

**REPORT OF
MARKET CONDUCT EXAMINATION
OF
GENERAL INSURANCE COMPANY OF AMERICA**

Seattle, Washington

**AS OF
August 5, 2009**

COMMONWEALTH OF PENNSYLVANIA

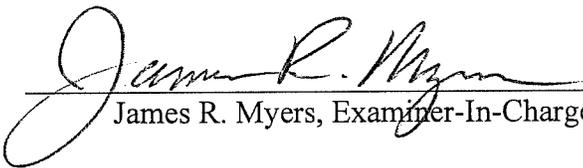


**INSURANCE DEPARTMENT
MARKET CONDUCT DIVISION**

Issued: October 5, 2009

VERIFICATION

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


James R. Myers, Examiner-In-Charge

Sworn to and Subscribed Before me

This 15 Day of July, 2009



Notary Public
COMMONWEALTH OF PENNSYLVANIA

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

GENERAL INSURANCE COMPANY OF AMERICA

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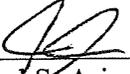
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BEFORE THE INSURANCE COMMISSIONER
OF THE
COMMONWEALTH OF PENNSYLVANIA

ORDER

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





Joel S. Ario
Insurance Commissioner

BEFORE THE INSURANCE COMMISSIONER
OF THE
COMMONWEALTH OF PENNSYLVANIA

IN RE:	VIOLATIONS:
GENERAL INSURANCE COMPANY	Sections 641.1-A and 671-A of Act 147
OF AMERICA	of 2002 (40 P.S. §§ 310.41a and 310.71)
SAFECO Plaza	
Seattle, WA 98185	Section 903(a) of the Insurance Department
	Act, Act of May 17, 1921, P.L. 789, No. 285
	(40 P.S. §323.3)
	Act 1990-6, Sections 1705(a)(1) and (4),
	1716, 1725, 1731(b) and (c),
	1738(d)(2), 1791.1(b), 1797(b)(1), and
	1799.3(d) (Title 75 Pa.C.S. §§ 1705, 1716,
	1725, 1731, 1738, 1791, 1797 and 1799)
	Sections 3(a)(4), 3(a)(6), 4(b) and 4(c) of
	the Act of July 3, 1986, P.L. 396, No. 86
	(40 P.S. §§3403 and 3404)
	Section 2004 of Act 68 of 1998 (40 P.S.
	§991.2004)
	Sections 5(a)(9), 5(a)(9)(iv), and
	5(a)(9)(v) of the Unfair Insurance
	Practices Act, Act of July 22, 1974,
	P.L. 589, No. 205 (40 P.S. §§ 1171.5)
	Title 31, Pennsylvania Code, Section
	61.5(1), 62.3(e)(4), 69.22(c), 69.42, 69.43,
	69.52(b), 69.53(a), 69.55(a), 113.88,
	146.5(d), and 146.6
	Title 18, Pennsylvania Consolidated
	Statutes, Section 4117(k)
	Title 75, Pennsylvania Consolidated
	Statutes, Sections 1161(a) and (b), and
	1822
Respondent.	Docket No. MC09-08-010

CONSENT ORDER

AND NOW, this 5th day of *October*, 2009, this Order is hereby issued by the Insurance Department of the Commonwealth of Pennsylvania pursuant to the statutes cited above and in disposition of the matter captioned above.

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

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

FINDINGS OF FACT

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

- (a) Respondent is General Insurance Company of America, and maintains its address at SAFECO Plaza, Seattle, Washington 98185.

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

- (c) On August 5, 2009, the Insurance Department issued a Market Conduct Examination Report to Respondent.

- (d) A response to the Examination Report was provided by Respondent on September 4, 2009.

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

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

 - (iii) Section 903 of the Insurance Department Act (40 P.S. § 323.3(a)), which requires every company subject to examination keep all records and documents relating to its business in such manner as may be required in order that the

Department may verify whether the company has complied with the laws of this Commonwealth;

(iv) Sections 1705(a)(1) & (4) of Act 1990-6, Title 75, Pa.C.S. § 1705, which requires every insurer, prior to the issuance of a private passenger motor vehicle liability insurance policy to provide each applicant an opportunity to elect a tort option. A policy may not be issued unless the applicant has been provided an opportunity to elect a tort option;

(v) Title 75, Pennsylvania Consolidated Statutes, Section 1716, states that benefits are overdue if not paid within 30 days after the insurer receives reasonable proof of the amount of benefits. If reasonable proof is not supplied as to all benefits, the portion supported by reasonable proof is overdue if not paid within 30 days after the proof is received by the insurer. Overdue benefits shall bear interest at the rate of 12% per annum from the date the benefits become due. In the event the insurer is found to have acted in an unreasonable manner in refusing to pay the benefits when due, the insurer shall pay, in addition to the benefits owed and the interest thereon, a reasonable attorney fee based upon actual time expended;

(vi) Section 1725 of Act 1990-6, Title 75, Pa.C.S. § 1725, which requires every motor vehicle insurance policy to contain a notice whether the policy covers collision damage to rental vehicles, and any limitations on such coverage.

The notice shall be written in clear, plain language and shall be printed on the first page of the policy in boldface capital letters;

- (vii) Section 1731(b) and (c) of Act 1990-6, Title 75, Pa.C.S. § 1731, which requires the named insured to be informed that he may reject uninsured and underinsured motorist coverage by signing a written rejection form;
- (viii) Section 1738(d)(2) of Act 1990-6, which states the named insured shall be informed that he may exercise the waiver of stacked limits for underinsured motorist coverage by signing a written rejection form;
- (ix) Section 1791.1(b) of Act 1990-6, Title 75, Pa.C.S. § 1791, which requires an insurer to provide an insured a notice of the availability of two alternatives of full tort insurance and limited tort insurance;
- (x) Section 1797(b)(1) of Act 1990-6, Title 75, Pa.C.S. § 1797, which requires insurers to contract jointly or separately with any peer review organization established for the purpose of evaluating treatment, health care services,
- (xi) 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;

- (xii) Section 3(a)(4) of Act 86 (40 P.S. § 3403), which requires that a cancellation notice be clearly labeled "Notice of Cancellation";
- (xiii) Section 3(a)(6) of Act 86 (40 P.S. § 3403), which requires that a cancellation notice shall state that at the insured's request, the insurer shall provide loss information to the insured for at least three years or the period of time during which the insurer has provided coverage to the insured, whichever is less;
- (xiv) Section 4(b) of Act 86 (40 P.S. § 3404), which requires that unearned premium be returned to the insured not later than 30 days after the effective date of termination where commercial property or casualty risks are cancelled in mid-term by the insured;
- (xv) Section 4(c) of Act 86 (40 P.S. § 3404), which states where the amount of return premium to be returned cannot be calculated precisely within the required time period for return premium because: The policy was written on the basis of an estimated premium or the policy was issued subject to a premium audit, unearned premium shall be returned to the insured on an estimated basis. Upon the insurer's completion of computation of the exam premium to be returned, an

additional return premium or charge shall be made to the named insured within 15 days of the final computation;

