

COMMONWEALTH OF PENNSYLVANIA INSURANCE DEPARTMENT

MARKET CONDUCT EXAMINATION REPORT

OF

PROGRESSIVE ADVANCED INSURANCE COMPANY CLEVELAND, OH

As of: March 12, 2014 Issued: May 5, 2014

> BUREAU OF MARKET ACTIONS PROPERTY AND CASUALTY DIVISION

VERIFICATION

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

Samuel D. Binnun, Examiner-In-Charge

Sworn to and Subscribed Before me This <u>27</u> day of <u>Februry</u>, 2014

Notary Public



PROGRESSIVE ADVANCED INSURANCE COMPANY <u>TABLE OF CONTENTS</u>

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BEFORE THE INSURANCE COMMISSIONER OF THE COMMONWEALTH OF PENNSYLVANIA

ORDER

AND NOW, this <u>10</u> day of <u>March</u>, 2014, in accordance with Section 905(c) of the Pennsylvania Insurance Department Act, Act of May 17, 1921, P.L. 789, as amended, P.S. § 323.5, I hereby designate Arthur F. McNulty, Deputy Insurance Commissioner, to consider and review all documents relating to the market conduct examination of any company and person who is the subject of a market conduct examination and to have all powers set forth in said statute including the power to enter an Order based on the review of said documents. This designation of authority shall continue in effect until otherwise terminated by a later Order of the Insurance Commissioner.



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Insurance Commissioner

BEFORE THE INSURANCE COMMISSIONER OF THE COMMONWEALTH OF PENNSYLVANIA

IN RE:		VIOLATIONS:
PROGRESSIVE ADVANCED INSURANCE COMPANY 6300 Wilson Mills Road, N72 Mayfield Village, OH 44143		Title 31, Pa Code, Sections 62.3(e)(4), 62.3(e)(7), 146.6 and 146.7(a)(1) Act 1990-6, Title 75 Pennsylvania Consolidated Statutes, Section
	:	1738(d)(1)&(2) (Title 75 Pa. C.S. 1738)
Respondent.	:	Docket No. MC14-03-002

CONSENT ORDER

AND NOW, this 5^{th} day of May, 2014, this Order is hereby issued by the Insurance Department of the Commonwealth of Pennsylvania pursuant to the statutes cited above and in disposition of the matter captioned above.

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

2. Respondent hereby waives all rights to a formal administrative hearing in this matter, and agrees that this Consent Order shall have the full force and effect of an order duly entered in accordance with the adjudicatory procedures set forth in the Administrative Agency Law, <u>supra</u>, 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 Progressive Advanced Insurance Company and maintains its address at 6300 Wilson Mills Road, N72, Mayfield Village, OH 44143.
- (b) A market conduct examination of Respondent was conducted by the Insurance Department covering the experience period from January 1, 2012 through December 31, 2012.
- (c) On March 12, 2014, the Insurance Department issued a Market Conduct Examination Report to Respondent.
- (d) A response to the Examination Report was provided by Respondent on April 10, 2014.
- (e) The Market Conduct Examination of Respondent revealed violations of the following:

- (i) Title 31, Pennsylvania Code, Section 62.3(e)(4), which requires that applicable sales tax on the replacement cost of a motor vehicle shall be included as part of the replacement value;
- (ii) Title 31, Pennsylvania Code, Section 62.3(e)(7), which states the appraiser is responsible for ensuring that a copy of the total loss evaluation report be sent within 5 working days to the consumer by the appraiser after the appraisal is completed. If a settlement offer is extended before the consumer receives the total loss evaluation report, the consumer shall be advised of the total loss evaluation report's contents and of the consumer's right to be sent a copy within 5 days after its completion;
- (iii) Title 31, Pennsylvania Code, Section 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;
- (iv) Title 31, Pennsylvania Code, Section 146.7(a)(1), which requires within 15 working days after receipt by the insurer of properly executed proofs of loss, the first-party claimant shall be advised of the acceptance or denial of the claim by the insurer;

(x) Act 1990-6, Section 12, Title 75 Pa. C.S. § 1738(d)(1) and (2), which requires the named insured to be informed that he may exercise the waiver of stacked limits for uninsured and underinsured motorist coverage by signing written rejection forms;

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 Title 31, Pennsylvania Code, Sections 146.6 and 146.7 are punishable under Section 9 of the Unfair Insurance Practices Act (40 P.S. §§ 1171.9):
 - (i) cease and desist from engaging in the prohibited activity;
 - (ii) suspension or revocation of the license(s) of Respondent.
- (c) The Commissioner may, under Sections 10 and 11 of the Unfair Insurance Practices Act (40 P.S. §§ 1171.10, 1171.11) file an action in which the Commonwealth Court may impose the following civil penalties:

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

<u>ORDER</u>

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

- (a) Respondent shall cease and desist from engaging in the activities described herein in the Findings of Fact and Conclusions of Law.
- (b) Respondent shall pay Ten Thousand Dollars (\$10,000.00) in settlement of all violations contained in the Report.
- (c) Payment of this matter shall be made by check payable to the PennsylvaniaInsurance Department. Payment should be directed to Cherie L. Leese,

Administrative Officer, 1311 Strawberry Square, Harrisburg, Pennsylvania 17120. Payment must be made no later than thirty (30) days after the date of this Order.

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

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

Mara L TALAT .11 President / Vice President Secretary / Treasurer

ARTHUR F. MCNULTY Deputy Insurance Commissioner Commonwealth of Pennsylvania

I. INTRODUCTION

The Market Conduct Examination was conducted in the offices of Progressive Advanced Insurance Company located in Camp Hill, Pennsylvania, and in the offices of the Examiners from March 8, 2013 through December 31, 2013.

The Pennsylvania Market Conduct Examination Reports, hereinafter referred to as "Examination Report", 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 Examination 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 100 policies, the error ratio would be 20%.

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

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

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

Constance Arnold, MCM Property and Casualty Bureau Chief Division of Market Actions

Sam Binnun, LUTCF, MCM Market Conduct Examiner Risk & Regulatory Consulting, LLC Bob McManus, CIE, MCM, AIRC, FLMI, FLHC Market Conduct Examiner Risk & Regulatory Consulting, LLC

Kent Dover, CIE, CPCU, ALMI, MCM Market Conduct Examiner Risk & Regulatory Consulting, LLC Mary Hartell, , CIE, AFE, FLMI Market Conduct Examiner Risk & Regulatory Consulting, LLC

II. SCOPE OF EXAMINATION

The Market Conduct Examination, hereinafter referred to as "Examination", was conducted on Progressive Advanced Insurance Company, hereinafter referred to as "Company", as a follow-up to the recommendations of the Pennsylvania Insurance Department's Market Conduct Examination Report issued on March 16, 2011, hereinafter referred to as "Previous Examination Report". The Examination was conducted pursuant to Sections 903 and 904 (40 P.S. §§323.3 and 323.4) of the Insurance Department Act and covered the experience period of January 1, 2012, through December 31, 2012, unless otherwise noted. The purpose of the Examination was to determine the Company's compliance with the recommendations from the Previous Examination Report and Pennsylvania insurance laws and regulations.

