REPORT OF
MARKET CONDUCT EXAMINATION
OF

THE PHOENIX INSURANCE COMPANY
Hartford, Connecticut

AS OF
July 24, 2009

COMMONWEALTH OF PENNSYLVANIA

INSURANCE DEPARTMENT
MARKET CONDUCT DIVISION

Issued: September 14, 2009

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).

June A. Coleman

June A. Coleman, Examiner-In-Charge

Sworn to and Subscribed Before me

This 13 Day of July, 2009

Theresa M Seneca

Notary Public

COMMONWEALTH OF PENNSYLVANIA
NOTARIAL SEAL
THERESA M. SENECA, Notary Public
City of Harrisburg, Dauphin County
My Commission Expires Aug. 15, 2010

THE PHOENIX INSURANCE COMPANY

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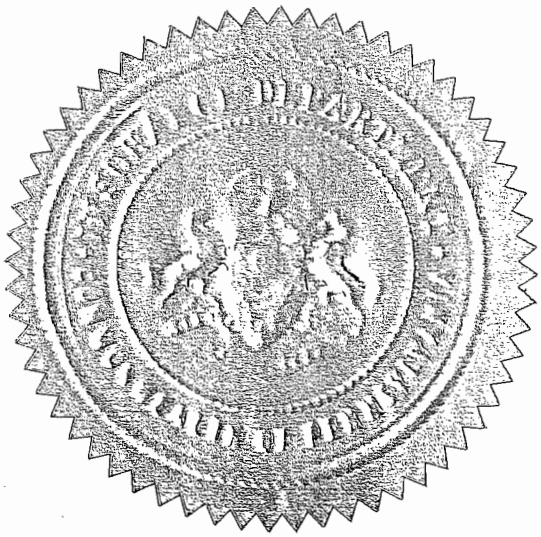
BEFORE THE INSURANCE COMMISSIONER
OF THE
COMMONWEALTH OF PENNSYLVANIA

ORDER

AND NOW, this 22ND day of July, 2008, 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 Ronald A. Gallagher, 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.



Joel S. Ario
Insurance Commissioner

BEFORE THE INSURANCE COMMISSIONER
OF THE
COMMONWEALTH OF PENNSYLVANIA

IN RE:	:	VIOLATIONS:
	:	
THE PHOENIX INSURANCE COMPANY	:	Sections 641.1-A and 671-A of Act 147 of 2002 (40 P.S. §§ 310.41a and 310.71)
One Tower Square	:	
Hartford, CT 06183	:	Act 1990-6, Section 1731(c)(1) (Title 75 §1731)
	:	
	:	Sections 1, 4(a), 4(b) and 4(c) of the Act of July 3, 1986, P.L. 396, No. 86 (40 P.S. §§3401 and 3404)
	:	
	:	Sections 4(a) and 4(h) of the Act of June 11, 1947, P.L. 538, No. 246 (40 P.S. §§ 1184)
	:	
	:	Sections 2003(e) and 2004 of Act 68 of 1998 (40 P.S. §§991.2003 and 991.2004)
	:	
	:	Sections 5(a)(7)(iii), 5(a)(9), 5(a)(9)(iv), and 5(a)(9)(v) of the Unfair Insurance Practices Act, Act of July 22, 1974, P.L. 589, No. 205 (40 P.S. §§ 1171.5)
	:	
	:	Section 506.1 of the Insurance Company Law (40 P.S. §636.1)
	:	
	:	Title 31, Pennsylvania Code, Section 62.3(e)(7) and 146.6
	:	
	:	Title 18, Pennsylvania Consolidated Statutes, Section 4117(k)
	:	
	:	Title 75, Pennsylvania Consolidated Statutes, Section 1822
	:	
Respondent.	:	Docket No. MC09-08-008

CONSENT ORDER

AND NOW, this 14th day of September, 2009, this Order is hereby issued by the Insurance Department 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 Insurance Department finds true and correct each of the following Findings of Fact:

(a) Respondent is The Phoenix Insurance Company, and maintains its address at One Tower Square, Hartford, Connecticut 06183.

(b) A market conduct examination of Respondent was conducted by the Insurance Department covering the experience periods from July 1, 2007 through June 30, 2008.

(c) On July 24, 2009, the Insurance Department issued a Market Conduct Examination Report to Respondent.

(d) A response to the Examination Report was provided by Respondent on August 24, 2009.

