

**REPORT OF  
MARKET CONDUCT EXAMINATION  
OF**

**THE HANOVER INSURANCE COMPANY**  
Bedford, New Hampshire

**AS OF  
August 12, 2005**

**COMMONWEALTH OF PENNSYLVANIA**

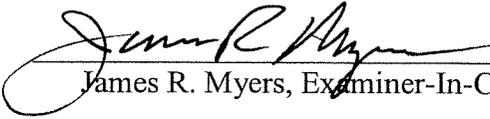


**INSURANCE DEPARTMENT  
MARKET CONDUCT DIVISION**

**Issued: September 29, 2005**

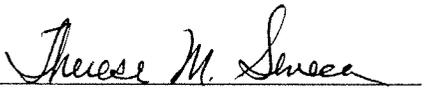
VERIFICATION

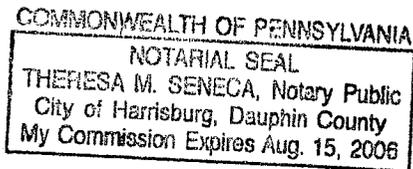
Having been duly sworn, I hereby verify that the statements made in the within document are true and correct to the best of my knowledge, information and belief. I understand that false statements made herein are subject to the penalties of 18 Pa. C.S. §4903 (relating to false swearing).

  
James R. Myers, Examiner-In-Charge

Sworn to and Subscribed Before me

This *28* Day of *June*, 2005

  
Notary Public



**THE HANOVER INSURANCE COMPANY**

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BEFORE THE INSURANCE COMMISSIONER  
OF THE  
COMMONWEALTH OF PENNSYLVANIA

ORDER

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



M. Diane Koken  
M. Diane Koken  
Insurance Commissioner

BEFORE THE INSURANCE COMMISSIONER  
OF THE  
COMMONWEALTH OF PENNSYLVANIA

IN RE:	:	VIOLATIONS:
	:	
THE HANOVER INSURANCE	:	Sections 641.1A and 671-A of Act 147
COMPANY	:	of 2002 (40 P.S. §§ 310.41.1 and
440 Lincoln Street	:	310.71)
Worcester, MA 01653	:	
	:	Sections 4(a) and 4(h) of the Act of
	:	June 11, 1947, P.L. 538, No. 246
	:	(40 P.S. §§ 1184)
	:	
	:	Sections 1, 3(a)(2), 3(a)(5) and 3(a)(6)
	:	of the Act of July 3, 1986, P.L. 396,
	:	No. 86 (40 P.S. §§ 3401, 3403, 3405
	:	and 3406)
	:	
	:	Sections 5(a)(9) and 5(a)(9)(iv) 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
	:	113.88 and 146.6
	:	
	:	Title 18, Pennsylvania Consolidated
	:	Statutes, Section 4117(k)(1)
	:	
Respondent.	:	Docket No. MC05-08-007

CONSENT ORDER

AND NOW, this 29<sup>th</sup> day of *September*, 2005, this Order is hereby  
issued by the Deputy Insurance Commissioner of the Commonwealth of

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

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

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

#### FINDINGS OF FACT

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

(a) Respondent is The Hanover Insurance Company, and maintains its address at 440 Lincoln Street, Worcester, Massachusetts 01653.

(b) A market conduct examination of Respondent was conducted by the Insurance Department covering the period from July 1, 2003 through June 30, 2004.

- (c) On August 12, 2005, the Insurance Department issued a Market Conduct Examination Report to Respondent.
  
- (d) A response to the Examination Report was provided by Respondent on September 7, 2005.
  
- (e) The Examination Report notes violations of the following:
  - (i) Section 641.1-A of Act 147 of 2002, which prohibits doing business with unlicensed persons (40 P.S. § 310.41a);
  
  - (ii) Section 671-A of Act 147 of 2002 prohibits producers from transacting business within this Commonwealth without written appointment as required by the Act (40 P.S. § 310.71).
  
