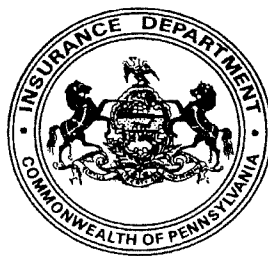


**REPORT OF
MARKET CONDUCT EXAMINATION
OF**

TRUSTGARD INSURANCE COMPANY
Columbus, Ohio

**AS OF
February 24, 2010**

COMMONWEALTH OF PENNSYLVANIA




**INSURANCE DEPARTMENT
MARKET CONDUCT DIVISION**

Issued: April 1, 2010

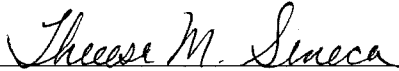
VERIFICATION

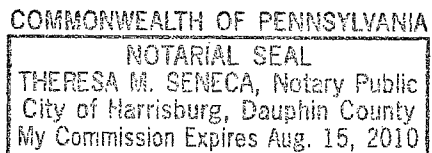
Having been duly sworn, I hereby verify that the statements made in the within document are true and correct to the best of my knowledge, information and belief. I understand that false statements made herein are subject to the penalties of 18 Pa. C.S. §4903 (relating to false swearing).


Jerry L. Houston, AIE, CPCU, Examiner-In-Charge

Sworn to and Subscribed Before me

This 1 Day of February, 2010


Notary Public



TRUSTGARD INSURANCE COMPANY

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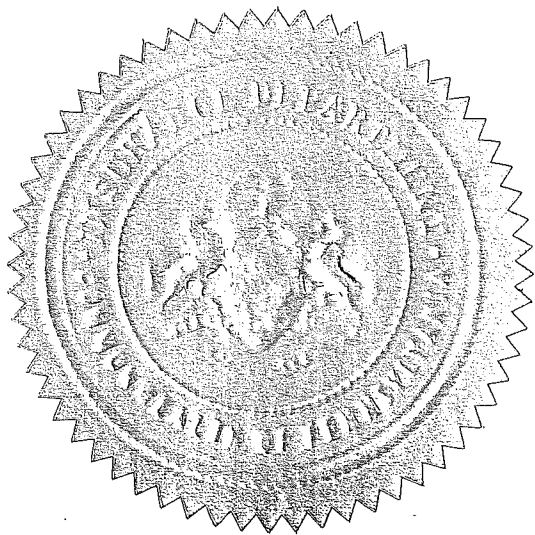
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BEFORE THE INSURANCE COMMISSIONER
OF THE
COMMONWEALTH OF PENNSYLVANIA

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:
	:	
TRUSTGARD INSURANCE	:	Section 671-A of Act 147 of 2002
COMPANY	:	(40 P.S. §§ 310.71)
650 South Front Street	:	
Columbus, OH 43206	:	Section 1 of the Act of July 3, 1986,
	:	P.L. 396, No. 86 (40 P.S. §3401)
	:	
	:	Sections 5(a)(4), 5(a)(9)(ii) and
	:	5(a)(9)(iv) of the Unfair Insurance
	:	Practices Act, Act of July 22, 1974, P.L.
	:	589, No. 205 (40 P.S. §§ 1171.5)
	:	
	:	Sections 2003(a)(1), 2003(a)(10),
	:	2003(a)(13), 2003(a)(14), 2006(2) and
	:	2008(b) of Act 68 of 1998 (40 P.S. §§
	:	991.2003, 991.2006 and 991.2008)
	:	
	:	Act 1990-6, Sections 1734, 1738(c)(d)(1)
	:	and (2), 1791.1(a), (b) and (c),
	:	1792(b)(1), 1797(b)(1), and 1799.3(f)
	:	
	:	Title 31, Pennsylvania Code, Sections
	:	62.3(e)(4), 69.42, 69.43, 69.53(a), 146.6
	:	and 146.7(a)(1)
	:	
	:	Title 18, Pennsylvania Consolidated
	:	Statutes, Section 4117(k)
	:	
	:	Title 75, Pennsylvania Consolidated
	:	Statutes, Section 1822
	:	
	:	
	:	
Respondent.	:	Docket No. MC10-02-017

CONSENT ORDER

AND NOW, this 1st day of April, 2010, 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 Trustgard Insurance Company, and maintains its address at 650 South Front Street, Columbus, OH 43206.

- (b) A market conduct examination of Respondent was conducted by the Insurance Department covering the period from January 1, 2008 through December 31, 2008.
- (c) On February 24, 2010, the Insurance Department issued a Market Conduct Examination Report to Respondent.
- (d) A response to the Examination Report was provided by Respondent on March 22, 2010.
- (e) The Examination Report notes violations of the following:
 - (i) Section 671-A of Act 147 of 2002 prohibits producers from transacting business within this Commonwealth without written appointment as required by the Act (40 P.S. § 310.71).
 - (ii) 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;

- (iii) Section 5(a)(4) of the Unfair Insurance Practices Act, No. 205 (40 P.S. §1171.5(a)(4)), which prohibits unfair methods of competition and unfair or deceptive acts or practices;

- (iv) Section 5(a)(9)(ii) of Act 205 (40 P.S. § 1171.5) prohibits any cancellation or refusal to renew to become effective in a period of less than thirty days from the date of delivery or mailing;