(e) The Examination Report notes violations of the following:

(i) Section 641.1-A of Act 147 of 2002 prohibits any entity or the appointed agent of any entity from transacting the business of insurance through anyone acting without an insurance producer license (40 P.S. § 310.41a);

(ii) Section 671-A of Act 147 of 2002 (40 P.S. § 310.71), which prohibits producers from transacting business within this Commonwealth without written appointment as required by the Act;

(iii) Section 1731.1(c)(1) of Act 1990-6, Title 75, Pa.C.S. § 1731, which states on policies in which either uninsured or underinsured motorist coverage has been rejected, the policy renewals must contain notice in prominent type that the policy does not provide protection against damages caused by uninsured or underinsured motorists;

(iv) 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;

(v) Section 4(a) of Act 86 (40 P.S. § 3404), which requires that unearned premium must be returned to the insured not later than 10 business days after the effective date of termination where commercial property or casualty risks are cancelled in mid-term by the insurer;

(vi) Section 4(b) of Act 86 (40 P.S. § 3404), which requires that unearned premium be returned to the insured not later than 30 days after the effective date of termination where commercial property or casualty risks are cancelled in mid-term by the insured;

(vii) Section 4(c) of Act 86 (40 P.S. §3404), which states where the amount of return premium to be returned cannot be calculated precisely within the required time

period for return premium because: The policy was written on the basis of an estimated premium or the policy was issued subject to a premium audit, unearned premium shall be returned to the insured on an estimated basis. Upon the insurer's completion of computation of the exam premium to be returned, an additional return premium or charge shall be made to the named insured within 15 days of the final computation;

(viii) 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;

(ix) Section 2003(e) of Act 68 of 1998 (40 P.S. § 991.2003(e)), which states that an insurer may not cancel or refuse to renew a policy of automobile insurance for two or fewer moving violations in any jurisdiction or jurisdictions during a 24 month period when the operator's record indicates that the named insured presently bears five points or fewer;

(x) Section 2004 of Act 68 of 1998 (40 P.S. § 991.2004), which requires that no insurer shall cancel a policy of automobile insurance except for

nonpayment of premium, suspension or revocation of the named insured's driver license or motor vehicle registration or a determination that the insured has concealed a material fact or has made a material allegation contrary to fact or has made a misrepresentation of material fact and that such concealment, allegation or misrepresentation was material to the acceptance of the risk by the insurer;

(xi) Section 5(a)(7)(iii) of Act 205 (40 P.S. § 1171.5), which defines and prohibits unfair methods of competition as 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;

(xii) Section 5(a)(9) of Act 205 (40 P.S. §1171.5(a)(9)), 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;

(xiii) Section 5(a)(9)(iv) of the Unfair Insurance Practices Act, No. 205 (40 P.S. § 1171.5), which requires that a cancellation notice shall advise the insured of his right to request, in writing, within ten days of the receipt of the notice of cancellation or intention not to renew that the Insurance Commissioner review the action of the insurer;

(xiv) Section 5(a)(9)(v) of the Unfair Insurance Practices Act, No. 205 (40 P.S. § 1171.5(a)(9)(v)) requires that a cancellation notice shall advise the insrued of his possible eligibility for insurance under The PA Fair Plan Act;

(xv) Section 506.1 of the Insurance Company Law (40 P.S. §636.1), which requires that basic property insurance shall be continued 180 days after the death of the named insured on the policy or until the sale of the property, whichever event occurs first provided that the premiums for the coverage are paid;

(xvi) Title 31, Pennsylvania Code, Section 62.3(e)(7), which states the appraiser is responsible for ensuring that a copy of the total loss evaluation report be sent within 5 working days to the consumer by the appraiser after the appraisal is completed. If a settlement offer is extended before the consumer receives the total loss evaluation report, the consumer shall be advised of the total loss evaluation report's contents and of the consumer's right to be sent a copy within 5 days after its completion;

(xvii) Title 31, Pennsylvania Code, Section 146.6 states that if an investigation cannot be completed within 30 days, and every 45 days thereafter, the insurer shall provide the claimant with a reasonable written explanation for the delay and state when a decision on the claim may be expected;

(xviii) Title 18, Pennsylvania Consolidated Statutes, Section 4117(k), which requires all applications for insurance and all claim forms shall contain or have attached thereto the following notice: "Any person who knowingly and with intent to defraud any insurance company or other person files an application for insurance or statement of claim containing any materially

false information or conceals for the purpose of misleading, information concerning any fact material thereto commits a fraudulent insurance act, which is a crime and subjects such person to criminal and civil penalties"; and

(xix) 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.

CONCLUSIONS OF LAW

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

(a) Respondent is subject to the jurisdiction of the Pennsylvania Insurance Department.

(b) Respondent's violations of Sections 641.1-A and 671-A of Act 147 of 2002 are punishable by the following, under Section 691-A of Act 147 of 2002 (40 P.S. § 310.91):

(i) suspension, revocation or refusal to issue the certificate of qualification or license;

(ii) imposition of a civil penalty not to exceed five thousand dollars ($5,000.00) for every violation of the Act;

(iii) an order to cease and desist; and

(iv) any other conditions as the Commissioner deems appropriate.

