

**REPORT OF
MARKET CONDUCT EXAMINATION
OF**

MOTORISTS MUTUAL INSURANCE COMPANY
Columbus, Ohio

**AS OF
April 26, 2006**

COMMONWEALTH OF PENNSYLVANIA

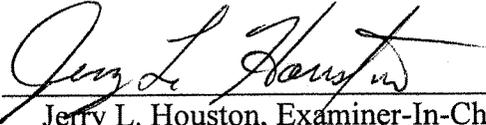


**INSURANCE DEPARTMENT
MARKET CONDUCT DIVISION**

Issued: June 14, 2006

VERIFICATION

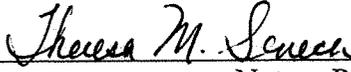
Having been duly sworn, I hereby verify that the statements made in the within document are true and correct to the best of my knowledge, information and belief. I understand that false statements made herein are subject to the penalties of 18 Pa. C.S. §4903 (relating to false swearing).



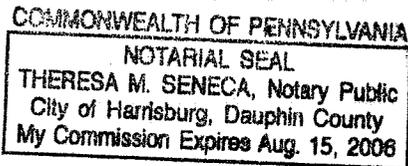
Jerry L. Houston, Examiner-In-Charge

Sworn to and Subscribed Before me

This *24* Day of *April*, 2006



Notary Public



MOTORISTS MUTUAL INSURANCE COMPANY

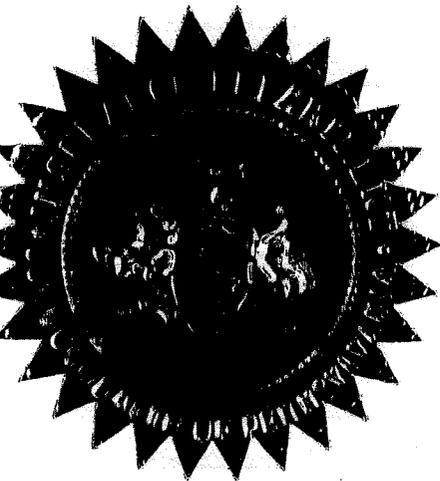
TABLE OF CONTENTS

Order	
I.	Introduction..... 1
II.	Scope of Examination..... 3
III.	Company History/Licensing..... 5
IV.	Underwriting Practices and Procedures..... 6
V.	Underwriting
	A. Private Passenger Automobile..... 8
	B. Assigned Risk..... 10
	C. Property..... 11
	D. Commercial Automobile..... 14
	E. Commercial Property..... 15
	F. Workers' Compensation..... 19
VI.	Rating
	A. Private Passenger Automobile..... 22
	B. Assigned Risk..... 28
	C. Homeowners..... 45
	D. Dwelling Fire..... 46
VII.	Claims..... 48
VIII.	Forms..... 55
IX.	Advertising..... 57
X.	Consumer Complaints..... 58
XI.	Licensing..... 59
XII.	Recommendations..... 61
XIII.	Company Response..... 66

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
M. Diane Koken
Insurance Commissioner

BEFORE THE INSURANCE COMMISSIONER
OF THE
COMMONWEALTH OF PENNSYLVANIA

IN RE:

MOTORISTS MUTUAL
INSURANCE COMPANY
471 East Broad Street
Columbus, OH 43215

VIOLATIONS:

Section 641.1-A of Act 147 of 2002
(40 P.S. §§ 310.41)

Act 1990-6, Sections 1705(a)(1) and
(4), 1716, 1731(b) and (c), 1734,
1738(c)(d)(1) and (2), 1792(b)(1) and
1799.3(d) (Title 75 Pa.C.S. §§ 1705,
1716, 1731, 1734, 1738, 1792 and
1799)

Sections 1, 3(a)(2) and 3(a)(3) of the
Act of July 3, 1986, P.L. 396, No. 86
(40 P.S. §§ 3401 and 3403)

Sections 2006, 2006(2) and 2006(3) of
Act 68 of 1998 (40 P.S. §§991.2006)

Sections 4(a) and 4(h) of the Act of
June 11, 1947, P.L. 538, No. 246
(40 P.S. §§ 1184)

Sections 5(a)(4), 5(a)(7)(iii), 5(a)(9)
and 5(a)(9)(ii) of the Unfair Insurance
Practices Act, Act of July 22, 1974,
P.L. 589, No. 205 (40 P.S. §§ 1171.5)

Title 31, Pennsylvania Code, Sections
69.22(c), 69.52(b), 146.5(d), 146.6
and 146.7(a)(1)

Title 75, Pennsylvania Consolidated
Statutes, Sections 1161(a)(b) and 1822

Sections 2.A.(1), 2.A(2), 2.A(3),
6(B)(3)(a), 6(B)(3)(d), 6(B)(5)(a),
6(B)(7)(a), 6(B)(8), 6(C)(3), 6(C)(4),
6(D), and 12(A)(1)(b) of the
Pennsylvania Assigned Risk Plan

Respondent. : Docket No. MC06-05-049

CONSENT ORDER

AND NOW, this 14th day of June, 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 Motorists Mutual Insurance Company, and maintains its address at 471 East Broad Street, Columbus, Ohio 43215.

- (b) A market conduct examination of Respondent was conducted by the Insurance Department covering the experience periods from January 1, 2004 through June 30, 2004; and January 1, 2005 through June 30, 2005.

- (c) On April 26, 2006, the Insurance Department issued a Market Conduct Examination Report to Respondent.

- (d) A response to the Examination Report was provided by Respondent on May 22, 2006.

- (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) 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;

(iii) 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;

(iv) Section 1731(b) and (c) of Act 1990-6, Title 75, Pa.C.S. § 1731(b) and (c), which requires the insurer to advise that named insured shall be informed that he may exercise the waiver for uninsured and underinsured motorist coverage by signing written rejection forms;

(v) Section 1734 of Act 1990-6, Title 75, Pa.C.S. § 1734, which requires a named insured may request in writing the issuance of coverages under Section 1731 (relating to availability, scope and amount of coverage) in amount equal to or less than the limits of liability for bodily injury:

- (vi) Section 1738(c)(d)(1) and (2) of Act 1990-6, Title 75, Pa.C.S. § 1738, which requires the named insured to be informed that he may exercise the waiver of stacked limits for uninsured and underinsured motorist coverage by signing written rejection forms;
- (vii) Section 1792(b)(1) of Act 1990-6, Title 75, Pa.C.S. § 1792, which requires every private passenger automobile insurance policy providing collision coverage to provide a deductible in the amount of \$500 for collision coverage, unless the named insured signs a statement indicating the insured is aware that the purchase of a lower deductible is permissible and that there is an additional cost of purchasing a lower deductible and the insured agrees to accept it;
- (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 1 of Act 86 (40 P.S. § 3401), which requires a policy of insurance covering property or casualty risks in this Commonwealth shall provide for

not less than 30 days advance notice to the named insured of an increase in renewal premium;