(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 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;

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

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

- (xviii) Section 5(a)(9)(iv) of the Unfair Insurance Practices Act, No. 205 (40 P.S. § 1171.5), which requires that a cancellation notice shall advise the insured of his right to request, in writing, within ten days of the receipt of the notice of cancellation or intention not to renew that the Insurance Commissioner review the action of the insurer;
- (xix) Section 5(a)(9)(v) of the Unfair Insurance Practices Act, No. 205 (40 P.S. § 1171.5(a)(9)(v)) requires that a cancellation notice shall advise the insured of his possible eligibility for insurance under The PA Fair Plan Act;
- (xx) Title 31, Pennsylvania Code, Section 61.5, which states forms of notices of cancellation or refusal to renew shall be clearly labeled: “Notice of Cancellation or Refusal to Renew”;

- (xxi) Title 31, Pennsylvania Code, Section 62.3(e)(4), which requires that applicable sales tax on the replacement cost of a motor vehicle shall be included as part of the replacement value;
- (xxii) Title 31, Pennsylvania Code, Section 69.22(c), which requires the insurer, when an insured's first-party limits have been exhausted, to provide notice to the provider and the insured within 30 days of the receipt of the provider's bill;
- (xxiii) Title 31, Pennsylvania Code, Section 69.42, which states an insurer shall make payments to providers in accordance with the Medicare Program as applied in this Commonwealth by the carrier and intermediaries. Care covered under the Medicare Program shall be reimbursed at 110% of the Medicare payment or a different allowance as may be determined under § 69.12(b). Medicare co-insurance and deductibles may not be excluded in payments made by the insurer;
- (xxiv) Title 31, Pennsylvania Code, Section 69.43, which states an insurer shall pay the provider's usual and customary charge for services rendered when the charge is less than 110% of the Medicare payment or a different allowance as may be determined under § 69.12(b). An insurer shall pay 80% of the provider's usual and customary charge rendered if no Medicare payment exists. In calculating the usual and customary charge, an insurer may utilize the requested payment

amount on the provider's bill for services or the data collected by the carrier or intermediaries to the extent that the data is made available. An insurer shall provide a complete explanation of the calculations made in computing its determination of the amount payable, including whether the calculation is based on 110% of the Medicare payment, 80% of the usual and customary charge or at a different allowance determined by the Commissioner under § 69.12(b). A bill submitted by the provider delineating the services rendered and the information from which a determination could be made by the insurer as to the appropriate payment amount will not be construed as a demand for payment in excess of the permissible payment amount;

(xxv) Title 31, Pennsylvania Code, Section 69.52(b), which requires an insurer to pay medical bills for care that are not referred to a Peer Review Organization within 30 days after the insurer receives sufficient documentation supporting the bill;

(xxvi) Title 31, Pennsylvania Code, Section 69.53(a), which requires a Peer Review Organization to contract, in writing, jointly or separately with an insurer for the provision of peer review services as authorized by Act 1990-6 and this chapter.

- (xxvii) Title 31, Pennsylvania Code, Section 69.55(a), which states a PRO shall apply in writing to the Commissioner for approval to contract with an insurer to provide peer review services in accordance with the act and this Chapter;
- (xxviii) Title 31, Pennsylvania Code, Section 113.88, which states the reason given for nonrenewal shall be clear and complete. It shall be stated so that a person of average intelligence and education can understand it. Phrases such as “losses” or “underwriting reasons” are not sufficiently specific reasons for nonrenewal;
- (xxix) Title 31, Pennsylvania Code, Section 146.5(d), requires an insurer, upon receiving notification of a claim, shall provide within ten working days necessary claim forms, instructions and reasonable assistance so that first-party claimants can comply with policy conditions and reasonable requirements of the insurer;
- (xxx) Title 31, Pennsylvania Code, Section 146.6 states that if an investigation cannot be completed within 30 days, and every 45 days thereafter, the insurer shall provide the claimant with a reasonable written explanation for the delay and state when a decision on the claim may be expected;

- (xxxi) Title 18, Pennsylvania Consolidated Statutes, Section 4117(k), which requires all applications for insurance and all claim forms shall contain or have attached thereto the following notice: “Any person who knowingly and with intent to defraud any insurance company or other person files an application for insurance or statement of claim containing any materially false information or conceals for the purpose of misleading, information concerning any fact material thereto commits a fraudulent insurance act, which is a crime and subjects such person to criminal and civil penalties”;
- (xxxii) 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; and
- (xxxiii) Title 75, Pennsylvania Consolidated Statutes, Section 1822, which requires not later than May 1, 1990, all applications for insurance, renewals and claim forms shall contain a statement that clearly states, in substance, the following: Any person who knowingly and with intent to injure or defraud any insurer files an application or claim containing any false, incomplete or misleading information shall, upon conviction, be subject to imprisonment for up to seven years and payment of a fine of up to \$15,000.00.

CONCLUSIONS OF LAW

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

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

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

- (c) Respondent's violations of Act 86, Sections 3 and 4 (40 P.S. §§ 3403 and 3404 are punishable under Section 8 (40 P.S. § 3408) of this act by one or more of the following causes of action:

- (i) Order that the insurer cease and desist from the violation.
 - (ii) Impose a fine or not more than \$5,000 for each violation.
- (d) Respondent's violations of Section 2004 of Act 68 of 1998 are punishable by the following, under Section 2013 of the Act (40 P.S. § 991.2013): Any individual or insurer who violates any of the provisions of this article may be sentenced to pay a fine not to exceed five thousand dollars (\$5,000.00).
- (e) Respondent's violations of Sections 5(a)(9), 5(a)(9)(iv) and 5(a)(9)(v) of the Unfair Insurance Practices Act, No. 205 (40 P.S. §§ 1171.5) are punishable by the following, under Section 9 of the Unfair Insurance Practices Act (40 P.S. § 1171.9):
- (i) cease and desist from engaging in the prohibited activity;
 - (ii) suspension or revocation of the license(s) of Respondent.
- (f) In addition to any penalties imposed by the Commissioner for Respondent's violations of the Unfair Insurance Practices Act (40 P.S. §§ 1171.1 – 1171.5), the Commissioner may, under Sections 10 and 11 of the Unfair Insurance Practices Act (40 P.S. §§ 1171.10, 1171.11) file an action in which the Commonwealth Court may impose the following civil penalties:
- (i) for each method of competition, act or practice which the company knew or should have known was in violation of the law, a penalty of not more than five thousand dollars (\$5,000.00);

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

- (g) Respondent's violations of Title 31, Pennsylvania Code, Sections 146.5(d) and 146.6 are punishable under Sections 9, 10 and 11 of the Unfair Insurance Practices Act (40 P.S. §§ 1171.9, 1171.10 and 1171.11), as described above.

