

**REPORT OF
MARKET CONDUCT EXAMINATION
OF**

SAFE AUTO INSURANCE COMPANY
Columbus, Ohio

**AS OF
March 19, 2007**

COMMONWEALTH OF PENNSYLVANIA

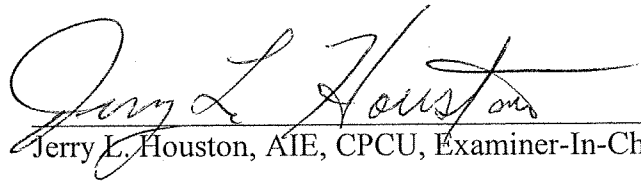


**INSURANCE DEPARTMENT
MARKET CONDUCT DIVISION**

Issued: May 3, 2007


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).

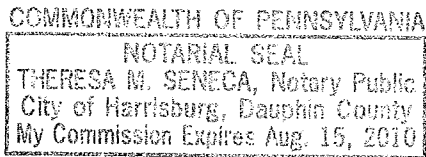

Jerry L. Houston, AIE, CPCU, Examiner-In-Charge

Sworn to and Subscribed Before me

This 17 Day of *January*, 2007



Notary Public



SAFE AUTO INSURANCE COMPANY

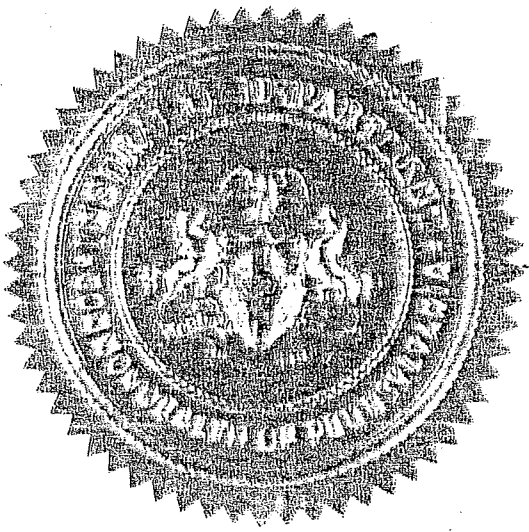
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BEFORE THE INSURANCE COMMISSIONER
OF THE
COMMONWEALTH OF PENNSYLVANIA

ORDER

AND NOW, this 20th day of February, 2007, in accordance with Section 905(c) of the Pennsylvania Insurance Department Act, Act of May 17, 1921, P.L. 789, as amended, 40 P.S. § 323.5, I hereby designate Terrance A. Keating, Deputy Chief Counsel, 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.



A handwritten signature in black ink, appearing to read "Randolph L. Rohrbaugh". The signature is written in a cursive style with large, sweeping loops.

Randolph L. Rohrbaugh
Acting Insurance Commissioner

BEFORE THE INSURANCE COMMISSIONER
OF THE
COMMONWEALTH OF PENNSYLVANIA

IN RE:	:	VIOLATIONS:
	:	
SAFE AUTO INSURANCE	:	Act 1990-6, Sections 1705(a)(1) and
COMPANY	:	(4), 1716, 1731(b) and (c), 1791,
3883 East Broad Street	:	1791.1(a) and (b), 1793(b), 1797(b)(1),
Columbus, OH 43213	:	1799.3(d) and (f) (Title 75, Pa.C.S.
	:	§§ 1705, 1716, 1731, 1791, 1793,
	:	1797 and 1799)
	:	
	:	Sections 4(a) and 4(h) of the Act of
	:	June 11, 1947, P.L. 538, No. 246
	:	(40 P.S. §§ 1184)
	:	
	:	Section 5(a)(4) of the Unfair Insurance
	:	Practices Act, Act of July 22, 1974,
	:	P.L. 589, No. 205 (40 P.S. § 1171.5)
	:	
	:	Sections 2002(c)(3), 2004, 2006,
	:	2006(2), 2006(7) and 2008(b) of Act
	:	68 of 1998 (40 P.S. §§991.2002,
	:	991.2004, 991.2006 and 991.2008)
	:	
	:	63 Purdons Statutes, Sections 851 to
	:	863, Motor Vehicle Physical Damage
	:	Appraisers Act
	:	
	:	Pennsylvania Assigned Risk Plan,
	:	Sections 11, 12.A.3, and 16A.4
	:	
	:	Title 31, Pennsylvania Code, Sections
	:	51.61(3), 62.3(e)(1), (4), and (7),
	:	69.42, 69.43, 69.52(b), 146.3,
	:	146.5(a) and (d), 146.6 and
	:	146.7(a)(1)
	:	
	:	Title 75, Pennsylvania Consolidated
	:	Statutes, Sections 1161(a) and (b) and
	:	1822
	:	
	:	
Respondent.	:	Docket No. MC07-03-031

CONSENT ORDER

AND NOW, this 3rd day of May, 2007, 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 Safe Auto Insurance Company, and maintains its address at 3883 East Broad Street, Columbus, Ohio 43213.

- (b) A market conduct examination of Respondent was conducted by the Insurance Department covering the period from January 1, 2005 through February 28, 2006.
- (c) On March 19, 2007, the Insurance Department issued a Market Conduct Examination Report to Respondent.
- (d) A response to the Examination Report was provided by Respondent on April 18, 2007.
- (e) The Examination Report notes violations of the following:
- (i) Sections 1705(a)(1) & (4) of Act 1990-6, Title 75, Pa.C.S. § 1705, which requires every insurer, prior to the issuance of a private passenger motor vehicle liability insurance policy to provide each applicant an opportunity to elect a tort option. A policy may not be issued unless the applicant has been provided an opportunity to elect a tort option;
- (ii) Section 1716 of Act 1990-6, Title 75, Pa. C.S. § 1716, which requires that benefits are overdue if not paid within 30 days after the insurer receives reasonable proof of the amount of benefits. If reasonable proof is not supplied as to all benefits, the portion supported by reasonable proof is overdue if not paid within 30 days after the proof is received by the insurer. Overdue

benefits shall bear interest at the rate of 12% per annum from the date the benefits become due. In the event the insurer is found to have acted in an unreasonable manner in refusing to pay the benefits when due, the insurer shall pay, in addition to the benefits owed and the interest thereon, a reasonable attorney fee based upon actual time expended;

