

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

- (a) Respondent shall cease and desist from engaging in the activities described herein in the Findings of Fact and Conclusions of Law.
- (b) Respondent shall file an affidavit stating under oath that it will provide each of its directors, at the next scheduled directors meeting, a copy of the adopted Report and related Orders. Such affidavit shall be submitted within thirty (30) days of the date of this Order.
- (c) Respondent shall comply with all recommendations contained in the attached Report.
- (d) Respondent shall pay Twenty-Seven Thousand Dollars (\$27,000.00) 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, Office Manager, Bureau of Enforcement, 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 it 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 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.

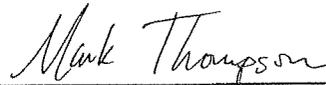
8. In any such enforcement proceeding, Respondent may contest whether a breach of the provisions of this Order has occurred but may not contest the Findings of Fact and Conclusions of Law contained herein.

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.

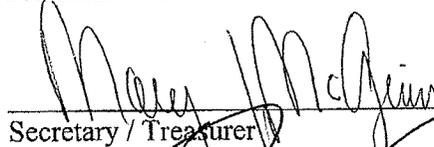
10. This Order constitutes the entire agreement of the parties with respect to the matters referred to herein, and it may not be amended or modified except by an amended order signed by all the parties hereto.

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.

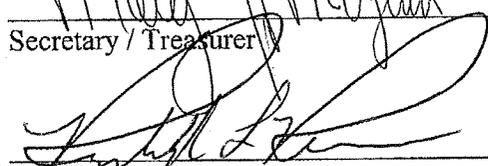
BY: ENCOMPASS INDEMNITY COMPANY,
Respondent



President / Vice President



Secretary / Treasurer



COMMONWEALTH OF PENNSYLVANIA

By: Randolph L. Rohrbaugh
Deputy Insurance Commissioner

I. INTRODUCTION

The market conduct examination was conducted at Encompass Indemnity Company's office located in Wyomissing, Pennsylvania, from May 21, 2007, through June 14, 2007. Subsequent review and follow-up was conducted in the office of the Pennsylvania Insurance Department.

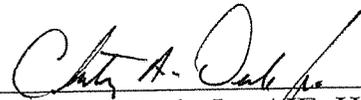
Pennsylvania Market Conduct Examination Reports generally note only those items to which the Department, after review, takes exception. However, the Examination Report may include management recommendations addressing areas of concern noted by the Department, but for which no statutory violation was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

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

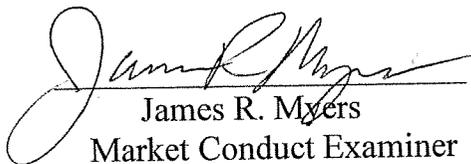
Throughout the course of the examination, Company officials were provided with status memoranda, which referenced specific policy numbers with citation to each section of law violated. Additional information was requested to clarify apparent violations. An exit conference was conducted with Company personnel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

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

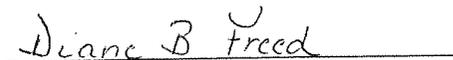
The undersigned participated in this examination and in preparation of this Report.



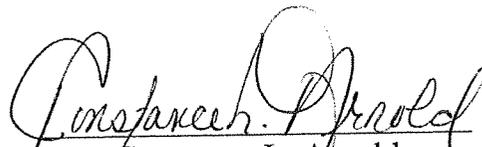
Chester A. Derk, Jr., AIE, HIA
Market Conduct Division Chief



James R. Myers
Market Conduct Examiner



Diane B. Freed
Market Conduct Examiner



Constance L. Arnold
Market Conduct Examiner

II. SCOPE OF EXAMINATION

The Market Conduct Examination was conducted on Encompass Indemnity Company, hereinafter referred to as “Company,” at their office located in Wyomissing, Pennsylvania. The examination was conducted pursuant to Sections 903 and 904 (40 P.S. §§323.3 and 323.4) of the Insurance Department Act and covered the experience period of July 1, 2005, through June 30, 2006, unless otherwise noted. The purpose of the examination was to determine the Company’s compliance with Pennsylvania insurance laws and regulations.

The examination focused on Company operations in the following areas:

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

6. Advertising

7. Complaints

8. Licensing

III. COMPANY HISTORY AND LICENSING

Encompass Indemnity Company was incorporated on January 25, 1984, under the laws of Florida as American Surety and Casualty Company and commenced business in July 1985. In June 1994, New Beechwood Insurance Investors, Inc. purchased the Company from Community First Bank. On June 5, 1996, Toronto based Pembridge Inc. purchased the company. In April 1998, Allstate Insurance Group purchased the Company through its acquisition of Pembridge Inc. In 2001, the Company became part of the group of independent agency companies comprised of Northbrook Indemnity Company, Deerbrook Insurance Company and Encompass Insurance. The Company was renamed Encompass Indemnity Company on September 24, 2001. On September 1, 2003, the Company redomesticated from Florida to Illinois.

LICENSING

Encompass Indemnity Company's Certificate of Authority to write business in the Commonwealth was last issued on April 1, 2007. The Company is licensed in the District of Columbia and all states except California, Hawaii, Maine, Massachusetts, Nebraska and New Jersey. The Company's 2006 annual statement reflects Direct Written Premium for all lines of business in the Commonwealth of Pennsylvania as \$80,595,124. Premium volume related to the areas of this review were: Fire \$988,037; Homeowners Multiple Peril \$19,530,357; Commercial Multiple Peril (non-liability portion) \$20,384; Commercial Multiple Peril (liability portion) \$5,091; Private Passenger Automobile Direct Written Premium was reported as Private Passenger Auto No-Fault (personal injury protection) \$4,420,037; Other Private Passenger Auto Liability \$28,064,334 and Private Passenger Auto Physical Damage \$22,938,345.