The Examination focused on the recommendations from the Previous Examination Report in Underwriting, Rating and Claims, as follows:

- The Company must review Act 205, Section 5(a)(9) [40 P.S. § 11 71.5(a)(9)] to ensure that the violations regarding the requirement for cancellation and nonrenewal notices, as noted in the Report, do not occur in the future.
- The Company must review Title 31, Pa. Code, Section 59.9(b) to ensure that violations regarding the requirements for cancellation notices, as noted in the Report, do not occur in the future.
- 3. The Company must review Title 75, Pa. C.S. §1791 violations to ensure that the notice of available benefits is given to the insured at the time of application as noted in the Report.

- 4. The Company must review Title 75, Pa. C.S. 1793(b) to ensure that violations regarding the requirement to provide the insured with a surcharge disclosure plan at the time of application, as noted in the Report, do not occur in the future.
- 5. The Company must review Title 75, Pa. C.S. § 1799.3(a) to ensure that a policy is not surcharged where, during the preceding three-year period, the aggregate cost to the insurer for any person injured or property damaged is determined to be less than \$1,350 in excess of any self insured retention or deductible applicable to the named insured.
- 6. The Company must review Title 75, Pa. C.S. §1791.1(a) violations to ensure that an itemized invoice listing minimum coverages and premiums are provided at the time of application, as noted in the Report, and do not occur in the future.
- 7. The Company must review Title 75, Pa. C.S. §1791.1(b) violations to ensure that tort options are provided at the time of application, as noted in the Report, and do not occur in the future.
- 8. The Company must revise its underwriting procedures to ensure that each applicant for private passenger automobile liability insurance is provided an opportunity to elect a tort option and that signed tort option selection forms are obtained and retained with the underwriting file. This is to ensure that violations noted under Title 75, Pa. C.S. §1705(a)(l)(4) do not occur in the future.
- 9. The Company must revise underwriting procedures to ensure that the insured is aware that he may exercise the waiver of stacked limits for

uninsured and underinsured motorist coverage by signing written rejection forms. This is to ensure that violations noted under Title 75, Pa. C.S. §1738(d)(1) and (2) do not occur in the future.

- 10. The Company must review Title 75, Pa. C.S. §1738(c)(d)(1) and Act 205, Section 4 [40 P.S. 1171.4], and revise procedures to ensure that premiums are reduced for rejection of stacked uninsured motorist coverage under a single vehicle policy.
- 11. The Company must review Act 246, Section 4(a) and (h) [40 P.S. § 1184] and take appropriate measures to ensure the rating violations listed in the report do not occur in the future.
- 12. Recommendation 12 was not included in the scope of the Examination.
- 13. The Company must ensure that all claim forms and automobile renewal policies contain the required fraud warning notice.
- 14. The Company must review Title 75, Pa. C.S. §1161(a)&(b) with its claim staff to ensure that salvage certificates are obtained and are retained with the claim file.
- 15. The Company should review and revise internal control procedures to ensure compliance with the claims handling requirements of Title 31, Pennsylvania Code, Chapter 146, Unfair Claims Settlement Practices so that the violations relating to status letters, claim acceptance and denials, as noted in the Report, do not occur in the future.

- 16. The Company must review Title 31, Pa. Code, Section 62.3(e)(4) with its claim staff to ensure that sales tax is included in the replacement value of a motor vehicle. The Company must review all claims where sales tax was not included in the replacement value of a motor vehicle. The sales tax must be paid to the claimant and proof of such payment must be provided to the Insurance Department within 30 days of the Report issue date.
- 17. The Company must review Title 31, Pa. Code, Section 62.3(e)(7) with its claim staff to ensure that the consumer receives the total loss evaluation report within 5 working days after the appraisal is completed.
- 18. Recommendation 18 was not included in the scope of the Examination.

III. COMPANY HISTORY AND LICENSING

Progressive Advanced Insurance Company was incorporated on June 5, 1930, under the laws of Tennessee, and commenced business on August 26, 1930. Activities were conducted under the name Memphis Fire Insurance Company, from inception until February 9, 1989, when the Company became known as Midland Risk Insurance Company. On March 7, 1997, all outstanding shares of the Midland Group were acquired by The Progressive Corporation, a publicly traded holding company incorporated in Ohio. On September 20, 1999, the Company changed its name to Progressive Home Insurance Company. The Company was redomesticated from Tennessee, to Ohio in 2001. Effective January 1, 2004, ownership of the Midland Group was transferred from The Progressive Corporation to Progressive Direct Holdings, Inc., a holding company incorporated in Delaware. The present title was adopted on May 19, 2006.

LICENSING

Progressive Advanced Insurance Company's Certificate of Authority to write business in the Commonwealth was last issued on April 1, 2013. The Company is licensed in Alabama, Alaska, Arizona, Arkansas, California, Colorado, Delaware, District of Columbia, Florida, Georgia, Hawaii, Idaho, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Maine, Maryland, Mississippi, Missouri, Montana, Nebraska, Nevada, New Hampshire, New Mexico, New York, North Carolina, North Dakota, Ohio, Oklahoma, Oregon, Pennsylvania, Rhode Island, South Carolina, South Dakota, Tennessee, Texas, Utah, Vermont, Virginia, Washington, West Virginia and Wisconsin. The Company's 2012 annual statement reflects Direct Premiums Written for all lines of business in the Commonwealth of Pennsylvania as \$186,625,154. Premium volume related to the areas of this review were: Inland Marine \$650,745; Private Passenger Automobile Direct

Premiums Written was reported as Private Passenger Auto No-Fault (personal injury protection) \$15,223,097; Other Private Passenger Auto Liability \$103,146,614 and Private Passenger Auto Physical Damage \$67,287,107.

IV. UNDERWRITING PRACTICES AND PROCEDURES

As part of the Examination, the Company was requested to supply a copy of their revised underwriting guidelines, bulletins and declination procedures for all lines of business being reviewed (private passenger automobile, boat, motorcycle and travel trailer lines). The Examiners also requested a narrative statement explaining all revisions made since the Previous Examination Report. The purpose of this review was to identify whether the Company made revisions to their policies, procedures manuals or guidelines based on the recommendations from the Previous Examination report.

