

**REPORT OF  
MARKET CONDUCT EXAMINATION  
OF**

**SAFECO INSURANCE COMPANY OF INDIANA**  
Indianapolis, Indiana

**AS OF  
November 14, 2006**

**COMMONWEALTH OF PENNSYLVANIA**

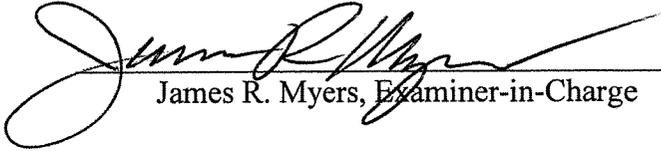


**INSURANCE DEPARTMENT  
MARKET CONDUCT DIVISION**

**Issued: January 11, 2007**

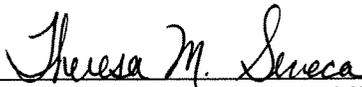
VERIFICATION

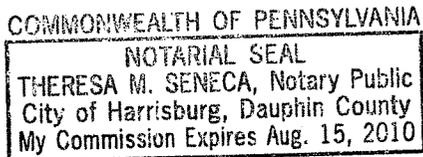
Having been duly sworn, I hereby verify that the statements made in the within document are true and correct to the best of my knowledge, information and belief. I understand that false statements made herein are subject to the penalties of 18 Pa. C.S. §4903 (relating to false swearing).

  
James R. Myers, Examiner-in-Charge

Sworn to and Subscribed Before me

This 23 Day of October, 2006

  
Notary Public



# SAFECO INSURANCE COMPANY OF INDIANA

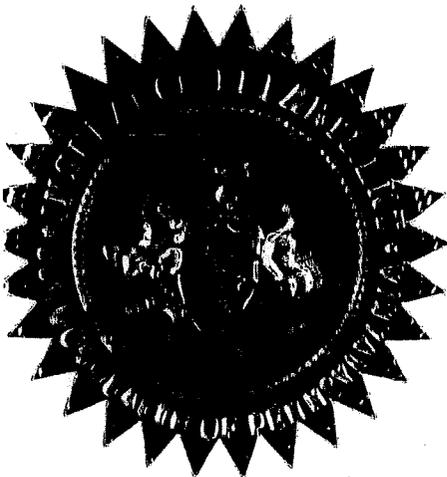
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BEFORE THE INSURANCE COMMISSIONER  
OF THE  
COMMONWEALTH OF PENNSYLVANIA

ORDER

AND NOW, this 29 day of April, 2002, in accordance with Section 905(c) of the Pennsylvania Insurance Department Act, Act of May 17, 1921, P.L. 789, as amended, P.S. § 323.5, I hereby designate Randolph L. Rohrbaugh, Deputy Insurance Commissioner, to consider and review all documents relating to the market conduct examination of any company and person who is the subject of a market conduct examination and to have all powers set forth in said statute including the power to enter an Order based on the review of said documents. This designation of authority shall continue in effect until otherwise terminated by a later Order of the Insurance Commissioner.



M. Diane Koken  
M. Diane Koken  
Insurance Commissioner

BEFORE THE INSURANCE COMMISSIONER  
OF THE  
COMMONWEALTH OF PENNSYLVANIA

IN RE:	VIOLATIONS:
SAFECO INSURANCE COMPANY	Section 671-A of Act 147 of 2002
OF INDIANA	(40 P.S. § 310.71)
4333 Brooklyn Avenue, N.E.	
Seattle, WA 98185	Section 903(a) of the Insurance
	Department Act, Act of May 17, 1921,
	P.L. 682, No. 284 (40 P.S. § 323.3)
	Title 75, Pennsylvania Consolidated
	Statutes, Sections 1161(a) and (b)
	Act 1990-6, Sections 1705(a)(1) & (4),
	1716, 1731(b) and (c), 1734,
	1738(c)(d)(1) and (2), 1791.1(a) and
	(b), 1792(b)(1), 1793(b), 1797(b)(2)
	and (5), and 1799.3(d) and (f) (Title 75,
	Pa.C.S. §§ 1705, 1716, 1731, 1734,
	1738, 1791, 1792, 1793, 1797 and
	1799)
	Sections 2003(e) and 2008(b) of Act
	68 of 1998 (40 P.S. §§991.2003 and
	991.2008)
	Title 31, Pennsylvania Code, Sections
	69.22(c), 69.52(b) and (e), 146.5(b)
	and (d), 146.6 and 146.7(c)(1)
	Title 75, Pennsylvania Consolidated
	Statutes, Section 1822
Respondent.	Docket No. MC06-11-037

CONSENT ORDER

AND NOW, this 11<sup>th</sup> day of January, 2007, this Order is hereby issued by the Deputy Insurance Commissioner of the Commonwealth of Pennsylvania pursuant to the statutes cited above and in disposition of the matter captioned above.

1. Respondent hereby admits and acknowledges that it has received proper notice of its rights to a formal administrative hearing pursuant to the Administrative Agency Law, 2 Pa.C.S. § 101, et seq., or other applicable law.

2. Respondent hereby waives all rights to a formal administrative hearing in this matter, and agrees that this Consent Order shall have the full force and effect of an order duly entered in accordance with the adjudicatory procedures set forth in the Administrative Agency Law, supra, or other applicable law.

FINDINGS OF FACT

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

- (a) Respondent is Safeco Insurance Company of Indiana, and maintains its address at 4333 Brooklyn Avenue, N.E., Seattle, Washington 98185.

