



**COMMONWEALTH OF PENNSYLVANIA
INSURANCE DEPARTMENT**

**MARKET CONDUCT
EXAMINATION REPORT**

OF

**MERCURY INSURANCE COMPANY OF
FLORIDA
CLEARWATER, FL**

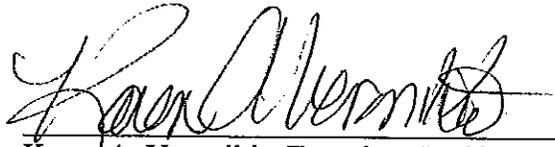
As of: February 9, 2015

Issued: April 3, 2015

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

VERIFICATION

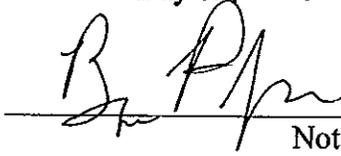
Having been duly sworn, I hereby verify that the statements made in the within document are true and correct to the best of my knowledge, information and belief. I understand that false statements made herein are subject to the penalties of 18 Pa. C.S. §4903 (relating to false swearing).



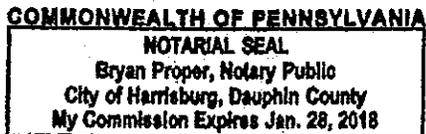
Karen A. Veronikis, Examiner-In-Charge

Sworn to and Subscribed Before me

This 4th Day of February, 2015



Notary Public



MERCURY INSURANCE COMPANY OF FLORIDA
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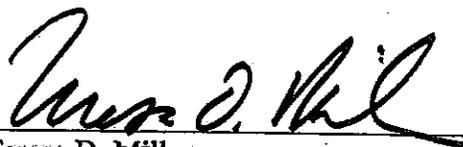
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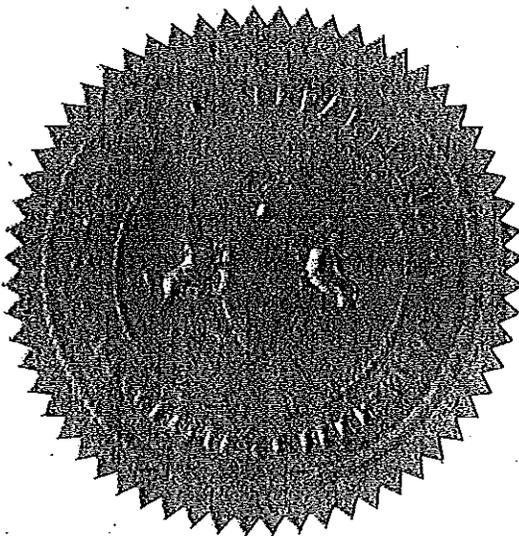
BEFORE THE INSURANCE COMMISSIONER
OF THE
COMMONWEALTH OF PENNSYLVANIA

ORDER

AND NOW, this 21st day of Jan., 2015, 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.



Teresa D. Miller
Acting Insurance Commissioner



BEFORE THE INSURANCE COMMISSIONER
OF THE
COMMONWEALTH OF PENNSYLVANIA

IN RE:	:	VIOLATIONS:
	:	
MERCURY INSURANCE	:	40 P.S. §323.4
COMPANY OF FLORIDA	:	
1901 Ulmerton Road	:	40 P.S. §310.71
Clearwater, FL 33762-2307	:	
	:	40 P.S. §§991.2001, 991.2002(c)(3)
	:	991.2004, 991.2005(c), 991.2006
	:	991.2006(1)(2)(3)(4)(5) and (6)
	:	and 991.2008(b)
	:	
	:	40 P.S. §1184
	:	
	:	18 Pa. C.S. §4117(k)(1)
	:	
	:	31 Pa. Code §§67.33(a)(2), 69.22(c)
	:	69.52(b), 69.52(1), 69.52(e), 146.5(d)
	:	146.6 and 146.7(a)(1)
	:	
	:	75 Pa. C.S. §§1705(a)(4), 1716, 1725,
	:	1731(c.1), 1738(d)(1) and (2), 1786(e)(3)
	:	1791.1(b), 1791.1(c), 1799.3(d)
	:	and 1822
	:	
	:	
Respondent.	:	Docket No. MC15-02-008

CONSENT ORDER

AND NOW, this *3rd* day of *April*, 2015, 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 Mercury Insurance Company of Florida, and maintains its address at 1901 Ulmerton Road, Clearwater, FL 33762-2307.

(b) A market conduct examination of Respondent was conducted by the Insurance Department covering the experience period from July 1, 2012 through June 30, 2013.

- (c) On February 9, 2015, the Insurance Department issued a Market Conduct Examination Report to Respondent.

- (d) A response to the Examination Report was provided by Respondent on March 11, 2015.

- (e) The Market Conduct Examination of Respondent revealed violations of the following:
 - (i) 40 P.S. §323.4 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;

 - (ii) 40 P.S. §310.71, prohibits producers from transacting business within this Commonwealth without written appointment as required by the Act;

 - (iii) 40 P.S. §991.2001 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.

- (iv) 40 P.S. §991.2002(c)(3), requires that an insurer supply the insured with a written statement of the reason for cancellation;
- (v) 40 P.S. §991.2004, requires that no insurer shall cancel a policy of automobile insurance except for (a) nonpayment of premium, (b) suspension or revocation of the named insured's driver license or motor vehicle registration or a (c) determination that the insured has concealed a material fact or has made a material allegation contrary to fact or has made a misrepresentation of material fact and that such concealment, allegation or misrepresentation was material to the acceptance of the risk by the insurer;
- (vi) 40 P.S. §991.2005(c), requires all insurers to provide to insureds a detailed statement of the components of a premium and shall specifically show the amount of a 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;
- (vii) 40 P.S. §991.2006, requires that cancellation by an insurer of a policy of automobile insurance shall not be effective unless the insurer delivers or mails to the insured a written notice of the cancellation;
- (viii) 40 P.S. §991.2006(1), requires that a cancellation notice or refusal to renew be in a form acceptable to the Insurance Commissioner;