The Company submitted underwriting policies, practices and procedures, however, they were not able to provide the Examiners the specific revisions to address the following recommendations from the Previous Examination Report.

Recommendation 8

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

Recommendation 9

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

Recommendation 10

The Company must review Title 75, Pa. C.S. §1738(c)(d)(1) and Act 205, Section 4 [40 P.S. 1171.4], and revise procedures to ensure that premiums are reduced for rejection of stacked uninsured motorist coverage under a single vehicle policy.

Recommendation 15

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

V. UNDERWRITING

A. Boat, Motor Home and Travel Trailer

Recommendation 1

The primary purpose of the review was to determine compliance with Recommendation 1 from the Previous Examination Report which required the Company to review Act 205, Section 5(a)(9) [40 P.S. § 11 71.5(a)(9)] to ensure that the violations regarding the requirement for cancellation and nonrenewal notices, as noted in the Previous Report, do not occur in the future.

1. Property - Nonrenewal

The universe of 15 property policies which were nonrenewed during the experience was selected for review. The property policies consisted of boat, motor home and travel trailer policies. All 15 policies were received and reviewed. No violations were noted.

2. Property – Midterm Cancellations

From the universe of 710 property policies which were cancelled midterm by the Company during the experience period, 75 policies were selected for review. The property policies consisted of boat, motor home and travel trailer policies. All 75 policies requested were received and reviewed. No violations were noted.

3. 60 Day Cancellations

From the universe of 80 property policies cancelled in the first 60 days of new business, 30 policies were selected for review. The property policies consisted of boat, motor home and travel trailer policies. All 30 policies requested were received and reviewed. No violations were noted.

Recommendation 2

The primary purpose of the review was to determine compliance with Recommendation 2 from the Previous Examination Report which required the Company to review Title 31, Pa. Code, Section 59.9(b) to ensure that violations regarding the requirements for cancellation notices, as noted in the Report, do not occur in the future.

1. 60 Day Cancellations

From the universe of 80 property policies cancelled in the first 60 days of new business, 30 policies were selected for review. The property policies consisted of boat, motor home and travel trailer policies. All 30 policies requested were received and reviewed. No violations were noted.

VI. RATING

A. Private Passenger Automobile

Recommendation 3

The primary purpose of the review was to determine compliance with Recommendation 3 from the Previous Examination Report which required the Company to review Title 75, Pa. C.S. §1791 violations to ensure that the notice of available benefits is given to the insured at the time of application as noted in the Report.

1. Automobile Rating - New Business without Surcharges

From the universe of 46,361 private passenger automobile policies identified as new business without surcharges by the Company, 50 policies were selected for review. All 50 policies requested were received and reviewed. No violations were noted.

2. Automobile Rating - New Business with Surcharges

From the universe of 11,589 private passenger automobile policies identified as new business with surcharges by the Company, 100 policies were selected for review. All 100 policies were received and reviewed. No violations were noted.

Recommendation 4

The primary purpose of the review was to determine compliance with Recommendation 4 from the Previous Examination Report which required the Company to review Title 75, Pa. C.S. 1793(b) to ensure that violations regarding the requirement to provide the insured with a surcharge disclosure plan at the time of application, as noted in the Report, do not occur in the future.

Automobile Rating - New Business without Surcharges

From the universe of 46,361 private passenger automobile policies identified as new business without surcharges by the Company, 50 policies were selected for review. All 50 policies requested were received and reviewed. No violations were noted.

1. Automobile Rating - New Business with Surcharges

From the universe of 11,589 private passenger automobile policies identified as new business with surcharges by the Company, 100 policies were selected for review. All 100 policies were received and reviewed. No violations were noted.

Recommendation 5

The primary purpose of the review was to determine compliance with Recommendation 5 from the Previous Examination Report which required the Company to review Title 75, Pa. C.S. § 1799.3(a) to ensure that a policy is not surcharged where, during the preceding three-year period, the aggregate cost to the insurer for any person injured or property damaged is determined to be less than \$1,350 in excess of any self insured retention or deductible applicable to the named insured.

1. Automobile Rating - New Business with Surcharges

From the universe of 11,589 private passenger automobile policies identified as new business with surcharges by the Company, 100 policies were selected for review. All 100 policies were received and reviewed. No violations were noted.

Recommendation 6

The primary purpose of the review was to determine compliance with Recommendation 6 from the Previous Examination Report which required the Company to review Title 75, Pa. C.S. §1791.1(a) violations to ensure that an

itemized invoice listing minimum coverages and premiums are provided at the time of application, as noted in the Report, and do not occur in the future.

1. Automobile Rating - New Business without Surcharges

From the universe of 46,361 private passenger automobile policies identified as new business without surcharges by the Company, 50 policies were selected for review. All 50 policies requested were received and reviewed. No violations were noted.

2. Automobile Rating - New Business with Surcharges

From the universe of 11,589 private passenger automobile policies identified as new business with surcharges by the Company, 100 policies were selected for review. All 100 policies were received and reviewed. No violations were noted.

Recommendation 7

The primary purpose of the review was to determine compliance with Recommendation 7 from the Previous Examination Report which required the Company to review Title 75, Pa. C.S. §1791.1(b) violations to ensure that tort options are provided at the time of application, as noted in the Report, and do not occur in the future.

1. Automobile Rating - New Business without Surcharges

From the universe of 46,361 private passenger automobile policies identified as new business without surcharges by the Company, 50 policies were selected for review. All 50 policies requested were received and reviewed. No violations were noted.

2. Automobile Rating - New Business with Surcharges

From the universe of 11,589 private passenger automobile policies identified as

new business with surcharges by the Company, 100 policies were selected for review. All 100 policies were received and reviewed. No violations were noted.

Recommendation 8

The primary purpose of the review was to determine compliance with Recommendation 8 from the Previous Examination Report which required the Company to revise its underwriting procedures to ensure that each applicant for private passenger automobile liability insurance is provided an opportunity to elect a tort option and that signed tort option selection forms are obtained and retained with the underwriting file. This is to ensure that violations noted under Title 75, Pa. C.S. §1705(a)(l)(4) do not occur in the future.

1. Automobile Rating - New Business without Surcharges

From the universe of 46,361 private passenger automobile policies identified as new business without surcharges by the Company, 50 policies were selected for review. All 50 policies requested were received and reviewed. No violations were noted.