ORDER

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

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

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

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

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

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

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

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

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

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

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

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

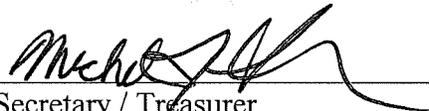
11. This Order shall be final upon execution by the Insurance Department. Only the Insurance Commissioner or a duly authorized delegee is authorized to bind the Insurance Department with respect to the settlement of the alleged violations of law

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

BY: GENERAL INSURANCE COMPANY OF
AMERICA, Respondent



Assistant Secretary



Secretary / Treasurer



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

I. INTRODUCTION

The market conduct examination was conducted at General Insurance Company of America's office located in Indianapolis, Indiana, from March 16, 2009, through April 24, 2009. Subsequent review and follow-up was conducted in the office of the Pennsylvania Insurance Department.

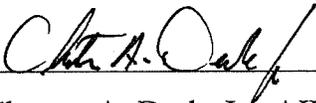
Pennsylvania Market Conduct Examination Reports generally note only those items to which the Department, after review, takes exception. However, the Examination Report may include management recommendations addressing areas of concern noted by the Department, but for which no statutory violation was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

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

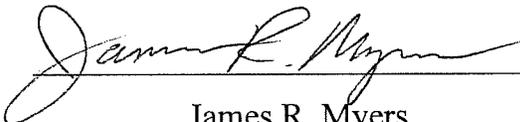
Throughout the course of the examination, Company officials were provided with status memoranda, which referenced specific policy numbers with citation to each section of law violated. Additional information was requested to clarify apparent violations. An exit conference was conducted with Company personnel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

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

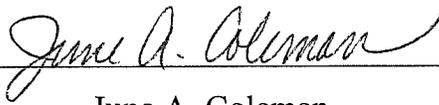
The undersigned participated in this examination and in preparation of this Report.



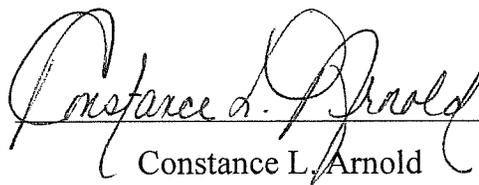
Chester A. Derk, Jr., AIE, HIA
Market Conduct Division Chief



James R. Myers
Market Conduct Examiner



June A. Coleman
Market Conduct Examiner



Constance L. Arnold
Market Conduct Examiner

II. SCOPE OF EXAMINATION

The Market Conduct Examination was conducted on General Insurance Company of America, hereinafter referred to as “Company,” at their office located in Indianapolis, Indiana. The examination was conducted pursuant to Sections 903 and 904 (40 P.S. §§323.3 and 323.4) of the Insurance Department Act and covered the experience period of July 1, 2007, through June 30, 2008, unless otherwise noted. The purpose of the examination was to determine the Company’s compliance with Pennsylvania insurance laws and regulations.

The examination focused on Company operations in the following areas:

1. Private Passenger Automobile

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

2. Property

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

3. Commercial Property

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

4. Commercial Automobile

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

5. Medical Malpractice

- Underwriting – Appropriate and timely notices of midterm cancellations.

6. Claims

7. Forms

8. Advertising

9. Complaints

10. Licensing

III. COMPANY HISTORY AND LICENSING

General Insurance Company of America was organized under the laws of Washington, and began business on May 1, 1923. On June 30, 1957, the General Casualty Company of America, a wholly owned subsidiary formed in 1925, was merged into the Company.

LICENSING

General Insurance Company of America's Certificate of Authority to write business in the Commonwealth was last issued on April 1, 2009. The Company is licensed in all states, the District of Columbia, Guam, Puerto Rico and U.S. Virgin Islands. The Company's 2008 annual statement reflects Direct Written Premium for all lines of business in the Commonwealth of Pennsylvania as \$13,279,725. Premium volume related to the areas of this review were: Fire \$46,257; Homeowners Multiple Peril \$2,189,239; Commercial Multiple Peril (Non-liability portion) \$289,372; Commercial Multiple Peril (Liability portion) \$651,458; Inland Marine \$38,690; Medical Malpractice \$15,163; Private Passenger Automobile Direct Written Premium was reported as Private Passenger Auto No-Fault (personal injury protection) \$281,516; Other Private Passenger Auto Liability \$1,482,374 and Private Passenger Auto Physical Damage \$1,213,060; Commercial Automobile Direct Written Premium was reported as Commercial Auto No-Fault (personal injury protection) \$28,012; Other Commercial Auto Liability \$618,625 and Commercial Auto Physical Damage \$149,077.

IV. UNDERWRITING PRACTICES AND PROCEDURES

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

No violations were noted.

V. UNDERWRITING

A. Private Passenger Automobile

1. 60-Day Cancellations

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

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

From the universe of 186 private passenger automobile files identified as being cancelled in the first 60 days of new business, 17 files was selected for review. All 17 files were received and reviewed. No violations were noted.

2. Midterm Cancellations

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

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

From the universe of 1,165 private passenger automobile files identified as midterm cancellations, 25 files were selected for review. All 25 files were received and reviewed. The 6 violations noted were based on 6 files, resulting in an error ratio of 24%.

The following findings were made:

5 Violations Title 31, Pa. Code, Section 61.5(1)

Notice of cancellation requirements. Notice of cancellation shall be clearly labeled "Notice of Cancellation". The cancellation notice was not clearly labeled "Notice of Cancellation" for the 5 files noted.

1 Violation 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 file noted was cancelled because the Company did not receive the signed driver exclusion form for an individual or his date of birth and driver's license number.

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 was selected for review. All 12 files 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.

From the universe of 216 property policies which were cancelled within the first 60 days of new business, 30 files were selected for review. The policies consisted of homeowner and tenant homeowner. All 30 files were received and reviewed. No violations were noted.

2. Midterm Cancellations

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

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

From the universe of 875 property policies which were cancelled midterm during the experience period, 75 files were selected for review. The property policies consisted of homeowners and tenant homeowners. All 75 files were received and reviewed. Of the 75 files, 4 were identified as nonrenewals and 32 files were identified as 60-day cancellations. The 13 violations noted were based on 12 files, resulting in an error ratio of 16%.