- (x) 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 the termination;
- (xi) Section 3(a)(3) of Act 86 (40 P.S. § 3403), which requires that a cancellation notice be forwarded to the named insured at least 60 days in advance of the effective date of termination;
- (xii) Section 2006 of Act 68 of 1998 (40 P.S. § 991.2006), which requires that nonrenewal by an insurer of a policy of automobile insurance shall not be effective unless the insurer delivers or mails to the insured a written notice of the nonrenewal;
- (xiii) 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;
- (xiv) Section 2006(3) 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;

- (xv) 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;
- (xvi) Section 5(a)(4) of Act 205 (40 P.S. § 1171.5), which defines as an unfair method of competition or unfair or deceptive acts or practices as entering into any agreement to commit, or by any concerted action committing, any act of boycott, coercion or intimidation resulting in or tending to result in unreasonable restraint of, or monopoly in, the business of insurance;
- (xvii) Section 5(a)(7)(iii) of Act 205 (40 P.S. § 1171.5), which prohibits unfair methods of competition or deceptive practices by permitting any unfair discrimination between individuals of the same class and essentially the same hazard with regard to underwriting standards and practices or eligibility requirements by reason of race, religion, nationality or ethnic group, age, sex, family size, occupation, place of residence or marital status;
- (xviii) Section 5(a)(9) of Act 205 (40 P.S. § 1171.5), which defines an unfair act or practice as: (9) cancelling any policy of insurance covering owner-occupied

private residential properties or personal property of individuals that has been in force for 60 days or more or refusing to renew any such policy unless the policy was obtained through material misrepresentation, fraudulent statements, omissions or concealment of fact material to the acceptance of the risk or to the hazard assumed by the company; or there has been a substantial change or increase in hazard in the risk assumed by the company subsequent to the date the policy was issued; or there is a substantial increase in hazards insured against by reason of willful or negligent acts or omissions by the insured; or the insured has failed to pay any premium whether such premium is payable directly to the company or its agent or indirectly under any premium finance plan or extension of credit; or for any other reasons approved by the Commissioner pursuant to rules and regulations promulgated by the Commissioner. No cancellation or refusal to renew by any person shall be effective unless a written notice of the cancellation or refusal to renew is received by the insured whether at the address shown in the policy or at a forwarding address;

- (xix) Section 5(a)(9)(ii) of Act 205 (40 P.S. § 1171.5), which requires that a cancellation notice state the date, not less than 30 days after the date of delivery or mailing on which such cancellation or refusal to renew shall become effective;

- (xx) Title 31, Pennsylvania Code, Section 69.22(c), which requires if an insured's first-party limits have been exhausted, the insurer shall, within 30 days of the receipt of the provider's bill, provide notice to the provider and the insured that the first-party benefits have been exhausted;
- (xxi) Title 31, Pennsylvania Code, Section 69.52(b), which requires an insurer to make a referral to a PRO within 90 days of the insurer's receipt of sufficient documentation supporting the bill. An insurer shall pay bills for care that are not referred to a PRO within 30 days after the insurer receives sufficient documentation supporting the bill. If an insurer makes its referral after the 30th day and on or before the 90th day, the provider's bill for care shall be paid;
- (xxii) 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;
- (xxiii) 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;

(xxiv) 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;

(xxv) Sections 1161(a) and (b) of Title 75, Pa.C.S. (2004 Sup.), states: (a) a person 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, and (b) an owner who transfers a vehicle to be destroyed, dismantled, salvaged or recycled shall assign the certificate of title to the person to whom the vehicle is transferred. The transferee shall immediately present the assigned certificate of title the Department with an application for a certificate of salvage upon a form furnished by the Department. An insurer 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;

- (xxvi) Title 75, Pennsylvania Consolidated Statutes, Section 1822, which requires not later than May 1, 1990, all applications for insurance, renewals and claim forms shall contain a statement that clearly states, in substance, the following: Any person who knowingly and with intent to injure or defraud any insurer files an application or claim containing any false, incomplete or misleading information shall, upon conviction, be subject to imprisonment for up to seven years and payment of a fine of up to \$15,000.00;
- (xxvii) Pennsylvania Assigned Risk Plan, Section 2.A(1), states an insured is a Clean Risk who, for the 36 months preceding the date of application, has not been involved in an accident as a driver and has not received more than 3 points under Title 75 Pa.C.S. § 1535, or whose operator's license has not been suspended or revoked;
- (xxviii) Pennsylvania Assigned Risk Plan, Section 2.A(2), which states a clean risk is an insured or applicant for insurance who, for the 36 month period immediately preceding the date of application or renewal, has not received more than three points for violations as set forth in Chapter 1 of the Pennsylvania Consolidated Statutes;
- (xxix) Pennsylvania Assigned Risk Plan, Section 2.A(3), which states a clean risk is an insured or applicant for insurance who, for the 36 month period

immediately preceding the date of application or renewal, whose operator's license has not been suspended or revoked and the insured is able to produce proof that they have responded to all citations and paid all fines and penalties;

- (xxx) Pennsylvania Assigned Risk Plan, Section 6(B)(3)(a), which states three points are assigned for driving while intoxicated or under the influence of drugs;
- (xxxi) Pennsylvania Assigned Risk Plan, Section 6(B)(3)(d), which requires three points to be assigned for conviction of driving while license is suspended or revoked;
- (xxxii) Pennsylvania Assigned Risk Plan, Section 6(B)(5)(a), which states one point is assigned for conviction of any other moving traffic violation resulting in suspension or revocation of an operator's license;
- (xxxiii) Pennsylvania Assigned Risk Plan, Section 6(B)(7)(a), which states one point is assigned for conviction of any other moving traffic violation, other than Section 1535 of the Pennsylvania Consolidated Statutes, resulting in suspension of operating privileges;

- (xxxiv) Pennsylvania Assigned Risk Plan, Section 6(B)(8), which states one point is assigned for a suspension or revocation of operating privileges under Section 1533 of the Pennsylvania Consolidated Statutes for failure to respond to a citation;
- (xxxv) Pennsylvania Assigned Risk Plan, Section 6(C)(3), which states one point is assigned for each auto accident that results in bodily injury or death, or damage to property including his own, in which the insurer's aggregate payment during the experience period is \$1,150 on or after July 1, 2005;
- (xxxvi) Pennsylvania Assigned Risk Plan, Section 6(C)(4), which states one point is assigned for two or more accidents, not assigned points under (3), that result in bodily injury or death, or damage to property including his or her own, in which the insurer's aggregate payment during the experience period is \$1,150 or more on or after July 1, 2005;
- (xxxvii) Pennsylvania Assigned Risk Plan, Section 6(D), which states one point shall be assigned if the principal operator of the automobile has no points assigned for an accident but has not been licensed for three years in the United States, Canada or a U.S. possession; and
- (xxxviii) Pennsylvania Assigned Risk Plan, Section 12(A)(1)(b), which states a private passenger automobile risk is eligible for take-out if, during the three

successive years prior to the policy expiration, the named insured and any other person who usually operates the automobile has not been involved in accidents or convictions for which points are required to be assessed in accordance with the rules of the Plan.