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 Pennsylvania automobile product guides were furnished for private passenger automobile and personal lines property. 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:

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

Unfair Methods of Competition and Unfair or Deceptive Acts or Practices Defined. Entering into any agreement to commit, or by any concerted action committing, any act of boycott, coercion or intimidation resulting in or tending to result in unreasonable restraint of, or monopoly in, the business of insurance. The Company's Motorcycle and Recreational Vehicles guideline indicated that motor homes are ineligible if it is the only vehicle to be insured unless there is a qualifying private passenger auto in the household.

1 Violation 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 homeowner guideline indicated that well known politicians, entertainers and athletes are ineligible.

1 Violation Act 68, Section 2003(a)(10) [40 P.S. §991.2003(a)(10)]

Discrimination Prohibited – (a) An insurer may not cancel or refuse to write or renew a policy of automobile insurance due to lawful occupation. The Company’s private passenger automobile guideline indicated well known politicians, entertainers and athletes are ineligible.

V. UNDERWRITING

A. Private Passenger Automobile

1. 60-Day Cancellations

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

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

From the universe of 61 private passenger automobile files identified as being cancelled in the first 60 days of new business, 30 files were selected for review. All 30 files were received and reviewed. The violation noted resulted in an error ratio of 3%.

The following finding was made:

1 Violation 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. The Company failed to provide a specific reason for cancellation.

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.

The universe of 22 private passenger automobile files identified as midterm cancellations by the Company was selected for review. All 22 files were received and reviewed. The 2 violations noted were based on 2 files, resulting in an error ratio of 9%.

The following findings were made:

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

Requires that no insurer shall cancel a policy of automobile insurance except for nonpayment of premium, suspension or revocation of the named insured's driver license or motor vehicle registration or a determination that the insured has concealed a material fact or has made a material allegation contrary to fact or has made a misrepresentation of material fact and that such concealment, allegation or misrepresentation was material to the acceptance of the risk by the insurer. The 2 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 purpose of the review was to determine compliance with Act 68, Section 2003 (40 P.S. §991.2003), which establishes conditions under which action by the insurer is prohibited, and Section 2006 (40 P.S. §991.2006), which establishes the requirements which must be met regarding the form and conditions of the cancellation notice.

The universe of 12 private passenger automobile files identified as nonrenewals by the Company was selected for review. All 12 files were received and reviewed. 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.

The Company did not report any private passenger automobile declinations during the experience period.

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 private passenger automobile policies identified as being rescinded during the experience period was selected for review. Both files requested were received and reviewed. No violations were noted.

B. Private Passenger Automobile – Assigned Risk

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

C. Property

1. 60-Day Cancellations

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

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

The universe of 12 property policies which were cancelled within the first 60 days of new business was selected for review. The policies consisted of homeowner and tenant homeowner. All 12 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.

The universe of 37 property policies which were cancelled midterm during the experience period was selected for review. The property policies consisted of homeowners and tenant homeowners. All 37 files were received and reviewed. No violations were 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.

The universe of 17 property policies which were nonrenewed during the experience period was selected for review. The property policies consisted of homeowner and tenant homeowner. All 17 files were received and reviewed. The violation noted resulted in an error ratio of 6%.

The following finding was made:

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

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

negligent acts or omissions by the insured; or the insured has failed to pay any premium when due or for any other reasons approved by the Commissioner. The Company did not provide a copy of the nonrenewal notice to verify compliance for the file noted.

D. Commercial Property

1. Midterm Cancellations

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

The 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.

The universe of 2 tenant occupied dwelling fire policies which were cancelled during the experience period was selected for review. Both files were received and reviewed. The 2 violations noted were based on 2 files, resulting in an error ratio of 100%.

The following findings were made:

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

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

1 Violation 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 file noted was cancelled for other than permitted reasons.

2. Nonrenewals

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

The 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 4 tenant occupied dwelling fire policies identified as nonrenewals was selected for review. All 4 files were received and reviewed. No violations were noted.

3. 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 990 tenant occupied 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.

VI. RATING

A. Private Passenger Automobile

1. New Business

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

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

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

Private Passenger Automobile – New Business Without Surcharges

From the universe of 15,673 private passenger automobile policies identified as new business without surcharges, 25 files were selected for review. All 25 files were received and reviewed. The 36,431 violations noted were based on the universe of 15,673, resulting in an error ratio of 100%.

The following findings were made:

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

Requires every insurer, prior to the first issuance of a private passenger motor vehicle liability insurance policy to provide each applicant with the notice required by paragraph (1). A policy may not be issued until the applicant has been provided an opportunity to elect a tort option. The notice shall be standardized form as adopted by the Commissioner. The Company failed to provide the signed limited tort selection form for the file noted.

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

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

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

Requires every private passenger automobile insurance policy providing collision coverage to provide a deductible in the amount of \$500.00 for collision coverage, unless the named insured signs a statement indicating the insured is aware that the purchase of a lower deductible is permissible and that there is an additional cost of purchasing a lower deductible and the insured agrees to accept it. The violation noted was the result of not having the required signed statement from the insured.

15,673 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.

15,673 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.

5,082 Violations Title 75, Pa. C.S. §1725

Every motor vehicle insurance policy shall contain a notice as to whether the policy covers collision damage to rental vehicles, and any limitations on such coverage. The notice shall be written in clear, plain language and shall be printed on the first page of the policy in boldface capital letters. The Company failed to provide the notice on policies effective February 20, 2006 through June 30, 2006.

Concern: In reviewing the rating of policies, it was noted that the territorial definitions in the rate revision effective 12/1/2005 are incorrect. Upon review of the Company's rate filing, the Department believes that this was an oversight by the Company and the territories that had been in effect prior to the 12/1/2005 revision had not been updated using the zip codes. The Company should correct this error and any future rate and territorial revisions.

Private Passenger Automobile - New Business With Surcharges

From the universe of 454 private passenger automobile policies identified as new business with surcharges by the Company, 50 files were selected for review. All 50 files were received and reviewed. The 1,120 violations noted were based on the universe of 454, resulting in an error ratio of 100%.