- (ix) 40 P.S. §991.2006(2), prohibits a cancellation or refusal to renew from being effective unless the insurer delivers or mails a written notice of the cancellation or refusal to renew, which will include the date, not less than 60 days after the date of mailing or delivery, on which the cancellation or refusal to renew shall become effective. When the policy is being cancelled or not renewed for reasons set forth in Sections 2004(1) and (2), however, the effective date may be 15 days from the date of mailing or delivery;

- (x) 40 P.S. §991.2006(3), 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;

- (xi) 40 P.S. §991.2006(4), requires that a cancellation notice or refusal to renew advise the insured of his right to request in writing that the Insurance Commissioner review the action of the insurer;

- (xii) 40 P.S. §991.2006(5), requires that either in the cancellation notice, refusal to renew or in an accompanying statement, the insured be advised of his possible eligibility for insurance through the automobile assigned risk plan;

- (xiii) 40 P.S. §991.2006(6), requires that a cancellation notice or refusal to renew advise the insured that he must obtain compulsory automobile insurance coverage if he operates or registers a motor vehicle in this Commonwealth and

that the insurer is notifying the Department of Transportation that the insurance is being cancelled and the insured must notify the Department of Transportation that he has replaced said coverage;

- (xiv) 40 P.S. §991.2008(b), requires any applicant for a policy who is refused such policy by an insurer shall be given a written notice of refusal to write by the insurer. Such notice shall state the specific reason or reasons of the insurer for refusal to write a policy for the applicant. Within 30 days of the receipt of such reasons, the applicant may request in writing to the Commissioner that he review the action of the insurer in refusing to write a policy for the applicant;
- (xv) 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 this Commonwealth and prohibits an insurer from making or issuing a contract or policy with rates other than those approved;
- (xvi) 18 Pa. C.S. §4117(k)(l), states any person who knowingly and with intent to defraud any insurance company or other person files an application for insurance or statement of claim containing any materially false information or conceals for the purpose of misleading, information concerning any fact material thereto,

commits a fraudulent insurance act, which is a crime and subjects such person to criminal and civil penalties.

(xvii) 31 Pa. Code §67.33(a)(2), 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. Insurers may assess a premium surcharge on policies where an insured has been convicted of at least two violations of an offense enumerated in 75 Pa. C.S. §1535, relating to schedule of convictions and points.

(xviii) 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;

(xix) 31 Pa. Code §69.52(b), requires an insurer to pay medical bills for care that are not referred to a Peer Review Organization within 30 days after the insurer receives sufficient documentation supporting the bill;

(xx) 31 Pa. Code §69.52(1), states a PRO shall complete a reconsideration within 30 days after receipt of the information submitted under subsection (k). If additional information critical to the outcome of the determination is submitted

by a provider or requested by a PRO, the 30-day review period may be tolled up to 20 days for the information to be received and taken into consideration. A PRO shall send written notification of the reconsideration determination to the insurer, which shall within 5 days of receipt provide copies to providers and insureds. The written notice shall contain the basis and rationale for the reconsideration determination;

(xxi) 31 Pa. Code §69.52(e), requires an insurer to provide copies of the Peer Review Organization's written analysis to the provider and the insured within 5 days of receipt;

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

(xxiii) 31 Pa. Code §146.6, states that if an investigation cannot be completed within 30 days, and every 45 days thereafter, the insurer shall provide the claimant with a reasonable written explanation for the delay and state when a decision on the claim may be expected;

- (xxiv) 31 Pa. Code §146.7(a)(1), requires within 15 working days after receipt by the insurer of properly executed proofs of loss, the first-party claimant shall be advised of the acceptance or denial of the claim by the insurer;
- (xxv) 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.
- (xxvi) 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;
- (xxvii) 75 Pa. C.S. §1725, requires every motor vehicle insurance policy to contain a notice whether the policy covers collision damage to rental vehicles, and any limitations on such coverage. The notice shall be written in clear, plain

language and shall be printed on the first page of the policy in boldface capital letters;

(xxviii) 75 Pa. C.S. §1731(c.1), 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;

(xxix) 75 Pa. C.S. §1738(d)(1) & (2), requires the named insured to be informed that he may exercise the waiver of stacked limits for uninsured and underinsured motorist coverage by signing written rejection forms;

(xxx) 75 Pa. C.S. §1786(e)(3), states an insurer who has issued a contract of motor vehicle liability insurance and knows or has reason to believe that the contract is only for the purpose of providing proof of financial responsibility shall notify the Department if the insurance has been canceled or terminated by the insured or by the insurer. The insurer shall notify the Department not later than ten days following the effective date of the cancellation or termination;

(xxxi) 75 Pa. C.S. §1791.1(b), requires an insurer to provide an insured with a notice of the availability of two alternatives of full tort insurance and limited tort insurance;

(xxxii) 75 Pa. C.S. §1791.1(c), requires an insurer to provide an insured a notice stating that discounts are available for drivers who meet the requirements of Sections 1799, 1799.1 and 1799.2;

(xxxiii) 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 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;

(xxxiv) 75 Pa. C.S. §1822, requires not later than May 1, 1990, all applications for insurance, renewals and claim forms shall contain a statement that clearly states, in substance, the following: Any person who knowingly and with intent to injure or defraud any insurer files an application or claim containing any false, incomplete or misleading information shall, upon conviction, be subject to imprisonment for up to seven years and payment of a fine of up to \$15,000.00.

CONCLUSIONS OF LAW

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

- (a) Respondent is subject to the jurisdiction of the Pennsylvania Insurance Department.

