

**REPORT OF  
MARKET CONDUCT EXAMINATION  
OF**

**HOMESITE INSURANCE COMPANY**  
Hartford, Connecticut

**AS OF  
January 11, 2008**

**COMMONWEALTH OF PENNSYLVANIA**

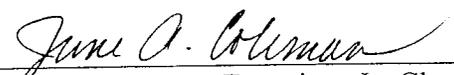


**INSURANCE DEPARTMENT  
MARKET CONDUCT DIVISION**

**Issued: March 6, 2008**

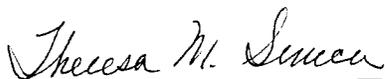
VERIFICATION

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).

  
June A. Coleman, Examiner-In-Charge

Sworn to and Subscribed Before me

This *20* Day of *December*, 2007



Notary Public

COMMONWEALTH OF PENNSYLVANIA

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

# HOMESITE INSURANCE COMPANY

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BEFORE THE INSURANCE COMMISSIONER  
OF THE  
COMMONWEALTH OF PENNSYLVANIA

ORDER

AND NOW, this 6<sup>th</sup> day of July, 2007, in accordance with

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



  
\_\_\_\_\_  
Joel S. Ario  
Insurance Commissioner

BEFORE THE INSURANCE COMMISSIONER  
OF THE  
COMMONWEALTH OF PENNSYLVANIA

IN RE:	:	VIOLATIONS:
	:	
HOMESITE INSURANCE	:	Sections 641.1-A and 671-A of Act
COMPANY	:	147 of 2002 (40 P.S. §§ 310.41a and
99 Bedford Street	:	310.71)
Boston, MA 02111	:	
	:	Section 903 of the Insurance
	:	Department Act, Act of May 17, 1921,
	:	P.L. 789, No. 285 (40 P.S. § 323.3)
	:	
	:	Sections 5(a)(9), 5(a)(9)(iv) and (v) of
	:	the Unfair Insurance Practices Act,
	:	Act of July 22, 1974, P.L. 589, No.
	:	No. 205 (40 P.S. §§ 1171.5)
	:	
	:	Sections 4(a) and 4(h) of the Act of
	:	June 11, 1947, P.L. 538, No. 246
	:	(40 P.S. §§ 1184)
	:	
	:	Section 506.1 of the Insurance
	:	Company Law, Act of May 17, 1921,
	:	P.L. 682, No. 284 (40 P.S. § 636.1)
	:	
	:	Title 31, Pennsylvania Code, Sections
	:	146.5(a), 146.6 and 146.7(a)(1)
	:	
	:	
Respondent.	:	Docket No. MC08-01-014

CONSENT ORDER

AND NOW, this 6<sup>th</sup> day of March, 2008, this Order is hereby issued by the Insurance Department of the Commonwealth of Pennsylvania pursuant to the statutes cited above and in disposition of the matter captioned above.

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

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

#### FINDINGS OF FACT

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

- (a) Respondent is Homesite Insurance Company, and maintains its address at 99 Bedford Street, Boston, Massachusetts 02111.
- (b) A market conduct examination of Respondent was conducted by the Insurance Department covering the period from January 1, 2006 through December 31, 2006.

- (c) On January 11, 2008, the Insurance Department issued a Market Conduct Examination Report to Respondent.
- (d) A response to the Examination Report was provided by Respondent on February 11, 2008.
- (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 prohibits producers from transacting business within this Commonwealth without written appointment as required by the Act (40 P.S. § 310.71).
  - (iii) Section 903(a) of the Insurance Department Act, No. 285 (40 P.S. § 323.3), which requires every company subject to examination keep all books, records, accounts, papers, documents and any or all computer or other recordings relating to its property, assets, business and affairs in such manner and for such time as may be required in order that the Department may verify whether the company has complied with the laws of this Commonwealth;

(iv) 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;

(v) 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;

- (vi) Section 5(a)(9)(v) 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 possible eligibility for insurance under the PA Fair Plan Act;
- (vii) 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;
- (viii) Section 506.1 of the Insurance Company Law (40 P.S. § 636.1), which requires basic property insurance to be continued 180 days after the death of the named insured on the policy or until the sale of the property, whichever occurs first, provided that the premiums are paid;
- (ix) Title 31, Pennsylvania Code, Section 146.5(a), requires every insurer, upon receiving notification of a claim, shall, within ten working days, acknowledge the receipt of such notice unless payment is made within such period of time;

- (x) 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
- (xi) Title 31, Pennsylvania Code, Section 146.7(a)(1), which requires within 15 working days after receipt by the insurer of properly executed proofs of loss, the first-party claimant shall be advised of the acceptance or denial of the claim by the insurer. No insurer shall deny a claim on the grounds of a specific policy provision, condition or exclusion unless reference to such provision, condition or exclusion is included in the denial. The denial must be given to the claimant in writing and the claim file of the insurer shall contain a copy of the denial.

