

**REPORT OF
MARKET CONDUCT EXAMINATION
OF**

MARKEL AMERICAN INSURANCE COMPANY
Glen Allen, Virginia

**AS OF
September 23, 2004**

COMMONWEALTH OF PENNSYLVANIA



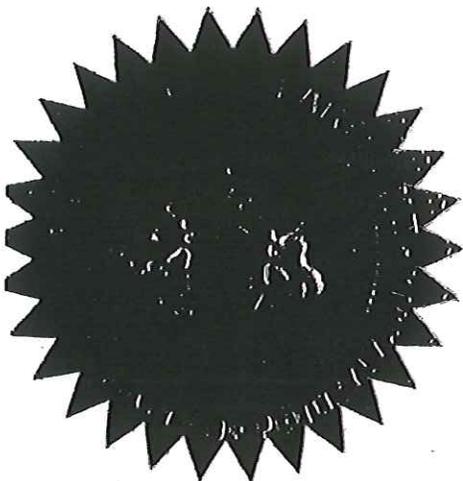
**INSURANCE DEPARTMENT
MARKET CONDUCT DIVISION**

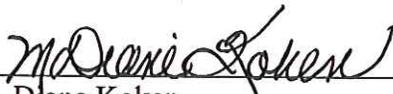
Issued: November 9, 2004

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:
	:	
MARKEL AMERICAN	:	Section 605 of the Insurance
INSURANCE COMPANY	:	Department Act, Act of May 17,
N14 W23833 Stone Ridge Drive	:	1921, P.L. 789, No. 285 (40 P.S.
Waukesha, WI 53188	:	§ 235)
	:	
	:	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 1117(a),
	:	1731(c)(1) and 1734 (Title 75, Pa.C.S.
	:	§§ 1117, 1731 and 1734)
	:	
	:	Sections 3(a)(2), 3(a)(5) and 3(a)(6) of
	:	the Act of July 3, 1986, P.L. 396, No.
	:	86 (40 P.S. §§ 3403)
	:	
	:	Section 5(a)(9)(iii) of the Unfair
	:	Insurance Practices Act, Act of July 22,
	:	1974, P.L. 589, No. 205 (40 P.S.
	:	§ 1171.5)
	:	
	:	Section 354 of the Insurance Company
	:	Law, Act of May 17, 1921, P.L. 682,
	:	No. 284 (40 P.S. § 477b)
	:	
	:	Title 31, Pennsylvania Code, Sections
	:	62.3(d)(1) and (2), 62.3(e)(1), (5) and
	:	(7), 146.4, 146.6, and 146.7(a)(1)
	:	
	:	Title 75, Pennsylvania Consolidated
	:	Statutes, Section 1822
	:	
	:	Title 18, Pennsylvania Consolidated
	:	Statutes, Section 4117(k)(1)
	:	
Respondent.	:	Docket No. MC04-09-038

CONSENT ORDER

AND NOW, this 9th day of *November*, 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. Respondent neither admits nor contests the findings contained herein.

FINDINGS OF FACT

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

- (a) Respondent is Markel American Insurance Company, and maintains its address at N14 W23833 Stone Ridge Drive, Waukesha, Wisconsin 53188.

- (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 September 22, 2004, the Insurance Department issued a Market Conduct Examination Report to Respondent.
- (d) A response to the Examination Report was provided by Respondent on October 22, 2004.
- (e) The Examination Report notes violations of the following:
 - (i) Section 605 of the Insurance Department Act, No. 285 (40 P.S. § 235), which requires that: (1) no agent shall do business on behalf of any entity without written appointment from that entity, (2) all appointments shall be obtained by procedures established by the Insurance Department's regulations, (3) insurance entities authorized by law to transact business in this Commonwealth shall, from time to time as determined by the Department, certify to the Department the names of all agents appointed by them, and (4) each appointment fee, both new and renewal, shall be paid in full by the entity appointing the agent;
 - (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 1117(a) of Act 1990-6, Title 75, Pa.C.S. § 1117(a), which requires any owner who transfers a vehicle to be salvaged must assign the certificate of title to the person to whom the vehicle is transferred. The transferee shall immediately present the assigned certificate of title to the Department of Transportation with an application for a certificate of salvage. If the owner retains possession of a vehicle which is damaged to the extent that it qualifies for vehicle replacement, the owner shall apply for a certificate of salvage immediately;
- (iv) Section 1731(c)(1) of Act 1990-6, Title 75, Pa.C.S. § 1731, which states on policies in which either uninsured or underinsured motorist coverage has been rejected, the policy renewals must contain notice in prominent type that the policy does not provide protection against damages caused by uninsured or underinsured motorists;
- (v) Section 1734 of Act 1990-6, Title 75, Pa.C.S. § 1734, which provides a named insured may request in writing the issuance of coverages under

Section 1731 in amounts to or less than the limits of liability for bodily injury;

- (vi) Section 3(a)(2) of Act 86 (40 P.S. § 3403), which requires that a nonrenewal notice be forwarded directly to the named insured or insureds at least 60 days in advance of the effective date of termination;
- (vii) Section 3(a)(5) of Act 86 (40 P.S. § 3403), which requires that a midterm cancellation or nonrenewal notice shall state the specific reasons for the cancellation or nonrenewal. The reasons shall identify the condition, factor or loss experience which caused the midterm cancellation or nonrenewal. The notice shall provide sufficient information or data for the insured to correct the deficiency;
- (viii) Section 3(a)(6) of Act 86 (40 P.S. § 3403), which requires the mid-term cancellation notice state that, at the insured's request, the insurer shall provide loss information to the insured for at least three years or the period of time during which the insurer has provided coverage to the insured, whichever is less;
- (ix) Section 5(a)(9)(iii) of the Unfair Insurance Practices Act, No. 205 (40 P.S. § 1171.5), which prohibits cancellation or refusal to renew by any person shall be effective unless a written notice of cancellation or refusal to renew is

received by the insured either at the address shown in the policy or at a forwarding address. The notice shall state the specific reason or reasons of the insurer for cancellation or refusal to renew;

