

**REPORT OF  
MARKET CONDUCT EXAMINATION  
OF**

**LEADER SPECIALTY INSURANCE COMPANY**  
Irving, Texas

**AS OF  
November 18, 2005**

**COMMONWEALTH OF PENNSYLVANIA**



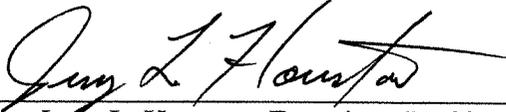
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Web Site*

**INSURANCE DEPARTMENT  
MARKET CONDUCT DIVISION**

**Issued: January 12, 2006**

VERIFICATION

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

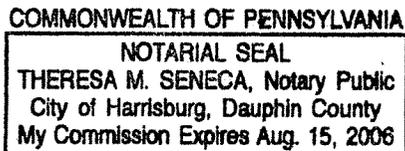
  
\_\_\_\_\_  
Jerry L. Houston, Examiner-In-Charge

Sworn to and Subscribed Before me

This *7* Day of *September*, 2005



\_\_\_\_\_  
Notary Public



**LEADER SPECIALTY INSURANCE COMPANY**

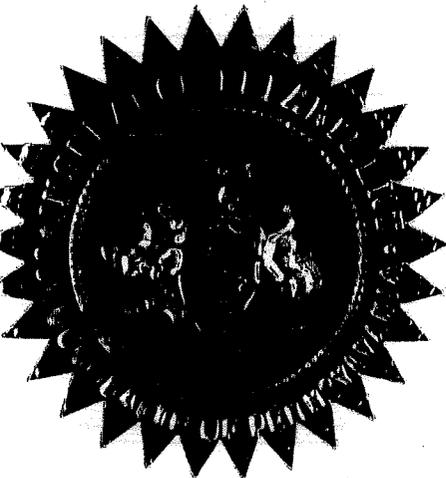
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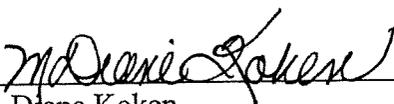
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BEFORE THE INSURANCE COMMISSIONER  
OF THE  
COMMONWEALTH OF PENNSYLVANIA

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:
	:	
LEADER SPECIALTY INSURANCE	:	Sections 641.1-A and 671-A of Act
COMPANY	:	147 of 2002 (40 P.S. §§ 310.41 and
5205 North O'Connor Boulevard	:	310.71)
Irving, TX 75039	:	
	:	Act 1990-6, Sections 1705(a)(1)&(4),
	:	1716, 1791.1(a), 1791.1(b), 1793(b),
	:	and 1799.3(d) (Title 75, Pa.C.S. §§
	:	1705, 1716, 1791, 1793 and 1799)
	:	
	:	Sections 2003(a)(12), 2004 and
	:	2006(2) of Act 68 of 1998 (40 P.S.
	:	§§991.2003, 991.2004 and 991.2006)
	:	
	:	Sections 4(a) and 4(h) of the Act of
	:	June 11, 1947, P.L. 538, No. 246
	:	(40 P.S. §§ 1184)
	:	
	:	Title 31, Pennsylvania Code, Sections
	:	69.22(c), 69.52(b), 146.3, 146.5(a),
	:	146.5(d), 146.6, 146.7(a)(1) and
	:	146.7(c)(1)
	:	
	:	Title 75, Pennsylvania Consolidated
	:	Statutes, Sections 1161(a) and (b)
	:	
	:	
Respondent.	:	Docket No. MC05-12-015

CONSENT ORDER

AND NOW, this 12<sup>th</sup> day of January, 2006, 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 Leader Specialty Insurance Company, and maintains its address at 5205 North O'Connor Boulevard, Irving, Texas 75039.
- (b) A market conduct examination of Respondent was conducted by the Insurance Department covering the period from January 1, 2004 through December 31, 2004.

- (c) On November 18, 2005, the Insurance Department issued a Market Conduct Examination Report to Respondent.
  
- (d) A response to the Examination Report was provided by Respondent on December 19, 2005.
  
- (e) The Examination Report notes violations of the following:
  - (i) Section 641.1-A of Act 147 of 2002 prohibits any entity or the appointed agent of any entity from transacting the business of insurance through anyone acting without an insurance producer license (40 P.S. § 310.41a);
  
  - (ii) Section 671-A of Act 147 of 2002 prohibits producers from transacting business within this Commonwealth without written appointment as required by the Act (40 P.S. § 310.71).
  
