

**REPORT OF  
MARKET CONDUCT EXAMINATION  
OF**

**LEBANON MUTUAL INSURANCE COMPANY**

**Cleona, Pennsylvania**

**AS OF  
July 21, 2004**

**COMMONWEALTH OF PENNSYLVANIA**



**INSURANCE DEPARTMENT  
MARKET CONDUCT DIVISION**

**Issued: September 7, 2004**

# LEBANON MUTUAL INSURANCE COMPANY

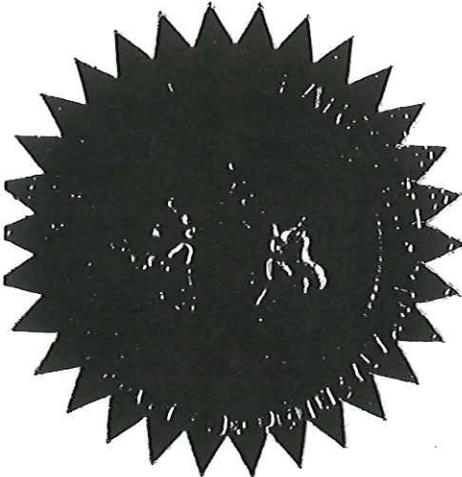
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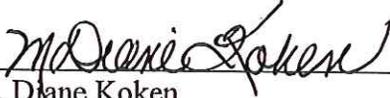
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BEFORE THE INSURANCE COMMISSIONER  
OF THE  
COMMONWEALTH OF PENNSYLVANIA

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:  
: :  
LEBANON MUTUAL INSURANCE : Sections 903(a) of the Insurance  
COMPANY : Department Act, Act of May 17, 1921,  
137 West Penn Avenue : 1921, P.L. 789, No. 285 (40 P.S.  
Cleona, PA 17042 : §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 1705(a)(1) and (4),  
: 1716, 1731(b) and (c), 1791.1(a),  
: 1791.1(b), 1792(b)(1), 1793(b),  
: 1797(b)(1) and 1799.3(d) (Title 75,  
: Pa.C.S. §§ 1705, 1716, 1731, 1791,  
: 1792, 1793, 1797 and 1799)  
: :  
: Sections 1, 2, 3(a)(1), 3(a)(2), 3(a)(3),  
: 3(a)(5), 3(a)(6), 4(a), 4(b) and 7(c) of  
: the Act of July 3, 1986, P.L. 396, No.  
: 86 (40 P.S. §§ 3401, 3402, 3403, 3404  
: and 3407)  
: :  
: Sections 5(a)(4), 5(a)(9), 5(a)(9)(ii),  
: 5(a)(9)(iv) and 5(a)(9)(v) of the Unfair  
: Insurance Practices Act, Act of July 22,  
: 1974, P.L. 589, No. 205 (40 P.S. §§  
: 1171.5)  
: :  
: Sections 2003(a)(1), 2004, 2006(2), (4),  
: (5), (6) and (7) of Act 68 of 1998 (40  
: P.S. §§ 991.2003, 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)

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:  
: Section 653 of the Insurance Company  
:  
: Law, Act of July 9, 1992, P.L. 678,  
:  
: No. 98 (40 P.S. § 813)  
:  
:  
: Title 31, Pennsylvania Code, Sections  
:  
: 59.9(b), 61.13, 62.3(e)(7), 69.52(b),  
:  
: 69.53(a), 113.88, 146.3, 146.4(a),  
:  
: 146.5(a), 146.5(d), 146.6 and  
:  
: 146.7(a)(1)  
:  
:  
: Title 75, Pennsylvania Consolidated  
:  
: Statutes, Sections 1716 and 1822  
:  
:  
Respondent. : Docket No. MC04-07-028

CONSENT ORDER

AND NOW, this 7<sup>th</sup> day of *September*, 2004, 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 Lebanon Mutual Insurance Company, and maintains its address at 137 West Penn Avenue, Cleona, Pennsylvania 17042.
- (b) A market conduct examination of Respondent was conducted by the Insurance Department covering the period from July 1, 2002 through June 30, 2003.
- (c) On July 21, 2004, the Insurance Department issued a Market Conduct Examination Report to Respondent.
- (d) Respondent did not provide a response to the Market Conduct Examination Report issued on July 21, 2004.
- (e) The Examination Report notes violations of the following:
  - (i) Section 903(a) of the Insurance Department Act, No. 285 (40 P.S. § 323.3), which requires every company subject to examination keep all books,

records, accounts, papers, documents and any or all computer or other recordings relating to its property, assets, business and affairs in such manner and for such time as may be required in order that the Department may verify whether the company has complied with the laws of this Commonwealth;

- (ii) 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;
- (iii) Section 1705(a)(1) and (4) of Act 1990-6, Title 75, Pa.C.S. § 1705, which requires every insurer, prior to the issuance of a private passenger motor vehicle liability insurance policy, to provide each applicant an opportunity to elect a tort option. A policy may not be issued unless the applicant has been provided an opportunity to elect a tort option;
- (iv) Section 1716 of Act 1990-6, Title 75, Pa.C.S. § 1716, which states 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;

- (v) Section 1731(b) and (c) of Act 1990-6, Title 75, Pa.C.S. § 1731, which requires the named insured to be informed that he may reject uninsured and underinsured motorist coverage by signing a written rejection form;
  
- (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 or coverages in excess of the limits required by law are provided only at your request as enhancements to basic coverages.” The insurer shall provide the itemized invoice to the insured in conjunction with

the declaration of coverage limits and premiums for the insured's existing coverages;

- (vii) Section 1791.1(b) of Act 1990-6, Title 75, Pa.C.S. § 1791, which requires, in addition to the invoice required under subsection (a), an insured must, at the time of application for original coverage for private passenger motor vehicle insurance and every renewal thereafter, provide to an insured the required notice of the availability of two alternatives of full tort insurance and limited tort insurance;
  
- (viii) Section 1792(b)(1) of Act 1990-6, Title 75, Pa.C.S. § 1792, which requires every private passenger automobile insurance policy providing collision coverage to provide a deductible in the amount of \$500 for collision coverage, unless the named insured signs a statement indicating the insured is aware that the purchase of a lower deductible is permissible and that there is an additional cost of purchasing a lower deductible and the insured agrees to accept it;
  
- (ix) Section 1793(b) 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 deliver the plan to each insured 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 insurers to 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 1 of Act 86 (40 P.S. § 3401), which provides that notwithstanding any other provision of law, a policy of insurance covering commercial property or casualty risks in this Commonwealth shall provide for not less than 30 days advance notice to the named insured of an increase in renewal premium. This section does not apply to policies written on a retrospective rating plan;
  
- (xiii) Section 2 of Act 86 (40 P.S. § 3402), which states canceling in midterm a policy of insurance covering commercial property and casualty risks is prohibited for any reason other than those enumerated under this section;
  
- (xiv) Section 3(a)(1) of Act 86 (40 P.S. § 3403), which requires that a written notice of nonrenewal be forwarded by registered mail or first class mail or delivered by the insurance company directly to the named insured;
  
- (xv) Section 3(a)(2) of Act 86 (40 P.S. § 3403), which requires that a cancellation notice be forwarded directly to the named insured at least 60 days in advance of the effective date of termination;
  