#### 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 Sections 5(a)(9) of the Unfair Insurance Practices Act, No. 205 (40 P.S. §§ 1171.5) are punishable by the following, under Section 9 of the Unfair Insurance Practices Act (40 P.S. § 1171.9):
  - (i) cease and desist from engaging in the prohibited activity;
  - (ii) suspension or revocation of the license(s) of Respondent.
  
- (d) In addition to any penalties imposed by the Department for Respondent's violations of the Unfair Insurance Practices Act (40 P.S. §§ 1171.1 –

1171.5), the Department may, under Sections 10 and 11 of the Unfair Insurance Practices Act (40 P.S. §§ 1171.10, 1171.11) file an action in which the Commonwealth Court may impose the following civil penalties:

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

(f) Respondent's violations of Section 506.1 of the Insurance Company Law, No. 284 (40 P.S. § 636.1) are punishable by the following, under Section 507 of the Insurance Company Law (40 P.S. § 637), which provides that the Insurance Commissioner may suspend or revoke the license of any offending entity, refuse to issue a new license, or impose a penalty of not more than \$1,000 for each violation of this section.

(g) Respondent's violations of Title 31, Pennsylvania Code, Sections 146.5, 146.6 and 146.7 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 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 Thirty-Five Thousand Dollars (\$35,000.00) to the Commonwealth of Pennsylvania in settlement of all violations contained in the Report.

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

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

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

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

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

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

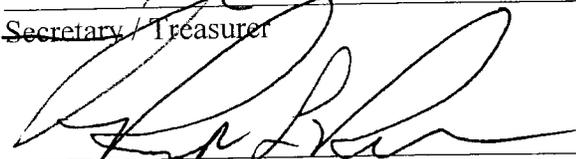
11. This Order shall be final upon execution by the Insurance Department. Only the Insurance Commissioner or a duly authorized delegee is authorized to bind the Insurance Department with respect to the settlement of the alleged violations of law

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

BY: HOMESITE INSURANCE COMPANY,  
Respondent

  
\_\_\_\_\_  
~~President / Vice President~~

  
\_\_\_\_\_  
~~Secretary / Treasurer~~

  
\_\_\_\_\_  
COMMONWEALTH OF PENNSYLVANIA  
By: Randolph L. Rohrbaugh  
Deputy Insurance Commissioner

## I. INTRODUCTION

The market conduct examination was conducted at Homesite Insurance Company's office located in Boston, Massachusetts, from September 24, 2007, through October 12, 2007. Subsequent review and follow-up was conducted in the office of the Pennsylvania Insurance Department.

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

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

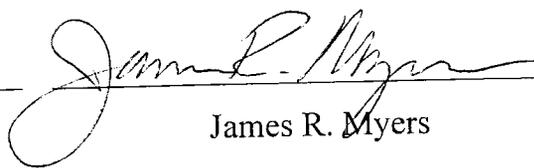
Throughout the course of the examination, Company officials were provided with status memoranda, which referenced specific policy numbers with citation to each section of law violated. Additional information was requested to clarify apparent violations. An exit conference was conducted with Company personnel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

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

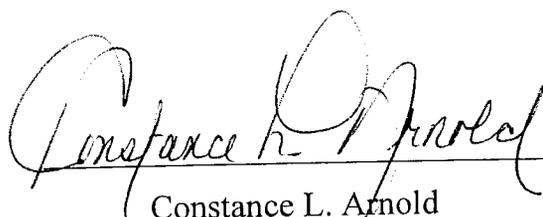
The undersigned participated in this examination and in preparation of this Report.

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

  
\_\_\_\_\_  
June A. Coleman  
Market Conduct Examiner

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

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

  
\_\_\_\_\_  
Constance L. Arnold  
Market Conduct Examiner

## II. SCOPE OF EXAMINATION

The Market Conduct Examination was conducted on Homesite Insurance Company, hereinafter referred to as "Company," at their office located in Boston, 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 January 1, 2006, through December 31, 2006, unless otherwise noted. The purpose of the examination was to determine the Company's compliance with Pennsylvania insurance laws and regulations.