- (iii) Section 1731(b)(c) of Act 1990-6, Title 75, Pa.C.S. § 1731, which requires the insurer to advise that the named insured shall be informed that he may exercise the waiver for uninsured and underinsured motorist coverage by signing written rejection forms;
- (iv) Section 1791 of Act 1990-6, Title 75, Pa.C.S. § 1791, which requires the company to advise the insured of the benefits and limits available under this Chapter in bold print of at least ten point type at the time of application for original coverage;
- (v) Section 1791.1(a) of Act 1990-6, Title 75, Pa.C.S. § 1791.1, which requires that at the time of application for original coverage and every renewal thereafter, an insurer must provide to an insured an itemized invoice listing the minimum motor vehicle insurance coverage levels mandated by the commonwealth and the premium charge for the insured to purchase the minimum mandated coverages. The invoice must contain the following notice in print of no less than ten-point type: “The laws of the

Commonwealth of Pennsylvania, as enacted by the General Assembly, only require you to purchase liability and first-party medical benefit coverages. Any additional coverage or coverages in excess of the limits required by law are provided only at your request as enhancements to basic coverages.” The insurer shall provide the itemized invoice to the insured in conjunction with the declaration of coverage limits and premiums for the insured’s existing coverages;

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

(vii) Section 1793(b) of Act 1990-6, Title 75, Pa. C.S. § 1793, which requires the insurer to provide to the insured a surcharge disclosure plan. The insurer providing the surcharge disclosure plan shall detail the provisions of the plan and shall deliver the plan to each insured at least once annually. Additionally, the surcharge information plan shall be given to each prospective insured at the time application is made for motor vehicle insurance coverage;

(viii) Section 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,

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;

- (ix) Section 1799.3(d) of Act 1990-6, Title 75, Pa.C.S. § 1799.3, which requires insurers who make a determination to impose a surcharge, rate penalty or driver record point assignment, to inform the named insured of the determination and specify the manner in which the surcharge, rate penalty or driver record point assignment was made and clearly identify the amount of the surcharge or rate penalty on the premium notice for as long as the surcharge or rate penalty is in effect;

- (x) Section 1799.3(f) of Act 1990-6, Title 75, Pa.C.S. § 1799.3(f), which states 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 the reasons under this subsection may obtain review by the Commissioner;

- (xi) 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;
- (xii) Section 5(a)(4) of Act 205 (40 P.S. § 1171.5), which defines as an unfair method of competition or unfair or deceptive acts or practices as entering into any agreement to commit, or by any concerted action committing, any act of boycott, coercion or intimidation resulting in or tending to result in unreasonable restraint of, or monopoly in, the business of insurance;
- (xiii) Section 2002(c)(3) of Act 68 of 1998 (40 P.S. § 991.2002), which requires that an insurer supply the insured with a written statement of the reason for cancellation;
- (xiv) Section 2004 of Act 68 of 1998 (40 P.S. § 991.2004), which states that an insurer may not cancel a policy except for specified reasons;
- (xv) Section 2006 of Act 68 of 1998 (40 P.S. § 991.2006), which requires that nonrenewal by an insurer of a policy of automobile insurance shall not be

effective unless the insurer delivers or mails to the insured a written notice of the cancellation;

(xvi) Section 2006(2) of Act 68 of 1998 (40 P.S. § 991.2006), which requires a cancellation or refusal to renew by an insurer of a policy of automobile insurance shall not be effective unless the insurer delivers or mails to the named insured at the address shown in the policy a written notice of the cancellation or refusal to renew. The notice shall: (2) state the date, not less than 60 days after the date of the mailing or delivery, on which cancellation or refusal to renew shall become effective. When the policy is being cancelled or not renewed for the reasons set forth in Section 2004(1) and (2), however, the effective date may be 15 days from the date of mailing or delivery;

(xvii) Section 2006(7) of Act 68 of 1998 (40 P.S. § 991.2006), which requires that a cancellation notice clearly state that when coverage is to be terminated due to nonresponse to a citation imposed under 75 Pa.C.S. § 1533, or nonpayment of a fine or penalty imposed under that section, coverage shall not terminate if the insured provides the insurer with proof that the insured has responded to all citations and paid all fines and penalties and that he has done so on or before the termination date of the policy;

(xviii) 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;

(xix) 63 Purdon's Statutes, the Motor Vehicle Physical Damage Appraisers Act, specifically Section 853(a), (63 P.S. § 853(a)), prohibits any person from directly or indirectly acting as an appraiser unless such person has first secured a license from the Commissioner;

(xx) Section 11 of the Pennsylvania Assigned Risk Plan, which states an applicant will be assigned to a designated company for a period of three consecutive years;

(xxi) Section 12A.3 of the Pennsylvania Assigned Risk Plan Rules, which require the assigned company to mail a take-out notice to each insured eligible for take-out and the producer of record at least 45 days, but no more than 60 days, prior to the expiration of the Plan policy to be replaced;

(xxii) Section 16A.4 of the Pennsylvania Assigned Risk Plan Rules, which states at least 60 calendar days prior to the expiration date of the final renewal, the

company shall notify the insured that the period of assignment under the Plan will terminate on said expiration date. A copy of such notice shall be sent to the producer of record;

(xxiii) Title 31, Pennsylvania Code, Section 51.61(3), which states an advertisement for automobile liability or physical damage insurance coverage shall not invite a prospective insured to apply for a quotation of a premium rate which the company would charge for such insurance unless: If it is the company's intent and actual practice to offer a quotation to applicants who meet its underwriting requirements and not to offer a quotation to those who do not appear to meet the company's underwriting requirements, the company shall consider such refusal to render a quote as a refusal to write as defined in Act 68;

(xxiv) Title 31, Pennsylvania Code, Section 62.3(e)(1), which requires the replacement value of a motor vehicle be calculated by use of the Guide Source Method, the Actual cost Method or the Dealer Quotation Method;

(xxv) 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;

(xxvi) 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 five 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 five days after its completion;

(xxvii) Title 31, Pennsylvania Code, Section 69.42, which requires an insurer to 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 Section 69.12(b);

(xxviii) Title 31, Pennsylvania Code, Section 69.43, which requires an insurer to 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;

(xxix) Title 31, Pennsylvania Code, Section 69.52(b), which requires an insurer to pay medical bills for care that are not referred to a Peer Review Organization within 30 days after the insurer receives sufficient documentation supporting the bill;

(xxx) Title 31, Pennsylvania Code, Section 146.3, which requires the claim files of the insurer shall be subject to examination by the Commissioner or by his appointed designees. The files shall contain notes and work papers pertaining to the claim in the detail that pertinent events and the dates of the events can be reconstructed;

(xxxi) Title 31, Pennsylvania Code, Section 146.5(a), requires every insurer, upon receiving notification of a claim, shall, within ten working days,

acknowledge the receipt of such notice unless payment is made within such period of time;

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

- (xxxiii) Title 31, Pennsylvania Code, Section 146.6, requires that every insurer shall complete investigation of a claim within 30 days after notification of the claim, unless such investigation cannot reasonably be completed within 30 days, and every 45 days thereafter, the insurer shall provide the claimant with a reasonable written explanation for the delay and state when a decision on the claim may be expected;

- (xxxiv) Title 31, Pennsylvania Code, Section 146.7(a)(1), which requires within 15 working days after receipt by the insurer of properly executed proofs of loss, the first-party claimant shall be advised of the acceptance or denial of the claim by the insurer. No insurer shall deny a claim on the grounds of a specific policy provision, condition or exclusion unless reference to such provision, condition or exclusion is included in the denial. The denial must

be given to the claimant in writing and the claim file of the insurer shall contain a copy of the denial;

- (xxxv) Section 1161(a) and (b) of Title 75, Pa. C.S., which states an insurer who owns, possesses or transfers a vehicle located or registered in the Commonwealth which qualifies as a salvage vehicle shall make application to the Department for a certificate of salvage for that vehicle; and
- (xxxvi) 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 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.