(c) Respondent's violations of Act 86, Sections 1 and 4 (40 P.S. §§ 3401 and 3404) 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 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.

(e) Respondent's violations of Sections 2003 and 2004 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).

(f) Respondent's violations of Sections 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 Section 506.1 of The Insurance Company Law, No. 284 (40 P.S. § 636.1) are punishable by the following, under Section 507 of the Insurance Company Law (40 P.S. § 637), which provides that the Insurance Commissioner may suspend or revoke the license of any offending entity, refuse to issue a new license, or impose a penalty of not more than $1,000 for each violation of this section.

(i) Respondent's violations of Title 31, Pennsylvania Code, Section 146.6 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 described above.

ORDER

5. In accord with the above Findings of Fact and Conclusions of Law, the Insurance Department 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 Thousand Dollars ($20,000.00) 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. Fraser, Bureau of Market Conduct, 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 Insurance Department 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 Insurance Department 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 Department 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 Insurance Department finds that there has been a breach of any of the provisions of this Order, the Department 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 Insurance Department. Only the Insurance Commissioner or a duly authorized delegee 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 delegee.

BY: THE PHOENIX INSURANCE COMPANY, Respondent

President / Vice President

Secretary / Treasurer (Assistant)

RONALD A. GALLAGHER, JR.
Deputy Insurance Commissioner
Commonwealth of Pennsylvania

I. INTRODUCTION

The market conduct examination was conducted at The Phoenix Insurance Company's offices located in Wyomissing, Pennsylvania, Pittsburgh, Pennsylvania and Hartford, Connecticut, from January 26, 2009, through March 12, 2009. 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

June A. Coleman
Market Conduct Examiner

James R. Myers
Market Conduct Examiner

Constance L. Arnold
Market Conduct Examiner

II. SCOPE OF EXAMINATION

The Market Conduct Examination was conducted on The Phoenix Insurance Company, hereinafter referred to as "Company," at their offices located in Wyomissing, Pennsylvania, Pittsburgh, Pennsylvania and Hartford, Connecticut. The examination was conducted pursuant to Sections 903 and 904 (40 P.S. §§323.3 and 323.4) of the Insurance Department Act and covered the experience period of July 1, 2007, through June 30, 2008, 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 and midterm cancellations.
- Rating – Proper use of all classification and rating plans and procedures.

2. 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.

3. Commercial Property

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

4. Commercial Automobile

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

5. Workers' Compensation

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

6. Claims

7. Forms

8. Advertising

9. Complaints

10. Licensing

III. COMPANY HISTORY AND LICENSING

The Phoenix Insurance Company was incorporated as The Connecticut Fire Insurance Company in June, 1850, under the laws of Connecticut, and began business in July 1850.

All of the 20,000 common shares outstanding as of July 31, 1966, of The Connecticut Fire Insurance Company were owned by The Phoenix Insurance Company, Hartford, Connecticut. As of that date, an additional 80,000 common shares were issued to The Phoenix in return for all of the assets and liabilities of the former parent company (other than shares of Connecticut Fire). The latter company then changed its name to The Phoenix Insurance Company. The (old) Phoenix was then merged with and into The Travelers Corporation and the (new) Phoenix became a direct subsidiary of that carrier. Ownership was subsequently transferred to The Travelers Indemnity Company in late 1977.

LICENSING

The Phoenix Insurance Company's Certificate of Authority to write business in the Commonwealth was last issued on April 1, 2009. The Company is licensed in the District of Columbia, U.S. Virgin Islands and all states except California. The Company's 2008 annual statement reflects Direct Written Premium for all lines of business in the Commonwealth of Pennsylvania as $118,456,993. Premium volume related to the areas of this review were: Homeowners Multiple Peril $40,911,967; Commercial Multiple Peril (Non-liability portion) $3,779,053; Commercial Multiple Peril (Liability portion) $2,441,153; Inland Marine $4,291,041; Workers' Compensation $38,311,432; Private Passenger Automobile Direct Written Premium was reported as Private Passenger Auto No-Fault

(personal injury protection) $1,958,011; Other Private Passenger Auto Liability $10,381,001 and Private Passenger Auto Physical Damage $7,754,452; Commercial Automobile Direct Written Premium was reported as Commercial Auto No-Fault (personal injury protection) $350,351; Other Commercial Auto Liability $4,980,791 and Commercial Auto Physical Damage $1,640,543.

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. Agency bulletins and underwriting guides were furnished for private passenger automobile, homeowners and commercial lines. The purpose of this review was to identify any inconsistencies which could be considered discriminatory, specifically prohibited by statute or regulation, or unusual in nature.

