



**COMMONWEALTH OF PENNSYLVANIA  
INSURANCE DEPARTMENT**

**MARKET CONDUCT  
EXAMINATION REPORT**

**OF**

**ACCESS INSURANCE COMPANY  
DALLAS, TX**

**As of: August 8, 2014  
Issued: September 26, 2014**

**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).

  
James R. Myers, AMCM, Examiner-In-Charge

Sworn to and Subscribed Before me

This 7 Day of August, 2014

  
Notary Public



**ACCESS INSURANCE COMPANY**  
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BEFORE THE INSURANCE COMMISSIONER  
OF THE  
COMMONWEALTH OF PENNSYLVANIA

ORDER

AND NOW, this 10 day of March, 2014, 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 Arthur F. McNulty, 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.



  
Michael F. Consedine  
Insurance Commissioner

BEFORE THE INSURANCE COMMISSIONER  
OF THE  
COMMONWEALTH OF PENNSYLVANIA

IN RE: : VIOLATIONS:  
: :  
ACCESS INSURANCE COMPANY : 40 P.S. §323.4(b)  
Three Ravinia Drive, Suite 400 : :  
Atlanta, GA 30346 : 40 P.S. §§310.71 and 310.41(a)  
: :  
: 40 P.S. §§991.2001, 991.2002(c)(3)  
: 991.2004, 991.2006, 991.2006(3)  
: and 991.2008(b)  
: :  
: 40 P.S. §§1171.5(a)(10)(iii)  
: and 1171.5(a)(10)(vi)  
: :  
: 40 P.S. §1184  
: :  
: 31 Pa. Code §§62.3(e)(7)  
: 69.22(c), 69.52(b) and 146.6  
: :  
: 75 Pa. C.S. §§1705(a)(4)  
: 1716, 1731(b)&(c), 1731(c)(1), 1791  
: 1791.1(a), 1791.1(b), 1793(b), 1799.2(a)  
: and 1799.3(d)  
: :  
Respondent. : Docket No. MC14-09-001

CONSENT ORDER

AND NOW, this 26<sup>th</sup> day of September, 2014, 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 Access Insurance Company and maintains its address at Three Ravinia Drive, Suite 400, Atlanta, GA 30346.

(b) A market conduct examination of Respondent was conducted by the Insurance Department covering the experience period from July 1, 2011 through June 30, 2012.

- (c) On August 8, 2014, the Insurance Department issued a Market Conduct Examination Report to Respondent.
- (d) A response to the Examination Report was provided by Respondent on September 8, 2014.
- (e) The Market Conduct Examination of Respondent revealed violations of the following:
  - (i) 40 P.S. §323.4(b), which requires every company or person from whom information is sought, its officers, directors and agents must provide to the examiners appointed under subsection (a) 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. The officers, directors, employees and agents of the company or person must facilitate such examination and aid in such examination so far as it is in their power to do so;
  - (ii) 40 P.S. §310.71, which states that 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.



- (iii) 40 P.S. §310.41(a) prohibits any entity or the appointed agent of any entity from transacting the business of insurance through anyone acting without an insurance producer license.
- (iv) 40 P.S. §991.2001, which defines “Nonpayment of premium” as failure of the named insured to discharge when due any obligation in connection with the payment of premiums on a policy or any installment of such premium, whether the premium is payable directly to the insurer or its agent or indirectly under any premium finance plan or extension or credit.
- (v) 40 P.S. §991.2002(c)(3), which requires that an insurer supply the insured with a written statement of the reason for cancellation;
- (vi) 40 P.S. §991.2004, which requires that no insurer shall cancel a policy of automobile insurance except for nonpayment of premium, suspension or revocation of the named insured’s driver license or motor vehicle registration or a determination that the insured has concealed a material fact or has made a material allegation contrary to fact or has made a misrepresentation of material fact and that such concealment, allegation or misrepresentation was material to the acceptance of the risk by the insurer;

- (vii) 40 P.S. §991.2006, which requires that cancellation by an insurer of a policy of automobile insurance shall not be effective unless the insurer delivers or mails to the insured a written notice of the cancellation;
- (viii) 40 P.S. §991.2006(3), which requires an insurer to deliver or mail to the named insured a cancellation notice or refusal to renew and state the specific reason or reasons of the insurer;
- (ix) 40 P.S. §991.2008(b), 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;
- (x) 40 P.S. §1171.5(a)(10)(iii), which prohibits failing to adopt and implement reasonable standards for the prompt investigation of claims arising under insurance policies;
- (xi) 40 P.S. §1171.5(a)(10)(vi), which states any of the following acts, if committed or performed with such frequency as to indicate a business practice, shall constitute unfair claim settlement or compromise practices: Not attempting in

good faith to effectuate prompt, fair and equitable settlements of claims in which the company's liability under the policy has become reasonably clear;

- (xii) 40 P.S. §1184, which requires every insurer to file with the Insurance Commissioner every manual of classifications, rules and rates, every rating plan and every modification of any rating plan which it proposes to use in this Commonwealth and prohibits an insurer from making or issuing a contract or policy with rates other than those approved;
  
- (xiii) 31 Pa. Code §62.3(e)(7), which states the appraiser is responsible for ensuring that a copy of the total loss evaluation report be sent within 5 working days to the consumer by the appraiser after the appraisal is completed. If a settlement offer is extended before the consumer receives the total loss evaluation report, the consumer shall be advised of the total loss evaluation report's contents and of the consumer's right to be sent a copy within 5 days after its completion;
  
- (xiv) 31 Pa. Code §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;

- (xv) 31 Pa. Code §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;
- (xvi) 31 Pa. Code §146.6, which states that if an investigation cannot be completed within 30 days, and every 45 days thereafter, the insurer shall provide the claimant with a reasonable written explanation for the delay and state when a decision on the claim may be expected;
- (xvii) 75 Pa. C.S. §1705(a)(4), 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;
- (xviii) 75 Pa. C.S. §1716, states 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;

- (xix) 75 Pa. C.S. §1731(b)&(c), which requires the named insured to be informed that he may reject uninsured and underinsured motorist coverage by signing a written rejection form;
- (xx) 75 Pa. C.S. §1731(c)(1), which states on policies in which either uninsured or underinsured motorist coverage has been rejected, the policy renewals must contain notice in prominent type that the policy does not provide protection against damages caused by uninsured or underinsured motorists;
- (xxi) 75 Pa. C.S. §1791, which states it shall be presumed that the insured has been advised of the benefits available under this chapter provided the notice is given to the insured at time of application;
- (xxii) 75 Pa. C.S. §1791.1(a), 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;

(xxiii) 75 Pa. C.S. §1791.1(b), 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;

(xxiv) 75 Pa. C.S. §1793(b), 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;

(xxv) 75 Pa. C.S. §1799.2(a), which requires insurers to provide a premium discount for each motor vehicle on a policy under which all named insureds are 55 years of age or older and have successfully completed a motor vehicle driver improvement course meeting the standards of the Department of Transportation. This discount shall apply to all coverages for all policy periods beginning within the three-year period immediately following the successful completion of the course and shall be provided by the Commissioner as part of the insurer's rate filing, provided that such discount shall not be less than 5%.

(xxvi) 75 Pa. C.S. §1799.3(d), 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;

#### CONCLUSIONS OF LAW

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

- (a) Respondent is subject to the jurisdiction of the Pennsylvania Insurance Department.
- (b) Respondent's violations of 40 P.S. §§310.71 and 310.41(a) are punishable by the following, under (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 §§991.2001, 991.2002(c)(3), 991.2004, 991.2006, 991.2006(3) and 991.2008(b) 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 40 P.S. §§1171.5(a)(10)(iii) and 1171.5(a)(10)(vi) are punishable by the following, under Section 9 of the Unfair Insurance Practices Act (40 P.S. §1171.9):
  - (i) cease and desist from engaging in the prohibited activity;
  - (ii) suspension or revocation of the license(s) of Respondent.
  