The following findings were made:

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

Requires every insurer, prior to the first issuance of a private passenger motor vehicle liability insurance policy to provide each applicant with the notice required by paragraph (1). A policy may not be issued until the applicant has been provided an opportunity to elect a tort option. The Company failed to provide the signed limited tort selection form for the file noted.

1 Violation Title 75, Pa. C.S. §1734

A named insured may request in writing the issuance of coverages under Section 1731 (relating to availability, scope and amount of coverage) in an amount equal to or less than the limits of liability for bodily injury. The file noted did not contain a written request for lower limits of liability.

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

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

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

Requires every private passenger automobile insurance policy providing collision coverage to provide a deductible in the

amount of \$500.00 for collision coverage, unless the named insured signs a statement indicating the insured is aware that the purchase of a lower deductible is permissible and that there is an additional cost of purchasing a lower deductible and the insured agrees to accept it. The violation noted was the result of not having the required signed statement from the insured.

10 Violations Title 75, Pa. C.S. §1799.3(d)

Requires insurers who make a determination to impose a surcharge, rate penalty or driver record point assignment, to inform the insured of the determination and specify the manner in which the surcharge, rate penalty or driver record point assignment was made and clearly identify the amount of the surcharge or rate penalty on the premium notice for as long as the surcharge or rate penalty is in effect. The Company failed to provide the surcharge disclosure statement on the 10 files noted.

454 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.

454 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.

196 Violations Title 75, Pa. C.S. §1725

Every motor vehicle insurance policy shall contain a notice as to whether the policy covers collision damage to rental vehicles, and any limitations on such coverage. The notice shall be written in clear, plain language and shall be printed on the first page of the policy in boldface capital letters. The Company failed to provide the notice on policies effective February 20, 2006 through June 30, 2006.

Concern: In reviewing the rating of policies, it was noted that the territorial definitions in the rate revision effective 12/1/2005 are incorrect. Upon review of the Company’s rate filing, the Department believes that this was an oversight by the Company and the territories that had been in effect prior to the 12/1/2005 revision had not been updated using the zip codes.

The Company should correct this error and any future rate and territorial revisions.

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 17,409 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 5,582 violations noted were based on 4,975 files identified by the Company, resulting in an error ratio of 29%.

The following findings were made:

4,975 Violations Title 75, Pa. C.S. §1725

Every motor vehicle insurance policy shall contain a notice as to whether the policy covers collision damage to rental vehicles, and any limitations on such coverage. The notice shall be written in clear, plain language and shall be printed on the first page of the policy in boldface capital letters. The Company failed to provide the notice on policies processed from February 20, 2006 through June 30, 2006.

607 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 on the 607 files noted.

Concern: In reviewing the rating of policies, it was noted that the territorial definitions in the rate revision effective 12/1/2005 are incorrect. Upon review of the Company's rate filing, the Department believes that this

was an oversight by the Company and the territories that had been in effect prior to the 12/1/2005 revision had not been updated using the zip codes. The Company should correct this error and any future rate and territorial revisions.

Private Passenger Automobile – Renewals With Surcharges

From the universe of 2,658 private passenger automobile policies renewed with surcharges during the experience period, 50 files were selected for review. All 50 files were received and reviewed. The 921 violations noted were based on 810 files identified by the Company, resulting in an error ratio of 30%.

The following findings were made:

810 Violations Title 75, Pa. C.S. §1725

Every motor vehicle insurance policy shall contain a notice as to whether the policy covers collision damage to rental vehicles, and any limitations on such coverage. The notice shall be written in clear, plain language and shall be printed on the first page of the policy in boldface capital letters. The Company failed to provide the notice on policies processed from February 20, 2006 through June 30, 2006.

101 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 on the 101 files noted.

10 Violations Title 75, Pa. C.S. §1799.3(d)

Requires insurers who make a determination to impose a surcharge, rate penalty or driver record point assignment, to inform the insured of the determination and specify the manner in which the surcharge, rate penalty or driver record point assignment was made and clearly identify the amount of the surcharge or rate penalty on the premium notice for as long as the surcharge or rate penalty is in effect. The Company failed to provide the surcharge disclosure statement on the 10 files noted.

Concern: In reviewing the rating of policies, it was noted that the territorial definitions in the rate revision effective 12/1/2005 are incorrect. Upon review of the Company's rate filing, the Department believes that this was an oversight by the Company and the territories that had been in effect prior to the 12/1/2005 revision had not been updated using the zip codes. The Company should correct this error and any future rate and territorial revisions.

B. Private Passenger Automobile – Assigned Risk

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

no assigned risk business during the experience period.

C. Homeowners

1. New Business

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

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

Homeowner Rating – New Business Without Surcharges

From the universe of 9,811 homeowner policies written as new business without surcharges 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

From the universe of 58 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.

The following concern was noted:

Concern: The homeowner policies are subject to surcharges for losses. Therefore, it is a concern that no surcharge disclosure plan was provided on those policies that were not written as part of a package. The disclosure plan should state what surcharge percentage applies for paid losses as provided in the Company's rate filing. Notification of the surcharge disclosure requirement was provided to all companies, in an Important Notice dated 9/18/1998.

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 15,155 homeowner policies renewed without surcharges during the experience period, 25 files were selected for review. All 25 files were received and reviewed. No violations were noted.

Homeowner Rating – Renewals With Surcharges

From the universe of 211 homeowner policies renewed with surcharges during the experience period, 25 files were selected for review. All 25 files were received and reviewed. No violations were noted.

The following concern was noted:

Concern: The homeowner policies are subject to surcharges for losses. Therefore, it is a concern that no surcharge disclosure plan was provided on those policies that were not written as part of a package. The disclosure plan should state what surcharge percentage applies for paid losses as provided in the Company's rate filing. Notification of the surcharge disclosure requirement was provided to all companies, in an Important Notice dated 9/18/1998.

D. Tenant Homeowners

1. New Business

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

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

Tenant Homeowner Rating – New Business Without Surcharges

From the universe of 2,470 tenant homeowner policies written as new business without surcharges during the experience period, 25 files were selected for review. All 25 files were received and reviewed. No violations were noted.