- (xvi) Section 3(a)(3) of Act 86 (40 P.S. § 3403), which requires an insurer to provide written notice of cancellation at least 60 days in advance of the effective date of termination unless the insured made a material misrepresentation or failed to pay the premium, then 15 days notice is required;

- (xvii) Section 3(a)(5) of Act 86 (40 P.S. § 3403), which requires an insurer that cancels a policy midterm to state the specific reason. The reason shall identify the condition, factor or loss experience which caused the midterm cancellation. The notice shall provide sufficient information or data for the insured to correct the deficiency;
- (xviii) Section 3(a)(6) of Act 86 (40 P.S. § 3403), which requires that a cancellation notice shall state that at the insured's request, the insurer shall provide loss information to the insured for at least three years or the period of time during which the insurer has provided coverage to the insured, whichever is less;
- (xix) Section 4(a) of Act 86 (40 P.S. § 3404), which requires that unearned premium must be returned to the insured not later than 10 business days after the effective date of termination when commercial policies are cancelled in midterm by the insurer;
- (xx) Section 4(b) of Act 86 (40 P.S. § 3404), which requires that unearned premium be returned to the insured not later than 30 days after the effective date of termination where commercial property or casualty risks are cancelled in mid-term by the insured;

- (xxi) Section 7(c) of Act 86 (40 P.S. § 3403), which requires that an insurer may cancel the policy provided it gives at least 30 days' notice of the termination and provided it gives notice no later than the 60<sup>th</sup> day, unless the policy provides for a longer period of notification;
  
- (xxii) Section 5(a)(4) of the Unfair Insurance Practices Act, No. 205 (40 P.S. § 1171.5(a)(4)), which prohibits unfair methods of competition and unfair or deceptive acts or practices;
  
- (xxiii) 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;
  
- (xxiv) 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;

- (xxv) Section 5(a)(9)(iv) of Act 205 (40 P.S. § 1171.5), which requires that a cancellation notice shall advise the insured of his right to request, in writing, within ten days of the receipt of the notice of cancellation or intention not to renew that the Insurance Commissioner review the action of the insurer;
- (xxvi) Section 5(a)(9)(v) of Act 205 (40 P.S. § 1171.5), which requires that a cancellation notice shall advise the insured of his possible eligibility for insurance under the PA Fair Plan Act;
- (xxvii) Section 2003(a)(1) of Act 68 (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;
- (xxviii) Section 2004 of Act 68 (40 P.S. § 991.2004), which requires that no insurer shall cancel a policy of automobile insurance except for nonpayment of premium, suspension or revocation of the named insured's driver license or motor vehicle registration or a determination that the insured has concealed a material fact or has made a material allegation contrary to fact or has made a misrepresentation of material fact and that such concealment, allegation or misrepresentation was material to the acceptance of the risk by the insurer;
- (xxix) Section 2006(2) of Act 68 of 1998 (40 P.S. § 991.2006), which requires an insurer to deliver or mail to the named insured a cancellation notice and

state the date, not less than 60 days after the date of the mailing or delivery, on which cancellation shall become effective. When the policy is being cancelled for the nonpayment of premium, the effective date may be 15 days from the date of mailing or delivery;

- (xxx) Section 2006(4) of Act 68 of 1998 (40 P.S. § 991.2006), which requires that a cancellation notice advise the insured of his right to request in writing within 30 days of receipt of the notice of cancellation that the Insurance Commissioner review the action of the insurer;
- (xxxii) Section 2006(5) of Act 68 of 1998 (40 P.S. § 991.2006), which requires that either in the cancellation notice or in an accompanying statement, the insured be advised of his possible eligibility for insurance through the automobile assigned risk plan;
- (xxxiii) Section 2006(6) of Act 68 of 1998 (40 P.S. § 991.2006), which requires that a cancellation notice advise the insured that he must obtain compulsory automobile insurance coverage if he operates or registers a motor vehicle in this Commonwealth and that the insurer is notifying the Department of Transportation that the insurance is being cancelled and the insured must notify the Department of Transportation that he has replaced said coverage;

- (xxxiii) Section 2006(7) of Act 68 of 1998 (40 P.S. § 991.2006), which requires that a cancellation notice clearly state that when coverage is to be terminated due to nonresponse to a citation imposed under 75 Pa.C.S. § 1533, or nonpayment of a fine or penalty imposed under that section, coverage shall not terminate if the insured provides the insurer with proof that the insured has responded to all citations and paid all fines and penalties and that he has done so on or before the termination date of the policy;
- (xxxiv) Section 506.1 of the Insurance Company Law (40 P.S. § 636.1), which requires basic property insurance to be continued 180 days after the death of the named insured on the policy or until the sale of the property, whichever occurs first, provided that the premiums are paid;
- (xxxv) Section 653 of the Insurance Company Law, No. 98 (40 P.S. § 813), which requires that no policy of insurance issued or renewed against liability under the Workmens Compensation Act may be cancelled or terminated during the term of the policy, except for nonpayment of premium or request of the insured;
- (xxxvi) Title 31, Pennsylvania Code, Section 59.9(b), which provides an insurer may cancel a policy in the first 60 days but must provide a notice of cancellation to the insured;

(xxxvii) Title 31, Pennsylvania Code, Section 61.13, which requires each insurer to 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 six-month period ending on these dates;

(xxxviii) Title 31, Pennsylvania Code, Section 62.3(e)(7), which states the appraiser is responsible for ensuring that a copy of the total loss evaluation report be sent within five working days to the consumer by the appraiser after the appraisal is completed. If a settlement offer is extended before the consumer receives the total loss evaluation report, the consumer shall be advised of the total loss evaluation report's contents and of the consumer's right to be sent a copy within five days after its completion;

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

(xxxx) Title 31, Pennsylvania Code, Section 69.53(a), which requires a Peer Review Organization to contract, in writing, jointly or separately with an

insurer for the provision of peer review services as authorized by Act 1990-6 and this chapter;

(xxxxi) Title 31, Pennsylvania Code, Section 113.88, which requires the reason for cancellation to be clear and complete. It shall be stated so that a person of average intelligence and education can understand it. Phrases such as “losses” or “underwriting reasons” are not sufficiently specific reasons for cancellation;

(xxxxii) Title 31, Pennsylvania Code, Section 146.3, which state the claim files of an 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;

(xxxxiii) Title 31, Pennsylvania Code, Section 146.4(a), which prohibits an insurer or agent from failing to fully disclose to first-party claimants pertinent benefits, coverages or other provisions of an insurance policy or insurance contract under which a claim is presented;

(xxxxiv) Title 31, Pennsylvania Code, Section 146.5(a), which requires that every insurer, upon receiving notification of a claim, shall within 10 working days, acknowledge receipt of the notice unless payment is made within the period

of time. If an acknowledgment is made by means other than writing, an appropriate notation of the 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;

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

(xxxxvi) Title 31, Pennsylvania Code, Section 146.6, requires that every insurer shall complete investigation of a claim within 30 days after notification of the claim, unless such investigation cannot reasonably be completed within 30 days, and every 45 days thereafter, the insurer shall provide the claimant with a reasonable written explanation for the delay and state when a decision on the claim may be expected;

(xxxxvii) Title 31, Pennsylvania Code, Section 146.7(a)(1), which requires within 15 working days after receipt by the insurer of properly executed proofs of loss, the first-party claimant shall be advised of the acceptance or denial of the claim by the insurer. No insurer shall deny a claim on the grounds of a specific policy provision, condition or exclusion unless reference to such

provision, condition or exclusion is included in the denial. The denial must be given to the claimant in writing and the claim file of the insurer shall contain a copy of the denial; and

(xxxxviii) Title 75, Pa. C.S. § 1822, which requires a fraud warning notice on all new applications, claim forms and renewals: “Any person who knowingly and with intent to injure or defraud any insurer files an application or claim containing false, incomplete or misleading information shall, upon conviction, shall be subject to imprisonment for up to seven years and payment of a fine up to \$15,000.”