- (e) In addition to any penalties imposed by the Commissioner for Respondent's violations of 40 P.S. §§1171.5(a)(10)(iii) and 1171.5(a)(10)(vi), the Commissioner may, under Sections 10 and 11 of the Unfair Insurance Practices Act (40 P.S. §§1171.10, 1171.11) file an action in which the Commonwealth Court may impose the following civil penalties:
  - (i) for each method of competition, act or practice which the company knew or should have known was in violation of the law, a penalty of not more than five thousand dollars (\$5,000.00);



- (ii) for each method of competition, act or practice which the company did not know nor reasonably should have known was in violation of the law, a penalty of not more than one thousand dollars (\$1,000.00).
  
- (f) Respondent's violations of 31 Pa. Code §146.6 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.
  
- (g) In addition to any penalties imposed by the Commissioner for Respondent's violations of 31 Pa. Code §146.6, 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 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) Respondents shall pay One Hundred Twenty Five Thousand Dollars (\$125,000.00) to the Pennsylvania Insurance Department of which One Hundred Thousand Dollars (\$100,000) is in settlement of all violations identified during the examination, and Twenty Five Thousand Dollars (\$25,000) is for reimbursement to the Department for costs and expenditure of resources associated with the exam.
- (c) Payment of this matter shall be made by check payable to the Pennsylvania Insurance Department. Payment should be directed to April Phelps, Insurance Department, Bureau of Market Actions, 1227 Strawberry Square, Harrisburg, Pennsylvania 17120. Payment must be made no later than thirty (30) days after the date of this Order.
- (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) After a period of 18 months from the date of this Order, Respondent shall be examined to verify corrective actions have been implemented. The experience period of the re-exam shall be one year and not begin any sooner than 6 months from the date of this Order.
- (f) 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: ACCESS INSURANCE COMPANY,  
Respondent

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

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

  
\_\_\_\_\_  
ARTHUR F. MCNULTY  
Deputy Insurance Commissioner  
Commonwealth of Pennsylvania

## I. INTRODUCTION

The market conduct examination was conducted at Access Insurance Company's office located in Atlanta, Georgia, from September 16, 2013, through September 27, 2013. 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.

Constance L. Arnold, MCM  
Market Conduct Division Chief  
Pennsylvania Insurance Department

Kelly Krakowski  
Market Conduct Examiner  
Pennsylvania Insurance Department

Karen Veronikis  
Market Conduct Examiner  
Pennsylvania Insurance Department

James R Myers, MCM  
Market Conduct Examiner  
INS Regulatory Insurance Services

June A Coleman, MCM  
Market Conduct Examiner  
INS Regulatory Insurance Services

## II. SCOPE OF EXAMINATION

The Market Conduct Examination was conducted on Access Insurance Company, hereinafter referred to as “Company,” at their office located in Atlanta, Georgia. 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, 2011, through June 30, 2012, unless otherwise noted. The purpose of the examination was to determine the Company’s compliance with Pennsylvania insurance laws and regulations.

The examination focused on Company operations in the following areas:

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

### III. COMPANY HISTORY AND LICENSING

Access Insurance Company was incorporated under the laws of Texas, on December 5, 1945, as Lawyers Surety Corporation and commenced business on January 1, 1946. The name was changed to Century American Casualty Company on November 4, 1994. The current title was adopted in October 2004.

#### LICENSING

Access Insurance Company's Certificate of Authority to write business in the Commonwealth was last issued on April 1, 2014. The Company is licensed in Alabama, Arizona, Arkansas, California, Delaware, Florida, Georgia, Indiana, Kentucky, Louisiana, Mississippi, Missouri, Montana, Nevada, New Mexico, North Carolina, Oklahoma, Oregon, Pennsylvania, South Carolina, Tennessee and Texas. The Company's 2012 annual statement reflects Direct Written Premium for all lines of business in the Commonwealth of Pennsylvania as \$14,593,965. Premium volume related to the areas of this review was: Other Private Passenger Auto Liability \$14,328,512 and Private Passenger Auto Physical Damage \$265,453.



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

As part of the examination, the Company was requested to supply manuals, underwriting guides, bulletins, directives or other forms of underwriting procedure communications for each line of business being reviewed. Underwriting guides were furnished for private passenger automobile. The purpose of this review was to identify any inconsistencies which could be considered discriminatory, specifically prohibited by statute or regulation, or unusual in nature.

No violations were noted.

## V. UNDERWRITING

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

#### **1. 60-Day Cancellations**

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

The primary purpose of the review was to determine compliance with Act 68, Section 2003 (40 P.S. §991.2003), which establishes conditions under which action by the insurer is prohibited. These files were also reviewed for compliance with Act 68, Section 2002(c)(3) (40 P.S. §991.2002(c)(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 3,274 private passenger automobile policies cancelled within the first 60 days of new business, 50 files were selected for review. All 50 files were received and reviewed. The 40 violations noted were based on 40 files, resulting in an error ratio of 80%.

The following findings were made:

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

*Adjudication: Nguyen/Old Guard, P01-01-019 (2001)*

Requires that an insurer supply the insured with a written statement of the reason for cancellation. The 17 files noted were policies cancelled within the first 60 days of new business inception date and were sent a nonpayment

cancellation notice when premium was not yet due; no notice was provided after payment due, but not made.

*23 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 23 files noted were the result of the Company not providing a specific reason for the cancellation.

2. Midterm Cancellations

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

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

From the universe of 19,552 private passenger automobile files identified as midterm cancellations by the Company, 300 files were selected for review. All 300 files were received and reviewed. The 196 violations noted were based 196 files, resulting in an error ratio of 65%.

The following findings were made:

*196 Violations 40 P.S. §991.2004*

*40 P.S. §991.2001*

*Adjudication: Nguyen/Old Guard, P01-01-019 (2001)*

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 196 files noted resulted in the Company sending a nonpayment cancellation notice when premium was not yet due.

### 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 787 private passenger automobile policies which were nonrenewed during the experience period, 100 files were selected for

review. All 100 files requested were received and reviewed. The 52 violations noted were based on 52 files, resulting in an error ratio of 52%.

The following findings were made:

*5 Violations 40 P.S. §991.2006*

Requires that nonrenewal by an insurer of a policy of automobile insurance shall not be effective unless the insurer delivers or mails to the insured a written notice of the nonrenewal. The five (5) files noted did not contain any evidence that a nonrenewal notice was sent to the insured.

*47 Violations 40 P.S. §991.2006(3)*

Requires an insurer to deliver or mail to the named insured a cancellation notice and state the specific reason or reasons of the insurer for the cancellation. The 47 files noted resulted in cancellation notices being issued without a specific reason for the cancellation.

## 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 that 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 to 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 8,986 private passenger automobile policies identified as new business without surcharges by the Company, 50 files were selected for review. All 50 files were received and reviewed. The 70,961 violations noted were based on the universe of 8,986 files, resulting in an error ratio of 100%.

The following findings were made:

*23 Violations 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 in a standardized form as adopted by the Commissioner. The Company failed to provide a signed limited tort form for the 23 files noted.

*24 Violations 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 24 files noted did not contain signed rejection forms for uninsured and underinsured motorist coverages.

*8,986 Violations 75 Pa. C.S. §1791*

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

*8,986 Violations 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.

*8,986 Violations 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 failed to provide the surcharge disclosure plan at the time of application with the estimated amount of increase.

*8,986 Violations 40 P.S. §1184*

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



plan, which it proposes to use in the Commonwealth. Also, no insurer shall make or issue a contract or policy except in accordance with filings or rates, which are in effect at the time of issue. The Company failed to rate the 8,986 files noted in accordance with their filed and approved rating plan regarding the application of The Early Shopper Discount, Domestic Partner Discount, Prior Coverage Discount, Carpool/Public Transportation Discount and Paperless/EFT Discount.