Tenant Homeowner Rating – New Business With Surcharges

The universe of 5 tenant homeowner policies written as new business with surcharges during the experience period was selected for review. All 5 files were received and reviewed. No violations were noted.

The following concern was noted:

Concern: The homeowner policies are subject to surcharges for losses. Therefore, it is a concern that no surcharge disclosure plan was provided on those policies that were not written as part of a package. The disclosure plan should state what surcharge percentage applies for paid losses as provided in the Company's rate filing. Notification of the surcharge disclosure requirement was provided to all companies, in an Important Notice dated 9/18/1998.

2. Renewals

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

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

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

Tenant Homeowner Rating – Renewals Without Surcharges

From the universe of 2,109 tenant homeowner policies renewed without surcharges during the experience period, 25 files were selected for review. All 25 files were received and reviewed. No violations were noted.

Tenant Homeowner Rating – Renewals With Surcharges

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

The following concern was noted:

Concern: The homeowner policies are subject to surcharges for losses. Therefore, it is a concern that no surcharge disclosure plan was provided on those policies that were not written as part of a package. The disclosure plan should state what surcharge percentage applies for paid losses as provided in the Company's rate filing. Notification of the surcharge disclosure requirement was provided to all companies, in an Important Notice dated 9/18/1998.

E. Dwelling Fire

1. New Business

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

The purpose of the review was to measure compliance with Act 246,

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

The universe of 10 dwelling fire policies written as new business without surcharges during the experience period was selected for review. All 10 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 54 dwelling fire policies renewed without surcharges during the experience period, 20 files were selected for review. All 20 files were received and reviewed. No violations were noted.

VII. CLAIMS

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

The Claims review consisted of the following areas of review:

- A. Automobile Property Damage Claims
- B. Automobile Comprehensive Claims
- C. Automobile Collision Claims
- D. Automobile Total Loss Claims
- E. Automobile First Party Medical Claims
- F. Automobile First Party Medical Claims Referred to a PRO
- G. Property 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 6,324 private passenger automobile property damage claims reported during the experience period, 25 files were selected for review. All 25 files were received and reviewed. No violations noted were noted.

B. Automobile Comprehensive Claims

From the universe of 2,667 private passenger automobile comprehensive claims reported during the experience period, 25 files were selected for review. All 25 files were received and reviewed. No violations were noted.

C. Automobile Collision Claims

From the universe of 8,810 private passenger automobile collision claims reported during the experience period, 25 files were selected for review. All 25 files were received and reviewed. No violations were noted.

D. Automobile Total Loss Claims

From the universe of 1,033 private passenger automobile total loss claims reported during the experience period, 75 files were selected for review. All 75 files were received and reviewed. The 2 violations noted were based on 2 files, resulting in an error ratio of 3%.

The following findings were made:

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

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

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

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

E. Automobile First Party Medical Claims

From the universe of 2,689 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. Automobile First Party Medical Claims Referred to a PRO

From the universe of 107 private passenger automobile first party medical claims referred to a peer review organization, 25 files were selected for review. All 25 files were received and reviewed. The Company was requested to provide copies of any contracts with the peer review organization it has contracted. The contracts were received and reviewed. No violations were noted.

G. Property Claims

From the universe of 5,626 homeowner claims reported during the experience period, 25 files were selected for review. All 25 files were received and reviewed. The property claims consisted of homeowner and tenant homeowner. 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.

No violations were noted.

IX. ADVERTISING

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

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

The Company advised that there was no advertising used during the experience period. 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 34 consumer complaints received during the experience period and provided all consumer complaint logs requested. Of the 34 complaints reported, 1 complaint was a New York State Department of Insurance complaint and was not subject to audit.

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

The following finding was made:

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

Requires an insurer to maintain a complete record of all the complaints, which it has received during the preceding four years. This record shall indicate the total number of complaints, their classification by line of insurance, the nature of each complaint, the disposition of these complaints and time it took to process each complaint. The Complaint logs for years 2005 and 2006 were incomplete. They did not indicate the classification by line of insurance.

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

•	13	Billing	40%
•	10	Cancellation/Nonrenewal	31%
•	8	Claims	25%
•	1	Underwriting	2%
•	1	Miscellaneous	2%
	<hr/>		<hr/>
	33		100%

XI. LICENSING

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

The following findings were made:

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

- (a) Representative of the insurer – An insurance producer shall not act on behalf of or as a representative of the insurer unless the insurance producer is appointed by the insurer. An insurance producer not acting as a representative of an insurer is not required to be appointed.
- (b) Representative of the consumer – An insurance producer acting on behalf of or representing an insurance consumer shall execute a written agreement with the insurance consumer prior to representing or acting on their behalf that:
 - (1) Delineates the services to be provided; and
 - (2) Provides full and complete disclosure of the fee to be paid to the insurance producer by the insurance consumer.
- (c) Notification to Department – An insurer that appoints an insurance producer shall file with the Department a notice of appointment. The notice shall state for which companies within the

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

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

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

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

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

Hopwood Insurance Agency, Inc.
Maseychik Associates Inc.
Patt White Insurance Agency
Sky Insurance, Inc.
Stuber Insurance Agency
Arnold E. Thompson

XII. RECOMMENDATIONS

The recommendations made below identify corrective measures the Department finds necessary as a result of the number of some violations, or the nature and severity of other statutory or regulatory violations, noted in the Report.

1. The Company must review and revise internal control procedures to ensure compliance with cancellation notice requirements of Act 68, Sections 2004 and 2008 [40 P.S. §§991.2004 and 991.2008], so that the violations noted in the Report do not occur in the future.
2. The Company must review Act 205, Section 5(a)(9) [40 P.S. §1171.5(a)(9)] to ensure that the violation regarding the requirement for nonrenewal notices, as noted in the Report, does 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) to ensure that an itemized invoice listing minimum coverages and tort options is provided at the time of application, as noted in the Report, and does not occur in the future.
5. When a surcharge is imposed on a private passenger automobile policy the Company must include specifics of accidents and citations and give notice to the insured. This procedure must be implemented within 30

days of the Report issue date. This is to ensure that violations noted under Title 75, Pa. C.S. §1799.3(d) do not occur in the future.