  - (iii) Sections 1705(a)(1) & (4) of Act 1990-6, Title 75, Pa.C.S. § 1705, which requires every insurer, prior to the issuance of a private passenger motor vehicle liability insurance policy to provide each applicant an opportunity to elect a tort option. A policy may not be issued unless the applicant has been provided an opportunity to elect a tort option;

- (iv) Section 1716 of Act 1990-6, Title 75, Pa. C.S. § 1716, which requires that benefits are overdue if not paid within 30 days after the insurer receives reasonable proof of the amount of benefits. If reasonable proof is not supplied as to all benefits, the portion supported by reasonable proof is overdue if not paid within 30 days after the proof is received by the insurer. Overdue benefits shall bear interest at the rate of 12% per annum from the date the benefits become due. In the event the insurer is found to have acted in an unreasonable manner in refusing to pay the benefits when due, the insurer shall pay, in addition to the benefits owed and the interest thereon, a reasonable attorney fee based upon actual time expended;
- (v) 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;

- (vi) Section 1791.1(b) of Act 1990-6, Title 75, Pa.C.S. § 1791, which requires an insurer to provide an insured with a notice of the availability of two alternatives of full tort insurance and limited tort insurance;
- (vii) 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;
- (viii) 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;

- (ix) Section 2003(a)(12) of Act 68 of 1998 (40 P.S. § 991.2003), which prohibits an insurer from canceling or refusing to write or renew a policy of automobile insurance for illness or permanent or temporary disability where the insured can medically document that such illness or disability will not impair his ability to operate a motor vehicle. Failure to provide such documentation shall be proper reason for the insurer to amend the policy of the named insured to exclude such disabled insured from coverage under the policy after the effective date of such policy amendment, but shall not be proper reason to cancel or refuse to write or renew the policy;
  
- (x) Section 2004 of Act 68 of 1998 (40 P.S. § 991.2004), which requires that no insurer shall cancel a policy of automobile insurance except for nonpayment of premium, suspension or revocation of the named insured's driver license or motor vehicle registration or a determination that the insured has concealed a material fact or has made a material allegation contrary to fact or has made a misrepresentation of material fact and that such concealment, allegation or misrepresentation was material to the acceptance of the risk by the insurer;
  
- (xi) 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 nonrenewal notice and state the specific reason or reasons of the insurer for cancellation;

- (xii) 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;
  
- (xiii) Title 31, Pennsylvania Code, Section 69.22(c), which requires the insurer, when an insured's first-party limits have been exhausted, to provide notice to the provider and the insured within 30 days of the receipt of the provider's bill;
  
- (xiv) Title 31, Pennsylvania Code, Section 69.52(b), which requires an insurer to pay medical bills for care that are not referred to a Peer Review Organization within 30 days after the insurer receives sufficient documentation supporting the bill;
  
- (xv) Title 31, Pennsylvania Code, Section 146.3, requires the claim files of the insurer be subject to examination by the Commissioner or by appointed designees. The 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;

(xvi) Title 31, Pennsylvania Code, Section 146.5(a), which requires every insurer, upon receiving notification of a claim, shall, within 10 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;

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

(xviii) 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;

- (xix) 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;
- (xx) Title 31, Pennsylvania Code, Section 146.7(c)(1), which states if the insurer needs more time to determine whether a first-party claim should be accepted or denied, it shall so notify the first-party claimant within 15 working days after receipt of the proofs of loss giving the reasons more time is needed. If the investigation remains incomplete, the insurer shall, 30 days from the date of the initial notification and every 45 days thereafter, send to the claimant a letter setting forth the reasons additional time is needed for investigation and state when a decision on the claim may be expected; and
- (xxi) Title 75, Pennsylvania Consolidated Statutes, Section 1161(a) and (b), which states:
- (a) Except as provided in sections 1162 and 1163, a person who owns or possesses or transfers a vehicle located or registered in this Commonwealth

which qualifies as a salvage vehicle shall make application to the Department for a certificate of salvage for that vehicle, and

(b) An owner who transfers a vehicle to be destroyed or dismantled, salvaged or recycled shall assign the certificate of title to the person to whom the vehicle is transferred. Except as provided in section 1163, the transferee shall immediately present the assigned certificate of title to the Department or an authorized agent of the Department with an application for a certificate of salvage upon a form furnished and prescribed by the Department. An insurer as defined in section 1702 to which title to a vehicle is assigned upon payment to the insured or claimant of the replacement value of a vehicle shall be regarded as a transferee under this subsection. If an owner retains possession of a vehicle which is damaged to the extent that it qualifies for vehicle replacement payment, the owner shall apply for a certificate of salvage immediately. In this case, an insurer shall not pay vehicle replacement value until the owner produces evidence to the insurer that the certificate of salvage has been issued.