- (v) 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;

- (vi) Section 2003(a)(1) of Act 68 of 1998 (40 P.S. §991.2003(a)(1)), which states an insurer may not cancel or refuse to renew a policy of automobile insurance on the basis of age;

- (vii) Section 2003(a)(10) of Act 68 of 1998 (40 P.S. §991.2003(a)(10)), which states an insurer may not cancel or refuse to write or renew a policy of automobile insurance due to lawful occupation (including military service);

- (viii) Section 2003(a)(13) of Act 68 of 1998 (40 P.S. §991.2003(a)(13)), which states an insurer may not cancel or refuse to write or renew a policy of automobile insurance for any of the reasons specified;
- (ix) Section 2003(a)(14) of Act 68 of 1998 (40 P.S. §991.2003(a)(14)), which states an insurer may not cancel or refuse to write or renew a policy of automobile insurance for the following reason: Any claim under the comprehensive portion of the policy unless such loss was intentionally caused by the insured;
- (x) Section 2006(2) of Act 68 of 1998 (40 P.S. § 991.2006), which prohibits a cancellation or refusal to renew from being effective unless the insurer delivers or mails a written notice of the cancellation or refusal to renew, which will include the date, not less than 60 days after the date of mailing or delivery, on which the cancellation or refusal to renew shall become effective. When the policy is being cancelled or not renewed for reasons set forth in Sections 2004(1) and (2), however, the effective date may be 15 days from the date of mailing or delivery;
- (xi) Section 2008(b) of Act 68 of 1998 (40 P.S. § 991.2008), which requires any applicant for a policy who is refused such policy by an insurer shall be given a written notice of refusal to write by the insurer. Such notice shall state the specific reason or reasons of the insurer for refusal to write a policy for the

applicant. Within 30 days of the receipt of such reasons, the applicant may request in writing to the Commissioner that he review the action of the insurer in refusing to write a policy for the applicant;

- (xii) Section 1734 of Act 1990-6, Title 75, Pa.C.S. § 1734, which allows a named insured to request in writing the issuance of coverages under Section 1731 in amount equal to or less than the limits of liability for bodily injury;
- (xiii) 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;
- (xiv) Section 1791.1(a) of Act 1990-6, Title 75, Pa.C.S. §1791, which requires, at the time of application for original coverage and every renewal thereafter, an insurer must provide to an insured an itemized invoice listing the minimum motor vehicle insurance coverage levels mandated by the Commonwealth and the premium charge for the insured to purchase the minimum mandated coverages. The invoice must contain the following notice in print of no less than ten point type: “The laws of the Commonwealth of Pennsylvania, as enacted by the General Assembly, only require you to purchase liability and first-party medical benefit coverages. Any additional coverage or coverages

in excess of the limits required by law are provided only at your request as enhancements to basic coverages.” The insured shall provide the itemized invoice to the insured in conjunction with the declaration of coverage limits and premiums for the insured’s existing coverages;

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

(xvi) Section 1791.1(c) of Act 1990-6, Title 75, Pa.C.S. § 1791, which requires an insurer to provide an insured a notice stating that discounts are available for drivers who meet the requirements of Sections 1799, 1799.1 and 1799.2;

(xvii) Section 1792(b)(1) of Act 1990-6, Title 75, Pa.C.S. § 1792(b)(1), which 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;

- (xviii) Section 1797(b)(1) of Act 1990-6, Title 75, Pa.C.S. § 1797, which requires insurers to contract jointly or separately with any peer review organization established for the purpose of evaluating treatment, health care services,
- (xix) Title 31, Pennsylvania Code, Section 62.3(e)(4), which requires that applicable sales tax on the replacement cost of a motor vehicle shall be included as part of the replacement value;
- (xx) Title 31, Pennsylvania Code, Section 69.42, which states an insurer shall make payments to providers in accordance with the Medicare Program as applied in this Commonwealth by the carrier and intermediaries. Care covered under the Medicare Program shall be reimbursed at 110% of the Medicare payment or a different allowance as may be determined under § 69.12(b). Medicare co-insurance and deductibles may not be excluded in payments made by the insurer;
- (xxi) Title 31, Pennsylvania Code, Section 69.43, which states an insurer shall pay the provider's usual and customary charge for services rendered when the charge is less than 110% of the Medicare payment or a different allowance as may be determined under § 69.12(b). An insurer shall pay 80% of the provider's usual and customary charge rendered if no Medicare payment exists. In calculating the usual and customary charge, an insurer may utilize the requested payment amount on the provider's bill for services or the data collected by the carrier or

intermediaries to the extent that the data is made available. An insurer shall provide a complete explanation of the calculations made in computing its determination of the amount payable, including whether the calculation is based on 110% of the Medicare payment, 80% of the usual and customary charge or at a different allowance determined by the Commissioner under § 69.12(b). A bill submitted by the provider delineating the services rendered and the information from which a determination could be made by the insurer as to the appropriate payment amount will not be construed as a demand for payment in excess of the permissible payment amount;

(xxii) Title 31, Pennsylvania Code, Section 69.53(a), which requires a Peer Review Organization to contract, in writing, jointly or separately with an insurer for the provision of peer review services as authorized by Act 1990-6 and this chapter;

(xxiii) 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;

(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;

(xxv) 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

(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.