- (x) Section 354 of the Insurance Company Law (40 P.S. § 477b), which states that it shall be unlawful for any insurance company, doing business in the Commonwealth of Pennsylvania, to issue, sell or dispose of any policy, contract or certificate, covering all forms of casualty insurance, or use application, riders, or endorsements in connection therewith, until the forms have been submitted to, and formally approved by, the Insurance Commissioner;

- (xi) Title 31, Pennsylvania Code, Section 62.3(d)(1), which states in the appraisal of salvage value, the following standard shall be used: (1) If the salvage value of the vehicle being appraised is known or could reasonably be determined, the appraiser shall disclose to the consumer in writing, the salvage value, and the provisions of law requiring the filing of an application for certificate of salvage with the Department of Transportation;

- (xii) Title 31, Pennsylvania Code, Section 62.3(d)(2), which states in the appraisal of salvage value, the following standard shall be used: (2) If the salvage value is listed, the appraiser shall disclose to the consumer in writing

the name and address of each bidder, the amount, and the expiration date of each salvage bid known;

- (xiii) Title 31, Pennsylvania Code, Section 62.3(e)(1), which requires the appraised value of the loss shall be the replacement value of the motor vehicle if the cost of repairing a motor vehicle exceeds its appraised value less salvage value, or the motor vehicle cannot be repaired to its predamaged condition. Under this subsection, replacement value of under the policy provisions covering the total loss of a motor vehicle including an unrecovered motor vehicle shall be determined by one of the approved methods;
- (xiv) Title 31, Pennsylvania Code, Section 62.3(e)(5), which requires that applicable sales tax on the replacement cost of a motor vehicle shall be included as part of the replacement value;
- (xv) Title 31, Pennsylvania Code, Section 62.3(e)(7), which requires a company to provide a copy of the total loss evaluation sheet to the consumer within five working days after the appraisal is completed;
- (xvi) Title 31, Pennsylvania Code, Section 146.4, 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;

(xvii) 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;

(xviii) 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;

(xix) Title 75, Pa. C.S. § 1822, which requires all applications for insurance, renewals and claim forms include the required fraud notice; and

(xx) Title 18, Pennsylvania Consolidated Statutes, Section 4117(k)(l), which requires all insurers to issue a specific insurance fraud warning notice on all applications for insurance and claim forms. "Any person who knowingly and with intent to defraud any insurance company or other

person files an application for insurance or statement of claim containing any materially false information or conceals for the purpose of misleading, information concerning any fact material thereto, commits a fraudulent insurance act, which is a crime and subjects such person to criminal and civil penalties.”

CONCLUSIONS OF LAW

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

- (a) Respondent is subject to the jurisdiction of the Pennsylvania Insurance Department.
- (b) Violations of Section 605 of the Insurance Department Act (40 P.S. § 235) are punishable by the following, under Section 639 of the Insurance Department Act (40 P.S. § 279):
 - (i) suspension, revocation or refusal to issue the certificate of qualification or license;
 - (ii) imposition of a civil penalty not to exceed five thousand dollars (\$5,000.00) for every violation of the Act.

- (iii) issue an order to cease and desist.
 - (iv) impose such other conditions as the department may deem appropriate.
- (c) Respondent's violations of Sections 4(a) and (h) of the Casualty and Surety Rate Regulatory Act, No. 246 (40 P.S. § 1184) are punishable under Section 16 of the Casualty and Surety Rate Regulatory Act:
- (i) imposition of a civil penalty not to exceed \$50 for each violation or not more than \$500 for each such wilful violation;
 - (ii) suspension of the license of any insurer which fails to comply with an Order of the Commissioner within the time limited by such Order, or any extension thereof which the Commissioner may grant.
- (d) Respondent's violations of Title 75 Section 1117(a) are punishable under Section 1117(f) – any person violating the provision of subsections (a) or (e) is guilty of a summary offense and shall, upon conviction, be sentenced to pay a fine of \$200 for each violation.
- (e) Respondent's violations of Sections 3(a)(2), 3(a)(5) and 3(a)(6) of Act 86 (40 P.S. §§ 3403), are punishable under Section 8 (40 P.S. § 3408) of this act by one or more of the following causes of action:

- (i) Order that the insurer cease and desist from the violation.
 - (ii) Impose a fine or not more than \$5,000 for each violation.
- (f) Respondent's violations of Section 5(a)(9)(iii) 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.
- (g) 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).

(h) Respondent's violations of Section 354 of The Insurance Company Law are punishable by the following, under Section 354 of The Insurance Company Law (40 P.S. § 477):

- (i) suspension or revocation of the license(s) of Respondent;
- (ii) refusal, for a period not to exceed one year thereafter, to issue a new license to Respondent;
- (iii) imposition of a fine of not more than one thousand dollars (\$1,000.00) for each act in violation of the Act.

(i) Respondent's violations of Title 31, Pennsylvania Code, Sections 146.4, 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 Twenty-Two Thousand, Five Hundred Dollars (\$22,500.00) to the Commonwealth of Pennsylvania in settlement of all violations contained in the Report.

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

6. In the event the Deputy Insurance Commissioner finds that there has been a breach of any of the provisions of this Order, based upon the Findings of Fact and Conclusions of Law contained herein may pursue any and all legal remedies available, including but not limited to the following: The Deputy Insurance Commissioner may enforce the provisions of this Order in the Commonwealth Court of Pennsylvania or in

any other court of law or equity having jurisdiction; or the Deputy Insurance Commissioner may enforce the provisions of this Order in an administrative action pursuant to the Administrative Agency Law, supra, or other relevant provision of law.