- (b) Respondent's violations of 40 P.S. §310.71 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 40 P.S. §§991.2001, 991.2002(c)(3), 991.2004, 991.2005(c), 991.2006, 991.2006(1)(2)(3)(4)(5) and (6) 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) Violations of Section 4 of the Casualty and Surety Rate Regulatory Act, No. 246 (40 P.S. §1184) are punishable under Section 16 of the Act:
- (i) imposition of a civil penalty not to exceed \$50 for each violation or not more than \$500 for each such willful violation;
 - (ii) suspension of the license of any insurer which fails to comply with an Order of the Commissioner within the time limited by such Order, or any extension thereof which the Commissioner may grant.
- (e) Respondent's violations of 31 Pa. Code §§146.5(d), 146.6 and 146.7(a)(1) 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.
- (f) In addition to any penalties imposed by the Commissioner for Respondent's violations of 40 P.S. §§1171.1 – 1171.5, the Commissioner may, under (40 P.S. §§1171.10, 1171.11) file an action in which the Commonwealth Court may impose the following civil penalties:
- (i) for each method of competition, act or practice which the company knew or should have known was in violation of the law, a penalty of not more than five thousand dollars (\$5,000.00);

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

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 Thousand Dollars (\$100,000.00) to the Pennsylvania Insurance Department of which Seventy Five Thousand Dollars (\$75,000.00) is in settlement of all violations identified during the examination, and Twenty Five Thousand Dollars (\$25,000.00) 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 two checks 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 fourteen (14) days after the date of this Order.

- (d) Respondent shall file an affidavit stating under oath that it will provide each of its directors, at the next scheduled directors meeting, a copy of the adopted Report and related Orders. Such affidavit shall be submitted within thirty (30) days of the date of this Order.
- (e) Respondent shall comply with all recommendations contained in the attached Report.

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

7. Alternatively, in the event the Insurance Department finds that there has been a breach of any of the provisions of this Order, the Department may declare this Order to be

null and void and, thereupon, reopen the entire matter for appropriate action pursuant to the Administrative Agency Law, supra, or other relevant provision of law.

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

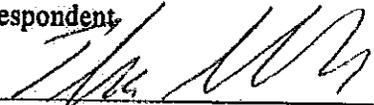
9. Respondent hereby expressly waives any relevant statute of limitations and application of the doctrine of laches for purposes of any enforcement of this Order.

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

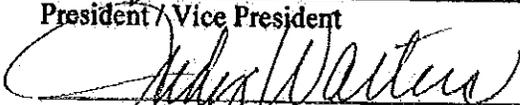
11. This Order shall be final upon execution by the Insurance Department. Only the Insurance Commissioner or a duly authorized delegee is authorized to bind the Insurance Department with respect to the settlement of the alleged violations of law

contained herein, and this Consent Order is not effective until executed by the Insurance Commissioner or a duly authorized delegee.

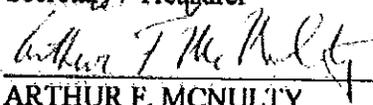
BY: MERCURY INSURANCE COMPANY
OF FLORIDA
Respondent



President / Vice President



Secretary / Treasurer



ARTHUR F. MCNULTY
Deputy Insurance Commissioner
Commonwealth of Pennsylvania

I. INTRODUCTION

The market conduct examination was conducted at the office of Mercury Insurance Company of Florida, hereinafter referred to as "Company," located in Clearwater, Florida, from May 19, 2014, through May 30, 2014. 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

Karen Veronikis
Market Conduct Examiner
Pennsylvania Insurance Department

Kelly Krakowski
Market Conduct Examiner
Pennsylvania Insurance Department

June A. Coleman, AMCM
Market Conduct Examiner
INS Regulatory Insurance Services

II. SCOPE OF EXAMINATION

The Market Conduct Examination was conducted on Mercury Insurance Company of Florida, at its office located in Clearwater, Florida. 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, 2012, through June 30, 2013, 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, nonrenewals, declinations and rescissions.
 - Rating – Proper use of all classification and rating plans and procedures.
2. Claims
3. Forms
4. Complaints
5. Licensing
6. Data Integrity
7. MCAS Reporting

III. COMPANY HISTORY AND LICENSING

The Mercury Casualty Group consists of nine property/casualty insurance companies, led by Mercury Casualty Company and Mercury Insurance Company. The company was founded in Los Angeles by George Joseph in 1962. The company was incorporated in Florida on August 27, 2001 and commenced business on January 2, 2002.

LICENSING

Mercury Insurance Company of Florida's Certificate of Authority to write business in the Commonwealth was last issued on April 1, 2014. The Company is licensed in Arizona, California, Florida, Georgia, Illinois, Michigan, Nevada, New Jersey, New York, Pennsylvania, and Virginia. The Company's 2013 annual statement reflects Direct Written Premium for all lines of business in the Commonwealth of Pennsylvania as \$10,397,675. Premium volume related to the areas of this review was: Private Passenger Auto No-Fault (personal injury protection) \$66,417, Other Private Passenger Auto Liability \$6,195,302 and Private Passenger Auto Physical Damage \$4,135,956.

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 771 private passenger automobile policies cancelled within the first 60 days of new business, 75 files were selected for review. All 75 files were received and reviewed. Of the 75 files reviewed, 1 file was identified as a midterm cancellation and 74 were identified as 60-day cancellations. The 22 violations noted were based on 22 files, resulting in an error ratio of 29%.

The following findings were made:

21 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 Company sent a

nonpayment cancellation notice when premium was not yet due.

1 Violation 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 file noted was 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 2,659 private passenger automobile files identified as midterm cancellations by the Company, 100 files were selected for review. All 100 files were received and reviewed. Of the 100 files reviewed, 1 file was identified as a 60-day cancellation and 99 files were identified as

midterm cancellations. The 34 violations noted were based 34 files, resulting in an error ratio of 34%.

The following findings were made:

1 Violation 40 P.S. §991.2002(c)(3)

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

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

Requires that an insurer supply the insured with a written statement of the reason for cancellation. The file noted failed to provide 15 days notice. Cancellation notice was mailed after the policy cancellation.

6 Violations 40 P.S. §991.2004

Requires that no insurer shall cancel a policy of automobile insurance except for nonpayment of premium, suspension or revocation of the named insured's driver license or motor vehicle registration or a determination that the insured has concealed a material fact or has made a material allegation contrary to fact or has made a misrepresentation of material fact and that such concealment, allegation or misrepresentation was material to the acceptance of the risk by the insurer. The 6 files noted resulted in the Company not providing a valid reason for midterm cancellation.