  - (iii) Sections 4(a) and 4(h) of the Casualty and Surety Rate Regulatory Act, No. 246 (40 P.S. § 1184), which requires every insurer to file with the Insurance Commissioner every manual of classifications, rules and rates, every rating plan and every modification of any rating plan which it proposes to use in this Commonwealth and prohibits an insurer from making or issuing a contract or policy with rates other than those approved;

- (iv) Section 1 of Act 86 (40 P.S. § 3401), which requires a policy of insurance covering property or casualty risks in this Commonwealth shall provide for not less than 30 days advance notice to the named insured of an increase in renewal premium;
- (v) Section 3(a)(2) of Act 86 (40 P.S. § 3403), which requires that a nonrenewal notice be forwarded directly to the named insured or insureds at least 60 days in advance of the effective date of the termination;
- (vi) Section 3(a)(5) of Act 86 (40 P.S. § 3403), which requires a nonrenewal notice to provide the specific reason for termination and identify the condition, factor or loss experience which caused the nonrenewal. The notice shall provide sufficient information or data for the insured to correct the deficiency;
- (vii) Section 3(a)(6) of Act 86 (40 P.S. § 3403), which requires that a nonrenewal notice 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;
- (viii) Section 5(a)(9) of Act 205 (40 P.S. § 1171.5), which defines an unfair act or practice as: (9) cancelling any policy of insurance covering owner-occupied

private residential properties or personal property of individuals that has been in force for 60 days or more or refusing to renew any such policy unless the policy was obtained through material misrepresentation, fraudulent statements, omissions or concealment of fact material to the acceptance of the risk or to the hazard assumed by the company; or there has been a substantial change or increase in hazard in the risk assumed by the company subsequent to the date the policy was issued; or there is a substantial increase in hazards insured against by reason of willful or negligent acts or omissions by the insured; or the insured has failed to pay any premium whether such premium is payable directly to the company or its agent or indirectly under any premium finance plan or extension of credit; or for any other reasons approved by the Commissioner pursuant to rules and regulations promulgated by the Commissioner. No cancellation or refusal to renew by any person shall be effective unless a written notice of the cancellation or refusal to renew is received by the insured whether at the address shown in the policy or at a forwarding address;

- (ix) 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 10 days of the receipt of the notice of cancellation or intention not to renew, that the Insurance Commissioner review the action of the insurer;

- (x) 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.
  
- (xi) Title 31, Pennsylvania Code, Section 146.6, requires that 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; and
  
- (xii) 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.”

CONCLUSIONS OF LAW

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

- (a) Respondent is subject to the jurisdiction of the Pennsylvania Insurance Department.
  
- (b) Respondent's violations of Sections 641.1A and 671-A of Act 147 of 2002 are punishable by the following, under Section 691-A of Act 147 of 2002 (40 P.S. § 310.91):
  - (i) suspension, revocation or refusal to issue the certificate of qualification or license;
  - (ii) imposition of a civil penalty not to exceed five thousand dollars (\$5,000.00) for every violation of the Act;
  - (iii) an order to cease and desist; and
  - (iv) any other conditions as the Commissioner deems appropriate.
  
- (c) Respondent's violations of Sections 4(a) and (h) of the Casualty and Surety Rate Regulatory Act, No. 246 (40 P.S. § 1184) are punishable under Section 16 of the Casualty and Surety Rate Regulatory Act:

- (i) imposition of a civil penalty not to exceed \$50 for each violation or not more than \$500 for each such wilful violation;
  - (ii) suspension of the license of any insurer which fails to comply with an Order of the Commissioner within the time limited by such Order, or any extension thereof which the Commissioner may grant.
- (d) Respondent's violations of Sections 1, 3(a)(2), 3(a)(5) and 3(a)(6) of Act 86 (40 P.S. §§ 3401 and 3403), are punishable under Section 8 (40 P.S. § 3408) of this act by one or more of the following causes of action:
- (i) order that the insurer cease and desist from the violation.
  - (ii) impose a fine or not more than \$5,000 for each violation.
- (e) Respondent's violations of Sections 5(a)(9) and 5(a)(9)(iv) 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, Section 146.6 are punishable under Sections 9, 10 and 11 of the Unfair Insurance Practices Act (40 P.S. §§ 1171.9, 1171.10 and 1171.11), as stated above.