The following finding was made:

1 Violation *Act 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 ethic group, age, sex, family size, occupation, place of residence or marital status. The terms "underwriting standards and practices" or "eligibility rules" do not include the promulgation of rates if made or promulgated in accordance with the appropriate rate regulatory act of this Commonwealth and regulations promulgated by the Commissioner pursuant to such act. The Company referenced age as criteria to refuse to write. The Company's commercial automobile MVR guidelines states: "Select seeks to normally avoid writing the teenage children of the business owners unless they are actively

involved in the business. These exposures should be directed to a Personal Automobile Insurance Market."

V. UNDERWRITING

A. Private Passenger Automobile

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 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 1,354 private passenger automobile files identified as midterm cancellations, 4 files were selected for review. All 4 files were received and reviewed. The 2 violations noted were based on 2 files, resulting in an error ratio of 50%.

The following findings were made:

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

Requires that no insurer shall cancel a policy of automobile except for suspension or revocation of the named insured's driver license during the policy period. The Company canceled the policy and the suspension of the insured's driver license was not during the policy period.

2. 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.

From the universe of 104 private passenger automobile files identified as nonrenewals, 25 files were selected for review. All 25 files were received and reviewed. No violations were noted.

B. Private Passenger Automobile – Assigned Risk

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

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.

From the universe of 199 property policies which were cancelled within the first 60 days of new business, 13 files were selected for review. The policies consisted of homeowner and inland marine. All 13 files 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 8,818 property policies which were cancelled midterm during the experience period, 53 files were selected for review. The property policies consisted of homeowners, tenant homeowners and inland marine. All 53 files were received and reviewed. Of the 53 files reviewed, 3 were identified as nonrenewals. The 6 violations noted were based on 5 files, resulting in an error ratio of 9%.

The following findings were made:

2 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 failed to provide a proper reason for termination for the 2 files noted. The reasons for termination were substantial increase in hazard, but the file documentation did not indicate a change in risk or hazard.

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

Requires that a cancellation notice shall advise the insured of his right to request, in writing, within ten days of the receipt of the notice of cancellation or intention not to renew that the Insurance Commissioner review the action of the insurer. The Company failed to provide the right of review on the cancellation notice for the 2 files noted.

1 Violation *Act 205, Section 5(a)(9)(v) [40 P.S. §1171.5(a)(9)(v)]*
Requires that a cancellation notice shall advise the insured of his possible eligibility for insurance under the act of July 31, 1968 (P.L. 738, No. 233), known as "The PA Fair Plan Act". The Company did not advise the insured of his possible eligibility under the Fair Plan for the file noted.

1 Violation *Insurance Company Law, Section 506.1 [40 P.S. §636.1]*
Requires that basic property insurance shall be continued one hundred and eighty days after the death of the named insured on the policy or until the sale of the property, whichever event occurs first provided that the premiums for the coverage are paid. The Company cancelled the policy within the 180 days of the death of the named insured.

3. Nonrenewals

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

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

From the universe of 141 property policies which were nonrenewed during the experience period, 40 files were selected for review. The property policies consisted of homeowners and inland marine. All 40 files were received and reviewed. The 8 violations noted were based on 8 files,

resulting in an error ratio of 20%.

The following findings were made:

8 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. Of the 8 violations noted, one file was nonrenewed because of auto accidents and violations which is not acceptable. Four files did not have a nonrenewal notice in the file; therefore, compliance could not be determined. The remaining 3 files were nonrenewed for an improper reason.

D. Commercial Property

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 18 commercial package policies cancelled midterm during the experience period was selected for review. All 18 files were received and reviewed. The 7 violations noted were based on 7 files, resulting in an error ratio of 39%.

The following findings were made:

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

Requires that unearned premium be returned to the insured not later than 30 days after the effective date of termination where commercial property or casualty risks are cancelled in mid-term by the insured.

AND

Act 86, Section 4(c) [40 P.S. §3404(c)]

Where the amount of return premium to be returned cannot be calculated precisely within the required time period for return premium because: The policy was written on the basis of an estimated premium or the policy was issued subject to a premium audit, unearned premium shall be returned to the insured on an estimated basis. Upon the insurer's completion of computation of the exam premium to be returned, an additional return premium or charge shall be made to the named insured within 15 days of the final computation. The

Company failed to return estimated return premium within 30 days and/or the exact premium within 15 days of final computation for the 7 files noted.

2. Nonrenewals

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

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

From the universe of 20 commercial property policies nonrenewed during the experience period, 3 files were selected for review. The commercial property policies consisted of commercial package. All 3 files 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 391 commercial property policies renewed during the experience period, 25 files were selected for review. The commercial property policies consisted of commercial package. All 25 files were received and reviewed. The 3 violations noted were based on 3 files, which

resulted in an error ratio of 12%.

The following findings were made:

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

This section provides that notwithstanding any other provision of law, a policy of insurance covering commercial property or casualty risks in this Commonwealth shall provide for not less than 30 days advance notice to the named insured of an increase in renewal premium. This section does not apply to policies written on a retrospective rating plan. The Company did not provide at least 30 days advance notice to the named insured of an increase in renewal premium for the 3 files noted.