2. Automobile Rating - New Business with Surcharges

From the universe of 11,589 private passenger automobile policies identified as new business with surcharges by the Company, 100 policies were selected for review. All 100 policies were received and reviewed. No violations were noted.

Recommendation 9

The primary purpose of the review was to determine compliance with Recommendation 9 from the Previous Examination Report which required the Company to revise its underwriting procedures to ensure that the insured is aware that he may exercise the waiver of stacked limits for uninsured and underinsured motorist coverage by signing written rejection forms. This is to ensure that

violations noted under Title 75, Pa. C.S. § 1738(d)(1) and (2) do not occur in the future.

1. Automobile Rating - Vehicle Add Endorsement

From the universe of 14,575 private passenger automobile policies identified as single vehicle policies with a vehicle add endorsement, 25 policies were selected for review. All 25 policy files requested were received and reviewed. The 17 violations noted were based on 17 files, resulting in an error ratio of 68%.

The following findings were made:

17 Violations Title 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.

AND

Adjudication: Sackett/Nationwide Mutual Insurance Company, J-117-2006 (2006)

When an existing insured purchases uninsured or underinsured motorist coverage for more than one vehicle under a policy, the named insured must be provided with the opportunity to waive stacking of that coverage. The Company failed to inform the insured of the opportunity to stack or waive stacked limits of uninsured or underinsured motorist coverage when endorsing an additional vehicle to a policy.

2. Automobile Rating - New Business without Surcharges

From the universe of 46,361 private passenger automobile policies identified as new business without surcharges by the Company, 50 policies were selected for

review. All 50 policies requested were received and reviewed. No violations were noted.

3. Automobile Rating - New Business with Surcharges

From the universe of 11,589 private passenger automobile policies identified as new business with surcharges by the Company, 100 policies were selected for review. All 100 policies were received and reviewed. No violations were noted.

4. Automobile Rating - Renewals without Surcharges

From the universe of 75,675 private passenger automobile policies identified as renewals without surcharges, 75 policies were selected for review. All 75 policy files requested were received and reviewed. No violations were noted.

Recommendation 10

The primary purpose of the review was to determine compliance with Recommendation 10 from the Previous Examination Report which required the Company to review Title 75, Pa. C.S. §1738(c)(d)(1) and Act 205, Section 4 [40 P.S. 1171.4], and revise procedures to ensure that premiums are reduced for rejection of stacked uninsured motorist coverage under a single vehicle policy.

1. Automobile Rating - New Business without Surcharges

From the universe of 46,361 private passenger automobile policies identified as new business without surcharges by the Company, 50 policies were selected for review. All 50 policies requested were received and reviewed. No violations were noted.

2. Automobile Rating - New Business with Surcharges

From the universe of 11,589 private passenger automobile policies identified as new business with surcharges by the Company, 100 policies were selected for

review. All 100 policies were received and reviewed. No violations were noted.

3. Automobile Rating – Renewals without Surcharges

From the universe of 75,675 private passenger automobile policies identified as renewals without surcharges, 75 policies were selected for review. All 75 policy files requested were received and reviewed. No violations were noted.

4. Automobile Rating - Renewals with Surcharges

From the universe of 13,815 private passenger automobile policies identified as renewals with surcharges, 100 policies were selected for review. All 100 policy files requested were received and reviewed. No violations were noted.

5. Automobile Rating - Vehicle Add Endorsement

From the universe of 14,575 private passenger automobile policies identified as single vehicle policies with a vehicle add endorsement, 25 policies were selected for review. All 25 policy files requested were received and reviewed. No violations were noted.

Recommendation 11

The primary purpose of the review was to determine compliance with Recommendation 11 from the Previous Examination Report which required the Company to review Act 246, Section 4(a) and (h) [40 P.S. § 1184] and take appropriate measures to ensure the rating violations listed in the report do not occur in the future.

1. Automobile Rating - New Business without Surcharges

From the universe of 46,361 private passenger automobile policies identified as new business without surcharges by the Company, 50 policies were selected for review. All 50 policies requested were received and reviewed. No violations

were noted.

2. Automobile Rating - New Business with Surcharges

From the universe of 11,589 private passenger automobile policies identified as new business with surcharges by the Company, 100 policies were selected for review. All 100 policies were received and reviewed. No violations were noted.

3. Automobile Rating - Renewals without Surcharges

From the universe of 75,675 private passenger automobile policies identified as renewals without surcharges, 75 policies were selected for review. All 75 policy files requested were received and reviewed. No violations were noted.

4. Automobile Rating – Renewals with Surcharges

From the universe of 13,815 private passenger automobile policies identified as renewals with surcharges, 100 policies were selected for review. All 100 policy files requested were received and reviewed. No violations were noted.

VII. CLAIMS

A. Automobile, Boat, Motorcycle, and Travel Trailer

Recommendation 14

The primary purpose of the review was to determine compliance with Recommendation 14 from the Previous Examination Report which required the Company to review Title 75, Pa. C.S. §1161(a)&(b) with its claim staff to ensure that Pennsylvania salvage certificates are obtained and are retained with the claim file.

1. Automobile - Total Loss Collision Claims

From the universe of 2,519 private passenger automobile total loss collision claims reported during the experience period, 25 claims were selected for review. All 25 claims requested were received and reviewed. No violations were noted.

2. Automobile - Total Loss Comprehensive Claims

From the universe of 441 private passenger automobile total loss comprehensive claims reported during the experience period, 25 claims were selected for review. All 25 claims requested were received and reviewed. No violations were noted.

3. Automobile - Total Loss Property Damage

From the universe of 819 private passenger automobile total loss, property damage claims reported during the experience period, 25 files were selected for review. All 25 files requested were received and reviewed. No violations were noted.

4. Motorcycle - Total Loss Collision Claims

From the universe of 231 motorcycle total loss collision claims reported during the experience period, 10 claims were selected for review. All 10 claims requested

were received and reviewed. No violations were noted.

5. Motorcycle - Total Loss Comprehensive Claims

From the universe of 368 motorcycle total loss comprehensive claims reported during the experience period, 10 claims were selected for review. All 10 claims requested were received and reviewed. No violations were noted.

6. Motorcycle - Total Loss Property Damage Claims

The total universe of 11 motorcycle total loss property damage claims reported during the experience period was selected for review. All 11 claims requested were received and reviewed. No violations were noted.

7. Travel Trailer - Total Loss Claims

The universe of 16 travel trailer total loss claims reported during the experience period was selected for review. The 16 claims requested were received and reviewed. No violations were noted.