ORDER

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

- (a) Respondent shall cease and desist from engaging in the activities described herein in the Findings of Fact and Conclusions of Law.
- (b) Respondent shall file an affidavit stating under oath that it will provide each of its directors, at the next scheduled directors meeting, a copy of the adopted Report and related Orders. Such affidavit shall be submitted within thirty (30) days of the date of this Order.
- (c) Respondent shall comply with all recommendations contained in the attached Report.
- (d) Respondent shall pay Twenty-Two Thousand, Five Hundred Dollars (\$22,500.00) to the Commonwealth of Pennsylvania in settlement of all violations contained in the Report.
- (e) Payment of this matter shall be made by check payable to the Commonwealth of Pennsylvania. Payment should be directed to Sharon L. Harbert, Administrative Assistant, Bureau of Enforcement, 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 Deputy Insurance Commissioner finds that there has been a breach of any of the provisions of this Order, based upon the Findings of Fact and

Conclusions of Law contained herein may pursue any and all legal remedies available, including but not limited to the following: The Deputy Insurance Commissioner may enforce the provisions of this Order in the Commonwealth Court of Pennsylvania or in any other court of law or equity having jurisdiction; or the Deputy Insurance Commissioner may enforce the provisions of this Order in an administrative action pursuant to the Administrative Agency Law, supra, or other relevant provision of law.

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

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

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

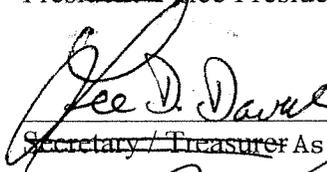
10. This Order constitutes the entire agreement of the parties with respect to the matters referred to herein, and it may not be amended or modified except by an amended order signed by all the parties hereto.

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

BY: THE HANOVER INSURANCE COMPANY,  
Respondent



~~President /~~ Vice President



~~Secretary / Treasurer~~ Assistant Vice President



RANDOLPH L. ROHRBAUGH  
Deputy Insurance Commissioner  
Commonwealth of Pennsylvania

## I. INTRODUCTION

The market conduct examination was conducted at The Hanover Insurance Company's office located in Worcester, Massachusetts, from March 21, 2005, through March 24, 2005. Subsequent review and follow-up was conducted in the office of the Pennsylvania Insurance Department.

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

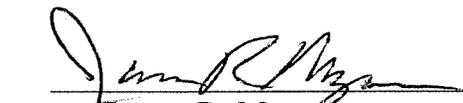
In certain areas of review listed in this Report, the examiners will refer to "error ratio." This error ratio is calculated by dividing the number of policies with violations by the total number of policies reviewed. For example, if 100 policies are reviewed and it is determined that there are 20 violations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

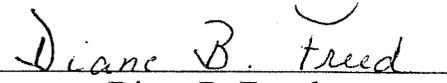
Throughout the course of the examination, Company officials were provided with status memoranda, which referenced specific policy numbers with citation to each section of law violated. Additional information was requested to clarify apparent violations. An exit conference was conducted with Company personnel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

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

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

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

  
\_\_\_\_\_  
James R. Myers  
Market Conduct Examiner

  
\_\_\_\_\_  
Diane B. Freed  
Market Conduct Examiner

## II. SCOPE OF EXAMINATION

The Market Conduct Examination was conducted on The Hanover Insurance Company, hereinafter referred to as “Company,” at their office located in Worcester, Massachusetts. 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, 2003, through June 30, 2004, unless otherwise noted. The purpose of the examination was to determine the Company’s compliance with Pennsylvania insurance laws and regulations.

The examination focused on Company operations in the following areas:

1. Personal Lines Property
  - Underwriting – Appropriate and timely notices of nonrenewal, midterm cancellations and 60-day cancellations.
  - Rating – Proper use of all classification and rating plans and procedures.
2. Dwelling Fire
  - Rating – Proper use of all classification and rating plans and procedures.
3. Commercial Property
  - Underwriting – Appropriate and timely notices of nonrenewals, midterm cancellations and renewals.
4. Commercial Automobile
  - Underwriting – Appropriate and timely notices of nonrenewals, midterm cancellations and renewals.
5. Claims

6. Forms

7. Advertising

8. Complaints

9. Licensing

### **III. COMPANY HISTORY AND LICENSING**

The Hanover Insurance Company was incorporated under the laws of New Hampshire on October 5, 1972, with the temporary title The Hanover Insurance Company, Inc., to act as a vehicle for the transfer of the corporate domicile of The Hanover Insurance Company, New York, New York, effective on January 1, 1973. The predecessor company was incorporated and commenced business in New York on April 15, 1852. The Company originally operated under the title "The Hanover Fire Insurance Company until January 1, 1958, when the word "Fire" was deleted. Administrative offices were moved from New York, New York to Worcester, Massachusetts, in November 1969.