6. The Company must revise its underwriting procedures to ensure that each applicant for private passenger automobile liability insurance is provided an opportunity to elect a tort option and that signed tort option selection forms are obtained and retained with the underwriting file. This is to ensure that violations noted under Title 75, Pa. C.S. §1705(a)(1)(4) do not occur in the future.
7. 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 Title 75, Pa. C.S. §1734 to ensure that the insured signs a request for lower limits of liability for uninsured and underinsured motorist coverage and a copy kept in files as noted in the Report.

10. The Company must revise underwriting procedures to ensure that the insured is aware that there is an additional cost for purchasing a lower deductible for collision coverage. This is to ensure that violations noted under Title 75, Pa. C.S. §1792(b)(1) do not occur in the future.
11. The Company must review Title 75, Pa. C.S. §1725 to ensure that a notice as to whether the policy covers collision damage to rental vehicles, and any limitations on such coverage shall be printed on the first page of the policy in boldface capital letters.
12. The Company must review Title 75, Pa. C.S. §1161(a)&(b) with its claim staff to ensure that salvage certificates are obtained and are retained with the claim file.
13. The Company must ensure all producers are properly appointed, as required by Section 671-A [40 P.S. §310.71] of the Insurance Department Act No. 147, prior to accepting any business from any producer.
14. The Company must revise and reissue their underwriting guidelines for use in Pennsylvania to ensure that the guidelines do not exclude applicants from being eligible to obtain insurance for reasons established in Act 205, Section 5(a)(7)(iii) [40 P.S. §1171.5(a)(7)(iii)].
15. The Company must revise and reissue their underwriting guidelines for use in Pennsylvania to ensure that guidelines do not require supporting private passenger automobile coverage in order to bind motor home coverage.

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

XIII. COMPANY RESPONSE



Debra J. Groves, AU, API, AIS
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Underwriting Governance

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October 12, 2007

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

RE: Examination Warrant Number: 06-M22-033
Encompass Indemnity Company
Examination Period July 1, 2005 through June 30, 2006

Dear Mr. Derk:

Encompass Insurance Company has reviewed the Report of Examination of the Encompass Insurance Company covering the period July 1, 2005, through June 30, 2006, which was included with your letter dated September 17, 2007.

We note two inaccuracies in the report narrative:

1. The office location noted on page 3 under **II. Scope of Examination** is incorrect. The report indicates the examination was conducted at the Company's Glen Mills, Pennsylvania office. The correct office location is Wyomissing, Pennsylvania.
2. The definition of **Commercial Property Renewals** on page 15 is incorrect. It appears that the definition for declination was inserted.

We respectfully request that the final report be revised to reflect corrections to the aforementioned sections.

We respectfully submit our comments or rebuttals for the following violations and concerns:

IV. UNDERWRITING PRACTICES AND PROCEDURES

1 Violation

Act 205, Section 5(a)(4) [40 P.S. §1171.5(a)(4)] Unfair Methods of Competition and Unfair or Deceptive Acts or Practices Defined. Entering into any agreement to commit, or by any concerted action committing, any act of boycott, coercion or intimidation resulting in or tending to result in unreasonable restraint of, or monopoly in, the business of insurance. The Company's Motorcycle and Recreational Vehicles guideline indicated that motor homes are ineligible if it is the only vehicle to be insured unless there is a qualifying private passenger auto in the household.

Company Response: Please accept the following explanation as our rebuttal. The experience period for the current exam runs from July 1, 2005 to June 30, 2006. Encompass was already cited for this violation during the Continental Insurance Company examination conducted in 3rd quarter 2005. Pursuant to the Final Consent Order entered as a result of the Continental Insurance Company exam, the Company agreed to make the necessary revisions to the underwriting guidelines. The Company began the process of making the necessary revisions subsequent to the signing of the Final Consent Order and those revisions went into effect last year. The period of time during which: the company was previously cited for this violation; agreed to make the necessary revisions; and began the process of making the necessary revisions, falls directly within the current experience period.

1 Violation

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 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 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 homeowner guideline indicated that well known politicians, entertainers and athletes are ineligible.

Company Response: Please accept the following explanation as our rebuttal. While the General Requirements – PA Home guidelines dated 6/29/2005 and 3/6/2006 included the reference to well known politicians, entertainers and athletes, the Company had subsequently removed this reference prior to the arrival of the examiners on site. Further, while the guidelines may have referenced this requirement, in practice, Encompass does not use occupation as a general requirement. No policy has been canceled, declined or non-renewed because of this requirement.

1 Violation

Act 68, Section 2003(a)(10) [40 P.S. §991.2003(a)(10)] Discrimination Prohibited – (a) An insurer may not cancel or refuse to write or renew a policy of automobile insurance due to lawful occupation. The Company’s private passenger automobile guideline indicated well known politicians, entertainers and athletes are ineligible.

Company Response: Please accept the following explanation as our rebuttal. While the General Requirements – PA Home guidelines dated 6/29/2005 and 3/6/2006 included the reference to well known politicians, entertainers and athletes, the Company had subsequently removed this reference prior to the arrival of the examiners on site. Further, while the guidelines may have referenced this requirement, in practice, Encompass does not use occupation as a general requirement. No policy has been canceled, declined or non-renewed because of this requirement.

V. UNDERWRITING

A. Private Passenger Automobile

2. Midterm Cancellations

2 Violations

Act 68, Section 2004[40 P.S. §991.2004] Requires that no insurer shall cancel a policy of automobile insurance except for nonpayment of premium, suspension or revocation of the named insured's driver license or motor vehicle registration or a determination that the insured has concealed a material fact or has made a material allegation contrary to fact or has made a misrepresentation of material fact and that such concealment, allegation or misrepresentation was material to the acceptance of the risk by the insurer. The 2 files noted were cancelled for other than permitted reasons.