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 Section 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 Section 1 of Act 86 (40 P.S. § 3401) are punishable under Section 8 (40 P.S. § 3408) of this act by one or more of the following causes of action:
 - (i) Order that the insurer cease and desist from the violation.
 - (ii) Impose a fine or not more than \$5,000 for each violation.

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

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

(e) In addition to any penalties imposed by the Commissioner for Respondent's violations of the Unfair Insurance Practices Act (40 P.S. §§ 1171.1 – 1171.5), the Commissioner may, under Sections 10 and 11 of the Unfair Insurance Practices Act (40 P.S. §§ 1171.10, 1171.11) file an action in which the Commonwealth Court may impose the following civil penalties:

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

(f) Respondent's violations of Sections 2003, 2006 and 2008 of Act 68 of 1998 are punishable by the following, under Section 2013 of the Act (40 P.S.

§ 991.2013): Any individual or insurer who violates any of the provisions of this article may be sentenced to pay a fine not to exceed five thousand dollars (\$5,000.00).

(g) Respondent's violations of Title 31, Pennsylvania Code, Sections 146.6 and 146.7(a)(1) 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 Thirty Thousand Dollars (\$30,000.00) to the Commonwealth of Pennsylvania in settlement of all violations contained in the Report.

(e) Payment of this matter shall be made by check payable to the Commonwealth of Pennsylvania. Payment should be directed to Sharon Fraser, Bureau of Market Actions, 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.

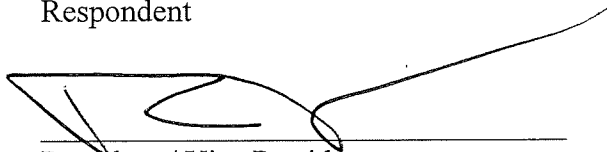
9. Respondent hereby expressly waives any relevant statute of limitations and application of the doctrine of laches for purposes of any enforcement of this Order.

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 delegate 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: TRUSTGARD INSURANCE COMPANY,
Respondent



President / ~~Vice President~~



Secretary / ~~Treasurer~~



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

I. INTRODUCTION

The market conduct examination was conducted at Trustgard Insurance Company's office located in Columbus, Ohio, from August 25, 2009, through September 25, 2009. Subsequent review and follow-up was conducted in the office of the Pennsylvania Insurance Department.

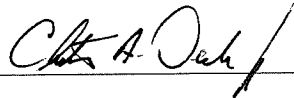
Pennsylvania Market Conduct Examination Reports generally note only those items to which the Department, after review, takes exception. However, the Examination Report may include management recommendations addressing areas of concern noted by the Department, but for which no statutory violation was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

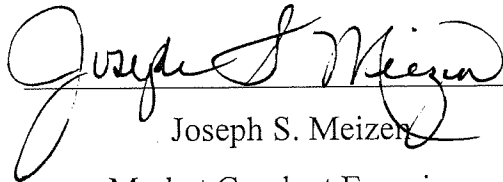
Throughout the course of the examination, Company officials were provided with status memoranda, which referenced specific policy numbers with citation to each section of law violated. Additional information was requested to clarify apparent violations. An exit conference was conducted with Company personnel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

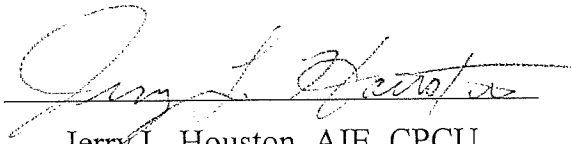
The undersigned participated in this examination and in preparation of this Report.



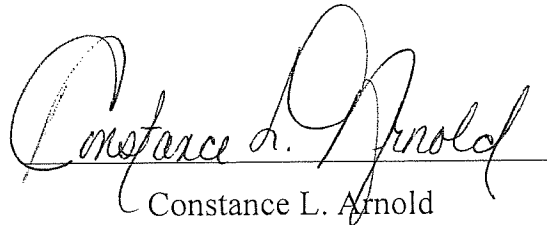
Chester A. Derk, Jr., AIE, HIA
Market Conduct Division Chief



Joseph S. Meizer
Market Conduct Examiner



Jerry L. Houston, AIE, CPCU
Market Conduct Examiner



Constance L. Arnold
Market Conduct Examiner

II. SCOPE OF EXAMINATION

The Market Conduct Examination was conducted on Trustgard Insurance Company, hereinafter referred to as “Company,” at their office located in 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, 2008, through December 31, 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 midterm cancellations, 60-day cancellations, declinations and rescissions.
 - Rating – Proper use of all classification and rating plans and procedures.
2. Property
 - Underwriting – Appropriate and timely notices of midterm cancellations, 60-day cancellations and declinations.
 - Rating – Proper use of all classification and rating plans and procedures.
3. Commercial Property
 - Underwriting – Appropriate and timely notices of midterm cancellations, 60-day cancellations and renewals.
4. Claims
5. Forms

6. Advertising

7. Complaints

8. Licensing

III. COMPANY HISTORY AND LICENSING

Trustgard Insurance Company was incorporated as NWNL General Insurance Company on July 1, 1981, under the laws of Minnesota and began business on November 10, 1981. It was purchased as a shell from its original parent, Northwestern National Life Insurance Company, by Grange Mutual Casualty on December 29, 1989. The current title was adopted by action of the board of directors in February 1990.

