

**REPORT OF  
MARKET CONDUCT EXAMINATION  
OF**

**LAKELAND INSURANCE COMPANY**  
Erie, Pennsylvania

**AS OF  
October 6, 2003**

**COMMONWEALTH OF PENNSYLVANIA**



**INSURANCE DEPARTMENT  
MARKET CONDUCT DIVISION**

**Issued: December 4, 2003**

# Lakeland Insurance Company

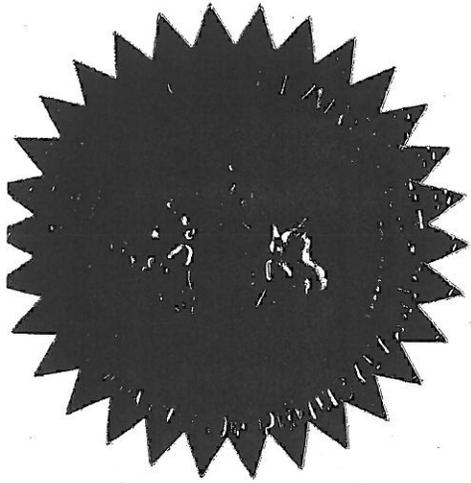
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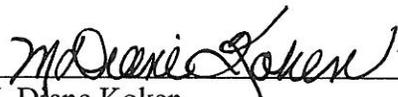
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BEFORE THE INSURANCE COMMISSIONER  
OF THE  
COMMONWEALTH OF PENNSYLVANIA

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  
Insurance Commissioner

BEFORE THE INSURANCE COMMISSIONER  
OF THE  
COMMONWEALTH OF PENNSYLVANIA

IN RE:	:	VIOLATIONS:
	:	
LAKELAND INSURANCE	:	Sections 605, 623 and 903(a) of the
COMPANY	:	Insurance Department Act, Act of
525 Vine Street	:	May 17, 1921, P.L. 789, No. 285
Cincinnati, OH 45201	:	(40 P.S. §§ 235, 253 and 323.3)
	:	
	:	Sections 4(a) and 4(h) of the Act of
	:	June 11, 1947, P.L. 538, No. 246
	:	(40 P.S. § 1184)
	:	
	:	Act 1990-6, Sections 1725, 1791.1(a),
	:	(b) and (c), 1793(b)(1)(2), 1797(b)(1),
	:	and 1799.3(d) (Title 75, Pa.C.S.
	:	§§ 1725, 1791.1, 1793, 1797 and 1799)
	:	
	:	Sections 5(a)(9), 5(a)(9)(ii), (iii), (iv),
	:	(v) and 5(a)(11) of the Unfair Insurance
	:	Practices Act, Act of July 22, 1974,
	:	P.L. 589, No. 205 (40 P.S. § 1171.5)
	:	
	:	Sections 2002(c)(3), 2003(a)(1) and
	:	(10), 2004, 2006(2) and (3) of Act
	:	68 of 1998 (40 P.S. §§ 991.2002,
	:	2003, 2004 and 2006)
	:	
	:	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
	:	61.13, 62.3(f)(2), (3) and (5), 69.53(a),
	:	146.3, 146.4, 146.5(a), (d), 146.6, 146.7
	:	and 146.7(a)(1)
	:	
	:	Title 75, Pennsylvania Consolidated
	:	Statutes, Sections 1716 and 1822
	:	
Respondent.	:	Docket No. MC03-10-024

CONSENT ORDER

AND NOW, this 4<sup>th</sup> day of December, 2003, 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 Lakeland Insurance Company, and maintains its address at 525 Vine Street, Cincinnati, Ohio 45201.

- (b) A market conduct examination of Respondent was conducted by the Insurance Department covering the period from January 1, 2002 through December 31, 2002.
  
- (c) On October 7, 2003, the Insurance Department issued a Market Conduct Examination Report to Respondent.
  
- (d) A response to the Examination Report was provided by Respondent on November 6, 2003.
  
- (e) After consideration of the November 6, 2003 response, the Insurance Department has modified the Examination Report as attached.
  
- (f) The Examination Report notes violations of the following:
  - (i) Section 605 of the Insurance Department Act, No. 285 (40 P.S. § 235), which requires that no agent shall do business on behalf of any entity without written appointment from that entity;
  
  - (ii) Section 623 of the Insurance Department Act, No. 285 (40 P.S. § 253), which prohibits doing business with unlicensed brokers;

- (iii) Section 903(a) of the Insurance Department Act, No. 285 (40 P.S. § 323.3), which requires every company or person subject to examination must 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 periods as the Department may require, in order that its representatives may ascertain whether the company has complied with the laws of the Commonwealth;
  
- (iv) 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;
  
- (v) Section 1725 of Act 1990-6, Title 75, Pa.C.S. § 1725, which requires every motor vehicle policy to contain a notice whether the policy covers collision damage to rental vehicles, and any limitations on such coverage. The notice shall be written in clear language and printed on the first page of the policy in bold, capital letters;
  
- (vi) Section 1791.1(a) of Act 1990-6, Title 75, Pa.C.S. § 1791, which requires that at the time of application for original coverage and every renewal

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

- (vii) Section 1791.1(b) of Act 1990-6, Title 75, Pa.C.S. § 1791, which requires an insurer to provide an insured a notice of the availability of two alternatives of full tort insurance and limited tort insurance;
- (viii) Section 1791.1(c) of Act 1990-6, Title 75, Pa.C.S. § 1791, which requires except where the commissioner has determined that an insurer may omit a discount because the discount is duplicative of other discounts or is specifically reflected in the insurer's experience, at the time of application for original coverage and every renewal thereafter, an insurer must provide

to an insured a notice stating that discounts are available for drivers who meet the requirements of Sections 1799, 1799.1 and 1799.2;

- (ix) Section 1793 (b)(1)(2) of Act 1990-6, Title 75, Pa. C.S. § 1793, which requires the insurer to provide to the insured a surcharge disclosure plan. The insurer providing the surcharge disclosure plan shall detail the provisions of the plan and shall be delivered to each insured by the insurer at least once annually. Additionally, the surcharge information plan shall be given to each prospective insured at the time application is made for motor vehicle insurance coverage;
  
- (x) Section 1797(b)(1) of Act 1990-6, Title 75, Pa.C.S. § 1797, which requires peer review plan for challengers to reasonableness and necessity of treatment; insurers shall contract jointly or separately with any peer review organization established for the purpose of evaluating treatment, health care services, products or accommodations provided to any injured person. Such evaluation shall be for the purpose of confirming that such treatment, products, services or accommodations conform to the professional standards of performance and are medically necessary. An insurer's challenge must be made to a PRO within 90 days of the insurer's receipt of the provider's bill for treatment or services or may be made at any time for continuing treatment or services;

- (xi) Section 1799.3(d) of Act 1990-6, Title 75, Pa.C.S. § 1799, which requires insurers who make a determination to impose a surcharge, rate penalty or driver record point assignment, to inform the named insured of the determination and specify the manner in which the surcharge, rate penalty or driver record point assignment was made and clearly identify the amount of the surcharge or rate penalty on the premium notice for as long as the surcharge or rate penalty is in effect;
  
- (xii) Section 5(a)(9) of Act 205 (40 P.S. § 1171.5), which prohibits cancellation of 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 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;
  
- (xiii) Section 5(a)(9)(ii) of Act 205 (40 P.S. § 1171.5) prohibits any cancellation or refusal to renew to become effective in a period of less than thirty days from the date of delivery or mailing;
  
- (xiv) Section 5(a)(9)(iii) of Act 205 (40 P.S. § 1171.5) requires that a cancellation notice shall state the specific reason or reasons of the insurer for cancellation;

- (xv) Section 5(a)(9)(iv) of Act 205 (40 P.S. § 1171.5) requires that a cancellation notice shall advise the insured of his right to request, in writing, within ten days of receipt of the notice of cancellation or intention not to renew, that the Insurance Commissioner review the action of the insurer;
- (xvi) Section 5(a)(9)(v) of Act 205 (40 P.S. § 1171.5) requires that a cancellation notice shall advise the insured of his possible eligibility for insurance under the “Pennsylvania Fair Plan Act”;
- (xvii) Section 5(a)(11) of the Unfair Insurance Practices Act, No. 205 (40 P.S. § 1171.5), which requires a complete record of all complaints received during the preceding four years;
- (xviii) Section 2002(c)(3) of Act 68 of 1998 (40 P.S. § 991.2003), which states:  
Nothing in this article shall apply: (3) To any policy of automobile insurance which has been in effect less than 60 days, unless it is a renewal policy, except that no insurer shall decline to continue in force such a policy of automobile insurance on the basis of the grounds set forth in Section 2003(a) and except that if an insurer cancels a policy of automobile insurance in the first 60 days, the insurer shall supply the insured with a written statement of the reason for cancellation;

- (xix) Section 2003(a)(1) of Act 68 of 1998 (40 P.S. § 991.2003), which prohibits an insurer from canceling or refusing to write or renew a policy of automobile insurance for any of the following reasons: Age;
  
- (xx) Section 2003(a)(10) of Act 68 of 1998 (40 P.S. § 991.2003), which prohibits an insurer from canceling or refusing to write or renew a policy of automobile insurance for any of the following reasons: Lawful occupation, including military service;
  
- (xxi) Section 2004 of Act 68 of 1998 (40 P.S. § 991.2004), which prohibits an insurer from canceling a policy of automobile insurance except for nonpayment of premium, suspension or revocation of the named insured's driver license or motor vehicle registration or a determination that the insured has concealed a material fact or has made a material allegation contrary to fact or has made a misrepresentation of material fact and that such concealment, allegation or misrepresentation was material to the acceptance of the risk by the insurer;
  
- (xxii) Section 2006(2) of Act 68 of 1998 (40 P.S. § 991.2006), which prohibits a cancellation or refusal to renew from being effective unless the insurer delivers or mails a written notice of the cancellation or refusal to renew, which will include the date, not less than 60 days after the date of mailing or delivery, on which the cancellation or refusal to renew shall become effective.