- (b) A market conduct examination of Respondent was conducted by the Insurance Department covering the period from July 1, 2004 through June 30, 2005.
- (c) On November 14, 2006, the Insurance Department issued a Market Conduct Examination Report to Respondent.
- (d) A response to the Examination Report was provided by Respondent on December 14, 2006.
- (e) After consideration of the December 14, 2006 response, the Insurance Department has modified the Examination Report as attached.
- (f) The Examination Report notes violations of the following:
  - (i) Section 671-A of Act 147 of 2002 prohibits producers from transacting business within this Commonwealth without written appointment as required by the Act (40 P.S. § 310.71).
  - (ii) Section 903(a) of the Insurance Department Act, No. 285 (40 P.S. § 323.3), which requires every company or person subject to examination must keep all books, records, accounts, papers, documents and any or all computer or

other recordings relating to its property, assets, business and affairs in such manner and for such time periods as the Department may require, in order that its representatives may ascertain whether the company has complied with the laws of the Commonwealth;

- (iii) 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;
- (iv) 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;
- (v) 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;

- (vi) Section 1731(b)(c) of Act 1990-6, Title 75, Pa.C.S. § 1731, which requires the insurer to advise that named insured shall be informed that he may exercise the waiver for uninsured and underinsured motorist coverage by signing written rejection forms;
- (vii) Section 1734 of Act 1990-6, Title 75, Pa.C.S. § 1734, which requires a named insured may request in writing the issuance of coverages under Section 1731 (relating to availability, scope and amount of coverage) in amount equal to or less than the limits of liability for bodily injury:
- (viii) Section 1738(c)(d)(1) and (2) of Act 1990-6, Title 75, Pa.C.S. § 1738, which requires the named insured to be informed that he may exercise the waiver of stacked limits for uninsured and underinsured motorist coverage by signing written rejection forms;
- (ix) Section 1791.1(a) of Act 1990-6, Title 75, Pa.C.S. § 1791, 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;

- (x) Section 1791.1(b) of Act 1990-6, Title 75, Pa.C.S. § 1791, which requires an insurer to provide an insured with a notice of the availability of two alternatives of full tort insurance and limited tort insurance;
- (xi) Section 1792(b)(1) of Act 1990-6, Title 75, Pa.C.S. § 1792, which requires every private passenger automobile insurance policy providing collision coverage to provide a deductible in the amount of \$500 for collision coverage, unless the named insured signs a statement indicating the insured is aware that the purchase of a lower deductible is permissible and that there is an additional cost of purchasing a lower deductible and the insured agrees to accept it;

(xii) 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;

(xiii) Section 1797(b)(2) and (5) of Act 1990-6, Title 75, Pa.C.S. § 1793(b), which state an insurer, provider or insured may request reconsideration by the PRO of the PRO's initial determination. Such a request for reconsideration must be made within 30 days of the PRO's initial determination. If a PRO determines that medical treatment or rehabilitative services or merchandise were medically necessary, the insurer must pay to the provider the outstanding amount plus interest at 12% per year on any amount withheld by the insurer pending PRO review;

(xiv) Section 1799.3(d) of Act 1990-6, Title 75, Pa.C.S. § 1799, which requires insurers who make a determination to impose a surcharge, rate penalty or driver record point assignment, to inform the named insured of the determination and specify the manner in which the surcharge, rate penalty

or driver record point assignment was made and clearly identify the amount of the surcharge or rate penalty on the premium notice for as long as the surcharge or rate penalty is in effect;

- (xv) Section 1799.3(f) of Act 1990-6, Title 75, Pa.C.S. § 1799, 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 reasons under this subsection may obtain review by the Commissioner pursuant to the Automobile Insurance Policy Act;
- (xvi) Section 2003(e) of Act 68 of 1998 (40 P.S. § 991.2003), which states that an insurer may not cancel or refuse to renew a policy of automobile insurance for two or fewer moving violations in any jurisdiction during a 24 month period when the operator's record indicates that the named insured presently bears five points or fewer;
- (xvii) 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;

- (xviii) Title 31, Pennsylvania Code, Section 69.22(c), which requires the insurer, when an insured's first-party limits have been exhausted, to provide notice to the provider and the insured within 30 days of the receipt of the provider's bill;
- (xix) 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;
- (xx) Title 31, Pennsylvania Code, Section 69.52(e), which requires an insurer to provide copies of the Peer Review Organization's written analysis to the provider and the insured within five days of receipt;
- (xxi) Title 31, Pennsylvania Code, Section 146.5(b), which requires every insurer, upon receipt of any inquiry from the Department respecting a claim shall, within 15 working days of receipt of such inquiry, furnish the Department with an adequate response to the inquiry;

- (xxii) Title 31, Pennsylvania Code, Section 146.5(d), which requires an insurer, upon receiving notification of a claim, to provide within 10 working days necessary claim forms, instructions and reasonable assistance so that first-party claimants can comply with policy conditions and reasonable requirements of the insurer;
- (xxiii) Title 31, Pennsylvania Code, Section 146.6, requires that every insurer shall complete investigation of a claim within 30 days after notification of the claim, unless such investigation cannot reasonably be completed within 30 days, and every 45 days thereafter, the insurer shall provide the claimant with a reasonable written explanation for the delay and state when a decision on the claim may be expected;
- (xxiv) Title 31, Pennsylvania Code, Section 146.7(c)(1), which states if an insurer needs more time to determine whether a first-party claim should be accepted or denied, it shall so notify the first-party claimant within 15 working days after receipt of the proofs of loss giving the reasons more time is needed. If the investigation remains incomplete, the insurer shall, 30 days from the date of the initial notification and every 45 days thereafter, send to the claimant a letter setting forth the reasons additional time is needed for investigation and state when a decision may be expected; and

(xxv) 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 Deputy Insurance Commissioner makes the following Conclusions of Law:

- (a) Respondent is subject to the jurisdiction of the Pennsylvania Insurance Department.
- (b) Respondent's violations of Section 671-A of Act 147 of 2002 are punishable by the following, under Section 691-A of Act 147 of 2002 (40 P.S. § 310.91):
  - (i) suspension, revocation or refusal to issue the certificate of qualification or license;
  - (ii) imposition of a civil penalty not to exceed five thousand dollars (\$5,000.00) for every violation of the Act;

- (iii) an order to cease and desist; and
- (iv) any other conditions as the Commissioner deems appropriate.

(c) Respondent's violations of Sections 2003 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).