9 Violations 40 P.S. §991.2006

40 P.S. §323.4

Requires that cancellation by an insurer of a policy of automobile insurance shall not be effective unless the insurer

delivers or mails to the insured a written notice of the cancellation. The files noted did not contain any evidence that a cancellation notice was sent to the insured. Also, 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 Company failed to provide a notice of cancellation for the 9 files noted.

17 Violations 40 P.S. §991.2006(2)

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

Requires an insurer to deliver or mail to the named insured a cancellation notice and state the date, not less than sixty (60) days after the date of the mailing or delivery, on which cancellation shall become effective. When the policy is being cancelled for the nonpayment of premium, the effective date may be fifteen (15) days from the date of mailing or delivery. The 17 files noted were sent a nonpayment cancellation notice when premium was not yet due.

1 Violation 40 P.S. §991.2008(b)

Any applicant for a policy who is refused such policy by an insurer shall be given a written notice of refusal to write by the insurer. Such notice shall state the specific reason or reasons of the insurer for refusal to write a policy for the applicant. Within 30 days of the receipt of such reasons, the applicant may request in writing to the Insurance

Commissioner that he review the action of the insurer in refusing to write a policy for the applicant. The Company did not provide a specific reason for the cancellation in the file noted.

3. Nonrenewals

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

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

From the universe of 740 private passenger automobile policies which were nonrenewed during the experience period, 75 files were selected for review. All 75 files requested were received and reviewed. Of the 75 files reviewed, 38 files were identified as nonrenewals and 37 files were identified as midterm cancellations. The 22 violations noted were based on 21 files, resulting in an error ratio of 28%.

The following findings were made:

8 Violations 40 P.S. §991.2006(2)

Adjudications: Konek/PA National, P91-05-55(1992)

Allstate/Charlier, P192-01-01

Wansley/Colonial, P000-03-030(2000)

Manley/Nationwide, P00-02-012(2000)

Hughes/AAA, PH00-09-025(2000)

Requires an insurer to deliver or mail to the named insured a cancellation notice and state the date, not less than sixty (60) days after the date of the mailing or delivery, on which cancellation shall become effective. When the policy is being cancelled for the nonpayment of premium, the effective date may be fifteen (15) days from the date of mailing or delivery. Failure to provide proper number of days of mailing notice for the eight (8) files noted.

12 Violations 40 P.S. §991.2006(2)

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

Requires an insurer to deliver or mail to the named insured a cancellation notice and state the date, not less than sixty (60) days after the date of the mailing or delivery, on which cancellation shall become effective. When the policy is being cancelled for the nonpayment of premium, the effective date may be fifteen (15) days from the date of mailing or delivery. The 12 files noted were sent a nonpayment cancellation notice when premium was not yet due.

1 Violation 40 P.S. §991.2004

Adjudications: Dohrmann/Federal Kemper, P94-05-043(1996)

Geico/Kincaid, P89-02-08 (1989)

Kachur/USF&G, P92-03-32(1993)

Requires that no insurer shall cancel a policy of automobile insurance except for nonpayment of premium, suspension or revocation of the named insured's driver license or motor vehicle registration or a determination that the insured has

concealed a material fact or has made a material allegation contrary to fact or has made a misrepresentation of material fact and that such concealment, allegation or misrepresentation was material to the acceptance of the risk by the insurer. The Company failed to provide a proper reason for midterm cancellation for the file noted.

1 Violation 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 cancellation. The Company failed to provide a specific reason for cancellation for the file noted.

4. Declinations

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

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

The Company submitted the universe of 113 declinations for the experience period. During the review, the declination files were identified as flat cancels. The Company subsequently determined there were no declinations to report for the experience period. The examiners reviewed the Company's new business and declination processes of its website, telephone and agent sales for compliance. No violations were noted.

5. Rescissions

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

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

From the universe of 38 private passenger automobile policies that were identified by the Company as rescissions during the experience period, 20 files were selected for review. All 20 files requested were received and reviewed. No violations were noted.

VI. RATING

A. Private Passenger Automobile

1. New Business

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

The primary purpose of the review was to measure compliance with The Casualty and Surety Rate Regulatory Act, Section 4(a) and (h) (40 P.S. §1184(a), (h)), which requires every insurer to file with the Insurance Commissioner every manual of classifications, rules and rates, every rating plan and every modification of any rating plan, which it proposes to use in the Commonwealth. Also, no insurer shall make or issue a contract or policy except in accordance with filings or rates, which are in effect at 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 5,227 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 8,527 violations noted were based on the universe of 5,227 files, resulting in an error ratio of 100%.

The following findings were made:

795 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 795 violations were the result of policies being issued with an improper rate factor for Limited Tort on the Loss of Income coverage on all policies rated "Aligned" rating manuals which resulted in overcharges of \$11,925.

2,502 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 2,502 violations were the result of policies being issued with Rental Car Coverage for \$30/45 days, \$40/45 days, and \$50/45 days that were not filed and approved.

General 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 Parent/Child Relationship table was not filed and approved to determine the Household Structure Factor. The Company shall file this table with the Department for approval.

1 Violation 75 Pa. C.S. §1705(a)(4)

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

5,227 Violations 75 Pa. C.S. §1725

Every motor vehicle insurance policy shall contain a notice as to whether the policy covers collision damage to rental

vehicles, and any limitations on such coverage. The notice shall be written in clear, plain language and shall be printed on the first page of the policy in boldface capital letters. The Company failed to provide the required notice indicating whether the policy covers collision damage to rental vehicles in boldface capital letter on the first page of the policy.

2 Violations 75 Pa. C.S. §1738(d)(1) & (2)

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

CONCERN: The Company used the fraud warning language in 75 Pa. C.S. §1822 on their application. It is recommended the Company use the fraud warning cited in 18 Pa. C.S. §4117(k)(1) and must be verbatim.

Private Passenger Automobile – New Business with Surcharges

From the universe of 1,158 private passenger automobile policies identified as new business with surcharges by the Company, 50 files were selected for review. All 50 files were received and reviewed. The 3,372 violations noted were based on the universe of 1,158 files, resulting in an error ratio of 100%.