#### CONCLUSIONS OF LAW

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

- (a) Respondent is subject to the jurisdiction of the Pennsylvania Insurance Department.
- (b) Respondent’s violations of Sections 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.
- (c) Respondent's violations of Sections 1, 2, 3, 4 and 7 of Act 86 (40 P.S. §§ 3401, 3402, 3403, 3404 and 3407) are punishable under Section 8 (40 P.S. § 3408) of this act by one or more of the following causes of action:
- (i) Order that the insurer cease and desist from the violation.
  - (ii) Impose a fine or not more than \$5,000 for each violation.
- (d) Respondent's violations of Sections 5(a)(4) and 5(a)(9) of the Unfair Insurance Practices Act, No. 205 (40 P.S. § 1171.5) are punishable by the following, under Section 9 of the Unfair Insurance Practices Act (40 P.S. § 1171.9):
- (i) cease and desist from engaging in the prohibited activity;
  - (ii) suspension or revocation of the license(s) of Respondent.

- (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 2003, 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 Purdon's 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 violation of Section 653 of the Insurance Company Law, No. 98 (40 P.S. § 813), are punishable under Section 655 of the Insurance Company Law (40 P.S. § 815), which provides that the Insurance Commissioner shall have the power to suspend or revoke the license of any insurance company which violates any provisions of this article.
- (i) 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 Forty Thousand Dollars (\$40,000.00) 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.

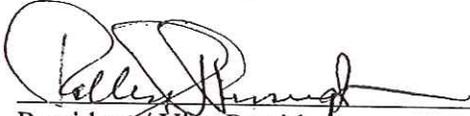
8. In any such enforcement proceeding, Respondent may contest whether a breach of the provisions of this Order has occurred but may not contest the Findings of Fact and Conclusions of Law contained herein.

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.

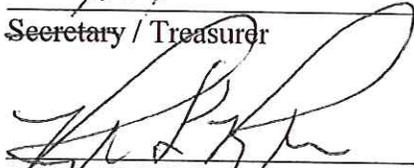
10. This Order constitutes the entire agreement of the parties with respect to the matters referred to herein, and it may not be amended or modified except by an amended order signed by all the parties hereto.

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: LEBANON MUTUAL 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 Lebanon Mutual Insurance Company's office located in Cleona, Pennsylvania, from April 29, 2004, through May 26, 2004. Subsequent review and follow-up was conducted in the office of the Pennsylvania Insurance Department.

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

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

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

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

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

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

  
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Constance L. Arnold  
Market Conduct Examiner

  
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Jerry L. Houston, CPCU  
Market Conduct Examiner

## II. SCOPE OF EXAMINATION

The Market Conduct Examination was conducted on Lebanon Mutual Insurance Company, hereinafter referred to as "Company," at their office located in Cleona, Pennsylvania. The examination was conducted pursuant to Sections 903 and 904 (40 P.S. §§323.3 and 323.4) of the Insurance Department Act and covered the experience period of July 1, 2002, through June 30, 2003, unless otherwise noted. The purpose of the examination was to determine the Company's compliance with Pennsylvania insurance laws and regulations.

The examination focused on Company operations in the following areas:

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

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

6. Commercial Automobile

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

7. Workers' Compensation

- Underwriting – Appropriate and timely notices of nonrenewals and midterm cancellations.

8. Claims

9. Forms

10. Advertising

11. Complaints

12. Licensing

### III. COMPANY HISTORY AND LICENSING

Lebanon Mutual Insurance Company was incorporated under the laws of Pennsylvania on April 21, 1856 as The Lebanon Mutual Insurance Company. The word "The" was deleted from the title in 1952, the same year charter powers were amended to include multiple lines.

#### LICENSING

Lebanon Mutual Insurance Company's Certificate of Authority to write business in the Commonwealth was issued on April 21, 1856. The Company is licensed in Pennsylvania. The Company's 2003 annual statement reflects Direct Written Premium for all lines of business in the Commonwealth of Pennsylvania as \$16,983,532. Premium volume related to the areas of this review were: Fire \$381,471; Homeowners' Multiple Peril \$4,769,640; Commercial Multiple Peril (non-liability portion) \$3,965,393; Commercial Multiple Peril (liability portion) \$1,886,446; Inland Marine \$201,302; Workers; Compensation \$1,729,000; Private Passenger Automobile Direct Written Premium was reported as Private Passenger Auto No-Fault (personal injury protection) \$46,415; Private Passenger Auto Liability \$198,498 and Private Passenger Auto Physical Damage \$171,929; Commercial Automobile Direct Written Premium was reported as Commercial Auto No-Fault (personal injury protection) \$62,965; Other Commercial Auto Liability \$1,786,044 and Commercial Auto Physical Damage \$699,048.

#### IV. UNDERWRITING PRACTICES AND PROCEDURES

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

The following finding was made:

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

Discrimination Prohibited – (a) An insurer may not cancel or refuse to write or renew a policy of automobile insurance for any of the following reasons: Age. The Company's personal auto underwriting guide prohibits writing, in the preferred or standard programs, a principal operator or any occasional operator not licensed in the United States or Canada within the last three (3) years.

Note: This issue, although noted as being in place during the experience period of the examination, has been previously resolved through a separate action by the Department.

## V. UNDERWRITING

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

#### 1. 60-Day Cancellations

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

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

The universe of 10 personal automobile files identified as being cancelled in the first 60 days of new business was selected for review. All 10 files selected were received and reviewed. No violations were noted.

#### 2. Midterm Cancellations

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

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

From the universe of 127 private passenger automobile files identified as midterm cancellations by the Company, 50 files were selected for review. All 50 files selected were received and reviewed. The 60 violations noted were based on 14 files, resulting in an error ratio of 28%.

The following findings were made:

*1 Violation Act 68, Section 2004 [40 P.S. §991.2004]*

Requires that no insurer shall cancel a policy of automobile insurance except for nonpayment of premium, suspension or revocation of the named insured's driver license or motor vehicle registration or a determination that the insured has concealed a material fact or has made a material allegation contrary to fact or has made a misrepresentation of material fact and that such concealment, allegation or misrepresentation was material to the acceptance of the risk by the insurer. The file noted was cancelled for other than permitted reasons.

*2 Violations Title 31, Pa. Code, Section 61.13*

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. The Company did not maintain records of cancellations, refusals to write and nonrenewals for each 6 month period.