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

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

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

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

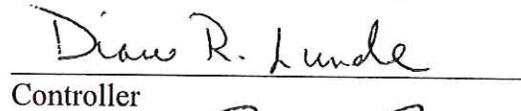
11. This Order shall be final upon execution by the Deputy Insurance Commissioner. Only the Insurance Commissioner or a duly authorized Deputy

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

BY: MARKEL AMERICAN INSURANCE
COMPANY, Respondent



President



Controller



RANDOLPH L. ROHRBAUGH
Deputy Insurance Commissioner
Commonwealth of Pennsylvania

Markel American Insurance Company

Table of Contents

Order	
I.	Introduction 1
II.	Scope of Examination 3
III.	Company History / Licensing 4
IV.	Underwriting Practices and Procedures..... 5
V.	Underwriting
	A. Homeowners 6
	B. Commercial Property.. 10
VI.	Rating
	A. Homeowners 14
	B. Commercial Property 16
	C. Motor Vehicles 17
VII.	Claims
	A. Homeowners..... 22
	B. Commercial Property..... 23
	C. Motor Vehicle Comprehensive 24
	D. Motor Vehicle Collision 25
	E. Motor Vehicle Property Damage Liability.....26
	F. Motor Vehicle Total Loss 27
	G. Medical Payments..... 31
VIII	Consumer Complaints 32
IX.	Forms..... 34
X.	Advertising36
XI.	Licensing.....37
XII.	Recommendations. 38
XIII.	Company Response.....40

I. INTRODUCTION

The market conduct examination was conducted at Markel American Insurance Company from February 9, 2004, through March 5, 2004. Subsequent review and follow-up was conducted in the office of the Pennsylvania Insurance Department.

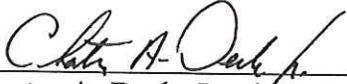
Pennsylvania Market Conduct Examination Reports generally note only those items to which the Department, after review, takes exception. However, the Examination Report may include management recommendations addressing areas of concern noted by the Department, but for which no statutory violation was 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.

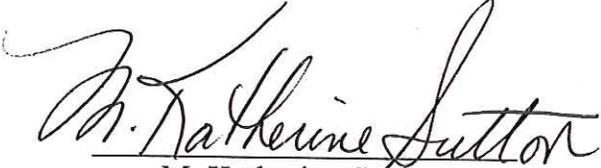
In certain areas of review listed in this Report, the examiners will refer to "error ratio." This error ratio is calculated by dividing the number of policies with violations by the total number of policies reviewed. For example, if 100 policies are reviewed and it is determined that there are 20 violations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

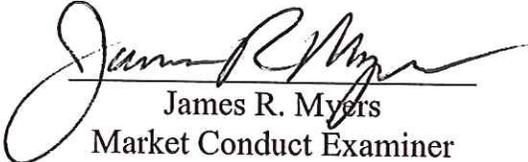
Throughout the course of the examination, Company officials were provided with status memoranda, which referenced specific policy numbers with citation to each section of law violated. Additional information was requested to clarify apparent violations. An exit conference was conducted with Company personnel 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


M. Katherine Sutton
Market Conduct Examiner


James R. Myers
Market Conduct Examiner

II. SCOPE OF EXAMINATION

The Market Conduct Examination was conducted on Markel American Insurance Company, hereinafter referred to as "Company," at their office located in Waukesha, WI.

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. Homeowners

- 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. Commercial Property

3. Motorcycle

- Rating - Proper use of all classification and rating plans and procedures.

4. Claims

- Standards for prompt, fair and equitable settlements.

5. Consumer Complaints

6. Forms

7. Advertising

8. Licensing

III. COMPANY HISTORY AND LICENSING

The Markel Corporation Group is a publicly traded holding Company, which markets and underwrites specialty insurance products and programs. Markel American Insurance Company ("MAIC"), a wholly owned subsidiary of the Markel Corporation, is a multiple-line insurance Company which was incorporated in Virginia on October 15, 1986. MAIC offers property and casualty insurance coverage.

LICENSING

The Company's Certificate of Authority to write business in the Commonwealth of Pennsylvania was last issued on April 1, 2003. The Company is licensed in 49 states and the District of Columbia. The Company's 2003 annual statement reflects Direct Written Premium for all lines of business in the Commonwealth of Pennsylvania as \$7,592,568. Premium volume related to the areas of this review were: Private Passenger Automobile Direct Written Premium was reported as, Private Passenger Auto Liability \$586,743, Private Passenger Auto Physical Damage \$894,870, Homeowners multiple peril \$2,606,054, Fire and Allied Lines \$439,818, Commercial Multiperil \$184,023.

IV. UNDERWRITING PRACTICES AND PROCEDURES

As part of the examination, the Company was requested to supply underwriting guides, bulletins, directives or other forms of underwriting procedure communications for each line of business being reviewed. Underwriting guides were furnished for personal property, commercial property and motor vehicles. 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. Homeowners

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 a universe of 70 Homeowner policies reported as cancelled within 60 days, during the experience period, all 70 files were requested, received and reviewed. The violation noted resulted in an error ratio of 1%.

1 Violation Act 205, Section 5(a)(9)(iii) [40 P.S. §1171.5(a)(9)(iii)] –
Unfair Methods of Competition and Unfair or Deceptive Acts or Practices Defined. (a) “Unfair Methods of Competition” and “Unfair Deceptive Acts or Practices” in the business of insurance means:
(9) No cancellation or refusal to renew by any person shall be effective unless a written notice of the cancellation or refusal to renew is received by the insured either at the address shown in the policy or at a forwarding address. Such notice shall:
(iii) State the specific reason or reasons of the insurer for cancellation or refusal to renew.

AND

Title 31, Pa. Code. §59.6(5) – Notice of cancellation or refusal to renew requirements. Notices of cancellation or refusal to renew shall meet the following requirements:

(5) The reasons given for cancellation or refusal to renew shall be clear and complete.

For a notice to comply with Act 205, an insurer needs to supply the specific statutory basis for termination of the homeowner's policy, and if the statutory basis cannot be determined by the insured, from the notice, the termination violates Act 205. *Osman/Prudential*, P98-05-012 (1998) and *Cigna/Rokicka*, PH95-06-028 (1998).