(c) Respondent's violations of Section 5(a)(4) 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.

(d) In addition to any penalties imposed by the Department for Respondent's violations of the Unfair Insurance Practices Act (40 P.S. §§ 1171.1 – 1171.5), the Department 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).
- (e) Respondent's violations of Sections 2002, 2004, 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).
- (f) Respondent's violations of Section 853 of the Motor Vehicle Physical Damage Appraisers Act are punishable by the following, under Section 856 of the Motor Vehicle Physical Damage Appraisers Act (63 P.S. § 856):
- (i) The commissioner may suspend or revoke any appraiser's license for any of the following causes:

- (1) If the licensee willfully violates, fails to comply with, or knowingly participates in the violation of or failure to comply with any provision of this act or regulation promulgated thereunder.
 - (2) If the licensee has materially misrepresented the terms of any insurance contract or has engaged in any fraudulent transaction.
 - (3) If the licensee has shown himself to be incompetent or untrustworthy.
- (g) Respondent's violations of Title 31, Pennsylvania Code, Sections 146.3, 146.5, 146.6 and 146.7 are punishable under Sections 9, 10 and 11 of the Unfair Insurance Practices Act (40 P.S. §§ 1171.9, 1171.10 and 1171.11), as stated 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 Forty –Five Thousand Dollars (\$45,000.00) 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 Enforcement, 1227 Strawberry Square, Harrisburg, Pennsylvania 17120. Payment must be made no later than thirty (30) days after the date of this Order.

6. In the event the 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 it 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 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.

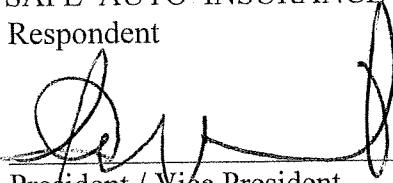
8. In any such enforcement proceeding, Respondent may contest whether a breach of the provisions of this Order has occurred but may not contest the Findings of Fact and Conclusions of Law contained herein.

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.

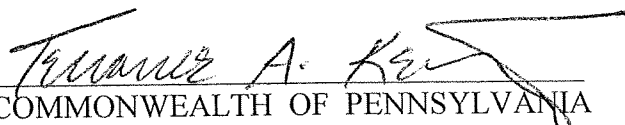
BY: SAFE AUTO INSURANCE COMPANY,
Respondent



President / Vice President



Secretary / Treasurer



COMMONWEALTH OF PENNSYLVANIA
By: Terrance A. Keating
Deputy Chief Counsel

I. INTRODUCTION

The market conduct examination was conducted at Safe Auto Insurance Company's office located in Columbus, Ohio, from June 5, 2006, through July 21, 2006. Subsequent review and follow-up was conducted in the office of the Pennsylvania Insurance Department.

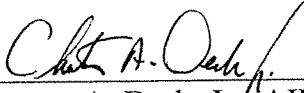
Pennsylvania Market Conduct Examination Reports generally note only those items to which the Department, after review, takes exception. However, the Examination Report may include management recommendations addressing areas of concern noted by the Department, but for which no statutory violation was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

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


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

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

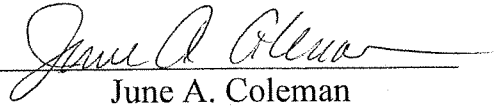
The undersigned participated in this examination and in preparation of this Report.




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



Jerry Houston, CPCU
Market Conduct Examiner



June A. Coleman
Market Conduct Examiner



Diane B. Freed
Market Conduct Examiner

II. SCOPE OF EXAMINATION

The Market Conduct Examination was conducted on Safe Auto 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, 2005, through February 28, 2006, unless otherwise noted. The purpose of the examination was to determine the Company’s compliance with Pennsylvania insurance laws and regulations.

The examination focused on Company operations in the following areas:

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

III. COMPANY HISTORY AND LICENSING

Safe Auto Insurance Company was founded in 1993, and is a direct writer of personal auto insurance. Currently, Safe Auto is writing business in Ohio, Indiana, Kentucky, Pennsylvania, Georgia, South Carolina, Louisiana, Mississippi, Illinois, Tennessee, Arizona and Oklahoma. The Company is also licensed, but not actively writing in Colorado, Arkansas and Missouri.

Safe Auto is a direct writer. It employs no outside agents; however, Safe Auto does have licensed agents in call centers located throughout the country. Safe Auto's call centers are located in Columbus, Ohio, Woodsfield, Ohio, Hemmingway, South Carolina and Sterling, Colorado. In addition, Safe Auto has claims centers located in Columbus, Ohio and Phoenix, Arizona.

LICENSING

Safe Auto Insurance Company's Certificate of Authority to write business in the Commonwealth was last issued on April 1, 2006. The Company is licensed in Arizona, Arkansas, Colorado, Georgia, Illinois, Indiana, Kentucky, Louisiana, Mississippi, Missouri, Ohio, Oklahoma, Pennsylvania, South Carolina and Tennessee. The Company's 2005 annual statement reflects Direct Written Premium for all lines of business in the Commonwealth of Pennsylvania as \$66,090,657. Premium volume related to the areas of this review were: Private Passenger Automobile Direct Written Premium was reported as Other Private Passenger Auto Liability \$49,598,743 and Private Passenger Auto Physical Damage \$16,491,915.

IV. UNDERWRITING PRACTICES AND PROCEDURES

As part of the examination, the Company was requested to supply manuals, underwriting guides, bulletins, directives or other forms of underwriting procedure communications for each line of business being reviewed. Underwriting guides were furnished for private passenger automobile. The purpose of this review was to identify any inconsistencies which could be considered discriminatory, specifically prohibited by statute or regulation, or unusual in nature. No violations were noted.