*11 Violations Act 68, Section 2006(2) [40 P.S. §991.2006(2)]*

Requires an insurer to deliver or mail to the named insured a cancellation notice and state the date, not less than sixty (60) days after the date of the mailing or delivery, on which cancellation shall become effective. When the policy is being cancelled for the nonpayment of premium, the effective date may be fifteen (15) days from the date of mailing or delivery. The 11 violations noted contained cancellation notices for nonpayment of premium, but did not provide 15 days from the date of mailing.

*11 Violations Act 68, Section 2006(4) [40 P.S. §991.2006(4)]*

Requires that a cancellation notice advise the insured of his right to request in writing that the Insurance Commissioner review the action of the insurer. The 11 violations noted resulted from cancellation notices being issued which did not advise the insured of his right to request in writing a review by the Insurance Commissioner.

*11 Violations Act 68, Section 2006(5) [40 P.S. §991.2006(5)]*

Requires that either in the cancellation notice or in an accompanying statement, the insured be advised of this possible eligibility for insurance through the automobile assigned risk plan. The 11 violations noted resulted from cancellation notices being issued which did not advise the insured of his or her eligibility for insurance through the assigned risk plan.

*11 Violations Act 68, Section 2006(6) [40 P.S. §991.2006(6)]*

Requires that a cancellation notice advise the insured that he must obtain compulsory automobile insurance coverage if he operates or registers a motor vehicle in this Commonwealth and that the insurer is notifying the Department of Transportation that the insurance is being cancelled and the insured must notify the Department of Transportation that he has replaced said coverage. The 11 violations noted resulted from cancellation notices being issued that did not advise the insured of the required information.

*11 Violations Act 68, Section 2006(7) [40 P.S. §991.2006(7)]*

Requires that a cancellation notice clearly state that when coverage is to be terminated due to nonresponse to a citation imposed under 75 Pa. C.S. §1533 (relating to suspension of operating privilege for failure to respond to a citation) or nonpayment of a fine or penalty imposed under that section, coverage shall not terminate if the insured provides the insurer with proof that the insured has responded to all citations and paid all fines and penalties and that he has done so on or before the termination date of the policy. The 11 violations noted resulted from cancellation notices being issued which did not advise the insured of the required information.

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

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

manner and for such time as may be required in order that the Department may readily verify whether the Company has complied with the laws of this Commonwealth. The 2 files noted did not contain a copy of the cancellation notice.

### 3. Nonrenewals

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

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

The universe of 33 private passenger automobile files identified as nonrenewals by the Company was selected for review. The 33 files selected were received and reviewed. No violations were noted.

### 4. Declinations

A declination is any application that is received by the Company and was declined to be written.

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

The universe of 4 automobile declinations was selected for review. The 4 files selected were received and reviewed. The 2 violations noted were based on 2 files, resulting in an error ratio of 50%.

The following findings were made:

*2 Violations Act 205, Section 5(a)(4) [40 P.S. §1171.5(a)(4)]*

Unfair Methods of Competition and Unfair or Deceptive Acts or Practices Defined. Entering into any agreement to commit, or by any concerted action committing, any act of boycott, coercion or intimidation resulting in or tending to result in unreasonable restraint of, or monopoly in, the business of insurance. The 2 files noted were declined due to no supporting business.

**B. Private Passenger Automobile – Assigned Risk**

Lebanon Mutual Insurance Company reports its premium writings for private passenger automobile to the Pennsylvania Assigned Risk Plan. As a result, Lebanon Mutual Insurance Company receives all assignments from the Pennsylvania Assigned Risk Plan.

1. Midterm Cancellations

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

The primary purpose of the review was to determine compliance with Title 75, Pennsylvania Consolidated Statutes, Sections 1742, 1743 and 1744 [75 Pa. C.S. §1742, 1743 and 1744], and all the rules of the Pennsylvania Assigned Risk Plan and Manual.

The universe of 2 private passenger automobile assigned risk policies cancelled during the experience period was selected for review. Both files selected were received and reviewed. No violations were noted.

### **C. Personal Lines Property**

#### **1. 60-Day Cancellations**

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

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

From the universe of 89 personal lines property policies, which were cancelled within the first 60 days of new business, 50 files were selected for review. The property policies consisted of homeowners and tenant homeowners. All 50 files selected were received and reviewed. The 21 violations noted were based on 21 files, resulting in an error ratio of 42%.

The following findings were made:

#### *16 Violations Title 31, Pa. Code, Section 59.9(b)*

Requires an insurer give at least 30 days notice of termination and provided it gives notice no later than the 60<sup>th</sup> day. The

Company did not provide the required 30 days notice of cancellation.

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

Requires every company subject to examination to keep all books, records, accounts, papers, documents and any or all computer or other recordings relating to its business in such manner and for such time as may be required in order that the Department may readily verify whether the Company has complied with the laws of this Commonwealth. The 5 files noted did not contain a copy of the cancellation notice.

2. Midterm Cancellations

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

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

From the universe of 1,253 personal lines property policies, which were cancelled midterm during the experience period, 137 files were selected for review. The property policies consisted of homeowners, tenant homeowners and owner occupied dwelling fire. All 137 files requested were received and reviewed. The 75 violations noted were based on 45 files, which resulted in an error ratio of 33%.

The following findings were made:

*26 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 26 violations noted were the result of cancellation notices being issued without the required information.

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

Requires that a cancellation notice shall advise the insured of his possible eligibility for insurance under the act of July 31, 1968 (P.L. 738, No. 233), known as "The PA Fair Plan Act".

The 27 violations noted were the result of cancellation notices being issued without the required information.

*1 Violation Insurance Company Law, Section 506.1 [40 P.S. §636.1]*

After-Death Continuation of Basic Property Insurance. 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 comes first, provided that the premiums for the coverage are paid. The Company canceled the policy within 180 days of the insured's death.

*9 Violations 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 9 violations were due to cancellation notices being issued that did not provide the required thirty days.

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

Prohibits canceling any policy of insurance covering owner-occupied private residential properties or personal property of individuals that has been in force for sixty days or more or refusing to renew any such policy unless the policy was obtained through material misrepresentation, fraudulent statements, omissions or concealment of fact material to the acceptance of the risk or to the hazard assumed by the company; or there has been a substantial change or increase in hazard in the risk assumed by the company subsequent to the date the policy was issued; or there is a substantial increase in hazards insured against by reason of willful or negligent acts or omissions by the insured; or the insured has failed to pay any premium when due or for any other reasons approved by the Commissioner. The Company did not provide a proper reason for cancellation on the 11 files noted.

*1 Violation Insurance Department Act, Section 903(a) [40 P.S. §323.3]*

Requires every company subject to examination to keep all books, records, accounts, papers, documents and any or all computer or other recordings relating to its business in such manner and for such time as may be required in order that the Department may readily verify whether the Company has complied with the laws of this Commonwealth. The file noted did not contain a copy of the cancellation notice.

### 3. Nonrenewals

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

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

From the universe of 1,281 personal lines property policies, which were nonrenewed during the experience period, 77 files were selected for review. The property policies consisted of homeowners, tenant homeowners and owner occupied dwelling fire. All 77 files were received and reviewed. The violation noted resulted in an error ratio of 1%.

The following finding was made:

*1 Violation Insurance Department Act, Section 903(a) [40 P.S. §323.3]*  
Requires every company subject to examination to keep all books, records, accounts, papers, documents and any or all computer or other recordings relating to its business in such manner and for such time as may be required in order that the Department may readily verify whether the Company has complied with the laws of this Commonwealth. The file noted did not contain a copy of the cancellation notice.