The following findings were made:

1,158 Violations 75 Pa. C.S. §1799.3(d)

40 P.S. §991.2005(c)

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. Also, all insurers shall provide to insureds a detailed statement of the components of a premium and shall specifically show the amount of a 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 files noted failed to specify the manner in which the surcharge was made.

316 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 316 violations were the result of policies being issued with an improper rate factor for Limited Tort on the Loss of Income coverage on all policies rated "Aligned" rating manuals which resulted in overcharges of \$5,787.

737 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 737 violations were the result of policies being issued with Rental Car Coverage for \$30/45 days, \$40/45 days, and \$50/45 days that were not filed and approved.

General 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 Parent/Child Relationship table was not filed and approved to determine the Household Structure Factor. The Company shall file this table with the Department for approval.

1 Violation 40 P.S. §1184

31 Pa. Code §67.33(a)(2)

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. Insurers may assess a premium surcharge on policies where an insured has been convicted of at least two violations of an offense enumerated in 75 Pa. C.S. §1535, relating to schedule of convictions and points. The file noted did not surcharge for driving while license expired. This resulted in an undercharge of \$75.

1 Violation 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 file noted.

1,158 Violations 75 Pa. C.S. §1725

Every motor vehicle insurance policy shall contain a notice as to whether the policy covers collision damage to rental vehicles, and any limitations on such coverage. The notice shall be written in clear, plain language and shall be printed on the first page of the policy in boldface capital letters. The Company failed to provide the required notice indicating whether the policy covers collision damage to rental vehicles in boldface capital letter on the first page of the policy.

1 Violation 75 Pa. C.S. §1738(d)(1)&(2)

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

CONCERN: The Company used the fraud warning language in 75 Pa. C.S. §1822 on their application. It is recommended the Company use the fraud warning cited in 18 Pa. C.S. §4117(k)(1) and must be verbatim.

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 4,216 private passenger automobile policies identified as renewals without surcharges, 30 files were selected for review. All 30 files requested were received and reviewed. Of the 30 files reviewed, one (1) file was identified as renewal with surcharge. The 18,889 violations noted were based on the universe of 4,216 files, resulting in an error ratio of 100%.

The following findings were made:

1,552 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 1552 files noted in accordance with their filed and approved rating plan regarding the filed and approved model rate factors resulting

in an undercharge for premium for model years 2008 and greater. This resulted in undercharges of \$144,054.

470 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 470 violations were the result of policies being issued with an improper rate factor for Limited Tort on the Loss of Income coverage on all policies rated "Aligned" rating manuals which resulted in overcharges of \$14,575.

General 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 Parent/Child Relationship table was not filed and approved to determine the Household Structure Factor. The Company shall file this table with the Department for approval.

4,216 Violations 18 Pa. C.S. §4117(k)(1)

75 Pa. C.S. §1822

Any person who knowingly and with intent to defraud any insurance company or other person files an application for insurance or statement of claim containing any materially false information or conceals for the purpose of misleading, information concerning any fact material thereto, commits a fraudulent insurance act, which is a crime and subjects such person to criminal and civil penalties. Warning notice on application for insurance and claim forms. Not later than May 1, 1990, all applications for insurance, renewals and claim forms shall contain a statement that clearly states in substance the following: "Any person who knowingly and with intent to injure or defraud any insurer files an application or claim containing false, incomplete or misleading information shall, upon conviction, be subject to imprisonment for up to seven years and payment of a fine of up to \$15,000." The Company did not provide the fraud warning at renewal.

4,216 Violations 75 Pa. C.S. §1725

Every motor vehicle insurance policy shall contain a notice as to whether the policy covers collision damage to rental vehicles, and any limitations on such coverage. The notice shall be written in clear, plain language and shall be printed on the first page of the policy in boldface capital letters. The Company failed to provide proper notice on the first page of the policy at the time of renewal.

3 Violations 75 Pa. C.S. §1731(c.1)

On policies in which either uninsured or underinsured motorist coverage has been rejected, the policy renewals must contain notice in prominent type that the policy does not provide protection against damages caused by uninsured or underinsured motorists. The policy renewal did not reflect the prominent notice as required for the three (3) files noted.

4,216 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.

4,216 Violations 75 Pa. C.S. §1791.1(c)

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

Private Passenger Automobile – Renewals With Surcharges

From the universe of 555 private passenger automobile policies identified as renewals with surcharges, 50 files were selected for review. All 50 files requested were received and reviewed. The 3,477 violations noted were based on the universe of 555 files, resulting in an error ratio of 100%.

The following findings were made:

555 Violations 40 P.S. §991.2005(c)

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 555 files noted were the result of the Company not providing the required surcharge disclosure statement on the premium notice.

538 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 538 files noted in accordance with their filed and approved model rate factors resulting in an undercharge of premium for model years 2008 and greater. This resulted in undercharges of \$58,343.

157 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 157 files noted in accordance with their filed and approved rating plan regarding the rating factor for Limited Tort on the Loss of Income coverage on all policies rated in the Aligned rating manual. This resulted in overcharges of \$6,024.

General 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 Parent/Child Relationship table was not filed and approved to determine the Household Structure Factor. The Company shall file this table with the Department for approval.

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

75 Pa. C.S. §1822

Any person who knowingly and with intent to defraud any insurance company or other person files an application for insurance or statement of claim containing any materially false information or conceals for the purpose of misleading, information concerning any fact material thereto, commits a fraudulent insurance act, which is a crime and subjects such

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

555 Violations 75 Pa. C.S. §1725

Every motor vehicle insurance policy shall contain a notice as to whether the policy covers collision damage to rental vehicles, and any limitations on such coverage. The notice shall be written in clear, plain language and shall be printed on the first page of the policy in boldface capital letters. The Company failed to provide proper notice on the first page of the policy at the time of renewal .

7 Violations 75 Pa. C.S. §1731(c.1)

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

555 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 renewal.