(d) Respondent's violations of Title 31, Pennsylvania Code, Sections 146.6 and 146.7 are punishable under Section 9 of the Unfair Insurance Practices Act (40 P.S. §§ 1171.9):

- (i) cease and desist from engaging in the prohibited activity;

- (ii) suspension or revocation of the license(s) of Respondent.

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

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

ORDER

5. In accord with the above Findings of Fact and Conclusions of Law, the Deputy Insurance Commissioner orders and Respondent consents to the following:

- (a) Respondent shall cease and desist from engaging in the activities described herein in the Findings of Fact and Conclusions of Law.
- (b) Respondent shall file an affidavit stating under oath that it will provide each of its directors, at the next scheduled directors meeting, a copy of the adopted Report and related Orders. Such affidavit shall be submitted within thirty (30) days of the date of this Order.
- (c) Respondent shall comply with all recommendations contained in the attached Report.

(d) Respondent shall pay Thirty-Six Thousand Dollars (\$36,000.00) 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, Administrative Assistant, Bureau of Enforcement, 1227 Strawberry Square, Harrisburg, Pennsylvania 17120. Payment must be made no later than thirty (30) days after the date of this Order.

6. In the event the Deputy Insurance Commissioner finds that there has been a breach of any of the provisions of this Order, based upon the Findings of Fact and Conclusions of Law contained herein may pursue any and all legal remedies available, including but not limited to the following: The Deputy Insurance Commissioner may enforce the provisions of this Order in the Commonwealth Court of Pennsylvania or in any other court of law or equity having jurisdiction; or the Deputy Insurance Commissioner may enforce the provisions of this Order in an administrative action pursuant to the Administrative Agency Law, supra, or other relevant provision of law.

7. Alternatively, in the event the Deputy Commissioner finds that there has been a breach of any of the provisions of this Order, the Deputy Commissioner may declare this Order to be null and void and, thereupon, reopen the entire matter for appropriate

action pursuant to the Administrative Agency Law, supra, or other relevant provision of law.

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

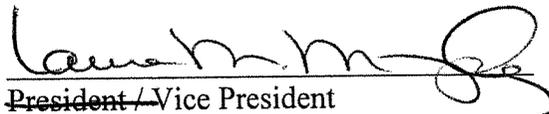
9. Respondent hereby expressly waives any relevant statute of limitations and application of the doctrine of laches for purposes of any enforcement of this Order.

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

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

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

BY: SAFECO INSURANCE COMPANY OF  
INDIANA, Respondent

  
~~President / Vice President~~

  
~~Secretary / Treasurer~~ ASSISTANT VICE PRESIDENT

  
RANDOLPH L. ROHRBAUGH  
Deputy Insurance Commissioner  
Commonwealth of Pennsylvania

## I. INTRODUCTION

The market conduct examination was conducted at Safeco Insurance Company of Indiana's office located in Seattle, Washington, from April 25, 2006, through June 2, 2006. Subsequent review and follow-up was conducted in the office of the Pennsylvania Insurance Department.

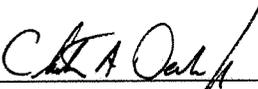
Pennsylvania Market Conduct Examination Reports generally note only those items to which the Department, after review, takes exception. However, the Examination Report may include management recommendations addressing areas of concern noted by the Department, but for which no statutory violation was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

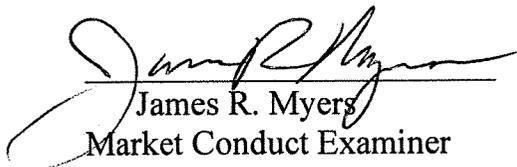
In certain areas of review listed in this Report, the examiners will refer to "error ratio." This error ratio is calculated by dividing the number of policies with violations by the total number of policies reviewed. For example, if 100 policies are reviewed and it is determined that there are 20 violations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

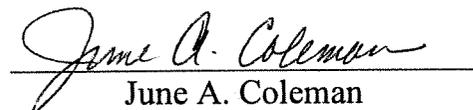
Throughout the course of the examination, Company officials were provided with status memoranda, which referenced specific policy numbers with citation to each section of law violated. Additional information was requested to clarify apparent violations. An exit conference was conducted with Company personnel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

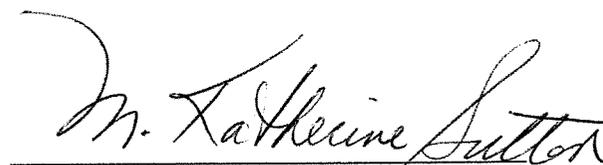
The courtesy and cooperation extended by the officers and employees of the Company during the course of the examination is hereby acknowledged.

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

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

  
\_\_\_\_\_  
James R. Myers  
Market Conduct Examiner

  
\_\_\_\_\_  
June A. Coleman  
Market Conduct Examiner

  
\_\_\_\_\_  
M. Katherine Sutton, AIC  
Market Conduct Examiner

## II. SCOPE OF EXAMINATION

The Market Conduct Examination was conducted on Safeco Insurance Company of Indiana, hereinafter referred to as "Company," at their office located in Seattle, Washington. The examination was conducted pursuant to Sections 903 and 904 (40 P.S. §§323.3 and 323.4) of the Insurance Department Act and covered the experience period of July 1, 2004, through June 30, 2005, unless otherwise noted. The purpose of the examination was to determine the Company's compliance with Pennsylvania insurance laws and regulations.

The examination focused on Company operations in the following areas:

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

### III. COMPANY HISTORY AND LICENSING

Safeco Insurance Company of Indiana was incorporated as Gambles Insurance Company on March 25, 1971, under the laws of Minnesota. It began business on March 3, 1972. A former affiliate, Gambles Lease Insurance Corporation, was absorbed by merger on May 30, 1975. The title was changed to John Alden Insurance Company on February 1, 1978, to Cenguard Insurance Corporation in February 1983, to American Loyalty Insurance Company in May 1986, and to Safeco Insurance Company of Pennsylvania on May 16, 1997, and to its present form on January 30, 2002. On June 1, 1992, the Company was redomesticated from Minnesota to Pennsylvania. On January 30, 2002, the Company was redomesticated from Pennsylvania to Indiana.