Company Response: Please accept the following explanation as our rebuttal. Both policies noted by the department were package policies covering the insureds' home and autos. We canceled the entire policy due to material misrepresentation, omissions or concealment of fact material to the acceptance of the risk and hazard assumed by the Company.

In the first instance, the insured represented that the home had a central station fire burglar alarm, did not have a business on the premises and did not have an unfenced pool. An inspection of the premises found all three representations to be false. As this is a package policy, written under one policy number, the entire policy was canceled for the reasons noted above.

A consumer services advocate from the Pennsylvania Insurance Department, Bureau of Consumer Services, conducted an investigation of the automobile cancellation on the above policy and upheld the Company's decision to cancel the entire policy due to material misrepresentation.

In the second instance, we issued a package policy covering the insured's home and autos. We canceled the entire policy due to material misrepresentation, omissions or concealment of fact material to the acceptance of the risk and hazard assumed by the Company. Specifically, the insured represented that the home did not have a trampoline on the premises. An inspection of the premises found the representation to be false. As this is a package policy, written under one policy number, the entire policy was canceled for the reason noted above.

The circumstances of both cancellations are very similar. While the Pennsylvania Insurance Department, Bureau of Consumer Services did not conduct an investigation on this policy, we believe both policies warrant the same result. Our actions are consistent with those actions previously upheld by the Pennsylvania Insurance Department, Bureau of Consumer Services.

We believe the Company has met the requirements of Act 68.

VI. Rating

A. Private Passenger Automobile

1. New Business

Private Passenger Automobile – New Business Without Surcharge

15,673 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 coverage. 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.

Company Response: Please accept the following explanation as our rebuttal. ACORD 61 PA entitled PENNSYLVANIA AUTO SUPPLEMENT, which is approved by the Department, is given to the applicant at the point of sale. ACORD 61 PA includes the following language as required by statute:

The Commonwealth of Pennsylvania requires you to purchase liability coverage with minimum limits of \$15,000 per person, \$30,000 per accident for bodily injury and \$5,000 for property damage, or as an alternative, \$35,000 combined single limit.

The laws of the Commonwealth of Pennsylvania, as enacted by the General Assembly, only require that you purchase liability and first-party medical benefit coverages. Any additional coverages or coverages in excess of the limits required by law are provided only at your request as enhancements to basic coverage.

The Company prints the itemized invoice on the new business declaration page at policy issuance. Additionally, form G-15401-B Ed. 0695 entitled NOTICE OF MINIMUM REQUIRED AUTOMOBILE COVERAGES, is provided with the new business packet. Form G-15401-B Ed. 0695 includes the notices referenced above.

For every renewal thereafter, the invoice is also printed on the renewal declaration. Form G-15401-B Ed. 0695 is also provided with the renewal packet.

We believe our practices satisfy the notice requirements found in Title 75, Pa. C.S. §1791.1(a).

15,673 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.

Company Response: Please accept the following explanation as our rebuttal. ACORD 61 PA entitled PENNSYLVANIA AUTO SUPPLEMENT, which is approved by the Department, is given to the applicant at the point of sale. The notice of the availability of two alternatives of full tort insurance and limited tort insurance can be found on Page three (3) of the ACORD 61 PA under Tort Option Selection – Notice to Named Insureds. This section includes the notice of the two alternative tort options available, the premium for each tort option, a full description of each: the “Limited Tort” Option and “Full Tort” Option, and the following notification to the applicant: *“You may contact your insurance agent, broker or company to discuss the cost of other coverage.”*

Further, at policy issuance and for every renewal thereafter, the Company provides notice G-16219-B Ed. 06-95 entitled NOTICE OF LIMITED/FULL TORT MINIMUM PREMIUMS with the policy packet. G-16219-B Ed. 06-95 includes the notice of the two alternative tort options available, full description of each: the “Limited Tort” Option and “Full Tort” Option, and the following notification to the policyholder: *“If you wish to change the tort option that currently applies to your policy, you must notify your agent, broker or company and request and complete the appropriate form.”*

We believe our practices satisfy the notice requirements found in Title 75, Pa. C.S. §1791.1(b).

Concern: In reviewing the rating of policies, it was noted that the territorial definitions in the rate revision effective 12/1/2005 are incorrect. Upon review of the Company’s rate filing, the Department believes that this was an oversight by the Company and the territories that had been in effect prior to the 12/1/2005 revision had not been updated using the zip codes. The Company should correct this error and any future rate and territorial revisions.

Company Response: This concern was already identified by the Company and brought to the Department’s attention earlier this year. We want to emphasize that this oversight did not impact the accuracy of the rates charged for these territories. We will include the above zip code territory changes with the current rate filing under review by the Department.

Private Passenger Automobile – New Business With Surcharges

454 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 coverage. 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.

Company Response: Please accept the following explanation as our rebuttal. ACORD 61 PA entitled PENNSYLVANIA AUTO SUPPLEMENT, which is approved by the Department, is given to the applicant at the point of sale. ACORD 61 PA includes the following language as required by statute:

The Commonwealth of Pennsylvania requires you to purchase liability coverage with minimum limits of \$15,000 per person, \$30,000 per accident for bodily injury and \$5,000 for property damage, or as an alternative, \$35,000 combined single limit.

The laws of the Commonwealth of Pennsylvania, as enacted by the General Assembly, only require that you purchase liability and first-party medical benefit coverages. Any additional coverages or coverages in excess of the limits required by law are provided only at your request as enhancements to basic coverage.

The Company prints the itemized invoice on the new business declaration page at policy issuance. Additionally, form G-15401-B Ed. 0695 entitled NOTICE OF MINIMUM REQUIRED AUTOMOBILE COVERAGES, is provided with the new business packet. Form G-15401-B Ed. 0695 includes the notices referenced above.

For every renewal thereafter, the invoice is also printed on the renewal declaration. Form G-15401-B Ed. 0695 is also provided with the renewal packet.

We believe our practices satisfy the notice requirements found in Title 75, Pa. C.S. §1791.1(a).

454 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.

