



**COMMONWEALTH OF PENNSYLVANIA  
INSURANCE DEPARTMENT**

**MARKET CONDUCT  
EXAMINATION REPORT**

**OF**

**MID-CENTURY  
INSURANCE COMPANY  
WOODLAND HILLS, CA**

**As of: April 16, 2019  
Issued: June 3, 2019**

**BUREAU OF MARKET ACTIONS  
PROPERTY AND CASUALTY DIVISION**

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).

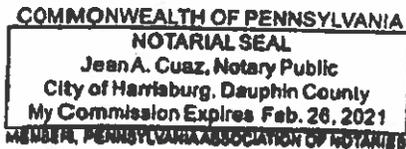
*Paul E. Tom #*

(Examiner Name), Examiner-in-Charge

Sworn to and Subscribed Before me

This 16<sup>th</sup> Day of April, 2019

*Jean A. Cuaz*  
Notary Public



**MID-CENTURY INSURANCE COMPANY**  
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BEFORE THE INSURANCE COMMISSIONER  
OF THE  
COMMONWEALTH OF PENNSYLVANIA

ORDER

AND NOW, this 28<sup>th</sup> day of March, 2018, 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 Christopher R. Monahan, 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.



  
\_\_\_\_\_  
Jessica K. Altman  
Insurance Commissioner

BEFORE THE INSURANCE COMMISSIONER  
OF THE  
COMMONWEALTH OF PENNSYLVANIA

IN RE:	:	VIOLATIONS:
	:	
MID-CENTURY	:	40 P.S. §§323.3(a) and 323.4(b)
INSURANCE COMPANY	:	
6301 Owensmouth Avenue,	:	40 P.S. §§991.2002(c)(3), 991.2004
Woodland Hills, CA 91367	:	991.2006(2), 991.2008(b)
	:	
	:	40 P.S. §1171.5(a)(9)(ii)
	:	
	:	40 P.S. §1184(a)&(h)
	:	
	:	18 Pa. Code §4117(k)(1)
	:	
	:	31 Pa. Code §59.9(b)
	:	
	:	75 Pa. C.S. §§1705(a)(4), 1725 and
	:	1791.1(a)
	:	
	:	
	:	
	:	
Respondent.	:	Docket No. MC19-04-019

CONSENT ORDER

AND NOW, this 3rd day of JUNE, 2019, 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 Mid-Century Insurance Company, and maintains its address at 6301 Owensmouth Avenue, Woodland Hills, CA 91367.

(b) A market conduct examination of Respondent was conducted by the Insurance Department covering the experience period from July 1, 2017 through June 30, 2018.

- (c) On April 16, 2019, the Insurance Department issued a Market Conduct Examination Report to Respondent.
- (d) A response to the Examination Report was provided by Respondent on May 16, 2019.
- (e) The Market Conduct Examination of Respondent revealed violations of the following:
  - (i) 40 P.S. §323.3(a), requires every company subject to examination to keep all books, records, accounts, papers, documents and any 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 readily ascertain whether the company has complied with the laws of this Commonwealth;
  - (ii) 40 P.S. §323.4(b), requires every company or person from whom information is sought, its officers, directors and agents must provide to the examiners timely, convenient and free access at all reasonable hours at its offices to all books, records, accounts, papers, documents and any or all computer or other recordings relating to the property, assets, business and affairs of the company being examined.