#### CONCLUSIONS OF LAW

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

- (a) Respondent is subject to the jurisdiction of the Pennsylvania Insurance Department.
- (b) Respondent's violations of Sections 641.1-A and 671-A of Act 147 of 2002 are punishable by the following, under Section 691-A of Act 147 of 2002 (40 P.S. § 310.91):
- (i) suspension, revocation or refusal to issue the certificate of qualification or license;
  - (ii) imposition of a civil penalty not to exceed five thousand dollars (\$5,000.00) for every violation of the Act;
  - (iii) an order to cease and desist; and
  - (iv) any other conditions as the Commissioner deems appropriate.
- (c) Respondent's violations of Sections 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).
- (d) 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 willful 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.
- (e) Respondent's violations of Title 31, Pennsylvania Code, Sections 146.3, 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):
- (i) cease and desist from engaging in the prohibited activity;
  - (ii) suspension or revocation of the license(s) of Respondent.
- (f) In addition to any penalties imposed by the Commissioner for Respondent's violations of the Unfair Insurance Practices Act (40 P.S. §§ 1171.1 – 1171.5), the Commissioner may, under Sections 10 and 11 of the Unfair Insurance Practices Act (40 P.S. §§ 1171.10, 1171.11) file an action in which the Commonwealth Court may impose the following civil penalties:

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

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 Thirty Thousand Dollars (\$30,000.00) 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, 1227 Strawberry Square, Harrisburg, Pennsylvania 17120. Payment must be made no later than thirty (30) days after the date of this Order.

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

7. Alternatively, in the event the Deputy Commissioner finds that there has been a breach of any of the provisions of this Order, the Deputy Commissioner may declare this Order to be null and void and, thereupon, reopen the entire matter for appropriate

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

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

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

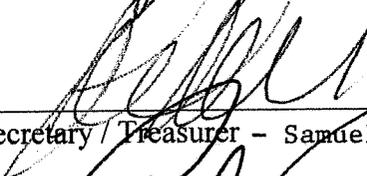
10. This Order constitutes the entire agreement of the parties with respect to the matters referred to herein, and it may not be amended or modified except by an amended order signed by all the parties hereto.

11. This Order shall be final upon execution by the Deputy Insurance Commissioner. Only the Insurance Commissioner or a duly authorized Deputy Insurance Commissioner is authorized to bind the Insurance Department with respect to the settlement of the alleged violations of law contained herein, and this Consent

Order is not effective until executed by the Insurance Commissioner or a duly authorized Deputy Insurance Commissioner.

BY: LEADER SPECIALTY INSURANCE  
COMPANY, Respondent

  
\_\_\_\_\_  
President / Vice President - Tommy J. Stone

  
\_\_\_\_\_  
Secretary / Treasurer - Samuel J. Simon

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

## I. INTRODUCTION

The market conduct examination was conducted at Leader Specialty Insurance Company's office located in Irving, Texas from May 9, 2005, through June 24, 2005. Subsequent review and follow-up was conducted in the office of the Pennsylvania Insurance Department.

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

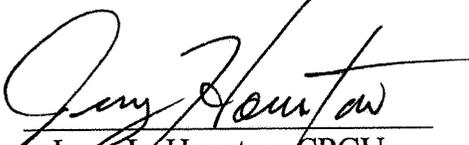
In certain areas of review listed in this Report, the examiners will refer to "error ratio." This error ratio is calculated by dividing the number of policies with violations by the total number of policies reviewed. For example, if 100 policies are reviewed and it is determined that there are 20 violations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

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

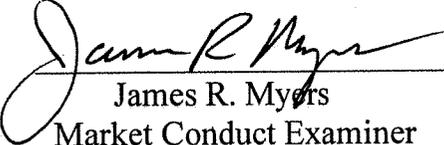
The courtesy and cooperation extended by the officers and employees of the Company during the course of the examination is hereby acknowledged.

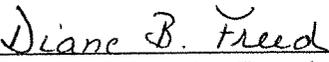
The undersigned participated in this examination and in preparation of this Report.

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

  
\_\_\_\_\_  
Jerry L. Houston, CPCU  
Market Conduct Examiner

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

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

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

## **II. SCOPE OF EXAMINATION**

The Market Conduct Examination was conducted on Leader Specialty Insurance Company, hereinafter referred to as "Company," at their office located in Irving, Texas. The examination was conducted pursuant to Sections 903 and 904 (40 P.S. §§323.3 and 323.4) of the Insurance Department Act and covered the experience period of January 1, 2004, through December 31, 2004, unless otherwise noted. The purpose of the examination was to determine the Company's compliance with Pennsylvania insurance laws and regulations.

The examination focused on Company operations in the following areas:

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

### III. COMPANY HISTORY AND LICENSING

Leader Specialty Insurance Company was originally incorporated under the laws of Indiana on March 10, 1994. On April 12, 1994, Leader National Insurance Company (now known as Leader Insurance Company) acquired 100% of the outstanding common stock of Leader Specialty Insurance Company. On January 1, 2005, Leader Insurance Company distributed an extraordinary dividend to Infinity Insurance Company, an affiliated company, which included all of the issued and outstanding shares of capital stock of Leader Specialty Insurance Company. As a result, Infinity Insurance Company became the immediate parent of Leader Specialty Insurance Company.

Infinity Insurance Company is a direct wholly-owned subsidiary and Leader Specialty Insurance Company is an indirect wholly-owned subsidiary of Infinity Property & Casualty Corporation ("IPCC"). IPCC is an Ohio corporation, the common stock of which is publicly traded on the Nasdaq National Market under the symbol "IPCC." IPCC is a holding company which, through its sixteen (16) direct and indirect insurance company subsidiaries, is engaged primarily in the private passenger automobile insurance business.