Recommendation 15

The primary purpose of the review was to determine compliance with Recommendation 15 from the Previous Examination Report which required the Company to review and revise internal control procedures to ensure compliance with the claims handling requirements of Title 31, Pennsylvania Code, Chapter 146, Unfair Claims Settlement Practices so that the violations relating to status letters, claim acceptance and denials, as noted in the Report, do not occur in the future.

1. Automobile - Collision Claims

From the universe of 15,123 private passenger automobile collision claims reported during the experience period, 25 claims were selected for review. All 25

claims requested were received and reviewed. No violations were noted.

2. Automobile - Total Loss Collision Claims

From the universe of 2,519 private passenger automobile total loss collision claims reported during the experience period, 25 claims were selected for review. All 25 claims requested were received and reviewed. The violation resulted in an error ratio of 4%.

The following finding was made:

1 Violation Title 31, Pa. Code, Section 146.6

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

3. Automobile - Total Loss Comprehensive Claims

From the universe of 441 private passenger automobile total loss comprehensive claims reported during the experience period, 25 claims were selected for review. All 25 claims requested were received and reviewed. The violation resulted in an error ratio of 4%.

The following finding was made:

1 Violation Title 31, Pa. Code, Section 146.6

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

4. Automobile - Total Loss Property Damage Claims

From the universe of 819 private passenger automobile total loss, property damage claims reported during the experience period, 25 claims were selected for review. All 25 claims requested were received and reviewed. The 4 violations noted were based on 4 files, resulting in an error ratio of 16%.

The following findings were made:

4 Violations Title 31, Pa. Code, Section 146.6

Every insurer shall complete investigation of a claim within 30 days after notification of the claim, unless such investigation cannot reasonably be completed within 30 days, and every 45 days thereafter, the insurer shall provide the claimant with a reasonable written explanation for the delay and state when a decision on the claim may be expected. The Company failed to provide the claimant an initial 30-day status letter and additional status letters every 45 days thereafter.

5. Boat - Collision Claims

From the universe of 59 boat collision claims reported during the experience period, 10 claims were selected for review. All 10 claims requested were received and reviewed. The 2 violations noted were based on 2 files, resulting in an error ratio of 20%.

The following findings were made:

1 Violation Title 31, Pa. Code, Section 146.6

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

1 Violation Title 31, Pa. Code, Section 146.7(a)(1)

Every insurer shall within 15 working days after receipt by the insurer of properly executed proof of loss, the first-party claimant shall be advised of the acceptance or denial of the claim by the insurer. An insurer may not deny a claim on the grounds of a specific policy provision, condition or exclusion unless reference to the provision, condition or exclusion is included in the denial. The denial shall be given to the claimant in writing and the claim file of the insurer shall contain a copy of the denial. The Company failed to retain a copy of the denial letter in the file.

6. Boat - Comprehensive Claims

From the universe of 44 boat comprehensive claims reported during the experience period, 10 claims were selected for review. All 10 claims requested were received and reviewed. The violation resulted in an error ratio of 10%.

The following finding was made:

1 Violation Title 31, Pa. Code, Section 146.6

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

7. Boat - Property Damage Claims

The universe of 9 boat property damage claims reported during the experience period was selected for review. All 9 claims requested were received and reviewed. The 4 violations noted were based on 4 files, resulting in an error ratio of 44%.

The following findings were made:

4 Violations Title 31, Pa. Code, Section 146.6

Every insurer shall complete investigation of a claim within 30 days after notification of the claim, unless such investigation cannot reasonably be completed within 30 days, and every 45 days thereafter, the insurer shall provide the claimant with a reasonable

written explanation for the delay and state when a decision on the claim may be expected. The Company did not provide timely status letters for the 4 claims noted.

8. Boat - Total Loss Collision Claims

The universe of 9 boat total loss collision claims reported during the experience period was selected for review. All 9 claims requested were received and reviewed. No violations were noted.

9. Travel Trailer - Collision Claims

From the universe of 17 travel trailer collision claims reported during the experience period, 10 claims were selected for review. All 10 claims requested were received and reviewed. The violation resulted in an error ratio of 10%.

The following finding was made:

1 Violation Title 31, Pa. Code, Section 146.6

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

10. Travel Trailer - Comprehensive Claims

From the universe of 92 travel trailer comprehensive claims reported during the experience period, 10 claims were selected for review. The 10 claims requested were received and reviewed. No violations were noted.

11. Travel Trailer - Total Loss Claims

The universe of 16 travel trailer total loss claims reported during the experience period was selected for review. The 16 claims requested were received and reviewed. No violations were noted.

Recommendation 16

The primary purpose of the review was to determine compliance with Recommendation 16 from the Previous Examination Report which required the Company to review Title 31, Pa. Code, Section 62.3(e)(4) with its claim staff to ensure that sales tax is included in the replacement value of a motor vehicle. The Company must review all claims where sales tax was not included in the replacement value of a motor vehicle. The sales tax must be paid to the claimant and proof of such payment must be provided to the Insurance Department within 30 days of the Report issue date.

1. Automobile - Total Loss Collision Claims

From the universe of 2,519 private passenger automobile total loss collision claims reported during the experience period, 25 claims were selected for review. All 25 claims requested were received and reviewed. The violation resulted in an error ratio of 4%.

The following finding was made:

1 Violation Title 31, Pa. Code, Section 62.3(e)(4)

Requires that applicable sales tax on the replacement cost of a motor vehicle shall be included as part of the replacement value. The Company failed to apply the correct sales tax on the replacement cost.

2. Automobile - Total Loss Comprehensive Claims

From the universe of 441 private passenger automobile total loss comprehensive claims reported during the experience period, 25 claims were selected for review. All 25 claims requested were received and reviewed. No violations were noted.

3. Automobile - Total Loss Property Damage Claims

From the universe of 819 private passenger automobile total loss property damage claims reported during the experience period, 25 claims were selected for review. All 25 claims requested were received and reviewed. No violations were noted.

Recommendation 17

The primary purpose of the review was to determine compliance with Recommendation 17 from the Previous Examination Report which required the Company to review Title 31, Pa. Code, Section 62.3(e)(7) with its claim staff to ensure that the consumer receives the total loss evaluation report within 5 working days after the appraisal is completed.

1. Automobile - Total Loss Collision Claims

From the universe of 2,519 private passenger automobile total loss collision claims reported during the experience period, 25 claims were selected for review. All 25 claims requested were received and reviewed. The 9 violations noted were based on 9 files, resulting in an error ratio of 36%.