- (iii) 40 P.S. §991.2002(c)(3), requires that an insurer supply the insured with a written statement of the reason for cancellation;
- (iv) 40 P.S. §991.2004, states no insurer shall cancel a policy of automobile insurance except for (a) nonpayment of premium, (b) suspension or revocation of the named insured's driver license or motor vehicle registration or a (c) 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;
- (v) 40 P.S. §991.2006(2), prohibits a cancellation or refusal to renew from being effective unless the insurer delivers or mails a written notice of the cancellation or refusal to renew, which will include the date, not less than 60 days after the date of mailing or delivery, on which the cancellation or refusal to renew shall become effective. When the policy is being cancelled or not renewed for reasons set forth in Sections 2004(1) and (2), however, the effective date may be 15 days from the date of mailing or delivery;
- (vi) 40 P.S. §991.2008(b), 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;

- (vii) 40 P.S. §1171.5(a)(9)(ii), prohibits any cancellation or refusal to renew to become effective in a period of less than thirty days from the date of delivery or mailing;
- (viii) 40 P.S. §1184(a)&(h), requires every insurer to file with the Insurance Commissioner every manual of classifications, rules and rates, every rating plan and every modification of any rating plan which it proposes to use in this Commonwealth and prohibits an insurer from making or issuing a contract or policy with rates other than those approved;
- (ix) 18 Pa. C.S. §4117(k)(l), states any person who knowingly and with intent to defraud any insurance company or other person files an application for insurance or statement of claim containing any materially false information or conceals for the purpose of misleading, information concerning any fact material thereto, commits a fraudulent insurance act, which is a crime and subjects such person to criminal and civil penalties;
- (x) 31 Pa. Code §59.9(b), requires an insurer give at least 30 days notice of termination and give that notice no later than the 60<sup>th</sup> day;

- (xi) 75 Pa. C.S. §1705(a)(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;
  
- (xii) 75 Pa. C.S. §1725, requires every motor vehicle insurance policy to contain a notice whether the policy covers collision damage to rental vehicles, and any limitations on such coverage. The notice shall be written in clear, plain language and shall be printed on the first page of the policy in boldface capital letters;
  
- (xiii) 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 coverages 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;

#### 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) Violations of 40 P.S. §§991.2002(c)(3), 991.2004, 991.2006(2) and 991.2008(b) (relating to motor vehicles) of 40 P.S. are punishable by the following, under Section 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).
  
- (c) Respondent’s violations of 40 P.S. §1171.5(a)(9)(ii) 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 Commissioner for Respondent's violations of 40 P.S. §§1171.1 – 1171.5, the Commissioner may, under (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) Violations of Section 4 of the Casualty and Surety Rate Regulatory Act, No. 246 (40 P.S. §1184(a)&(h)) are punishable under Section 16 of the Act:
- (i) imposition of a civil penalty not to exceed \$50 for each violation or not more than \$500 for each such willful 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.

## 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 pay Fifty Thousand Dollars (\$50,000.00) in settlement of all violations contained in the Report.
- (c) Payment of this matter shall be made to the Commonwealth of Pennsylvania. Payment should be directed to Crystal B. Welsh, Insurance Department, Bureau of Market Actions, 1209 Strawberry Square, Harrisburg, Pennsylvania 17120. Payment must be made no later than thirty (30) days after the date of this Order.
- (d) 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.
- (e) Respondent shall comply with all recommendations contained in the attached

Report.

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

7. Alternatively, in the event the Insurance Department finds that there has been a breach of any of the provisions of this Order, the Department may declare this Order to be null and void and, thereupon, reopen the entire matter for appropriate action pursuant to the Administrative Agency Law, supra, or other relevant provision of law.

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

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

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

11. This Order shall be final upon execution by the Insurance Department. Only the Insurance Commissioner or a duly authorized delegee is authorized to bind the Insurance Department with respect to the settlement of the alleged violations of law contained herein, and this Consent Order is not effective until executed by the Insurance Commissioner or a duly authorized delegee.

BY: MID-CENTURY INSURANCE COMPANY  
Respondent

  
\_\_\_\_\_  
President / Vice President

  
\_\_\_\_\_  
Secretary / Treasurer

  
\_\_\_\_\_  
CHRISTOPHER R. MONAHAN  
Deputy Insurance Commissioner  
Commonwealth of Pennsylvania

## I. INTRODUCTION

The Market Conduct Examination was conducted at the office of Mid-Century Insurance Company, hereinafter referred to as “Company”, located in Wilmington, Delaware from December 10, 2018, through December 14, 2018. 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 following examiners participated in this examination and in preparation of this Report.