*31 Violations 40 P.S. §1184*

Requires every insurer to file with the Insurance Commissioner every manual of classifications, rules and rates, every rating plan and every modification of any rating plan, which it proposes to use in the Commonwealth. Also, no insurer shall make or issue a contract or policy except in accordance with filings or rates, which are in effect at the time of issue. The Company failed to rate the 31 files noted in accordance with their filed and approved rating plan regarding the application of Daytime Running Lights Discount resulting in overcharges of \$1,970.

*4,096 Violations 40 P.S. §1184*

Requires every insurer to file with the Insurance Commissioner every manual of classifications, rules and rates, every rating plan and every modification of any rating plan, which it proposes to use in the Commonwealth. Also, no insurer shall make or issue a contract or policy except in accordance with filings or rates, which are in effect at the

time of issue. The Company failed to rate the 4,096 files noted in accordance with their filed and approved rating plan regarding the application of surcharges for foreign drivers licenses. The Company did not present the amount of undercharges to the Department.

*8,986 Violations 40 P.S. §1184*

Requires every insurer to file with the Insurance Commissioner every manual of classifications, rules and rates, every rating plan and every modification of any rating plan, which it proposes to use in the Commonwealth. Also, no insurer shall make or issue a contract or policy except in accordance with filings or rates, which are in effect at the time of issue. The Company failed to rate the 8,986 files noted in accordance with their filed and approved rating plan regarding the rounding of premium charges. The Company did not present the amount of overcharges and undercharges to the Department.

*8,986 Violations 40 P.S. §1184*

Requires every insurer to file with the Insurance Commissioner every manual of classifications, rules and rates, every rating plan and every modification of any rating plan, which it proposes to use in the Commonwealth. Also, no insurer shall make or issue a contract or policy except in accordance with filings or rates, which are in effect at the time of issue. The Company failed to rate the 8,986 files noted in accordance with their filed and approved rating plan by not following the order of rating. The Company did not

present the amount of overcharges and undercharges to the Department.

*4,306 Violations 40 P.S. §1184*

Requires every insurer to file with the Insurance Commissioner every manual of classifications, rules and rates, every rating plan and every modification of any rating plan, which it proposes to use in the Commonwealth. Also, no insurer shall make or issue a contract or policy except in accordance with filings or rates, which are in effect at the time of issue. The Company failed to rate the 4,306 files noted in accordance with their filed and approved rating plan regarding the application of transfer discounts applied contrary to the questions answered on the application. The Company did not present the amount of overcharges and undercharges to the Department.

*4,282 Violations 40 P.S. §1184*

Requires every insurer to file with the Insurance Commissioner every manual of classifications, rules and rates, every rating plan and every modification of any rating plan, which it proposes to use in the Commonwealth. Also, no insurer shall make or issue a contract or policy except in accordance with filings or rates, which are in effect at the time of issue. The Company failed to rate the 4,282 files noted in accordance with their filed and approved rating plan regarding the application of homeowner discounts applied contrary to the questions answered on the application. The

Company did not present the amount of overcharges and undercharges to the Department.

*4,282 Violations 40 P.S. §1184*

Requires every insurer to file with the Insurance Commissioner every manual of classifications, rules and rates, every rating plan and every modification of any rating plan, which it proposes to use in the Commonwealth. Also, no insurer shall make or issue a contract or policy except in accordance with filings or rates, which are in effect at the time of issue. The Company failed to rate the 4,282 files noted in accordance with their filed and approved rating plan regarding the application rental insurance discounts. The Company did not present the amount of overcharges and undercharges to the Department.

*1 Violation 40 P.S. §1184*

*75 Pa. C.S. §1799.2(a)*

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. In addition, the application of the driver improvement course discount shall apply to all coverages. The Company failed to rate the file noted by not applying the driver improvement discount to all coverages resulting in an overcharge of \$2.

**CONCERN:** The Company's private passenger auto application did not contain questions to determine if an applicant would qualify for filed and approved discounts. The concern is that some policyholders may not have received credit when they are eligible for discounts. The Company should revise the application to include questions regarding the applicant's qualification for filed and approved discounts or implement new procedures to ensure all discounts approved are appropriately applied.

**CONCERN:** The notice regarding collision damage to rental vehicles was located on the policy jacket. The notice should appear on the Declaration page.

**CONCERN:** The fraud warning used on some policy applications was incorrectly labeled as 75 Pa. C.S. § 1822. The language needs to be changed to match the cite or the cite changed to match the language.

Private Passenger Automobile – New Business with Surcharges

From the universe of 1,571 private passenger automobile policies identified as new business with surcharges by the Company, 75 files were selected for review. All 75 files were received and reviewed. The 12,321 violations noted were based on the universe of 1,571 files, resulting in an error ratio of 100%.

The following findings were made:

*44 Violations 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. The Company failed to provide a signed limited tort form for the 44 files noted.

*49 Violations 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 49 files noted did not contain signed rejection forms for uninsured and underinsured motorist coverages.

*1,571 Violations 75 Pa. C.S. §1791*

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

*1,571 Violations 75 Pa. C.S. §1791.1(b)*

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

*1,571 Violations 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 failed to provide the surcharge disclosure plan at the time of application with the estimated amount of increase.

*1,571 Violations 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 1,571 files noted were the result of the Company not providing the required surcharge disclosure statement on the premium notice.

*1,571 Violations 40 P.S. §1184*

Requires every insurer to file with the Insurance Commissioner every manual of classifications, rules and rates, every rating plan and every modification of any rating plan, which it proposes to use in the Commonwealth. Also, no insurer shall make or issue a contract or policy except in accordance with filings or rates, which are in effect at the time of issue. The Company failed to rate the 1,571 files

noted in accordance with their filed and approved rating plan regarding the application of The Early Shopper Discount, Domestic Partner Discount, Prior Coverage Discount, Carpool/Public Transportation Discount and Paperless/EFT Discount.

*10 Violations 40 P.S. §1184*

Requires every insurer to file with the Insurance Commissioner every manual of classifications, rules and rates, every rating plan and every modification of any rating plan, which it proposes to use in the Commonwealth. Also, no insurer shall make or issue a contract or policy except in accordance with filings or rates, which are in effect at the time of issue. The Company failed to rate the 10 files noted in accordance with their filed and approved rating plan regarding the application Daytime Running Lights discounts resulting in overcharges of \$592.

*18 Violations 40 P.S. §1184*

Requires every insurer to file with the Insurance Commissioner every manual of classifications, rules and rates, every rating plan and every modification of any rating plan, which it proposes to use in the Commonwealth. Also, no insurer shall make or issue a contract or policy except in accordance with filings or rates, which are in effect at the time of issue. The Company failed to rate the 18 files noted in accordance with their filed and approved rating plan regarding the application of surcharges for foreign drivers



licenses. The Company did not present the amount of undercharges to the Department.

*1,571 Violations 40 P.S. §1184*

Requires every insurer to file with the Insurance Commissioner every manual of classifications, rules and rates, every rating plan and every modification of any rating plan, which it proposes to use in the Commonwealth. Also, no insurer shall make or issue a contract or policy except in accordance with filings or rates, which are in effect at the time of issue. The Company failed to rate the 1,571 files noted in accordance with their filed and approved rating plan regarding the rounding of premium charges. The Company did not present the amount of overcharges or undercharges to the Department.

*1,571 Violations 40 P.S. §1184*

Requires every insurer to file with the Insurance Commissioner every manual of classifications, rules and rates, every rating plan and every modification of any rating plan, which it proposes to use in the Commonwealth. Also, no insurer shall make or issue a contract or policy except in accordance with filings or rates, which are in effect at the time of issue. The Company failed to rate the 1,571 files noted in accordance with their filed and approved rating plan by not following the order of rating. The Company did not present the amount of overcharges and undercharges to the Department.