When the policy is being cancelled or not renewed for reasons set forth in Sections 2004(1) and (2), however, the effective date may be 15 days from the date of mailing or delivery;

- (xxiii) Section 2006(3) of Act 68 of 1998 (40 P.S. § 991.2006), which requires a cancellation or refusal to renew of a policy of automobile insurance shall not be effective unless the insurer delivers or mails to the named insured at the address shown in the policy, a written notice stating the specific reason or reasons for cancellation;
- (xxiv) 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, or until the sale of the property;
- (xxv) Title 31, Pennsylvania Code, Section 61.13, which requires an insurer to maintain records of the number of cancellations and the reasons therefore and shall file with the Insurance Department, a report summarizing the record of all such actions, within 60 days following June 30 and December 31, each year;
- (xxvi) Title 31, Pennsylvania Code, Section 62.3(f)(2), which requires the replacement value of a motor vehicle shall be calculated by either: (1) the

Guide Book Method, (2) the Actual Cost Method, or (3) the Dealer Quotation Method;

- (xxvii) Title 31, Pennsylvania Code, Section 62.3(f)(3), which states if the motor vehicle is listed in both the Red Book and the NADA Book, the replacement value shall be calculated by the guide book method or by the actual cost method, as described in paragraph (2);
- (xxviii) Title 31, Pennsylvania Code, Section 62.3(f)(5), which requires applicable sales tax on the replacement cost of a motor vehicle shall be included as part of the replacement value;
- (xxix) Title 31, Pennsylvania Code, Section 69.53(a), which requires that a PRO shall contract in writing with an insurer for the provision of peer review services as authorized by Act 6 and this chapter;
- (xxx) Title 31, Pennsylvania Code, Section 146.3, which requires the claim files of the insurer shall be subject to examination by the Commissioner or by appointed designees;
- (xxxi) Title 31, Pennsylvania Code, Section 146.4, which requires an insurer or agent may not fail to fully disclose to first-party claimants benefits, coverages,

or other provisions of an insurance policy or insurance contract when the benefits, coverages or other provisions are pertinent to a claim;

(xxxii) Title 31, Pennsylvania Code, Section 146.5(a), which requires every insurer, upon receiving notification of a claim, to within 10 working days, acknowledge receipt of such notice unless payment is made within that time;

(xxxiii) Title 31, Pennsylvania Code, Section 146.5(d), which requires every insurer, upon receiving notification of a claim, to provide within 10 working days, necessary claim forms, instructions and assistance so the first-party claimants can comply with the policy conditions and reasonable requirements of the insurer;

(xxxiv) Title 31, Pennsylvania Code, Section 146.6, which requires complete investigation of a claim within thirty days after notification of a claim. If such investigation cannot reasonably be completed within such time, provide the claimant with a reasonable written explanation for the delay and state when a decision on the claim may be expected, within thirty days and every forty-five days thereafter;

(xxxv) Title 31, Pennsylvania Code, Section 146.7, requires the following provisions govern acceptance or denial of a claim where additional time is needed to make a determination: (1) If the insurer needs more time to determine

whether a first-party claim should be accepted or denied, it shall so notify the first-party claimant within 15 working days after receipt of the proofs of loss giving the reasons more time is needed. If it remains incomplete, 30 days from the initial notification and every 45 days thereafter, it shall send a letter stating why more time is needed and when a decision can be expected;

(xxxvi) Title 31, Pennsylvania Code, Section 146.7(a)(1) requires that within 15 working days after receipt by the insurer of properly executed proofs of loss, the first party claimant shall be advised of the acceptance or denial of the claim by the insurer. The denial shall be given to the claimant in writing and the claim file of the insurer shall contain a copy of the denial;

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

(xxxviii) Title 31, Pennsylvania Consolidated Statutes, Section 1822 (75 Pa.C.S. § 1822, which requires a fraud warning notice be included on all applications for insurance, renewals and claim forms.

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) Violations of Sections 605 and 623 of the Insurance Department Act (40 P.S. § 253) are punishable by the following, under Section 639 of the Insurance Department Act (40 P.S. § 279):
  - (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) issue an order to cease and desist.

(iv) impose such other conditions as the department may deem 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 5(a)(9), 5(a)(9)(ii), (iii), (iv), (v) and 5(a)(11) of the Unfair Insurance Practices Act, No. 205 (40 P.S. § 1171.5) are punishable by the following, under Section 9 of the Unfair Insurance Practices Act (40 P.S. § 1171.9):

(i) cease and desist from engaging in the prohibited activity;

(ii) suspension or revocation of the license(s) of Respondent.

- (e) 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).
- (f) Respondent's violations of Sections 2002(c)(3), 2003(a)(1) and (10), 2004 and 2006 of Act 68 of 1998 are punishable by the following, under Section 2013 of the Act (40 P.S. § 991.2013): Any individual or insurer who violates any of the provisions of this article may be sentenced to pay a fine not to exceed five thousand dollars (\$5,000.00).
- (g) 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 40 Purdons

Statutes, Section 637, by one or more of the following causes of action:

- (i) Suspend or revoke the license of such offending person or entity.
  - (ii) Refuse for a period not to exceed one year, to issue a new license to such offending person or entity.
  - (iii) Impose a penalty of not more than \$1,000 for each act in violation.
- (h) Respondent's violations of Title 31, Pennsylvania Code, Sections 146.3, 146.4, 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 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 Sixty Thousand Dollars (\$60,000.00) 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. Harbert, Administrative Assistant, Bureau of Enforcement, 1311 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.

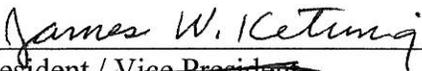
8. In any such enforcement proceeding, Respondent may contest whether a breach of the provisions of this Order has occurred but may not contest the Findings of Fact and Conclusions of Law contained herein.

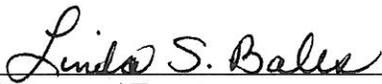
9. Respondent hereby expressly waives any relevant statute of limitations and application of the doctrine of laches for purposes of any enforcement of this Order.

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: LAKELAND INSURANCE COMPANY,  
Respondent

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

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

  
\_\_\_\_\_  
RANDOLPH L. ROHRBAUGH  
Deputy Insurance Commissioner  
Commonwealth of Pennsylvania

## I. INTRODUCTION

The Market Conduct Examination was conducted at Lakeland Insurance Company offices located at 525 Vine Street, Cincinnati, Ohio, from March 31, 2003, to May 2, 2003. 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 these areas of concern in order to determine potential impact upon Company operations or future compliance issues. A violation is any instance of Company activity that does not comply with an insurance statute or regulation. Violations contained in this Report may result in the imposition of penalties.

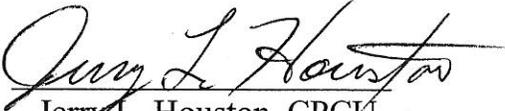
In certain areas of review listed in this Report, the examiners will refer to "error ratio". This error ratio is calculated by dividing the number of policies with violations by the total number of policies reviewed. For example, if 100 policies are reviewed and it is determined that there are 20 violations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

Throughout the course of the examination, Company officials were provided with written summaries, 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 the 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

  
Jerry L. Houston, CPCU  
Market Conduct Examiner

  
M. Katherine Sutton, AIC  
Market Conduct Examiner

## II. SCOPE OF EXAMINATION

The Market Conduct Examination was conducted on Lakeland Insurance Company, hereinafter referred to as "Company," at their offices located in Cincinnati, Ohio. 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, 2002, through December 31, 2002, unless otherwise noted. The purpose of the examination was to determine compliance by the Company with Pennsylvania insurance laws and regulations.

The examination included, but was not limited to, the following areas:

1. Private Passenger Automobile
  - Underwriting - Appropriate and timely notices of nonrenewal, mid-term cancellations and 60-day cancellations.
  - Rating – Proper use of all classifications, rating plans and procedures.
2. Personal Lines Property (Homeowners, Farmowners and Dwelling Fire)
  - Underwriting – Appropriate and timely notices of nonrenewal, mid-term cancellations and 60-day cancellations.
  - Rating – Proper use of all classifications, rating plans and procedures.
3. Claims
  - Standards for prompt, fair and equitable settlements.
  - Use of proper Peer Review procedures.
4. Forms
5. Advertising

6. Consumer Complaints

7. Licensing

### III. COMPANY HISTORY AND LICENSING

Lakeland Insurance Company is a subsidiary of Cincinnati Equitable Insurance Company, Cincinnati, Ohio. The Company incorporated June 27, 1984, as Lakeland Mutual Insurance Company, but demutualized September 30, 1999, and changed their name to Lakeland Insurance Company. This made possible the acquisition of the company by Cincinnati Equitable on October 1, 1999. The Company is domiciled in Erie, Pennsylvania and can trace its history back to 1839 when the name was Erie County Mutual Insurance Company. Their primary focus is personal lines consisting primarily of Homeowners and Private Passenger Automobile insurance policies which are distributed through a network of appointed independent agents who are primarily located in Western Pennsylvania.