The file noted reflected cancellation based on "eligibility rules" providing no explanation on the notice why the risk was not eligible.

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.

The universe of 57 personal lines property policies, which were cancelled midterm, during the experience period, was selected for review. All 57 files

requested were received and reviewed. All of the files were Homeowners policies. The 3 violations noted were based on 3 files, resulting in an error ratio of 5%.

3 Violations Act 205, Section 5(a)(9)(iii) [40 P.S. §1171.5(a)(9)(iii)] –

Unfair Methods of Competition and Unfair or Deceptive Acts or Practices Defined. (a) “Unfair Methods of Competition” and “Unfair Deceptive Acts or Practices” in the business of insurance means:

(9) No cancellation or refusal to renew by any person shall be effective unless a written notice of the cancellation or refusal to renew is received by the insured either at the address shown in the policy or at a forwarding address. Such notice shall:

(iii) State the specific reason or reasons of the insurer for cancellation or refusal to renew.

AND

Title 31, Pa. Code §59.6(5) – Notice of cancellation or refusal to renew; requirements. Notices of cancellation or refusal to renew shall meet the following requirements:

(5) The reasons given for cancellation or refusal to renew shall be clear and complete.

For a notice to comply with Act 205, an insurer needs to supply the specific statutory basis for termination of the homeowner’s policy, and if the statutory basis cannot be determined by the insured, from the notice, the termination violates Act 205. *Osman/Prudential*, P98-05-012 (1998) and *Cigna/Rokicka*, PH95-06-028 (1998).

The notices on the files noted indicated the policies were cancelled due to “did not pass inspection” or “failure to comply” and did not specify the increase in hazard. See adjudication: *Fitch/Boyertown*, PH97-06-006 (1998).

3. Nonrenewals

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

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

The universe of 38 personal lines property policies, which were nonrenewed during the experience period, was selected for review. The property files consisted homeowner policies. All 38 files requested were received and reviewed. The 18 violations noted were based on 18 files, resulting in an error ratio of 47%.

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

Unfair Methods of Competition and Unfair or Deceptive Acts or Practices Defined. (a) “Unfair Methods of Competition” and “Unfair Deceptive Acts or Practices” in the business of insurance means:

(9) No cancellation or refusal to renew by any person shall be effective unless a written notice of the cancellation or refusal to renew is received by the insured either at the address shown in the policy or at a forwarding address. Such notice shall:

(iii) State the specific reason or reasons of the insurer for cancellation or refusal to renew.

AND

Title 31, Pa. Code §59.6(5) – Notice of cancellation or refusal to renew; requirements. Notices of cancellation or refusal to renew shall meet the following requirements:

(5) The reasons given for cancellation or refusal to renew shall be clear and complete.

For a notice to comply with Act 205, an insurer needs to supply the specific statutory basis for termination of the homeowner's policy, and if the statutory basis cannot be determined by the insured, from the notice, the termination violates Act 205. *Osman/Prudential*, P98-05-012 (1998) and *Cigna/Rokicka*, PH95-06-028 (1998).

The violations noted were for the Company's failure to provide a specific statutory reason for nonrenewal.

B. Commercial Property

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, Section 3 [40 P.S. §3403], which establishes the requirements, which must be met regarding the form and condition of the cancellation notice and Section 4 [40 P.S. §3404], which establishes the requirements for the return of unearned premium to the named insured.

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. 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.

From a universe of 42 Commercial policies reported as being cancelled within the first 60 days during the experience period, all 42 policies were selected, received and reviewed. The files consisted entirely of Dwelling Fire – Tenant Occupied policies.

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 universe of 38 commercial property policies cancelled midterm during the experience period was selected for review. All 38 files selected were received and reviewed. Of the 38 files reviewed, 24 were found to be duplicate files. The 14 remaining commercial property files were tenant occupied dwelling fire policies. The 7 violations noted were based on 7 files, resulting in an error ratio of 50%.

7 Violations Act 86, Section 3(a)(6) [40 P.S. §3403(a)(6)] Requires that a midterm 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 files noted contained cancellation notices which failed to provide the offer of loss information.

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 7 commercial property policies nonrenewed during the experience period was selected for review. All 7 files selected were received and reviewed. The commercial property files were tenant occupied dwelling fire policies. The 10 violations noted were based on 7 files, resulting in an error ratio of 100%.

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 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, §113.88 Requires that the reason given for nonrenewal or 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 nonrenewal or cancellation. The files noted did not contain a specific reason for nonrenewal.

7 Violations Act 86, Section 3(a)(6) [40 P.S. §3403(a)(6)] Requires that a nonrenewal notice shall state that at the insured’s request, the insurer shall provide loss information to the insured for at least three years or the period of time during which the insurer has

provided coverage to the insured, whichever is less. The files noted contained nonrenewal notices which failed to provide the offer of loss information.

VI. RATING

A. Homeowners

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

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

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.

From a universe of 307 Homeowner policies written as new business during the experience, 100 files were selected 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.

From the universe of 3,515 homeowner policies renewed without surcharges during the experience period, 100 files were selected for review. All 100 files selected were received and reviewed.

No violations were noted.

3. Renewals with Surcharges

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

From the universe of 19 policies renewed with surcharges, all 19 policies were selected, received and reviewed. The 19 violations noted were based on 19 files, resulting in an error ratio of 100%.

19 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 19 violations noted were the result of the Company not applying the appropriate surcharge to the renewal policies and not properly calculating additional credits. The entire universe must be re-rated.

B. Commercial Property

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 103 policies written as new business during the experience period 50 files were selected for review. All 50 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 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 672 policies identified as commercial property renewals during the experience period, 75 files were selected. The files consisted of tenant occupied dwelling fire policies. All 75 files requested were received and reviewed.

No violations were noted.

C. Motor Vehicles (Motorcycles)

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.

The Company processes and issues their 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.