#### 4. Declinations

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

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

The universe of 23 property files, identified as declinations by the Company was selected for review. The property policies consisted of homeowners, tenant homeowners and owner occupied dwelling fire. All 23 files selected were received and reviewed. No violations were noted.

### **D. Commercial Automobile**

#### 1. 60-Day Cancellations

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

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

The universe of 22 commercial automobile policies, which was cancelled within the first 60 days, was selected for review. All 22 files selected were received and reviewed. No violations were noted.

## 2. Midterm Cancellations

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

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

From the universe of 163 commercial automobile policies, which was cancelled during the experience period, 50 files were selected for review. All 50 files selected were received and reviewed. The 2 violations noted were based on 2 files, resulting in an error ratio of 4%.

The following findings were made:

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

Requires that unearned premium be returned to the insured not later than 30 days after the effective date of termination where commercial property or casualty risks are cancelled in mid-term by the insured. The file noted was absent any evidence that this requirement was complied with.

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

Requires that a cancellation notice shall state the specific reasons for cancellation. The reasons shall identify the condition, factor or loss experience, which caused the cancellation. The notice shall provide sufficient information

or data for the insured to correct the deficiency. The file noted was absent any evidence this requirement was complied with.

### 3. Nonrenewals

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

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

The universe of 35 commercial automobile policies identified as nonrenewals by the Company was selected for review. All 35 files selected were received and reviewed. The 15 violations noted were based on 14 files, resulting in an error ratio of 40%.

The following findings were made:

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

Requires that a nonrenewal notice be forwarded directly to the named insured or insureds at least 60 days in advance of the effective date of the termination. The file noted was absent any evidence this requirement was complied with.

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

Requires that a nonrenewal notice shall state the specific reasons for the nonrenewal. The reasons shall identify the condition, factor or loss experience, which caused the

nonrenewal. The notice shall provide sufficient information or data for the insured to correct the deficiency.

*AND*

*Title 31, Pa. Code, Section 113.88*

The reason given for nonrenewal shall be clear and complete. It shall be stated so that a person of average intelligence and education can understand it. Phrases such as “losses” or “underwriting reasons” are not sufficiently specific reasons for nonrenewal. The 14 files noted were absent any evidence this requirement was complied with.

#### 4. Renewals

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

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

From the universe of 1,143 commercial automobile policies, which were renewed during the experience period, 25 files were selected for review. All 25 files selected were received and reviewed. The 6 violations noted were based on 6 files, resulting in an error ratio of 24%.

The following findings were made:

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

This section provides that notwithstanding any other provision of law, a policy of insurance covering commercial

property or casualty risks in this Commonwealth shall provide for not less than 30 days advance notice to the named insured of an increase in renewal premium. This section does not apply to policies written on a retrospective rating plan. The 6 files noted were absent any evidence this requirement was complied with.

#### 5. Declinations

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

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

From the universe of 39 commercial automobile files identified as declinations by the Company, 15 files were selected for review. All 15 files selected were received and reviewed. No violations were noted.

### **E. Commercial Property**

#### 1. 60-Day Cancellations

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

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

From the universe of 108 commercial property policies, which were cancelled within the first 60 days, 47 files were selected for review. The commercial property policies consisted of tenant occupied dwelling fire, commercial fire, commercial inland marine and commercial package. Of the 47 files selected, 44 files were received and reviewed. The 12 violations noted were based on 12 files, resulting in an error ratio of 26%.

The following findings were made:

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

Requires every company subject to examination to keep all books, records, accounts, papers, documents and any or all computer or other recordings relating to its business in such manner and for such time as may be required in order that the Department may readily verify whether the Company has complied with the laws of this Commonwealth. The 3 files noted were not produced by the Company.

*9 Violations Act 86, Section 7(c) [40 P.S. §3407(c)]*

This act does not apply to commercial property and casualty insurance policies that are in effect less than 60 days, unless they are renewals. An insurer may cancel the policy provided it gives at least 30 days' notice of the termination and provided it gives notice no later than the 60<sup>th</sup> day, unless the policy provides for a longer period of notification. The 9 files noted did not give at least 30 days' notice of termination to the insured.

## 2. Midterm Cancellations

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

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

From the universe of 614 commercial property policies, which were cancelled during the experience period, 111 files were selected for review. The commercial policies consisted of tenant occupied dwelling fire, commercial fire, commercial inland marine and commercial package. All 111 files selected were received and reviewed. The 36 violations noted were based on 33 files, resulting in an error ratio of 30%.

The following findings were made:

### *1 Violation Act 86, Section 2 [40 P.S. §3402]*

Grounds for cancellation. Cancelling in midterm a policy of insurance covering commercial property and casualty risks is prohibited for any reason other than those enumerated under this section. The file noted was cancelled for other than permitted reasons.

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

Requires that a cancellation notice be forwarded by registered mail or first class mail or delivered by the insurance company directly to the named insured or insureds. The 3 files noted were absent any evidence this requirement was complied with.

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

Requires that a cancellation notice must be forwarded to the named insured or insureds at least 60 days in advance of the effective date of termination. The 2 files noted were absent any evidence this requirement was complied with.

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

Requires that a cancellation notice shall state the specific reasons for cancellation. The reasons shall identify the condition, factor or loss experience, which caused the cancellation. The notice shall provide sufficient information or data for the insured to correct the deficiency. The 5 files noted were absent any evidence this requirement was complied with.

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

Requires that a cancellation notice shall state that at the insured's request, the insurer shall provide loss information to the insured for at least three years or the period of time during which the insurer has provided coverage to the insured, whichever is less. The 14 files noted were absent any evidence this requirement was complied with.

*7 Violations Act 86, Section 4(a) [40 P.S. §3404(a)]*

Requires that unearned premium be returned to the insured not later than 10 business days after the effective date of termination where commercial property or casualty risks are cancelled in mid-term by the insurer. The 7 files noted were absent any evidence that this requirement was complied with.

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

Requires that unearned premium be returned to the insured not later than 30 days after the effective date of termination where commercial property or casualty risks are cancelled in mid-term by the insured. The 4 files noted were absent any evidence that this requirement was complied with.

3. Nonrenewals

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

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

From the universe of 370 commercial property policies identified as nonrenewals by the Company, 97 files were selected for review. The commercial policies consisted of tenant occupied dwelling fire, commercial inland marine, commercial fire, commercial package and tenant occupied dwelling fire. All 97 files selected were received and reviewed. The 12 violations were based on 12 files, resulting in an error ratio of 12%.

The following findings were made:

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

Requires that a nonrenewal notice be forwarded by registered mail or first class mail or delivered by the insurance company directly to the named insured or insureds. The 2 files noted were absent any evidence this requirement was complied with.

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

Requires that a nonrenewal notice be forwarded directly to the named insured or insureds at least 60 days in advance of the effective date of the termination. The file noted was absent any evidence this requirement was complied with.

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

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

AND

*Title 31, Pa. Code, Section 113.88*

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

for cancellation. The 9 files noted were absent any evidence this requirement was complied with.