#### LICENSING

Leader Specialty Insurance Company's Certificate of Authority to write business in the Commonwealth was last issued on April 1, 2005. The Company is licensed in Alaska, Arkansas, Florida, Indiana, Iowa, Kentucky, Maryland, Mississippi, Montana, Nebraska, North Dakota, Ohio, Pennsylvania, South Carolina, South Dakota, Texas and Wyoming and the District of Columbia. The Company's 2004 annual statement reflects Direct Written Premium for all lines of business in the

Commonwealth of Pennsylvania as \$14,266,993. Premium volume related to the areas of this review were: Private Passenger Automobile Direct Written Premium was reported as Private Passenger Automobile No-Fault (personal injury protection) \$4,084,489; Other Private Passenger Automobile Liability \$5,949,951 and Private Passenger Automobile Physical Damage \$4,232,553.

#### **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. The purpose of this review was to identify any inconsistencies which could be considered discriminatory, specifically prohibited by statute or regulation, or unusual in nature. No violations were noted.

## V. UNDERWRITING

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

#### 1. 60-Day Cancellations

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

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

From the universe of 2,458 private passenger automobile files identified as being cancelled in the first 60 days of new business, 88 files were selected for review. All 88 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 1,429 private passenger automobile files identified as midterm cancellations by the Company, 45 files were selected for review. All 45 files selected were received and reviewed. The 22 violations noted were based on 14 files, resulting in an error ratio of 31%.

The following findings were made:

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

Requires that no insurer shall cancel a policy of automobile insurance except for nonpayment of premium, suspension or revocation of the named insured's driver license or motor vehicle registration or a determination that the insured has concealed a material fact or has made a material allegation contrary to fact or has made a misrepresentation of material fact and that such concealment, allegation or misrepresentation was material to the acceptance of the risk by the insurer. The 14 files noted were cancelled for other than permitted reasons.

*8 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 Company did not provide the proper number of days notice on the 8 files noted.

### 3. Nonrenewals

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

The 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 3 private passenger automobile files identified as nonrenewals by the Company was selected for review. All 3 files selected were received and reviewed. No violations were noted.

### 4. Rescissions

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

The primary purpose of the review was to determine compliance with Act 68, Section 2003 [40 P.S. §991.2003], which establishes conditions under which action by the insurer is prohibited. The review also determines compliance with the rescission requirements established by the Supreme Court of Pennsylvania in *Erie Insurance Exchange v. Lake*.

The universe of 52 private passenger automobile files identified as rescissions by the Company was selected for review. All 52 files selected were received and reviewed. No violations were noted.

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

The Company is an excused carrier under the assigned risk Limited Assignment Distribution procedure. Under this procedure groups of companies not under common ownership or management may form a Limited Assignment Distribution (LAD) arrangement. Each LAD arrangement has one servicing company, which writes assigned risk business on behalf of those members, which choose to buy out from their private passenger quota. As part of this arrangement the Company wrote no assigned risk business during the experience period.

## VI. RATING

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

#### 1. New Business

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

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

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

Private Passenger Automobile – New Business Without Surcharges

From the universe of 314 private passenger automobile policies identified as new business without surcharges by the Company, 50 files were selected for review. All 50 files requested were received and reviewed. The 632 violations were based on the universe of 314 files, resulting in an error ratio of 100%.

The following findings were made:

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

Requires every insurer, prior to the issuance of a private passenger motor vehicle liability insurance policy to provide each applicant with the notice required by paragraph (1). A policy may not be issued unless the applicant has been provided an opportunity to elect a tort option. The 4 violations noted were the result of policies issued with limited tort and no evidence of a signed limited tort selection form.

*314 Violations 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 Company did not provide the itemized invoice at the time of application.

*314 Violations Title 75, Pa. C.S §1791.1(b)*

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

Private Passenger Automobile – New Business With Surcharges

The universe of 51 private passenger automobile policies identified as new business with surcharges was selected for review. All 51 files requested were received and reviewed. The 156 violations noted were based on the universe of 51 files, resulting in an error ratio of 100%.

The following findings were made:

*1 Violation 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 with the notice required by paragraph (1). A policy may not be issued unless the applicant has been provided an opportunity to elect a tort option. The violation

noted was the result of a policy issued with limited tort and no evidence of a signed limited tort selection form.

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

Requires every insurer to file with the Insurance Commissioner every manual of classifications, rules and rates, every rating plan and every modification of any rating plan, which it proposes to use in the Commonwealth. Also, no insurer shall make or issue a contract or policy except in accordance with filings or rates, which are in effect at the time of issue. The 2 violations were the result of policies being issued with improper surcharges which resulted in overcharges of \$143.

*51 Violations 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 Company did not provide the itemized invoice at the time of application.