#### **LICENSING**

The Hanover Insurance Company's Certificate of Authority to write business in the Commonwealth was last issued on April 1, 2005. The Company is licensed in all states, District of Columbia and Canada. The Company's 2004 annual statement reflects Direct Written Premium for all lines of business in the Commonwealth of Pennsylvania as \$2,333,409. Premium volume related to the areas of this review were: Fire \$14,541; Homeowners' Multiple Peril \$264,298; Commercial Multiple Peril (non-liability portion) \$166,720; Commercial Multiple Peril (liability portion) \$136,731; Inland Marine \$209,533; Commercial Automobile Direct Written Premium was reported as Commercial Auto No-Fault (personal injury protection) \$4,075; Other Commercial Auto Liability \$176,541 and Commercial Auto Physical Damage \$48,922.

#### **IV. UNDERWRITING PRACTICES AND PROCEDURES**

As part of the examination, the Company was requested to supply manuals, underwriting guides, bulletins, directives or other forms of underwriting procedure communications for each line of business being reviewed. Underwriting guides were furnished for homeowners, dwelling fire and commercial property. The purpose of this review was to identify any inconsistencies which could be considered discriminatory, specifically prohibited by statute or regulation, or unusual in nature. No violations were noted.

## V. UNDERWRITING

### **A. Personal Lines Property**

#### 1. 60-Day Cancellations

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

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

The universe of 12 personal lines property policies, which were cancelled within the first 60 days of new business was selected for review. The property policies consisted of homeowners and tenant homeowners. All 12 files selected were received and reviewed. The 3 violations noted were based on 3 files, resulting in an error ratio of 25%.

The following findings were made:

*3 Violations 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 3 violations noted were the result of cancellation notices being issued without the required information.

## 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 120 personal lines property policies, which were cancelled midterm during the experience period, 78 files were selected for review. The property policies consisted of homeowners, tenant homeowners and owner occupied dwelling fire. All 78 files requested were received and reviewed. No violations were noted.

## 3. Nonrenewals

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

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

The universe of 18 personal lines property policies which were nonrenewed during the experience period was selected for review. The property policies consisted of homeowners and tenant homeowners. All 18 files requested

were received and reviewed. The 12 violations noted were based on 12 files, resulting in an error ratio of 67%.

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 12 violations were due to an improper reason to nonrenew the policy. The reason noted on the nonrenewal notices was agent no longer represents the company.

**B. Commercial Property**

1. Midterm Cancellations

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

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

The universe of 6 commercial property policies which were cancelled during the experience period was selected for review. The commercial property files consisted of commercial package and tenant occupied dwelling fire. All 6 files selected were received and reviewed. No violations were noted.

## 2. Nonrenewals

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

The 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 18 commercial property policies identified as nonrenewals by the Company was selected for review. The policies consisted of commercial fire, commercial inland marine and commercial package. All 18 files selected were received and reviewed. The 2 violations noted were based on 2 files, resulting in an error ratio of 11%.

The following findings were made:

*2 Violations Act 86, Section 3(a)(5) [40 P.S. §3403(a)(5)]*

Requires that a nonrenewal notice shall state the specific reasons for the nonrenewal. The reasons shall identify the condition, factor or loss experience, which caused the nonrenewal. The notice shall provide sufficient information or data for the insured to correct the deficiency.

*AND*

*Title 31, Pa. Code, Section 113.88*

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. The notice did not contain a specific reason for nonrenewal in the 2 files noted.