LICENSING

Trustgard Insurance Company's Certificate of Authority to write business in the Commonwealth was last issued on April 1, 2009. The Company is licensed in Colorado, Georgia, Illinois, Indiana, Iowa, Kansas, Kentucky, Minnesota, Missouri, Nebraska, North Dakota, Ohio, Oregon, Pennsylvania, South Carolina, South Dakota, Tennessee, Texas, Washington and Wisconsin. The Company's 2008 annual statement reflects Direct Written Premium for all lines of business in the Commonwealth of Pennsylvania as \$5,979,813. Premium volume related to the areas of this review were: Fire \$18,565; Homeowners Multiple Peril \$1,142,779; Private Passenger Automobile Direct Written Premium was reported as Private Passenger Auto No-Fault (personal injury protection) \$560,380; Other Private Passenger Auto Liability \$2,302,411 and Private Passenger Auto Physical Damage \$1,884,964.

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 dwelling fire. 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:

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

Unfair Methods of Competition and Unfair or Deceptive Acts or Practices Defined. Entering into any agreement to commit, or by any concerted action committing, any act of boycott, coercion or intimidation resulting in or tending to result in unreasonable restraint of, or monopoly in, the business of insurance. The Company's workers' compensation underwriting guide indicated no new business mono-line workers' compensation policies to be authorized. The Company's automobile underwriting guideline reference named insureds less than 21 years old without supporting business with the Company of the parent(s) or guardian as an ineligible risk. The Company's homeowner underwriting guideline reference seasonal and secondary dwellings as an ineligible risk for which Grange does not insure the primary residence. The Company's dwelling fire underwriting guideline reference seasonal dwellings as an ineligible risk unless Grange insures the primary residence and states for supporting business that Grange must insure either a home or auto

for the named insured shown on the dwelling fire policy.

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

Discrimination Prohibited – (a) An insurer may not cancel or refuse to write or renew a policy of automobile insurance for any of the following reasons: Age. The Company’s guidelines reference named insureds less than 21 years old without supporting business as an ineligible risk.

1 Violation Act 68, Section 2003(a)(13) [40 P.S. §991.2003(a)(13)]

Discrimination Prohibited – (a) An insurer may not cancel or refuse to write or renew a policy of automobile insurance for any of the reasons specified in 2003(a)(13). The Company’s guidelines reference more than 3 not at-fault accidents as an ineligible risk.

1 Violation Act 68, Section 2003(a)(14) [40 P.S. §991.2003(a)(14)]

Discrimination Prohibited – (a) An insurer may not cancel or refuse to write or renew a policy of automobile insurance for the following reason: Any claim under the comprehensive portion of the policy unless such loss was intentionally caused by the insured. The Company’s guidelines state the following: “Ineligible Risks-other than collision-more than 3 other than collision losses per household”.

1 Violation Act 68, Section 2003(a)(10) [40 P.S. §991.2003(a)(10)]

An insurer may not cancel or refuse to write or renew a policy of automobile insurance due to lawful occupation (including military service). The Company’s guidelines reference migrant workers or those in highly transient occupations as an ineligible risk.

V. UNDERWRITING

A. Private Passenger Automobile

1. 60-Day Cancellations

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

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

From the universe of 295 private passenger automobile files identified as being cancelled in the first 60 days of new business, 25 files were selected for review. All 25 files 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 386 private passenger automobile files identified as midterm cancellations, 35 files were selected for review. All 35 files were received and reviewed. The 4 violations noted were based on 4 files, resulting in an error ratio of 11%.

The following findings were made:

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

Requires an insurer to deliver or mail to the named insured a cancellation notice and state the date, not less than sixty (60) days after the date of the mailing or delivery, on which cancellation shall become effective. When the policy is being cancelled for the nonpayment of premium, the effective date may be fifteen (15) days from the date of mailing or delivery. The Company failed to provide at least 60 days notice of cancellation for the 4 files noted.

4. Declinations

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

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

The universe of 10 private passenger automobile files identified as being refused by the Company during the experience period was selected for review. All 10 files were received and reviewed. The 20 violations noted were based on 10 files, resulting in an error ratio of 100%.

The following findings were made:

10 Violations Act 68, Section 2008(b) [40 P.S. §991.2008(b)]

Any applicant for a policy who is refused such policy by an insurer shall be given a written notice of refusal to write by the insurer. Such notice shall state the specific reason or reasons of the insurer for refusal to write a policy for the applicant. Within 30 days of the receipt of such reasons, the applicant may request in writing to the Insurance Commissioner that he review the action of the insurer in refusing to write a policy for the applicant. The Company did not provide written notice with specific reason and right of review by the Insurance Commissioner on the notice for the 10 files noted.

10 Violations Title 75, Pa. C.S. §1799.3(f)

Notice of refusal to write. If requested by the applicant, an agent for an insurer shall submit an application for automobile insurance to the insurer or provide the applicant written notice of the reasons for refusal to write on a form supplied by the insurer and approved by the Commissioner. An applicant receiving a notice of reasons under this subsection may obtain review by the Commissioner pursuant to the Automobile Insurance Policy Act. If either the applicant or insurer is aggrieved by the Commissioner's review, the Commissioner may, in his discretion and for cause shown, hold a hearing pursuant to the Automobile Insurance Policy Act. No insurer shall take any action, overt or otherwise, against any agent or broker for complying with

this subsection. The Company failed to provide notice of refusal on a form approved by the Insurance Commissioner for the 10 files noted.