The following findings were made:

9 Violations Title 31, Pa. Code, Section 62.3(e)(7)

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

extended before the consumer receives the total loss evaluation report, the consumer shall be advised of the total loss evaluation report's contents and of the consumer's right to be sent a copy within 5 days after its completion. The Company did not provide the total loss evaluation report within five (5) working days to the consumer for the 9 claim files noted.

2. Total Loss Comprehensive Claims

From the universe of 441 private passenger automobile total loss comprehensive claims reported during the experience period, 25 claims were selected for review. All 25 claims requested were received and reviewed. The 17 violations noted were based on 17 files, resulting in an error ratio of 68%.

The following findings were made:

17 Violations Title 31, Pa. Code, Section 62.3(e)(7)

The appraiser is responsible for ensuring that a copy of the total loss evaluation report is sent within 5 working days to the consumer by the appraiser after the appraisal is completed. If a settlement offer is extended before the consumer receives the total loss evaluation report, the consumer shall be advised of the total loss evaluation report's contents and of the consumer's right to be sent a copy within 5 days after its completion. The Company did not provide the total loss evaluation report within five (5) working days to the consumer for the 17 claim files noted.

3. Automobile - Total Loss Property Damage Claims

From the universe of 819 private passenger automobile total loss, property damage claims reported during the experience period, 25 claims were selected for review.

All 25 claims requested were received and reviewed. The 12 violations noted were based on 12 files, resulting in an error ratio of 48%.

The following findings were made:

12 Violations Title 31, Pa. Code, Section 62.3(e)(7)

The appraiser is responsible for ensuring that a copy of the total loss evaluation report is sent within 5 working days to the consumer by the appraiser after the appraisal is completed. If a settlement offer is extended before the consumer receives the total loss evaluation report, the consumer shall be advised of the total loss evaluation report's contents and of the consumer's right to be sent a copy within 5 days after its completion. The Company did not provide the total loss evaluation report within five (5) working days to the consumer for the 12 claim files noted.

VIII. RECOMMENDATIONS

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

- The Company must revise its underwriting procedures to ensure that the insured is aware that they may exercise the waiver of stacked limits for uninsured and underinsured motorist coverage by signing written rejection forms. This is to ensure that violations noted under Title 75, Pa. C.S. §1738(d)(1) and (2) do not occur in the future.
- 2. The Company must review and revise internal control procedures to ensure compliance with the claims handling requirements of Title 31, Pennsylvania Code, Chapter 146, Unfair Claims Settlement Practices so that the violations relating to status letters and claim denials, as noted in the Report, do not occur in the future.
- 3. The Company must review Title 31, Pa. Code, Section 62.3(e)(4) with its claim staff to ensure that correct sales tax is included in the replacement value of a motor vehicle.
- 4. The Company must review Title 31, Pa. Code, Section 62.3(e)(7) with its claim staff to ensure that each file contains adequate documentation and evidence that the consumer received the total loss evaluation report within 5 working days after the appraisal is completed.

IX. COMPANY RESPONSE

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Market Conduct Group

April 10, 2014

Ms. Constance Arnold Property and Casualty Division Chief Office of Market Regulation Bureau of Market Actions Property and Casualty Division 1227 Strawberry Square Harrisburg, Pennsylvania 17120

RE: Examination Warrant Number: 12-M08-061

Ms. Arnold,

We have reviewed the market conduct report concerning the examination of Progressive Advanced Insurance Company ("Progressive"). We thank the Department for its observations. Our response will address each of the issues cited by the examiners. Where we agree, we will address any corrective action taken or to be taken. Our response does not address areas examined for which no violations were found.

Progressive values a strong, cordial working relationship with the Department. We are committed to providing the best possible experience for our Pennsylvania customers and look forward to working with the Department to improve that experience whenever possible.

Should you have any additional questions, please do not hesitate to contact me at 440-395-3714.

Sincerely, Marty

Karen Flukarty / Market Conduct Auditor

Enclosures



Market Conduct Group

Progressive Advanced Insurance Company Examination Warrant Number: 12-M08-061 Response

IV. Underwriting Practices and Procedures

The Company submitted underwriting policies, practices and procedures; however, they were not able to provide the Examiners the specific revisions to address the following recommendations from the Previous Examination Report.

Progressive's response: The following responses are offered again. Responses to Recommendation 8, 9, and 10 were provided on May 23, 2013 as response to PAIC-IDR-16. The response to Recommendation 15 was provided on April 10, 2013 in response to PAIC-IDR-10. I've include the prior examination response also. Progressive requests that the report reflect that Progressive did provide the requested information.

Recommendation 8

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

Progressive's Response:

In the prior examination, Progressive Advanced Insurance Company responded to Recommendation 8, "We believe these to be isolated incidents and not reflective of our overall level of compliance. We believe our procedures clearly support compliance with Title 75, Pa. C.S. §1705(a)(1)(4)." Progressive maintains our prior position. No changes were made to procedures.

Recommendation 9

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



violations noted under Title 75, Pa. C.S. §1738(d)(1) and (2) do not occur in the future.

Progressive's Response:

In the prior examination, Progressive responded to the recommendation "Progressive believes this to be an isolated incident and not reflective or our overall level of compliance. We took the appropriate steps to correct this mistake with our customer. We believe our procedures clearly support compliance of Title 75, Pa. C.S. §1738(d)(1) and (2)." The corrective action plan was provided to the Department during the prior examination.

Recommendation 10

The Company must review Title 75, Pa. C.S. §1738(c)(d)(1) and Act 205, Section 4 [40 P.S. 117.4], and review procedures to ensure that premiums are reduced for rejection of stacked uninsured motorist coverage under a single vehicle policy.

Progressive's Response:

In the prior examination Progressive Advanced Insurance Company responded to the recommendation "Progressive has updated subsequent filings to ensure compliance with Title 75, Pa. C.S. §1738(c) (d) (1) and Act 205, Section 4 [40 P.S. 1171.4]."

In addition during the examination we provided the Department with the following response and provided them with the summary and proof of credits or refunds as stated.

"We filed updates to our Progressive Advanced Insurance Company product effective June 27, 2008. Please reference state tracking number B13013001. The overall rate change for Uninsured Motorist (UM) coverage was 0%. The rate change was 0% for stacked single car policies and 0% for unstacked single car policies. In off-setting the new discounts within the UM rate order calculation, the single car stacked base rate did not increase as much as the single car unstacked rate. Although this specific change was an unintentional design, the change was approved within a prior approval filing. We have subsequently addressed this UM rate issue effective February 19, 2010. Please see state tracking number B26931001.

While maintaining our arguments set forth and without admitting liability or noncompliance, we have identified the policies in which the rates were affected. We

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are in the process of issuing the applicable refund or credits. As requested by the Department, upon completion of this task, Progressive will provide a summary of the total number of policies affected, total amount of refunds, and proof of credits or refunds applied."