#### LICENSING

Lakeland Insurance Company operates under a Certificate of Authority to write business in the Commonwealth issued June 27, 1984. The Company is only licensed in the Commonwealth of Pennsylvania. The Company's 2002 Annual Statement reflects Direct Written Premium for all lines of business in the Commonwealth of Pennsylvania as \$5,137,026. Premium volume related to the areas of this review were: Private Passenger Auto Liability \$2,511,760; Private Passenger Auto Physical Damage \$1,183,125; Homeowners \$842,032; Farmowners \$49,899, Fire \$391,824.

#### IV. UNDERWRITING PRACTICES AND PROCEDURES

As part of the examination, the Company was requested to provide all Underwriting Guides, Agency Bulletins, and any other written directives in use during the experience period. 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. Underwriting Guides and Bulletins were furnished for Private Passenger Automobile and Homeowners.

*1 Violation Act 68, Section 2003 (40 P.S. Section 991.2003)*

(a) An insurer may not cancel or refuse to write or renew a policy of automobile insurance for any of the following reasons:

(1) Age

The Underwriting Guide evidenced a failure to comply with this Act by stating "Applicant/First Named Insured who is a minor (under age 18) unless the parent/guardian also signs the application".

*1 Violation Act 68, Section 2003 [40 P.S. Section 991.2003]*

(a) An insurer may not cancel or refuse to write or renew a policy of automobile insurance for any of the following reasons:

(10) Lawful occupation, including military service.

The Underwriting Guide evidenced a failure to comply with this Act by stating a list of Unacceptable Drivers: Entertainers, celebrities, athletes or any other well-known person. Seasonal workers and migratory risks are also listed.

## V. UNDERWRITING

### **A. Private Passenger Automobile**

#### 1. Declinations – Refusals to Write

A declination is any application that is received by the Company and was declined or refused and no policy was issued.

The primary purpose of the review was to determine compliance with Act 68, Section 2003 (40 P.S. § 991.2003), which establishes conditions under which action by the insurer is prohibited.

The company reported no refusals during the experience period.

#### 2. Rescissions

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

The primary purpose of the review was to determine compliance with Act 68, Section 2003 (40 P.S. §991.2003), which establishes conditions under which action by the insurer is prohibited.

The Company reported no rescissions during the experience period.

#### 3. 60-Day Cancellations

A 60-day cancellation is considered to be any policy, which was cancelled within the first 60 days after initial issue.

The primary purpose of the review was to determine compliance with Act 68, Section 2003 [40 P.S. § 991.2003], which establishes conditions under which action

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

From a universe of 1,342 Private Passenger Automobile policies which were reported by the Company as cancelled within the first 60 days after being first written, 100 files were selected, received and reviewed. The 92 violations noted were based on 82 files, resulting in an error ratio of 82%.

9 Violations *Act 68, Section 2002(c)(3) [40 P.S. §991.2002(c)(3)]* Nothing in this article shall apply:

(3) To any policy of automobile insurance which has been in effect less than sixty (60) days, unless it is a renewal policy, except that no insurer shall decline to continue in force such a policy of automobile insurance on the basis of the grounds set forth in Section 2003(a) and except that if an insurer cancels a policy of automobile insurance in the first 60 days, the insurer shall supply the insured with a written statement of the reason for cancellation.

Two adjudications establish the 15 day notice requirement; *Tampa v. State Farm* (P91-06-01, 1992) and *Gorba v. Allstate* (P92-02-92 1993). The files examined did not evidence compliance with these adjudications as less than 15 days notice was provided.

4 Violations *Act 68, Section 2003 [40 P.S. §991.2003]*

(a) An insurer may not cancel or refuse to write or renew a policy of automobile insurance for any of the following reasons:

(1) Age

- (2) Residence or operation of a motor vehicle in a specific geographic area.
- (3) Race
- (4) Color
- (5) Creed
- (6) National Origin
- (7) Ancestry
- (8) Marital Status
- (9) Sex
- (10) Lawful Occupation (including military service)

The files examined did not evidence compliance with this requirement – lawful occupation.

*79 Violations Act 68, Section 2002(c)(3) [40 P.S. §991.2002(c)(3)]* Nothing in this article shall apply: (3) To any policy of automobile insurance which has been in effect less than sixty (60) days, unless it is a renewal policy, except that no insurer shall decline to continue in force such a policy of automobile insurance on the basis of the grounds set forth in Section 2003(a) and except that if an insurer cancels a policy of automobile insurance in the first 60 days, the insurer shall supply the insured with a written statement of the reason for cancellation. The files examined did not evidence compliance with this requirement as specific reasons were not included on the notice.

#### 4. Mid-Term Cancellations

A mid-term cancellation is any policy that terminates after the first 60 days of initial issue, and other than the normal twelve-month policy anniversary date.

The primary purpose of the review was to determine compliance with Act 68, Section 2003 [40 P.S. § 991.2003], which establishes conditions under which action by the insurer is prohibited, Act 68, Section 2004[40 P.S. § 991.2004], which establishes conditions under which policies can be cancelled and Act 68, Section 2006 [40 P.S. § 991.2006], which establishes the requirements which must be met regarding the form and conditions of the cancellation notice.

From a universe of 3,291 Private Passenger Automobile policies reported by the Company as cancelled mid-term during the experience period, 50 files were selected, received and reviewed. The 57 violations noted were based on 46 files, resulting in an error ratio of 92%.

*35 Violations Act 68, Section 2004 (40 P.S. § 991.2004) Valid Reasons to Cancel*

*Policy.* An insurer may not cancel a policy except for one or more of the following specified reasons:

- (1) Nonpayment of premium.
- (2) The driver's license or motor vehicle registration of the insured has been under suspension or revocation during the policy period; the applicability of this reason to one who either is a resident in the same household or who customarily operates an automobile insured under the policy shall be proper reason for the insurer thereafter excluding such individual from coverage under the policy but not for canceling the policy.
- (3) A termination that the insured has concealed a material fact, or has made a material allegation contrary to fact, or has made a misrepresentation of a material fact and that such concealment, allegation or misrepresentation was material to the acceptance of

the risk by the insurer. The files examined did not evidence compliance with this requirement.

*10 Violations Act 68, Section 2006(3) [40 P.S. § 991.2006(3)] – Proper notification of intention to cancel.* – A cancellation or refusal to renew by an insurer of a policy of automobile insurance shall not be effective unless the insurer delivers or mails to the named insured at the address shown in the policy a written notice of the cancellation or refusal to renew. The notice shall: (3) State the specific reason or reasons of the insurer for cancellation or refusal to renew. The files examined did not evidence compliance with this requirement.

*12 Violations Act 68, Section 2006(2) [40 P.S. § 991.2006(2)] - Proper notification of intention to cancel.* A cancellation or refusal to renew by an insurer of a policy of automobile insurance shall not be effective unless the insurer delivers or mails to the named insured at the address shown in the policy a written notice of the cancellation or refusal to renew. The notice shall:  
(2) State the date, not less than sixty (60) days after the date of the mailing or delivery, on which cancellation or refusal to renew shall become effective. When the policy is being cancelled or not renewed for the reasons set forth in Section 2004(1) and (2). However, the effective date may be fifteen (15) days from the date of mailing or delivery. The files examined did not evidence compliance with this requirement.

## 5. Nonrenewals

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

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

From a universe of 23 Private Passenger Automobile policies reported as nonrenewed during the experience period, all 23 files were selected, received and reviewed. The 27 violations noted were based on 21 files, resulting in an error ratio of 91%.

*4 Violations Act 68, Section 2006(2) [40 P.S. §991.2006 (2)] Proper Notification of Intention to Cancel.* A cancellation or refusal to renew by an insurer of a policy of automobile insurance shall not be effective unless the insurer delivers or mails to the named insured at the address shown in the policy a written notice of the cancellation or refusal to renew. The notice shall: (2) State the date, not less than sixty (60) days after the date of the mailing or delivery, on which cancellation or refusal to renew shall become effective. When the policy is being cancelled or not renewed for the reasons set forth in Section 2004(1) and (2), however, the effective date may be fifteen (15) days from the date of mailing or delivery. The files examined did not evidence compliance with the 60 day notice requirement.

*1 Violation Act 68, Section 2003 (40 P.S. § 991.2003)*

(a) An insurer may not cancel or refuse to write or renew a policy of automobile insurance for any of the following reasons:

(13) Any accident which occurred under the following circumstances:

(i) Automobile lawfully parked

The file examined did not evidence compliance with this requirement.

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

Requires that no insurer shall cancel a policy of automobile insurance except for nonpayment of premium, suspension or revocation of the named insured's driver license or motor vehicle registration or a determination that the insured has concealed a material fact or has made a material allegation contrary to fact or has made a misrepresentation of material fact and that such concealment, allegation or misrepresentation was material to the acceptance of the risk by the insurer. The files noted were nonrenewed mid-term at the 6 month policy period for reasons other than permitted by the Act. A nonrenewal is defined as follows:

*Act 68, Section 2004 (40 P.S. §991.2001) Definitions. "Renewal" or "to renew".* To issue and deliver at the end of an insurance policy period a policy which supersedes a policy previously issued and delivered by the same insurer and which provides types and limits of coverage at least equal to those contained in the policy being superseded, or to issue and deliver a certificate or notice extending the term of a policy beyond its policy period or term with types and limits of coverage at least equal to those contained in the

policy being extended: Provided, however, That any policy period or term of less than twelve (12) months or any period with no fixed expiration date shall for the purposes of this article be considered as if written for successive policy periods or terms of twelve (12) months.