The following findings were made:

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

Prohibits canceling any policy of insurance covering owner-occupied private residential properties or personal property of individuals that has been in force for sixty days or more or refusing to renew any such policy unless the policy was obtained through material misrepresentation, fraudulent statements, omissions or concealment of fact material to the acceptance of the risk or to the hazard assumed by the company; or there has been a substantial change or increase in hazard in the risk assumed by the company subsequent to the date the policy was issued; or there is a substantial increase in hazards insured against by reason of willful or negligent acts or omissions by the insured; or the insured has failed to pay any premium when due or for any other reasons approved by the Commissioner. The Company failed to provide a proper reason for cancellation for the 11 files noted.

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

Requires that a cancellation notice shall advise the insured of his right to request, in writing, within ten days of the receipt of the notice of cancellation or intention not to renew that the Insurance Commissioner review the action of the insurer. The Company failed to distinguish between the automobile and homeowner right of review on the combination notice of cancellation.

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

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

1968 (P.L. 738, No. 233), known as “The PA Fair Plan Act”. The Company did not advise the insured of his possible eligibility under the Fair Plan for the file 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 23 property policies which were nonrenewed during the experience period was selected for review. The property policies consisted of homeowners, tenant homeowners and inland marine. All 23 files were received and reviewed. The 18 violations noted were based on 18 files, resulting in an error ratio of 78%.

The following findings were made:

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

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

acceptance of the risk or to the hazard assumed by the company; or there has been a substantial change or increase in hazard in the risk assumed by the company subsequent to the date the policy was issued; or there is a substantial increase in hazards insured against by reason of willful or negligent acts or omissions by the insured; or the insured has failed to pay any premium when due or for any other reasons approved by the Commissioner. The Company nonrenewed the 12 files noted for an improper reason.

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

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

AND

Adjudication: Fitch/Boyertown, PH97-06-006 (1998)

Mere notice to the insured that a homeowner policy is being cancelled due to a failure to comply with company

recommendations does not specify the change or increased hazard relied upon by the insurer for its termination of the policy, and does not comply with the requirements of Act 205. The Company failed to provide the insured with a fix-it letter.

4. Declinations

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

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

From the universe of 625 personal property files which were identified as declinations by the Company during the experience period, 25 files were selected for review. The Company was also asked to provide documentation as to the reason for the declinations. The Company provided a spreadsheet giving additional information regarding the declinations selected; however, they failed to provide a reason for the declinations. The 25 violations noted were based on 25 files, resulting in an error ratio of 100%

The following findings were made:

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

Requires every company subject to examination to keep all books, records, accounts, papers, documents and any or all computer or other recordings relating to its business in such

manner and for such time as may be required in order that the Department may readily verify whether the Company has complied with the laws of this Commonwealth. The Company failed to provide documentation as to the reason for the declination for the 25 files noted.

D. Commercial Property

1. 60-Day Cancellations

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

The primary purpose of the review was to determine compliance with Act 86, Section 7 (40 P.S. §3407), which requires an insurer, who cancels a policy that is in effect less than 60 days, to provide 30 days notice of termination no later than the 60th day unless the policy provides for a longer period of notification.

The universe of 1 commercial package policy cancelled within the first 60 days was selected for review. The file was received and reviewed. No violations were noted.

2. Midterm Cancellations

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

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

which must be met regarding the form and condition of the cancellation notice.

The universe of 31 commercial property policies cancelled midterm during the experience period was selected for review. The commercial property files consisted of commercial package, commercial inland marine and commercial fire. All 31 files were received and reviewed. Of the 31 files reviewed, one file was identified as a nonrenewal and one was identified as a 60-day cancellation. The 8 violations noted were based on 8 files, resulting in an error ratio of 26%.

The following findings were made:

1 Violation Title 31, Pa. Code, Section 113.88

The reason given for cancellation shall be clear and complete. It shall be stated so that a person of average intelligence and education can understand it. Phrases such as “losses” or “underwriting reasons” are not sufficiently specific reasons for cancellation. The Company failed to provide a clear reason for the 60-day cancellation.

6 Violations Act 86, Section 3(a)(6) [40 P.S. §3403(a)(6)]

Requires that a cancellation notice shall state that at the insured’s request, the insurer shall provide loss information to the insured for at least three years or the period of time during which the insurer has provided coverage to the insured, whichever is less. The Company did not provide an offer of loss information on the notice as required for the 6 files noted.

1 Violation Act 86, Section 4(b) [40 P.S. §3404(b)]

Requires that unearned premium be returned to the insured not later than 30 days after the effective date of termination where commercial property or casualty risks are cancelled in mid-term by the insured.

AND

Act 86, Section 4(c) [40 P.S. §3404(c)]

Where the amount of return premium to be returned cannot be calculated precisely within the required time period for return premium because: The policy was written on the basis of an estimated premium or the policy was issued subject to a premium audit, unearned premium shall be returned to the insured on an estimated basis. Upon the insurer's completion of computation of the exam premium to be returned, an additional return premium or charge shall be made to the named insured within 15 days of the final computation. The Company failed to return estimated return premium within 30 days.

3. Nonrenewals

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

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

The universe of 9 commercial package policies nonrenewed during the experience period was selected for review. All 9 files were received and

reviewed. The 6 violations noted were based on 6 files, resulting in an error ratio of 67%.

The following findings were made:

6 Violations Act 86, Section 3(a)(6) [40 P.S. §3403(a)(6)]

Requires that a nonrenewal notice shall state that at the insured's request, the insurer shall provide loss information to the insured for at least three years or the period of time during which the insurer has provided coverage to the insured, whichever is less. The Company did not provide an offer of loss information on the notice as required for the 6 files noted.

4. Declinations

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

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

The universe of 12 commercial property files identified as declinations by the Company during the experience period was selected for review. All 12 files were received and reviewed. No violations were noted.

5. Renewals

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

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

From the universe of 185 commercial property policies renewed during the experience period, 26 files were selected for review. The commercial property policies consisted of commercial fire, commercial inland marine and commercial package. All 26 files were received and reviewed. No violations were noted.

E. Commercial 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 86, Section 7 (40 P.S. §3407), which requires an insurer, who cancels a policy that is in effect less than 60 days, to provide 30 days notice of termination no later than the 60th day unless the policy provides for a longer period of notification.

The universe of 4 commercial automobile policies cancelled within the first 60 days of new business was selected for review. All 4 files were received and reviewed. No violations were noted.

2. Midterm Cancellations

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

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

From the universe of 79 commercial automobile policies cancelled midterm during the experience period, 10 files were selected for review. All 10 files were received and reviewed. The 4 violations noted were based on 3 files, resulting in an error ratio of 30%.

The following findings were made:

1 Violation Act 86, Section 3(a)(4) [40 P.S. §3403(a)(4)]

Requires that a cancellation notice be clearly labeled “Notice of Cancellation”. The Company did not label the notice of cancellation clearly.