The examination focused on Company operations in the following areas:

1. Property
  - Underwriting – Appropriate and timely notices of nonrenewal, midterm cancellations, 60-day cancellations, declinations and rescissions.
  - Rating – Proper use of all classification and rating plans and procedures.
2. Claims
3. Forms
4. Advertising
5. Complaints
6. Licensing

### III. COMPANY HISTORY AND LICENSING

Homesite Insurance Company was incorporated under the name Royal Special Risks Insurance Company on April 3, 1985, in the state of Connecticut and commenced operations on the same date. On August 2, 2000, all the outstanding common stock of the Company was sold by Globe Indemnity Company, an indirect subsidiary of Royal & SunAlliance USA Insurance Company to Homesite Group Incorporated, a Delaware corporation. Royal Special Risks was subsequently renamed Homesite Insurance Company. The sale agreement provided for payment of an extraordinary dividend just prior to sale, reducing the capital and surplus of Royal. Under the Royal Indemnity Company Reinsurance and Liabilities Assumption Agreement with Royal Special Risks, Royal Indemnity Company assumed all liabilities of Royal Special Risks as of December 31, 1999. This assumption has been treated as a novation by the Company and by the reinsurer.

Prior to the acquisition by Homesite Group, Royal provided commercial property and casualty lines as a subsidiary member of the Royal & SunAlliance USA Insurance Group. The group operated under an intercompany pooling agreement where all underwriting commitments of each member of the pool were 100% reinsured by member Royal Indemnity Company, which retroceded to the affiliated companies specified percentage participations of the commitments.

The Company is wholly-owned by Homesite Securities Company LLC, which is in turn a wholly-owned subsidiary of Homesite Group Incorporated, a Delaware corporation.

## LICENSING

Homesite Insurance Company's Certificate of Authority to write business in the Commonwealth was last issued on April 1, 2007. The Company is licensed in the District of Columbia and all states except Alabama, Arkansas, California, Illinois, Kansas, Maine, Massachusetts, Missouri, New Hampshire, New York and Vermont. The Company's 2006 annual statement reflects Direct Written Premium for all lines of business in the Commonwealth of Pennsylvania as \$5,856,993. Premium volume related to the areas of this review were: Homeowners Multiple Peril \$5,856,993.

#### IV. UNDERWRITING PRACTICES AND PROCEDURES

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

The following finding was made:

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

Prohibits canceling any policy of insurance covering owner-occupied private residential properties or personal property of individuals that has been in force for sixty days or more or refusing to renew any such policy unless the policy was obtained through material misrepresentation, fraudulent statements, omissions or concealment of fact material to the acceptance of the risk or to the hazard assumed by the company; or there has been a substantial change or increase in hazard in the risk assumed by the company subsequent to the date the policy was issued; or there is a substantial increase in hazards insured against by reason of willful or negligent acts or omissions by the insured; or the insured has failed to pay any premium when due or for any other reasons approved by the Commissioner. The Company's homeowner eligibility guidelines indicated the following: "Renewal risk claim history will be reviewed with underwriting discretion regarding the number, type

and severity of claims allowed during the tenure of the policy in the Homesite homeowner's program." Claims history may not be used as a basis for nonrenewal.

## V. UNDERWRITING

### A. 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 101 property policies which were cancelled within the first 60 days of new business, 16 files were selected for review. The policies consisted of homeowner and tenant homeowner. All 16 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 1,052 property policies which were cancelled midterm during the experience period, 90 files were selected for review. The property policies consisted of homeowners and tenant homeowners. All 90 files were received and reviewed. Of the 90 files reviewed, 38 files were identified as 60-day cancellations. The 26 violations noted were based on 25 files, resulting in an error ratio of 28%.

The following findings were made:

*8 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 of cancellation for the 8 files noted.

*14 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*

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

Mere notice to the insured that a homeowners 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 a fix-it letter to the insured for the 14 files noted.

*4 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 did not provide a copy of the notice of cancellation for the 4 files noted, therefore compliance could not be determined.

### 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 10 homeowner policies which were nonrenewed during the experience period was selected for review. All 10 files were received and reviewed. The 13 violations noted were based on 5 files, resulting in an error ratio of 50%.

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. The Company nonrenewed the policy for an improper reason.

*5 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 Company failed to provide the required information on the nonrenewal notice for the 5 files noted.