Recommendation 15

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

Progressive's Response:

In the prior examination, Progressive responded to Recommendation 15 "While maintaining our arguments set forth and without admitting liability or noncompliance, Progressive will review our procedures to ensure compliance with Title 31, Pennsylvania Code, Chapter 146, Unfair Claims Settlement Practices."

VI. Rating

A. Private Passenger Auto

Recommendation 9

The primary purpose of the review was to determine compliance with Recommendation 9 from the Previous Examination Report which required the Company to revise its underwriting procedures to ensure that the insured is aware that he may exercise the waiver of stacked limits for uninsured and underinsured motorist coverage by signing written rejection forms. This is to ensure that violations noted under Title 75, Pa. C.S. §1738 (d)(1) and (2) do not occur in the future.

1. Automobile Rating - Vehicle Add Endorsement

From the universe of 14,575 private passenger automobile policies identified as single vehicle policies with a vehicle add endorsement, 25 policies were selected for review.

All 25 policy files requested were received and reviewed. The 17 violations noted were based on 17 files, resulting in an error ration of 68%.

The following findings were made:

17 violations Title 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.

AND

Adjudication: Sackett/Nationwide Mutual Insurance Company, J-117-2006 (2006) When an existing insured purchases uninsured or underinsured motorist coverage for more than one vehicle under a policy, the named insured must be provided with the opportunity to waive stacking of that coverage. The Company failed to inform the insured of the opportunity to stack or waive stacked limits of uninsured or underinsured motorist coverage when endorsing an additional vehicle to a policy.

Progressive's Response:

Progressive believes its current process for issuing UM and UIM stacking waiver forms when an additional vehicle is endorsed to a policy is consistent with the line of Sackett v. Nationwide cases and Pennsylvania law. The <u>Sackett</u> cases clarified that stacking waiver forms do not need to be re-signed when a vehicle is added to a multi-vehicle policy. Based specifically on the <u>Sackett</u> cases, we instituted a process that mails the UM and UIM stacking waiver forms (8057 (06/00) and 8058 (06/00) respectively) to the policyholder anytime a single-vehicle policy, stacked or non-stacked, is endorsed with an additional vehicle making it a multi-vehicle policy. In addition to mailing the forms, we issue an accompanying letter (ACC) to policyholders explaining the reason for sending the forms and the ramifications of not returning signed forms. The current process began in March of 2009.

For the 17 violations noted, these were simply human errors and not a general business practice. We have sent out new forms to the policyholders if the policy was still in-force to determine what coverage they want. We also issued a reminder on April 3, 2014 to all of our Pennsylvania representatives reminding them of this process to ensure compliance.



VII. Claims

A. Automobile, Boat, Motorcycle and Travel Trailer Recommendation 15

The primary purpose of the review was to determine compliance with Recommendation 15 from the Previous Examination Report which required the Company to review and revise internal control procedures to ensure compliance with the claims handling requirements of Title 31, Pennsylvania Code, Chapter 146, Unfair Claims Settlement Practices so that the violations relating to status letters, claim acceptance and denials, as noted in the Report, do not occur in the future.

2. Automobile - Total Loss Collision Claims

From the universe of 2,519 private passenger automobile total loss collision claims reported during the examination period, 25 claims were selected for review. All 25 claims requested were received and reviewed. The violation resulted in an error ratio of 4%.

The following findings were made:

1 Violation Title 31, Pa. Code, Section 146.6

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

Progressive's Response:

We believe this to be an isolated incident and not reflective of our overall level of compliance. Conference calls were held with Pennsylvania Claims Leaders on February 25, 2014 and February 28, 2014 to reinforce the requirements of this regulation.

3. Automobile - Total Loss Comprehensive Claims

From the universe of 441 private passenger automobile total loss comprehensive claims reported during the experience period, 25 claims were selected for review. All 25 claims requested were received and reviewed. The violation resulted in an error ration of 4%.

The following finding was made:

1 Violation Title 31, Pa. Code, Section 146.6

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

Progressive's Response:

We believe this to be an isolated incident and not reflective of our overall level of compliance. Conference calls were held with Pennsylvania Claims Leaders on February 25, 2014 and February 28, 2014 to reinforce the requirements of this regulation.

4. Automobile - Total Loss Property Damage Claims

From the universe of 819 private passenger automobile total loss, property damage claims reported during the experience period, 25 claims were selected for review. All 25 claims requested were received and reviewed. The 4 violations noted were based on 4 files, resulting in an error ration of 16%.

The following finding was made:

4 Violations Title 31, Pa. Code, Section 146.6

Every insurer shall complete investigation of a claim within 30 days after notification of the claim, unless such investigation cannot reasonably be completed within 30 days, and every 45 days thereafter, the insurer shall provide the claimant with a reasonable written explanation for the delay and state when a decision on the claim may be expected. The Company failed to provide the claimant an initial 30-day status letter and additional status letters every 45 days thereafter.

Progressive's Response:

We believe these to be isolated incidents and not reflective of our overall level of compliance. Conference calls were held with Pennsylvania Claims Leaders on February 25, 2014 and February 28, 2014 to reinforce the requirements of this regulation.

5. Boat - Collision Claims

From the universe of 59 boat collision claims reported during the experience period, 10 claims were selected for review. All 10 claims requested were received and reviewed. The 2 violations noted were based on 2 files, resulting in an error ratio of 20%.

The following findings were made:

1 Violation Title 31, Pa. Code, Section 146.6

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

Progressive's Response:

We believe this to be an isolated incident and not reflective of our overall level of compliance. Conference calls were held with Pennsylvania Claims Leaders on February 25th and 28th to reinforce the requirements of this regulation.

1 violation Title 31, Pa. Code, Section 146.7(a)(1)

Every insurer shall within 15 working days after receipt by the insurer of properly executed proof of loss, the first-party claimant shall be advised of the acceptance or denial of the claim by the insurer. An insurer may not deny a claim on the grounds of a specific policy provision, condition or exclusion unless reference to the provision, condition or exclusion is included in the denial. The denial shall be given to the claimant in writing and the claim file of the insurer shall contain a copy of the denial. The Company failed to retain a copy of the denial letter in the file.

Progressive's Response:

We believe this to be an isolated incident and not reflective of our overall level of compliance. An email was sent to Pennsylvania Claims Leaders on March 27, 2014 reinforcing the requirements of this regulation.