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 Section 641.1-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 Act 86 (40 P.S. §§ 3401 and 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.
- (d) Respondent's violations of Sections 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).
- (e) Respondent's violations of Sections 4(a) and (h) of the Casualty and Surety Rate Regulatory Act, No. 246 (40 P.S. § 1184) are punishable under Section 16 of the Casualty and Surety Rate Regulatory Act:
- (i) imposition of a civil penalty not to exceed \$50 for each violation or not more than \$500 for each such wilful violation;
 - (ii) suspension of the license of any insurer which fails to comply with an Order of the Commissioner within the time limited by such Order, or any extension thereof which the Commissioner may grant.

(f) Respondent's violations of Sections 5(a)(4), 5(a)(7) and 5(a)(9) of the Unfair Insurance Practices Act, No. 205 (40 P.S. §§ 1171.5) are punishable by the following, under Section 9 of the Unfair Insurance Practices Act (40 P.S. § 1171.9):

- (i) cease and desist from engaging in the prohibited activity;
- (ii) suspension or revocation of the license(s) of Respondent.

(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 Title 31, Pennsylvania Code, Chapter 146 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-Five Thousand Dollars (\$25,000.00) 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.

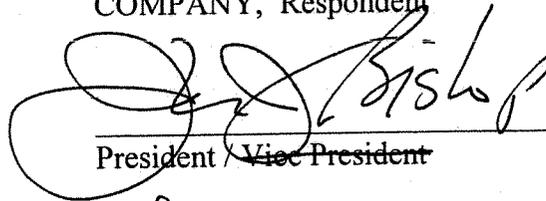
9. Respondent hereby expressly waives any relevant statute of limitations and application of the doctrine of laches for purposes of any enforcement of this Order.

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.

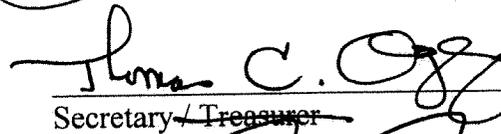
11. This Order shall be final upon execution by the Deputy Insurance Commissioner. Only the Insurance Commissioner or a duly authorized Deputy Insurance Commissioner is authorized to bind the Insurance Department with respect to the settlement of the alleged violations of law contained herein, and this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

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

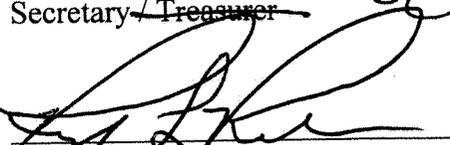
BY: MOTORISTS MUTUAL INSURANCE
COMPANY, Respondent



President / ~~Vice President~~



Secretary / ~~Treasurer~~



RANDOLPH L. ROHRBAUGH
Deputy Insurance Commissioner
Commonwealth of Pennsylvania

I. INTRODUCTION

The market conduct examination was conducted at Motorists Mutual Insurance Company's office located in Monroeville, Pennsylvania and Columbus, Ohio, from October 25, 2005, through December 16, 2005. Subsequent review and follow-up was conducted in the office of the Pennsylvania Insurance Department.

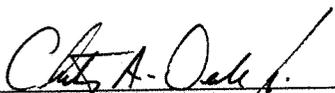
Pennsylvania Market Conduct Examination Reports generally note only those items to which the Department, after review, takes exception. However, the Examination Report may include management recommendations addressing areas of concern noted by the Department, but for which no statutory violation was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

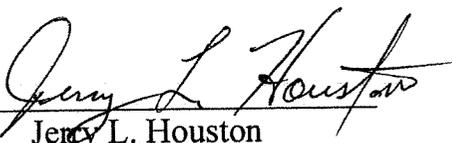
Throughout the course of the examination, Company officials were provided with status memoranda, which referenced specific policy numbers with citation to each section of law violated. Additional information was requested to clarify apparent violations. An exit conference was conducted with Company personnel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

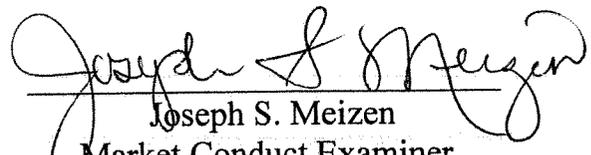
The undersigned participated in this examination and in preparation of this Report.



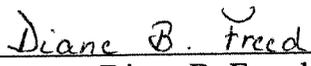
Chester A. Derk, Jr., AIE, HIA
Market Conduct Division Chief



Jerry L. Houston
Market Conduct Examiner



Joseph S. Meizen
Market Conduct Examiner



Diane B. Freed
Market Conduct Examiner

II. SCOPE OF EXAMINATION

The Market Conduct Examination was conducted on Motorists Mutual Insurance Company, hereinafter referred to as "Company," at their offices located in Monroeville, Pennsylvania and Columbus, Ohio. The examination was conducted pursuant to Sections 903 and 904 (40 P.S. §§323.3 and 323.4) of the Insurance Department Act and covered the experience period of January 1, 2004, through June 30, 2004, and January 1, 2005, through June 30, 2005, 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 and 60-day cancellations.
 - Rating – Proper use of all classification and rating plans and procedures.

2. Assigned Risk
 - Underwriting – Appropriate and timely notices of midterm cancellations.
 - Rating – Proper use of all classification and rating plans and procedures.

3. Property
 - Underwriting – Appropriate and timely notices of nonrenewal, midterm cancellations and 60-day cancellations.
 - Rating – Proper use of all classification and rating plans and procedures.

4. Dwelling Fire

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

5. Commercial Automobile

- Underwriting – Appropriate and timely notices of nonrenewal, midterm cancellations and renewals.

5. Commercial Property

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

6. Workers' Compensation

- Underwriting – Appropriate and timely notices of nonrenewal, midterm cancellations and renewals.

7. Claims

8. Forms

9. Advertising

10. Complaints

11. Licensing

III. COMPANY HISTORY AND LICENSING

Motorists Mutual Insurance Company was incorporated under the laws of Ohio on November 8, 1928, and began business on November 27, 1928. The principal organizers were prominent in automobile club work. On April 15, 1993, the Company announced an affiliation agreement with members of the American Hardware Insurance Group covering 1993 and subsequent years. In 2002, the agreement was amended to include all years. The Company affiliated with Wilson Mutual Insurance Company in 2001, and with the Iowa Mutual Insurance Group in 2003.

LICENSING

Motorists Mutual Insurance Company's Certificate of Authority to write business in the Commonwealth was last issued on April 1, 2005. The Company is licensed in Indiana, Kentucky, Michigan, Ohio, Pennsylvania and West Virginia. The Company's 2004 annual statement reflects Direct Written Premium for all lines of business in the Commonwealth of Pennsylvania as \$44,162,709. Premium volume related to the areas of this review were: Fire \$319,809; Homeowners Multiple Peril \$5,453,363; Commercial Multiple Peril (non-liability portion) \$3,006,839; Commercial Multiple Peril (liability portion) \$322,678; Ocean Marine \$18,243; Inland Marine \$928,387; Workers' Compensation \$3,927,378; Private Passenger Automobile Direct Written Premium was reported as Private Passenger Automobile No-Fault (personal injury protection) \$1,942,242; Other Private Passenger Automobile Liability \$8,856,801 and Private Passenger Automobile Physical Damage \$7,906,096; Commercial Automobile Direct Written Premium was reported as Commercial Automobile No-Fault (personal injury protection) \$265,509; Other Commercial Automobile Liability \$5,512,170 and Commercial Automobile Physical Damage \$2,215,240.