555 Violations 75 Pa. C.S. §1791.1(c)

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

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 1,134 private passenger automobile property damage claims reported during the experience period, 50 files were selected for review. All 50 files were received and reviewed. Of the 50 property damage claims files, two (2) files were identified as total loss property damage claim files and two (2) files should not have been opened as a

property damage claim. The three (3) violations noted were based on three (3) files, resulting in an error ratio of 6%.

The following findings were made:

3 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 three (3) claims noted.

B. Automobile Comprehensive Claims

From the universe of 345 private passenger automobile comprehensive claims reported during the experience period, 35 files were selected for review. All 35 files were received and reviewed. Of the 35 comprehensive claim files, one (1) file was identified as a total loss comprehensive claim file. The violation resulted in an error ratio of 3%.

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. The

Company did not provide timely status letters for the claim noted.

C. Automobile Collision Claims

From the universe of 1,013 private passenger automobile collision claims reported during the experience period, 50 files were selected for review. All 50 files were received and reviewed. Of the 50 collision claims files, six (6) files were identified as total loss collision claims. The violation resulted in an error ratio of 2%.

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. The Company did not provide timely status letters for the claim noted.

D. Automobile Total Loss Claims

From the universe of 48 private passenger automobile total loss claims reported during the experience period, 25 files were selected for review. All 25 files were received and reviewed. Of the 25 files identified by the Company as total loss claims files, two (2) files were not total loss claims for the claimants identified by the Company. No violations were noted.

E. Automobile First Party Medical Claims

From the universe of 457 private passenger automobile first party medical claims reported during the experience period, 35 files were selected for review. All 35 files were received and reviewed. The seven (7) violations noted were based on four (4) files, resulting in an error ratio of 11%.

The following findings were made:

1 Violation 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 provider in the claim noted.

2 Violations 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 medical bills within 30 days for the two (2) claims noted.

1 Violation 31 Pa. Code §146.5(d)

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

the necessary claim forms to the claimant within ten working days for the claim noted.

1 Violation 31 Pa. Code §146.7(a)(1)

Within 15 working days after receipt by the insurer of properly executed proofs of loss, the first-party claimant shall be advised of the acceptance or denial of the claim by the insurer. The violation noted resulted from failure to accept or deny the claim within 15 working days after proof of loss was received.

2 Violations 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 two (2) claims that were not paid within 30 days.

F. Automobile First Party Medical Claims Referred to a PRO

The universe of five (5) automobile first party medical claims that were referred to a peer review organization by the Company was selected for

review. All 5 files were received and reviewed. The Company was also asked to provide a copy of all peer review contracts in place during the experience period. The four (4) violations noted were based on four (4) files, resulting in an error ratio of 80%.

3 Violations 31 Pa. Code §69.52(e)

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

1 Violation 31 Pa. Code §69.52(1)

A Pro shall complete a reconsideration within 30 days after the receipt of the information submitted under subsection (k). If additional information critical for the outcome of the determination is submitted by a provider or requested by a PRO, the 30-day review period may be tolled up to 20 days for the information to be received and taken into consideration. A PRO shall send written notification of the reconsideration determination to the insurer, which shall within 5 days of receipt provide copies to providers and insureds. The written notice shall contain the basis and rationale for the reconsideration determination. The Company failed to provide a copy of the reconsideration determination to the provider and insured within 5 days of the insurer receiving the determination.

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 findings were made:

3 Violations 40 P.S. §991.2006(1)

40 P.S. §991.2006(4)

40 P.S. §991.2006(5)

40 P.S. §991.2006(6)

Requires that a cancellation notice be in a form acceptable to the Insurance Commissioner. The notice shall advise the insured of his right to request in writing that the Insurance commissioner review the action of the insurer, the insured shall be advised of his possible eligibility for insurance through the automobile assigned risk plan and, that he must obtain compulsory automobile insurance coverage if he operates or registers a motor vehicle in this Commonwealth and that the insurer is notifying the Department of Transportation that the insurance is being cancelled and the

insured must notify the Department of Transportation that he has replace said coverage. The Company failed to provide a form acceptable to the Commissioner for the 3 files noted.

1 Violation 40 P.S. §991.2008(b)

Any applicant for a policy who is refused such policy by an insurer shall be given a written notice of refusal to write by the insurer. Such notice shall state the specific reason or reasons of the insurer for refusal to write a policy for the applicant. Within 30 days of the receipt of such reasons, the applicant may request in writing to the Insurance Commissioner that he review the action of the insurer in refusing to write a policy for the applicant. The Company failed to provide information regarding a review by the Commissioner on the notice.

IX. CONSUMER COMPLAINTS

The Company was requested to identify all consumer complaints received during the experience period and provide copies of their consumer complaint logs for the preceding four years. The Company identified 10 consumer complaints received during the experience period and provided all consumer complaint logs requested. The universe of 10 complaints was selected for review. All 10 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:

4 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 4 files noted resulted in the Company sending a cancellation notice when premium was not yet due.

2 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 two (2) 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.

1 Violation 40 P.S. §991.2006(4)

40 P.S. §991.2006(5)

40 P.S. §991.2006(6)

Requires that a cancellation notice advise the insured of his right to request in writing that the Insurance Commissioner review the action of the insurer. Also, requires that either in the cancellation notice or in an accompanying statement, the insured be advised of this possible eligibility for insurance through the automobile assigned risk plan and advise the insured that he must obtain compulsory automobile insurance coverage if he operates or registers a motor vehicle in this Commonwealth and that the insurer is notifying the Department of Transportation that the insurance is being cancelled and the insured must notify the Department of Transportation that he has replaced said coverage. The Company failed to provide the required information on the cancellation for the file noted.

1 Violation 40 P.S. §991.2006(6)

75 Pa. C.S. §1786(e)(3)

Requires that a cancellation notice advise the insured that he must obtain compulsory automobile insurance coverage if he operates or registers a motor vehicle in this Commonwealth and that the insurer is notifying the Department of Transportation that the insurance is being cancelled and the insured must notify the Department of Transportation that he has replaced said coverage. The Company filed to provide the Department of Transportation the correct date of cancellation.