3. Renewals

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

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

The universe of 33 commercial property policies which were renewed during the experience period was selected for review. The policies consisted of commercial fire, tenant occupied dwelling fire and commercial inland marine. All 33 files selected were received and reviewed. The 3 violations noted were based on 3 files, resulting in an error ratio of 9%.

The following findings were made:

*3 Violations Act 86, Section 1 [40 P.S. §3401]*

This section provides that notwithstanding any other provision of law, a policy of insurance covering commercial property or casualty risks in this Commonwealth shall provide for not less than 30 days advance notice to the named insured of an increase in renewal premium. This section does not apply to policies written on a retrospective rating plan. The 3 files noted were absent any evidence this requirement was complied with.

**C. Commercial Automobile**

1. Midterm Cancellations

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

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

The universe of 1 commercial automobile policy which was cancelled during the experience period was selected for review. The file was selected, received and reviewed. No violations were noted.

## 2. Nonrenewals

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

The 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 identified as nonrenewals by the Company was selected for review. All 8 files selected were received and reviewed. The 3 violations noted were based on 1 file, resulting in an error ratio of 13%.

The following findings were made:

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

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

*1 Violation Act 86, Section 3(a)(5) [40 P.S. §3403(a)(5)]*

Requires that a nonrenewal notice shall state the specific reasons for the nonrenewal. The reasons shall identify the condition, factor or loss experience, which caused the nonrenewal. The notice shall provide sufficient information or data for the insured to correct the deficiency. The Company did not provide a specific reason for nonrenewal.

*1 Violation 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 file noted was absent any evidence this requirement was complied with.

3. Renewals

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

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

The universe of 7 commercial automobile policies which were renewed during the experience period was selected for review. All 7 files selected were received and reviewed. The violation noted resulted in an error ratio of 14%.

The following finding was made:

*1 Violation Act 86, Section 1 [40 P.S. §3401]*

This section provides that notwithstanding any other provision of law, a policy of insurance covering commercial property or casualty risks in this Commonwealth shall provide for not less than 30 days advance notice to the named insured of an increase in renewal premium. This section does

not apply to policies written on a retrospective rating plan.  
The Company did not provide 30 days notice of increase in  
renewal premium.

## VI. RATING

### **A. Homeowners**

#### 1. New Business

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

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

#### Homeowner Rating – New Business

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

#### 2. Renewals

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

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

### Homeowner Rating – Renewals Without Surcharges

From the universe of 648 homeowner policies renewed without surcharges during the experience period, 50 files were selected for review. All 50 files selected were received and reviewed. No violations were noted.

### Homeowner Rating – Renewals With Surcharges

The universe of 14 homeowner policies renewed with surcharges during the experience period was selected for review. All 14 files selected were received and reviewed. The 7 violations noted were based on 7 files, resulting in an error ratio of 50%.

The following findings were made:

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

Requires every insurer to file with the Insurance Commissioner every manual of classifications, rules and rates, every rating plan and every modification of any rating plan, which it proposes to use in the Commonwealth. Also, no insurer shall make or issue a contract or policy except in accordance with filings or rates, which are in effect at the time of issue. The 7 violations noted were due to an improper surcharge on the policy which resulted in overcharges of \$512.

## **B. Dwelling Fire**

### 1. New Business

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

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

The Company did not write any dwelling fire new business policies during the experience period.

## 2. Renewals

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

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

From the universe of 47 dwelling fire policies renewed during the experience period, 20 files were selected for review. All 20 files requested 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 area of review:

### A. 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. Homeowner Claims

The universe of 35 homeowner claims reported during the experience period was selected for review. All 35 files selected were received and reviewed. The 8 violations noted were based on 8 files, resulting in an error ratio of 23%.

The following findings were made:

#### *8 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 status letters to the claimants in the 8 files 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)] which requires all insurers to provide an insurance fraud notice on all applications for insurance and all claims forms.

The following findings were made:

### Homeowner Claims

#### *2 Violations Title 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 an insured's statement of claim for theft on a burglary loss and a statement of repair or replacement.

## **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 4 pieces of advertising which included direct mail brochures. 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 5 consumer complaints received during the experience period and provided all consumer complaint logs requested. All 5 complaints reported, were selected and reviewed.