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 personal and commercial lines of business. The purpose of this review was to identify any inconsistencies which could be considered discriminatory, specifically prohibited by statute or regulation, or unusual in nature.

The following findings were made:

1 Violation Act 205, Section 5(a)(7)(iii) [40 P.S. §1171.5(a)(7)(iii)]

Unfair Methods of Competition and Unfair or Deceptive Acts or Practices Defined. "Unfair Methods of Competition" and "Unfair or Deceptive Practices" in the business of insurance means: Unfairly discriminating by means of: Making or permitting any unfair discrimination between individuals of the same class and essentially the same hazard with regard to underwriting standards and practices or eligibility requirements by reason of race, religion, nationality or ethnic group, age, sex, family size, occupation, place of residence or marital status. The Company's motorcycle underwriting guidelines indicated the following: "An operator is ineligible if he or she is an itinerant, migrant or transient worker."

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

Unfair Methods of Competition and Unfair or Deceptive Acts or Practices Defined. Entering into any agreement to commit, or by any concerted action committing, any act of boycott, coercion or

intimidation resulting in or tending to result in unreasonable restraint of, or monopoly in, the business of insurance. Four violations were due to the Company's commercial underwriting guidelines requiring supporting business of property and general liability to write boiler and machinery coverage, crime coverage, inland marine coverage and workers' compensation coverage. The remaining violation was due to the Company's personal automobile underwriting guideline for motorcycle policies requiring supporting automobile insurance to write motorcycle coverage.

V. UNDERWRITING

A. Private Passenger Automobile

1. 60-Day Cancellations

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

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

The universe of 100 private passenger automobile files identified as being cancelled in the first 60 days of new business was selected for review. All 100 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 1,634 private passenger automobile files identified as midterm cancellations by the Company, 200 files were selected for review. All 200 files selected were received and reviewed. The 3 violations noted were based on 3 files, resulting in an error ratio of 2%.

The following findings were 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 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 failed to provide 60 days notice of nonrenewal.

2 Violations Act 68, Section 2006 [40 P.S. §991.2006]

Requires that cancellation by an insurer of a policy of automobile insurance shall not be effective unless the insurer delivers or mails to the insured a written notice of the cancellation. The 2 files noted did not contain any evidence that a notice was sent to the insured.

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 70 private passenger automobile files identified as nonrenewals by the Company was selected for review. All 70 files selected were received and reviewed. The 3 violations noted were based on 3 files, resulting in an error ratio of 4%.

The following findings were made:

3 Violations Act 68, Section 2006(3) [40 P.S. §991.2006(3)]

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. The Company did not provide a specific reason for nonrenewal for the 3 files noted.

B. Private Passenger Automobile – Assigned Risk

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

1. Midterm Cancellations

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

The primary purpose of the review was to determine compliance with Title 75, Pennsylvania Consolidated Statutes, Sections 1742, 1743 and 1744 [75

Pa. C.S. §1742, 1743 an 1744], and all the rules of the Pennsylvania Assigned Risk Plan and Manual.

The universe of 18 private passenger automobile assigned risk policies cancelled during the experience period was selected for review. All 18 files selected were received and reviewed. No violations were noted.

C. Property

1. 60-Day Cancellations

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

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

The universe of 40 property policies which were cancelled within the first 60 days of new business was selected for review. The policies consisted of homeowner and tenant homeowner. All 40 files selected were received and reviewed. No violations were noted.

2. Midterm Cancellations

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

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

From the universe of 983 property policies which were cancelled midterm during the experience period, 415 files were selected for review. The property policies consisted of homeowner, tenant homeowner, dwelling fire, boat and inland marine. All 415 files requested were received and reviewed. The 7 violations noted were based on 6 files, resulting in an error ratio of 1%.

The following findings were made:

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

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

approved by the Commissioner. The Company cancelled the 4 files noted for an improper reason. The reasons were due to claims, breed of dog and log homes unacceptable.

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

Requires that a cancellation notice shall state the date, not less than thirty days after the date of delivery or mailing on which such cancellation or refusal to renew shall become effective. The Company did not provide the required 30 days notice of cancellation.

1 Violation Act 205, Section 5(a)(4) [40 P.S. §1171.5(a)(4)]

Unfair Methods of Competition and Unfair or Deceptive Acts or Practices Defined. Entering into any agreement to commit, or by any concerted action committing, any act of boycott, coercion or intimidation resulting in or tending to result in unreasonable restraint of, or monopoly in, the business of insurance. The Company's workers' compensation underwriting guide indicated no new business mono-line workers' compensation policies to be authorized. The file noted was terminated due to lack of supporting business.

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 Company did not report any property policies that were nonrenewed during the experience period.

D. Commercial Automobile

1. Midterm Cancellations

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

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

The universe of 14 commercial automobile policies cancelled during the experience period was selected for review. The 14 files selected were received and reviewed. No violations were 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 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 2 commercial automobile policies identified as nonrenewals by the Company was selected for review. The 2 files selected were received and reviewed. The violation noted resulted in an error ratio of 50%.

The following finding was made:

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

Requires that a nonrenewal notice be forwarded directly to the named insured or insureds at least 60 days in advance of the effective date of the termination. The Company did not provide at least 60 days notice of nonrenewal.

4. Renewals

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

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

From the universe of 136 commercial automobile policies renewed during the experience period, 50 files were selected for review. All 50 files selected were received and reviewed. No violations were noted.

E. Commercial Property

1. 60-Day Cancellations

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

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

The universe of 8 commercial property policies which were cancelled within the first 60 days was selected for review. The policies consisted of commercial package, commercial fire and tenant occupied dwelling fire. All 8 files selected were received and reviewed. The violation noted resulted in an error ratio of 13%.

The following finding was made:

1 Violation Act 205, Section 5(a)(4) [40 P.S. §1171.5(a)(4)]

Unfair Methods of Competition and Unfair or Deceptive Acts or Practices Defined. Entering into any agreement to commit, or by any concerted action committing, any act of boycott, coercion or intimidation resulting in or tending to result in unreasonable restraint of, or monopoly in, the business of insurance. The Company required supporting business on the file noted.

2. Midterm Cancellations

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

The purpose of the review was to determine compliance with Act 86, Section 2 (40 P.S. §3402), which prohibits cancellation except for specified

reasons and Section 3 (40 P.S. §3403), which establishes the requirements, which must be met regarding the form and condition of the cancellation notice.

From the universe of 663 commercial property policies which were cancelled during the experience period, 301 files were selected for review. The commercial policies consisted of commercial package, commercial fire and tenant occupied dwelling fire. All 301 files selected were received and reviewed. The 3 violations noted were based on 3 files, resulting in an error ratio of 1%.

The following findings were made:

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

Requires that a cancellation notice must be forwarded to the named insured or insureds at least 60 days in advance of the effective date of termination. The Company did not provide at least 60 days notice of cancellation for the 2 files noted.