2 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 2 claims noted.

The following synopsis reflects the nature of the 10 complaints that were reviewed.

• 7	Cancellation/Nonrenewal	70%
• 3	Claims Related	30%
<hr/>		<hr/>
10		100%

X. 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:

4 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.

J. Stephen Gallagher/Insurance Consultants of Pittsburgh
Robert Williams
Poliseek AIS Insurance Solutions, Inc.
Gordon Insurance Agency/Michael S. Gordon

XI. 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.

Midterm Cancellations

Situation: As the examiners reviewed the midterm cancellation files of the underwriting section of the exam, it was noted that not all the 100 files selected for review were midterm cancellation files.

Finding: Of the 100 midterm cancellation files reviewed, one (1) file was identified as 60-day cancellations and 99 files were identified as midterm cancellations.

Nonrenewals

Situation: As the examiners reviewed the nonrenewal files of the underwriting section of the exam, it was noted that not all the 75 files selected for review were nonrenewal files. The Company did not use the reinstatement date of those policies that were reinstated with a lapse. When a policy lapses and is reinstated with a lapse, the annual anniversary date of the policy is the reinstatement date.

Finding: Of the 75 nonrenewal files received, 37 files were identified as a midterm cancellations.

60 Day Cancellations

Situation: As the examiners reviewed the 60-day cancellation files of the underwriting section of the exam, it was noted that not all the 75 files selected for review were 60 day cancellation files.

Finding: Of the 75 60-day cancellation files reviewed, one (1) file was identified as a midterm cancellation.

Comprehensive Claims

Situation: As the examiners reviewed the comprehensive claim files, it was noted that one claim was identified as a total loss claim.

Finding: Of the 35 files reviewed, one (1) file was identified as a total loss 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).

Collision Claims

Situation: As the examiners reviewed the collision claim files, it was noted that files were closed as total loss claims. 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 50 files reviewed, six (6) files were identified as total loss 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).

Property Damage Claims

Situation: As the examiners reviewed the property damage claim files of the exam, it was noted that not all 50 files selected for review were property damage claims.

Findings: Two (2) files were identified as total loss claims and two (2) were identified as property damage coverage that should not have been opened.

Total Loss Claims

Situation: As the examiners reviewed the total loss claim files of the exam, it was noted that not all 25 files selected for review were total loss claims.

Findings: Two (2) files were not total loss claims.

Rating – New Business without Surcharges

Situation: As the examiners reviewed the new business without surcharges files of the rating section, it was noted that not all 50 files selected for review were new business without surcharges files. The Company was asked to provide a list of all new business policies, with inception dates during the experience period for Private Passenger Automobile without surcharges (not surcharges for accidents or citations).

Findings: One (1) file of the 50 new business without surcharge files was surcharged for accidents or citations during the experience period.

Rating – Renewal without Surcharges

Situation: As the examiners reviewed the renewal without surcharges files of the rating section, it was noted that not all 30 files selected for review were renewal without surcharges files. The Company was asked to provide a list of all renewal policies, with inception dates during the experience period for Private Passenger Automobile without surcharges (not surcharges for accidents or citations).

Findings: One (1) file of the 30 renewal without surcharge files was surcharged for accidents or citations during the experience period.

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.

XII. MCAS REPORTING

In Pennsylvania, insurers are required annually to submit a Market Conduct Annual Statement (MCAS) to the National Association of Insurance Commissioners (NAIC). The review of MCAS data was conducted pursuant to the authority granted by Section 903 and 904 (40 P.S. §§323.3 and 323.4) of the Insurance Department Act and covered the Market Conduct Annual Statement (MCAS) reporting for 2012.

The examination team reviewed the Company's 2012 MCAS Submissions. All companies that submit an MCAS filing must attest to the completeness and accuracy of their submission. The attestation is required once per filing period and applies to all submissions for a specific company code. No submissions will be accepted until an attestation is completed for the company. Below are the private passenger automobile sections that were reviewed.

A.	Number of autos which have policies in-force at the end of the period.
B.	Number of Policies in-force at the end of the period.
C.	Number of new business policies written during the period.
D.	Number of Company-Initiated nonrenewals during the period.
E.	Number of cancellations for non-pay, non-sufficient funds or insured's request.
F.	Number of Company-Initiated cancellations that occur in the first 59 days after effective date, excluding rewrites to an affiliated Company.
G.	Number of Company-Initiated cancellations that occur 60 or more days after effective date, excluding rewrites to an affiliated Company.
H.	Number of Complaints received directly from the consumer.
I.	Number of Claims open at the beginning of the Period
J.	Number of Claims opened during the period.

K.	Number of Claims closed during the period, with payment.
L.	Number of Claims closed during the period, without payment.
M.	Number of Claims remaining open at the end of the period.
N.	Number of Claims closed with payment within 0-60 days.
O.	Number of Claims closed with payment >60 days.
P.	Number of Suits open at beginning of the period.
Q.	Number of Suits opened during the period.
R.	Number of Suits closed during the period.
S.	Number of Suits open at end of period.

The review consisted of three phases, as noted below.

Phase 1

The Company was asked to provide the claims and policy data listings that support the 2012 MCAS filing. Each list contained the claim and policy numbers for each category. The 2012 data submitted was validated to ensure the information was accurate and consistent with the information provided to the NAIC.

The following finding was made:

1 Violation 40 P.S. §323.4

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 Company failed to provide 2012 data that was consistent with the information provided to the NAIC for 11 claim categories and one (1) underwriting category.

Phase 2

The Company was asked to provide a record of all claims and policy data listings which supported the 2011 and 2012 MCAS filings. From each universe list of 2012 data, a random sample of five (5) claims or policy files was requested, received and reviewed. The files were reviewed to ensure compliance with the Commonwealth of Pennsylvania's Statutes and Regulations. No violations were noted.

Phase 3

A review was performed on various policies and claims provided in the Market Conduct portion of the exam to ensure the MCAS data was inclusive of all the policies applicable to each line item. The files were reviewed to ensure compliance with the Commonwealth of Pennsylvania's Statutes and Regulations. No violations were noted.