*51 Violations Title 75, Pa. C.S §1791.1(b)*

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

*51 Violations Title 75, Pa. C.S. §1799.3(d)*

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

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 96 private passenger automobile policies renewed without surcharges during the experience period, 25 files were selected for review. All 25 files selected were received and reviewed. The 192 violations noted were based on the universe of 96 files, resulting in an error ratio of 100%.

The following findings were made:

*96 Violations 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 Company did not provide the itemized invoice at renewal.

*96 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 96 violations were the result of the Company not providing the insured with a copy of a surcharge disclosure plan at renewal.

### Private Passenger Automobile – Renewals With Surcharges

The universe of 13 private passenger automobile policies renewed with surcharges during the experience period was selected for review. All 13 files selected were received and reviewed. The 39 violations noted were based on the universe of 13 files, resulting in an error ratio of 100%.

The following findings were made:

#### *13 Violations 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 Company did not provide the itemized invoice at renewal.

*13 Violations Title 75, Pa. C.S. §1799.3(d)*

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

*13 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 13 violations were the result of the Company not providing the insured with a copy of a surcharge disclosure plan at renewal.

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

The Company is an excused carrier under the assigned risk Limited Assignment Distribution procedure. Under this procedure groups of companies not under common ownership or management may form a Limited Assignment Distribution (LAD) arrangement. Each LAD arrangement has one servicing company, which writes assigned risk business on behalf of those members, which choose to buy out from their

private passenger quota. As part of this arrangement, the Company wrote no assigned risk business during the experience period.

## 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

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

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

From the universe of 1,098 private passenger automobile property damage claims reported during the experience period, 200 files were selected for review. All 200 files requested were received and reviewed. The 16 violations were based on 16 files, resulting in an error ratio of 8%.

The following findings were made:

*2 Violations Title 31, Pa. Code, Section 146.5(a)*

Every insurer, upon receiving notification of a claim, shall, within ten working days, acknowledge the receipt of such notice unless payment is made within such period of time. If an acknowledgment is made by means other than writing, an appropriate notation of such acknowledgment shall be made in the claim file of the insurer and dated. Notification given to an agent of an insurer shall be notification to the insurer, dating from the time the insurer receives notice. The Company did not acknowledge the claim within 10 working days for the 2 claim files noted.

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

Every insurer shall complete investigation of a claim within 30 days after notification of the claim, unless such investigation cannot reasonably be completed within 30 days, and every 45 days thereafter, the insurer shall provide the claimant with a reasonable written explanation for the delay and state when a decision on the claim may be expected. The Company did not provide timely status letters for the 14 claim files noted.

**B. Automobile Comprehensive Claims**

From the universe of 148 private passenger automobile comprehensive claims reported during the experience period, 75 files were selected for review. All 75 files requested were received and reviewed. No violations were noted.

### **C. Automobile Collision Claims**

From the universe of 601 private passenger automobile collision claims reported during the experience period, 200 files were selected for review. All 200 files requested were received and reviewed. The violation noted resulted in an error ratio of less than 1%.

The following finding was made:

*1 Violation Act 68, Section 2003(a)(12) [40 P.S. §991.2003(a)(12)]*  
Discrimination Prohibited. An insurer may not cancel or refuse to write or renew a policy of automobile insurance for illness or permanent or temporary disability where the insured can medically document that such illness or disability will not impair his ability to operate a motor vehicle. Failure to provide such documentation shall be proper reason for the insurer to amend the policy of the named insured to exclude such disabled insured from coverage under the policy while operating a motor vehicle after the effective date of such policy amendment but shall not be proper reason to cancel or refuse to write or renew the policy. The Company cancelled the policy because the insured did not provide a physician statement for anyone 70 years or older.

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

The Company was asked to provide a list of all private passenger automobile total loss claims during the experience period. The Company was unable to produce this list as they do not capture or identify specific claim files for total loss. During the examination of comprehensive, collision and property damage liability claims, the examiners identified 38

files that involved total loss settlements. The 5 violations noted were based on 5 files, resulting in an error ratio of 13%.

The following findings were made:

*3 Violations Title 75, Pa. C.S. §1161(a)&(b) – Certificate of Salvage Required.*

(a) General rule – Except as provided in Sections 1162 and 1163, a person, including an insurer or self-insurer as defined in Section 1702 (relating to definitions), who owns, possesses or transfers a vehicle located or registered in the Commonwealth which qualifies as a salvage vehicle shall make application to the Department for a certificate of salvage for that vehicle.

(b) Application for certificate of salvage. – An owner who transfers a vehicle to be destroyed or dismantled, salvaged or recycled shall assign the certificate of title to the person to whom the vehicle is transferred. Except as provided in Section 1163, the transferee shall immediately present the assigned certificate of title to the Department or an authorized agent of the Department with an application for a certificate of salvage upon a form furnished and prescribed by the Department. An insurer as defined in Section 1702 to which title to a vehicle is assigned upon payment to the insured or claimant of the replacement value of a vehicle shall be regarded as a transferee under this subsection. The 3 files noted did not reflect a salvage title was obtained.