#### LICENSING

Safeco Insurance Company of Indiana's Certificate of Authority to write business in the Commonwealth was last issued on April 1, 2006. The Company is licensed in all states except California, Maine, Michigan and New Hampshire. The Company's 2005 annual statement reflects Direct Written Premium for all lines of business in the Commonwealth of Pennsylvania as \$29,408,853. Premium volume related to the areas of this review were: Private Passenger Automobile Direct Written Premium was reported as Private Passenger Auto No-Fault (personal injury protection) \$3,256,481; Other Private Passenger Auto Liability \$14,627,730 and Private Passenger Auto Physical Damage \$11,524,642.

#### **IV. UNDERWRITING PRACTICES AND PROCEDURES**

As part of the examination, the Company was requested to supply manuals, underwriting guides, bulletins, directives or other forms of underwriting procedure communications for each line of business being reviewed. Agency bulletins and Pennsylvania automobile product 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 1,522 private passenger automobile files cancelled within the first 60 days of new business, 150 files were selected for review. All 150 files were received and reviewed. No violations were noted.

#### **2. Midterm Cancellations**

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

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

From the universe of 3,122 private passenger automobile files identified as midterm cancellations by the Company, 175 files were selected for review. All 175 files were received and reviewed. No violations were noted.

### 3. Nonrenewals

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

The 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 31 private passenger automobile files identified as nonrenewals by the Company was selected for review. All 31 files were received and reviewed. The violation noted resulted in an error ratio of 3%.

The following finding was made:

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

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

*AND*

*Adjudication: Valley Forge/Bielecki, P91-12-42 (1992)*

When an insured under the policy had one violation resulting in 5 points, 35 months prior to the nonrenewal date, the insurer may not rely on the 5 points to nonrenew. The Company nonrenewed the policy due to a violation that occurred past the 35 months prior to the nonrenewal date.

#### 4. Declinations

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

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

The Company indicated that they were unable to provide the necessary documentation for the reasons for declination. Although they were able to produce a control number to identify files that were refused, their system did not retain any additional information as to the specific reasons for refusal. As a result, the universe of 732 private passenger automobile applications identified as refusals to write by the Company was selected for review. In addition, the Company provided samples of declination notices that are given to the insureds. The sample declination notices were reviewed for compliance. The 2,928 violations were based on the universe of 732 files, resulting in an error ratio of 100%.

The following findings were made:

*732 Violations Insurance Department Act, Section 903(a) [40 P.S. §323.3]*

Requires every company subject to examination to keep all books, records, accounts, papers, documents and any or all computer or other recordings relating to its business in such manner and for such time as may be required in order that the Department may readily verify whether the Company has complied with the laws of this Commonwealth. The Company failed to provide the files for review.

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

Any applicant for a policy who is refused such policy by an insurer shall be given a written notice of refusal to write by the insurer. Such notice shall state the specific reason or reasons of the insurer for refusal to write a policy for the applicant. Within 30 days of the receipt of such reasons, the applicant may request in writing to the Insurance Commissioner that he review the action of the insurer in refusing to write a policy for the applicant. From a review of the sample declination notices that are given to the prospective insureds at the time of refusal, the reasons provided are not specific.

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

Any applicant for a policy who is refused such policy by an insurer shall be given a written notice of refusal to write by the insurer. Such notice shall state the specific reason or reasons of the insurer for refusal to write a policy for the

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

*AND*

*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. From a review of the sample declination notices that are given to the prospective insureds at the time of refusal, the notice does not contain information regarding the right of review for refusal by the Insurance Commissioner.

*732 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. From a review of the sample declination notices that are given to the

prospective insureds at the time of refusal, the notice is not on a form that is approved by the Insurance Commissioner.

**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.

## 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 15,016 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 45,061 violations noted were based on the universe of 15,016, resulting in an error ratio of 100%.

The following violations were noted:

*6 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 6 violations noted were the result of policies issued with limited tort and no evidence of a signed limited tort selection form.

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

The named insured shall be informed that he may reject uninsured and underinsured motorist coverage by signing a written rejection form. The 2 violations noted were the result of policies issued without uninsured and underinsured motorist coverage and no evidence of a signed written rejection form.

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

The named insured shall be informed that he may exercise the waiver of stacked limits for uninsured and underinsured motorist coverage by signing written rejection forms. The Company did not provide the signed rejection form of stacked limits for uninsured and underinsured motorists coverage for the 2 files noted.

*3 Violations Title 75, Pa. C.S. §1734*

A named insured may request in writing the issuance of coverages under Section 1731 (relating to availability, scope and amount of coverage) in an amount equal to or less than the limits of liability for bodily injury. The 3 files noted did not contain a written request for lower limits of liability.

*15,016 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.

*15,016 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.

*15,016 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.

Private Passenger Automobile – New Business With Surcharges

From the universe of 4,848 private passenger automobile policies identified as new business with surcharges by the Company, 50 files were selected for review. All 50 files were received and reviewed. The 19,400 violations noted were based on the universe of 4,848, resulting in an error ratio of 100%.

The following violations were noted:

*5 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 5 violations noted were the result of policies issued with limited tort and no evidence of a signed limited tort selection form.

*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. The violation noted was the result of a policy issued without uninsured and underinsured motorist coverage and no evidence of a signed written rejection form.

*1 Violation Title 75, Pa. C.S. §1734*

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

*1 Violation Title 75, Pa. C.S. §1792(b)(1)*

Requires every private passenger automobile insurance policy providing collision coverage to provide a deductible in the amount of \$500.00 for collision coverage, unless the named insured signs a statement indicating the insured is aware that the purchase of a lower deductible is permissible and that there is an additional cost of purchasing a lower deductible and the insured agrees to accept it. The Company failed to produce a signed statement from the insured requesting a deductible of less than \$500.

*4,848 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.

*4,848 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.

*4,848 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.