1. New Business – Without Surcharges

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

From a universe of 1,233 personal motor vehicle policies reported as new business without surcharges during the experience period, 100 files were selected for review. All of the 100 files selected were received and reviewed. The 3 violations noted were based on 100 files, resulting in an error ratio of 3%.

3 Violations Title 75, Pa. C.S. §1734 Request for lower limits of coverage. A named insured may request in writing the issuance of coverages under Section 1731 (relating to availability, scope and amount of coverage) in amounts equal to or less than the limits of liability for bodily injury. The violations noted were the result of policies not containing a signed request for limits lower than the limits of liability for bodily injury.

2. New Business – with Surcharges.

The universe of 62 personal motor vehicle policies reported as new business with surcharges during the experience period was selected for review. All of the 62 files selected were received and reviewed. The violations noted for the universe of policies were determined from review of the sample policy packets provided by the Company. The 2 violations noted were based on 62 files, resulting in an error ratio of 3%.

2 Violations Title 75, Pa. C.S. §1734 - Request for lower limits of coverage.

A named insured may request in writing the issuance of coverages under Section 1731 (relating to availability, scope and amount of coverage) in amounts equal to or less than the limits of liability for bodily injury. The violations noted were the result of policies not having a signed request for limits lower than the limits of liability for bodily injury.

3. Renewals – Standard Rates

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

From a universe of 3,395 personal motor vehicle policies reported as renewals without surcharges during the experience period, 100 files were selected for review. All of the 100 files selected were received and reviewed. The violations noted for the universe of policies were determined from review of the sample policy packets provided by the Company. The 22 violations noted were based on 22 files, resulting in an error ratio of 22%.

4 Violations Title 75, Pa. C.S. §1734 Request for lower limits of coverage. A named insured may request in writing the issuance of coverages under Section 1731 (relating to availability, scope and amount of coverage) in amounts equal to or less than the limits of liability for bodily injury. The violations noted were the result of policies not having a signed request for limits lower than the limits of liability for bodily injury.

18 Violations Title 75, Pa. C.S. §1731(c)(1) Form of waiver. On policies in which either uninsured or underinsured motorist coverage has been rejected, the policy renewals must contain notice in prominent type that the policy does not provide protection against damages caused by uninsured or underinsured motorists. The violations noted resulted from the Company's failure to provide notice on renewal that uninsured or underinsured motorist coverage is not provided.

4. Renewals – with Surcharges

The universe of 87 personal motor vehicle policies reported as renewals with surcharges during the experience period was selected for review. All of the 87 files selected were received and reviewed. The violations noted for the universe of policies were determined from review of the sample policy packets provided by the Company. The 35 violations noted were based on 87 files, resulting in an error ratio of 40%.

3 Violations Title 75, Pa. C.S. §1734 Request for lower limits of coverage.

A named insured may request in writing the issuance of coverages under Section 1731 (relating to availability, scope and amount of coverage) in amounts equal to or less than the limits of liability for bodily injury. The violations noted were the result of policies not having a signed request for limits lower than the limits of liability for bodily injury.

32 Violations Title 75, Pa. C.S. §1731(c)(1) Form of waiver. On policies in which either uninsured or underinsured motorist coverage has been rejected, the policy renewals must contain notice in prominent type that the policy does not provide protection against damages caused by uninsured or underinsured motorists. The violations noted were for failure to provide notice on renewal that uninsured or underinsured motorist coverage is not provided.

5. 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. Homeowner Claims
- B. Commercial Property Claims
- C. Motor Vehicle Comprehensive Claims
- D. Motor Vehicle Collision Claims
- E. Motor Vehicle Property Damage Claims
- F. Motor Vehicle Total Loss Claims
- G. Medical Claims

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

A. Homeowner

From a universe of 588 Homeowner policy claims reported during the experience period, 75 files were selected, received and reviewed. The 2 violations noted were based on 2 files, resulting in an error ratio of 3%.

2 Violations Title 31, Pa. Code, Section 146.6 – Every insurer shall complete investigation of a claim within 30 days after notification of claim, unless the investigation cannot reasonably be completed within the time. If the investigation cannot be completed within 30 days, and every 45 days thereafter, the insurer shall provide the claimant with a reasonable written explanation for the delay and state when a decision on the claim may be expected. The file did not reflect that a status letter was sent within 30 days and/or every 45 days thereafter.

B. Commercial Property

From a universe of 47 Commercial Property (Dwelling Fire) policy claims reported during the experience period, all 47 files were selected, received and reviewed. The 2 violations noted were based on 2 files, resulting in an error ratio of 4%.

1 Violation Title 31, Pa. Code, Section 146.7(a)(1) Within 15 working days after receipt by the insurer of properly executed proofs of loss, the first-party claimant shall be advised of the acceptance or denial of the claim by the insurer. The violation noted resulted from failure to acknowledge, accept or deny the claim within 15 working days after proof of loss was received.

1 Violation Title 31, Pa. Code, Section 146.6 - Standards for prompt investigation of claims. Every insurer shall complete investigation of a claim within 30 days after notification of claim, unless the investigation cannot reasonably be completed within the time. If the investigation cannot be completed within 30 days, and every 45 days thereafter, the insurer shall provide the

claimant with a reasonable written explanation for the delay and state when a decision on the claim may be expected. The file did not reflect that a status letter was sent within 30 days and/or every 45 days thereafter.

C. Motor Vehicle Comprehensive

From a universe of 20 Comprehensive claims reported during the experience period, all 20 files were selected, received and reviewed. The 3 violations noted were based on 3 files, resulting in an error ratio of 15%.

1 Violation Title 31, Pa. Code, Section 146.4. Misrepresentation of policy provisions.

- (a) 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.
- (b) An insurer or agent may not fail to fully disclose to first-party claimants benefits, coverages or other provisions of an insurance policy or insurance contract when the benefits, coverages or other provisions are pertinent to a claim.