**Kelly Krakowski, MCM  
Market Conduct Division Chief  
Pennsylvania Insurance Department**

**Paul Towsen  
Market Conduct Examiner  
Pennsylvania Insurance Department**

**Ryan Sellers  
Market Conduct Examiner  
Pennsylvania Insurance Department**

**Nanette Soliday  
Market Conduct Examiner  
Pennsylvania Insurance Department**

**Vern Schmidt  
Market Conduct Examiner  
Pennsylvania Insurance Department**

## **II. SCOPE OF EXAMINATION**

The Market Conduct Examination was conducted on Mid-Century Insurance Company, at the office located in Wilmington, Delaware. The examination was conducted pursuant to Sections 903 and 904 (40 P.S. §§323.3 and 323.4) of the Insurance Department Act of 1921 and covered the experience period of July 1, 2017, through June 30, 2018, 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. Complaints
3. Underwriting Practices and Procedures
4. Forms
5. Data Integrity

### **III. COMPANY HISTORY**

Mid-Century Insurance Company (“Company”) was incorporated under the laws of the state of California on December 3, 1949. The Company is currently authorized to do business in all states excluding Alaska and Maine. All of the Company’s outstanding capital stock is held by Farmers Insurance Exchange (80%), Truck Insurance Exchange (10%), and Fire Insurance Exchange (10%) (collectively, the “Exchanges”). The Exchanges, along with their various subsidiaries and affiliates, comprise the Farmers Insurance Group, which is based in Los Angeles, California.

### **LICENSING**

Mid-Century Insurance Company’s Certificate of Authority to write business in the Commonwealth was last issued on April 1, 2019. The Company is licensed in all states excluding Alaska and Maine. The Company’s 2017 annual statement reflects Direct Written Premium for all lines of business in the Commonwealth of Pennsylvania as \$144,047,956. 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) \$13,215,709; Other Private Passenger Auto Liability \$67,869,502; and Private Passenger Auto Physical Damage \$61,092,363.

#### **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 and supplements 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 917 private passenger automobile policies that were cancelled within the first 60 days of new business, 50 files were selected for review. All 50 files requested were received and reviewed. Of the 50 files reviewed, three files were identified as being midterm cancellations. The 31 violations noted were based on 23 files, resulting in an error ratio of 46%.

The following findings were made:

#### ***3 Violations 31 Pa. Code §59.9(b)***

- The period of 60 days referred to in Section 5(a)(9) and (c)(3) of the Unfair Insurance Practices Act (40 P.S. §1171.5(a)(9) and (c)(3)) is intended to provide to insurers a reasonable

period of time, if desired, to investigate thoroughly a particular risk while extending coverage during the period of investigation. An insurer may cancel the policy provided it gives at least 30 days notice of the termination and provided it gives notice no later than the 60th day. The insurer's decision to cancel during this 60-day period must not violate Section 5(a)(7)(iii) of the Unfair Insurance Practices Act. The Company failed to use a valid cancellation notice. The Company cannot use a single notice of cancellation to cancel two separate policies that are not a package policy for non-payment of premium for the three files noted.

*8 Violations 40 P.S. §323.3(a)*

Requires every company or person subject to examination in accordance with this act 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, in its discretion, may require in order that its authorized representatives may readily verify the financial condition of the company or person and ascertain whether the company or person has complied with the laws of this Commonwealth. The Company failed to have proof in the file to indicate the insured requested cancellation for the eight files noted.