*759 Violations 40 P.S. §1184*

Requires every insurer to file with the Insurance Commissioner every manual of classifications, rules and rates, every rating plan and every modification of any rating plan, which it proposes to use in the Commonwealth. Also, no insurer shall make or issue a contract or policy except in accordance with filings or rates, which are in effect at the time of issue. The Company failed to rate the 759 files noted in accordance with their filed and approved rating plan regarding the application of transfer discounts applied contrary to the questions answered on the application. The Company did not present the amount of overcharges and undercharges to the Department.

*222 Violations 40 P.S. §1184*

Requires every insurer to file with the Insurance Commissioner every manual of classifications, rules and rates, every rating plan and every modification of any rating plan, which it proposes to use in the Commonwealth. Also, no insurer shall make or issue a contract or policy except in accordance with filings or rates, which are in effect at the time of issue. The Company failed to rate the 222 files noted in accordance with their filed and approved rating plan regarding the application of homeowner discounts applied contrary to the questions answered on the application. The Company did not present the amount of overcharges and undercharges to the Department.

*222 Violations 40 P.S. §1184*

Requires every insurer to file with the Insurance Commissioner every manual of classifications, rules and rates, every rating plan and every modification of any rating plan, which it proposes to use in the Commonwealth. Also, no insurer shall make or issue a contract or policy except in accordance with filings or rates, which are in effect at the time of issue. The Company failed to rate the 222 files noted in accordance with their filed and approved rating plan regarding the application rental insurance discounts. The Company did not present the amount of overcharges and undercharges to the Department.

**CONCERN:** The Company's private passenger auto application did not contain questions to determine if an applicant would qualify for filed and approved discounts. The concern is that some policyholders may not have received credit when they are eligible for discounts. The Company should revise the application to include questions regarding the applicant's qualification for filed and approved discounts or implement new procedures to ensure all discounts approved are appropriately applied.

**CONCERN:** The notice regarding collision damage to rental vehicles was located on the policy jacket. The notice should appear on the Declaration page.

**CONCERN:** The fraud warning used on some policy applications was incorrectly labeled as 75 Pa. C.S. § 1822. The language needs to be changed to match the cite or the cite changed to match the language.

## 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 8,104 private passenger automobile policies identified as renewals without surcharges, 25 files were selected for review. All 25 files requested were received and reviewed. The 61,930 violations noted were based on the universe of 8,104 files, resulting in an error ratio of 100%.

The following findings were made:

#### *8,104 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 you to purchase liability and first-party medical benefit coverages. Any additional coverage or coverages in excess of the limits required by law are provided only at your request as enhancements to basic coverages.” The insurer shall provide the itemized invoice to the insured in conjunction with the declaration of coverage limits and premiums for the insured’s existing coverages. The Company failed to provide the itemized invoice in conjunction with the renewal declaration of coverages.

*8,104 Violations 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 renewal.

*8,104 Violations 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 failed to provide the surcharge disclosure plan with the estimated amount of increase at renewal.

*8,104 Violations 40 P.S. §1184*

Requires every insurer to file with the Insurance Commissioner every manual of classifications, rules and rates, every rating plan and every modification of any rating plan, which it proposes to use in the Commonwealth. Also, no insurer shall make or issue a contract or policy except in accordance with filings or rates, which are in effect at the time of issue. The Company failed to rate the 8,104 files noted in accordance with their filed and approved rating plan regarding the application of The Early Shopper Discount, Domestic Partner Discount, Prior Coverage Discount,

Carpool/Public Transportation Discount and Paperless/EFT Discount.

*35 Violations 40 P.S. §1184*

Requires every insurer to file with the Insurance Commissioner every manual of classifications, rules and rates, every rating plan and every modification of any rating plan, which it proposes to use in the Commonwealth. Also, no insurer shall make or issue a contract or policy except in accordance with filings or rates, which are in effect at the time of issue. The Company failed to rate the 35 files noted in accordance with their filed and approved rating plan regarding the application Daytime Running Lights discounts resulting in overcharges of \$2,196.

*4,779 Violations 40 P.S. §1184*

Requires every insurer to file with the Insurance Commissioner every manual of classifications, rules and rates, every rating plan and every modification of any rating plan, which it proposes to use in the Commonwealth. Also, no insurer shall make or issue a contract or policy except in accordance with filings or rates, which are in effect at the time of issue. The Company failed to rate the 4,779 files noted in accordance with their filed and approved rating plan regarding the application of surcharges for foreign drivers licenses. The Company did not present the amount of undercharges to the Department.

*8,104 Violations 40 P.S. §1184*

Requires every insurer to file with the Insurance Commissioner every manual of classifications, rules and rates, every rating plan and every modification of any rating plan, which it proposes to use in the Commonwealth. Also, no insurer shall make or issue a contract or policy except in accordance with filings or rates, which are in effect at the time of issue. The Company failed to rate the 8,104 files noted in accordance with their filed and approved rating plan regarding the rounding of premium charges. The Company did not present the amount of overcharges and undercharges to the Department.

*8,104 Violations 40 P.S. §1184*

Requires every insurer to file with the Insurance Commissioner every manual of classifications, rules and rates, every rating plan and every modification of any rating plan, which it proposes to use in the Commonwealth. Also, no insurer shall make or issue a contract or policy except in accordance with filings or rates, which are in effect at the time of issue. The Company failed to rate the 8,104 files noted in accordance with their filed and approved rating plan by not following the order of rating. The Company did not present the amount of overcharges and undercharges to the Department.

*2,183 Violations 40 P.S. §1184*

Requires every insurer to file with the Insurance Commissioner every manual of classifications, rules and



rates, every rating plan and every modification of any rating plan, which it proposes to use in the Commonwealth. Also, no insurer shall make or issue a contract or policy except in accordance with filings or rates, which are in effect at the time of issue. The Company failed to rate the 2,183 files noted in accordance with their filed and approved rating plan regarding the application of transfer discounts applied contrary to the questions answered on the application. The Company did not present the amount of overcharges and undercharges to the Department.

*3,154 Violations 40 P.S. §1184*

Requires every insurer to file with the Insurance Commissioner every manual of classifications, rules and rates, every rating plan and every modification of any rating plan, which it proposes to use in the Commonwealth. Also, no insurer shall make or issue a contract or policy except in accordance with filings or rates, which are in effect at the time of issue. The Company failed to rate the 3,154 files noted in accordance with their filed and approved rating plan regarding the application of homeowner discounts applied contrary to the questions answered on the application. The Company did not present the amount of overcharges and undercharges to the Department.

*3,154 Violations 40 P.S. §1184*

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

plan, which it proposes to use in the Commonwealth. Also, no insurer shall make or issue a contract or policy except in accordance with filings or rates, which are in effect at the time of issue. The Company failed to rate the 3,154 files noted in accordance with their filed and approved rating plan regarding the application rental insurance discounts. The Company did not present the amount of overcharges and undercharges to the Department.

*1 Violation 40 P.S. §1184*

*75 Pa. C.S. §1799.2(a)*

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. In addition, the application of the driver improvement course discount shall apply to all coverages. The Company failed to rate the file noted by not applying the driver improvement discount to all coverages resulting in an overcharge of \$3.

**CONCERN:** The Company's private passenger auto application did not contain questions to determine if an applicant would qualify for filed and approved discounts. The concern is that some policyholders may not have received credit when they are eligible for discounts. The Company should revise the application to include questions regarding the applicant's

qualification for filed and approved discounts or implement new procedures to ensure all discounts approved are appropriately applied.

**CONCERN:** The notice regarding collision damage to rental vehicles was located on the policy jacket. The notice should appear on the Declaration page.

Private Passenger Automobile – Renewals With Surcharges

From the universe of 193 private passenger automobile policies identified as renewals with surcharges, 50 files were selected for review. All 50 files requested were received and reviewed. The 1,603 violations noted were based on the universe of 193 files, resulting in an error ratio of 100%.