*18 Violations Act 68, Section 2006(3) [40 P.S. §991.2006(3)] Proper notification of intention to cancel.* A cancellation or refusal to renew by an insurer of a policy of automobile insurance shall not be effective unless the insurer delivers or mails to the named insured at the address shown in the policy a written notice of the cancellation or refusal to renew. The notice shall:

(3) State the specific reason or reasons of the insurer for cancellation or refusal to renew. The files examined did not evidence compliance with this requirement.

#### 6. Report of Cancellations, Nonrenewals and Refusals

The purpose of the review was to determine compliance with the provisions of Title 31, Pa Code, Section 61.13 regarding Company records and reports to the Insurance Department of cancellations, nonrenewals and refusals to write.

The company was requested to provide copies of their report to the Insurance Department of Private Passenger Automobile Policies which had been cancelled, nonrenewed, and refused to be written, within the experience period.

*2 Violations Title 31, Pa Code, Section 61.13. Records; cancellation, refusal to write or renew.*

(a) Each insurer shall maintain records of the number of cancellations and refusals to write or renew policies and the reasons

therefore, and shall file with the Insurance Department, within 60 days following June 30 and December 31, a report summarizing the record of all such actions during the 6-month period ending on these dates. The Company was unable to document compliance with this requirement.

## **B. Personal Lines Property (Homeowners, Farmowners and Dwelling Fire)**

### **1. Nonrenewals**

A non-renewal 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 compliance with Act 205, Unfair Insurance Practices Act, Section 5(a)(9) [40P.S. §1171.5(a)(9)], which establishes the conditions under which cancellation of a policy is permissible along with the form requirements of the non-renewal notice.

From a universe of 270 Personal Lines Property policies (Homeowners, Farmowners and Dwelling Fire) reported as nonrenewed during the experience period, 50 files were selected, received and reviewed. The files consisted of 36 Farmowners, 3 Dwelling Fire and 11 Homeowners Policies. The 85 violations noted were based on 47 files, resulting in an error ratio of 94%.

*13 Violations Act 205, Section 5(a)(9) [40P.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 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. The files examined consisted of 3 Dwelling Fire and 10 Homeowners and did not evidence compliance with this requirement.

*36 Violations Act 205, Section 5(a)(9)(iv) [40 P.S. Section 1171.5(a)(9)(iv)]*

(iv) 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. The files examined did not evidence compliance with this requirement.

*36 Violations Act 205, Section 5(a)(9)(v) [40 P.S. Section 1171.5(a)(9)(v)]*

Advise the insured of his possible eligibility for insurance under the act of July 31, 1968 (P.L. 738, No. 233) known as "The Pennsylvania Fair Plan Act". The files examined consisted of Farmowners policies containing Farm Personal Liability endorsements which makes them subject to personal lines cancellation terms. The files examined did not evidence compliance with this requirement.

## 2. Mid-Term Cancellations

A mid-term cancellation is any policy that terminates at any time other than the normal twelve-month policy anniversary date on which the policy renews.

The primary purpose of this portion of the review was to determine 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 a universe of 1,782 Personal Lines Property policies consisting of Homeowners, Dwelling Fire, and Farmowners policies reported by the Company as cancelled mid-term during the experience period. Of the 120 files selected, 118 files were received and reviewed. The 15 violations noted were based on 12 files, resulting in an error ratio of 10%.

*3 Violations Act 205, Section 5(a)(9) [40 P.S. §1171.5] Cancelling 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 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 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 either at the address shown in the policy or at a forwarding address. The files examined were Farmowners policies which contained Farm Personal Liability endorsements making them subject to Personal Lines Cancellation terms. The policies were cancelled for a reason not permitted by the Act – Company no longer offering this line of business.

*3 Violations Insurance Company Law, Section 506.1 [40 P.S. §636.1] After-Death Continuation of Basic Property Insurance.* (a) 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. (b) The phrase, “basic property insurance”, as used in this section, shall be construed to include all policies that provide insurance against direct loss to real or tangible personal property at a fixed location caused by perils defined and limited in the standard fire policy prescribed in Section 506 of this Act and in the extended coverage endorsement approved by the Insurance Commissioner pursuant to Section 354 of this Act and such vandalism, malicious mischief, burglary, theft or such other classes of insurance as may be determined by the Insurance Commissioner, but shall not include insurance on motor vehicle, farm or such manufacturing risks as may be excluded by the Insurance Commissioner. The files examined were Homeowners policies and did not evidence compliance with this requirement.

*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 violations noted were Homeowners policies cancelled without the required information on the notice.

*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 Pennsylvania Fair Plan Act”. The violations were Homeowners policies cancelled without the required information on the notice.

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

Requires that a cancellation notice shall state the date, not less than thirty days after the date of delivery or mailing on which such cancellation or refusal to renew shall become effective. The violation noted involved a Dwelling Fire policy and was due to a cancellation notice issued that did not provide the required thirty days.

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

Requires that a cancellation notice shall state the specific reason or reasons of the insurer for cancellation. The violation involved a Farmowners policy containing a Farm Personal Liability Endorsement making it subject to personal lines cancellation terms, and was due to a cancellation notice being issued that did not provide a specific reason for the cancellation.

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

(a) Every company or person subject to examination in accordance with this act must 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 periods as the department, in its discretion, may require in order that its authorized representatives may readily verify and ascertain whether the company or person has complied with the laws of this Commonwealth. The files noted were Farmowners policies which the Company was unable to produce for review.

## VI. RATING

### **A. Private Passenger Automobile**

#### **1. New Business Without Surcharges**

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 requires every insurer to file with the Insurance Commissioner every manual of classifications, rules and rates, every rating plan and every modification of any rating plan, which it proposes to use in the Commonwealth. Also, no insurer shall make or issue a contract or policy except in accordance with filings or rates, which are in effect at the time. Files were also reviewed to determine compliance with all provisions of Title 75, Pa. C.S., Chapter 17, Act 6 of 1990 and Act 68, Section 2005(c) [40 P.S. §991.2005(c)], which requires insurers to provide to insureds a detailed statement of the components of a premium and shall specifically show the amount of surcharge or other additional amount that is charged as a result of a claim having been made under a policy of insurance or as a result of any other factors.

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

From a universe of 4,092 private passenger automobile policies reported as new business during the experience period, 100 files were selected, received and reviewed. The 12,277 violations noted were based on 4,092 files, resulting in an error ratio of 100%.

*4,092 Violations Title 75, Pa. C.S., Section 1793(b)(1)(2) Special Provisions relating to premiums.*

(b) Surcharge disclosure plan. – All insurers shall provide to the insured a surcharge disclosure plan. The insurer providing the surcharge disclosure plan shall detail the provisions of the plan including, but not limited to:

(1) A description of conditions that would assess a premium surcharge to an insured along with the estimated increase of the surcharge per policy period per policyholder.

(2) The number of years any surcharge will be in effect.

The surcharge disclosure plan shall be delivered to each insured by the insurer at least once annually. Additionally, the surcharge information plan shall be given to each prospective insured at the time application is made for motor vehicle coverage. The Company did not comply with this requirement on any new or renewal policy.

*4,092 Violations Title 75, Pa. C.S., Section 1791.1(a) – Invoice.* At the time of application for original coverage and every renewal thereafter, an insurer must provide to an insured an itemized invoice listing the minimum motor vehicle insurance coverage levels mandated by the Commonwealth and the premium charge for the insured to purchase the minimum mandated coverages. The invoice must contain the following notice in print of no less

than ten-point type: "The laws of the Commonwealth of Pennsylvania as enacted by the General Assembly only require that you purchase liability and first-party medical benefit coverages. Any additional coverages or coverages in excess of the limits required by law are provided only at your request as enhancements to basic coverages". The insurer shall provide the itemized invoice to the insured in conjunction with the declaration of coverage limits and premium for the insured's existing coverages. The company did not comply with this requirement on any new or renewal policy.

*4,092 Violations Title 75, Pa. C.S., Section 1725. Rental Vehicles.*

Every motor vehicle insurance policy shall contain a notice as to whether the policy covers collision damage to rental vehicles, and any limitations on such coverage. The notice shall be written in clear, plain language and shall be printed on the first page of the policy in boldface capital letters. None of the policies reviewed evidenced compliance with this requirement. The company did not comply with this requirement on any new or renewal policy.

*1 Violation Title 75, Pa. C.S., Section 1799.3(d) Limit on cancellations, refusals to renew, refusals to write, surcharges, rate penalties and point assignments.*

(d) Notice to insured. — If an insurer makes a determination to impose a surcharge, rate penalty or driver record point assignment, the insurer shall inform the named insured of the determination and shall specify the manner in which the surcharge, rate penalty or driver record point assignment was

made and clearly identify the amount of the surcharge or rate penalty is in effect. The file examined did not evidence compliance with this requirement.

## 2. New Business With Surcharges

From a universe of 945 private passenger automobile policies reported as new business with surcharges, 100 files were selected, received and reviewed. The 3,782 violations noted were based on 945 files, resulting in an error ratio of 100%.

*945 Violations Title 75, Pa. C.S., Section 1793(b)(1) Special Provisions relating to premiums.*

(b) Surcharge disclosure plan - All insurers shall provide to the insured a surcharge disclosure plan. The insurer providing the surcharge disclosure plan shall detail the provisions of the plan including , but not limited to:

(1) A description of conditions that would assess a premium surcharge to an insured along with the estimated increase of the surcharge per policy period per policyholder.