#### 4. Renewals

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

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

From the universe of 5,301 commercial property policies, which were renewed during the experience period, 100 files were selected for review. The commercial property policies consisted of tenant occupied dwelling fire, commercial fire, commercial inland marine and commercial package. All 100 files selected were received and reviewed. The 14 violations noted resulted in an error ratio of 14%.

The following findings were made:

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

This section provides that notwithstanding any other provision of law, a policy of insurance covering commercial property or casualty risks in this Commonwealth shall provide for not less than 30 days advance notice to the named insured of an increase in renewal premium. This section does not apply to policies written on a retrospective rating plan. The 14 files noted were absent any evidence this requirement was complied with.

## 5. Declinations

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

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

From the universe of 589 commercial property files identified as declinations by the Company, 83 files were selected for review. The commercial files consisted of tenant occupied dwelling fire, commercial fire, commercial inland marine and commercial package. All 83 files selected were received and reviewed. No violations were noted.

## **F. Workers Compensation**

### 1. Midterm Cancellations

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

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

The universe of 80 workers' compensation policies, cancelled during the experience period, was selected for review. All 80 files selected were received and reviewed. The 4 violations noted were based on 4 files, resulting in an error ratio of 5%.

The following findings were made:

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

Requires every company subject to examination to keep all books, records, accounts, papers, documents and any or all computer or other recordings relating to its business in such manner and for such time as may be required in order that the Department may readily verify whether the Company has complied with the laws of this Commonwealth. The 3 files noted were incomplete. There was no evidence of cancellation notices in the files.

*1 Violation Insurance Company Law, Section 653 [40 P.S. §813]*

Except for nonpayment of premium, no policy of insurance issued or renewed against liability under the Act of June 2, 1915 (P.L. 736, No. 338), known as the Pennsylvania Workers' Compensation Act, may be cancelled or terminated by an insurer during the term of the policy. The file noted was cancelled for a reason other than nonpayment of premium.

2. Nonrenewals

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

The review was conducted to determine compliance with Act 86, Section 3 (40 P.S. §3403), which establishes notice requirements for nonrenewals.

The universe of 29 workers' compensation policies, which were nonrenewed during the experience period, was selected for review. All 29 files selected were received and reviewed. The 6 violations noted were based on 6 files, resulting in an error ratio of 21%.

The following findings were made:

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

Requires that a nonrenewal notice shall state the specific reasons for the nonrenewal. The reasons shall identify the condition, factor or loss experience, which caused the nonrenewal. The notice shall provide sufficient information or data for the insured to correct the deficiency. The 3 files noted were absent any evidence this requirement was complied with.

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

Requires every company subject to examination to keep all books, records, accounts, papers, documents and any or all computer or other recordings relating to its business in such manner and for such time as may be required in order that the Department may readily verify whether the Company has complied with the laws of this Commonwealth. The 3 files noted were incomplete. There was no evidence of nonrenewal notices in the files.

## VI. RATING

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

#### 1. New Business

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

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

#### Private Passenger Automobile – New Business Without Surcharges

The universe of 50 personal automobile policies identified as new business without surcharges by the Company was selected for review. All 50 files requested were received and reviewed. The 155 violations were based on the universe of 50 files, resulting in an error ratio of 100%.

The following findings were made:

*3 Violations Act 1990-6, Section 8, Title 75, Pa. C.S. §1705(a)(1)&(4)*

Requires every insurer, prior to the issuance of a private passenger motor vehicle liability insurance policy to provide each applicant an opportunity to elect a tort option. A policy may not be issued unless the applicant has been provided an opportunity to elect a tort option. The 3 violations noted were the result of a policy issued with limited tort and no evidence of a signed limited tort selection form.

*1 Violation Act 1990-6, Section 18, Title 75, Pa. C.S. §1792(b)(1)*

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

*1 Violation Act 1990-6, Section 9, Title 75, Pa. C.S. §1731(b) & (c)*

The named insured shall be informed that he may reject uninsured and underinsured motorist coverage by signing a written rejection form. The violation noted was the result of the policy being issued without uninsured and underinsured motorist coverage and no evidence of a signed written rejection form in the file.

*50 Violations Act 1990-6, Section 17, Title 75, Pa. C.S. §1791.1(a)*

Requires that at the time of application for original coverage and every renewal thereafter, an insurer must provide to an insured an itemized invoice listing the minimum motor vehicle insurance coverage levels mandated by the Commonwealth and the premium charge for the insured to purchase the minimum mandated coverages. The invoice must contain the following notice in print of no less than ten-point type: "The laws of the Commonwealth of Pennsylvania, as enacted by the General Assembly, only require you to purchase liability and first-party medical benefit coverages. Any additional coverage or coverages in excess of the limits required by law are provided only at your request as enhancements to basic coverages." The insurer shall provide the itemized invoice to the insured in conjunction with the declaration of coverage limits and premiums for the insured's existing coverages. The 50 violations noted were absent any evidence this requirement was complied with.

*50 Violations Title 75, Pa. C.S. §1793(b)*

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. The 50

violations were the result of the Company not providing the insured with a copy of a surcharge disclosure plan.

*50 Violations Act 1990-6, Section 17, Title 75, Pa. C.S §1791.1(b)*

Requires an insurer to provide an insured a notice of the availability of two alternatives of full tort insurance and limited tort insurance. The Company did not provide the notice of tort options to the insured at the time of application.

Private Passenger Automobile – New Business With Surcharges

The universe of 1 personal automobile policy identified as new business with surcharges by the Company was selected for review. The file requested was received and reviewed. The 4 violations noted were based on 1 file, resulting in an error ratio of 100%.

The following findings were made:

*1 Violation Act 1990-6, Section 19, Title 75, Pa. C.S. §1799.3(d)*

Requires insurers who make a determination to impose a surcharge, rate penalty or driver record point assignment, to inform the insured of the determination and specify the manner in which the surcharge, rate penalty or driver record point assignment was made and clearly identify the amount of the surcharge or rate penalty on the premium notice for as long as the surcharge or rate penalty is in effect. The file noted did not inform the insured of the surcharge amount and specify the manner in which the surcharge was applied.

*1 Violation Act 1990-6, Section 17, Title 75, Pa. C.S. §1791.1(a)*

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

*1 Violation Title 75, Pa. C.S. §1793(b)*

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. The violation was the result of the Company not providing the insured with a copy of a surcharge disclosure plan.

*1 Violation Act 1990-6, Section 17, Title 75, Pa. C.S §1791.1(b)*

Requires an insurer to provide an insured a notice of the availability of two alternatives of full tort insurance and limited tort insurance. The Company did not provide the notice of tort options to the insured at the time of application.

2. Renewals

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

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

The Company processes and issues personal automobile policies using an automated system. In order to verify the automated system, several policies were manually rated to ensure the computer had been programmed correctly. Once the computer programming had been verified, only the input data needed to be verified. By reviewing base premiums, territory

assignments, rating symbols, classifications and surcharge disclosures, the examiners were able to determine compliance with the Company's filed and approved rating plans.

Private Passenger Automobile – Renewals Without Surcharges

From the universe of 334 private passenger automobile policies renewed without surcharges during the experience period, 50 files were selected for review. All 50 files selected were received and reviewed. The 334 violations noted were based on the universe of 334 files, resulting in an error ratio of 100%.