E. Commercial Automobile

1. 60-Day Cancellations

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

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

The universe of 1 commercial automobile policy cancelled within the first 60 days of new business was selected for review. The file was received and reviewed. No violations were noted.

2. Midterm Cancellations

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

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

From the universe of 50 commercial automobile policies cancelled midterm during the experience period, 10 files were selected for review. All 10 files 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.

From the universe of 419 commercial automobile policies nonrenewed during the experience period, 25 files were selected for review. All 25 files were received and reviewed. No violations were noted.

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 557 commercial automobile policies renewed during the experience period, 25 files were selected for review. All 25 files were received and reviewed. No violations were noted.

F. Workers' Compensation

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 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 3 workers' compensation policies identified as 60-day cancellations were selected for review. All 3 files 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 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.

From the universe of 68 workers' compensation policies identified as midterm cancellations, 30 files were selected for review. All 30 files were received and reviewed. The 6 violations noted were based on 6 files, resulting in an error ratio of 20%.

The following findings were made:

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

Requires that unearned premium be returned to the insured not later than 10 business days after the effective date of termination where commercial property or casualty risks are cancelled in mid-term by the insurer. The Company did not return the unearned premium to the insured within 10 business days after the effective date of termination.

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

Requires that unearned premium be returned to the insured not later than 30 days after the effective date of termination where commercial property or casualty risks are cancelled in mid-term by the insured.

AND

Act 86, Section 4(c) [40 P.S. §3404(c)]

Where the amount of return premium to be returned cannot be calculated precisely within the required time period for return premium because: The policy was written on the basis of an estimated premium or the policy was issued subject to a premium audit, unearned premium shall be returned to the

insured on an estimated basis. Upon the insurer's completion of computation of the exam premium to be returned, an additional return premium or charge shall be made to the named insured within 15 days of the final computation. The Company failed to return estimated return premium within 30 days and/or the exact premium within 15 days of final computation for the 5 files noted.

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

The universe of 10 workers' compensation policies nonrenewed during the experience period was selected for review. All 10 files were received and reviewed. No violations were noted.

4. Renewals

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

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

From the universe of 1,321 workers' compensation policies which were renewed during the experience period, 25 files were selected for review. All 25 files were received and reviewed. No violations were noted.

VI. RATING

A. Private Passenger Automobile

1. 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 7,756 private passenger automobile policies renewed without surcharges during the experience period, 25 files were selected for review. All 25 files were received and reviewed. The violation resulted in an error ratio of 4%.

1 Violation *Title 75, Pa. C.S. §1731(c)(1)*

On policies in which either uninsured or underinsured motorist coverage has been rejected, the policy renewals must contain notice in prominent type that the policy does not provide protection against damages caused by uninsured or underinsured motorists. The Company did not have the notice in prominent type.

Private Passenger Automobile – Renewals With Surcharges

From the universe of 202 private passenger automobile policies renewed with surcharges during the experience period, 50 files were selected for review. All 50 files were received and reviewed. The 3 violations noted were based on 3 files, resulting in an error ratio of 6%.

The following findings were made:

3 Violations *Title 75, Pa. C.S. §1731(c)(1)*

On policies in which either uninsured or underinsured motorist coverage has been rejected, the policy renewals must contain notice in prominent type that the policy does not provide protection against damages caused by uninsured or underinsured motorists. The Company did not have the notice in prominent type for the 3 files noted.

B. Private Passenger Automobile – Assigned Risk

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

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 1,860 homeowner policies written as new business during the experience period, 25 files were selected for review. All 25 files were received and reviewed. The violation noted resulted in an error ratio of 4%.

The following finding was made:

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

Requires every insurer to file with the Insurance Commissioner every manual of classifications, rules and rates, every rating plan and every modification of any rating plan, which it proposes to use in the Commonwealth. Also, no insurer shall make or issue a contract or policy except in accordance with filings or rates, which are in effect at the time of issue. The Company rated the policy with an incorrect territory, resulting in an undercharge of $71.

Homeowner Rating – New Business With Surcharges

The universe of 3 homeowner policies written as new business with surcharges during the experience period was selected for review. All 3 files were received and reviewed. No violations were noted.

2. Renewals

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

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

Homeowner Rating – Renewals Without Surcharges

From the universe of 57,758 homeowner policies renewed during the experience period, 25 files were selected for review. All 25 files were received and reviewed. No violations were noted.

Homeowner Rating – Renewals With Surcharges

From the universe of 629 homeowner policies renewed with surcharges during the experience period, 50 files were selected for review. All 50 files were received and reviewed. The violation noted resulted in an error ratio of 2%.