(2) The number of years any surcharge will be in effect.

The surcharge disclosure plan shall be delivered to each insured by the insurer at least once annually. Additionally, the surcharge information plan shall be given to each prospective insured at the time application is made for motor vehicle coverage. The company did not comply with this requirement on any new or renewal policy.

*945 Violations Title 75, Pa. C.S., Section 1799.3(d) Limit on cancellations, refusals to renew, refusals to write, surcharges, rate penalties and point assignments.*

(d) Notice to insured. If an insurer makes a determination to impose a surcharge, rate penalty or driver record point assignment, the insurer shall inform the named insured of the determination and shall specify the manner in which the surcharge, rate penalty or driver record point assignment was made and clearly identify the amount of the surcharge or rate penalty on the premium notice for as long as the surcharge or rate penalty is in effect. The company did not comply with this requirement on any new or renewal policy.

*945 Violations Title 75, Pa. C.S., Section 1791.1(a) – Invoice.* At the time of application for original coverage and every renewal thereafter, an insurer must provide to an insured an itemized invoice listing the minimum motor vehicle insurance coverage levels mandated by the Commonwealth and the premium charge for the insured to purchase the minimum mandated coverages. The invoice must contain the following notice in print of no less than ten-point type: “The laws of the Commonwealth of Pennsylvania as enacted by the General Assembly only require that you purchase liability and first-party medical benefit coverages. Any additional coverages or coverages in excess of the limits required by law are provided only at your request as enhancements to basic coverages”. The insurer shall provide the itemized invoice to the insured in conjunction with the declaration of coverage limits and premium for the insured’s existing coverages. The company did not comply with this requirement on any new or renewal policy.

*945 Violations Title 75, Pa. C.S., Section 1725. Rental Vehicles.*

Every motor vehicle insurance policy shall contain a notice as to whether the policy covers collision damage to rental vehicles, and any limitations on such coverage. The notice shall be written in clear, plain language and shall be printed on the first page of the policy in boldface capital letters. The company did not comply with this requirement on any new or renewal policy.

*2 Violations Title 75, Pa. C.S., Section 1791.1(b) Disclosure of tort options.*

*Notice of tort options.* – In addition to the invoice required under subsection (a), an insurer must, at the time of application for original coverage for private passenger motor vehicle insurance and every renewal thereafter, provide to an insured the notice of the availability of two alternatives of full tort and limited tort insurance. The files examined did not evidence compliance with this requirement.

3. Renewals Without Surcharges

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. Files were also reviewed to determine compliance with all provisions of Title 75, Pa. C.S., Chapter 17, Act 6 of 1990 and Act 68, Section 2005(c) [40 P.S.

§991.2005(c)], which requires insurers to provide to insureds a detailed statement of the components of a premium and shall specifically show the amount of the surcharge that is charged as a result of a claim having been made under a policy of insurance or as a result of any other factors.

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

From a universe of 4,338 private passenger automobile policies reported as renewals without surcharges during the experience period, 100 files were selected, received and reviewed. The 17,356 violations noted were based on 4,338 files, resulting in an error ratio of 100%.

*4 Violations Title 75, Pa. C.S., Section 1799.3(d) Limit on cancellations, refusals to renew, refusals to write, surcharges, rate penalties and point assignments.*

(d) Notice to insured. If an insurer makes a determination to impose a surcharge, rate penalty or driver record point assignment, the insurer shall inform the named insured of the determination and shall specify the manner in which the surcharge, rate penalty or driver record point assignment was made and clearly identify the amount of the surcharge or rate penalty on the premium notice for as long as the surcharge or rate

penalty is in effect. The files examined did not evidence compliance with this requirement.

*4,338 Violations Title 75, Pa. C.S., Section 1793(b) Special Provisions relating to premiums.*

(b) Surcharge disclosure plan. All insurers shall provide to the insured a surcharge disclosure plan. The insurer providing the surcharge disclosure plan shall detail the provisions of the plan including, but not limited to:

(1) A description of conditions that would assess a premium surcharge to an insured along with the estimated increase of the surcharge per policy period per policyholder.

(2) The number of years any surcharge will be in effect.

The surcharge disclosure plan shall be delivered to each insured by the insurer at least once annually. Additionally, the surcharge information plan shall be given to each prospective insured at the time application is made for motor vehicle coverage. The company did not comply with this requirement on any new or renewal policy.

*4,338 Violations Title 75, Pa. C.S., Section 1791.1(a) – Invoice.* At the time of application for original coverage and every renewal thereafter, an insurer must provide to an insured an itemized invoice listing the minimum motor vehicle insurance coverage levels mandated by the Commonwealth and the premium charge for the insured to purchase the minimum mandated coverages. The invoice must contain the following notice in print of no less than ten-point type: “The laws of the Commonwealth of Pennsylvania as enacted by the General Assembly only require that you purchase

liability and first-party medical benefit coverages. Any additional coverages or coverages in excess of the limits required by law are provided only at your request as enhancements to basic coverages". The insurer shall provide the itemized invoice to the insured in conjunction with the declaration of coverage limits and premium for the insured's existing coverages. The company did not comply with this requirement on any new or renewal policy.

*4,338 Violations Title 75, Pa. C.S., Section 1725. Rental Vehicles.*

Every motor vehicle insurance policy shall contain a notice as to whether the policy covers collision damage to rental vehicles, and any limitations on such coverage. The notice shall be written in clear, plain language and shall be printed on the first page of the policy in boldface capital letters. The company did not comply with this requirement on any new or renewal policy.

*4,338 Violations Title 75, Pa. C.S., Section 1791.1(c) Notice of Premium*

*discounts.* Except where the commissioner has determined that an insurer may omit a discount because the discount is duplicative of other discounts or is specifically reflected in the insurer's experience, at the time of application for original coverage and every renewal thereafter, an insurer must provide to an insured a notice stating that discounts are available for drivers who meet the requirements of sections 1799 (relating to restraint system), 1799.1 (relating to antitheft devices) and 1799.2 (relating to driver improvement course discounts). The company did not comply with this requirement on any renewal policy.

#### 4. Renewals With Surcharges

From a universe of 1,336 private passenger automobile policies reported as renewals with surcharges during the experience period, 100 files were selected, received and reviewed. The 6,680 violations noted were based on 1,336 files, resulting in an error ratio of 100%.

*1,336 Violations Title 75, Pa. C.S., Section 1793(b) Special Provisions relating to premiums.*

(b) Surcharge disclosure plan. All insurers shall provide to the insured a surcharge disclosure plan. The insurer providing the surcharge disclosure plan shall detail the provisions of the plan including, but not limited to:

(1) A description of conditions that would assess a premium surcharge to an insured along with the estimated increase of the surcharge per policy period per policyholder.

(2) The number of years any surcharge will be in effect.

The surcharge disclosure plan shall be delivered to each insured by the insurer at least once annually. Additionally, the surcharge information plan shall be given to each prospective insured at the time application is made for motor vehicle coverage. The company did not comply with this requirement on any new or renewal policy.

*1,336 Violations Title 75, Pa. C.S., Section 1799.3(d) Limit on cancellations, refusals to renew, refusals to write, surcharges, rate penalties and point assignments.*

(d) Notice to insured. If an insurer makes a determination to impose a surcharge, rate penalty or driver record point assignment, the insurer shall inform the named insured of the

determination and shall specify the manner in which the surcharge, rate penalty or driver record point assignment was made and clearly identify the amount of the surcharge or rate penalty on the premium notice for as long as the surcharge or rate penalty is in effect. The company did not comply with this requirement on any new or renewal policy.

*1,336 Violations Title 75, Pa. C.S., Section 1791.1(a) – Invoice.* At the time of application for original coverage and every renewal thereafter, an insurer must provide to an insured an itemized invoice listing the minimum motor vehicle insurance coverage levels mandated by the Commonwealth and the premium charge for the insured to purchase the minimum mandated coverages. The invoice must contain the following notice in print of no less than ten-point type: “The laws of the Commonwealth of Pennsylvania as enacted by the General Assembly only require that you purchase liability and first-party medical benefit coverages. Any additional coverages or coverages in excess of the limits required by law are provided only at your request as enhancements to basic coverages”. The insurer shall provide the itemized invoice to the insured in conjunction with the declaration of coverage limits and premium for the insured’s existing coverages. The company did not comply with this requirement on any new or renewal policy.

*1,336 Violations Title 75, Pa. C.S., Section 1725. Rental Vehicles.*

Every motor vehicle insurance policy shall contain a notice as to whether the policy covers collision damage to rental vehicles, and any limitations on such coverage. The notice shall be

written in clear, plain language and shall be printed on the first page of the policy in boldface capital letters. The company did not comply with this requirement on any new or renewal policy.

*1,336 Violations Title 75, Pa. C.S., Section 1791.1(c) Notice of Premium*

*discounts.* Except where the commissioner has determined that an insurer may omit a discount because the discount is duplicative of other discounts or is specifically reflected in the insurer's experience, at the time of application for original coverage and every renewal thereafter, an insurer must provide to an insured a notice stating that discounts are available for drivers who meet the requirements of sections 1799 (relating to restraint system), 1799.1 (relating to antitheft devices) and 1799.2 (relating to driver improvement course discounts). The company did not comply with this requirement on any renewal policy.

**B. Private Passenger Automobile Assigned Risk**

The Company reported no Assigned Risk Policies during the experience period, and indicated there were no assignments received from the Assigned Risk Plan.