The following findings were made:

*334 Violations Act 1990-6, Section 17, Title 75, Pa. C.S §1791.1(b)*

Requires an insurer to provide an insured a notice of the availability of two alternatives of full tort insurance and limited tort insurance. The Company did not provide the notice of tort options to the insured at the time of renewal.

Private Passenger Automobile – Renewals With Surcharges

The universe of 47 private passenger automobile policies renewed with surcharges during the experience period was selected for review. All 47 files selected were received and reviewed. The 95 violations noted were based on the universe of 47 files, resulting in an error ratio of 100%.

The following findings were made:

*47 Violations Act 1990-6, Section 19, Title 75, Pa. C.S. §1799.3(d)*

Requires insurers who make a determination to impose a surcharge, rate penalty or driver record point assignment, to inform the insured of the determination and specify the manner in which the surcharge, rate penalty or driver record point assignment was made and clearly identify the amount of the surcharge or rate penalty on the premium notice for as long as the surcharge or rate penalty is in effect. The 47 files noted did not identify the amount of the surcharge or specify the manner in which the surcharge was applied.

*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 violation was the result of the policy being issued with an improper territory which resulted in an overcharge of \$17.

*47 Violations Act 1990-6, Section 17, Title 75, Pa. C.S. §1791.1(b)*

Requires an insurer to provide an insured a notice of the availability of two alternatives of full tort insurance and limited tort insurance. The Company did not provide the notice of tort options to the insured at the time of renewal.

## **B. Private Passenger Automobile – Assigned Risk**

Lebanon Mutual Insurance Company reports its premium writings for private passenger automobile to the Pennsylvania Assigned Risk Plan. As a result, Lebanon Mutual Insurance Company receives all assignments from the Pennsylvania Assigned Risk Plan.

### **1. New Business**

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

The primary purpose of the review was to determine 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. Review was also made of all the rules and rates of the Assigned Risk Plan, compliance with all provisions of Act 6 of 1990, as well as Title 75, Pa. C.S. Sections 1741, 1742, 1743 and 1744 [40 P.S. §1741, 1742, 1743 and 1744], which establishes the Assigned Risk Plan and requires insurers to abide by the rules of the Plan.

### **Assigned Risk Private Passenger Automobile – New Business – Clean**

The universe of 10 assigned risk private passenger automobile new business policies written as clean during the experience period was selected for review. All 10 files selected were received and reviewed. The violation resulted in an error ratio of 10%.

The following finding was made:

*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 violation was the result of the policy being issued with an improper territory, which resulted in an undercharge of \$48.

Assigned Risk Private Passenger Automobile – New Business – Other Than Clean

The universe of 2 assigned risk private passenger automobile new business policies written as other than clean during the experience period was selected for review. The 2 files selected were received and reviewed. No violations were noted.

Assigned Risk Private Passenger Automobile – Renewals – Clean

The universe of 4 assigned risk private passenger automobile renewal policies written as clean during the experience was selected for review. All 4 files selected were received and reviewed. No violations were noted.

## **C. Homeowners**

### **1. New Business**

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

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

From the universe of 1,398 homeowner policies written as new business without surcharges during the experience period, 50 files were selected for review. All 50 files were received and reviewed. No violations were noted.

### **2. Renewals**

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

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

From the universe of 12,230 homeowner policies renewed without surcharges during the experience period, 50 files were selected for review. All 50 files selected were received and reviewed. No violations were noted.

#### **D. Dwelling Fire**

##### **1. New Business**

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

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

From the universe of 110 dwelling fire policies written as new business during the experience period, 25 files were selected for review. All 25 files selected were received and reviewed. No violations were noted.

##### **2. Renewals**

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

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

with the Insurance Commissioner every manual of classifications, rules and rates, every rating plan and every modification of any rating plan which it proposes to use in the Commonwealth. Also, no insurer shall make or issue a contract or policy except in accordance with filings or rates which are in effect at the time.

From the universe of 988 dwelling fire policies renewed during the experience period, 50 files were selected for review. All 50 files selected were received and reviewed. No violations were noted.

## VII. CLAIMS

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

The Claims review consisted of the following areas of review:

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

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

### **A. Automobile Property Damage Claims**

The universe of 23 private passenger automobile property damage claims reported during the experience period was selected for review. All 23 files requested were received and reviewed. No violations were noted.

## **B. Automobile Comprehensive Claims**

The universe of 17 private passenger automobile comprehensive claims reported during the experience period was selected for review. All 17 files requested were received and reviewed. The violation noted resulted in an error ratio of 6%.

The following finding was made:

### *1 Violation Title 31, Pa. Code, Section 146.6*

Every insurer shall complete investigation of a claim within 30 days after notification of the claim, unless such investigation cannot reasonably be completed within 30 days, and every 45 days thereafter, the insurer shall provide the claimant with a reasonable written explanation for the delay and state when a decision on the claim may be expected. The file noted was absent any evidence this requirement was complied with.

## **C. Automobile Collision Claims**

The universe of 25 private passenger automobile collision claims reported during the experience period was selected for review. All 25 files requested were received and reviewed. The 4 violations noted were based on 2 files, resulting in an error ratio of 8%.

The following findings were made:

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

Every insurer, upon receiving notification of a claim, shall, within ten working days, acknowledge the receipt of such

notice unless payment is made within such period of time. If an acknowledgment is made by means other than writing, an appropriate notation of such acknowledgment shall be made in the claim file of the insurer and dated. Notification given to an agent of an insurer shall be notification to the insurer, dating from the time the insurer receives notice. The Company did not acknowledge the claim within 10 working days.

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

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

*2 Violations Title 31, Pa. Code, Section 146.6*

Every insurer shall complete investigation of a claim within 30 days after notification of the claim, unless such investigation cannot reasonably be completed within 30 days, and every 45 days thereafter, the insurer shall provide the claimant with a reasonable written explanation for the delay and state when a decision on the claim may be expected. The 2 violations noted were absent any evidence this requirement was complied with.

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

The universe of 5 private passenger automobile total loss claims reported during the experience period was selected for review. All 5 files selected were received and reviewed. The violation noted resulted in an error ratio of 20%.

The following finding was made:

*1 Violation Title 31, Pa. Code, Section 62.3(e)(7)*

The appraiser is responsible for ensuring that a copy of the total loss evaluation report be sent within 5 working days to the consumer by the appraiser after the appraisal is completed. If a settlement offer is extended before the consumer receives the total loss evaluation report, the consumer shall be advised of the total loss evaluation report's contents and of the consumer's right to be sent a copy of within 5 days after its completion. The Company did not provide a copy of the total loss evaluation to the insured.

#### **E. Automobile First Party Medical Claims**

The universe of 9 private passenger automobile first party medical claims reported during the experience period was selected for review. All 9 files requested were received and reviewed. The 4 violations noted were based on 2 files, resulting in an error ratio of 22%.

The following findings were made:

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

Requires an insurer to pay bills for care that are not referred to a Peer Review Organization within 30 days after the insurer receives sufficient documentation supporting the bill. The 2 violations noted resulted because the bill was not paid within 30 days.