*2 Violations 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 2 files noted were incomplete. They did not have the total loss evaluation report included in the file.

**E. Automobile First Party Medical Claims**

From the universe of 429 private passenger automobile first party medical claims reported during the experience period, 100 claim files were selected for review. All 100 files requested were received and reviewed. The 56 violations noted were based on 29 files, resulting in an error ratio of 29%.

The following findings were made:

*6 Violations 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 6 violations noted were the result of not providing claimants with the application for benefits within ten working days.

*3 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 Company did not provide a copy of the claim denial letter for the 3 files noted.

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

If the insurer needs more time to determine whether a first-party claim should be accepted or denied, it shall so notify the first-party claimant within 15 working days after receipt of the proofs of loss giving the reasons more time is needed. If the investigation remains incomplete, the insurer shall, 30 days from the date of the initial notification and every 45 days thereafter, send to the claimant a letter setting forth the reasons additional time is needed for investigation and state when a decision on the claim may be expected. The Company did not provide a 30 day status letter to the claimant for the 2 claim files noted.

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

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

*22 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 22 violations noted resulted because the bills were not paid within 30 days.

*21 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 21 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 Company provided a copy of a contract that was in place during the experience period. No violations were noted.

### VIII. FORMS

Throughout the course of the examination, all underwriting files were reviewed to identify the policy forms used in order to verify compliance with Insurance Company Law, Section 354 (40 P.S. §477b), Approval of Policies, Contracts, etc., Prohibiting the Use Thereof Unless Approved. During the experience period of the examination, Section 354 provided that it shall be unlawful for any insurance company to issue, sell, or dispose of any policy contract or certificate covering fire, marine, title and all forms of casualty insurance or use applications, riders, or endorsements in connection therewith, until the forms have been submitted to and formally approved by the Insurance Commissioner. All underwriting and claim files were also reviewed to verify compliance with Act 165 of 1994 [18 Pa. CS §4117(k)(1)] and Title 75, Pa. C.S. §1822 which requires all insurers to provide an insurance fraud notice on all applications for insurance, all claims forms and all renewals of coverage. No violations were noted.

## *IX. ADVERTISING*

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

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

The Company provided 1 brochure that was used during the experience period. The Company does not advertise via the Internet. 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 35 consumer complaints received during the experience period and provided all consumer complaint logs requested. All 35 complaints reported were selected, received and reviewed.

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

The following finding was made:

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

Requires an insurer to deliver or mail to the named insured a nonrenewal 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.

*AND*

*Adjudication: Nationwide Insurance Company v. PA Insurance Department, P00-02-012 (2000).*

When calculating the number of days, the first mailing date and the last effective date of cancellation are excluded. The Company did

not provide 15 days notice of cancellation for nonpayment of premium.

The following synopsis reflects the nature of the 35 complaints that were reviewed.

• 23	Cancellation/Nonrenewal	66%
• 8	Claims Related	23%
• 4	Premium Related	11%
<hr/>		<hr/>
35		100%

## XI. LICENSING

In order to determine compliance by the Company and its agency force with the licensing requirements applicable to Section 641.1(a) [40 P.S. §310.41(a) and Section 671-A [40 P.S. §310.71] of the Insurance Department Act No 147, the Company was requested to furnish a list of all active producers during the experience period and a listing of all producers terminated during the experience period. Underwriting files were checked to verify proper licensing and appointment. The following violations were noted.

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

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

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

ACI Insurance Agency, Inc.  
B&R Enterprises  
The Insurance Masters  
Jack Moore Agency

Olney Business Center  
R. Park Insurance Agency, Inc.

*24 Violations Insurance Department Act, No. 147, Section 671-A*

*[40 P.S. §310.71]*

(a) Representative of the insurer – An insurance producer shall not act on behalf of or as a representative of the insurer unless the insurance producer is appointed by the insurer. An insurance producer not acting as a representative of an insurer is not required to be appointed.

(b) Representative of the consumer – An insurance producer acting on behalf of or representing an insurance consumer shall execute a written agreement with the insurance consumer prior to representing or acting on their behalf that:

(1) Delineates the services to be provided; and

(2) Provides full and complete disclosure of the fee to be paid to the insurance producer by the insurance consumer.

(c) Notification to Department – An insurer that appoints an insurance producer shall file with the Department a notice of appointment. The notice shall state for which companies within the insurer's holding company system or group the appointment is made.

(d) Termination of appointment – Once appointed, an insurance producer shall remain appointed by an insurer until such time as the insurer terminates the appointment in writing to the insurance producer or until the insurance producer's license is suspended, revoked or otherwise terminated.

(e) Appointment fee – An appointment fee of \$12.50 will be billed annually to the insurer for each producer appointed by the insurer

during the preceding calendar year regardless of the length of time the producer held the appointment with the insurer. The appointment fee may be modified by regulation.