*4,848 Violations Title 75, Pa. C.S. §1799.3(d)*

Requires insurers who make a determination to impose a surcharge, rate penalty or driver record point assignment, to inform the insured of the determination and specify the manner in which the surcharge, rate penalty or driver record point assignment was made and clearly identify the amount of the surcharge or rate penalty on the premium notice for as long as the surcharge or rate penalty is in effect. The Company failed to specify the dates of accidents and/or violations with the surcharge statement at the time of application.

## 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 4,842 private passenger automobile policies renewed without surcharges during the experience period, 50 files were selected for

review. All 50 files were received and reviewed. No violations were noted.

#### Private Passenger Automobile – Renewals With Surcharges

From the universe of 547 private passenger automobile policies renewed with surcharges during the experience period, 50 files were selected for review. All 50 files were received and reviewed. The 562 violations were based on the universe of 547, resulting in an error ratio of 100%.

The following findings were made:

#### *547 Violations Title 75, Pa. C.S. §1799.3(d)*

Requires insurers who make a determination to impose a surcharge, rate penalty or driver record point assignment, to inform the insured of the determination and specify the manner in which the surcharge, rate penalty or driver record point assignment was made and clearly identify the amount of the surcharge or rate penalty on the premium notice for as long as the surcharge or rate penalty is in effect. The surcharge shown on the premium notices did not comply with the requirements.

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

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

## **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 1,295 private passenger automobile property damage claims reported during the experience period, 50 files were selected for review. All 50 files were received and reviewed. The 6 violations noted were based on 6 files, resulting in an error ratio of 12%.

The following findings were made:

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

Every insurer shall complete investigation of a claim within 30 days after notification of the claim, unless such investigation cannot reasonably be completed within 30 days, and every 45 days thereafter, the insurer shall provide the claimant with a reasonable written explanation for the delay and state when a decision on the claim may be expected. The Company did not provide a timely status letter for the 6 claims noted.

**B. Automobile Comprehensive Claims**

From the universe of 572 private passenger automobile comprehensive claims reported during the experience period, 50 files were selected for review. All 50 files were received and reviewed. The 2 violations noted were based on 2 files, resulting in an error ratio of 4%.

The following findings were made:

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

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

### **C. Automobile Collision Claims**

From the universe of 1,145 private passenger automobile collision claims reported during the experience period, 50 files were selected for review. All 50 files were received and reviewed. No violations were noted.

### **D. Automobile Total Loss Claims**

From the universe of 259 private passenger automobile total loss claims reported during the experience period, 50 files were selected for review. All 50 files were received and reviewed. The 11 violations noted were based on the universe of 10 files, resulting in an error ratio of 20%.

The following findings were made:

*9 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 9 files noted did not reflect a Pennsylvania salvage title was obtained.

*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.

**E. Automobile First Party Medical Claims**

From the universe of 672 private passenger automobile first party medical claims reported during the experience period, 100 files were selected for review. All 100 files were received and reviewed. The 29 violations noted were based on 22 files, resulting in an error ratio of 22%.

The following findings were made:

*1 Violation Title 31, Pa. Code, Section 69.22(c)*

Requires the insurer when an insured's first-party limits have been exhausted, to provide notice to the provider and the

insured within 30 days of the receipt of the provider's bill. The violation noted was due to the insurer not notifying the provider that the first-party limits have been exhausted.

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

Requires an insurer to pay bills for care that are not referred to a Peer Review Organization within 30 days after the insurer receives sufficient documentation supporting the bill. The Company did not pay the 5 claims noted within 30 days.

*13 Violations 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 necessary claim forms to the claimant within ten working days for the 13 files noted.

*5 Violations Title 31, Pa. Code, Section 146.7(c)(1)*

If an insurer needs more time to determine whether a first-party claim should be accepted or denied, it shall so notify the first-party claimant within 15 working days after receipt of the proofs of loss giving the reasons more time is needed. If the investigation remains incomplete, the insurer shall, 30 days from the date of the initial notification and every 45 days thereafter, send to the claimant a letter setting forth the reasons additional time is needed for investigation and state when a decision on the claim may be expected. The

Company did not provide a delay letter to the provider for the 5 claims noted.

*5 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 5 claims that were not paid within 30 days.

**F. Automobile First Party Medical Claims Referred to a PRO**

From the universe of 140 private passenger automobile first party medical claims referred to a peer review organization, 50 files were selected for review. All 50 claim files requested were received and reviewed. The Company was requested to provide copies of any contracts with the peer review organization it has contracted. The contract was received and reviewed. The 10 violations noted were based on 7 files, resulting in an error ratio of 14%.

The following findings were made:

*4 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 2 claims noted within 30 days. The remaining 2 claims were not paid timely when referred to a PRO after the 30<sup>th</sup> day of the insurer's receipt of bill.

*2 Violations Title 31, Pa. Code, Section 69.52(e)*

Requires an insurer to provide copies of the Peer Review Organization's written analysis to the provider and the insured within 5 days of receipt. The Company did not provide a copy of the PRO analysis to the provider and insured within 5 days of receipt of the analysis.

*2 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 2 claims that were not paid within 30 days.

*2 Violations Title 75, Pa. C.S. §1797(b)(2) & (5)*

PRO reconsideration. An insurer, provider or insured may request reconsideration by the PRO of the PRO's initial determination. Such a request for reconsideration must be made within 30 days of the PRO's initial determination. If a PRO determines that medical treatment or rehabilitative services or merchandise were medically necessary, the insurer must pay to the provider the outstanding amount plus interest at 12% per year on any amount withheld by the insurer pending PRO review. The Company did not pay the medical bills and the required interest after the PRO decision was made and the reconsideration period had ended.

### VIII. FORMS

Throughout the course of the examination, all underwriting files were reviewed to identify the policy forms used in order to verify compliance with Insurance Company Law, Section 354 (40 P.S. §477b), Approval of Policies, Contracts, etc., Prohibiting the Use Thereof Unless Approved. During the experience period of the examination, Section 354 provided that it shall be unlawful for any insurance company to issue, sell, or dispose of any policy contract or certificate covering fire, marine, title and all forms of casualty insurance or use applications, riders, or endorsements in connection therewith, until the forms have been submitted to and formally approved by the Insurance Commissioner. All underwriting and claim files were also reviewed to verify compliance with Act 165 of 1994 [18 Pa. CS §4117(k)(1)] and Title 75, Pa. C.S. §1822, which requires all insurers to provide an insurance fraud notice on all applications for insurance, all claims forms and all renewals of coverage.