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

The following findings were made:

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

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

premium when due or for any other reasons approved by the Commissioner. The 2 violations noted were due to improper reason for cancellation and nonrenewal.

The following synopsis reflects the nature of the 5 complaints that were reviewed.

• 3	Cancellation/Nonrenewal	60%
• 2	Premium Related	40%
<hr/> 5		<hr/> 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:

### *20 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.

Ross W. Maghan  
Brown & Brown Metro, Inc.  
Parker, Remson & Sullivan  
Rewards Plus of America  
Couch Braunsdorf  
Brewer & Lord LLC  
Commerce Insurance Services, Inc.  
Little, Michaels & Kennedy  
Marshall & Sterling Brodsky, Upstate New York  
VFS Insurance Group  
J.N. Mason Agency, Inc.  
Wharton Lyon & Lyon, d.b.a Wharton Delaware Valley  
Seabury & Smith, Burlington, MA

Mazey, Robert C., Inc.  
Main Street Insurance Agency, Inc.  
Granite Capital Holdings, d.b.a. Mang Insurance Agency  
Gueits, Adams & Co.  
Lawley Service Agency  
MJM Global Services  
Ernstrom & Heichemer Associates, Inc.

*9 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 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 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.

GRBM/Interstate  
Jacbi Associates, Inc.  
Miller & Miller Insurance Agency  
Contractor's Insurance Agency, Inc.  
D.J. Colby, Inc.  
T.C. Russo Associates, Inc.  
Schielke Insurance Agency  
Gant, Myers & Gillis  
Aon Insurance Services

## **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 Act 205, Section 5(a)(9) [40 P.S. §1171.5(a)(9)] to ensure compliance with cancellation and nonrenewal notice requirements so that the violations noted in the Report do not occur in the future.
2. The Company should review and revise internal control procedures to ensure compliance with the claims handling requirements of Title 31, Pennsylvania Code, Chapter 146, Unfair Claims Settlement Practices so that the violations relating to status letters as noted in the Report do not occur in the future.
3. The Company must review Act 246, Section 4 [40 P.S. §1184] and take appropriate measures to ensure the homeowner rating violations listed in the report do not occur in the future.
4. The premium overcharges noted in the rating section of this report must be refunded to the insureds and proof of such refunds must be provided to the Insurance Department within 30 days of the report issue date.
5. The Company must review Act 86, Section 1 [40 P.S. §3401], to ensure that violations regarding notification to the insured of an increase in premium do not occur in the future.

6. The Company must review and revise internal control procedures to ensure compliance relative to commercial nonrenewal requirements of Act 86, Section 3 [40 P.S. §3403], so that the violations noted in the Report do not occur in the future.
  
7. The Company must ensure all producers are properly licensed and appointed, as required by Section 641.1-A [40 P.S. §310.41a] and Section 671-A [40 P.S. §310.71] of the Insurance Department Act No. 147, prior to accepting any business from a producer.
  
8. The Company must review Title 18, Pa. C.S. §4117(k)(1) to ensure that violations regarding the requirement of a fraud warning on all applications and claim forms, as noted in the Report, do not occur in the future.

**XIII. COMPANY RESPONSE**



Hand Delivered

September 7, 2005

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

**Re: Response to Report of Exam  
Examination Warrant Number: 04-M22-045  
The Hanover Insurance Company**

Dear Mr. Derk:

This is in response to your letter to me dated August 12, 2005. Thank you for the opportunity to review and respond to the Examination Report (the "Report"). The Report has been shared with and carefully reviewed by Senior Management and our Chief Compliance Officer.

The Company takes very seriously its obligation to comply with the laws and regulations of the Commonwealth of Pennsylvania and is pleased to report that it has already substantially complied with most all of the Recommendations in the Report. In fact, several issues identified in this Report had been corrected almost one full year prior to the start of this examination. Unfortunately since implementation occurred during and not preceding the review period some exceptions were noted.

A full summary of the corrective actions taken or to be taken by the Company will follow under separate cover.

Very truly yours,

A handwritten signature in black ink, appearing to read "Dawn Murphy", written over a large, light-colored scribble or watermark.

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First Allmerica Financial Life Insurance Company • Allmerica Financial Life Insurance and Annuity Company (all states except NY)