The following findings were made:

*193 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 you to purchase liability and first-party medical benefit coverages. Any additional coverage or coverages in excess of the limits required by law are provided only at your request as enhancements to basic coverages.” The insurer

shall provide the itemized invoice to the insured in conjunction with the declaration of coverage limits and premiums for the insured's existing coverages. The Company failed to provide the itemized invoice in conjunction with the renewal declaration of coverages.

*193 Violations 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 renewal.

*193 Violations 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 failed to provide the surcharge disclosure plan with the estimated amount of increase at renewal.

*193 Violations 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 193 violations were the result of the Company failing to show the amount of surcharge and the reason for the driver record points for accidents and traffic violations.

*193 Violations 40 P.S. §1184*

Requires every insurer to file with the Insurance Commissioner every manual of classifications, rules and rates, every rating plan and every modification of any rating plan, which it proposes to use in the Commonwealth. Also, no insurer shall make or issue a contract or policy except in accordance with filings or rates, which are in effect at the time of issue. The Company failed to rate the 193 files noted in accordance with their filed and approved rating plan regarding the application of The Early Shopper Discount, Domestic Partner Discount, Prior Coverage Discount, Carpool/Public Transportation Discount and Paperless/EFT Discount.

*1 Violation 40 P.S. §1184*

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

accordance with their filed and approved rating plan regarding the application Daytime Running Lights discounts resulting in an overcharge of \$85.

*6 Violations 40 P.S. §1184*

Requires every insurer to file with the Insurance Commissioner every manual of classifications, rules and rates, every rating plan and every modification of any rating plan, which it proposes to use in the Commonwealth. Also, no insurer shall make or issue a contract or policy except in accordance with filings or rates, which are in effect at the time of issue. The Company failed to rate the six (6) files noted in accordance with their filed and approved rating plan regarding the application of surcharges for foreign drivers licenses. The Company did not present the amount of undercharges to the Department.

*193 Violations 40 P.S. §1184*

Requires every insurer to file with the Insurance Commissioner every manual of classifications, rules and rates, every rating plan and every modification of any rating plan, which it proposes to use in the Commonwealth. Also, no insurer shall make or issue a contract or policy except in accordance with filings or rates, which are in effect at the time of issue. The Company failed to rate the 193 files noted in accordance with their filed and approved rating plan regarding the rounding of premium charges. The Company did not present the amount of overcharges and undercharges to the Department.

*193 Violations 40 P.S. §1184*

Requires every insurer to file with the Insurance Commissioner every manual of classifications, rules and rates, every rating plan and every modification of any rating plan, which it proposes to use in the Commonwealth. Also, no insurer shall make or issue a contract or policy except in accordance with filings or rates, which are in effect at the time of issue. The Company failed to rate the 193 files noted in accordance with their filed and approved rating plan by not following the order of rating. The Company did not present the amount of overcharges and undercharges to the Department.

*64 Violations 40 P.S. §1184*

Requires every insurer to file with the Insurance Commissioner every manual of classifications, rules and rates, every rating plan and every modification of any rating plan, which it proposes to use in the Commonwealth. Also, no insurer shall make or issue a contract or policy except in accordance with filings or rates, which are in effect at the time of issue. The Company failed to rate the 64 files noted in accordance with their filed and approved rating plan regarding the application of transfer discounts applied contrary to the questions answered on the application. The Company did not present the amount of overcharges and undercharges to the Department.

*90 Violations 40 P.S. §1184*

Requires every insurer to file with the Insurance Commissioner every manual of classifications, rules and rates, every rating plan and every modification of any rating plan, which it proposes to use in the Commonwealth. Also, no insurer shall make or issue a contract or policy except in accordance with filings or rates, which are in effect at the time of issue. The Company failed to rate the 90 files noted in accordance with their filed and approved rating plan regarding the application of homeowner discounts applied contrary to the questions answered on the application. The Company did not present the amount of overcharges and undercharges to the Department.

*90 Violations 40 P.S. §1184*

Requires every insurer to file with the Insurance Commissioner every manual of classifications, rules and rates, every rating plan and every modification of any rating plan, which it proposes to use in the Commonwealth. Also, no insurer shall make or issue a contract or policy except in accordance with filings or rates, which are in effect at the time of issue. The Company failed to rate the 90 files noted in accordance with their filed and approved rating plan regarding the application rental insurance discounts. The Company did not present the amount of overcharges and undercharges to the Department.



*1 Violation 40 P.S. §1184*

*75 Pa. C.S. §1799.2(a)*

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. In addition, the application of the driver improvement course discount shall apply to all coverages. The Company failed to rate the file noted by not applying the driver improvement discount to all coverages resulting in an overcharge of \$2.

**CONCERN:** The Company's private passenger auto application did not contain questions to determine if an applicant would qualify for filed and approved discounts. The concern is that some policyholders may not have received credit when they are eligible for discounts. The Company should revise the application to include questions regarding the applicant's qualification for filed and approved discounts or implement new procedures to ensure all discounts approved are appropriately applied.

**CONCERN:** The notice regarding collision damage to rental vehicles was located on the policy jacket. The notice should appear on the Declaration page.

## 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 31 Pa. 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) of the Unfair Insurance Practices Act (40 P.S. §1171.5(a)(10)(vi)).

### **A. Automobile Property Damage Claims**

From the universe of 2,983 private passenger automobile property damage claims reported during the experience period, 150 files were selected for review. All 150 files were received and reviewed. The six (6) violations noted were based on four (4) files, resulting in an error ratio of 3%.

The following findings were made:

*4 Violations 31 Pa. Code §146.6*

Every insurer shall complete investigation of a claim within 30 days after notification of the claim, unless such investigation cannot reasonably be completed within 30 days, and every 45 days thereafter, the insurer shall provide the claimant with a reasonable written explanation for the delay and state when a decision on the claim may be expected. The Company did not provide timely status letters for the four (4) claims noted.

*1 Violation 40 P.S. §1171.5(a)(10)(iii)*

Any of the following acts if committed or performed with such frequency as to indicate a business practice shall constitute unfair claim settlement or compromise practices: Failing to adopt and implement reasonable standards for the prompt investigation of claims arising under insurance policies. The Company failed to implement prompt investigation of the claim noted.

*1 Violation 40 P.S. §1171.5(a)(10)(vi)*

Any of the following acts if committed or performed with such frequency as to indicate a business practice shall constitute unfair claim settlement or compromise practices: Not attempting in good faith to effectuate prompt, fair and equitable settlements of claims in which the company's liability under the policy has become reasonably clear. The Company failed to effectuate prompt claim settlement on the claim noted.

## **B. Automobile Comprehensive Claims**

The universe of 13 private passenger automobile comprehensive claims reported during the experience period was selected for review. All 13 files were received and reviewed. Of the 13 files reviewed, 11 files were closed without payment. Of the 11 files closed without payment, three (3) were opened as comprehensive claims but were, in reality, collision claims. No violations were noted.

## **C. Automobile Collision Claims**

From the universe of 49 private passenger automobile collision claims reported during the experience period, 25 files were selected for review. All 25 files were received and reviewed. Of the 25 files reviewed, 19 files were closed without payment. Of the 19 files closed without payment, seven (7) were due to no collision coverage on the vehicle involved in the claim. No violations were noted.

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

From the universe of 115 private passenger automobile total loss claims reported during the experience period, 25 files were selected for review. All 25 files were received and reviewed. The five (5) violations noted were based on (5) files, resulting in an error ratio of 20%.

The following findings were made:

### *5 Violations 31 Pa. Code §62.3(e)(7)*

The appraiser is responsible for ensuring that a copy of the total loss evaluation report be sent within 5 working days to the consumer by the appraiser after the appraisal is completed. If a settlement offer is extended before the

consumer receives the total loss evaluation report, the consumer shall be advised of the total loss evaluation report's contents and of the consumer's right to be sent a copy within 5 days after its completion. The Company did not provide a copy of the total loss evaluation to the insured within five (5) working days for the 5 claims noted.