The following finding was made:

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

Requires every insurer to file with the Insurance Commissioner every manual of classifications, rules and rates, every rating plan and every modification of any rating plan, which it proposes to use in the Commonwealth. Also, no insurer shall make or issue a contract or policy except in accordance with filings or rates, which are in effect at the time of issue. The Company rated the policy with an incorrect factor, resulting in an undercharge of $131.

D. Tenant Homeowners

1. 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.

Tenant Homeowner Rating – Renewals Without Surcharges

From the universe of 670 tenant homeowner policies renewed without surcharges during the experience period, 20 files were selected for review. All 20 files were received and reviewed. The violation noted resulted in an error ratio of 5%.

The following finding was made:

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

Requires every insurer to file with the Insurance Commissioner every manual of classifications, rules and rates, every rating plan and every modification of any rating plan, which it proposes to use in the Commonwealth. Also, no insurer shall make or issue a contract or policy except in accordance with filings or rates, which are in effect at the time of issue. The Company rated the policy with an incorrect factor, resulting in an undercharge of $48.

Tenant Homeowner Rating – Renewals With Surcharges

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

VII. CLAIMS

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

The Claims review consisted of the following areas of review:

A. Automobile Property Damage Claims
B. Automobile Comprehensive Claims
C. Automobile Collision Claims
D. Automobile Total Loss Claims
E. Automobile First Party Medical Claims
F. Automobile First Party Medical Claims Referred to a PRO
G. Homeowner Claims
H. Tenant Homeowner 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 762 private passenger automobile property damage claims reported during the experience period, 25 files were selected for review. All 25 files were received and reviewed. The 2 violations noted were based on 2 files, resulting in an error ratio of 8%.

The following findings were made:

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

Every insurer shall complete investigation of a claim within 30 days after notification of the claim, unless such investigation cannot reasonably be completed within 30 days, and every 45 days thereafter, the insurer shall provide the claimant with a reasonable written explanation for the delay and state when a decision on the claim may be expected. The Company did not provide a timely status letter for the 2 claims noted.

B. Automobile Comprehensive Claims

From the universe of 884 private passenger automobile comprehensive claims reported during the experience period, 25 files were selected for review. All 25 files were received and reviewed. No violations were noted.

C. Automobile Collision Claims

From the universe of 1,018 private passenger automobile collision claims reported during the experience period, 25 files were selected for review. All 25 files were received and reviewed. No violations were noted.

D. Automobile Total Loss Claims

From the universe of 297 private passenger automobile total loss claims reported during the experience period, 25 files were selected for review. All 25 files were received and reviewed. The 2 violations noted were based on 2 files, resulting in an error ratio of 8%.

The following findings were made:

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

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

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.

E. Automobile First Party Medical Claims

From the universe of 292 private passenger automobile first party medical claims reported during the experience period, 25 files were selected for review. All 25 files were received and reviewed. No violations were noted.

F. Automobile First Party Medical Claims Referred to a PRO

The universe of 14 automobile first party medical claims referred to a peer review organization was selected for review. All 14 files were received and reviewed. The Company was also asked to provide a copy of all peer review contracts in place during the experience period. The contracts were received and reviewed. No violations were noted.

G. Homeowner Claims

From the universe of 3,994 homeowner claims reported during the experience period, 25 files were selected for review. All 25 files were received and reviewed. The violation noted resulted in an error ratio of 4%.

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 a timely status letter for the claim noted.

H. Tenant Homeowner Claims

From the universe of 11 tenant homeowner claims reported during the experience period, 5 files were selected for review. All 5 files were received and reviewed. No violations were noted.

VIII. FORMS

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

3 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."

AND

Act 165 of 1994 [18 Pa. C.S. §4117(k)(1)]

Any person who knowingly and with intent to defraud any insurance company or other person files an application for insurance or statement of claim containing any materially false information or conceals for the purpose of misleading, information concerning any fact material thereto, commits a fraudulent insurance act, which is a crime and subjects such person to criminal and civil penalties. The Company failed to provide a proper fraud statement on 2 written statements and an insured's report of accident form.

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 111 pieces of advertising in use during the experience period. The advertising materials provided included: print advertisements, posters 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 34 consumer complaints received during the experience period and provided all consumer complaint logs requested. All 34 complaint files reported 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.

The following findings were made:

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

States that an insurer may not cancel or refuse to renew a policy of automobile insurance for two or fewer moving violations in any jurisdiction or jurisdictions during a twenty-four (24) month period when the operator's record indicates that the named insured presently bears five points or fewer. The Company nonrenewed the policy for an improper reason. The violation was not within the 24 months of the nonrenewal.