*20 Violations 40 P.S. §991.2002(c)(3)*

*Adjudications: Tampa v. State Farm (P91-06-01, 1991)*

*Gorba v. Allstate (P92-02-92, 1993)*

To any policy of automobile insurance which has been in effect less than sixty (60) days, unless it is a renewal policy, except that no insurer shall decline to continue in force such a policy of automobile insurance on the basis of the grounds set forth in Section 2003(a) and except that if an insurer cancels a policy of automobile insurance in the first 60 days, the insurer shall supply the insured with a written statement of the reason for cancellation. The Company failed to provide the required 15 days mailing notice for the 20 files noted.

The following concern was noted:

**CONCERN:** The Company is sending a Notice of Cancellation with no address and phone number to contact Assigned Risk. The Company should add the telephone number and address of Assigned Risk to the Notice of Cancellation so the insured can contact Assigned Risk if needed.

## 2. Mid-term Cancellations

A mid-term 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 13,463 private passenger automobile policies which were cancelled midterm, 75 files were selected for review. All 75 files requested were received and reviewed. Of the 75 files reviewed, one file

was identified as being a nonrenewal. The 46 violations noted were based on 38 files, resulting in an error ratio of 51%.

The following findings were made:

*8 Violations 40 P.S. §323.3(a)*

Requires every company or person subject to examination in accordance with this act 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, in its discretion, may require in order that its authorized representatives may readily verify the financial condition of the company or person and ascertain whether the company or person has complied with the laws of this Commonwealth. The Company failed to have proof in the file to indicate the insured requested cancellation for the eight files noted.

*1 Violation 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 for other than permitted reasons.

*37 Violations 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 the required 15 days mailing notice for the 37 files noted.

The following concern was noted:

**CONCERN:** The Company is sending a Notice of Cancellation with no address and phone number to contact Assigned Risk. The Company should add the telephone number and address of Assigned Risk to the Notice of Cancellation so the insured can contact Assigned Risk if needed.

**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.

From the universe of 2,787 private passenger automobile policies which were nonrenewed during the experience period, 75 files were selected for review. Of the 75 files reviewed, three files were identified as being midterm cancellations. The 39 violations noted were based on 38 files, resulting in an error ratio of 51%.

The following findings were made:

*1 Violation 40 P.S. §323.3(a)*

Requires every company or person subject to examination in accordance with this act 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, in its discretion, may require in order that its authorized representatives may readily verify the financial condition of the company or person and ascertain whether the company or person has complied with the laws of this Commonwealth. The Company failed to have proof in the file to indicate the insured requested cancellation for the file noted.

*38 Violations 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 the required 60 days mailing notice for the 38 files noted.

The following concern was noted:

**CONCERN:** The Company is sending a Notice of Cancellation with no address and phone number to contact Assigned Risk. The Company should add the telephone number and address of Assigned Risk to the Notice of Cancellation so the insured can contact Assigned Risk if needed.

#### 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 4,294 declinations for private passenger automobile insurance, 40 files were selected for review. All 40 files requested were received and reviewed. The two violations noted were based on two files, resulting in an error ratio of 5%.

The following findings were made:

##### *2 Violations 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 failed to provide a written notice of refusal to write for the two files noted.

#### 5. Rescissions

A rescission is any policy which was void ab initio by the Company.

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 determines compliance with the rescission requirements established by the Supreme Court of Pennsylvania in *Erie Insurance Exchange v. Lake*.

The universe of one private passenger automobile policy, which was rescinded during the experience period, was selected for review. The file requested was received and reviewed. No violations were noted.

## VI. RATING

### **A. Private Passenger Automobile**

#### **1. New Business**

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

The primary purpose of the review was to measure compliance with The Casualty and Surety Rate Regulatory Act, Section 4(a) and (h) (40 P.S. §1184(a), (h)), 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 all provisions of the Motor Vehicle Financial Responsibility Law (75 Pa. C.S. §§1701 – 1799.7) 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 uses an automated system to process and issue personal automobile policies. 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 Rating – New Business without Surcharges

From the universe of 9,466 private passenger automobile policies identified as new business without surcharges by the Company, 75 files were selected for review. All 75 policy files requested were received and reviewed. The 9,566 violations noted were based on the universe of 9,446 files, resulting in an error ratio of 100%.