The Company's Motorcycle policy (MT4001 -0201) contains language in PART III – DAMAGE TO YOUR MOTORCYCLE, Collision Coverage, regarding applicability of a Double Deductible. This entire paragraph is deleted by PENNSYLVANIA AMMENDATORY ENDORSEMENT (MT4098 – 0501).

The Company continued the application of this clause.

2 Violations Title 31, Pa. Code, Section 146.6 - Standards for prompt investigation of claims. Every insurer shall complete investigation of a claim within 30 days after notification of claim, unless the investigation cannot reasonably be completed within the time. If the investigation cannot be completed within 30 days, and every 45 days thereafter, the insurer shall provide the claimant with a reasonable written explanation for the delay and state when a decision on the claim may be expected. The files noted did not reflect that status letters were sent to the insured within 30 days and/or every 45 days thereafter.

D. Motor Vehicle Collision

From a universe of 87 collision claims reported during the experience period, all 87 files were selected, received and reviewed. The 9 violations noted were based on 9 files, resulting in an error ratio of 10%.

2 Violations Title 31, Pa. Code, Section 146.4. Misrepresentation of policy provisions. (a) 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.

(b) An insurer or agent may not fail to fully disclose to first-party claimants benefits, coverages or other provisions of an insurance policy or insurance contract when the benefits, coverages or other provisions are pertinent to a claim.

1. The Company notified vehicle owners, in their initial contact letter and in other communications, that the Company is not liable for storage fees. Storage fees incurred as a direct result of

a covered loss are incidental charges and covered by the physical damage portion of the policy.

2. The Company's Motorcycle policy (MT4001 –0201) contains language in PART III – DAMAGE TO YOUR MOTORCYCLE, Collision Coverage, regarding applicability of a Double Deductible. This entire paragraph is deleted by PENNSYLVANIA AMMENDATORY ENDORSEMENT (MT4098 – 0501).

The Company continued the application of this clause.

7 Violations Title 31, Pa. Code, Section 146.6 - Standards for prompt investigation of claims. Every insurer shall complete investigation of a claim within 30 days after notification of claim, unless the investigation cannot reasonably be completed within the time. If the investigation cannot be completed within 30 days, and every 45 days thereafter, the insurer shall provide the claimant with a reasonable written explanation for the delay and state when a decision on the claim may be expected. The files noted did not reflect that status letters were sent to the insured within 30 days and/or every 45 days thereafter.

E. Motor Vehicle Property Damage Liability

From a universe of 17 Property Damage Liability claims reported during the experience period, all 17 files were selected, received and reviewed.

One file was a duplicate. The violation noted resulted in an error ratio of 6%.

1 Violation Title 31, Pa. Code, Section 146.6. Standards for prompt investigation of claims.

Every insurer shall complete investigation of a claim within 30 days after notification of claim, unless the investigation cannot reasonably be completed within the time. If the investigation cannot be completed within 30 days, and every 45 days thereafter, the insurer shall provide the claimant with a reasonable written explanation for the delay and state when a decision on the claim may be expected. The file noted did not reflect that a status letter was sent within 30 days and/or every 45 days thereafter.

F. Motor Vehicle Total Losses

The primary purpose of the review was to determine compliance with Title 31, Pennsylvania Code, Chapter 146, Unfair Claims Settlement Practices, Title 75, Pa. C.S. Section 1117(a) regarding vehicles destroyed, dismantled, salvaged or recycled, Act 205, Section 4 (40P.S. §1171.4) and Section 5(a)(10)(vi) (40P.S. 1171.5(a)(10)(vi), Unfair Insurance Practices Act. The files were also reviewed to determine compliance with Title 31, Pa. Code, Chapter 62, Motor Vehicle Physical Damage Appraisers.

The Company did not maintain a record of Total Loss Claims. Through review of the Comprehensive, Collision and Property Damage Liability data provided by the Company, 22 files were identified as Total Loss Claims for review. The 41 violations noted were based on 14 files, resulting in an error ratio of 64%.

1 Violation Title 31, Pa. Code, Section 146.4. Misrepresentation of policy provisions.

(a) 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.

(b) An insurer or agent may not fail to fully disclose to first-party claimants benefits, coverages or other provisions of an insurance policy or insurance contract when the benefits, coverages or other provisions are pertinent to a claim.

The Company notified vehicle owners, in their initial contact letter, and in other communications, that the Company is not liable for storage fees. Storage fees incurred as a direct result of a covered loss are incidental charges and covered by the physical damage portion of the policy.

8 Violations Title 31, Pa. Code, Section 62.3 (d)(1) In the appraisal of salvage value, the following standard shall be used:

(1) If the salvage value of the vehicle being appraised is known or could reasonably be determined, the appraiser shall disclose to the consumer in writing:

(i) The salvage value

(ii) The provisions of Title 75, Pa. C.S. § 1117(a) (relating to vehicle destroyed, dismantled, salvaged or recycled), requiring the filing of an application for certificate of salvage with the Department of Transportation. The files did not evidence the

owners were advised regarding filing for a salvage certificate, as required.

6 Violations Title 31, Pa. Code, Section 62.3 (d)(2) In the appraisal of salvage value, the following standard shall be used:

(2) If the salvage value is listed, the appraiser shall disclose to the consumer in writing:

- (i) The name and address of each bidder.
- (ii) The amount.
- (iii) The expiration date of each salvage bid known.

The files evidenced the claim handler determined the salvage value in an undocumented manner and with no disclosure to the owner.

6 Violations Title 75, Pa. C.S. § 1117(a) Vehicle destroyed, dismantled, salvaged or recycled. Any 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 subsection (e) the transferee shall immediately present the assigned certificate of title to 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 (relating to definitions), to which title to a vehicle is assigned upon payment to the insured 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 a 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. The files evidenced vehicle owners, who retained salvage, were paid prior to and without regard to first obtaining a salvage certificate as required.