V. UNDERWRITING

A. Private Passenger Automobile

1. 60-Day Cancellations

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

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

From the universe of 46,024 private passenger automobile files cancelled within the first 60 days of new business, 100 files were selected for review. All 100 files were received and reviewed. The violation resulted in an error ratio of 1%.

The following finding was made:

1 Violation Act 68, Section 2002(c)(3) [40 P.S. §991.2002(c)(3)]

Requires that an insurer supply the insured with a written statement of the reason for cancellation. The file noted was a policy cancelled within the first 60 days of new business inception date and did not provide 15 days notice of cancellation.

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 52,681 private passenger automobile files identified as midterm cancellations by the Company, 100 files were selected for review. All 100 files were received and reviewed. The 93 violations noted were based on 82 files, resulting in an error ratio of 82%.

The following findings were made:

1 Violation Act 68, Section 2006 [40 P.S. §991.2006]

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

2 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 15 days notice of cancellation for the 2 files noted.

77 Violations Act 68, Section 2006(7) [40 P.S. §991.2006(7)]

Requires that a cancellation notice clearly state that when coverage is to be terminated due to nonresponse to a citation imposed under 75 Pa. C.S. §1533 (relating to suspension of operating privilege for failure to respond to a citation) or nonpayment of a fine or penalty imposed under that section, coverage shall not terminate if the insured provides the insurer with proof that the insured has responded to all citations and paid all fines and penalties and that he has done so on or before the termination date of the policy. The Company did not provide the wording required on the cancellation notice for the 77 files noted.

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

Requires that no insurer shall cancel a policy of automobile insurance except for nonpayment of premium, suspension or revocation of the named insured's driver license or motor vehicle registration or a determination that the insured has concealed a material fact or has made a material allegation contrary to fact or has made a misrepresentation of material fact and that such concealment, allegation or misrepresentation was material to the acceptance of the risk by the insurer. The Company cancelled the 13 files noted for an improper reason. Of the 13 files, 11 were cancelled

because the insured was moving out of state and 2 were cancelled for health reasons.

3. Nonrenewals

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

The purpose of the review was to determine compliance with Act 68, Section 2003 (40 P.S. §991.2003), which establishes conditions under which action by the insurer is prohibited, and Section 2006 (40 P.S. §991.2006), which establishes the requirements which must be met regarding the form and conditions of the cancellation notice.

The universe of 1 private passenger automobile file identified as a nonrenewal by the Company was selected for review. The file was received and reviewed. The file provided was not actually nonrenewed, but cancelled midterm. The violation noted resulted in an error ratio of 100%.

The following finding was made:

1 Violation Act 68, Section 2004 [40 P.S. §991.2004]

Requires that no insurer shall cancel a policy of automobile insurance except for nonpayment of premium, suspension or revocation of the named insured's driver license or motor vehicle registration or a determination that the insured has concealed a material fact or has made a material allegation contrary to fact or has made a misrepresentation of material fact and that such concealment, allegation or misrepresentation was material to the acceptance of the risk

by the insurer. The file noted was cancelled because the insured moved out of state.

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.

From the universe of 1,290 private passenger automobile files identified as refusals to write, 100 files were selected for review. The Company did not provide any files because the Company does not issue a notice of refusal to write to an applicant. The 2,580 violations were based on the universe of 1,290 files, resulting in an error ratio of 100%.

The following findings were made:

1,290 Violations Title 31, Pa. Code, Section 51.61(3)

An advertisement for automobile liability or physical damage insurance coverage shall not invite a prospective insured to apply for a quotation of a premium rate which the company would charge for such insurance unless: If it is the company's intent and actual practice to offer a quotation to applicants who meet its underwriting requirements and not to offer a quotation to those who do not appear to meet the company's underwriting requirements, the company shall consider such refusal to render a quote as a refusal to write as

defined in the act of June 5, 1968, P.L. 140 (40 P.S. §1008.1 et seq.) and comply with all applicable provisions of the act.

AND

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 issue a notice of refusal to write to inform the applicant of a specific reason or reasons for the refusal and the right of review by the Insurance Commissioner.

1,290 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. The Company failed to provide a notice of refusal to write that was on a form approved by the Commissioner.

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*.

From the universe of 7,013 private passenger automobile files which were identified by the Company as rescissions, 100 files were selected for review. All 100 files were received and reviewed. Of the 100 files reviewed, 7 files were identified as 60-day cancellations. The 7 violations noted were based on 7 files, resulting in an error ratio of 7%.

The following findings were made:

7 Violations Act 68, Section 2002(c)(3) [40 P.S. §991.2002(c)(3)]

Requires that an insurer supply the insured with a written statement of the reason for cancellation. The 7 files noted were cancelled within the first 60 days of new business inception date and did not provide 15 days notice of cancellation.

Concern: The Company issued cancellation notices for all rescissions. The Company rescinded contracts for non-sufficient funds and used a notice of cancellation form. Rescissions are not cancellations and need not be expressed through the standardized cancellation forms which give a right of review by the Commissioner and require advance notice to terminate a

policy. A rescission voids a contract and can be accomplished through the use of a letter format indicating the reason for the rescission. It is suggested that the Company adopt a procedure other than the usage of cancellation notices to avoid any confusion.

B. Private Passenger Automobile – Assigned Risk

Safe Auto Insurance Company reported its premium writings for private passenger automobile to the Pennsylvania Assigned Risk Plan. As a result, the Company received all assignments from the Pennsylvania Assigned Risk Plan.

Effective June 4, 2004, Safe Auto Insurance 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.

1. Midterm Cancellations

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

The primary purpose of the review was to determine compliance with Title 75, Pennsylvania Consolidated Statutes, Sections 1742, 1743 and 1744 [75 Pa. C.S. §1742, 1743 an 1744], and all the rules of the Pennsylvania Assigned Risk Plan and Manual.

The universe of 5 private passenger automobile assigned risk policies cancelled during the experience period was selected for review. All 5 files selected were received and reviewed. Of the 5 files reviewed, one file was identified as a nonrenewal. The violation resulted in an error ratio of 20%.

The following finding was made:

1 Violation Pennsylvania Assigned Risk Plan, Personal Automobile Part, Section 12.A.3

The assigned company shall mail a take-out notice to each insured eligible for take-out and the producer of record at least 45 days, but no more than 60 days, prior to the expiration of the Plan policy to be replaced. The take-out notice shall contain a provision premium quotation for the voluntary market coverage being offered. If the assigned company complies with this section and the insured accepts take-out, the Plan shall give credit to the assigned company, at the expiration date of the Plan policy, for writing a voluntary market policy for a risk previously insured by the Plan.