The following findings were made:

*4 Violations 40 P.S. §323.3(a)*

Requires every company or person subject to examination in accordance with this act 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, in its discretion, may require in order that its authorized representatives may readily verify the financial condition of the company or person and ascertain whether the company or person has complied with the laws of this Commonwealth. The Company failed to retain a copy of the new business application in the four files noted.

*1 Violation 40 P.S. §1184(a)&(h)*

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

plan, which it proposes to use in the Commonwealth. Also, no insurer shall make or issue a contract or policy except in accordance with filings or rates, which are in effect at the time of issue. The Company failed to issue one policy in accordance with the Company's filed and approved rating plan. The Company must provide proof that the refund of \$105 was issued to the insured for the file noted.

*1 Violation 75 Pa. C.S. §1705(a)(4)*

Requires every insurer, prior to the issuance of a private passenger motor vehicle liability insurance policy to provide each applicant an opportunity to elect a tort option. A policy may not be issued unless the applicant has been provided an opportunity to elect a tort option. The Company failed to provide a signed and dated limited tort form for the file noted.

*9,446 Violations 75 Pa. C.S. §1725*

Every motor vehicle insurance policy shall contain a notice as to whether the policy covers collision damage to rental vehicles, and any limitations on such coverage. The notice shall be written in clear, plain language and shall be printed on the first page of the policy in boldface capital letters. The Company provided the required notice, but it did not meet the statute requirements of using boldface capital letters on the first page of the policy.

*57 Violations 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 that you purchase liability and first-party medical benefit coverages. Any additional coverages 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 premium for the insured's existing coverages. The Company failed to provide the itemized invoice to the insured at the time of application for the 57 phone sale policies noted.

*57 Violations 18 Pa. C.S. §4117(k)(1)*

All applications for insurance and all claims forms shall contain or have attached thereto the following notice: Any person who knowingly and with intent to defraud any insurance company or other person files an application for insurance or statement of claim containing any materially false information or conceals for the purpose of misleading, information concerning any fact material thereto, commits a fraudulent insurance act, which is a crime and subjects such person to criminal and civil penalties. The Company failed to provide the required fraud statement to the insured at the time of application for the 57 phone sale policies noted.

The following concern was noted:

**CONCERN:** The fraud warning provided on the application for direct sales is not verbatim. All applications for insurance should contain the following fraud warning. “Any person who knowingly and with intent to defraud any insurance company or other person files an application for insurance or statement of claim containing any materially false information or conceals for the purpose of misleading, information concerning any fact material thereto commits a fraudulent insurance act, which is a crime and subjects such person to criminal and civil penalties.”

Private Passenger Automobile Rating – New Business with Surcharges

From the universe of 1,376 private passenger automobile policies identified as new business with surcharges by the Company, 50 files were selected for review. All 50 policy files requested were received and reviewed. The 1,390 violations noted were based on the universe of 1,376 files, resulting in an error ratio of 100%.

The following findings were made:

*1,376 Violations 75 Pa. C.S. §1725*

Every motor vehicle insurance policy shall contain a notice as to whether the policy covers collision damage to rental vehicles, and any limitations on such coverage. The notice shall be written in clear, plain language and shall be printed on the first page of the policy in boldface capital letters. The Company provided the required notice, but it did not meet the statute requirements of using boldface capital letters on the first page of the policy.

*7 Violations 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 that you purchase liability and first-party medical benefit coverages. Any additional coverages 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 premium for the insured's existing coverages. The Company failed to provide the itemized invoice to the insured at the time of application for the seven phone sale policies noted.

*7 Violations 18 Pa. C.S. §4117(k)(1)*

All applications for insurance and all claims forms shall contain or have attached thereto the following notice: Any person who knowingly and with intent to defraud any insurance company or other person files an application for insurance or statement of claim containing any materially false information or conceals for the purpose of misleading, information concerning any fact material thereto, commits a fraudulent insurance act, which is a crime and subjects such person to criminal and civil penalties. The Company failed to provide the required fraud statement to the insured at the time of application for the seven phone sale policies noted.