1 Violation Act 205, Section 5(a)(4) [40 P.S. §1171.5(a)(4)]

Unfair Methods of Competition and Unfair or Deceptive Acts or Practices Defined. Entering into any agreement to commit, or by any concerted action committing, any act of boycott, coercion or intimidation resulting in or tending to result in unreasonable restraint of, or monopoly in, the business of insurance. The Company's workers' compensation underwriting guide indicated no new business mono-line workers' compensation policies to be authorized. The

Company cancelled the policy due to lack of supporting business.

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 50 commercial property policies identified as nonrenewals by the Company was selected for review. The commercial policies consisted of commercial fire and commercial package. All 50 files selected were received and reviewed. The violation noted resulted in an error ratio of 2%.

The following finding was made:

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

Requires that a nonrenewal notice be forwarded directly to the named insured or insureds at least 60 days in advance of the effective date of the termination. The Company did not provide at least 60 days notice of nonrenewal.

4. Declinations

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

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

The universe of 15 commercial property files identified as declinations by the Company was selected for review. The commercial files consisted of commercial package and commercial fire. All 15 files selected were received and reviewed. No violations were noted.

5. 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 6,296 commercial property policies which were renewed during the experience period, 250 files were selected for review. The commercial property policies consisted of tenant occupied dwelling fire, commercial fire and commercial package. All 250 files selected were received and reviewed. No violations were noted.

F. Workers Compensation

1. Midterm Cancellations

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

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

The universe of 63 workers' compensation policies cancelled midterm during the experience period was selected for review. All 63 files selected were received and reviewed. No violations were noted.

2. Nonrenewals

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

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

The universe of 9 workers' compensation policies nonrenewed during the experience period was selected for review. All 9 files selected were received and reviewed. No violations were noted.

3. 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 643 workers' compensation policies which were renewed during the experience period, 50 files were selected for review. All 50 files selected were received and reviewed. The violation noted resulted in an error ratio of 2%.

The following finding was made:

1 Violation Act 86, Section 1 [40 P.S. §3401]

This section provides that notwithstanding any other provision of law, a policy of insurance covering commercial property or casualty risks in this Commonwealth shall provide for not less than 30 days advance notice to the named insured of an increase in renewal premium. This section does not apply to policies written on a retrospective rating plan. The Company did not provide at least 30 days advance notice to the named insured of an increase in renewal premium.

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 1,736 private passenger automobile policies identified as new business without surcharges by the Company, 150 files were selected for review. All 150 files requested were received and reviewed. The 31 violations noted were based on 23 files, resulting in an error ratio of 15%.

The following findings were made:

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

Requires every insurer to file with the Insurance Commissioner every manual of classifications, rules and rates, every rating plan and every modification of any rating plan, which it proposes to use in the Commonwealth. Also, no insurer shall make or issue a contract or policy except in accordance with filings or rates, which are in effect at the time of issue. The file noted was rated incorrectly and resulted in an undercharge of \$110.10.

6 Violations Title 75, Pa. C.S. §1731(b) & (c)

The named insured shall be informed that he may reject uninsured and underinsured motorist coverage by signing a written rejection form. The 6 violations noted were the result of the policy being issued without uninsured and underinsured motorist coverage and no evidence of a signed written rejection form in the file.

13 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 an opportunity to elect a tort option. A policy may not be issued unless the applicant has been provided an opportunity to elect a tort option. The 13 violations noted were the result of policies issued with limited tort and no evidence of a signed limited tort selection form.

6 Violations Title 75, Pa. C.S. §1734

A named insured may request in writing the issuance of coverages under Section 1731 (relating to availability, scope and amount of coverage) in an amount equal to or less than the limits of liability for bodily injury. The 6 files noted did not contain a written request for lower limits of liability.

1 Violation Title 75, Pa. C.S. §1738(c)(d)(1)&(2)

The named insured shall be informed that he may exercise the waiver of stacked limits for uninsured and underinsured motorist coverage by signing written rejection forms. The Company did not provide the signed rejection form of stacked limits for uninsured and underinsured motorists coverage for the file noted.

4 Violations Title 75, Pa. C.S. §1792(b)(1)

Requires every private passenger automobile insurance policy providing collision coverage to provide a deductible in the amount of \$500.00 for collision coverage, unless the named insured signs a statement indicating the insured is aware that

the purchase of a lower deductible is permissible and that there is an additional cost of purchasing a lower deductible and the insured agrees to accept it. The 4 violations noted were the result of not providing the required signed statement from the insured.

Private Passenger Automobile – New Business With Surcharges

The universe of 19 private passenger automobile policies identified as new business with surcharges was selected for review. All 19 files requested were received and reviewed. The 19 violations noted were based on 19 files, resulting in an error ratio of 100%.

The following findings were made:

19 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 inform the insured of 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 12,773 private passenger automobile policies renewed without surcharges during the experience period, 200 files were selected for review. All 200 files selected were received and reviewed. The 3 violations noted were based on 3 files, resulting in an error ratio of 2%.

The following findings were made:

*3 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 3 violations noted were the result of policies being issued with an improper territory which resulted in an overcharge of \$371.29 and undercharges of \$371.50.

Private Passenger Automobile – Renewals With Surcharges

From the universe of 762 private passenger automobile policies renewed with surcharges during the experience period, 150 files were selected for review. All 150 files selected were received and reviewed. The 766 violations noted were based on the universe of 762 files, resulting in an error ratio of 100%.

The following findings were made:

762 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 inform the insured of the manner in which the surcharge, rate penalty or driver record point assignment was made.

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

Requires every insurer to file with the Insurance Commissioner every manual of classifications, rules and rates, every rating plan and every modification of any rating plan, which it proposes to use in the Commonwealth. Also, no insurer shall make or issue a contract or policy except in accordance with filings or rates, which are in effect at the time of issue. The 4 violations were the result of policies being issued with incorrect rates which resulted in overcharges of \$1,554.60.

B. Private Passenger Automobile – Assigned Risk

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

1. New Business

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

The primary purpose of the review was to determine compliance with Act 246, The Casualty and Surety Rate Regulatory Act, Sections 4(a) and (h)

[40 P.S. §1184], which requires every insurer to file with the Insurance Commissioner every manual of classifications, rules and rates, every rating plan and every modification of any rating plan, which it proposes to use in the Commonwealth. Also, no insurer shall make or issue a contract or policy except in accordance with filings or rates, which are in effect at the time. Review was also made of all the rules and rates of the Assigned Risk Plan, compliance with all provisions of Act 6 of 1990, as well as Title 75, Pa. C.S. Sections 1741, 1742, 1743 and 1744 [40 P.S. §1741, 1742, 1743 and 1744], which establishes the Assigned Risk Plan and requires insurers to abide by the rules of the Plan.

Assigned Risk Private Passenger Automobile – New Business – Clean

From the universe of 139 assigned risk private passenger automobile new business policies written as clean during the experience period, 50 files were selected for review. All 50 files selected were received and reviewed. The 24 violations were based on the universe of 19, resulting in an error ratio of 38%.

The following findings were made:

*5 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.