3 Violations Act 86, Section 3(a)(6) [40 P.S. §3403(a)(6)]

Requires that a cancellation notice shall state that at the insured’s request, the insurer shall provide loss information to the insured for at least three years or the period of time during which the insurer has provided coverage to the insured, whichever is less. The Company did not provide an offer of loss information on the notice as required for the 3 files noted.

3. Nonrenewals

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

The 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 8 commercial automobile policies nonrenewed during the experience period was selected for review. All 8 files were received and reviewed. The 6 violations noted were based on 6 files, resulting in an error ratio of 75%.

The following findings were made:

6 Violations Act 86, Section 3(a)(6) [40 P.S. §3403(a)(6)]

Requires that a cancellation notice shall state that at the insured's request, the insurer shall provide loss information to the insured for at least three years or the period of time during which the insurer has provided coverage to the insured, whichever is less. The Company did not provide an offer of loss information on the notice as required for the 6 files noted.

4. Declinations

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

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

The universe of 3 commercial automobile files identified as declinations by the Company during the experience period was selected for review. All 3 files were received and reviewed. No violations were noted.

5. Renewals

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

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

From the universe of 281 commercial automobile policies renewed during the experience period, 20 files were selected for review. All 20 files were received and reviewed. No violations were noted.

F. Medical Malpractice

1. Midterm Cancellations

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

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

The universe of one medical malpractice policy identified as a midterm cancellation was selected for review. The file was 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 792 private passenger automobile policies identified as new business without surcharges, 25 files were selected for review. All 25 files were received and reviewed. The 1,594 violations noted were based on the universe of 792 files, resulting in an error ratio of 100%.

The following findings were made:

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

Requires every insurer, prior to the issuance of a private passenger motor vehicle liability insurance policy to provide each applicant an opportunity to elect a tort option. A policy may not be issued unless the applicant has been provided an opportunity to elect a tort option. The Company failed to provide the signed limited tort form for the 4 files noted.

792 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 of collision damage to rental vehicles on the first page of the policy.

5 Violations Title 75, Pa. C.S. §1731(b) & (c)

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

signed written rejection form for uninsured and underinsured motorist coverages for the 5 files noted.

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

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

792 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.

Private Passenger Automobile - New Business With Surcharges

The universe of 25 private passenger automobile policies identified as new business with surcharges by the Company was selected for review. All 25 files were received and reviewed. The 79 violations noted were based on 25 files, resulting in an error ratio of 100%.

The following findings were made:

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

Requires every insurer, prior to the issuance of a private passenger motor vehicle liability insurance policy to provide each applicant an opportunity to elect a tort option. A policy may not be issued unless the applicant has been provided an

opportunity to elect a tort option. The Company failed to provide the signed limited tort form for the 3 files noted.

25 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 of collision damage to rental vehicles on the first page of the policy.

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

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

25 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.

25 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 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.

2. Renewals

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

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

The Company processes and issues personal automobile policies using an automated system. In order to verify the automated system, several policies were manually rated to ensure the computer had been programmed

correctly. Once the computer programming had been verified, only the input data needed to be verified. By reviewing base premiums, territory assignments, rating symbols, classifications and surcharge disclosures, the examiners were able to determine compliance with the Company's filed and approved rating plans.

Private Passenger Automobile – Renewals Without Surcharges

From the universe of 1,481 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 1,481 violations noted were based on the universe of 1,481, resulting in an error ratio of 100%.

The following findings were made:

1,481 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 of collision damage to rental vehicles on the first page of the policy.

Private Passenger Automobile – Renewals With Surcharges

From the universe of 182 private passenger automobile policies renewed with surcharges during the experience period, 25 files were selected for review. All 25 files were received and reviewed. The 364 violations noted were based on the universe of 182, resulting in an error ratio of 100%.

The following findings were made:

182 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 of collision damage to rental vehicles on the first page of the policy.

182 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 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.

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.

From the universe of 1,383 homeowner policies written as new business during the experience period, 25 files were selected for review. All 25 files were received and reviewed. No violations were noted.

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 2,060 homeowner policies renewed during the experience period, 25 files were selected for review. All 25 files were received and reviewed. No violations were noted.

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.

From the universe of 422 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.

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 624 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.

VII. CLAIMS

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

The Claims review consisted of the following areas of review:

- A. Automobile Property Damage Claims
- B. Automobile Comprehensive Claims
- C. Automobile Collision Claims
- D. Automobile Total Loss Claims
- E. Automobile First Party Medical Claims
- F. Automobile First Party Medical Claims Referred to a PRO
- G. Homeowner Claims
- H. Tenant Homeowner Claims

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

A. Automobile Property Damage Claims

From the universe of 198 private passenger automobile property damage claims reported during the experience period, 25 files were selected for review. All 25 files were received and reviewed. No violations were noted.

B. Automobile Comprehensive Claims

From the universe of 148 private passenger automobile comprehensive claims reported during the experience period, 25 files were selected for review. All 25 files were received and reviewed. The violation noted resulted in an error ratio of 4%.

The following finding was made:

1 Violation Title 31, Pa. Code, Section 146.6

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

C. Automobile Collision Claims

From the universe of 2,186 private passenger automobile collision claims reported during the experience period, 25 files were selected for review. All 25 files were received and reviewed. The violation noted resulted in an error ratio of 4%.

The following finding was made:

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

(a) General rule – Except as provided in Sections 1162 and

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

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

D. Automobile Total Loss Claims

From the universe of 54 private passenger automobile total loss claims reported during the experience period, 25 files were selected for review. All 25 files were received and reviewed. The 4 violations noted were based on 4 files, resulting in an error ratio of 16%.

The following findings were made:

3 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 3 files noted did not reflect a Pennsylvania salvage title was obtained.

1 Violation Title 31, Pa. Code, Section 62.3(e)(4)

Requires that applicable sales tax on the replacement cost of a motor vehicle shall be included as part of the replacement

value. The file noted did not have sales tax included in the replacement value of the vehicle.

E. Automobile First Party Medical Claims

From the universe of 118 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. The 14 violations noted were based on 8 files, resulting in an error ratio of 32%.

The following findings were made:

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

Requires the insurer when an insured's first-party limits have been exhausted, to provide notice to the provider and the insured within 30 days of the receipt of the provider's bill. The 2 violations noted were due to the insurer not notifying the insured and/or provider that the first-party limits have been exhausted.

6 Violations Title 31, Pa. Code, Section 69.52(b)

Requires an insurer to pay bills for care that are not referred to a Peer Review Organization within 30 days after the insurer receives sufficient documentation supporting the bill. The Company failed to pay medical bills within 30 days for the 6 files noted.