The following concern was noted:

**CONCERN:** The fraud warning provided on the application for direct sales is not verbatim. All applications for insurance should contain the following fraud warning. “Any person who knowingly and with intent to defraud any insurance company or other person files an application for insurance or statement of claim containing any materially false information or conceals for the purpose of misleading, information concerning any fact material thereto commits a fraudulent insurance act, which is a crime and subjects such person to criminal and civil penalties.”

## 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 The Casualty and Surety Rate Regulatory Act, Section 4(a) and (h) (40 P.S. §1184(a), (h)), 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 of 1998, Section 2005(c) (40 P.S. §991.2005(c)), which requires insurers to provide to insureds a detailed statement of the components of a premium and shall specifically show the amount of surcharge or other additional amount that is charged as a result of a claim having been made under a policy of insurance, or as a result of any other factors. The Company processes and issues personal automobile policies using an automated system. In order to verify the automated system, several policies were manually rated to ensure the computer had been programmed correctly. Once the computer programming had been verified, only

the input data needed to be verified. By reviewing base premiums, territory assignments, rating symbols, classifications and surcharge disclosures, the examiners were able to determine compliance with the Company's filed and approved rating plans.

#### Private Passenger Automobile – Renewals without Surcharges

From the universe of 48,460 private passenger automobile policies identified as renewals without surcharges, 100 files were selected for review. All 100 policy files requested were received and reviewed. The 48,460 violations noted were based on the universe of 48,460 files, resulting in an error ratio of 100%.

The following findings were made:

#### *48,460 Violations 75 Pa. C.S. §1725*

Every motor vehicle insurance policy shall contain a notice as to whether the policy covers collision damage to rental vehicles, and any limitations on such coverage. The notice shall be written in clear, plain language and shall be printed on the first page of the policy in boldface capital letters. The Company provided the required notice, but it did not meet the statute requirements of using boldface capital letters on the first page of the policy.

#### Private Passenger Automobile – Renewals with Surcharges

From the universe of 3,787 private passenger automobile policies identified as renewals with surcharges, 50 files were selected for review. All 50 policy files requested were received and reviewed. The 3,787 violations noted were based on the universe of 3,787 files, resulting in an error ratio of 100%.

The following findings were made:

*3,787 Violations 75 Pa. C.S. §1725*

Every motor vehicle insurance policy shall contain a notice as to whether the policy covers collision damage to rental vehicles, and any limitations on such coverage. The notice shall be written in clear, plain language and shall be printed on the first page of the policy in boldface capital letters. The Company provided the required notice, but it did not meet the statute requirements of using boldface capital letters on the first page of the policy.

## **VII. FORMS**

Throughout the course of the examination, all underwriting files were reviewed to identify the policy forms used in order to verify compliance with the 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 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 and 18 Pa. C.S. §4117(k)(1), which requires all insurers to provide an insurance fraud notice on all applications for insurance and all claim forms. No violations were noted.

## VIII. 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 98 consumer complaints received during the experience period and provided all consumer complaint logs requested. From the universe of 98 complaint files, 25 files were selected for review. All 25 files requested were received and reviewed.

The purpose of the review was to determine compliance with the Unfair Insurance Practices Act, (40 P.S. §§1171.1 – 1171.5). Section 5(a)(11) of the Act (40 P.S. §1171.5(a)(11)), 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 individual complaint files were reviewed for the relevancy to applicable statutes and to verify compliance with 31 Pa. Code §146.5(b)(c).

The following findings were made:

### *1 Violation 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 the required 15 days mailing notice for the file noted.