6 Violations Title 31, Pa. Code, Section 62.3(e) (1) The appraised value of the loss shall be the replacement value of the motor vehicle if the cost of repairing a motor vehicle exceeds its appraised value less salvage value or, the motor vehicle cannot be repaired to its predamaged condition.

(1) Under this subsection, replacement value of under the policy provisions covering the total loss of a motor vehicle including an unrecovered motor vehicle shall be determined by one of the approved methods. The files evidenced methods for evaluation which did not utilize the approved methods and a replacement cost incorrectly determined.

1 Violation Title 31, Pa. Code, Section 62.3(e)(5)

Requires that applicable sales tax on the replacement cost of a motor vehicle shall be included as part of the replacement value. The file noted did not have the correct sales tax included in the replacement value of the vehicle.

13 Violations Title 31, Pa. Code, Section 62.3(e)(7)

Requires a Company to provide a copy of the total loss evaluation sheet to the consumer within five working days after

the appraisal is completed. The files noted were absent any evidence of compliance with this requirement.

G. Medical Payments

From a universe of 2 claims reported during the experience period, both files were selected, received and reviewed.

No violations were noted.

VIII. CONSUMER COMPLAINTS

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

The Company 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 provided all consumer complaint logs requested and identified a universe of 18 consumer complaints received during the experience period. All 18 files were selected and reviewed.

The following violations with regard to improper cancellations were found.

1 Violation Act 86, Section 3(a)(2) [40 P.S. §3403(a)(2)] - Written notice of cancellation or refusal to renew in the manner prescribed in this section must be forwarded directly to the named insured or insureds at least 60 days in advance of the effective date of termination. The notice did not provide 60 days notice of cancellation.

1 Violation Act 86, Section 3(a)(6) [40 P.S. §3403(a)(6)]
Requires that a midterm 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 file noted was absent any evidence of compliance with this requirement.

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

Prohibits cancellation or refusal to renew by any person shall be effective unless a written notice of cancellation or refusal to renew is received by the insured either at the address shown in the policy or at a forwarding address. The notice shall state the specific reason or reasons of the insurer for cancellation or refusal to renew.

AND

Title 31, Pa. Code, §59.6(5)(6) Requires notices of cancellation or refusal to renew shall meet the following requirements: The reason given for cancellation or refusal to renew shall be clear and complete. If the reason is a material misrepresentation, fraudulent statement, omission or concealment of fact material to the acceptance of the risk, or to the hazard assumed by the company, made by the insured, the insurer shall specify what statements, omissions or concealments it relied on for its action; and if the reason is a substantial change or increase in hazard, the insurer shall specify the changes or increased hazards it relied on for its actions. The violation noted was due to failure to provide a specific reason for nonrenewal.

The following synopsis reflects the nature of the 18 complaints reviewed.

14	Cancellations	78%
3	Claims Related	17%
<u>1</u>	Premium Related	<u>5%</u>
18		100%

IX. 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:

4,777 Violations Act 1990-6, Title 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 2,764 violations were the result of motor vehicle policies

being issued during the experience period absent the fraud statement on the application.

131 Violations Insurance Company Law, Section 354 [40 P.S. §477b]

Requires that before any insurance company doing business in the Commonwealth to issue, sell, contract all forms of casualty insurance, or use applications, riders, or endorsements, in connection therewith, file forms of the same for approval by the Insurance Commissioner. The 131 violations noted were the result of unapproved declaration forms.

1 Violation Title 18 Pa.C.S. § 4117(k)(1) requires all insurers to issue a specific insurance fraud warning on all applications for insurance and claim forms.

“Any person who knowingly and with intent to defraud any insurance company or other person files an application for insurance or statement of claim containing any materially false information or conceals for the purpose of misleading, information concerning any fact material thereto commits a fraudulent insurance act, which is a crime and subjects such person to criminal and civil penalties.”

The personal property inventory sheet provided to the insured for completion did not evidence the required fraud warning.

X. ADVERTISING

The purpose of this review was to determine compliance with Act 205, Section 5 (40P.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 51.61.

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

The Company provided 2 print ads and 2 brochures. The Internet site was also reviewed.

No violations were noted.

XI. LICENSING

In order to determine compliance by the Company and its agency force with the licensing requirements applicable to Section 605 (40P.S. §235) and Section 623 (40P.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. In addition to these lists provided by the Company, underwriting files and rating files were checked to verify proper licensing and appointment.

2 Violations Insurance Department Act, Section 605 (40 P.S. §235)

Appointment.

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

The following producers were found to be writing policies and were not found in the Insurance Department records as having either an appointment by the Company or Brokers License.

American Underwriting Managers

Polaris Acceptance

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 Title 31, Pennsylvania Code, Section 146.4 regarding misrepresentation of policy provisions.
2. The Company should review and revise internal control procedures to ensure compliance with Title 75, Pa. C.S. Section 1117(a) regarding vehicles destroyed, dismantled, salvaged or recycled provisions to ensure violations noted in the Report do not occur in the future.
3. The Company should review and revise internal control procedures to ensure compliance with Title 31, Pa. Code, Chapter 62, Motor Vehicle Physical Damage Appraisers to ensure violations noted in the Report do not occur in the future.
4. The Company must review and revise internal control procedures to ensure compliance with Act 246, Section 4 to ensure accordance with fillings or rates in effect at the time of issue. The universe of Homeowner Renewals with Surcharges must be re-rated. Overcharges must be credited to the next renewal premium or returned to the policyholder within 30 days of the issue of the Report.

5. 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.
6. 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.
7. The Company must review Title 75, Pa. C.S. §1734 to ensure that the insured acknowledges in writing a request for lower limits of liability for uninsured and underinsured motorist coverage and a copy kept in files as noted in the Report.
8. The Company must ensure all producers are properly licensed and appointed, as required by the Producer Modernization Act, effective 6/4/03, Insurance Department Act, No. 147, Section 641.1-A (40 P.S. §310.41a)
9. The Company must ensure that all forms are properly filed and approved with the Insurance Department, as required by Insurance Company Law, Section 354 [40 P.S. §477b] to ensure that violations noted in the Report do not occur in the future.