**C. Personal Lines Property Policies (Homeowners, and Dwelling Fire)**

1. New Business

New Business is defined as policies written for the first time by the Company during the experience period. The Company reported no new business written during the experience period.

## 2. Renewal Business Without Surcharges

The primary purpose of this portion of the review was to measure compliance with Act 246, The Casualty and Surety Rate Regulatory Act, 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.

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

From a universe of 2,752 Homeowners and Dwelling Fire policies reported as renewal business during the experience period, 100 files were selected, received and reviewed. The 1 violation noted was based on 1 file, resulting in an error ratio of 1%.

*1 Violation* Act 246, The Casualty and Surety Rate Regulatory Act, Section 4 (40 P.S. §1184). Requires every insurer to file with the Insurance Commissioner every manual of classifications, rules and rates, every rating plan and every modification of any rating plan, which it proposes to use in the Commonwealth. Also, no insurer shall make or issue a contract or policy except in accordance with

filings or rates, which are in effect at the time of issue. The file examined did not evidence compliance with this requirement, as the wrong premium modification factor was used resulting in an overcharge on a Dwelling Fire policy.

### 3. Renewal Business With Surcharges

From a universe of 203 Homeowners policies reported as renewal business with surcharges during the experience period, 50 files were selected, received and reviewed. The 4 violations noted were based on 4 files, resulting in an error ratio of 8%.

*4 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 files examined did not evidence compliance with this requirement. Two policies were undercharged (one applied wrong base premium, one failed to apply the loss surcharge), and two policies were overcharged for failing to apply smoke alarm credit, and one policy for applying the wrong base premium.

## VII. CLAIMS

### **A. Private Passenger Automobile Comprehensive Claims**

The primary purpose of the review was to determine compliance with Title 31, Pa. 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.

From a universe of 84 private passenger automobile claims reported by the company as Comprehensive Claims during the experience period, 25 files were selected, received and reviewed. The 3 violations noted were based on 2 files, resulting in an error ratio of 8%.

*1 Violation Title 31, Pa Code, Section 146.7(a)(1). Standards for prompt, fair and equitable settlements applicable to all insurers.*

(a) Acceptance or denial of a claim shall comply with the following:

(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. 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. The file examined did not evidence compliance with this requirement.

*2 Violations Title 31, Pa Code, Section 146.6. Standards for prompt investigation of claims.* Every insurer shall complete investigation of a claim within 30 days after notification of claim, unless such investigation cannot reasonably be completed within such time. If the investigation cannot be completed within 30 days, and every 45 days thereafter, the insurer shall provide the claimant with a reasonable written explanation for the delay and state when a decision on the claim may be expected. The files examined did not evidence compliance with this requirement.

#### **B. Private Passenger Automobile Collision Claims**

The primary purpose of the review was to determine compliance with Title 31, Pa. 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.

From a universe of 278 private passenger automobile claims reported by the company as collision claims during the experience period, 50 files were selected, received and reviewed. The 2 violations noted were based on 2 files, resulting in an error ratio of 4%.

*2 Violations Title 31, Pa Code, Section 146.6 . Standards for prompt investigation of claims.* Every insurer shall complete investigation of a claim within 30 days after notification of claim, unless such investigation cannot reasonably be completed within such time. If the investigation cannot be completed within 30 days, and every 45 days thereafter, the insurer shall provide the claimant with a reasonable written explanation for the delay and state when a

decision on the claim may be expected. The files examined did not evidence compliance with this requirement.

### **C. Private Passenger Automobile Property Damage Liability Claims**

The primary purpose of the review was to determine compliance with Title 31, Pa. 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.

From a universe of 523 private passenger automobile claims reported as Property Damage Liability Claims, 50 files were selected, received and reviewed. The 1 violation noted was based on 1 files, resulting in an error ratio of 2%.

*1 Violation Title 31, Pa Code, Section 146.7(a)(1) Standards for prompt, fair and equitable settlements applicable to all insurers.*

(a) Acceptance or denial of a claim shall comply with the following:  
(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. 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. The file examined did not evidence compliance with this requirement.

#### **D. Private Passenger Automobile Total Loss Claims**

The primary purpose of the review was to determine compliance with Title 31, Pennsylvania Code, Chapter 146, Unfair Claims Settlement Practices and with Act 205, Section 4 (40P.S. §1171.4) and Section 5(a)(10)(vi) (40P.S. 1171.5(a)(10)(vi), Unfair Insurance Practices Act.) The files were also reviewed to determine compliance with Title 31, Chapter 62 - Motor Vehicle Physical Damage Appraisers.

The universe was unknown. The Company did not have a method of identifying total loss claims. The files were identified from salvage logs and during review of files in other segments of this examination. There were 43 Total Loss settlements identified and reviewed. The 15 violations noted were based on 11 files, resulting in an error ratio of 26%.

*4 Violations Title 31, Pa. Code, Chapter 62 - Motor Vehicle Physical Damage Appraisers, Section 62.3(f)(5)* Applicable sales tax on the replacement cost of a motor vehicle shall be included as part of the replacement value. The files examined did not evidence compliance with this requirement.

*2 Violations Title 31, Pa. Code, Chapter 62 - Motor Vehicle Physical Damage Appraisers, Section 62.3(f)(2)* The replacement value of a motor vehicle shall be calculated by use of one of the following methods:  
(i) Guide Book Method. The appraiser shall calculate the average of the figures reflecting the retail book value of a vehicle of like kind and condition, as stated in the correct edition of the Red Book and the NADA Book, adjusted for equipment and mileage, less the cost of repair or damage which preexisted the accident in question.

There shall be no other deductions except for salvage and then only if the owner elects to retain the vehicle.

(ii) Actual Cost Method. The appraiser shall determine the actual cost of purchase of an available motor vehicle of like kind and quality in condition similar to or better than the motor vehicle being appraised just prior to the damage in question being incurred.

(iii) Dealer Quotation Method. The appraiser shall consult with dealers or other persons knowledgeable in the field to secure quotations as to the value of the motor vehicle being appraised. At least two quotations shall be secured. The figures thus secured shall be averaged.

*and*

*Title 31, Pa. Code, Chapter 62 - Motor Vehicle Physical Damage Appraisers, Section 62.3(f)(3)* If the motor vehicle is listed in both the Red Book and the NADA Book, including older car publications, the replacement value shall be calculated by the guide book method or by the actual cost method, as described in paragraph (2). If the actual cost method is used, and the owner of the damaged vehicle shows that the replacement vehicle is not of the same kind and quality, both calculations referenced in this paragraph shall be made and the higher of the values obtained shall be offered in settlement. The files examined did not evidence compliance with this requirement.

*3 Violations Title 31, Pa Code, Unfair Claims Settlement Practices. Section 146.6 Standards for prompt investigation of claims.* Every insurer shall complete investigation of a claim within 30 days after notification of claim, unless such investigation cannot reasonably be completed within such time. If the investigation cannot be

completed within 30 days, and every 45 days thereafter, the insurer shall provide the claimant with a reasonable written explanation for the delay and state when a decision on the claim may be expected. The files examined did not evidence compliance with this requirement.

*3 Violations Title 31, Pa. Code, Unfair Claims Settlement Practices. Section 146.3 File and record documentation.* The claim files of the insurer shall be subject to examination by the Commissioner or by duly appointed designees. Such files shall contain all notes and work papers pertaining to the claim in such detail that pertinent events and the dates of such events can be reconstructed. The files examined did not evidence compliance with this requirement as they were missing work papers and file documentation.

*2 Violations Title 31, Pa. Code, Unfair Claims Settlement Practices. 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 files examined did not evidence compliance with this requirement.

*1 Violation Title 31, Pa Code, Unfair Claims Settlement Practices. Section 146.7(a)(1) Standards for prompt, fair and equitable settlements applicable to insurers -* Within 15 working days after receipt by the

insurer of properly executed proofs of loss, the first party claimant shall be advised of the acceptance or denial of the claim by the insurer. The denial shall be given to the claimant in writing and the claim file of the insurer shall contain a copy of the denial. The file examined did not evidence compliance with this requirement, as acceptance was 72 days after receipt proper documentation.

#### **E. Private Passenger Automobile First Party Benefits Claims**

The primary purpose of the review was to determine compliance with Title 31, Pennsylvania Code, Chapter 146, Unfair Claims Settlement Practices, Title 75, Pennsylvania Consolidated Statutes, Section 17, and 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.

From a universe of 304 First Party Benefit claims identified by the Company as being reported during the experience period, 50 files were selected with 47 files received and reviewed. The 56 violations noted were based on 37 files, resulting in an error ratio of 74%.

*7 Violations Title 75, Pa C.S. §1716 – Payment of Benefits.* Benefits are overdue if not paid within 30 days after the insurer receives reasonable proof of the amount of the benefits. If reasonable proof was not supplied as to all benefits, the portion supported by reasonable proof is overdue if not paid within 30 days after the proof is received by the insurer. Overdue benefits shall bear interest at the rate of 12% per annum from the date the benefits become due.

The files examined did not evidence compliance with this requirement.

*13 Violations Title 31, Pa Code, Section 146.6 - Standards for prompt investigation of claims.* - If the investigation cannot be completed within 30 days, and every 45 days thereafter, the insurer shall provide the claimant with a reasonable written explanation for the delay and state when a decision on the claim may be expected. The files examined did not evidence compliance with this requirement.