*1 Violation 40 P.S. §1171.5 (a)(9)(ii)*

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

The following concerns were noted:

**CONCERN:** In one of the 25 complaint files reviewed, the Company received an inquiry or complaint from the Department and did not respond to the Department within 15 working days. The Company should respond to a Department complaint or inquiry that is not related to claims within 15 working days.

**CONCERN:** The Company is sending Notice of Cancellation with no address and phone number to contact Assigned Risk. The Company should add the telephone number and address of Assigned Risk so the insured can contact Assigned Risk if needed.

The following synopsis reflects the nature of the 25 complaints that were received.

8	Cancellation/Nonrenewal	32%
5	Claims Related	20%
3	Agency Conduct	12%
3	Premium Questioned	12%
<u>6</u>	Miscellaneous	<u>24%</u>
25		100%

## **IX. DATA INTEGRITY**

As part of the examination, the Company was sent a preliminary examination packet in accordance with NAIC uniformity standards and provided specific information relative to the exam. The purpose of the packet was to provide certain basic examination information, identify preliminary requirements and to provide specific requirements for requested data call information. Once the Company provided all requested information and data contained within the data call, the Department reviewed and validated the data to ensure its accuracy and completeness to determine compliance with Insurance Department Act of 1921, Section 904(b) (40 P.S. §323.4(b)). Several data integrity issues were found during the exam.

The data integrity issue of each area of review is identified below.

### **Automobile 60 day Cancellations**

**Situation:** As the examiners reviewed the automobile 60 day cancellation files of the automobile underwriting section of the exam, it was noted that not all files selected for review were automobile 60 day cancellations.

**Finding:** Of the 50 automobile 60 day cancellation files reviewed, three files were identified as being automobile midterm cancellations.

### **Automobile Nonrenewals**

**Situation:** As the examiners reviewed the automobile nonrenewal files of the automobile underwriting section of the exam, it was noted that not all files selected for review were automobile nonrenewals.

Finding: Of the 75 automobile nonrenewal files reviewed, three files were identified as being automobile midterm cancellations.

Automobile Midterm Cancellations

Situation: As the examiners reviewed the automobile midterm cancellation files of the automobile underwriting section of the exam, it was noted that not all of the 75 files selected for review were automobile midterm cancellation files.

Finding: Of the 75 automobile midterm cancellation files reviewed, one file was identified as an automobile nonrenewal.

*General Violation 40 P.S. §323.4(b)*

Requires every company or person from whom information is sought must provide to the examiners timely, convenient and free access to all books, records, accounts, papers, documents and any or all computer or other recordings relating to the property, assets, business and affairs of the company being examined. The violation was the result of a failure to exercise sufficient due diligence to ensure compliance with Insurance Department Act of 1921.

## **X. 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 18 Pa. C.S. §4117(k)(1) to ensure that violations regarding the requirement of a fraud warning on all new business applications through phone sales noted in the Report do not occur in the future.
2. The Company must review 31 Pa. Code §59.9(b) to ensure that violations regarding the requirements for cancellation notices as noted in the Report do not occur in the future.
3. The Company must reinforce its internal data controls to ensure that all records and documents are maintained in accordance with 40 P.S. §323.3(a), so that violations noted in the Report do not occur in the future.
4. The Company must reinforce its internal data controls to ensure that all records and documents are maintained in accordance with 40 P.S. §323.4(b), so that violations noted in the Report do not occur in the future.
5. The Company must review and revise internal control procedures to ensure compliance with nonrenewal and cancellation notice requirements of

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.

6. The Company must review 40 P.S. §1171.5(a)(9)(ii) to ensure that violations regarding the requirements for cancellation notices as noted in the Report do not occur in the future.
7. The Company must review 40 P.S. §1184(a)&(h) and take appropriate measures to ensure the automobile rating violation listed in the report does not occur in the future.
8. 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 75 Pa. C.S. §1705(a)(4) do not occur in the future.
9. The Company must review 75 Pa. C.S. §1725 to ensure that a notice as to whether the policy covers collision damage to rental vehicles, and any limitations on such coverage shall be printed on the first page of the policy in boldface capital letters.
10. The Company must review 75 Pa. C.S. §1791.1(a) to ensure that an itemized invoice listing minimum coverages is provided at the time of phone applications, so violations noted in the Report do not occur in the future.