XIII. COMPANY RESPONSE



MARKEL AMERICAN INSURANCE COMPANY

Ten Parkway North, Deerfield, Illinois 60015
(847) 572-6000 • Fax (847) 572-6138

VIA OVERNIGHT COURIER

October 21, 2004

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

**RE: Markel American Insurance Company – Report of Exam
Examination Warrant Number: 03-M17-024
Experience Period: July 1, 2002 to June 30, 2003**

Dear Mr. Derk:

Markel American Insurance Company (“MAIC”) has reviewed the Report of Exam (“Report”) prepared by the Department’s Market Conduct Division.

This was the first Pennsylvania market conduct exam for MAIC. As such, MAIC considers the exam an educational process and appreciates the Department’s guidance for compliance, particularly in those situations where a law/regulation is unclear, ambiguous, or inconsistent. MAIC makes every effort possible to assure compliance with the letter and the spirit of the law and in no event would the Company intentionally violate a law/regulation.

MAIC is taking immediate corrective action to assure compliance in accordance with the recommendations contained in Section XII of the Report. The recommendations made in the Report identify measures that the Department believes are necessary as a result of the number or the nature of the alleged violations noted in the Report. With respect to the other exceptions covered in the Report, but not addressed in the recommendations or within this response, MAIC wishes to note that the remaining areas typically involve a single or statistically insignificant number of unique errors and not a trend. Those exceptions are a reflection of human error or deviation from MAIC’s established procedures and practices and do not require material institutional corrective actions. MAIC has nonetheless taken steps to minimize the recurrence of these issues in the future.

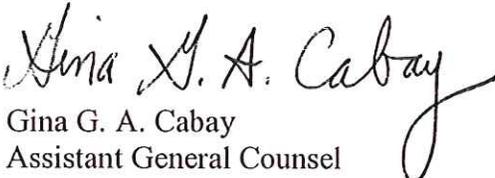


Mr. Derk
October 21, 2004
Page 2

Attached to this letter, please find MAIC's response to each of the nine recommendations listed in Section XII.

MAIC would like to thank you and your associates, M. Katherine Sutton and James R. Myers, for your time and patience throughout the exam process.

Sincerely,


Gina G. A. Cabay
Assistant General Counsel

Enclosure



Response to Recommendations

1. The Company should review and revise internal control procedures to ensure compliance with Title 31, Pennsylvania Code, Section 146.4 regarding misrepresentation of policy provisions. **Markel American Insurance Company is reviewing and reinforcing internal control procedures to ensure that compliance regarding misrepresentation of policy provisions.**
2. The Company should review and revise internal control procedures to ensure compliance with Title 75, Pa. C.S. Section 1117(a) regarding vehicles destroyed, dismantled, salvaged or recycled provisions to ensure violations noted in the Report do not occur in the future. **Markel American Insurance Company is reviewing and revising internal control procedures to ensure future compliance with Title 75, Pa. C.S. §1117(a) regarding vehicles destroyed, dismantled, salvaged or recycled.**
3. The Company should review and revise internal control procedures to ensure compliance with Title 31, Pa. Code, Chapter 62, Motor Vehicle Physical Damage Appraisers to ensure violations noted in the Report do not occur in the future. **Markel American Insurance Company is reviewing and revising internal control procedures to ensure compliance with Title 31, Pa. Code, Chapter 62 regarding motor vehicle physical damage appraisers.**
4. The Company must review and revise internal control procedures to ensure compliance with Act 246, Section 4 to ensure accordance with fillings [sic] or rates in effect at the time of issue. The universe of Homeowner Renewals with Surcharges must be re-rated. Overcharges must be credited to the next renewal premium or returned to the policyholder within 30 days of the issue of the Report. **Markel American Insurance Company is reviewing and revising internal control procedures to ensure compliance with Act 246, Section 4 to ensure accordance with filings or rates in effect at the time of issue. The universe of Nonstandard Homeowner Renewals with Surcharges was reviewed and we determined that none of the policyholders were overcharged. Therefore, no credits or refunds are due policyholders. Further corrections to ensure appropriate charges at renewal are no longer necessary as the program has been withdrawn for reasons unrelated to this examination.**
5. 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. **Markel American Insurance Company is reviewing and revising internal control procedures to ensure compliance with Title 31, Pennsylvania Code, Chapter 146.**



6. 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. **Markel American Insurance Company is implementing changes to ensure that the insurance fraud warning required by Act 1990-6, Title 75, Pa. C.S. § 1822 appears on applications for insurance, renewals, and claim forms for its Motorcycle and Recreational Vehicle program.**
7. The Company must review Title 75, Pa. C.S. §1734 to ensure that the insured acknowledges in writing a request for lower limits of liability for uninsured and underinsured motorist coverage and a copy kept in files as noted in the Report. **Markel American Insurance Company reviewed and is revising forms and procedures to obtain signed requests for lower limits of coverage required under Title 75, Pa. C.S. §1734 and maintain a copy in its files.**
8. The Company must ensure all producers are properly licensed and appointed, as required by the Producer Modernization Act, effective 6/4/03, Insurance Department Act, No. 147, Section 641.1-A (40 P.S. §310.41a). **Markel American Insurance Company reviewed and revised procedures to ensure that all producers are properly licensed and appointed as required by the Producer Modernization Act, effective 6/4/03, Insurance Department Act, No. 147, Section 641.1-A (40 P.S. §310.41a).**
9. The Company must ensure that all forms are properly filed and approved with the Insurance Department, as required by Insurance Company Law, Section 354 [40 P.S. §477b] to ensure that violations noted in the Report do not occur in the future.

Markel American Insurance Company's practice has been to properly file all forms with the Insurance Department as required by Insurance Company Law, Section 354 [40 P.S. §477b. However, Markel American Insurance Company is reviewing procedures to ensure that forms are properly filed and approved with the Insurance Department.