5. Rescissions

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

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

The universe of 1 private passenger automobile policy identified as a rescission during the experience period was selected for review. The file was 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 106 property policies which were cancelled within the first 60 days of new business, 39 files were selected for review. The policies consisted of homeowner and tenant homeowner. All 39 files were received and reviewed. The 107 violations noted were based on the universe of 106, resulting in an error ratio of 100%.

The following findings were made:

1 Violation 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 failed to provide at least 30 days notice of cancellation for the file noted.

106 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 10 days right of review on the cancellation form for the 106 files 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 97 property policies which were cancelled midterm during the experience period, 22 files were selected for review. The property policies consisted of homeowner and tenant homeowner. All 22 files were received and reviewed. The 114 violations noted were based on the universe of 97 files, resulting in an error ratio of 100%.

The following findings were made:

17 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's notice did not provide 30 days notice of cancellation for the 17 files noted.

97 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 10 days right of review on the cancellation form for the 97 files noted.

3. Declinations

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

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

The universe of 2 personal property files which were identified as declinations by the Company during the experience period was selected for review. Both files were received and reviewed. No violations were noted.

D. 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 3 tenant occupied dwelling fire policies cancelled within the first 60 days was 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 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 1 tenant occupied dwelling fire policies cancelled midterm during the experience period was selected for review. The file was 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.

The universe of 1 tenant occupied dwelling fire policy renewed during the experience period was selected for review. The file was received and reviewed. The violation noted resulted in an error ratio of 100%.

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 for the file noted.

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 3,055 private passenger automobile policies identified as new business without surcharges, 25 files were selected for review. All 25 files were received and reviewed. The 6,113 violations noted were based on the universe of 3,055 files, resulting in an error ratio of 100%.

The following findings were made:

3,055 Violations Title 75, Pa. C.S. §1791.1(a)

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

3,055 Violations Title 75, Pa. C.S §1791.1(b)

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

1 Violation 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 Company failed to provide written request for lower uninsured and underinsured limits.

2 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 Company failed to provide the signed statement from the insured requesting a deductible of less than \$500 for the 2 files noted.

Private Passenger Automobile - New Business With Surcharges

From the universe of 1,417 private passenger automobile policies identified as new business with surcharges by the Company, 50 files were selected for review. All 50 files were received and reviewed. The 2,841 violations

noted were based on the universe of 1,417 files, resulting in an error ratio of 100%.

The following findings were made:

1,417 Violations Title 75, Pa. C.S. §1791.1(a)

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

1,417 Violations Title 75, Pa. C.S §1791.1(b)

Requires an insurer to provide an insured a notice of the availability of two alternatives of full tort insurance and

limited tort insurance. The Company did not provide the notice of tort options to the insured at the time of application.

6 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 Company failed to provide the signed statement from the insured requesting a collision deductible of less than \$500 for the 6 files noted.

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.

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 48 private passenger automobile policies renewed without surcharges during the experience period, 20 files were selected for review. All 20 files were received and reviewed. The 144 violations noted were based on the universe of 48, resulting in an error ratio of 100%.

The following findings were made:

48 Violations Title 75, Pa. C.S. §1791.1(a)

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

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

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

48 Violations Title 75, Pa. C.S. §1791.1(c)

Requires an insurer to provide an insured a notice stating that discounts are available for drivers who meet the requirements

of Sections 1799, 1799.1 and 1799.2. The Company failed to provide the required notice at the time of renewal.

Private Passenger Automobile – Renewals With Surcharges

The universe of 12 private passenger automobile policies renewed with surcharges during the experience period was selected for review. All 12 files were received and reviewed. The 36 violations noted were based on the universe of 12 files, resulting in an error ratio of 100%.

The following findings were made:

12 Violations Title 75, Pa. C.S. §1791.1(a)

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

failed to provide the minimum mandated coverages and premiums at renewal.

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

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

12 Violations Title 75, Pa. C.S. §1791.1(c)

Requires an insurer to provide an insured a notice stating that discounts are available for drivers who meet the requirements of Sections 1799, 1799.1 and 1799.2. The Company failed to provide the required notice at the time of application.

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 1,800 homeowner policies written as new business during the experience period, 25 files were selected for review. All 25 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

The universe of 9 homeowner policies renewed during the experience period was selected for review. All 9 files were received and reviewed. No violations were noted.

D. Tenant 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.

Tenant Homeowner Rating - New Business Without Surcharges

From the universe of 467 tenant homeowner policies written as new business without surcharges during the experience period, 25 files were selected for review. All 25 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.

Tenant Homeowner Rating – Renewals Without Surcharges

The universe of 8 tenant homeowner policies renewed without surcharges during the experience period was selected for review. All 8 files 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. Property 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 264 private passenger automobile property damage claims reported during the experience period, 25 files were selected for review. All 25 files were received and reviewed. No violations were noted.