**XI. COMPANY RESPONSE**

## XI. Company Response

On behalf of Mid-Century Insurance Company (the "Company"), please allow this letter to serve as our response to the Report of Examination Warrant Number 18-M36-025 which was received with your cover letter dated April 16, 2019.

We respectfully submit our responses in the order appearing in the Report under Section XI-Recommendations.

1. The Company must review 18 Pa. C.S. §4117(k)(1) to ensure that violations regarding the requirement of a fraud warning on all new business applications through phone sales noted in the Report do not occur in the future.

**Company Response:** The Company acknowledges the Department's recommendation. The Company agrees to update its processes and procedures as necessary.

2. The Company must review 31 Pa. Code §59.9(b) to ensure that violations regarding the requirements for cancellation notices as noted in the Report do not occur in the future. **Company Response:** The Company acknowledges the Department's recommendation. The Company agrees to update its processes and procedures. The Department has reviewed and approved the Company's proposed changes.

3. The Company must reinforce its internal data controls to ensure that all records and documents are maintained in accordance with 40 P.S. §323.3(a) so that violations noted in the Report do not occur in the future.

**Company Response:** The Company acknowledges the Department's recommendation to reinforce its internal data controls. The Company agrees to

update its processes and procedures as necessary and has reminded its agents about the importance of good document retention.

4. The Company must reinforce its internal data controls to ensure that all records and documents are maintained in accordance with 40 P.S. §323.4(b), so that violations noted in the Report do not occur in the future.

**Company Response:** The Company acknowledges the recommendation to reinforce its internal data controls to ensure that all records and documents are maintained. The Company agrees to update its processes and procedures as necessary.

5. The Company must review and revise internal control procedures to ensure compliance with nonrenewal and cancellation notice requirements of 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 Responses:**

The Company acknowledges the recommendations. The Company agrees to update its processes and procedures as necessary. With respect to insured initiated cancellations, the Company respectfully disagrees with any findings, subject to and without waiving its rights, the Company agrees to update the title of the form used to document insured initiated cancellations.

6. The Company must review 40 P.S. §1171.5(a)(9)(ii) to ensure that violations regarding the requirements for cancellation notices as noted in the Report do not occur in the future.

**Company Response:** The Company acknowledges the Department's recommendation but respectfully disagrees with any findings. Subject to and without waiving its rights, the Company agrees to update the title of the form used to document insured initiated cancellations.

7. The Company must review 40 P.S. §1184(a)&(h) and take appropriate measures to ensure the automobile rating violation listed in the report does not occur in the future. **Company Response:** The Company acknowledges the single exception noted by the Department. The Company informed the agent about the error and fixed the error.

8. 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 75 Pa. C.S. §1705(a)(4) do not occur in the future.

**Company Response:** The Company acknowledges the single exception to retain the signed tort option selection form as noted by the Department. Current underwriting procedures direct producers to secure the signed tort option selection form and to retain the document. The Company reminded the agent on proper business practices and company policy.

9. The Company must review 75 Pa. C.S. §1725 to ensure that a notice as to whether the policy covers collision damage to rental vehicles, and any limitations on such coverage shall be printed on the first page of the policy in boldface capital letters.

**Company Response:** The Company acknowledges the Department's recommendation. The Company will ensure its forms comply as necessary.

10. The Company must review 75 Pa. C.S. §1791.1(a) to ensure that an itemized invoice listing minimum coverages is provided at the time of phone applications, so violations noted in the Report do not occur in the future.

**Company Response:** The Company acknowledges the Department's recommendation. The Company agrees to update its processes and procedures as necessary.