4 Violations Title 75, Pa. C.S. §1716

Payment of Benefits. Benefits are overdue if not paid within 30 days after the insurer receives reasonable proof of the

amount of benefits. If reasonable proof is not supplied as to all benefits, the portion supported by reasonable proof is overdue if not paid within 30 days after the proof is received by the insurer. Overdue benefits shall bear interest at the rate of 12% per annum from the date the benefits become due. In the event the insurer is found to have acted in an unreasonable manner in refusing to pay the benefits when due, the insurer shall pay, in addition to the benefits owed and the interest thereon, a reasonable attorney fee based upon actual time expended. The Company did not pay interest on 4 claims that were not paid within 30 days.

1 Violation Title 31, Pa. Code, Section 69.42

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

AND

Title 31, Pa. Code, Section 69.43

An insurer shall pay the provider's usual and customary charge for services rendered when the charge is less than 110% of the Medicare payment or a different allowance as may be determined under §69.12(b). An insurer shall pay 80% of the provider's usual and customary charge rendered if no Medicare payment exists. In calculating the usual and

customary charge, an insurer may utilize the requested payment amount on the provider's bill for services or the data collected by the carrier or intermediaries to the extent that the data is made available. An insurer shall provide a complete explanation of the calculations made in computing its determination of the amount payable including whether the calculation is based on 110% of the Medicare payment, 80% of the usual and customary charge or at a different allowance determined by the Commissioner under §69.12(b). A bill submitted by the provider delineating the services rendered and the information from which a determination could be made by the insurer as to the appropriate payment amount will not be construed as a demand for payment in excess of the permissible payment amount. The Company failed to have medical bills repriced or adjusted for cost containment.

1 Violation Title 31, Pa. Code, Section 146.5(d)

Requires an insurer, upon receiving notification of a claim, shall provide within ten working days necessary claim forms, instructions and reasonable assistance so that first-party claimants can comply with policy conditions and reasonable requirements of the insurer. The Company did not provide the necessary claim forms to the claimant within ten working days for the file noted.

F. Automobile First Party Medical Claims Referred to a PRO

The universe of 4 automobile first party medical claims referred to a peer review organization was selected for review. All 4 files were received and reviewed. The Company was also asked to provide a copy of all peer

review contracts in place during the experience period. The Company advised that no peer review contracts were in effect during the experience period. The 3 violations noted were based on 2 files, resulting in an error ratio of 50%.

The following findings were made:

1 Violation Title 31, Pa. Code, Section 69.53(a)

A Peer Review Organization shall contract, in writing, jointly or separately with an insurer for the provision of peer review services as authorized by Act 1990-6 and this chapter. The Company failed to contract with peer review services.

2 Violations Title 31, Pa. Code, Section 69.55(a)

A PRO shall apply in writing to the Commissioner for approval to contract with an insurer to provide peer review services in accordance with the act and this Chapter.

AND

Title 75, Pa. C.S. §1797(b)(1)

Peer review plan for challenges to reasonableness and necessity of treatment. Peer review plan. Insurers shall contract jointly or separately with any peer review organization established for the purpose of evaluating treatment, health care services, products or accommodations provided to any injured person. Such evaluation shall be for the purpose of confirming that such treatment, products, services or accommodations conform to the professional standards of performance and are medically necessary. An insurer's challenge must be made to a PRO within 90 days of

the insurer's receipt of the provider's bill for treatment or services or may be made at any time for continuing treatment or services. The peer review service used for the 2 files noted was not under contract with the Company and not approved by the Commissioner.

G. Homeowner Claims

From the universe of 234 homeowner claims reported during the experience period, 25 files were selected for review. All 25 files were received and reviewed. The 4 violations noted were based on 4 files, resulting in an error ratio of 16%.

The following findings were made:

4 Violations Title 31, Pa. Code, Section 146.6

Every insurer shall complete investigation of a claim within 30 days after notification of the claim, unless such investigation cannot reasonably be completed within 30 days, and every 45 days thereafter, the insurer shall provide the claimant with a reasonable written explanation for the delay and state when a decision on the claim may be expected. The Company did not provide timely status letters for the 4 claims noted.

H. Tenant Homeowner Claims

From the universe of 25 tenant homeowner claims reported during the experience period, 10 files were selected for review. All 10 files were received and reviewed. No violations were noted.

VIII. FORMS

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

The following finding was made:

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

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

AND

Title 75, Pa. C.S. §1822

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

IX. ADVERTISING

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

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

The Company provided 225 pieces of advertising in use during the experience period. The advertising materials provided included: brochures, agent's kits, consumer and agency education material, newspaper and magazine ads, radio and television, transit and placards, outdoor advertising, mall/kiosk/car displays, posters, diorama signs, videos, trade magazine and mail solicitation and specialty advertising. Internet advertising was also reviewed. No violations were noted.

X. CONSUMER COMPLAINTS

The Company was requested to identify all consumer complaints received during the experience period and provide copies of their consumer complaint logs for the preceding four years. The Company identified 13 consumer complaints received during the experience period and provided all consumer complaint logs requested. All 13 files were requested, received and reviewed.

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

The following findings were made:

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

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

premium when due or for any other reasons approved by the Commissioner.

AND

Adjudication: Fitch/Boyertown, PH97-06-006 (1998)

Mere notice to the insured that a homeowner policy is being nonrenewed due to a failure to comply with company recommendations does not specify the change or increased hazard relied upon by the insurer for its termination of the policy, and does not comply with the requirements of Act 205. The Company provided an improper reason for nonrenewal. A fix-it letter was not provided to the insured.

6 Violations Title 31, Pa. Code, Section 61.5(1)

Notice of cancellation requirements. Notices of cancellation shall meet the following requirement: The form shall be clearly labeled: "Notice of Cancellation". The 6 files noted were not clearly labeled "Notice of Cancellation".

The following synopsis reflects the nature of the 13 complaints that were reviewed.

• 11	Cancellation/Nonrenewal	85%
• 2	Claims Related	15%
<hr/>		<hr/>
13		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:

*8 Violations Insurance Department Act, No. 147, Section 641.1A
[40 P.S. §310.41a]*

(a) Any insurance entity or licensee accepting applications or orders for insurance from any person or securing any insurance business that was sold, solicited or negotiated by any person acting without an insurance producer license shall be subject to civil penalty of no more than \$5,000.00 per violation in accordance with this act. This section shall not prohibit an insurer from accepting an insurance application directly from a consumer or prohibit the payment or receipt of referral fees in accordance with this act.

The following producers were found to be writing and /or soliciting policies but were not found in Insurance Department records as holding a Pennsylvania producer license.

Donna S. Anderson
Zachary Carter

Del Stuart Fishman
Dennis Kasprowicz
Kevin Lee and Company, Inc.
Katie G. Klindworth
Michael Long
Michael Pigott Agency, LLC

26 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.