B. Automobile Comprehensive Claims

From the universe of 86 private passenger automobile comprehensive claims reported during the experience period, 15 files were selected for review. All 15 files were received and reviewed. The 2 violations noted were based on 2 files, resulting in an error ratio of 13%.

The following findings were 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.

1 Violation Title 31, Pa. Code, Section 146.7(a)(1)

Within 15 working days after receipt by the insurer of properly executed proofs of loss, the first-party claimant shall be advised of the acceptance or denial of the claim by the insurer. The Company failed to provide a written denial of the claim for the file noted.

C. Automobile Collision Claims

From the universe of 346 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 84 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 violation resulted in an error ratio of 4%.

The following finding was made:

1 Violation Title 31, Pa. Code, Section 62.3(e)(4)

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

E. Automobile First Party Medical Claims

From the universe of 121 private passenger automobile first party medical claims reported during the experience period, 35 files were selected for review. All 35 files were received and reviewed. The 5 violations noted were based on 5 files, resulting in an error ratio of 14%.

The following findings were made:

5 Violations Title 31, Pa. Code, Section 69.42

An insurer shall make payments to providers in accordance with the Medicare Program as applied in this Commonwealth by the carrier and intermediaries. Care covered under the Medicare Program shall be reimbursed at 110% of the Medicare payment or a different allowance as may be determined under §69.12(b). Medicare co-insurance and

deductibles may not be excluded in payments made by the insurer.

AND

Title 31, Pa. Code, Section 69.43

An insurer shall pay the provider's usual and customary charge for services rendered when the charge is less than 110% of the Medicare payment or a different allowance as may be determined under §69.12(b). An insurer shall pay 80% of the provider's usual and customary charge rendered if no Medicare payment exists. In calculating the usual and customary charge, an insurer may utilize the requested payment amount on the provider's bill for services or the data collected by the carrier or intermediaries to the extent that the data is made available. An insurer shall provide a complete explanation of the calculations made in computing its determination of the amount payable including whether the calculation is based on 110% of the Medicare payment, 80% of the usual and customary charge or at a different allowance determined by the Commissioner under §69.12(b). A bill submitted by the provider delineating the services rendered and the information from which a determination could be made by the insurer as to the appropriate payment amount will not be construed as a demand for payment in excess of the permissible payment amount. The Company failed to have medical bills repriced or adjusted for cost containment for the 5 files noted.

F. Automobile First Party Medical Claims Referred to a PRO

Although no automobile first party medical claims referred to a peer review organization were reported, the Company was asked to provide a copy of all peer review contracts in place during the experience period. The Company did not contract with any peer review organization.

The following finding was made:

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

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

AND

Title 75, Pa. C.S. §1797(b)(1)

Peer review plan for challenges to reasonableness and necessity of treatment. Peer review plan. Insurers shall contract jointly or separately with any peer review organization established for the purpose of evaluating treatment, health care services, products or accommodations provided to any injured person. Such evaluation shall be for the purpose of confirming that such treatment, products, services or accommodations conform to the professional standards of performance and are medically necessary. An insurer's challenge must be made to a PRO within 90 days of the insurer's receipt of the provider's bill for treatment or services or may be made at any time for continuing treatment or services. The Company failed to have a contract in place with an approved peer review organization as required.

G. Property Claims

From the universe of 53 homeowner claims reported during the experience period, 15 files were selected for review. All 15 files were received and reviewed. The 2 violations noted were based on 2 files, resulting in an error ratio of 13%.

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.

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:

4 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 failed to include a fraud statement on an "authorization for the use and disclosure of health information", an "authorization to release title", an "odometer

disclosure statement” and a “power of attorney” form.

1 Violation 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 did not provide the fraud warning on a “property theft affidavit” 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 63 pieces of advertising in use during the experience period. The advertising materials provided included: brochures, agent's kits, newspaper ads and a newsletter. 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 3 consumer complaints received during the experience period and provided all consumer complaint logs requested since the Company began writing business in 2007. One additional complaint was handled directly by the Insurance Department and not included in the Company's records. All 4 complaint files were requested, received and reviewed. No violations were noted.

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 synopsis reflects the nature of the 4 complaints that were reviewed.

•	2	Cancellation/Nonrenewal	50%
•	1	Billing	25%
•	1	Miscellaneous	25%
	<hr/>		<hr/>
	4		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 finding was made:

*1 Violation 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.

Charles G. Leon Insurance Agency LLC

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 2006 and 2008 [40 P.S. §991.2006 and 2008], so that the violations noted in the Report do not occur in the future.
2. The Company must review and revise internal control procedures to ensure compliance with the refusals to write requirement of Title 75, Pa. C.S. §1799.3(f), so that the violations noted in the Report do not occur in the future.
3. 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.
4. The Company must review Act 86, Section 1 [40 P.S. §3401], to ensure that violations regarding notification to the insured of an increase in premium do not occur in the future.
5. The Company must review Title 75, Pa. C.S. §1791.1(a) violations to ensure that an itemized invoice listing minimum coverages and

premiums are provided at the time of application and every renewal thereafter as noted in the Report and do not occur in the future.