Company Response: Please accept the following explanation as our reason for rebuttal. ACORD 61 PA entitled PENNSYLVANIA AUTO SUPPLEMENT, which is approved by the Department, is given to the applicant at the point of sale. The notice of the availability of two alternatives of full tort insurance and limited tort insurance can be found on Page three (3) of the ACORD 61 PA under Tort Option Selection – Notice to Named Insureds. This section includes the notice of the two alternative tort options available, the premium for each tort option, a full description of each: the “Limited Tort” Option and “Full Tort” Option, and the following notification to the applicant:

“You may contact your insurance agent, broker or company to discuss the cost of other coverage.”

Further, at policy issuance and for every renewal thereafter, the Company provides notice G-16219-B Ed. 06-95 entitled NOTICE OF LIMITED/FULL TORT MINIMUM PREMIUMS with the policy packet. G-16219-B Ed. 06-95 includes the notice of the two alternative tort options available, full description of each: the “Limited Tort” Option and “Full Tort” Option, and the following notification to the policyholder: *“If you wish to change the tort option that currently applies to your policy, you must notify your agent, broker or company and request and complete the appropriate form.”*

We believe our practices satisfy the notice requirements found in Title 75, Pa. C.S. §1791.1(b).

Concern: In reviewing the rating of policies, it was noted that the territorial definitions in the rate revision effective 12/1/2005 are incorrect. Upon review of the Company’s rate filing, the Department believes that this was an oversight by the Company and the territories that had been in effect prior to the 12/1/2005 revision had not been updated using the zip codes. The Company should correct this error and any future rate and territorial revisions.

Company Response: This concern was already identified by the Company and brought to the Department’s attention earlier this year. We want to emphasize that this oversight did not impact the accuracy of the rates charged for these territories. We will include the above zip code territory changes with the current rate filing under review by the Department.

Private Passenger Automobile – Renewals Without Surcharges

607 Violations

On policies in which either uninsured or underinsured motorist coverages 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 on the 607 files noted.

Company Response: Please accept the following explanation as our rebuttal. The experience period for the current exam runs from July 1, 2005 to June 30, 2006. Encompass was already cited for this violation during the Continental Insurance Company examination conducted in 3rd quarter 2005. Pursuant to the Final Consent Order entered as a result of the Continental Insurance Company exam, the Company agreed to add the rejection of UM/UIM notification in prominent type to the declaration. The Company began the process of making this revision subsequent to the signing of the Final Consent Order. The revision was implemented at the beginning of this year. The period of time during which: the company was previously cited for this violation; agreed to make the necessary revision; and began the process of making the necessary revision, falls directly within the current experience period.

Concern: In reviewing the rating of policies, it was noted that the territorial definitions in the rate revision effective 12/1/2005 are incorrect. Upon review of the Company’s rate filing, the

Department believes that this was an oversight by the Company and the territories that had been in effect prior to the 12/1/2005 revision had not been updated using the zip codes. The Company should correct this error and any future rate and territorial revisions.

Company Response: This concern was already identified by the Company and brought to the Department's attention earlier this year. We want to emphasize that this oversight did not impact the accuracy of the rates charged for these territories. We will include the above zip code territory changes with the current rate filing under review by the Department.

Private Passenger Automobile – Renewals With Surcharges

101 Violations

On policies in which either uninsured or underinsured motorist coverages 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 on the 101 files noted.

Company Response: Please accept the following explanation as our rebuttal. The experience period for the current exam runs from July 1, 2005 to June 30, 2006. Encompass was already cited for this violation during the Continental Insurance Company examination conducted in 3rd quarter 2005. Pursuant to the Final Consent Order entered as a result of the Continental Insurance Company exam, the Company agreed to add the rejection of UM/UIM notification in prominent type to the declaration. The Company began the process of making this revision subsequent to the signing of the Final Consent Order. The revision was implemented at the beginning of this year. The period of time during which: the company was previously cited for this violation; agreed to make the necessary revision; and began the process of making the necessary revision, falls directly within the current experience period.

Concern: In reviewing the rating of policies, it was noted that the territorial definitions in the rate revision effective 12/1/2005 are incorrect. Upon review of the Company's rate filing, the Department believes that this was an oversight by the Company and the territories that had been in effect prior to the 12/1/2005 revision had not been updated using the zip codes. The Company should correct this error and any future rate and territorial revisions.

Company Response: This concern was already identified by the Company and brought to the Department's attention earlier this year. We want to emphasize that this oversight did not impact the accuracy of the rates charged for these territories. We will include the above zip code territory changes with the current rate filing under review by the Department.

C. Homeowners

Homeowner Rating – New Business With Surcharges

Concern: The homeowner policies are subject to surcharges for losses. Therefore, it is a concern that no surcharge disclosure plan was provided on those policies that were not written as part of a package. The disclosure plan should state what surcharge percentage applies for paid losses as

provided in the Company's rate filing. Notification of the surcharge disclosure requirement was provided to all companies, in an Important Notice dated 9/18/1998.

Company Response: The Company acknowledges the Department's concern and will investigate why the Surcharge Disclosure Notification was omitted from the non-package homeowners policies.

Homeowner Rating – Renewals With Surcharges

Concern: The homeowner policies are subject to surcharges for losses. Therefore, it is a concern that no surcharge disclosure plan was provided on those policies that were not written as part of a package. The disclosure plan should state what surcharge percentage applies for paid losses as provided in the Company's rate filing. Notification of the surcharge disclosure requirement was provided to all companies, in an Important Notice dated 9/18/1998.

Company Response: The Company acknowledges the Department's concern and will investigate why the Surcharge Disclosure Notification was omitted from the non-package homeowners policies.

Tenant Homeowner Rating – New Business With Surcharges

Concern: The homeowner policies are subject to surcharges for losses. Therefore, it is a concern that no surcharge disclosure plan was provided on those policies that were not written as part of a package. The disclosure plan should state what surcharge percentage applies for paid losses as provided in the Company's rate filing. Notification of the surcharge disclosure requirement was provided to all companies, in an Important Notice dated 9/18/1998.