AND

Assigned Risk Plan § 2.A(2)

Clean Risk – A “clean risk” is an insured or an applicant for insurance who for the 36 month period immediately preceding the date of application or renewal date of the policy has not received more than 3 points for violations as set forth in Chapter 1 of the Pennsylvania Consolidated Statutes. The 5 files noted were not rated in accordance with filed and approved assigned risk plan. The files were classified as “clean”, but should have been “other than clean”, which resulted in undercharges of \$1,418.

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

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

AND

Assigned Risk Plan § 2.A(3)

Clean Risk – A “clean risk” is an insured or an applicant for insurance who for the 36 month period immediately preceding the date of application or renewal date of the policy whose operator’s license has not been suspended or revoked except under Title 75, Pa. C.S. §1533 relating to suspension of operating privileges for failure to respond and the insured

is able to produce proof that they have responded to all citations and paid all fines and penalties. The files noted were not rated in accordance with filed and approved assigned risk plan. The file was classified as “clean”, but should have been “other than clean” due to 2 license suspensions for failure to respond and pay fines, which resulted in an undercharge of \$470.

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

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

AND

Assigned Risk Plan General Rules – Rule 6(B)(5)(a)

One point is assigned for conviction of any other moving traffic violation resulting in suspension or revocation of an operator’s license. The Company rated the policy incorrectly which resulted in an undercharge of \$234.

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

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

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

AND

Assigned Risk Plan General Rules – Rule 6(B)(8)

One point is assigned for a suspension or revocation of operating privileges under Section 1533 of the Pennsylvania Consolidated Statutes for failure to respond to a citation. The Company incorrectly rated the policy which resulted in an undercharge of \$470.

16 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 16 files noted were not rated in accordance with filed and approved assigned risk rate plan. The rates used were from the effective date of 1/1/1998. The Company should have used rates that were effective 2/15/2004. This resulted in an undercharge of \$15 and overcharges of \$292.

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

The universe of 55 assigned risk private passenger automobile new business policies written as other than clean during the experience period was selected for review. All 55 files selected were received and reviewed. The 77 violations were based on 53 files, resulting in an error ratio of 96%.

The following findings were made:

45 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 45 violations noted were the result of the Company not providing a surcharge disclosure statement that specifies the manner in which the surcharge, rate penalty or driver record point assignment was made.

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

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

accordance with filings or rates, which are in effect at the time of issue. The Company did not rate the policy correctly which resulted in an overcharge of \$718.

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

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

AND

Assigned Risk Plan Blue Pages § 2(A)(1)

Clean Risk is an insured who for the 36 month period immediately preceding the date of application or renewal has not been involved in an accident as a driver and has not received more than 3 points under Title 75, Pa. C.S. §1535, or whose operator's license has not been suspended or revoked. The Company incorrectly classified the policy as "Other Than Clean" due to an accident. The Company did not have sufficient information or documentation to indicate the accident was at-fault. This resulted in an overcharge of \$1,807.

*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.

AND

Assigned Risk Plan General Rule 6 § (C)(3)

One point is assigned for each auto accident that results in bodily injury or death, or damage to property including his or her own, in which the insurer's aggregate payment during the experience period is \$1,150 on or after July 1, 2005. The 2 files noted were rated incorrectly surcharging for accidents where the amount paid was undetermined. This resulted in overcharges of \$3,321.

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

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

AND

Assigned Risk Plan General Rules – Rule 6 §(B)(3)(d)

Three points are assigned for conviction of driving while license is suspended or revoked.

AND

Assigned Risk Plan General Rules – Rule 6 §(B)(7)(a)

One point is assigned for conviction of any other moving traffic violation, other than convictions under Section 1535 of the Pennsylvania Consolidated Statutes, resulting in suspension of operating privileges. The Company failed to surcharge for some convictions which resulted in an undercharge of \$449.

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

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

AND

Assigned Risk Plan General Rules – Rule 6 §(B)(8)

One point is assigned for a suspension or revocation of operating privileges under Section 1533 of the Pennsylvania Consolidated Statutes for failure to respond to a citation. The Company failed to surcharge the policy for a violation which resulted in a suspension of privileges which resulted in an undercharge of \$409.

*5 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.

AND

Assigned Risk Plan General Rules 6 §(D)

One point shall be assigned if the principal operator of the automobile has no points assigned for an accident but has not been licensed for three years in the United States, Canada or a U.S. possession. The 5 files noted were rated incorrectly which resulted in undercharges of \$528 and overcharges of \$482.

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

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

AND

Assigned Risk Plan General Rules – Rule 6 §(B)(3)(a)

Three points are assigned for driving while intoxicated or under the influence of drugs.

AND

Assigned Risk Plan General Rule 6 §(C)(3)

One point is assigned for each auto accident that results in bodily injury or death, or damage to property including his or her own, in which the insurer's aggregate payment during the experience period is \$1,150 on or after July 1, 2005. The Company correctly classified the policy as "Other Than Clean", but failed to assign 3 points for driving under the influence which resulted in an undercharge of \$2,017.

20 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 20 files noted were not rated in accordance with filed and approved assigned risk rate plan. The rates used were from the effective date of 1/1/1998. The Company should have used rates that were effective 2/15/2004. This resulted in undercharges of \$1,367 and overcharges of \$909.

Assigned Risk Private Passenger Automobile – Renewals – Clean

The universe of 43 assigned risk private passenger automobile renewal policies written as clean during the experience period was selected for review. All 43 files selected were received and reviewed. The 24 violations noted were based on 20 files, resulting in an error ratio of 47%.

The following findings were made:

2 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 2 violations noted were the result of the Company not providing a surcharge disclosure statement that specifies the manner in which the surcharge, rate penalty or driver record point assignment was made.

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

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

accordance with filings or rates, which are in effect at the time of issue.

AND

Assigned Risk Plan §2.A(2)

A clean risk is an insured or an applicant for insurance who for the 36 month period immediately preceding the date of application or renewal date of the policy has not been involved in an accident as a driver, provided that an accident shall not include accidents described in Title 75, Pa. C.S. §1799.3. The Company rated the policy as “Clean” and electronic records indicated there was a property damage payment over the threshold for an at-fault accident. This resulted in an undercharge of \$238.10.

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

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

AND

Assigned Risk Plan § 2.A(3)

Clean Risk – A “clean risk” is an insured or an applicant for insurance who for the 36 month period immediately preceding the date of application or renewal date of the policy whose operator’s license has not been suspended or revoked

except under Title 75, Pa. C.S. §1533 relating to suspension of operating privileges for failure to respond and the insured is able to produce proof that they have responded to all citations and paid all fines and penalties. The file noted was not rated in accordance with filed and approved assigned risk plan. The file was classified as “clean”, but should have been “other than clean” due to 2 license suspensions for failure to respond and pay fines, which resulted in an undercharge of \$477.

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

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

AND

Assigned Risk Plan General Rules – Rule 6(B)(8)

One point is assigned for a suspension or revocation of operating privileges under Section 1533 of the Pennsylvania Consolidated Statutes for failure to respond to a citation. The Company rated the policy incorrectly. A point should have been assigned for a license suspension for failure to respond. This resulted in an undercharge of \$477.