Barry J. Barkin
Thomas F. Beck
Helena F. Blischok
Coverex Corporate Risk Solutions, LLC
Edmond Paul Dever
Terry Finberg
First National Ins. Agency, Inc.
Fishman Agency, Inc.
Stephen B. Gordon
Adrian Paul Hewitt
Hub International Midwest, Ltd.
Insential, Inc.
Robyn Jones
KK Ins. Agency, Inc.
Mourer-Foster, Inc.
Pacific General Insurance
Reliable Insurance Service
Richard G. Balliet Ins. Agency, Inc.
Riemenschneider Ins. Agency, LLC
Lisa Veronica Salinas
Sassa & Concannon Ins. Agency
Dharma Seda
Kiran M. Sondhi

Superior Access Ins. Services, Inc.
TWG Insurance
Timothy J. Varone

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 Title 31, Pa. Code, Section 61.5(1) to ensure that the violations regarding the requirement for cancellation notices, as noted in the Report, do not occur in the future.
2. The Company must review and revise internal control procedures to ensure compliance with cancellation notice requirements of Act 68, Section 2004 [40 P.S. §991.2004], so that the violation noted in the Report does not occur in the future.
3. The Company must review Act 205, Section 5(a)(9) [40 P.S. §1171.5(a)(9)] to ensure that the violations regarding the requirements for cancellation and nonrenewal notices, as noted in the Report, do not occur in the future.
4. The Company must reinforce its internal underwriting controls to ensure that all records and documents are maintained in accordance with Insurance Department Act, Section 903(a) [40 P.S. §323.3], so that violations noted in the Report do not occur in the future.
5. The Company must review and revise internal control procedures to ensure compliance relative to commercial cancellation and nonrenewal requirements of Act 86, Sections 3 and 4 [40 P.S. §§3403 and 3404], so that the violations noted in the Report do not occur in the future.

6. The Company must review and revise internal control procedures to ensure compliance relative to commercial cancellation requirements of Title 31, Section 113.88, so that the violation noted in the Report does not occur in the future.

7. 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.

8. The Company must revise its underwriting procedures to ensure that each applicant for private passenger automobile liability insurance is provided an opportunity to exercise the waiver for uninsured and underinsured motorist coverage forms are obtained and retained with the underwriting file. This is to ensure that violations noted under Title 75, Pa. C.S. §1731(b) & (c) do not occur in the future.

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

10. 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.

11. When a surcharge is imposed on a private passenger automobile policy the Company must specify the manner in which the surcharge was made and clearly identify the amount of the surcharge and give notice to the insured. This procedure must be implemented within 30 days of the Report issue date. This is to ensure that violations noted under Title 75, Pa. C.S. §1799.3(d) do not occur in the future.

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

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

14. The Company must review Title 31, Pa. Code, Section 69.53(a) with its claim staff to ensure that a written contract is in place with an approved peer review organization established for the purpose of evaluating treatment, health care services, products or accommodations provided to any injured person. Such evaluation shall be for the purpose of confirming that such treatment, products, services or accommodations conform to the professional standards of performance and are medically necessary.

15. The Company must review Title 31, Pa. Code, Section 69.55(a) with its claim staff to ensure that the Company uses services only from an approved peer review organization.
16. The Company must review Title 31, Pa. Code, Section 69.52(b) with its claim staff to ensure that first party medical bills are paid within 30 days.
17. The Company must review the first party medical claims, which have not been paid within 30 days. Those claims that have not been paid within 30 days shall bear interest at the rate of 12% annum from the date the benefits become due as required by Title 75, Pa. C.S. §1716. The interest amount must be paid to the claimant and proof of such payment must be provided to the Insurance Department within 30 days of the Report issue date.
18. The Company must review Title 31, Pa. Code, Sections 69.42 and 69.43 with its claim staff to ensure that provider bills are repriced for cost containment as required.
19. The Company must review Title 31, Pa. Code, Section 62.3(e)(4) with its claim staff to ensure that sales tax is included in the replacement value of a motor vehicle. The Company must review all claims where sales tax was not included in the replacement value of a motor vehicle. The sales tax must be paid to the claimant and proof of such payment must be provided to the Insurance Department within 30 days of the Report issue date.

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

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

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

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

XIII. COMPANY RESPONSE



Hector Reyes, ARM
Regional Director, Market Conduct Services
Liberty Mutual Group
175 Berkeley Street
P.O. Box 140
Boston, MA 02116-0140
Telephone: (617) 357-9500

September 4, 2009

VIA EMAIL and OVERNIGHT DELIVERY

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

Re: **General Insurance Company of America**
Examination Warrant Number 08-M22-023

Dear Mr. Derk:

The Company reviewed the Report of Examination of General Insurance Company of America (Company) issued by the Pennsylvania Insurance Department for the period of July 1, 2007, through June 30, 2008, as of the close of business on August 5, 2009. We thank the Market Conduct Division for the observations and the recommendations that are part of the report.

The Company strives to comply with the Pennsylvania statutes and Department regulations; it believes that market conduct examinations do serve the consumers of the Commonwealth and the Company as an effective tool to help avoid compliance issues. The Report, in addition to individual findings, contains Recommendations in Section XII. To address the Division's recommendations, the Company is enclosing its response to each of them. There are findings in the Report that we believe can be categorized as human error and which are statistically insignificant, differences in the interpretation of Pennsylvania law between the Department and the Company and other findings are statistically material. The Company respectfully submits that any finding of a violation of Pennsylvania law by the Department was not intentional and corrective actions are detailed in the attached exhibit.

We want to thank you and the entire staff of the Bureau for the cooperation extended to everyone in the Company associated with this examination. I look forward to working with you to reach a mutually agreeable resolution to the Report. If you have any question in connection with the Company's response or require additional information, please do not hesitate to call me.

Sincerely,

Hector D. Reyes, ARM
Regional Director, Market Conduct Services
Office of Corporate Compliance

Attachment

1. The Company must review Title 31, Pa. Code, Section 61.5(1) to ensure that the violations regarding the requirement for cancellation notices, as noted in the Report, do not occur in the future

Company Response: The Company changed the title of the form to comply with the cited statute in January 2008, prior to the commencement of the examination. The correct form was in place for the later portion of the examination period.

2. The Company must review and revise internal control procedures to ensure compliance with cancellation notice requirements of Act 68, Section 2004 [40 P.S. §991.2004] so that the violation noted in the Report does not occur in the future.

Company Response: The Company will revise its procedures within 30 days so that when a policy is cancelled for concealment of a material fact, such reason is specifically included in the cancellation notice.

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

Company Response: The Company provided additional training regarding the cited statute in early 2008. The Company will reinforce the training to ensure that underwriters are cognizant of the requirements for cancellation and nonrenewal of policies.