6. The Company must review Title 75, Pa. C.S. §1791.1(b) violations to ensure that tort options are provided at the time of application and every renewal thereafter, as noted in the Report, and 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. This is to ensure that the violation noted under Title 75, Pa. C.S. §1738(d)(1) and (2) does 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 the file as noted in the Report.
9. The Company must review Title 75, Pa. C.S. §1791.1(c) to ensure that violations regarding the requirement to provide notice to insureds stating that discounts are available for drivers, as noted in the Report, do not occur in the future.
10. 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 the violations noted under Title 75, Pa. C.S. §1792(b)(1) do not occur in the future.

11. 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 denial of claims, as noted in the Report, do not occur in the future.

12. The Company must review Title 31, Pa. Code, Section 62.3(e)(4) with its claim staff to ensure that sales tax is included in the replacement value of a motor vehicle. The Company must review all claims where sales tax was not included in the replacement value of a motor vehicle. The sales tax 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.

13. The Company must review Title 31, Pa. Code, Section 69.53(a) and Title 75, Pa. C.S. §1797(b)(1) with its claim staff to ensure that a written contract is in place with an approved peer review organization established for the purpose of evaluating treatment, health care services, products or accommodations provided to any injured person. Such evaluation shall be for the purpose of confirming that such treatment, products, services or accommodations conform to the professional standards of performance and are medically necessary.

14. The Company must review Title 31, Pa. Code, Sections 69.42 and 69.43 with its claim staff to ensure that provider bills are repriced for cost containment as required.

15. The Company must ensure all producers are properly appointed, as required by Section 671-A [40 P.S. §310.71] of the Insurance Department Act No. 147, prior to accepting any business from any producer.

16. The Company must revise and reissue their underwriting guidelines for use in Pennsylvania to ensure that the guidelines do not exclude applicants from being eligible to obtain insurance for reasons established in Section 2003 of Act 68 [40 P.S. §991.2003].

17. The Company must ensure that all claim forms and automobile renewal policies contain the required fraud warning notice.

XIII. COMPANY RESPONSE



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March 17, 2010

Chester A. Derk, Jr., AIE, HIA
Market Conduct Division Chief
Pennsylvania Insurance Department
Office of Market Conduct Regulation
1227 Strawberry Square
Harrisburg, PA 17120

RE: Examination Warrant Number 09-M19-011
Trustgard Insurance Company

Dear Mr. Derk:

Trustgard Insurance Company ("Trustgard") has received your February 24, 2010 letter and Report of Examination ("Report"). We appreciate the opportunity to respond and this letter shall serve as Trustgard's response to the Report and Recommendations which begin at Section XII, page 41.

1. The Company must review and revise internal control procedures to ensure compliance with cancellation and nonrenewal notice requirements of Act 68, Section 2006 and 2008 [40 P.S. §991.2006 and 2008], so that the violations noted in the Report do not occur in the future.

Trustgard accepts the Department's recommendation and has already implemented the necessary changes to remedy these issues. A revised notice form was filed with, and approved by, the Department on 12/2/09 and was placed in production on 2/4/10.

2. The Company must review and revise internal control procedures to ensure compliance with the refusals to write requirement of Title 75, Pa. C.S. §1799.3(f), so that the violations noted in the Report do not occur in the future.

Trustgard accepts the Department's recommendation and has already implemented the necessary changes to remedy this issue. A revised notice form was filed with, and approved by, the Department on 12/2/09 and was placed in production on 2/4/10.

3. 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.

Trustgard accepts the Department's recommendation and has reviewed its procedures to ensure compliance with Act 205, Section 5(a)(9) [40 P.S. §1171.5 (a)(9)] . Trustgard implemented the necessary changes to remedy this issue effective 10/30/09.

4. The Company must review Act 86, Section 1 [40 P.S. §3401], to ensure that violations regarding notification to the insured of an increase in premium do not occur in the future.

Trustgard accepts the Department's recommendation and has reviewed its procedures to ensure compliance with Act 86, Section 1 [40 P.S. §3401]. Trustgard implemented the necessary changes to remedy this issue effective 10/28/09.

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

Trustgard accepts the Department's recommendation and has already implemented the necessary changes to ensure compliance with Title 75, Pa. C.S. §1791.1(a). A revised itemized invoice form was filed with, and approved by, the Department on 12/2/09 and was placed in production on 2/4/10.

6. The Company must review Title 75, Pa. C.S. §1791.1(b) violations to ensure that tort options are provided at the time of application and every renewal thereafter, as noted in the Report, and do not occur in the future.

Trustgard accepts the Department's recommendation and has already implemented the necessary changes to ensure compliance with Title 75, Pa. C.S. §1791.1(b). A revised notice of tort options form was filed with, and approved by, the Department on 12/2/09 and was placed in production on 2/4/10.

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. This is to ensure that the violation noted under Title 75, Pa. C.S §1738(d) (1) and (2) does not occur in the future.

Trustgard accepts the Department's recommendation and has reviewed existing procedures to ensure compliance with Title 75, Pa. C.S §1738(d) (1) and (2). Underwriting staff members have been reminded of the policyholder's option to exercise the waiver of stacked limits for uninsured and underinsured motorist coverage by signing written rejection forms plus, an agency audit process has been implemented to ensure all required forms are submitted to Trustgard by the agent.

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 the file as noted in the Report.

Trustgard accepts the Department's recommendation and has reviewed existing procedures to ensure compliance with Title 75, Pa. C.S §1734. Underwriting staff members have been reminded of the requirements of Title 75, Pa. C.S §1734 plus, an agency audit process has been implemented to ensure all required forms are submitted to Trustgard by the agent.