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

Prohibits canceling any policy of insurance covering owner-occupied private residential properties or personal property of

individuals that has been in force for sixty days or more or refusing to renew any such policy unless the policy was obtained through material misrepresentation, fraudulent statements, omissions or concealment of fact material to the acceptance of the risk or to the hazard assumed by the company; or there has been a substantial change or increase in hazard in the risk assumed by the company subsequent to the date the policy was issued; or there is a substantial increase in hazards insured against by reason of willful or negligent acts or omissions by the insured; or the insured has failed to pay any premium when due or for any other reasons approved by the Commissioner. The Company did not provide the statutory reason for the nonrenewal.

1 Violation *Insurance Company Law, Section 506.1 [40 P.S. §636.1]*
Requires that basic property insurance shall be continued one hundred and eighty days after the death of the named insured on the policy or until the sale of the property, whichever event occurs first provided that the premiums for the coverage are paid. The Company did not maintain basic property insurance for at least 180 days after the death of the named insured.

The following synopsis reflects the nature of the 34 complaints that were reviewed.

• 21	Cancellation/Nonrenewal	62%
• 11	Claims	32%
• 2	Premium Related	6%
34		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:

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

(a) Any insurance entity or licensee accepting applications or orders for insurance from any person 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 producer was found to be writing and /or soliciting policies but was not found in Insurance Department records as holding a Pennsylvania producer license.

Harry A. Koch Co. (The)

9 Violations *Insurance Department Act, No. 147, Section 671-A (40 P.S. §310.71)*

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

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

(1) Delineates the services to be provided; and

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

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

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

(e) Appointment fee – An appointment fee of $12.50 will be billed annually to the insurer for each producer appointed by the insurer during the preceding calendar year regardless of the length of time the producer held the appointment with the insurer. The appointment fee may be modified by regulation.

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

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

Biddle & Co. Ins. Brokers
Citadel Agency
Craft Agency, Inc.
First National Insurance Agency LLC
Franchise Insurance Agency
Peoples First Ins.
Program Brokerage Corp.
RTI Insurance Services
Santucci & Assoc. Ins.

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 and nonrenewal notice requirements of Act 68, Sections 2003 and 2004 [40 P.S. §991.2003 and 2004], 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 that the violations regarding the requirement for cancellation and nonrenewal notices, as noted in the Report, do not occur in the future.

3. The Company must review Insurance Company Law, Section 506.1 regarding the cancellation of property insurance after the death of the named insured to ensure that basic property coverage is maintained at least 180 days.

4. The Company must review and revise internal control procedures to ensure compliance relative to commercial cancellation requirements of Act 86, Section 4 [40 P.S. §3404], so that the violations noted in the Report do not occur in the future.

5. On policies in which either uninsured or underinsured coverage has been rejected, the policy renewal must contain notice in prominent type that the policy does not provide protection against damages caused by uninsured or underinsured motorists. 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. §1731(c)(1) do not occur in the future.

6. The Company must review Act 246, Section 4(a) and (h) [40 P.S. §1184] and take appropriate measures to ensure the rating violations listed in the report do not occur in the future.

7. 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, as noted in the Report, do not occur in the future.

8. The Company must review Title 31, Pa. Code, Section 62.3(e)(7) with its claim staff to ensure that the consumer receives the total loss evaluation report within 5 working days after the appraisal is completed.

9. 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.

10. The Company must revise and reissue their underwriting guidelines for use in Pennsylvania to ensure that the guidelines do not reference age as criteria to refuse to write which is prohibited by Act 205, Section 5(a)(7)(iii) [40 P.S. §1171.5(a)(7)(iii)].

11. The Company must ensure that all claim forms contain the required fraud warning notice.

XIII. COMPANY RESPONSE

TRAVELERS

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August 24, 2009

VIA EMAIL AND FEDEX

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Office of Market Regulation
Bureau of Market Conduct
Property and Casualty Division
1227 Strawberry Square
Harrisburg, PA 17120

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

Re: Examination Warrant Number: 08-M29-019

Dear Mr. Derk:

Thank you for sending the Report of Examination of The Phoenix Insurance Company, a subsidiary of The Travelers Companies, Inc., covering the period July 1, 2007 through June 30, 2008, and for allowing until today to respond. We specifically acknowledge our appreciation of the courtesies afforded by the examining team during the entire process of the exam.

We are pleased to provide our comments in response to the Recommendations made within the report.

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

   Company Response: We have updated the Auto Termination Guidelines used by the Business Centers to clarify that when a policy is cancelled midterm for the suspension or revocation of a driver's license, the suspension or revocation must have occurred within the current policy period and the effective date of the cancellation must also be within that policy period. The staff has been notified accordingly.

2. **The Company must review Act 205, Section 5(a)(9) [40 P.S. §1171.5(a)(9)] to ensure that the violations regarding the requirement for cancellation and nonrenewal notices, as noted in the Report, do not occur in the future.**

   Company Response: We have taken these steps to reinforce understanding and compliance with this section of Act 205.