#### **E. Automobile First Party Medical Claims**

From the universe of 469 private passenger automobile first party medical claims reported during the experience period, 75 files were selected for review. All 75 files were received and reviewed. The four (4) violations noted were based on three (3) files, resulting in an error ratio of 4%.

The following findings were made:

##### *2 Violations 31 Pa. Code §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 Company did not provide evidence that a notice of exhausted limits was sent to the insured in the two (2) claims noted.

##### *1 Violation 31 Pa. Code §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 failed to pay the medical bill within 30 days for the claim noted.

*1 Violation 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 failed to pay interest on a claim that was not paid within 30 days.

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

Although the Company did not report any automobile first party medical claims referred to a peer review organization, the Company was asked to provide copies of all written contracts it has in place with a peer review organization. The Company provided a written contract with an approved peer review organization. No violations were noted.

### VIII. FORMS

Throughout the course of the examination, all underwriting files were reviewed to identify the policy forms used in order to verify compliance with 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.

The following finding was made:

*1 Violation 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, on separate sheets that the policy does not provide protection against damages caused by uninsured or underinsured motorists. The policy renewal did not reflect the notice on separate sheets as required.

## *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 advised that there was no advertising used during the experience period. The Company's website 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 also identified 11 consumer complaints received during the experience period and provided all consumer complaint logs requested. The universe of 11 complaints was selected for review. All 11 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. §1171.5(a)(10)(iii)*

Any of the following acts if committed or performed with such frequency as to indicate a business practice shall constitute unfair claim settlement or compromise practices: Failing to adopt and implement reasonable standards for the prompt investigation of claims arising under insurance policies. The Company failed to implement prompt investigation of the claim noted.

*1 Violation 40 P.S. §1171.5(a)(10)(vi)*

Any of the following acts if committed or performed with such frequency as to indicate a business practice shall constitute unfair claim settlement or compromise practices: Not attempting in good faith to effectuate prompt, fair and equitable settlements of claims in which the company's liability under the policy has become reasonably clear. The Company failed to effectuate prompt claim settlement on the claim noted.

*1 Violation 31 Pa. Code §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.

AND

*40 P.S. §1171.5(a)(10)(iii)*

Any of the following acts if committed or performed with such frequency as to indicate a business practice shall constitute unfair claim settlement or compromise practices: Failing to adopt and implement reasonable standards for the prompt investigation of claims arising under insurance policies. The Company failed to provide status letters or implement prompt investigation of the claim noted.

The following synopsis reflects the nature of the 11 complaints that were reviewed.

• 9	Claims Related	82%
• 1	Cancellation	9%
• 1	Miscellaneous	9%
<hr/>		<hr/>
11		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(a) and Section 671-A of the Insurance Department Act No. of 1921, (40 P.S. §§310.41a(a), 310.71), 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 and rating files were checked to verify proper licensing and appointment.

The following findings were made:

### *2 Violations 40 P.S. §310.41a*

(a) Any insurance entity or licensee accepting applications or orders for insurance from any person or securing any insurance business that was sold, solicited or negotiated by any person acting without an insurance producer license shall be subject to civil penalty of no more than \$5,000.00 per violation in accordance with this act. This section shall not prohibit an insurer from accepting an insurance application directly from a consumer or prohibit the payment or receipt of referral fees in accordance with this act.

The following producers were found to be writing and /or soliciting policies but were not found in Insurance Department records as holding a Pennsylvania producer license.

A North Star Agency, Inc  
Kennett Tag & Insurance Agency

*557 Violations 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 \$15 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 the Company's 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.

Daniel Abiola	Andres Adames
Michael Alicea	Anita Allegrezza
Catherine Allen	Frederick Alston
Eric Amaefuna	Anthony Amen
David Anderson	Ysidro Arias
Zoraida Baer	Raul Baraballo
John Barnett	James Barton
Gregg Basile	Carlos Basista
Yuko "Donna" Bauder	Gary Baum
Eileen Beckstrand	Clayton Bell
Paul Bella	Mercedes Bello
Lamar Benner	Barbara Benton
William Benton Jr.	Daniel Bingaman
Mohamad Bisharat	Kevin Black
Travis Blake	Gregory Blewett
David Bluett	Bruce Blum
Kelly Bolden	Aldo Bonini
Stephen Borochaner	Jeffrey Boudier
Robert Brady	William Brenner
Chad Briggs	Michael Brown
Fred Brown	Kevin Bruce
Marc Bruckner	Lisa Bruckner
David Bruni	Rosalin Buckmon
Craig Burkey Sr.	Eddie Cao
Di Cao	Victor Carosella

Rodney Carson	Maria Carter
Mario Castillo	Jacqueline Csatislo
Norma Castro-Estrada	Dominic Cerami
Wade Chadassol	James Chapman
Eric Chmil	Tony Choi
Son Chon	Anne Christine Croisier
Rachel Christopher	Michael Chromiak
John Cochrane	Mark Cohen
Keith Coleman	Cheri Coleman
Jose Colon	Hugh Compton
John Concannon	Benjamin Coolbaugh
Donna Cox	Randall Crane
Samuel Cravotta	Paul Critchlow
Ryan Crothamel	Wilfredo Cruz
Richard D. Mason	Preston D. Joswiak
James Daley	Luu Dang
Benjamin David Schaefer	Mia Davis
Lydia Davis	Joyce Dawson
Ryan Dean Gebhard	Lorri Deavor
Melissa Deen Martin	John Derfler
John Devlin	Amrit Dhaliwal
Anthony Dicredico	Vernon Dietz
Kathy Dietz	Mark DiGiamberdini
Gary Dijosie	Thomas Dillon
Silvio Dipietro	Andrea Dipietro
ThanhDoan	Timothy Dopson
Steven Dorsey	Michael Dortch
Adewale Dosunmu	Jacquelyn Dougherty
Debra Dreis	Marta Driscoll
Robert Dunn Jr.	Jose Duran
Sharon Louise Durkaj	Linda Dyche
John Dymond	Danne E. Dennis
Robert E. Kuzminski Jr.	Eric "Glen" Ebert
William Eckenroth Jr.	Heinz Eichert
Richard Einstein	Michael Engleman
Michael English	Ronald Ensinger
Eileen Ensinger	Janell Ensminger
Craig Erwin	Francis Evans
Glenn Evans	Jennifer Eynon
Andrew Farrara	Gerald Farrell
Heather Feeser	Jill Feldman
Gina Felix	William Fernald
John Ferullo	Jason Fidishun

Jeffrey Fisher	Thomas Florey
Amy Florey	Stephen Fogg
Dennis Foglia	Denise Foley
Frank Foma	Robert Fonaroff
Thomas Fontaine	James Ford
Stephen Frantz	Frank Froio
Ron Gaab	Betty Gabilanes
Richard Gallo	Olesia Garcia
Narinder Garg	Richard Garland
Wesley Garland	Melanie Garman-Shaffer
Trisha Garrido	Edwin Gaul
David Gebhard Jr.	David Gebhard Sr.
Carl Gerlach	Steven Gilber
Patricia Gildein	Rosemarie Giordano
Joseph Godlewski	Christopher Goebel
Chad Goetz	Maribelys Gonza
Steven Goodman	Cassandra Grant
Brian Grant	Michael Gratz
William Griffin	Kevin Griffin
Cal Griffin	Kimberly Grimm
Joseph Grisafi	Donald Gross
Trudy Grove	Elizabeth Grube
Mike Guerrini	Dolores Gulla
Anthony Gulla	Mark H. Preiss
Letitia Haines	Frances Haney
Kathy Haney	Judith Hanley
Ronald Hargust	Charles Harris
David Harris	Eileen Hartig
Dimitrios Hatzidais	William Hawthorne
James Heffers	David Heider
Dawn Heilman	James Heimbecke
Amanda Henny	Nicole Herncane
Andrew Hibsman	Joan Hill
Richard Hill	Patricia Hoggard
Bruce Holley	Greg Holt
Kip Hopkin	William Huck
Kathryn Hunter	Clifford Hutchens
Darlene Imbesi	Susan J. Colema
Henry Jackson	Richard Jacoby
Terri Jony	Dexter Jordan
Raymond Joyce	Ryan Judge
Patrick Jurado	Maya Kadyrova
Alimamy Kamara	Youngsock Kang