*5 Violations 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 5 files noted.

*2 Violations Insurance Company Law, Section 506.1 [40 P.S. §636.1]*

Requires that basic property insurance shall be continued one hundred and eighty days after the death of the named insured on the policy or until the sale of the property, whichever event occurs first provided that the premiums for the coverage

are paid. The Company cancelled the policy within the 180 days of the death of the named insured for the 2 files noted.

#### 4. Declinations

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

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

From the universe of 3,632 property policies which were declined by the Company during the experience period, 50 files were selected for review. All 50 files were received and reviewed. The property policies consisted of homeowners and tenant homeowners. No violations were noted.

#### 5. Rescissions

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

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

The universe of 4 homeowner policies which were identified by the Company as being rescinded during the experience period was selected for review. All 4 files were received and reviewed. Of the 4 files reviewed, one was identified as a midterm cancellation. No violations were noted.

## 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.

The following concern was noted:

**Concern:** Homeowner policies are subject to a surcharge for losses. Therefore, it is a concern that no surcharge disclosure plan is provided to these policyholders. The disclosure plan should state what surcharge percentage applies for paid losses as provided in the Company's rate filing. Notification of the surcharge disclosure requirement was provided to all companies in an Important Notice dated 9/18/1998.

#### Homeowner Rating – New Business Without Surcharges

From the universe of 3,049 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. The 374 violations noted were based on the universe of 3,049, resulting in an error ratio of 12%.

The following findings were made:

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

Requires every insurer to file with the Insurance Commissioner every manual of classifications, rules and rates, every rating plan and every modification of any rating plan, which it proposes to use in the Commonwealth. Also, no insurer shall make or issue a contract or policy except in accordance with filings or rates, which are in effect at the time of issue. The Company applied an incorrect factor used to determine the additional premium for specified additional insurance for Coverage A dwelling, resulting in undercharges of approximately \$748.

Homeowner Rating – New Business With Surcharges

From the universe of 536 homeowner policies written as new business with surcharges during the experience period, 25 files were selected for review. All 25 files were received and reviewed. The 65 violations noted were based on the universe of 536, resulting in an error ratio of 12%.

The following findings were made:

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

Requires every insurer to file with the Insurance Commissioner every manual of classifications, rules and rates, every rating plan and every modification of any rating

plan, which it proposes to use in the Commonwealth. Also, no insurer shall make or issue a contract or policy except in accordance with filings or rates, which are in effect at the time of issue. The Company applied an incorrect factor used to determine the additional premium for specified additional insurance for Coverage A dwelling, resulting in undercharges of approximately \$130.

## 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.

The following concern was noted:

**Concern:** Homeowner policies are subject to a surcharge for losses. Therefore, it is a concern that no surcharge disclosure plan is provided to these policyholders. The disclosure plan should state what surcharge percentage applies for paid losses as provided in the Company's rate filing. Notification of the surcharge disclosure requirement was provided to all companies in an Important Notice dated 9/18/1998.

### Homeowner Rating – Renewals Without Surcharges

From the universe of 5,123 homeowner policies renewed without surcharges during the experience period, 25 files were selected for review. All 25 files were received and reviewed. The 1,126 violations noted were based on the universe of 5,123, resulting in an error ratio of 22%.

The following findings were made:

*1,126 Violations Act 246, The Casualty and Surety Rate Regulatory Act,  
Section 4 (40 P.S. §1184)*

Requires every insurer to file with the Insurance Commissioner every manual of classifications, rules and rates, every rating plan and every modification of any rating plan, which it proposes to use in the Commonwealth. Also, no insurer shall make or issue a contract or policy except in accordance with filings or rates, which are in effect at the time of issue. The Company applied an incorrect factor used to determine the additional premium for specified additional insurance for Coverage A dwelling, resulting in undercharges of approximately \$2,252.

### Homeowner Rating – Renewals With Surcharges

From the universe of 1,036 homeowner policies renewed without surcharges during the experience period, 25 files were selected for review. All 25 files were received and reviewed. The 210 violations noted were based on the universe of 1,036, resulting in an error ratio of 20%.

The following findings were made:

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

Requires every insurer to file with the Insurance Commissioner every manual of classifications, rules and rates, every rating plan and every modification of any rating plan, which it proposes to use in the Commonwealth. Also, no insurer shall make or issue a contract or policy except in accordance with filings or rates, which are in effect at the time of issue. The Company applied an incorrect factor used to determine the additional premium for specified additional insurance for Coverage A dwelling, resulting in undercharges of approximately \$420.