The following findings were made:

#### Private Passenger Automobile Rating – New Business Without Surcharges

##### *12 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 application.

Private Passenger Automobile Rating – New Business With Surcharges

*1 Violation Title 75, Pa. C.S. §1822*

Warning notice on application for insurance and claim forms. Not later than May 1, 1990, all applications for insurance, renewals and claim forms shall contain a statement that clearly states in substance the following: "Any person who knowingly and with intent to injure or defraud any insurer files an application or claim containing false, incomplete or misleading information shall, upon conviction, be subject to imprisonment for up to seven years and payment of a fine of up to \$15,000." The Company failed to provide the fraud statement at the time of application.

## *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 20 pieces of advertising which included brochures, agent's kits, mail solicitation and a newsletter. Internet advertising was reviewed. No violations were noted.

## X. CONSUMER COMPLAINTS

The Company was requested to identify all consumer complaints received during the experience period and provide copies of their consumer complaint logs for the preceding four years. The Company identified 27 consumer complaints received during the experience period and provided all consumer complaint logs requested. The 27 complaint files were requested, received and reviewed.

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

The following finding was made:

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

Every insurer, upon receipt of an inquiry from the Department respecting a claim shall, within 15 working days of receipt of such inquiry, furnish the Department with an adequate response to the inquiry. The Company failed to respond to a Department inquiry in a timely manner.

The following synopsis reflects the nature of the 27 complaints that were reviewed.

• 8	Cancellation/Nonrenewal	30%
• 12	Claims Related	44%
• 4	Premium Related	15%
• 3	Miscellaneous	11%
<hr/>		<hr/>
27		100%

## XI. LICENSING

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

The following findings were made:

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

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

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

(1) Delineates the services to be provided; and

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

(c) Notification to Department – An insurer that appoints an insurance producer shall file with the Department a notice of appointment. The notice shall state for which companies within the

insurer's holding company system or group the appointment is made.

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

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

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

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

Struhar Insurance Agency, Inc.  
Junker, Brad  
Wm. R. Pressley, Jr., Ins. Agency

## **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 2003 and 2008 [40 P.S. §§991.2003 and 991.2008], so that the violations noted in the Report do not occur in the future.
2. The Company must reinforce its internal underwriting controls to ensure that all records and documents are maintained in accordance with Insurance Department Act, Section 903(a) [40 P.S. §323.3], so that violations noted in the Report do not occur in the future.
3. 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.
4. The Company should review and revise internal control procedures to ensure compliance with the claims handling requirements of Title 31, Pennsylvania Code, Chapter 146, Unfair Claims Settlement Practices so that the violations relating to status letters, providing delay letters when necessary, responding to Department inquiries and providing necessary claim forms to claimants within the required time frame, as noted in the Report, do not occur in the future.

5. 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.
6. 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.
7. The Company must review Title 31, Pa. Code, Section 69.52(e) with its claim staff to ensure that the insured is provided a copy of a PRO evaluation in a timely manner.
8. The Company must review title 31, Pa. Code, Section 69.22(c) with its claim staff to ensure that providers are notified when first party limits have been exhausted.
9. The Company must review Title 75, Pa. C.S. §1797(b)(2) & (5) with its claim staff to ensure that medical bills and the required interest are paid in the required time frame after the PRO decision has been made and the reconsideration period has ended.
10. The Company must ensure that all applications contain the required fraud warning notice.

11. The Company must ensure all producers are properly appointed, as required by Section 671-A [40 P.S. §310.71] of the Insurance Department Act No. 147, prior to accepting any business from any producer.
12. 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.
13. 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.
14. The Company must revise its underwriting procedures to ensure that each applicant for private passenger automobile liability insurance is provided an opportunity to elect a tort option and that signed tort option selection forms are obtained and retained with the underwriting file. This is to ensure that violations noted under Title 75, Pa. C.S. §1705(a)(1)(4) do not occur in the future.
15. The Company must revise its underwriting procedures to ensure that each applicant for private passenger automobile liability insurance is provided an opportunity to exercise the waiver for uninsured and underinsured motorist coverage forms are obtained and retained with the underwriting file. This is to ensure that violations noted under Title 75, Pa. C.S. §1731(b) & (c) do not occur in the future.

16. On policies in which either uninsured or underinsured coverage has been rejected, the policy renewal must contain notice in prominent type that the policy does not provide protection against damages caused by uninsured or underinsured motorists. This procedure must be implemented within 30 days of the Report issue date. This is to ensure that violations noted under Title 75, Pa. C.S. §1731(c)(1) do not occur in the future.
17. The Company must revise underwriting procedures to ensure that the insured is aware that he may exercise the waiver of stacked limits for uninsured and underinsured motorist coverage by signing written rejection forms. This is to ensure that violations noted under Title 75, Pa. C.S. §1738(d)(1) and (2) do not occur in the future.
18. 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.
19. The Company must review Title 75, Pa. C.S. §1734 to ensure that the insured signs a request for lower limits of liability for uninsured and underinsured motorist coverage and a copy kept in files as noted in the Report.
20. When a surcharge is imposed on a private passenger automobile policy the Company must include specifics of accidents and citations and give notice to the insured. This procedure must be implemented within 30 days of the Report issue date. This is to ensure that violations noted under Title 75, Pa. C.S. §1799.3(d) do not occur in the future.

**XIII. COMPANY RESPONSE**

**Safeco** Insurance

December 13, 2006

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

Safeco Insurance Company of Indiana  
Examination Warrant Number: 05-M22-066

Dear Mr. Derk:

We have reviewed the Report of Examination of Safeco Insurance Company of Indiana prepared by the Department's Market Conduct Division. Our response to each of the Department's recommendations is attached. Also included in the attachment is a request for a revision to the Company History and Licensing section.