(f) Reporting – An insurer shall, upon request, certify to the Department the names of all licensees appointed by the insurer.

The following producers were found to be writing policies but were not found in Insurance Department records as having an appointment. The Company failed to file a notice of appointment and submit appointment fees to the Department.

1<sup>st</sup> Rate Financial Inc.  
Accu-rate Insurance Agency  
Ames Insurance Service, Inc.  
Atlantic Insurance Agency (Allentown)  
Auto Mall Insurance Store Inc.  
Capehart Agency  
Combined Insurance Group, Ltd.  
D & L Business Service  
Danny's Auto Tags  
Demsko Agency  
EZ Tags  
Insurance Connection  
Juniata Insurance Agency, Inc.  
Keystone Insurance & Financial Service  
Laughlin, Inc.  
J. Levin's Autosure  
Maxwell Levin Insurance Agency  
Liberty Business Center  
Millison Agency/Craig Millison  
National Insurance Agency, Inc.  
Dennis O'Neill/I.I.I.  
Susan Seidman Insurance  
VIHI, Inc.  
McIlrath Insurance Agency

## **XII. RECOMMENDATIONS**

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

1. The Company must review and revise internal control procedures to ensure compliance with cancellation notice requirements of Act 68, Sections 2003, 2004 and 2006 [40 P.S. §991.2003, 2004 and 2006], so that the violations noted in the Report do not occur in the future.
2. The Company must revise its underwriting procedures to ensure that each applicant for private passenger automobile liability insurance is provided an opportunity to elect a tort option and that signed tort option selection forms are obtained and retained with the underwriting file. This is to ensure that violations noted under Title 75, Pa. C.S. §1705(a)(1)(4) do not occur in the future.
3. The Company must review Title 75, Pa. C.S. §1791.1(a) to ensure that violations of providing an itemized invoice listing minimum coverages at the time of application and every renewal thereafter, as noted in the Report, do not occur in the future.
4. The Company must review Title 75, Pa. C.S. 1791.1(b) to ensure that violations of providing the tort options at the time of application, as noted in the Report, do not occur in the future.

5. The Company must review Title 75, Pa. C.S. 1793(b) to ensure that violations regarding the requirement to provide the insured with a surcharge disclosure plan at the time of renewal, as noted in the Report, do not occur in the future.
6. When a surcharge is imposed on a private passenger automobile policy the Company must include specifics of accidents and citations and give notice to the insured. This procedure must be implemented within 30 days of the Report issue date. This is to ensure that violations noted under Title 75, Pa. C.S. §1799.3(d) do not occur in the future.
7. The Company must review Act 246, Section 4 [40 P.S. §1184] and take appropriate measures to ensure the automobile rating violations listed in the report do not occur in the future.
8. The premium overcharges noted in the rating section of this report must be refunded to the insureds and proof of such refunds must be provided to the Insurance Department within 30 days of the report issue date.
9. The Company should review and revise internal control procedures to ensure compliance with the claims handling requirements of Title 31, Pennsylvania Code, Chapter 146, Unfair Claims Settlement Practices so that the violations relating to incomplete claim files, providing claim forms, status letters, claim acknowledgement and denials as noted in the Report do not occur in the future.
10. 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.

11. The Company must review the first party medical claims, which have not been paid within 30 days. Those claims that have not been paid within 30 days shall bear interest at the rate of 12% annum from the date the benefits become due as required by Title 75, Pa. C.S. §1716. The interest amount must be paid to the claimant and proof of such payment must be provided to the Insurance Department within 30 days of the Report issue date.
  
12. The Company must review Title 31, Pa. Code, Section 69.22 with its claim staff to ensure that the insured and provider is properly notified that first-party medical benefits have been exhausted.
  
13. The Company must review Title 75, Pa. C.S. §1161(a)&(b) with its claim staff to ensure that salvage certificates are obtained and are retained with the claim file.
  
14. The Company must ensure all producers are properly licensed and appointed, as required by Section 641.1(a) and Section 671-A [40 P.S. §310.41(a) and 40 P.S. §310.71] of the Insurance Department Act No. 147, prior to accepting any business from any producer.

**XIII. COMPANY RESPONSE**



December 15, 2005

**VIA UPS OVERNIGHT DELIVERY**

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

**RE: Company Response to the Report of Examination Warrant Number: 05-M19-009;  
Leader Specialty Insurance Company**

Dear Mr. Derk:

On behalf of Leader Specialty Insurance Company (the "Company"), please allow this letter to serve as our response to the Report of Examination Warrant Number 05-M19-009 (the "Report"), which was received with your cover letter dated November 18, 2005.

We respectfully submit our response (to be included as section XIII. Company Response) to the items appearing in the Report under section XII. Recommendations.

1. The Company must review and revise internal control procedures to ensure compliance with cancellation notice requirements of Act 68, Sections 2003, 2004 and 2006 (40 P.S. §991.2003, 2004 and 2006), so that the violations noted in the Report do not occur in the future.