**B. 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.

The following concern was noted:

**Concern:** Homeowner policies are subject to a surcharge for losses. Therefore, it is a concern that no surcharge disclosure plan is provided to these policyholders. The disclosure plan should state what surcharge percentage applies for paid losses as provided in the Company's rate filing. Notification of the surcharge disclosure requirement was provided to all companies in an Important Notice dated 9/18/1998.

Tenant Homeowner Rating – New Business Without Surcharges

From the universe of 843 tenant homeowner policies written as new business without surcharges during the experience period, 25 files were selected for review. All 25 files were received and reviewed. No violations were noted.

Tenant Homeowner Rating – New Business With Surcharges

From the universe of 42 tenant homeowner policies written as new business with surcharges during the experience period, 25 files were selected for review. All 25 files were received and reviewed. No violations were noted.

2. Renewals

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

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

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

The following concern was noted:

**Concern:** Homeowner policies are subject to a surcharge for losses. Therefore, it is a concern that no surcharge disclosure plan is provided to these policyholders. The disclosure plan should state what surcharge percentage applies for paid losses as provided in the Company's rate filing. Notification of the surcharge disclosure requirement was provided to all companies in an Important Notice dated 9/18/1998.

#### Tenant Homeowner Rating – Renewals Without Surcharges

From the universe of 688 tenant homeowner policies renewed without surcharges during the experience period, 25 files were selected for review. All 25 files were received and reviewed. No violations were noted.

#### Tenant Homeowner Rating – Renewals With Surcharges

From the universe of 63 tenant homeowner policies renewed with surcharges during the experience period, 25 files were selected for review. All 25 files were received and reviewed. No violations were noted.

## 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. Homeowner Claims
- B. 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. Homeowner Claims**

From the universe of 470 homeowner claims reported during the experience period, 50 files were selected for review. All 50 files were received and reviewed. The 23 violations noted were based on 22 files, resulting in an error ratio of 44%.

The following findings were made:

#### *21 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 21 claims noted.

*2 Violations Title 31, Pa. Code, Section 146.7(a)(1)*

Within 15 working days after receipt by the insurer of properly executed proofs of loss, the first-party claimant shall be advised of the acceptance or denial of the claim by the insurer. Of the 2 violations noted, the Company failed to advise the insured of the acceptance or denial within 15 days for the one claim noted. The remaining claim file did not have a copy of the denial letter.

**B. Tenant Homeowner Claims**

The universe of 44 tenant dwelling fire claims reported during the experience period was selected for review. All 44 files were received and reviewed. The 13 violations noted were based on 12 files, resulting in an error ratio of 27%.

The following findings were made:

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

Every insurer, upon receiving notification of a claim, shall, within ten working days, acknowledge the receipt of such notice unless payment is made within such period of time. If an acknowledgment is made by means other than writing, an

appropriate notation of such acknowledgment shall be made in the claim file of the insurer and dated. Notification given to an agent of an insurer shall be notification to the insurer, dating from the time the insurer receives notice. The Company did not acknowledge the claim within 10 working days.

*10 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 10 claims noted.

*2 Violations Title 31, Pa. Code, Section 146.7(a)(1)*

Within 15 working days after receipt by the insurer of properly executed proofs of loss, the first-party claimant shall be advised of the acceptance or denial of the claim by the insurer. Of the 2 violations noted, the Company failed to advise the insured of the acceptance or denial within 15 days for the one claim file noted. The remaining claim file did not have a copy of the denial letter.

### 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.

No violations were noted.

## *IX. ADVERTISING*

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

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

The Company provided 42 pieces of advertising in use during the experience period, which included customer brochures, postcards, mailing inserts for direct marketing and cross-selling, posters, and email attachments. The Company's website and quote system 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 17 consumer complaints received during the experience period and provided all consumer complaint logs requested. All 17 complaints 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. The Company nonrenewed the policy for an improper reason.

*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 timely status letters for the claim noted.

The following concern was noted:

**Concern:** The Company reported receiving 3 written complaints from policyholders. The file notes indicate that no written response was given. It is a concern that the Company does not follow-up on written complaints received from policyholders in the same manner that follow-up correspondence is given to the Department when the Company is notified of a complaint filed.

The following synopsis reflects the nature of the 17 complaints that were reviewed.