Company Response: The Company acknowledges the Department's concern and will investigate why the Surcharge Disclosure Notification was omitted from the non-package homeowners policies.

Tenant Homeowner Rating – Renewals With Surcharges

Concern: The homeowner policies are subject to surcharges for losses. Therefore, it is a concern that no surcharge disclosure plan was provided on those policies that were not written as part of a package. The disclosure plan should state what surcharge percentage applies for paid losses as provided in the Company's rate filing. Notification of the surcharge disclosure requirement was provided to all companies, in an Important Notice dated 9/18/1998.

Company Response: The Company acknowledges the Department's concern and will investigate why the Surcharge Disclosure Notification was omitted from the non-package homeowners policies.

XII. RECOMMENDATIONS

We have reviewed the recommendations and offer the following corrective measures:

1. The Company must review and revise internal control procedures to ensure compliance with cancellation notice requirements of Act 68, Sections 2004 and 2008 [40 P.S. §§991.2004 and 991.2008], so that the violations noted in the Report do not occur in the future.

Company Response: We have reminded the underwriters of the cancellation requirements, as outlined in Act 68. Routine self-reviews are conducted to ensure compliance.

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

Company Response: We have reminded the underwriters of the nonrenewal requirements, as outlined in Act 205. Routine self-reviews are conducted to ensure compliance.

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 [P.S. §3402 and 3403], so that the violations noted in the Report do not occur in the future.

Company Response: We have reminded the underwriters of the commercial cancellation and nonrenewal requirements, as outlined in Act 86. Routine self-reviews are conducted to ensure compliance.

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

Company Response: We will implement the necessary system changes to ensure that the itemized invoice listing minimum coverages and tort options is provided at the time of application.

5. When a surcharge is imposed on a private passenger automobile policy the Company must include specifics of accidents and citations and give notice to the insured. This procedure must be implemented within 30 days of the Report issue date. This is to ensure that violations noted under Title 75, Pa. C.S. § 1799.3(d) do not occur in the future.

Company Response: A procedure is already in place to notify the insured of the specifics of accidents and citations when a surcharge is imposed. The surcharge disclosure statement failed to print due to a system error identified on 11/3/2005. The system correction was implemented on 4/6/2006.

6. The Company must revise its underwriting procedures to ensure that each applicant for private passenger automobile liability insurance is provided an opportunity to elect a tort option and that

signed tort option selection forms are obtained and retained with the underwriting file. This is to ensure that violations noted under Title 75, Pa. C.S. § 1705(a)(1)(4) do not occur in the future.

Company Response: We rely on our independent agents to secure and retain properly completed applications and supplemental applications and submit copies to us upon request. The Company conducts routine trailing document audits to ensure that our agents are securing and retaining the signed tort option selection forms. Agents who consistently have failed results are placed on corrective action plans.

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.

Company Response: A procedure is already in place whereby the renewals where uninsured or underinsured coverage has been rejected contains notice in prominent type that the policy does not provide protection against damages caused by uninsured or underinsured motorists. The Company revised its procedure in early 2007 in response to the Consent Order for the Continental Insurance Company.

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

Company Response: We rely on our independent agents to secure and retain properly completed applications and supplemental applications and submit copies to us upon request. The Company conducts routine trailing document audits to ensure that our agents are securing and retaining the signed rejection waiver of stacked limits for uninsured and underinsured motorist coverage. Agents who consistently have failed results are placed on corrective action plans.

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

Company Response: We rely on our independent agents to secure and retain properly completed applications and supplemental applications and submit copies to us upon request. The Company conducts routine trailing document audits to ensure that our agents are securing and retaining the signed request for lower limits of liability for uninsured and underinsured motorist coverage. Agents who consistently have failed results are placed on corrective action plans.

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

Company Response: We rely on our independent agents to secure and retain properly completed applications and supplemental applications and submit copies to us upon request. The Company conducts routine trailing document audits to ensure that our agents are securing and retaining the signed form indicating the insured is aware that there is an additional cost for purchasing a lower deductible for collision coverage. Agents who consistently have failed results are placed on corrective action plans.

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

Company Response: A procedure is already in place to notify the insured regarding collision coverage for rental vehicles; however, due to a system error identified on 2/2/2006, the notification failed to print due on the declaration page. The system correction was implemented on 8/24/2007.

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

Company Response: We have reminded our claim staff of the legal requirement to obtain salvage certificates and retain a copy with the claim file.

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

Company Response: The Company conducts, and will continue to conduct, routine spot-checks to ensure that resident and non-resident agents writing business in Pennsylvania are properly appointed.

14. The Company must revise and reissue their underwriting guidelines for use in Pennsylvania to ensure that the guidelines do not exclude applicants from being eligible to obtain insurance for reasons established in Act 205, Section 5(a)(7)(iii)[40 P.S. §1171.5(a)(7)(111)].

Company Response: Our underwriting guidelines have already been revised to comply with Act 205, Section 5(a)(7)(iii)[40 P.S. §1171.5(a)(7)(111)]. The revised guidelines were reissued on 6/4/2007.

15. The Company must revise and reissue their underwriting guidelines for use in Pennsylvania to

ensure that guidelines do not require supporting private passenger automobile coverage in order to bind motor home coverage.

Company: Our underwriting guidelines have already been revised to allow binding of unsupported motor home coverage. The revised guidelines were reissued on 8/12/2006.

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

Company Response: Our underwriting guidelines have already been revised to comply with in section 2003 of Act 68 [40 P.S. §991.2003]. The revised guidelines were reissued on 6/4/2007.

We are confident that the corrective measures put in place will help us to avoid compliance issues in the future.

We wish to thank you and your staff of examiners for the courtesy and cooperation given during the examination process. We find this process to be most helpful and the most effective way to ensure that our procedures and practices comply with the law.

If you have any questions or concerns, please contact me at 1-800-345-7542 extension 12609.

Sincerely,

Debra J. Groves, AU, API, AIS
Senior Risk Management Consultant

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