Anthony Kaniewski	Shirley Katz
Richard Keith	Elizabeth Kellyer
Duong King	James Kistler
Gregory Klick	Jeffrey Kline
Sandra Kowalewski	Bozena Kowalski
Jeffrey Kratz	Jacob Kratz
Joshua Kratz	Phillip Kikish
Marie Kurz	Kelly Labiak
Bruce Lachowicz	Richard Lachowicz Jr.
William Lander	Diane Lapidus
Carol Laudenslager	Gerald Laughlin
Christopher Laughlin	Patrick Lavelle Jr.
Jonathan Lazorko	Peggy Lee
Alex Lee	Vickie LeFevre
Barry Lefkowitz	Edward Lehman
Anthony Leonetti	Jennifer Leonetti
Steven Levin	Kathleen Levin
Donald Lewis	Kelvin Lewis
Leonard Lichty	Yalin Liu
Margaret Logan	Princess Lopsey
Mark Ludwig	Angel Luis Gonzalez
James Luning	Bill Lynam
Kathy Lynch	Kathleen M. Shoudt
Jude MacDonald	Steven Maggs
Thomas Magnus	Willie Manley
William Mann	Kristi Marie Katchik
Theresa Marie Richards	Irma Marin-Eras
Tatsiana Maroz	Robert Martin
Gene Mattia	Ross Mattis
Tracy Maynard	Stephen Mazzone
Melvin McCoy	Patricia McGinn
Anthony McGlawn	Sandra McGowan
Joseph A. McGuire III	Debbie Mchenry
Kathy McManus	Michael Medure
James Merril	Michele Michael-Mill
Jaclyn Mikuta	Leroy Miles
Angie Millan	Terri Miller
Sharon Miller	Craig Millison
Susan Mont	Donny Montano
Daniel Morton	Scott Moyer
Suzanne Mozaski	Tyronne Murray
Vincent Moscato	Michael Myer
Joseph Naples	Jennifer Nath

Laurie Nelligan	Michael Nelson
Alfred Newhard	Crystal Newhart
William Nice	Traci Nickens
Cedric Nipper	Linda Notaro
Joseph O'Hara	Joseph Olah
Lisa Oneil	Dennis O'Neill
Robert Ormsbee	LeeAnn Ormsbee
Klever Ortiz	Gary Orvieto
Charlene Outterbridge	Susan P. Triggs
Milagros Pabon	Michael Padgeon
Kimberly Paldino	Albert Pandolfo
Nicholas Pantelis	Anthony Parenti
Rosemary Park	Brenda Pastrana
Marlene Patitucci	John Patrick
Indira Paulino	Pascual Pena
Edwin Pena	Teresa Penna-Kneasel
Stacy Peoples	Vilen Perlovich
Nicholas Petridis	Anne Petrof
Stephen Pierce	Amahl Pitts
Steven Plesnar	Michael Polizzi
Santia Pons	Jusith Powell
David Pulieri	Dustin Queennan
Nick Ragan	Brian Rasmus
Clifford Raynor	John Reedy
Bob Refice	Lynette Ressler
Drew Revak	Lorraine Rhoades
John Rim	Josephine Rios
Oswaldo Rivera	Jennifer Robayo
William Ross Jr	Ron Rothenberge
Raul Ruiz	Larry Russman
Kathryn S. Ace	Rhonda S. Williams
Younis Sabir	Kandii Saddler-Moore
David Sagirashvili	Lamy Saint-Fleur
Yolanda Sanchez	Marino Saveri
James Sculley	E. Seapoe
Pamela Sebia	Alfonso Sebia
Susan Seidman	Marc Seidman
Jack Selsky	Duane Shaeffer
Larry Shaffer	Kirankumar Shah
Gary Shetter Jr.	Todd Shimko
Jessica Shrader	Melissa Simione
Paul Simperts	Tillman Sims
David Smith	Tyrone Smith

Susan Smith	Christopher Sniscaki
Keith Snyder	Karran Snyder
Henry Son	Anthony Spinelli
Jeffrey Spotts	Scott Stasko
Darlene Staudenmeier	Donna Stevenson
Mark Stevenson	Latisha Stevenson
Stephen Stewart	Harry Strauss
Angela Strauss	Walter Stump
Michael Suber	Carol Sutor
Frances Rebecca Tayoun	Pamela Tedesco
Eric Tedesco	Colleen Terra
John Thompson	Brian Tirpak
Jeffrey Toner	Carlina Torri
April Triggiani	Kim Troast-Singley
Todd Troxell	Robert Turley
Susan Turner	Ryan Tyrell
Francis Vahey	Ronnie Vandine
Milta Velez	Hiep Vo
Mark W Demsko	Linda Watmuff
Raymond Werner Stauder	John White
Antoinette White	Clinton Wiggins
Robert Wiggins	Robert N. Wiggins
Anthony Wiktor	Michelle Wiley
Barbara William	Paul William Kettering
Ralph Williams	Teresa Williams
Donna Williams	Monroe Williams
Tina Williams	Henry Wilson
Kenneth Wong	Beth Wright
Danny Wright	Larry Wright
Irene Yan	Fred Yoos
Dean Young	Thomas Young
Shelly Young	David Zane
Joseph Zappala	Christopher Zavawski
Hoakun Zheng	

## **XII. 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 on-site portion of the exam.

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

### **Comprehensive Claims**

**Situation:** As the examiners reviewed the comprehensive claim files, it was noted that claims were closed without payment. In reviewing the closed without payment files it was found that some were opened as comprehensive claims, closed, then reopened as collision claims.

**Finding:** Of the 13 files reviewed, 11 were closed without payment. Of the 11 files closed without payment, three of the files were opened as comprehensive claims but were, in reality, collision claims. This process of opening and closing a claim for the incorrect coverage is a concern due to reporting inaccurate data for the Company's Market Conduct Annual Statement (MCAS).

### **Collision Claims**

Situation: As the examiners reviewed the collision claim files, it was noted that files were closed without payment. In reviewing the closed without payment files, it was found that the claims were open due to no collision coverage on the vehicle involved in the claim.

Finding: Of the 25 files reviewed, 19 files were closed without payment. Of the 19 files closed without payment, 7 were due to no collision coverage on the vehicle involved in the claim. This process of opening and closing a claim for the incorrect coverage is a concern due to reporting inaccurate data for the Company's Market Conduct Annual Statement (MCAS).

The following finding was made:

#### *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 resulted in the failure to exercise sufficient due diligence to ensure compliance with Insurance Department Act of 1921.

### XIII. 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 nonrenewal and cancellation notice requirements of 40 P.S. §§991.2001, 991.2002, 991.2004, 991.2006 and 991.2008, so that the violations noted in the Report do not occur in the future.
2. The Company must 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.
3. 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 75 Pa. C.S. §1731(b) & (c) do not occur in the future.
4. 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 75, Pa. C.S. §1731(c)(1) do not occur in the future.

5. The Company must review 75 Pa. C.S. §1791 violations to ensure that the notice of available benefits in ten point type is given to the insured at the time of application as noted in the Report.
6. The Company must review 75 Pa. C.S. §1791.1(a) violations to ensure that the itemized invoice is given to the insured at every renewal as noted in the Report.
7. The Company must review 75 Pa. C.S. §1791.1(b) violations to ensure that the notice of tort options is given to the insured at the time of application and every renewal thereafter as noted in the Report.
8. The Company must review 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 and at least once annually, as noted in the Report.
9. When a surcharge is imposed on a private passenger automobile policy, the Company must identify the amount of surcharge 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 75 Pa. C.S. §1799.3(d) do not occur in the future.
10. The Company must review 40 P.S. §1184 and take appropriate measures to ensure the rating violations listed in the report do not occur in the future.