AND

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

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 failed to provide a take-out notice containing a provisional premium quotation to eligible risks. Also, the

Company is not authorized to nonrenew assigned risk policies because it signed a LAD Agreement.

2. Nonrenewals

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

The purpose of the review was to determine compliance with Title 75, Pennsylvania Consolidated Statutes, Sections 1742, 1743, 1744 [75 Pa. C.S. §1742, 1743 and 1744], and all the rules of the Pennsylvania Assigned Risk Plan and Manual.

The universe of 45 private passenger assigned risk policies nonrenewed during the experience period was selected for review. All 45 files were received and reviewed. The 125 violations noted were based on 45 files, resulting in an error ratio of 100%.

The following findings were made:

42 Violations Pennsylvania Assigned risk Plan, Personal Automobile Part, Section 11

An applicant shall be assigned to a designated company for a period of three consecutive years. However, the designated company may offer to continue an insured's assignment beyond the period of three consecutive years by offering to write a third or subsequent renewal policy in accordance with Section 16.A.2. The Company failed to provide coverage to the insured for an assignment of three consecutive years.

*37 Violations Pennsylvania Assigned Risk Plan, Personal Automobile Part,
Section 12.A.3*

The assigned company shall mail a take-out notice to each insured eligible for take-out and the producer of record at least 45 days, but no more than 60 days, prior to the expiration of the Plan policy to be replaced. The take-out notice shall contain a provision premium quotation for the voluntary market coverage being offered. If the assigned company complies with this section and the insured accepts take-out, the Plan shall give credit to the assigned company, at the expiration date of the Plan policy, for writing a voluntary market policy for a risk previously insured by the Plan. The Company failed to provide a take-out notice containing a provisional premium quotation to eligible risks.

*1 Violation Pennsylvania Assigned risk Plan, Personal Automobile Part,
Section 16.A.4.*

At least 60 calendar days prior to the expiration date of the final renewal, the company shall notify the insured that the period of assignment under the Plan will terminate on said expiration date. A copy of such notice shall be sent to the producer of record. The Company failed to provide the insured with the required notice.

45 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 was not authorized to nonrenew the assigned risk policies because it signed a LAD Agreement.

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 50,363 private passenger automobile policies identified as new business without surcharges by the Company, 100 files were selected for review. All 100 files were received and reviewed. The 500 violations noted were based on 100 files, resulting in an error ratio of 100%.

The following findings were made:

100 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 supply the required notice at the time of application.

100 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.

100 Violations Title 75, Pa. C.S. §1793(b)

Requires the insurer to provide to the insured a copy of their surcharge disclosure plan. The insurer providing the surcharge disclosure plan shall detail the provisions of the plan and the plan shall be delivered to each insured by the insurer at least once annually. Additionally, the surcharge information plan shall be given to each prospective insured at the time application is made for motor vehicle insurance coverage. The Company did not provide the surcharge disclosure plan at the time of application.

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

Requires every insurer, prior to the first issuance of a private passenger motor vehicle liability insurance policy to provide each applicant with the notice required by paragraph (1). A policy may not be issued until the applicant has been provided an opportunity to elect a tort option. The notice shall be standardized form as adopted by the Commissioner. The Company did not provide the election of tort options to the applicant prior to policy issuance.

100 Violations Title 75, Pa. C.S. §1791

Requires the Company to advise the insured of the benefits and limits available under this Chapter in bold print of at least ten-point type at the time of application for original coverage. The Company did not provide the required notice of available benefits and limits at the time of application.

Concern: A review of the audio recordings of sales calls requested for this exam revealed that some of the sales personnel were stating that the Pennsylvania minimum limits for property damage liability are \$10,000 instead of \$5,000. The review of the selected files confirmed that the greater majority of new business policies issued by the Company contained \$10,000 property damage liability limit.

Private Passenger Automobile – New Business With Surcharges

From the universe of 58,835 private passenger automobile policies identified as new business with surcharges by the Company, 200 files were selected for review. All 200 files were received and reviewed. The 1,003 violations noted were based on 200 files, resulting in an error ratio of 100%.

The following findings were made:

200 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 supply the required notice at the time of application.

200 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.

200 Violations Title 75, Pa. C.S. §1793(b)

Requires the insurer to provide to the insured a copy of their surcharge disclosure plan. The insurer providing the surcharge disclosure plan shall detail the provisions of the plan and the plan shall be delivered to each insured by the insurer at least once annually. Additionally, the surcharge information plan shall be given to each prospective insured at the time application is made for motor vehicle insurance coverage. The Company did not provide the surcharge disclosure plan at the time of application.

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

Requires every insurer, prior to the first issuance of a private passenger motor vehicle liability insurance policy to provide each applicant with the notice required by paragraph (1). A policy may not be issued until the applicant has been provided an opportunity to elect a tort option. The notice shall be standardized form as adopted by the Commissioner. The Company did not provide the election of tort options to the applicant prior to policy issuance.

200 Violations Title 75, Pa. C.S. §1791

Requires the Company to advise the insured of the benefits and limits available under this Chapter in bold print of at least ten-point type at the time of application for original coverage. The Company did not provide the required notice of available benefits and limits at the time of application.

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

The named insured shall be informed that he may reject uninsured and underinsured motorist coverage by signing a written rejection form.

AND

*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 insured signed rejection forms for Uninsured and underinsured motorist coverage and the Company wrote the policy with the coverages and charged a premium. This resulted in an overcharge of \$2.

1 Violation Title 75, Pa. C.S. §1799.3(d)

Requires insurers who make a determination to impose a surcharge, rate penalty or driver record point assignment, to inform the insured of the determination and specify the manner in which the surcharge, rate penalty or driver record point assignment was made and clearly identify the amount of the surcharge or rate penalty on the premium notice for as long as the surcharge or rate penalty is in effect. The Company failed to supply a surcharge disclosure statement for the file noted.

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 policy was not rated in accordance with the filed and approved rating plan which resulted in an undercharge of \$32.

Concern: A review of the audio recordings of sales calls requested for this exam revealed that some of the sales personnel were stating that the Pennsylvania minimum limits for property damage liability are \$10,000 instead of \$5,000. The review of the selected files confirmed that the greater majority of new business policies issued by the Company contained \$10,000 property damage liability limit.

Concern: The Company failed to keep copies of the actual MVR and CLUE reports. This information was electronically transferred to the Company's system but the actual reports were not scanned into the system. It is suggested that the Company maintain scanned copies of MVR and CLUE reports thereby making necessary information available for examination.

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 9,942 private passenger automobile policies renewed without surcharges during the experience period, 100 files were selected for review. All 100 files were received and reviewed. No violations were noted.