Compliance with Pennsylvania laws is a top priority for Safeco Insurance Company of Indiana. We thank Mr. Myers and his staff for their diligent effort in conducting the review and for taking the time to explain and discuss their findings. These discussions have enhanced our understanding of the Department's position and expectations on key elements of Pennsylvania insurance and vehicle laws.

In the course of our discussions, several areas were identified where both we and the Department had reasonable but different interpretations of the meaning and intent of certain words and phrases used in Pennsylvania statutes. These are identified in the attached responses. We wish to assure you that we are accepting the Department's recommendations.

We thank you and your staff for the courtesy and professionalism shown during this process and look forward to working with you in bringing the report to a mutually agreeable conclusion.

Sincerely,



Patty McCollum, CPCU  
Assistant Vice President  
Compliance Director  
Safeco Insurance Companies  
(206)545-6331  
Fax (206) 925-2180  
pamcco@safeco.com

## Pennsylvania Market Conduct Exam Recommendation Responses

### **Recommendation 1**

The Company must review and revise internal control procedures to ensure compliance with cancellation notice requirements of Act 68, Sections 2003 and 2008 [40 P.S. §§991.2003 and 991.2008], so that the violations noted in the Report do not occur in the future.

#### *Company Response*

We have provided additional training and posted specific information on Pennsylvania requirements for our underwriting department. Some violations noted in the Report relate primarily to a reasonable difference of interpretation between Safeco and the Department as to the definition of “applicant” and “time of application.” Having been apprised of the Department’s interpretation for these terms, we are taking action to revise our procedures to reflect the Department’s interpretation regarding the notification requirements of Section 2008. Additional items relating to this are noted in our response to Recommendations 2 and 3.

### **Recommendation 2**

The Company must reinforce its internal underwriting controls to ensure that all records are maintained in accordance with Insurance Department Act, Section 903(a) [40 P.S. §323.3], so that violations noted in the report do not occur in the future.

#### *Company Response*

Controls are being revised and reinforced to ensure that records and documents are maintained in accordance with Pennsylvania requirements.

### **Recommendation 3**

The company must review Title 75, Pa. C.S. 1793.3(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*

We have reviewed the Pennsylvania requirements and changed our processes to ensure that notice of refusal to write is on a form approved by the Insurance Commissioner and that the notice contains the requisite information on the right to a hearing.

**Recommendation 4**

The Company should review and revise internal control procedures to ensure compliance with the claims handling requirement of title 31 chapter 146 unfair claims settlement practices so the violations relating to status letters, providing delay letters when necessary, responding to Department inquiries and providing necessary claims forms to claimants within the required time frame, as noted in the report, do not occur in the future.

*Company Response*

We have reinforced the importance of providing status letters to claimants and are instituting quarterly reviews to ensure ongoing compliance. Our claims personnel will receive ongoing training on the Pennsylvania claims handling requirements.

**Recommendation 5**

The Company must review Title 31, Pa. Code, Section 69.52(b) with its claims staff to ensure 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 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*

We are providing additional training and instituting weekly reviews to ensure that bills are paid within the 30 day limit. Proof of payment will be provided.

**Recommendation 6**

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

*Company Response*

On May 18<sup>th</sup>, 2006 Safeco Insurance Company of Indiana retrained its Total Loss File Handlers to request Pennsylvania Certificates of Salvage on every claim that has a vehicle titled in the state of Pennsylvania regardless of the location of the salvaged vehicle. We have updated our new hire training material to include the requirements for Pennsylvania Certificates of Salvage. Our internal website outlining salvage handling has been updated to reflect these changes. We have contacted our Salvage vendor instructing them to process all Pennsylvania titled vehicles with a Pennsylvania Certificates of Salvage.

**Recommendation 7**

The Company must review Title 31, Pa. Code, Section 69.52(e) with its claims staff to ensure that the insured is provided with a copy of a PRO evaluation in a timely manner

*Company Response*

We have revised our internal controls so claims managers will receive a copy of each Peer Review Report to ensure that the reports are mailed out timely (within 5 days) to all necessary parties.

**Recommendation 8**

The company must review title 31, Pa. Code, Section 69.22(c) with its claims staff to ensure that providers are notified with first party limits have been exhausted.

*Company Response*

We have reviewed the requirements with all claims handlers to ensure proper notification.

**Recommendation 9**

The Company must review Title 75, Pa. C.S. §1797(b)(2) & (5) with its claims staff to ensure that medical bills and the required interest are paid in the required time frame after the PRO decision has been made and the reconsideration period has ended.

*Company Response*

We are reviewing these requirements with our claims staff and instituting periodic reviews for time frame and interest payment compliance.

**Recommendation 10**

The Company must ensure that all applications contain the required fraud warning notices.

*Company Response*

We currently include the required fraud notice on all applications. It is also our practice to collect a signature for the fraud notice, even though there is no signature requirement in Pennsylvania law. It is our understanding that this item is included because we could not produce signatures for every policy, even though we showed that the fraud warning notice is an integral part of our application. Since there is no signature requirement and the fraud warning notice is included in every application, this recommendation should be removed.

**Recommendation 11**

The Company must ensure all producers are properly appointed, as required by Section 671-A [40 P.S. §310.7] of the Insurance Department Act No. 147, prior to accepting any business from any producer.

### *Company Response*

We have taken several steps to address this including contracting with our vendor to validate licensing through the National Producer Database prior to processing appointments, pre-renewal reviews to ensure that the license remains current and validation of trade name filings prior to authorizing use of a trade name.

### **Recommendation 12**

The Company must review Title 75 P.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*

We currently provide the itemized invoice listing minimum coverages when the application is accepted by the insurer, as indicated by the issuance of a policy. We believe this process complies with the requirement for issuance at time of application. We also recognize that a difference of opinion exists over the reasonable interpretation of this statute held by the company and the Department. Having been apprised of the Department's interpretation, we accept the Recommendation and are revising our procedures to provide the notice when the application is completed.