11. The premium overcharges noted in this report must be refunded to the insured and proof of such refunds must be provided to the Insurance Department within 30 days of the report issue date.
12. The Company must review practices and procedures that do not comply with the prompt investigation and payment of claim requirements of 40 P.S. §1171.5 so that the violations noted in the Report do not occur in the future.
13. The Company should review and revise internal control procedures to ensure compliance with the claims handling requirements of 31 Pa Code, Chapter 146, Unfair Claims Settlement Practices so that the violations relating to providing acknowledgements, claim acceptance or denials and status letters as noted in the Report do not occur in the future.
14. The Company must review 31 Pa. Code, §69.22(c) with its claim staff to ensure that the provider and insured are properly notified when first-party medical benefits have been exhausted.
15. The Company must review 31 Pa. Code, §69.52(b) with its claim staff to ensure that first party medical bills are paid within 30 days.
16. The Company must review the first party medical claims, which have not been paid within 30 days. Those claims that have not been paid within 30 days shall bear interest at the rate of 12% per annum from the date the benefits become due as required by 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.



17. The Company must review 31 Pa. Code, §62.3(e)(7) with its claim staff to ensure that the consumer receives the total loss evaluation report within 5 working days after the appraisal is completed.
  
18. The Company must ensure all producers are properly licensed and appointed, as required by 40 P.S. §310.41a(a) and 40 P.S. §310.71 prior to accepting any business from any producer.
  
19. 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, so that violations noted in the Report do not occur in the future.

**XIV. COMPANY RESPONSE**

September 8, 2014

Constance Arnold, Chief  
Market Conduct Division P&C  
Pennsylvania Insurance Department  
1321 Strawberry Square  
Harrisburg, PA 17120

RE: Access Insurance Company  
Market Conduct Examination Report  
Examination Warrant Number: 12-M 19-038

Dear Ms. Arnold;

This will acknowledge your August 8, 2014 correspondence and accompanying Market Conduct Report of Examination of Access Insurance Company covering the period from July 1, 2011 through June 30, 2012. In accordance with the provisions set forth in 40 P.S. § 323.5, below you will find Access Insurance Company's "written submission(s) or rebuttal(s)" to the Market Conduct Report of Examination:

1. The Company must review and revise internal control procedures to ensure compliance with nonrenewal and cancellation notice requirements of 40 P.S. §§991.2001, 991.2002, 991.2004, 991.2006 and 991.2008, so that the violations noted in the Report do not occur in the future.

**Response:** The Company reviewed the statutes referenced in this Recommendation and will implement appropriate measures to ensure compliance with nonrenewal and cancellation notice requirements so the violations listed in the report do not occur in the future.

2. 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

**Response:** The Company has corrected the form and changed its process to deliver notice on both surcharged and non-surcharged policies, consistent with the statute referenced in this Recommendation.

3. 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 75 Pa. C.S. §1731(b) & (c) do not occur in the future.

**Response:** The Company issued a reminder to its sub-producers regarding them of their obligation to present the waiver of UM/UIM coverage forms, to obtain the proper completion and signing of the forms (if selected), and to retain all completed forms.

4. 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 75 Pa. C.S. § 1731(c)(1) do not occur in the future.

**Response:** The Company revised the affected Disclosure and Waiver forms on renewal policies to reflect the notice required by the statute referenced by the Department.

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

**Response:** The Company reviewed the statute referenced by the Department and will work to ensure that the notice of available benefits to the insured at the time of application is printed in ten point type.

6. The Company must review 75 Pa. C.S. §1791.1(a) violations to ensure that the itemized invoice is given to the insured at every renewal as noted in the Report.

**Response:** The Company reviewed the statute referenced by the Department and will work to ensure that all future renewal invoices will be itemized.

7. The Company must review 75 Pa. C.S. §1791.1(b) violations to ensure that the notice of tort options is given to the insured at the time of application and every renewal thereafter as noted in the Report.

**Response:** The Company reviewed the statute referenced by the Department and will implement procedures so that the notice of tort options is given to the insured at the time of application and every renewal thereafter.

8. The Company must review 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 and at least once annually, as noted in the Report.

**Response:** The Company reviewed the statute referenced by the Department and will implement procedures to provide the insured with a surcharge disclosure plan at the time of application and at least once annually.

9. When a surcharge is imposed on a private passenger automobile policy, the Company must identify the amount of surcharge 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 75 Pa. C.S. §1799.3(d) do not occur in the future.

**Response:** The Company reviewed the statute cited by the Department and will revise its billing notices to identify the amount of surcharge within 30 days of the Market Conduct Examination Report issue date.

10. The Company must review 40 P.S. §1184 and take appropriate measures to ensure the rating violations listed in the report do not occur in the future

**Response:** The Company reviewed the statute referenced by the Department and will implement supplemental measures to ensure that rating violations do not occur in the future.

11. The premium overcharges noted in this report must be refunded to the insured and proof of such refunds must be provided to the Insurance Department within 30 days of the report issue date.

**Response:** The premium overcharges noted in this Report will be refunded to the insureds, with proof of those refunds to the Insurance Department within 30 days of the Market Conduct Examination Report issue date.

12. The Company must review practices and procedures that do not comply with the prompt investigation and payment of claim requirements of 40 P.S. §1171.5 so that the violations noted in the Report do not occur in the future.

**Response:** The Company has reviewed the statute referenced by the Department to ensure that its practices and procedures for prompt investigation and payment of claims are in compliance.

13. The Company should review and revise internal control procedures to ensure compliance with the claims handling requirements of 31 Pa Code, Chapter 146, Unfair Claims Settlement Practices so that the violations relating to providing acknowledgements, claim acceptance or denials and status letters as noted in the Report do not occur in the future.

**Response:** The Company has reviewed the regulation referenced by the Department and revised its internal control procedures so as to ensure compliance.

14. The Company must review 31 Pa. Code, §69.22(c) with its claim staff to ensure that the provider and insured are properly notified when first-party medical benefits have been exhausted.

**Response:** The Company has reviewed the regulation referenced by the Department with its claim staff to ensure that the provider and insured are properly notified when first-party medical benefits have been exhausted.

15. The Company must review 31 Pa. Code, §69.52(b) with its claim staff to ensure that first party medical bills are paid within 30 days.

**Response:** The Company has reviewed the regulation referenced with the Department with its claim staff to ensure that first party medical bills are paid within 30 days.

16. The Company must review the first party medical claims, which have not been paid within 30 days. Those claims that have not been paid within 30 days shall bear interest at the rate of 12% per annum from the date the benefits become due as required by 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.

**Response:** The Company has reviewed the statute referenced by the Department and has also reviewed its first party medical claims which have not been paid within 30 days; those claims that have not been paid within 30 days will bear interest at the rate of 12% per annum from the date the benefits becomes due. Thereafter, the interest amount will be paid to the claimant, with proof of such payment to the Insurance Department within 30 days of the Market Conduct Examination Report issue date.

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

**Response:** The Company has reviewed the regulation referenced by the Department with its claim staff to ensure that the consumer receives the total loss evaluation report within 5 working days after the appraisal is completed.

18. The Company must ensure all producers are properly licensed and appointed, as required by 40 P.S. §310.41a(a) and 40 P.S. §310.71 prior to accepting any business from any producer.

**Response:** The Company has reviewed the statutes referenced by the Department and will appoint all properly licensed producers prior to accepting any business from such persons or entities.

19. 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, so that violations noted in the Report do not occur in the future.

**Response:** The Company has reviewed the statute referenced by the Department and will reinforce its internal data controls as appropriate to ensure that all records and documents are maintained.

Thank you, your staff and outside contractors for their continuing time, attention and courtesies throughout the examination process.

Sincerely,

**Access Insurance Company**

By: 

Michael H. Meadows  
Senior VP & Chief Compliance Officer

cc: William Balaban & Associates, LLC