9. The Company must review Title 75, Pa. C.S. §1791.1(c) to ensure that violations regarding the requirement to provide notice to insureds stating that discounts are available for drivers, as noted in the Report, do not occur in the future.

Trustgard accepts the Department's recommendation and has already implemented the necessary changes to ensure compliance with Title 75, Pa. C.S. §1791.1(c). A revised notice of premium discounts form was placed in production on 2/4/10.

10. 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 the violations noted under Title 75, Pa. C.S. §1792(b)(1) do not occur in the future.

Trustgard accepts the Department's recommendation and has already implemented the necessary changes to ensure compliance with Title 75, Pa. C.S. §1792(b)(1). A revised notice of additional cost for purchasing a lower deductible for collision coverage form was placed in production on 2/4/10.

11. 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 denial of claims, as noted in the Report, do not occur in the future.

Trustgard has reviewed its internal procedures and has implemented new procedures to ensure compliance with the requirements of Title 31, Pennsylvania Code, Chapter 146, Unfair Claims Settlement Practices, as they relate to status letters and denials of claims. Specifically, Trustgard has implemented an electronic 30 day reminder set by the adjuster when a claim is initially opened. If coverage is still pending at 30 days, the adjuster sends the required status letter. This reminder process continues until the coverage is closed. Furthermore, adjusters have been advised to send formal denial letters to policyholders even in situations where the claim value is below the policyholder's deductible.

12. The Company must review Title 31, Pa. Code, Section 62.3(e)(4) with its claim staff to ensure that sales tax is included in the replacement value of a motor vehicle. The Company must review all claims where sales tax was not included in the replacement value of a motor vehicle. The sales tax 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.

Trustgard accepts the Department's recommendation. Trustgard has reviewed existing procedures and re-addressed the statutory requirements with the adjusting staff to ensure compliance with Title 31, Pa. Code Section 62.3(e)(4). Furthermore, Trustgard has gone back to its November 2007 entry date into the state and reviewed all Pennsylvania claims where sales tax was not included in the replacement value of a motor vehicle. Through this review, 19 claims were identified which should have included sales tax in the replacement value, but did not. Trustgard has remedied the error by placing a telephone call and sending a follow-up letter to each claimant advising them of Trustgard's error. Along with the follow-up letter, each claimant has been issued a check for the amount of tax that was erroneously omitted from their prior agreed settlement. By separate letter, the Department has been provided with proof of said remedial payments.

13. The Company must review Title 31, Pa. Code, Section 69.53(a) and Title 75, Pa. C.S. §1797(b)(1) with its claim staff to ensure that a written contract is in place with an approved peer review organization established for the purpose of evaluating treatment, health care services, products or accommodations provided to any injured person. Such evaluation shall be for the purpose of confirming that such treatment, products, services or accommodations conform to the professional standards of performance and are medically necessary.

Trustgard accepts the Department's recommendation as it relates to Title 75, Pa. C.S. §1797(b)(1) which requires insurers to have in place a written

contract with an approved peer review organization for the purpose of evaluating treatment, health care services, products or accommodations provided to any injured person. Trustgard has entered into the required contract with Exam Coordinators Network and is now Title 75, Pa. C.S. §1797(b)(1) compliant.

14. The Company must review Title 31, Pa. Code, Sections 69.42 and 69.43 with its claim staff to ensure that provider bills are repriced for cost containment as required.

Trustgard accepts the Department's recommendation and has revised procedures to ensure that providers' bills are repriced as is required by Title 31, Pa. Code, Sections 69.42 and 69.43.

15. The Company must ensure all producers are properly appointed, as required by Section 671-A [40 P.S. §310.71] of the Insurance Department Act No. 147, prior to accepting any business from any producer.

Trustgard accepts the Department's recommendation and has reviewed its procedures relating to producer licensing to ensure compliance with Section 671-A [40 P.S. §310.71] of the Insurance Department Act No. 147.

16. The Company must revise and reissue their underwriting guidelines for use in Pennsylvania to ensure the guidelines do not exclude applicants from being eligible to obtain insurance for reasons established in Section 2003 of Act 68 [40 P.S. §991.2003].

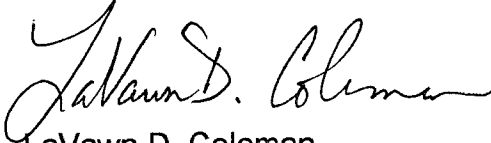
Trustgard accepts the Department's recommendation and is now in compliance with Section 2003 of Act 68 [40 P.S. §991.2003]. In fact, Trustgard had removed the cited language from its guidelines on 1/1/09, prior to the first notice of the Department's examination.

17. The Company must ensure that all claim forms and automobile renewal policies contain the required fraud warning notice.

Trustgard accepts the Department's recommendation and has reviewed all claim forms in use in Pennsylvania. It is worth noting that Trustgard's automobile renewal forms do contain the required language and were found to be compliant during the examination. Action is underway to insert the required fraud language into all claims forms.

We appreciate the courtesy extended by your staff throughout the examination process. If you have any questions regarding our response, please feel free to contact the undersigned directly.

Sincerely,



LaVawn D. Coleman