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 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.
3. When a surcharge is imposed on a private passenger automobile policy the Company must specify the manner in which the surcharge was made and clearly identify the amount of the 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 40 P.S. §991.2005(c) and 75 Pa. C.S. §1799.3(d) do not occur in the future.
4. 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.

5. 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.
6. The Company must revise underwriting procedures to ensure that the insured is aware that he may exercise the waiver of stacked limits for uninsured and underinsured motorist coverage by signing written rejection forms. This is to ensure that violations noted under 75 Pa. C.S. §1738(d)(1) and (2) do not occur in the future.
7. The Company must review 75 Pa. C.S. §1786(e)(3) to ensure proper notification to the Department of Transportation when a policy has been cancelled or terminated by the insured or insurer.
8. The Company must review 75 Pa. C.S. §1791.1(b) to ensure that the notice of tort options is given to the insured at renewal as noted in the Report.
9. The Company must review 75 Pa. C.S. §1791.1(c) to ensure that violations regarding the requirement to provide notice to insureds stating that discounts are available for drivers, as noted in the Report, do not occur in the future.
10. The Company must review 31 Pa. Code §67.33(a)(2) to ensure that proper premium surcharge be assessed on a named insured as noted in the report, do not occur in the future.

11. The premium overcharges noted in the rating section of this report must be refunded to the insureds 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 40 P.S. §1184 and take appropriate measures to ensure the automobile rating violations listed in the report do not occur in the future.
13. The Company must review 75 Pa. C.S. §1725 to ensure that a notice as to whether the policy covers collision damage to rental vehicles, and any limitations on such coverage shall be printed on the first page of the policy in boldface capital letters.
14. 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 claim denials, claim forms, and status letters as noted in the Report do not occur in the future.
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 §69.22 with its claim staff to ensure that the insured is properly notified when first-party medical benefits have been exhausted.
18. The Company must review 31 Pa. Code §69.52(1) with its claim staff to ensure that providers and insureds are provided copies of a reconsideration determination from a peer review organization within 5 days of receipt.
19. The Company must review 31 Pa. Code §69.52(e) with its claim staff to ensure that the insured and provider are provided a copy of a PRO evaluation in a timely manner.
20. The Company must ensure all producers are properly appointed, as required by 40 P.S. §310.71 prior to accepting any business from any producer.
21. The Company must review 18 Pa. C.S. §4117(k)(1) to ensure that violations regarding the requirement of a fraud warning on all applications, renewals, and claim forms, as noted in the Report, do not occur in the future.

XIV. COMPANY RESPONSE



1901 Ulmerton Road
Clearwater, FL 33762
(800) 987-6000

March 11, 2015

Constance Arnold
Property & Casualty Division Chief
Commonwealth of Pennsylvania
Department of Insurance
1321 Strawberry Sq.
Harrisburg, PA 17120

RE: Examination Warrant Number: 14-M08-001

By Email

Dear Ms. Arnold,

As provided by 40 P.S. § 323.5, please accept the following as the Company's response to the Report of Examination provided by you on February 9, 2015 (the "Report"). While the Company does not agree with many of the findings in the Report, we appreciate the opportunity to improve our processes to better serve our customers, and to obtain guidance from the Department regarding its interpretation of state insurance laws.

The Company has reviewed the Report and the applicable statutes and regulations, and has made, or is in the process of making, all appropriate remedial actions to assure that violations do not occur in the future. All premium refunds requested or recommended in the Report have been issued.

The Company does wish to comment regarding Recommendation No. 1: Cancellation and Nonrenewal Notices. The Company does not agree with the Department's interpretations of the notice requirements under certain specified circumstances, namely: when cancellations or nonrenewals were made at the request of the insured and administrative cancellations that were re-written with new policy numbers and no lapse in coverage. See 91 P.S. § 991.2002(c)(1) & (2): "*Nothing in this article shall apply:* (1) If the insurer has manifested its willingness to renew by issuing or offering to issue a renewal policy, certificate or other evidence of renewal, or has manifested such intention by any other means. [or] (2) If the named insured has demonstrated by some overt action to the insurer or its agent that he wishes the policy to be cancelled or that he does not wish the policy to be renewed." (Emphasis added.) Issuing a replacement policy with no lapse in coverage falls within subsection (1), and no notice of cancellation was required, nor were any reasons for cancellation required. Similarly, a notice issued to an insured following a cancellation at the insured's request is not a "Notice of Cancellation" subject to the advance notice period or statement of reasons. In citing several alleged violations under these circumstances, the Department disregards the statutes expressly providing that those requirements do not apply.

The Company also does not agree that it sent any cancellation notices for nonpayment of premium "when premium was not yet due." In each case noted in the Report, the notice at issue showed a delinquent amount and the next installment amount due. The cancellations were not based on the failure to pay the next amount due, but on the failure to pay the delinquent amount.

Notwithstanding the foregoing comments, the Company intends to conform its notices to the Department's interpretations and stated preferences.

Additionally, the Company would like to address recommendation No. 2. The authority cited for this alleged violation is 40 P.S. §323.4(b), which in relevant part provides that the Company "must provide to the examiners . . . timely, convenient, and free access at all reasonable hours at its offices to all books, records, accounts, papers, documents and any or all computer or other recordings relating to the property, assets, business and affairs of the company being examined." The Company does not agree that sufficient due diligence was not exercised during the course of the examination to ensure compliance with the Insurance Department Act of 1921. The Company provided full and complete access to all records and documents in its offices as well as 24/7 access to our internal computer systems to be used at any time convenient for the examiners. The Company believes the that alleged violation is inappropriate.

The Company appreciates the Department's cooperation throughout the examination process, and appreciates the opportunity to respond to the Report.

Sincerely,

A handwritten signature in black ink, appearing to read 'JB' with a stylized flourish.

Jeremy Baczkiewicz MBA, CPCU
NE Region Underwriting Manager
1901 Ulmerton Road
Clearwater, FL 33762
(727) 561-4000 x63211