- All Pennsylvania language used in the cancellation and nonrenewal process was reviewed and updated, as necessary, to ensure proper reasons and required language is being provided. These changes have been implemented and reviewed with staff.

- The state specific forms used when cancelling or nonrenewing were reviewed with staff, including the importance of providing to the insured the required notices regarding the right to a hearing and possible eligibility in the Fair Plan. We will be correcting the nonpayment cancellation notice used with inland marine policies to include these required notices with a systems update on October 18, 2009.

- Staff was reminded that a homeowner policy with an umbrella supplement is subject to the homeowner cancellation and nonrenewal laws.

- Staff was reminded of the importance of retaining documentation when termination notice has been sent.

3. **The Company must review Insurance Company Law, Section 506.1 regarding the cancellation of property insurance after the death of the named insured to ensure that basic property coverage is maintained at least 180 days.**

   Company Response: We reviewed with staff the Pennsylvania requirements that apply following the death of the only named insured. If the only named insured on the policy dies, we must continue the policy for a period of 180 days or the date the property is sold, whichever comes first, provided the premium is paid. This requirement is stated in both the policy and the Pennsylvania Property Termination Guidelines, which is the resource document used by staff when terminating property business.

4. **The Company must review and revise internal control procedures to ensure compliance relative to commercial cancellation requirements of Act 86, Section 4 [40 P.S. §3404], so that the violations noted in the Report do not occur in the future.**

   Company Response: We have previously discussed that our interpretation of 40 P.S. §3404 allows for the return of unearned premiums following a mid-term cancelation to be applied to the insured's other policies with balances due. However, we will revise cancelation refund procedures to conform to the Department's position. We respectfully request that the Department issue a bulletin that clarifies this issue for all commercial insurers in the marketplace to ensure equitable treatment of all commercial insureds.

5. **On policies in which either uninsured or underinsured [motorist] coverage has been rejected, the policy renewal must contain notice in prominent type that the policy does not provide protection against damages caused by uninsured or underinsured motorists. 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. §1731(c)(1) do not occur in the future.**

Company Response: Effective August 23, 2009 the messages are being provided in a more prominent type.

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

   Company Response: We note that none of these policyholders were overcharged – all three errors were in the policyholder's favor and no refunds were due. Corrections to the policies affected will be made to the policies at their next renewal effective date.

   The cause was isolated human error. We will conduct additional staff training and reinforce existing procedures as appropriate.

7. **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, as noted in the Report, do not occur in the future.**

   Company Response: We have reviewed with claim staff the importance of status letters. This will be reinforced via internal controls consisting of claim management staff conducting periodic reviews with the claim adjusters to remind them of their obligation to send out the 30/45 day status letters.

8. **The Company must review Title 31, Pa. Code, Section 62.3(e)(7) with its claim staff to ensure that the consumer receives the total loss evaluation report within 5 working days after the appraisal is completed.**

   Company Response: We have reviewed Title 31 with appraisal staff. Compliance will be monitored via claim management staff conducting periodic reviews with the appraisal staff to remind them of their obligation to send out the total loss evaluation report within 5 working days after the appraisal is completed.

9. **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.**

   Company Response: Agency/producer appointment processing is centralized to improve consistency and streamline the appointment process. A dedicated review unit is in place to monitor a sample of new business to ensure appointment compliance in the correct underwriting company and an expiry unit monitors existing agency/producer licenses to ensure renewal upon expiration. Additionally, agencies are profiled annually to ensure current agent information.

We contacted the agency identified as not being licensed and were advised the license was obtained. We have made appointments for all of the agencies that were identified as not having an appointment.

10. **The Company must revise and reissue their underwriting guidelines for use in Pennsylvania to ensure that the guidelines do not reference age as criteria to refuse to write which is prohibited by Act 205, Section 5(a)(7)(iii) [P.S. §1171.5(a)(7)(iii)].**

    Company Response: We will issue an internal Bulletin by September 30 revising the Underwriting Guidelines relative to age so that the Guidelines are consistent with the Department's recommendation.

11. **The Company must ensure that all claim forms contain the required fraud warning notice.**

    Company Response: We are validating all claim forms and will make updates, as necessary, so that the required fraud warning notice is provided. We expect to complete this process locally by October 30, 2009.

We believe that these responses address the Recommendations and trust they are sufficient. We remain commited to compliance and we welcome the opportunity to use the findings to help us better serve the insurance consumers of Pennsylvania.

Lastly, we note the total direct written premium for 2008 is listed as $118,456,993 in the Licensing section of the Report. The correct total is $118,459,993.

Please let me know if you have any questions regarding this information.

Sincerely,

Joseph L. Wiest, CPCU, MCM

Joseph L. Wiest, CPCU, MCM
The Travelers Companies, Inc.
Corporate Compliance & Market Conduct
Director of Market Conduct