*8 Violations Title 31, Pa Code, Section 146.7 Standards for prompt, fair and equitable settlements applicable to insurers.*

(c) The following provisions govern acceptance or denial of a claim where additional time is needed to make a determination:

(1) If the insurer needs more time to determine whether a first-party claim should be accepted or denied, it shall so notify the first-party claimant within 15 working days after receipt of the proofs of loss giving the reasons more time is needed. If the investigation remains incomplete, the insurer shall, 30 days from the date of the initial notification and every 45 days thereafter, send to the claimant a letter setting forth the reasons additional time is needed for investigation and state when a decision on the claim may be expected. The files examined did not evidence compliance with this requirement.

*17 Violations Title 31, Pa. Code, Section 146.3 File and record documentation.*

The claim files of the insurer shall be subject to examination by the Commissioner or by his duly appointed designees. Such files shall contain all notes and work papers pertaining to the claim in

such detail that pertinent events and the dates of such events can be reconstructed.

The files examined did not evidence compliance with this requirement as the date of receipt of medical bills, first party benefits applications , and medical reports, could not be determined.

*4 Violations 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 files examined did not evidence compliance with this requirement.

*7 Violations Title 31, Pa. Code, Section 146.5(d).* Every insurer, upon receiving notification of a claim, shall provide within 10 working days necessary claim forms, instructions and reasonable assistance so the first-party claimants can comply with the policy conditions and reasonable requirements of the insurer. Compliance with this subsection within 10 working days of notification of a claim shall constitute compliance with Subsection (a) (acknowledgement). The files examined did not evidence compliance with this requirement.

## **F. Private Passenger Automobile Claims – Peer Review Organization**

The Company was requested to provide copies of all contracts with any Peer Review Organization (PRO) they have contracted.

*1 Violation Title 31, Pa. Code. Section 69.53(a).* A PRO shall contract, in writing, jointly or separately with an insurer for the provision of peer review services as authorized by Act 6 and this chapter. The file examined did not evidence compliance with this requirement.

AND

*Act 1990-6, Title 75, Pa. C.S. §1797(b)(1)*

Peer review plan for challengers to reasonableness and necessity of treatment. Peer review plan. Insurers shall contract jointly or separately with any peer review organization established for the purpose of evaluating treatment, health care services, products or accommodations provided to any injured person. Such evaluation shall be for the purpose of confirming that such treatment, products, services or accommodations conform to the professional standards of performance and are medically necessary. An insurer's challenge must be made to a PRO within 90 days of the insurer's receipt of the provider's bill for treatment or services or may be made at any time for continuing treatment or services. The violation noted was the result of failing to have a signed contract in place with a Peer Review Organization.

## **G. Personal Lines Property Claims (Homeowners, Farmowners, and Dwelling Fire)**

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 (40P.S. §1171.4) and Section 5(a)(10)(vi) (40P.S. §1171.5(a)(10)(vi), Unfair Insurance Practices Act.)

From a universe of 289 Personal Lines Property Claims consisting of Homeowners, Farmowners and Dwelling Fire claims reported during the experience period, 100 files were selected, 98 files were received and reviewed.

*26 Violations Title 31, Pa. C.S., Section 146.6 Standards for prompt investigation of claims.* If the investigation cannot be completed within 30 days, and every 45 days thereafter, the insurer shall provide the claimant with a reasonable written explanation for the delay and state when a decision on the claim may be expected. The files examined did not evidence compliance with this requirement.

*5 Violations Title 31, Pa. C.S., Section 146.4 Misrepresentation of policy provisions.* (b) An insurer or agent may not fail to fully disclose to first-party claimants benefits, coverages or other provisions of an insurance policy or insurance contract when the benefits, coverages or other provisions are pertinent to a claim. The claims were settled and paid on an Actual Cash Value basis rather as Replacement Cost in accordance with policy terms and

endorsements. The files examined did not evidence compliance with this requirement.

*3 Violations Title 31, Pa. C.S., Section 146.5(d).* Every insurer, upon receiving notification of a claim, shall provide within 10 working days necessary claim forms, instructions and reasonable assistance so the first-party claimants can comply with the policy conditions and reasonable requirements of the insurer. Compliance with this subsection within 10 working days of notification of a claim shall constitute compliance with Subsection (a) (acknowledgement). The files examined did not evidence compliance with this requirement.

*5 Violations Title 31, Pa. C.S., Chapter 146.7(a)(1). – Standards for prompt, fair and equitable settlements applicable to insurers* (a) Acceptance or denial of a claim shall comply with the following: (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. An insurer may not deny a claim on the grounds of a specific policy provision, condition or exclusion unless reference to the provision, condition or exclusion is included in the denial. The denial shall be given to the claimant in writing and the claim file of the insurer shall contain a copy of the denial. The files examined did not evidence compliance with this requirement as denials were verbal.

*4 Violations Title 31, Pa. C.S., Section 146.3. File and record*

*documentation* The claim files of the insurer shall be subject to examination by the Commissioner or by appointed designees. The files shall contain notes and work papers pertaining to the claim in the detail that pertinent events and the dates of the events can be reconstructed. Two files were missing completely, and two files were missing pertinent documentation.

### VIII. FORMS

Throughout the course of the examination, underwriting files were reviewed to identify the policy forms used in order to verify compliance with Insurance Company Law, Section 354 (40 P.S. §477b), Approval of Policies, Contracts, etc., Prohibiting the Use Thereof Unless Approved. During the experience period of the examination, Section 354 provided that it shall be unlawful for any insurance company to issue, sell, or dispose of any policy contract or certificate covering fire, marine, title and all forms of casualty insurance or use applications, riders, or endorsements in connection therewith, until the forms have been submitted to and formally approved by the Insurance Commissioner. All underwriting and claim files were also reviewed to verify compliance with Act 165 of 1994 [18 Pa. CS §4117(k)(1)] and Act 6 of 1990, and Title 75, Pa. C.S., Section 1822 which requires all insurers to provide an insurance fraud notice on all applications for insurance, all claims forms and all renewals of coverage.

*6 Violations Title 75, Pa. C.S., Section 1822. Warning notice on application for insurance and claim forms.*

Not later than May 1, 1990, all applications for insurance, renewals and claim forms shall contain a statement that clearly states in substance the following:

Any person who knowingly and with intent to injure or defraud any insurer files an application or claim containing any false, incomplete or misleading information shall, upon conviction, be subject to imprisonment for up to seven years and payment of a fine of up to \$15,000.

The violations were the result of 6 claim forms used by the Company that failed to contain the required fraud warning notice.

## IX. ADVERTISING

The Company was requested to provide a copy of all advertising and sales materials used during the experience period in accordance with Title 31, Pa Code, Section 51.4. The material provided was reviewed to determine compliance with Title 31, Section 51.61, and Act 205, Unfair Insurance Practices Act, as well as other statutes and regulations relating to Advertising. The Company provided two sales brochures and their internet site was 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 1999, 2000, 2001 and 2002.

The purpose of the review was to determine compliance with the Unfair Insurance Practices Act, No. 205 (40P.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 evidence 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 Company identified and provided 17 consumer complaints received during the experience period and provided all consumer complaint logs requested. The 17 consumer complaints reported were selected and reviewed.

### *18 Violations Act 205, Section 5(a)(11) [40 P.S., Section 1171.5(a)(11)*

Requires an insurer to maintain a complete record of all the complaints which it has received during the preceding four years. This record shall indicate the total number of complaints, their classification by line of insurance, the nature of each complaint, the disposition of these complaints and the time it took to process each complaint. The violations listed are the result of the Company not maintaining a complete Consumer Complaint record for the preceding four years, and for failure to maintain complete records on 14 complaint files during the experience period.

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

<u>No. Complaints</u>	<u>Category</u>	<u>% Total</u>
10	Underwriting	59%
1	Rates	6%
1	Billing	6%
2	Coverage	12%
<u>3</u>	Claims	<u>17%</u>
17		100%

## XI. LICENSING

In order to determine compliance by the Company and its agency force with the licensing requirements applicable to Section 605 (40 P.S. §235) and Section 623 (40 P.S. §253) of the Insurance Department Act, the Company was requested to furnish a list of all active agents during the experience period and a listing of all agents terminated during the experience period. The list provided was compared with Insurance Department records. In addition to the list provided, individual policies were checked to verify the agent.

*6 Violations The Insurance Department Act, Section 605 (40 P.S. §235)*

*Appointment.*

- (a) No agent shall do business on behalf of any entity without a written appointment from that entity.
- (b) All appointments shall be obtained by procedures established by the Insurance Department's regulations.
- (c) Insurance entities authorized by law to transact business in this Commonwealth shall, from time to time as determined by the Insurance Department, certify to the Insurance Department the names of all agents appointed by them.
- (d) Each appointment fee, both new and renewal shall be paid in full by the entity appointing the agent.

The records of the Insurance Department were checked and evidence the following agents did not have a valid appointment with the company.

Borg, Donald

Brown, Janice Michelle

Campbell, James J.

CBIZ Insurance Agency

Chase, Richard C. IV

Corsello, Janet L.

*3 Violations The Insurance Department Act, Section 623 [40 P.S. §253]*

Doing Business with Unlicensed Brokers. Any entity or appointed agent of any entity accepting applications or orders for insurance or securing any insurance business through anyone acting without a license commits a misdemeanor of the third degree.

The records of the Insurance Department were checked and evidence the following agents did not have a certificate of qualification or a brokers license.

Borg, Donald

Brown, Janice Michelle

Campbell, James J.