•	6	Premium/Rating	35%
•	5	Cancellation/Nonrenewal	29%
•	3	Claims	18%
•	2	Underwriting	12%
•	1	Miscellaneous	6%
	<hr/>		<hr/>
	17		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.

Pamela Smith  
Dena Epps

Ann Marie Radman-Jeraci  
Louis Badolato  
Christopher Allen  
Angela Orrego  
Celeste Glynn  
Suzette Loraine South

*4 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.

Gerarda Kelly  
Ina Robinson  
Marlon Bravo  
Indira Bowen

## *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 that the violations regarding the requirement for cancellation and nonrenewal notices, as noted in the Report, does not occur in the future.
2. The Company must review Insurance Company Law, Section 506.1 regarding the cancellation of property insurance after the death of the named insured to ensure that basic property coverage is maintained at least 180 days.
3. 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.
4. 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 acknowledgement, status letters, claim acceptance and denials as noted in the Report do not occur in the future.

5. The Company must review Act 246, Section 4(a) and (h) [40 P.S. §1184] and take appropriate measures to ensure the homeowner rating violations listed in the report do not occur in the future.
6. 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.
7. The Company must revise and reissue their underwriting guidelines for use in Pennsylvania to ensure that guidelines do not reference claim history.

**XIII. COMPANY RESPONSE**



February 8, 2008

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

Re: Examination Warrant Number: 07-M29-018

Dear Mr. Derk:

Homesite Insurance Company (the "Company") is in receipt of the Examination Warrant Number: 07-M29-018. We have reviewed the report and provide the following comments to the recommendations contained therein.

1. The Company must review Act 205, Section 5(a)(9) [40 P.S. §1171.5(a)(9)] to ensure that the violations regarding the requirement for cancellation and nonrenewal notices, as noted in the Report, does not occur in the future.
2. The Company must review Insurance Company Law, Section 506.1 regarding the cancellation of property insurance after the death of the named insured to ensure that basic property coverage is maintained at least 180 days.
3. 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 Report do not occur in the future.

*Comment: In the Underwriting area, the Company has reviewed its procedures and has already implemented workflow adjustments to address areas where violations occurred. We are confident these adjustments will prevent future occurrences.*

4. 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 acknowledgement, status letter, claim acceptance and denials as noted in the Report do not occur in the future.

*Comment: In late summer 2006, the Company moved to a paperless system where policyholder's would be able to mail, fax or e mail documents that would automatically upload to the claims file. Unfortunately, as this system was deployed there were transition errors that resulted in misplaced documents. The transition issues have been resolved which caused many of the violations noted. Additionally, management controls have been reviewed and where necessary adjusted to ensure compliance with the Unfair Claims Settlement Practices.*

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

*Comment: As noted in the report an incorrect factor was being applied to determine additional premium for specified additional insurance for Coverage A dwelling resulting in an undercharge to policyholders. This appears to have been a system glitch which has been rectified.*

6. 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. §310.71] of the Insurance Department Act No. 147, prior to accepting any business from any producer.

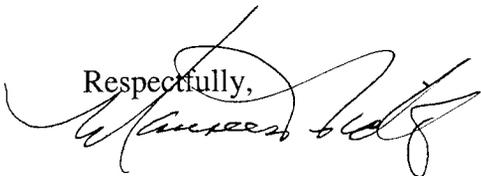
*Comment: The Company has reviewed its licensing procedures and made necessary adjustments to ensure producers are properly licensed and appointed prior to accepting any business from any producer.*

7. The Company must revise and reissue their underwriting guidelines for use in Pennsylvania to ensure that guidelines do not reference claim history.

*Comment: The practice in all states is that renewal underwriting activity is conducted in compliance with the applicable state laws and regulations. The "Claim History" guideline is used for Pennsylvania renewals as a review mechanism solely to narrow our focus to those policies approaching renewal which are in need of a more detailed review. Those policies with an adverse exposure in need of mitigation are identified and sent recommendation letters to address adverse exposures. In instances where we have not received confirmation of mitigation by a subsequent renewal we will take action for failure to comply with recommendations. For the sake of clarity we are at your request amending the wording in our guidelines.*

Please accept the above comments as the Company's response to the recommendations set forth in the examination report. Should you have any questions please feel free to contact me.

Respectfully,



Maureen Fidler  
Corporate Responsibility  
Homesite Group Incorporated  
617-832-1383  
[mfidler@homesite.com](mailto:mfidler@homesite.com)