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

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

AND

Assigned Risk Plan § 12(A)(1)(b)

Eligibility for Take-Out. A private passenger automobile risk
is eligible for take-out if during the three successive years
prior to the expiration of the policy, the named insured and
any other person who usually operates the automobile has not
been involved in accidents or convictions for which points are
required to be assessed in accordance with the rules of the
Plan. The Company sent a take-out offer and the insured was
not eligible because the motor vehicle record showed a
license suspension for failure to respond.

*18 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 18 files noted were not rated in accordance with filed and approved assigned risk rate plan. The rates used were from the effective date of 1/1/1998. The Company should have used rates that were effective 2/15/2004. This resulted in undercharges of \$396 and overcharges of \$280.

Assigned Risk Private Passenger Automobile – Renewals – Other Than Clean

The universe of 19 assigned risk private passenger automobile renewal policies written as other than clean during the experience period was selected for review. All 19 files selected were received and reviewed. The 21 violations noted were based on 16 files, resulting in an error ratio of 84%.

The following findings were made:

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 13 violations noted were the result of the Company not providing a surcharge disclosure statement that specifies the manner in which the surcharge, rate penalty or driver record point assignment was made.

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

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

AND

Assigned Risk Plan General Rule 6 § 6(C)(4)

One point is assigned for two or more accidents, not assigned points under (3) above, that result in bodily injury or death, or damage to property including his or her own, in which the insurer's aggregate payment during the experience period is \$1,150 or more on or after July 1, 2005. The Company applied an incorrect surcharge which resulted in an overcharge of \$562.

*7 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 7 files noted were not rated in accordance with filed and approved assigned risk rate plan. The rates

used were from the effective date of 1/1/1998. The Company should have used rates that were effective 2/15/2004. This resulted in undercharges of \$2,537 and overcharges of \$379.

C. Homeowners

1. New Business

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

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

Homeowner Rating – New Business Without Surcharges

From the universe of 1,630 homeowner policies written as new business without surcharges during the experience period, 100 files were selected for review. All 100 files were received and reviewed. No violations were noted.

Homeowner Rating – New Business With Surcharges

The universe of 5 homeowner policies written as new business with surcharges during the experience period was selected for review. All 5 files selected were received and reviewed. No violations were noted.

2. Renewals

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

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

Homeowner Rating – Renewals Without Surcharges

From the universe of 10,983 homeowner policies renewed without surcharges during the experience period, 150 files were selected for review. All 150 files selected were received and reviewed. No violations were noted.

Homeowner Rating – Renewals With Surcharges

The universe of 12 homeowner policies renewed with surcharges during the experience period was selected for review. All 12 files selected were received and reviewed. No violations were noted.

D. Dwelling Fire

1. New Business

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

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

The universe of 8 dwelling fire policies written as new business was selected for review. All 8 files selected were received and reviewed. No violations were noted.

2. Renewals

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

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

The universe of 71 dwelling fire policies renewed during the experience period was selected for review. All 71 files selected were received and reviewed. No violations were noted.

VII. CLAIMS

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

The Claims review consisted of the following areas of review:

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

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

A. Automobile Property Damage Claims

From the universe of 937 private passenger automobile property damage claims reported during the experience period, 100 files were selected for review. All 100 files requested were received and reviewed. No violations were noted.

B. Automobile Comprehensive Claims

From the universe of 1,099 private passenger automobile comprehensive claims reported during the experience period, 100 files were selected for review. All 100 files requested were received and reviewed. No violations were noted.

C. Automobile Collision Claims

From the universe of 1,130 private passenger automobile collision claims reported during the experience period, 100 files were selected for review. All 100 files requested were received and reviewed. No violations were noted.

D. Automobile Total Loss Claims

From the universe of 469 private passenger automobile total loss claims reported during the experience period, 100 files were selected for review. All 100 files selected were received and reviewed. The violation noted resulted in an error ratio of 1%.

The following finding was made:

1 Violation 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 file noted did not reflect a salvage title was obtained.

E. Automobile First Party Medical Claims

From the universe of 648 private passenger automobile first party medical claims reported during the experience period, 150 files were selected for review. All 150 files requested were received and reviewed. The 10 violations noted were based on 6 files, resulting in an error ratio of 4%.

The following findings were made:

5 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 5 violations noted resulted because the bills were not paid within 30 days.

4 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 4 claims that were not paid within 30 days.

1 Violation 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 violation noted was due to the insurer not notifying the insured that the first-party limits have been exhausted.

F. Automobile First Party Medical Claims Referred to a PRO

The universe of 7 private passenger automobile first party medical claims referred to a peer review organization was selected for review. All 7 files selected were received and reviewed. No violations were noted.

G. Assigned Risk Automobile Property Damage Claims

The universe of 30 assigned risk automobile property damage claims was selected for review. All 30 files selected were received and reviewed. No violations were noted.

H. Assigned Risk Automobile Collision Claims

The universe of 2 assigned risk collision claims was selected for review. The 2 files selected were received and reviewed. No violations were noted.

I. Assigned Risk Automobile Total Loss Claims

The universe of one total loss claim was selected for review. The file was received and reviewed. No violations were noted.

J. Assigned Risk Automobile First Party Medical Claims

The universe of 14 assigned risk automobile first party medical claims was selected for review. All 14 files selected were received and reviewed. The violation noted resulted in an error ratio of 7%.

The following finding was made:

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

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

K. Assigned Risk Automobile First Party Medical Claims Referred to a PRO

The universe of 3 assigned risk automobile first party medical claims referred to a peer review organization was selected for review. All 3 files selected were received and reviewed. No violations were noted.

L. Homeowner Claims

From the universe of 962 homeowner claims reported during the experience period, 100 files were selected for review. All 100 files selected were received and reviewed. The 8 violations noted were based on 8 files, resulting in an error ratio of 8%.

The following findings were made:

6 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 6 claims noted.

2 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 send the denial in writing for the 2 claims noted.

M. Dwelling Fire Claims

The universe of 32 dwelling fire claims reported during the experience period was selected for review. All 32 files selected were received and reviewed. The violation noted resulted in an error ratio of 3%.

The following finding was made:

1 Violation Title 31, Pa. Code, Section 146.6

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

The following findings were made:

1 Violation 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 Company did not provide the fraud warning on the claim form entitled "Description of Accident Form (C-153 1-97).

Automobile Rating – Renewals Without Surcharges

12,773 Violations 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 Company did not provide the fraud warning at the time of renewal.

Automobile Rating – Renewals With Surcharges

762 Violations 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 Company did not provide the fraud warning at the time of renewal.

IX. ADVERTISING

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

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

The Company provided 55 pieces of advertising which included agency mailers, radio and TV ads, wearing apparel and brochures. Internet advertising was also reviewed. No violations were noted.

X. CONSUMER COMPLAINTS

The Company was requested to identify all consumer complaints received during the experience period and provide copies of their consumer complaint logs for the preceding four years. The Company identified 24 consumer complaints received during the experience period and provided all consumer complaint logs requested. The 24 complaint files were requested, received and reviewed.

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

The following synopsis reflects the nature of the 24 complaints that were reviewed.

• 15	Claims Related	63%
• 8	Cancellation/Nonrenewal	33%
• 1	Billing	4%
<hr/>		<hr/>
24		100%

XI. LICENSING

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

The following findings were made:

*3 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.