Private Passenger Automobile – Renewals With Surcharges

From the universe of 14,837 private passenger automobile policies renewed with surcharges during the experience period, 150 files were selected for review. All 150 files were received and reviewed. No violations were noted.

Concern: The Company failed to keep copies of the actual MVR and CLUE reports. This information was electronically transferred to the Company's system but the actual reports were not scanned into the system. It is suggested that the Company maintain scanned copies of MVR and CLUE reports thereby making necessary information available for examination.

B. Private Passenger Automobile – Assigned Risk

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

VII. CLAIMS

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

The Claims review consisted of the following areas of review:

- A. Automobile Property Damage Claims
- B. Automobile Comprehensive Claims
- C. Automobile Collision Claims
- D. Automobile Total Loss Claims
- E. Automobile First Party Medical Claims
- F. Automobile First Party Medical Claims Referred to a PRO

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

A. Automobile Property Damage Claims

From the universe of 5,935 private passenger automobile property damage claims reported during the experience period, 104 files were selected for review. All 104 files were received and reviewed. The files consisted of voluntary and assigned risk private passenger auto claims. The 7 violations noted were based on 6 files, resulting in an error ratio of 6%.

The following findings were made:

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

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

5 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 5 claims 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 did not provide any evidence that a written denial was sent to the claimant in a timely manner.

B. Automobile Comprehensive Claims

From the universe of 736 private passenger automobile comprehensive claims reported during the experience period, 50 files were selected for review. All 50 files were received and reviewed. The 5 violations noted were based on 3 files, resulting in an error ratio of 6%.

The following findings were made:

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

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

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.

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 did not provide any evidence that the insured was advised of the acceptance or denial in the time required.

C. Automobile Collision Claims

From the universe of 2,253 private passenger automobile collision claims reported during the experience period, 101 files were selected for review. All 101 files were received and reviewed. The 4 violations noted were based on 4 files, resulting in an error ratio of 4%.

The following findings were made:

4 Violations 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 deny the claim within the required time frame or did not deny the claim in writing for the 4 claims noted.

D. Automobile Total Loss Claims

From the universe of 1,647 private passenger automobile total loss claims reported during the experience period, 102 files were selected for review. Of the 102 claim files selected, 101 files were received and reviewed. The 55 violations noted were based on 43 files, resulting in an error ratio of 42%.

The following findings were made:

3 Violations Title 31, Pa. Code, Section 146.3

The claim files of an insurer shall be subject to examination by the Commissioner or by duly appointed designees. Such files shall contain all notes and work papers pertaining to the claim in such detail that pertinent events and the dates of such events can be reconstructed. The Company did not produce one claim file and two claim files were incomplete.

11 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 11 claims noted.

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

Requires the replacement value of a motor vehicle be calculated by use of the Guide Source Method, the Actual Cost Method or the Dealer Quotation Method. The Company did not calculate the replacement value by using one of the 3 approved methods in the 5 claims noted.

2 Violations 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 2 claims noted did not have sales tax included in the replacement value of the vehicle.

6 Violations 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 appraisal to the insured within 5 days for the 6 claims noted.

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

(a) General rule – Except as provided in Sections 1162 and 1163, a person, including an insurer or self-insurer as defined

in Section 1702 (relating to definitions), who owns, possesses or transfers a vehicle located or registered in the Commonwealth which qualifies as a salvage vehicle shall make application to the Department for a certificate of salvage for that vehicle.

(b) Application for certificate of salvage. – An owner who transfers a vehicle to be destroyed or dismantled, salvaged or recycled shall assign the certificate of title to the person to whom the vehicle is transferred. Except as provided in Section 1163, the transferee shall immediately present the assigned certificate of title to the Department or an authorized agent of the Department with an application for a certificate of salvage upon a form furnished and prescribed by the Department. An insurer as defined in Section 1702 to which title to a vehicle is assigned upon payment to the insured or claimant of the replacement value of a vehicle shall be regarded as a transferee under this subsection. The 23 files noted did not reflect a Pennsylvania salvage title was obtained.

5 Violations 63, P.S. §§851-863

Motor Vehicle Physical Damage Appraisers Act requires appraisers to be approved by the Commissioner. The Company failed to use approved guide source vendors to calculate replacement value for total loss claims in the 5 claims noted.

E. Automobile First Party Medical Claims

From the universe of 3,417 private passenger automobile first party medical claims reported during the experience period, 102 files were selected for review. All 102 files were received and reviewed. Of the 102 files received, 32 did not have first party medical claims. The 14 violations noted were based on 11 files, resulting in an error ratio of 11%.

The following findings were made:

7 Violations Title 31, Pa. Code, Section 69.52(b)

Requires an insurer to pay bills for care that are not referred to a Peer Review Organization within 30 days after the insurer receives sufficient documentation supporting the bill. The Company did not pay the 7 claims noted within 30 days.

3 Violations Title 75, Pa. C.S. §1716

Payment of Benefits. Benefits are overdue if not paid within 30 days after the insurer receives reasonable proof of the amount of benefits. If reasonable proof is not supplied as to all benefits, the portion supported by reasonable proof is overdue if not paid within 30 days after the proof is received by the insurer. Overdue benefits shall bear interest at the rate of 12% per annum from the date the benefits become due. In the event the insurer is found to have acted in an unreasonable manner in refusing to pay the benefits when due, the insurer shall pay, in addition to the benefits owed and the interest thereon, a reasonable attorney fee based upon actual time expended. The Company did not pay interest on 3 claims that were not paid within 30 days.

2 Violations Title 31, Pa. Code, Section 146.3

The claim files of an insurer shall be subject to examination by the Commissioner or by duly appointed designees. Such files shall contain all notes and work papers pertaining to the claim in such detail that pertinent events and the dates of such events can be reconstructed. The Company did not provide the paid bills for the 2 claims noted.

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

Requires an insurer, upon receiving notification of a claim, shall provide within ten working days necessary claim forms, instructions and reasonable assistance so that first-party claimants can comply with policy conditions and reasonable requirements of the insurer. The Company did not provide the application for benefits form to the claimant within ten working days.

1 Violation 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.

F. Automobile First Party Medical Claims Referred to a PRO

Although the Company did not report any automobile first party medical claims referred to a peer review organization, the Company was asked to provide copies of all contracts it has in place with a peer review organization. The Company did not provide any contracts.

The following finding was made:

1 Violation 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 did not have a contract in place with a peer review organization.

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 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:

9 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 provide the fraud statement on 2 Power of Attorney claim forms, 3 total loss appraisal forms, a corporation release for property damage, an odometer

disclosure statement, a release for property damage form and a lien release/termination form.