We will also continue to provide this notice at every renewal. To this end, we respectfully request that the phrase "...and does not occur in the future" be changed to read: "...and at every renewal thereafter."

### **Recommendation 13**

The Company must review Title 75, Pa. C.S. §1971.1(b) to ensure that the notice of tort options is provided at the time of the application as noted in the report and does not occur in the future.

### *Company Response*

We currently provide the notice of tort options when the application is accepted by the insurer, as indicated by the issuance of a policy. We believe this process complies with the requirement for issuance at time of application. We also recognize that a difference of opinion exists over the reasonable interpretation of this statute held by the company and the Department. Having been apprised of the Department's interpretation, we accept the Recommendation and are revising our procedures to provide the notice when the application is completed.

We will also continue to provide this notice at every renewal. To this end, we respectfully request that the phrase "...and does not occur in the future" be changed to read: "...and at every renewal thereafter."

#### **Recommendation 14**

The company must revise its underwriting procedures to ensure that each applicant for private passenger automobile liability insurance is provided an opportunity to elect a tort option and that signed tort option election 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*

We currently provide every applicant with the opportunity to elect a tort option using the standardized form adopted by the Commissioner as required by Pennsylvania law. We are reviewing our internal control procedures and will provide additional training to ensure the forms are properly signed and retained.

#### **Recommendation 15**

The company must revise its underwriting procedures to ensure that each applicant for private passenger automobile liability insurance is provided with an opportunity to exercise the waiver for uninsured and underinsured motorist coverage forms are obtained and retained with the underwriting file. This is to ensure that violations noted under Title 75, Pa. C.S. §1731(b) & (c) do not occur in the future.

#### *Company Response*

We currently provide every applicant with the opportunity to exercise the waiver for uninsured and underinsured motorist coverage as required by Pennsylvania law. The waiver forms are an integral part of our application. We are reviewing our control procedures and will provide additional training to ensure the forms are properly signed and retained.

#### **Recommendation 16**

On policies in which either uninsured or underinsured coverage has been rejected, the policy renewal must contain notice in prominent type that the policy does not provide protection against damages caused by uninsured or underinsured motorists. This procedure must be implemented within 30 days of the report issue date. This is to ensure that violations noted under Title 75, Pa. C.S. §1731(c)(1) do not occur in the future.

#### *Company Response*

We currently indicate on the declarations that the uninsured or underinsured motorist coverage is rejected when the insured has rejected one or both of these coverages. We

accept the Department's Recommendation and will revise our renewal to provide prominent notice.

**Recommendation 17**

The company must revise its underwriting procedures to ensure that the insured is aware that he may exercise the waiver of stacked limits for uninsured and underinsured motorist coverage by signing written rejection forms. This is to ensure that violations noted under Title 75, Pa. C.S. §1738(d)(1) and (2) do not occur in the future.

*Company Response*

We currently offer the waiver of stacked limits for uninsured and underinsured motorist coverage whenever an applicant purchases one or both of these coverages. The waiver forms are an integral part of our application and are provided to the applicant whenever uninsured and underinsured motorist coverage is selected. We are reviewing our control procedures and will provide additional training to ensure the forms are properly signed and retained.

**Recommendation 18**

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.

*Company Response*

We currently provide the surcharge disclosure plan when the application is accepted by the insurer, as indicated by the issuance of a policy. We believe this process complies with the requirement for issuance at time of application. We also recognize that a difference of opinion exists over the reasonable interpretation of this statute held by the company and the Department. Having been apprised of the Department's interpretation, we accept the Recommendation and are revising our procedures to provide the notice when the application is completed.

**Recommendation 19**

The Company must review Title 75, Pa. C.S. §1734 to ensure that the insured signs a request for lower limits of liability for uninsured motorists coverage and a copy kept in files as noted in the Report.

*Company Response*

We are reviewing our control procedures and will provide additional training to ensure the forms are properly signed and retained.

## **Recommendation 20**

When a surcharge is imposed on a private passenger automobile policy the Company must include specifics of accidents and citations and give notice to the insured. This procedure must be implemented within 30 days of the Report issue date. This is to ensure that violations noted under Title 75, Pa. C.S. §1799.3(d) do not occur in the future.

### *Company Response*

Our reading of Title 75, Pa. C.S. §1799.3(d) indicates that the statute deals with informing insureds of the manner in which surcharges apply rather than identification of the incidents that resulted in surcharges. This information is currently provided via our Surcharge Disclosure Plan form. In light of the discussions with Department personnel and the Department's Recommendation, we will take action to specify the incidents resulting in surcharges.

### *Additional Request – Company History and Licensing*

Our review of the Company History and Licensing section of the report showed that the information contained there is incomplete. We request that the following updated text replace the information currently contained in the report under the Company History section:

Safeco Insurance Company of Indiana was incorporated as Gambles Insurance Company on March 25, 1971, under the laws of Minnesota. It began business on March 3, 1972. A former affiliate, Gambles Lease Insurance Corporation, was absorbed by merger on May 30, 1975. The title was changed to John Alden Insurance Company on February 1, 1978, to Cenguard Insurance Corporation in February 1983, to American Loyalty Insurance Company in May 1986, to Safeco Insurance Company of Pennsylvania on May 16, 1997 and to its present form on January 30, 2002. On June 1, 1992, the Company was redomesticated from Minnesota to Pennsylvania. On January 30, 2002, the Company was redomesticated from Pennsylvania to Indiana.

We request that "California" be added to the Licensing section so that the text reads as follows:

Safeco Insurance Company of Indiana's Certificate of Authority to write business in the Commonwealth was last issued on April 1, 2006. The Company is licensed in all states except California, Maine, Michigan and New Hampshire. The Company's 2005 annual statement reflects Direct Written Premium for all lines of business in the Commonwealth of Pennsylvania as \$29,408,853. Premium volume related to the areas of this review were: Private Passenger Automobile Direct Written Premium was reported as Private Passenger No-Fault (personal injury protection) \$3,256,481; Other Private Passenger Auto Liability \$14,627,730 and Private Passenger Auto Physical Damage \$11,524,642.