The Company accepts this recommendation and has reviewed its system programs and internal controls to ensure compliance with respect to the midterm cancellation requirements of Act 68, Sections 2003, 2004 and 2006 (40 P.S. §991.2003, 2004 and 2006).

2. The Company must revise its underwriting procedures to ensure that each applicant for private passenger automobile liability insurance is provided an opportunity to elect a tort option and that signed tort option selection forms are obtained and retained with the underwriting file. This is to ensure that violations noted under Title 75, Pa. C.S. §1705(a)(1)(4) do not occur in the future.

The Company accepts this recommendation and has revised its underwriting procedures to ensure that each applicant for private passenger automobile liability insurance is provided an opportunity to elect a tort option and that signed tort option selection forms are obtained and retained with the underwriting file.

3. The Company must review Title 75, Pa. C.S. §1791.1(a) to ensure that violations of providing an itemized invoice listing minimum coverages at the time of application and every renewal thereafter, as noted in the Report, do not occur in the future.

The Company accepts this recommendation and will implement the necessary changes to effectuate compliance with Title 75, Pa. C.S. §1791.1(a).

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Legal Compliance Department  
Infinity Insurance Companies  
11700 Great Oaks Way, Alpharetta, GA 30022

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4. The Company must review Title 75, Pa. C.S. § 1791.1(b) to ensure that violations of providing the tort options at the time of application, as noted in the Report, do not occur in the future.

The Company accepts this recommendation and will implement the necessary changes to effectuate compliance with Title 75, Pa. C.S. §1791.1(b).

5. The Company must review Title 75, Pa. C.S. § 1793(b) to ensure that violations regarding the requirement to provide the insured with a surcharge disclosure plan at the time of renewal, as noted in the report, do not occur in the future.

The Company accepts this recommendation and will implement the necessary changes to effectuate compliance with Title 75, Pa. C.S. §1793(b).

6. When a surcharge is imposed on a private passenger automobile policy the Company must include specifics of accidents and citations and give notice to the insured. This procedure must be implemented within 30 days of the Report issue date. This is to ensure that violations noted under Title 75, Pa. C.S. §1799.3(d) do not occur in the future.

The Company accepts this recommendation and will implement the necessary changes to effectuate compliance with Title 75, Pa. C.S. §1799.3(d).

7. The Company must review Act 246, Section 4 (40 P.S. §1184) and take appropriate measures to ensure the automobile rating violations listed in the Report do not occur in the future.

The Company accepts this recommendation and will implement the necessary changes to effectuate compliance with Act 246, Section 4 (40 P.S. §1184) to ensure the automobile rating violations listed in the Report do not occur in the future.

8. The premium overcharges noted in the rating section of this Report must be refunded to the insureds and proof of such refunds must be provided to the Insurance Department within 30 days of the Report issue date.

The premium overcharges for the policies in issue were calculated by the Company and refunds were issued to the insureds. Evidence of payment will be provided to the Department within the required time period under separate cover.

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

The Company accepts this recommendation and has implemented the necessary changes to effectuate compliance with the claims handling requirements of Title 31, Pennsylvania Code, Chapter 146, Unfair Claims Settlement Practices. Since the completion of the examination, we have reviewed and revised our internal control procedures and completed a training program in order to ensure future compliance with the claims handling requirements of the Pennsylvania Code.

10. 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.

The Company accepts this recommendation and has reviewed Title 31, Pa. Code, Section

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69.52(b) with its claim staff to ensure that first party medical bills are paid within 30 days of receipt of sufficient documentation supporting the bill.

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

First party medical claims which had not been paid within 30 days of receipt were reimbursed for interest at the rate of 12% per annum. The attached spreadsheet details the amount of interest paid, the date of payment, and the draft number of the payment. Evidence of payment will be provided to the Department within the required time period under separate cover.

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

The Company accepts this recommendation and has reviewed Title 31, Pa. Code, Section 69.22 with its claim staff to ensure that the insured and/or provider is properly notified that first party medical benefits have been exhausted.

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

The Company accepts this recommendation and has reviewed Title 75, Pa. C.S. §1161(a)&(b) with its claim staff to ensure that salvage certificates are obtained and are retained with the claim file.

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

The Company accepts this recommendation and will be reviewing and revising its verification procedures to ensure that all producers are properly licensed and appointed pursuant to Pennsylvania law, prior to accepting any business from any producer.

The Company respectfully submits that it has taken the appropriate action and steps to address, correct and/or minimize the recurrence of the issues noted in the Report, and asks for your favorable consideration of such action. We thank you for the opportunity to respond to the Report and offer our sincere gratitude to the examiners for their assistance and cooperation throughout the course of the examination.

Please do not hesitate to contact me at 1-800-852-8208, ext. 77654 should you have any questions and/or require additional information.

Sincerely,



Mitchell Silverman, Esq.  
Director, Corporate Compliance

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