1 Violation Act 68, Section 2006(7) [40 P.S. §991.2006(7)]

Requires that a cancellation notice clearly state that when coverage is to be terminated due to nonresponse to a citation imposed under 75 Pa. C.S. §1533 (relating to suspension of operating privilege for failure to respond to a citation) or nonpayment of a fine or penalty imposed under that section, coverage shall not terminate if the insured provides the insurer with proof that the insured has responded to all citations and paid all fines and penalties and that he has done so on or before the termination date of the policy. The violation resulted from a cancellation notice, which did not advise the insured of the required information.

Private Passenger Automobile Rating – Renewals Without Surcharges

100 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 provide the fraud statement at the time of renewal.

Private Passenger Automobile Rating – Renewals With Surcharges

150 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 provide the fraud statement at the time of renewal.

IX. ADVERTISING

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

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

The Company provided 16 pieces of advertising which included print media, radio and television spots. Internet advertising was reviewed.

The following concern was made:

Concern: The Company implied in its commercials that coverage can be obtained 24/7. The Company only offers a free quote for coverage from 7 a.m. to 2. a.m. Eastern Standard Time. Therefore, coverage cannot be obtained 24/7.

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 196 consumer complaints received during the experience period and provided all consumer complaint logs requested. Of the 196 complaint files reported, 50 were selected, received and reviewed.

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

The following findings were made:

2 Violations 63, P.S. §§851-863

Motor Vehicle Physical Damage Appraisers Act requires appraisers to be approved by the Commissioner. The Company failed to use approved guide source vendors to calculate replacement value for total loss claims in the 2 claims noted.

The following synopsis reflects the nature of the 50 complaints that were reviewed.

• 17	Cancellation/Nonrenewal	34%
• 16	Claims	32%
• 8	Billing	16%
• 5	Miscellaneous	10%
• 4	Underwriting	8%
<hr/>		<hr/>
50		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. No violations were noted.

XII. RECOMMENDATIONS

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

1. The Company must review and revise internal control procedures to ensure compliance with cancellation notice requirements of Act 68, Sections 2002, 2004, 2006 and 2008 [40 P.S. §§991.2002, 991.2004, 991.2006 and 991.2008], so that the violations noted in the Report do not occur in the future.
2. The Company must review Title 75, Pa. C.S. 1799.3(f) to ensure that the notice of refusal to write is on a form approved by the Insurance Commissioner and the violations do not occur in the future.
3. The Company must review the Pennsylvania Assigned Risk Plan Manual and take appropriate measures to ensure the underwriting violations listed in the Report do not occur in the future.
4. The Company must review Title 75, Pa. C.S. §1791 to ensure that the notice of available benefits is given to the insured at the time of application as noted in the Report.
5. The premium overcharge noted in the rating section of this report must be refunded to the insured and proof of such refund must be provided to the Insurance Department within 30 days of the report issue date.

6. The Company must review Act 246, Section 4 [40 P.S. §1184], and take appropriate measures to ensure the automobile rating violations listed in the report do not occur in the future.
7. The Company must review Title 75, Pa. C.S. §1791.1(a) to ensure that an itemized invoice listing minimum coverages is provided at the time of application as noted in the Report and does not occur in the future.
8. The Company must review Title 75, Pa. C.S. §1791.1(b) to ensure that the notice of tort options is provided at the time of application as noted in the Report and does not occur in the future.
9. The Company must revise its underwriting procedures to ensure that each applicant for private passenger automobile liability insurance is provided an opportunity to elect a tort option prior to policy issuance and that signed tort option selection forms are obtained and retained with the underwriting file. This is to ensure that violations noted under Title 75, Pa. C.S. §1705(a)(1)(4) do not occur in the future.
10. The Company must review Title 75, Pa. C.S. 1793(b) to ensure that violations regarding the requirement to provide the insured with a surcharge disclosure plan at the time of application, as noted in the Report, 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 missing and incomplete claim files, status letters, acknowledgement of claims, acceptance and denial of claims and

providing necessary claim forms to claimants within the required time frame, as noted in the Report, do not occur in the future.

12. The Company must review Title 31, Pa. Code, Section 69.52(b) with its claim staff to ensure that first party medical bills are paid within 30 days. Those claims that have not been paid within 30 days shall bear interest at the rate of 12% annum from the date the benefits become due as required by Title 75, Pa. C.S. §1716. The interest amount must be paid to the claimant and proof of such payment must be provided to the Insurance Department within 30 days of the Report issue date.
13. The Company must review Title 75, Pa. C.S. §1161(a)&(b) with its claim staff to ensure that Pennsylvania salvage certificates are obtained and are retained with the claim file.
14. 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.
15. 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.

16. The Company must review Title 31, Pa. Code, Section 62.3(e)(1) with its claim staff to ensure that replacement value of a motor vehicle be calculated by use of the Guide Source Method, the Actual Cost Method or the Dealer Quotation Method. The Company must recalculate the claim files noted in the Report and provide claimants with any refunds. Proof of the recalculation and any refunds to claimants must be provided to the Insurance Department within 30 days of the Report issue date.
17. The Company must review 63, P.S. §§851 – 863 with its claim staff to ensure that the Company utilizes approved guide source vendors to calculate the replacement value of a total loss or an unrecovered vehicle.
18. 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.
19. The Company must review 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.
20. The Company must ensure that all claim forms and renewals contain a statement that clearly states in substance the following: “Any person who knowingly and with intent to injure or defraud any insurer files an application or claim containing false, incomplete information or

misleading information shall, upon conviction, be subject to imprisonment for up to seven years and payment of a fine of up to \$15,000.” This is to ensure that violations noted under Title 75, Pa. C.S. §1822 do not occur in the future.

XIII. COMPANY RESPONSE



Mark D. LeMaster

General Counsel

Vice President

Secretary

April 16, 2007

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

Via Overnight Carrier

**Re: Examination Warrant 06-M19-011
Safe Auto Insurance Company
Company Response to Report of Examination**

Dear Mr. Derk:

The Company's response to the above-referenced Report of Examination is enclosed. The responses are presented in the order of the Recommendations contained in Section XIII. We appreciate the time, effort and courtesies extended by you and your staff during the course of this examination.

Please contact me in response. Thanks again.

Regards,

A handwritten signature in black ink, appearing to read 'MDL', written over a horizontal line.

Mark D. LeMaster

MDL/kk
Enclosure

Cc/ John Elias w/o enclosure

**SAFE AUTO INSURANCE COMPANY RESPONSE TO EXAMINATION
WARRANT 06-M19-011**

Recommendation #1

The Company must review and revise internal control procedures to ensure compliance with cancellation notice requirements of Act 68, Sections 2002, 2004, 2006 and 2008 [40 P.S. §§991.2002, 991.2004, 991.2006 and 991.2008], so that the violations noted in the Report do not occur in the future.