## *XII. RECOMMENDATIONS*

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

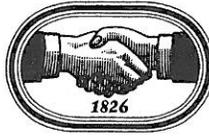
1. The Company must review Act 68, Section 2002 [40 P.S., Section 991.2002], Act 68, Section 2003 [40 P.S., Section 991.2003], Act 68, Section 2004 [40 P.S., Section 2004], Act 68, Section 2006 [40 P.S., Section 991.2006], and implement procedures to ensure compliance with Private Passenger Automobile Cancellation and Nonrenewal requirements.
2. The Company must review Act 205, Section 5(a)(9)[40 P.S., Section 1171.5(a)(9)], and implement procedures to ensure compliance with Personal Lines Property Cancellation and Nonrenewal requirements.
3. The Company must revise the Surcharge Disclosure Plan to comply with Title 75, Pa. C.S.. Section 1793(b).
4. The Company must revise the Minimum Premium Invoice to comply with Title 75, Pa. C.S., Section 1791.1(a).
5. The Company must implement procedures to identify surcharges, rate penalties and point assignments on the automobile policies in accordance with Title 75, Pa. C.S., Section 1799.3(d).

6. The Company must amend its Automobile Declarations Page to include the notice as respects Collision Coverage for Rental Vehicles in accordance with Title 75, Pa., C.S., Section 1725.
7. The Company's Private Passenger Automobile Underwriting Guide must be amended to eliminate references to Age and Occupation in accordance with Act 68, Section 2003(a)(1)[40 P.S., Section 991.2003], and Act 68, Section 2003(a)(10)[40 P.S., Section 991.2003(a)(10)] respectively.
8. Title 31, Pa. Code, Section 146.6 regarding status letters for claims handling should be reviewed with staff and implemented accordingly.
9. The appropriate sales tax must be paid on the total loss claims listed in this report and procedures implemented to prevent a recurrence must be implemented to ensure compliance with Title 31, Pa Code, Chapter 62.
10. A Contract with a Peer Review Organization must be established in accordance with Title 31, Pa Code, Section 69.53(a), and Act 1990-6, Title 75, Pa. C.S., Section 1797(b)(1).
11. Those Personal Lines Property Claims mentioned in the report which were settled on an ACV basis must be paid on Replacement Cost basis and procedures implemented to ensure future compliance with Title 31, Pa. Code, Section 146.4. Proof of additional payments to insureds must be provided to Pennsylvania Insurance Department within 30 days of the Report issue date.
12. The Company must implement procedures to comply with Fraud notice requirements of Title 75, Pa. C.S., Section 1822.

13. The Consumer Complaint Logs and records must be kept in accordance with Act 205, Section 5(a)(11) [40 P.S., Section 1171.5(a)(11)], and procedures implemented accordingly.

14. The Company must ensure all agents are properly licensed and appointed prior to accepting any business.

**XIII. COMPANY RESPONSE**



**CINCINNATI EQUITABLE INSURANCE COMPANY**  
*Cincinnati Equitable Life Insurance Company*  
*Lakeland Insurance Company*

November 5, 2003

Commonwealth of PA Insurance Dept.  
Bureau of Enforcement  
ATTN: Mr. Chester A. Derk, Jr., AIE, HIA  
1321 Strawberry Square  
Harrisburg, PA 17120

RE: Examination Warrant Number: 02-M19-295

Dear Mr. Derk:

Lakeland Insurance Company has reviewed the January 1, 2002 to December 31, 2002 Report of Examination. The Company has taken advantage of the recommendations provided by the Department's Market Conduct Division.

Problem areas identified in the market conduct examination are understood and have been corrected. Steps have been taken to ensure that the company remains in compliance.

Enclosed, please find evidence of corrective actions.

Thank you for the opportunity to review and improve Company practices, as well as the opportunity to receive instruction from your knowledgeable staff. We look forward to the resolution of the issues raised during the examination.

Sincerely,

  
Michelle Riley  
Underwriting Manager

Encl

**RECEIVED**  
**INSURANCE DEPT.**

NOV 06 2003

**BUREAU OF ENFORCEMENT**

Cincinnati Equitable Companies, Inc.

## PA Dept. of Ins. Recommendations

- 1. The Company must review Act 68, Section 2002 [40 P.S., Section 991.2002], Act 68, Section 2003 [40 P.S., Section 991.2003], Act 68, Section 2004 [40 P.S., Section 2004], Act 68, Section 2006 [40 P.S., Section 991.2006], and implement procedures to ensure compliance with Private Passenger Automobile Cancellation and Nonrenewal requirements.**

The underwriting guide has been updated to delete discriminatory language (*copy of underwriting guide attached, see pg. 12*), the computer system has been updated to force the user to enter a remark listing a specific cancellation/nonrenewal reason and training sessions have been held to verify all users are providing proper notification of intention to cancel or nonrenew.

- 2. The Company must review Act 205, Section 5 (a)(9)[40 P.S., Section 1171.5 (a)(9)], and implement procedures to ensure compliance with Personal Lines Property Cancellation and Nonrenewal requirements.**

Owner-occupied private residential properties or personal property of individuals that have been in force for 60 days or more shall not be cancelled or nonrenewed unless the Underwriting Manager verifies that 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. 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.

- 3. The Company must revise the Surcharge Disclosure Plan to comply with Title 75, Pa. C.S., Section 1793(b).**

The 7/03 edition of the Surcharge Disclosure Plan (PASDS) is attached. This replaces the previous edition, dated 9/01, which failed to meet the requirement listing the surcharge percentage for the number of points assessed for accidents and/or violations.

- 4. The Company must revise the Minimum Premium Invoice to comply with Title 75, Pa., C.S., Section 1791.1(a).**

The company has modified our rating process to store the calculated rate for the state minimum limits for BI, PD, Med Expense and Limited Tort. The calculated rate is now displayed, along with the required notice in ten-point type, on an additional page of the declarations for all new and renewal business (*copy attached*).

- 5. The Company must implement procedures to identify surcharges, rate penalties and point assignments on the automobile policies in accordance with Title 75, Pa. C.S., Section 1799.3(d).**

The company has modified our rating process to store the calculated points surcharge, per vehicle/assigned driver. The surcharge amount is listed on the declarations in the Discounts and Surcharges section. The details of the violations for each driver, including violation date and type, is listed in a new section of the declarations (*copy attached*).

**6. The Company must amend its Automobile Declarations Page to include the notice as respects Collision Coverage for Rental Vehicles in accordance with Title 75, Pa., C.S., Section 1725.**

The company has added the following statement to the first page of the declarations, below listed coverages, "Excess Collision coverage applies to rental vehicles if the Declarations indicate that you pay a premium for collision coverage and the driver is listed on the Rental Contract. The highest collision deductible listed shall apply. See Part D of your policy." (*Copy attached*.)

**7. The Company's Private Passenger Automobile Underwriting Guide must be amended to eliminate references to Age and Occupation in accordance with Act 68, Section 2003(a)(1)[40 P.S., Section 991.2003], and Act 68, Section 2003(a)(10)[ 40 P.S., Section 991.2003(a)(10)] respectively.**

Underwriting Guide has been updated to delete the following language from the "Unacceptable Drivers" category: Applicant/First Named Insured who is a minor (under age 18) unless the parent/guardian also signs the application. Entertainers, celebrities, athletes or any other well-known person. Migratory risks, transients, seasonal workers, drivers resident in the state less than 10 months per year.

**8. Title 31, Pa. Code, Section 146.6 regarding status letters for claims handling should be reviewed with staff and implemented accordingly.**

Training sessions have been held to verify that if a claim investigation cannot be reasonably completed within 30 days after notification, and every 45 days thereafter, the Claims Manager verifies that the adjuster provides the claimant with a reasonable written explanation for the delay and states when a decision on the claim may be expected.

**9. The appropriate sales tax must be paid on the total loss claims listed in this report and procedures implemented to prevent a recurrence must be implemented to ensure compliance with Title 31, Pa Code, Chapter 62.**

Attached, please find evidence of payment of sales tax on the 4 total loss claims listed in the Initial Summary. Instruction has been provided to all adjusters advising of applicable sales tax on the replacement cost of a motor vehicle. The Claims Manager audits these settlements.

**10. A Contract with a Peer Review Organization must be established in accordance with Title 31, Pa Code, Section 69.53(a), and Act 1990-6, Title 75, Pa. C.S., Section 1797(b)(1).**

Contract of agreement made between Lakeland Insurance Company and HealthQuest attached.

**11. Those Personal Lines Property Claims mentioned in the report which were settled on an ACV basis must be paid on Replacement Cost basis and procedures implemented to ensure future compliance with Title 31, Pa. Code, Section 146.4. Proof of additional payments to insureds must be provided to Pennsylvania Insurance Department within 30 days of the Report issue date.**

Attached, please find evidence of payments for the 5 losses identified in the Initial Summary reflecting settlement on Replacement Cost basis.

**12. The Company must implement procedures to comply with Fraud notice requirements of Title 75, Pa. C.S., Section 1822.**

Fraud notice on application for insurance and all claim forms has been revised to comply with state requirement. *(Copies attached.)*

**13. The Consumer Complaint Logs and records must be kept in accordance with Act 205, Section 5(a)(11) [40 P.S., Section 1171.5(a)(11)], and procedures implemented accordingly.**

Complaint records have been revised to include the total number of complaints in each record, classification by line of insurance and the time it took to process each complaint.

**14. The Company must ensure all agents are properly licensed and appointed prior to accepting any business.**

The company has implemented procedures to verify agent licensing and appointment prior to accepting business. *(Please see attached appointment error letter acknowledging one agent/agency appointment. While attempting to correct company records, company received evidence of valid appointment.)*