*2 Violations Title 75, Pa. C.S. §1716*

Payment of Benefits. Benefits are overdue if not paid within 30 days after the insurer receives reasonable proof of the amount of benefits. If reasonable proof is not supplied as to all benefits, the portion supported by reasonable proof is overdue if not paid within 30 days after the proof is received by the insurer. Overdue benefits shall bear interest at the rate of 12% per annum from the date the benefits become due. In the event the insurer is found to have acted in an unreasonable manner in refusing to pay the benefits when due, the insurer shall pay, in addition to the benefits owed and the interest thereon, a reasonable attorney fee based upon actual time expended. The Company did not pay interest on 2 claims that were not paid within 30 days.

**F. Automobile First Party Medical Claims Referred to a PRO**

Although the Company did not report any first party medical claims referred to a peer review organization during the experience period, a copy of a peer review contract was requested for review.

The following finding was made:

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

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

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. Homeowner Claims**

From the universe of 894 homeowner claims reported during the experience period, 50 files were selected for review. All 50 files selected were received and reviewed. The 8 violations noted were based on 7 files, resulting in an error ratio of 14%.

The following findings were made:

*1 Violation Title 31, Pa. Code, Section 146.3*

The claim files of an 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 violation noted was due to an incomplete claim file, which did not contain a proof of loss or information regarding the date of payment or denial.

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

Every insurer, upon receiving notification of a claim, shall, within ten working days, acknowledge the receipt of such notice unless payment is made within such period of time. If an acknowledgment is made by means other than writing, an appropriate notation of such acknowledgment shall be made in the claim file of the insurer and dated. Notification given to an agent of an insurer shall be notification to the insurer, dating from the time the insurer receives notice. The Company did not acknowledge the claim within 10 working days.

*1 Violation Title 31, Pa. Code, Section 146.6*

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

violation noted was absent any evidence this requirement was complied with.

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

Within 15 working days after receipt by the insurer or properly executed proofs of loss, the first-party claimant shall be advised of the acceptance or denial of the claim by the insurer. The 5 violations noted resulted from failure to accept or deny the claim within 15 working days after proof of loss was received.

**H. Dwelling Fire Claims**

The universe of 32 dwelling fire claims reported during the experience period was selected for review. All 32 files selected were received and reviewed. No violations were noted.

## VIII. FORMS

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

The following findings were made:

### Private Passenger Automobile – Renewals Without Surcharges

#### *334 Violations Act 1990-6, 75 Pa. C.S. §1822*

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

of up to \$15,000." The Company did not provide the fraud warning at renewal.

Private Passenger Automobile – Renewals With Surcharges

*47 Violations Act 1990-6, 75 Pa. C.S. §1822*

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

## *IX. ADVERTISING*

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

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

The Company's only method of advertising is the Internet. The Company's 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 the preceding four years. The Company identified 15 consumer complaints received during the experience period and provided all consumer complaint logs requested. All 15 complaints reported, were selected and reviewed.

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

The following findings were made:

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

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

premium when due or for any other reasons approved by the Commissioner. The violation noted was due to an improper reason for cancellation.

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

Requires that a cancellation notice shall state the specific reasons for cancellation. The reasons shall identify the condition, factor or loss experience, which caused the cancellation. The notice shall provide sufficient information or data for the insured to correct the deficiency. The file noted was absent any evidence this requirement was complied with.

*1 Violation Title 31, Pa. Code, Section 146.4(a)*

Misrepresentation of policy provisions. An insurer or agent may not fail to fully disclose to first-party claimants pertinent benefits, coverages or other provisions of an insurance policy or insurance contract under which a claim is presented. The Company depreciated the value of the insured's furnace, when the insured had replacement cost coverage for the furnace.

The following synopsis reflects the nature of the 15 complaints that were reviewed.

• 5	Cancellation/Nonrenewal	33%
• 2	Lapse in Coverage	14%
• 5	Claims Related	33%
• 1	Increase in Premium	6%
• 2	Miscellaneous	14%
<hr/>		<hr/>
15		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. Underwriting files, applications, agency contracts and commission statements were also checked to verify proper licensing and appointment. No violations were noted.

## **XII. RECOMMENDATIONS**

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

1. The Company should review and revise internal control procedures to ensure compliance with the claims handling requirements of Title 31, Pennsylvania Code, Chapter 146, Unfair Claims Settlement Practices so that the violations noted in the Report do not occur in the future.
2. The Company must review Title 31, Pa. Code, Section 69.52(b) with its claim staff to ensure that first party medical bills are paid within 30 days.
3. The Company must review the first party medical claims, which have not been paid within 30 days. Those claims that have not been paid within 30 days shall bear interest at the rate of 12% annum from the date the benefits become due. The interest amount must be paid and proof of such payment must be provided to the Insurance Department within 30 days of the Report issue date.
4. The Company must have a contract in place with a Peer Review Organization for the provision of peer review services to ensure compliance with Title 31, Pa. Code, Section 69.53(a) and Act 1990-6, Title 75, Pa. C.S. §1797(b)(1).

5. The Company must review Act 205, Section 5(a)(4) [40 P.S. §1171.5(a)(4)] to ensure that the violation relative to supporting coverage noted in the Report does not occur in the future.
6. The Company must review Act 205, Section 5(a)(9) [40 P.S. §1171.5(a)(9)] to ensure compliance with cancellation and nonrenewal notice requirements so that the violations noted in the Report do not occur in the future.
7. The Company must review Title 31, Pa. Code, Section 59.9(b) to ensure compliance relative to property policies cancelled within the first 60 days of new business, so that the violations noted in the Report do not occur in the future.
8. The Company must review and revise internal control procedures to ensure compliance with cancellation notice requirements of Act 68, Sections 2004 and 2006 [40 P.S. §991.2004 and 2006], so that the violations noted in the Report do not occur in the future.
9. The Company must review Title 75, Pa. C.S. 1793(b) to ensure that violations of the types noted in the Report do not occur in the future.
10. The Company must review Act 1990-6, Section 17, Title 75, Pa. C.S. §1791.1(a) and (b) to ensure that violations of the types noted in the Report do not occur in the future.
11. The Company must review and revise internal control procedures to ensure compliance with Act 1990-6, Section 19, Title 75, Pa. C.S.

§1799.3(d) so that the violations noted in the Report do not occur in the future.

12. The premium overcharge noted in the rating section of this report must be refunded to the insured and proof of such refund must be provided to the Insurance Department within 30 days of the report issue date.
13. The Company must review and revise internal control procedures to ensure compliance relative to commercial cancellation and nonrenewal requirements of Act 86, Sections 2, 3, 4 and 7 [40 P.S. §§3402, 3403, 3404 and 3407], so that the violations noted in the Report do not occur in the future.
14. The Company must reinforce its internal underwriting controls to ensure that notices of premium increase are provided to the named insured and meet the requirements of Act 86, Section 1 (40 P.S. §3401).
15. The Company must ensure that all applications for insurance, claim forms and renewals contain a statement that clearly states in substance the following: "Any person who knowingly and with intent to injure or defraud any insurer files an application or claim containing false, incomplete information 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." This is to ensure that violations noted under Act 1990-6, Title 75, Pa. C.S. §1822 do not occur in the future.
16. The Company must reinforce its internal underwriting controls to ensure that all records and documents are maintained in accordance with

Insurance Department Act, Section 903(a) [40 P.S. §323.3], so that violations noted in the Report do not occur in the future.

**XIII. COMPANY RESPONSE**

**No response received from Company**