Company Response:

The Company accepts the recommendations and is revising its procedures. However, it is important to note that none of the 77 violations noted for Act 68, Section 2006(7) [40 P.S. §991.2006(7)] actually involved cancellations due to a non-response to a citation imposed under 75 Pa. C.S. §1533. The Company also revised the form to include this language and filed it with the Department before the examination.

Recommendation #2

The Company must review Title 75, Pa. C.S. 1799.3(f) to ensure that the notice of refusal to write is on a form approved by the Insurance Commissioner and the violations do not occur in the future.

Company Response:

The Company accepts the recommendations and is revising its procedures.

Recommendation #3

The Company must review the Pennsylvania Assigned Risk Plan Manual and take appropriate measures to ensure the underwriting violations listed in the Report do not occur in the future.

Company Response:

The Company accepts the recommendations and has remedied the files in question. It is also important to note that the Company has a LAD agreement in place to prevent such issues in the future.

Recommendation #4

The Company must review Title 75, Pa. C.S. §1791 to ensure that the notice of available benefits is given to the insured at the time of application as noted in the Report.

Company Response:

Much of the Department's examination was focused on the Company's compliance with Act 6 of 1990 – a set of Pennsylvania laws which requires insurance companies to provide applicants with a variety of detailed notices and disclosures relating to tort options, available coverages, surcharge plans and premium comparisons “at the time of application.” It is clear from our review of the Department's recent examinations of the personal auto industry, and from our discussions with it, that the Department has found numerous companies to be in violation of Act 6 based upon its legal interpretation of what these laws require. Based upon our detailed discussions with the Department several years ago regarding the Company's internal procedures, we strongly believed the Company was in compliance with the letter and spirit of Act 6. While we respectfully disagree with its present legal interpretation, we have instituted procedures to satisfy the Department's concerns – which are based upon our most recent discussions with it on the issue of compliance with Act 6.

Recommendation #5

The premium overcharge noted in the rating section of this report must be refunded to the insured and proof of such refund must be provided to the Insurance Department within 30 days of the report issue date.

Company Response:

The violation noted was an isolated error and the Company refunded \$2 to the policyholder. No changes to the Company's procedures are required.

Recommendation #6

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

Company Response:

The one violation noted was an isolated error, which resulted in an undercharge by the Company. No changes to the Company's procedures are required.

Recommendation #7

The Company must review Title 75, Pa. C.S. §1791.1(a) to ensure that an itemized invoice listing minimum coverages is provided at the time of application as noted in the Report and does not occur in the future.

Company Response:

See the Company's response to Recommendation #4.

Recommendation #8

The Company must review Title 75, Pa. C.S. §1791.1(b) to ensure that the notice of tort options is provided at the time of application as noted in the Report and does not occur in the future.

Company Response:

See the Company's response to Recommendation #4.

Recommendation #9

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

Company Response:

See the Company's response to Recommendation #4.

Recommendation #10

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

Company Response:

See the Company's response to Recommendation #4.

Recommendation #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 missing and incomplete claim files, status letters, acknowledgement of claims, acceptance and denial of claims and providing necessary claim forms to claimants within the required time frame, as noted in the Report, do not occur in the future.

Company Response:

Although the violations noted appear to be random errors, the Company is automating as much of its correspondence as possible to improve its compliance with Title 31. The Company also continues to respectfully disagree with the Department on the 4 alleged violations of Title 31, Pa. Code, Section 146.7(a)(1). Specifically, these files did not involve denials of coverage; rather, the claimants were informed by the adjusters that their loss amounts were less than the applicable deductibles. This information is also documented in the claims files. Otherwise, no changes to the Company's procedures are required; nonetheless, the Company has reinforced the need to issue timely correspondence and document claims files with its claims staff.

Recommendation #12

The Company must review Title 31, Pa. Code, Section 69.52(b) with its claim staff to ensure that first party medical bills are paid within 30 days. Those claims that have not been paid within 30 days shall bear interest at the rate of 12% annum from the date the benefits become due as required by Title 75, Pa. C.S. §1716. The interest amount must be paid to the claimant and proof of such payment must be provided to the Insurance Department within 30 days of the Report issue date.

Company Response:

These violations were isolated errors; however, the Company accepts the recommendation and is retraining its claims staff to emphasize compliance with this requirement. The Company has also added another employee in this unit to decrease processing time. The Company remedied the files in question in January 2007 and sent documentation to the Department.

Recommendation #13

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

Company Response:

The Company accepts the recommendation and has retrained its claims staff to emphasize compliance with this requirement.

Recommendation #14

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.

Company Response:

These violations were isolated errors; however, the Company accepts the recommendation and has retrained its claim staff to emphasize compliance with this requirement. The Company also remedied the files in question in January 2007 and sent documentation to the Department.

Recommendation #15

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:

These violations were isolated errors; however, the Company accepts the recommendation and has retrained its claim staff to emphasize compliance with this requirement.

Recommendation #16

The Company must review Title 31, Pa. Code, Section 62.3(e)(1) with its claim staff to ensure that replacement value of a motor vehicle be calculated by use of the Guide Source Method, the Actual Cost Method or the Dealer Quotation Method. The Company must recalculate the claim files noted in the Report and provide claimants with any refunds. Proof of the recalculation and any refunds to claimants must be provided to the Insurance Department within 30 days of the Report issue date.

Company Response:

These violations were isolated errors; however, the Company accepts the recommendation and has retrained its claim staff to emphasize compliance with this requirement. The files in question have been recalculated and additional funds were sent to four of the claimants based upon the recalculations.

Recommendation #17

The Company must review 63, P.S. §§851- 863 with its claim staff to ensure that the Company utilizes approved guide source vendors to calculate the replacement value of a total loss or an unrecovered vehicle.

Company Response:

These violations were isolated errors; however, the Company accepts the recommendation and has retrained its claim staff to emphasize compliance with this requirement.

Recommendation #18

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.

Company Response:

The Company accepts the recommendation and is instituting procedures to comply with this requirement.

Recommendation #19

The Company must review 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.

Company Response:

The Company accepts the recommendation and is negotiating a written contract with an approved peer review organization.

Recommendation #20

The Company must ensure that all claim forms and renewals contain a statement that clearly states in substance the following: "Any person who knowingly and with intent to injure or defraud any insurer files an application or claim containing false, incomplete information or misleading information shall, upon conviction, be subject to imprisonment for up to seven years and payment of a fine of up to \$15,000." This is to ensure that violations noted under Title 75, Pa. C.S. §1822 do not occur in the future.

Company Response:

The Company accepts the recommendation and is undertaking a review of its forms to ensure compliance with this requirement.