Bowers & Scott Ins. Agency, Inc.

Litman Insurance Agency, Inc.
Neverman Insurance Agency, Inc.

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 2006 [40 P.S. §991.2006], so that the violations noted in the Report do not occur in the future.
2. The Company must review Act 205, Section 5(a)(9) [40 P.S. §1171.5(a)(9)] to ensure compliance with cancellation notice requirements so that the violations noted in the Report do not occur in the future.
3. The Company must review Act 205, Section 5(a)(4) [40 P.S. §1171.5(a)(4)] to ensure that the violation relative to supporting coverage noted in the Report does not occur in the future.
4. The Company must review and revise internal control procedures to ensure compliance relative to commercial cancellation and nonrenewal requirements of Act 86, Section 3 [40 P.S. §§3403], so that the violations noted in the Report do not occur in the future.
5. 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.

6. 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.
7. The Company must revise underwriting procedures to ensure that the insured is aware that he may exercise the waiver of stacked limits for uninsured and underinsured motorist coverage by signing written rejection forms and that signed forms are retained with the underwriting file. This is to ensure that violations noted under Title 75, Pa. C.S. §1738(d)(1) and (2) do not occur in the future.
8. The Company must review Title 75, Pa. C.S. §1734 to ensure that the insured signs a request for lower limits of liability for uninsured and underinsured motorist coverage and a copy kept in files as noted in the Report.
9. The Company must revise underwriting procedures to ensure that the insured is aware that there is an additional cost for purchasing a lower deductible for collision coverage. This is to ensure that violations noted under Title 75, Pa. C.S. §1792(b)(1) do not occur in the future.

10. The Company must revise its underwriting procedures to ensure that each applicant for private passenger automobile liability insurance is provided an opportunity to exercise the waiver for uninsured and underinsured motorist coverage forms are obtained and retained with the underwriting file. This is to ensure that violations noted under Title 75, Pa. C.S. §1731(b) & (c) do not occur in the future.
11. The Company must review Act 246, Section 4 [40 P.S. §1184] and take appropriate measures to ensure the rating violations listed in the Report do not occur in the future.
12. The Company must review the Pennsylvania Assigned Risk Plan Manual and take appropriate measures to ensure the rating violations listed in the Report do not occur in the future
13. 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.
14. 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 status letters and claim denials, as noted in the Report, do not occur in the future.
15. 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. 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.

16. 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.
17. The Company must ensure that all 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 Title 75, Pa. C.S. §1822 do not occur in the future.
18. 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.
19. The Company must revise and reissue their motorcycle underwriting guidelines for use in Pennsylvania to ensure that the guidelines do not exclude applicants who is an itinerant or a migrant or transient worker from being eligible to obtain insurance for reasons established in Act 205, Section 5(a)(7)(iii) [40 P.S. §1171.5(a)(7)(iii)].

20. The Company must revise and reissue their underwriting guidelines for use in Pennsylvania to ensure that guidelines do not require supporting coverage. This is to ensure that violations noted under Act 205, Section 5(a)(4) [40 P.S. §1171.5(a)(4)] do not occur in the future.

XIII. COMPANY RESPONSE

May 19, 2006

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

Re: Company Response to Examination Warrant Number 05-M19-072

Dear Mr. Derk:

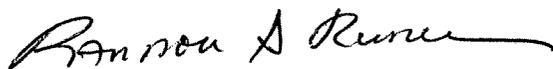
This is in response to your letter dated April 26, 2006 enclosing the Report of Examination of Motorists Mutual Insurance Company. We do not wish to assert exceptions to the findings in the report at this time.

The purpose of this letter is to comment on the findings and recommendations and outline our action plan to address the improvement areas and recommendations outlined in it. I trust this will reflect our commitment to answering the questions raised in this Market Conduct Examination. A task force of representatives from each involved division will implement the corrections.

At this time I wish to commend Constance Arnold, Jerry Houston, Diane Freed, and Joseph Meizen for the high degree of professionalism and courtesy they extended to us. I was pleased to see cooperation in action.

If you have questions, please feel free to contact me at 614-225-1457.

Motorists Mutual Insurance Company



Randolph A. Rudowicz
Vice President
Personal Lines Division

Enclosures

MOTORISTS MUTUAL INSURANCE COMPANY
EXAMINATION WARRANT NUMBER 05-M19-072
COMPANY RESPONSE

RECOMMENDATIONS

Recommendation # 1. Our cancellation procedures and the noted violations are in the process of being reviewed with the Pennsylvania underwriting staff. It is anticipated this emphasis will prevent future violations.

Recommendation # 2. The statutory cancellation notice requirements are being reviewed with the underwriting staff. Future violations should be avoided.

Recommendation # 3. The company has stopped using the underwriting guidelines that resulted in the violation. Revised guides will be filed with the Department by July 30, 2006.

Recommendation # 4. The statutory commercial cancellation and nonrenewal procedures are being reviewed with the underwriting staff to prevent future violations.

Recommendation # 5. We have made changes to comply with the Department's recommendations on our personal auto policies when the surcharge involves a claim. Modifying it for violations is a larger system effort, and until the necessary system changes are completed we have stopped surcharging for violations under the SDIP program. We are presently evaluating entering into an arrangement with a LAD third party administrator to maintain our assigned risk business.

Recommendation # 6-10. Agents using electronic applications are required to maintain appropriate signatures in their office on file, and those using paper media are required to obtain the proper signatures and send them to the Company. This has been made a point of emphasis with our agency staff. A directive will be used to remind them of this statutory requirement. Additionally, this matter will be on the agenda and covered at our agent training meetings.

Recommendation # 11. These rating violations and the procedures associated therewith have been reviewed with the underwriting staff to eliminate future violations.

Recommendation # 12. An employee retirement and resulting personnel change contributed to this violation. This issue has been addressed with the Actuarial Division. Changes have been made to prevent the reoccurrence of this matter. Again, please note we are considering the retention of a LAD. If done, this will allow prevent these situations in the future.

Recommendation # 13. Copies of refund checks were submitted with prior correspondence.

Recommendation # 14. The internal controls and procedures have been changed to prevent future violations. These violations and changes have been reviewed with the claims staff.

Recommendation # 15. These statutory requirements and the violations will be reviewed with the claims staff involved to ensure future compliance. Copies of interest payments have been provided with previous correspondence.

Recommendation # 16. This statutory requirement relative to salvage titles and our procedures have been reviewed with the claims staff to ensure compliance.

Recommendation # 17. This statutory requirement relative to a fraud warning has been reviewed with the claims staff. Either a sticker with the fraud warning is to be attached or the fraud warning preprinted on the form.

Recommendation # 18. We are correcting the three licensing errors. Marketing licensing procedures have been reviewed, and the violations will be reviewed with the marketing staff to ensure compliance.

Recommendation # 19. The company has stopped using the guidelines that caused the itinerant worker violation and will file revised guides with the Department by July 30, 2006.

Recommendation # 20. The company has stopped using the guidelines that caused the supporting insurance violation and will file revised guides with the Department by July 30, 2006.