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

Company Response: Internal controls are in place to retain all records and data, which are integral components of underwriting actions. Although the data is retained as required, during the period of the examination, we did not retain the document that was presented to the applicant. Our control for retaining this document will be examined in the next 90 days.

5. The Company must review and revise internal control procedures to ensure compliance relative to commercial cancellation and nonrenewal requirements of Act 86, Sections 3 and 4 [40 P.S. §§3403 and 3404], so that the violations noted in the Report do not occur in the future.

Company Response: The Company will revise its procedures for commercial cancellation and nonrenewal in order to ensure compliance with your requirements. By October 15, 2009, all required personnel will be instructed as to what constitutes meeting the notice requirements. We will revise our system programming to provide the proper offer of loss

information to ensure compliance with your requirements by the end of October 2009. We will monitor our process on an ongoing basis to assure future compliance in this area.

6. The Company must review and revise internal control procedures to ensure compliance relative to commercial cancellation requirements of Title 31, Section 113.88, so that the violation noted in the Report does not occur in the future.

Company Response: This was an isolated, inadvertent error. The Company will reinforce its procedures for commercial cancellation in order to ensure compliance with your requirements. All required personnel will be instructed as to what constitutes meeting the notice requirements by October 15, 2009.

7. The Company must review 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 acknowledge the Department's recommendations. This item resulted from an inadvertent error. All applicants are given the opportunity to select a tort option as the tort option selection form is an integral part of the application. During the application process, each applicant is presented with the tort option selection form in order to ensure that the applicant has an opportunity to make an informed decision.

8. The Company must revise its underwriting procedures to ensure that each applicant for private passenger automobile liability insurance is provided an opportunity to exercise the waiver for uninsured and underinsured motorist coverage forms are obtained and retained with the underwriting file. This is to ensure that violations noted under Title 75, Pa. C.S. § 1731 (b) and (c) do not occur in the future.

Company Response: We acknowledge the Department's recommendations. All applicants are given the opportunity to exercise the waiver for uninsured and underinsured motorist coverage as the waiver forms are an integral part of the application. During the application process, each applicant is presented with the waiver form in order to ensure that the applicant has an opportunity to make an informed decision.

9. The Company must revise underwriting procedures to ensure that the insured is aware that he may exercise the waiver of stacked limits of underinsured motorist coverage by signing written rejection forms. This is to ensure that the violation noted under Title 75 Pa. C.S. §1738 (d) (2) does not occur in the future.

Company Response: We acknowledge the Department's

recommendations. All applicants are made aware of the right and given an opportunity to exercise the waiver of stacked limits for uninsured and underinsured motorist coverage. In addition, the waiver form is presented to the applicant as an integral part of the application. During the application process, each applicant is presented with the waiver form in order to ensure that the applicant has an opportunity to make an informed decision

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

Company Response: The Company is repositioning the placement of the current notice to ensure it always falls on the front page of the policy. We note that that the notice fell on the second page only when the insured chose full coverage, including comprehensive and collision coverage (which includes coverage for rental vehicles). When these coverages were not chosen, there was space on the first page to allow the notice to print. This change will be launched in the 2nd quarter 2010.

11. When a surcharge is imposed on a private passenger automobile policy the Company must specify the manner in which the surcharge was made and clearly identify the amount of the surcharge and give notice to the insured. This producer 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: The Company is revising the Declarations page to include the applicable notice. This change will be launched in the 2nd quarter 2010.

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

Company Response: The Company corrected the notice of tort options on February 2009 to ensure it was included with the application and provided to the applicant. This change was made prior to the commencement of the examination.

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

Company Response: This was an inadvertent error; the Company will reinforce the claim handling requirements with regard to claim forms and status letters under Title 31, Pa. Code, Chapter 146, Unfair Claims Settlement

Practices with the claim handlers. Claims management will monitor compliance via periodic file reviews.

14. The Company must review Title 31, Pa. Code, Section 69.53(a) with its claim staff to ensure that a written contract is in place with an approved peer review organization established for the purpose of evaluating treatment, health care services, products or accommodations provided to any injured person. Such evaluation shall be for the purpose of confirming that such treatment, products, services or accommodations conform to the professional standards of performance and are medically necessary.

Company Response: This was an inadvertent error. The Company was informed that the vendor used during the experience period was an approved PRO. The errors in our file correspondence may be attributed to name changes within the peer review organization. The current approved entity was misidentified in the letters to the providers. As of July 24, 2009, the Company contracted with a new vendor for peer review services. This organization is approved by the Commissioner.

15. The Company must review Title 31, Pa. Code, Section 69.55(a) with its claims staff to ensure that the Company uses services only from an approved peer review organization.

Company Response: The new vendor information has been communicated to the claims staff for all future PRO referrals.

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

Company Response: The Company has reviewed the requirements of Title 31, Pa. Code, Section 69.52(b) with the claim staff. A diary system will be used going forward to ensure timely payment of medical bills. Management will monitor compliance through file reviews.

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

Company Response: The Company paid interest on the files identified in the examination in the total amount of \$19.06. Proof of payment will be provided to the Insurance Department.

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

Company Response: This was an isolated inadvertent error; the Company

will provide training to the claim staff to reinforce the requirements of Title 31, PA Code Section 69.42 and 69.43. Management will conduct periodic file reviews to monitor compliance.

19. The Company must review Title 31, Pa. Code, Section 62.3(e) (4) with its claims staff to ensure that sales tax is included in the replacement value of a motor vehicle. The Company must review all claims where sales tax was not included in the replacement value of a motor vehicle. The sales tax must be paid to the claimant and proof of such payment must be provided to the Insurance Department within 30 days of the Report issue date.

Company Response: The Company continues to disagree with this finding. The code section cited states "applicable sales tax on the replacement cost of a motor vehicle shall be included as part of the replacement value." We do not believe sales tax is applicable to this claim. The vehicle was leased and the Company verified there was no sales tax charged to the insured under the leasing agreement. The settlement is based on the full amount to replace the vehicle insured under the policy.

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

Company Response: The Company has established new protocol with the salvage vendor to ensure a Pennsylvania salvage certificate is obtained on all Pennsylvania titled total loss salvage.

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

Company Response: Company management has reminded the claims staff of the 30 day time requirement in which to send a medical payment limit exhaust letter under Title 31, Pa. Code, Section 69.22 (c)

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

Company Response: The Company agrees to reinforce to the relevant business units the specific PA rules which require licenses and appointments prior to accepting business from any producer. We will also review and modify processes as necessary to ensure compliance with these rules.

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

Company Response: On May 13, 2009, the Company revised the Contents Valuation Report identified in the Examination, adding the required fraud warning notice.