6. Boat - Comprehensive Claims

From the universe of 44 boat comprehensive claims reported during the experience period, 10 claims were selected for review. All 10 claims requested were received and reviewed. The violation resulted in an error ratio of 10%.

The following finding was made:

1 Violation Title 31, Pa. Code, Section 146.6

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

Progressive's Response:

We believe this to be an isolated incident and not reflective of our overall level of compliance. Conference calls were held with Pennsylvania Claims Leaders on February 25, 2014 and February 28, 2014 to reinforce the requirements of this regulation.

7. Boat - Property Damage Claims

The universe of 9 boat property damage claims reported during the experience period was selected for review. All 9 claims requested were received and reviewed. The 4 violations noted were based on 4 filed, resulting in an error ratio of 44%.

The following findings were made:

4 Violations Title 31, Pa. Code, Section 146.6

Every insurer shall complete investigation of a claim within 30 days after notification of the claim, unless such investigation cannot reasonably be completed within 30 days, and every 45 days thereafter, the insurer shall provide the claimant with a reasonable written explanation for the delay and state when a decision on the claim

may be expected. The Company did not provide timely status letters for the 4 claims noted.

Progressive's Response:

We believe these to be an isolated incidents and not reflective of our overall level of compliance. Conference calls were held with Pennsylvania Claims Leaders on February 25, 2014 and February 28, 2014 to reinforce the requirements of this regulation.

9. Travel Trailer - Collision Claims

From the universe of 17 travel trailer collision claims reported during the experience period, 10 claims were selected for review. All 10 claims requested were received and reviewed. The violation resulted in an error ratio of 10%.

The following finding was made:

1 Violation Title 31, Pa. Code, Section 146.6

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

Progressive's Response:

We believe this to be an isolated incident and not reflective of our overall level of compliance. Conference calls were held with Pennsylvania Claims Leaders on February 25, 2014 and February 28, 2014 to reinforce the requirements of this regulation.

Recommendation 16

The primary purpose of the review was to determine compliance with Recommendation 16 from the Previous Examination Report which required the Company to review Title 31, Pa. Code, Section 62.3(e)(4) with its claim staff to ensure that sales tax is included in the replacement value of a motor vehicle. The Company must review all claims where sales tax was not included in the replacement value of a motor vehicle. The sales tax must be paid to the claimant and proof of such payment

must be provided to the Insurance Department within 30 days of the Report issue date.

1. Automobile - Total Loss Collision Claims

From the universe of 2,519 private passenger automobile total loss collision claims reported during the experience period, 25 claims were selected for review. All 25 claims requested were received and reviewed. The violation resulted in an error ratio of 4%.

The following finding was made:

1 Violation Title 31, Pa. Code, Section 62.3(e)(4)

Requires that applicable sales tax on the replacement cost of a motor vehicle shall be included as part of the replacement value. The Company failed to apply the correct sales tax on the replacement cost.

Progressive's Response:

We believe this to be an isolated incident and not reflective of our overall level of compliance. A payment of \$92.40 was issued to the insured on August 2, 2013.

Recommendation 17

The primary purpose of the review was to determine compliance with Recommendation 17 from the Previous Examination Report which required the Company to review Title 31, Pa. Code, Section 62.3(e)(7) with its claim staff to ensure that the consumer receives the total loss evaluation report within 5 working days after the appraisal is completed.

1. Automobile - Total Loss Collision Claims

From the universe of 2,519 private passenger automobile total loss collision claims reported during the experience period, 25 claims were selected to review. All 25 claims requested were received and reviewed. The 9 violations noted were based on 9 fles, resulting in an error ratio of 36%.

The following findings were made:



9 Violations Title 31, Pa. Code, Section 62.3(e)(7)

The appraiser is responsible for ensuring that a copy of the total loss evaluation report is sent within 5 working days to the consumer by the appraiser after the appraisal is completed. If a settlement offer is extended before the consumer receives the total loss evaluation report, the consumer shall be advised of the total loss evaluation report's contents and of the consumer's right to be sent a copy within 5 days after its completion. The Company did not provide the total loss evaluation report within five (5) working days to the consumer for the 9 claim files noted.

Progressive's Response:

We believe these to be isolated incidents and not reflective of our overall level of compliance. Conference calls were held with Pennsylvania Claims Leaders on February 25th and 28th to reinforce the requirements of this regulation.

2. Total Loss Comprehensive Claims

From the universe of 441 private passenger automobile total loss comprehensive claims reported during the experience period, 25 claims were selected for review. All 25 claims requested were received and reviewed. The 17 violations noted were based on 17 files, resulting in an error ratio of 68%.

The following findings were made:

17 Violations Title 31, Pa. Code, Section 62.3(e)(7)

The appraiser is responsible for ensuring that a copy of the total loss evaluation report is sent within 5 working days to the consumer by the appraiser after the appraisal is completed. If a settlement offer is extended before the consumer receives the total loss evaluation report, the consumer shall be advised of the total loss evaluation report's contents and of the consumer's right to be sent a copy within 5 days after its completion. The Company did not provide the total loss evaluation report within five (5) working days to the consumer for the 17 claim files noted.

Progressive's Response:

We believe these to be isolated incidents and not reflective of our overall level of compliance. Conference calls were held with Pennsylvania Claims Leaders on February 25, 2014 and February 28, 2014 to reinforce the requirements of this regulation.

3. Automobile - Total Loss Property Damage Claims



From the universe of 819 private passenger automobile total loss, property damage claims reported during the experience period, 25 claims were selected for review. All 25 claims requested were received and reviewed. The 12 violations noted were based on 12 files, resulting in an error ratio of 48%.

The following findings were made:

12 Violations Title 31, Pa. Code, Section 62.03(e)(7)

The appraiser is responsible for ensuring that a copy of the total loss evaluation report is sent within 5 working days to the consumer by the appraiser after the appraisal is completed. If a settlement offer is extended before the consumer receives the total loss evaluation report, the consumer shall be advised of the total loss evaluation report's contents and of the consumer's right to be sent a copy within 5 days after its completion. The Company did not provide the total loss evaluation report within five (5) working days to the consumer for the 12 claim files noted.

Progressive's Response:

We believe these to be isolated incidents and not reflective of our overall level of compliance. Conference calls were held with Pennsylvania Claims Leaders on February 25, 2014 and February 28, 2014 to reinforce the requirements of this regulation.

VII. Recommendations

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

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

Progressive's Response:

Progressive believes its current process for issuing UM and UIM stacking waiver forms when an additional vehicle is endorsed to a policy is consistent with the line of Sackett v. Nationwide cases and Pennsylvania law. The <u>Sackett</u> cases clarified that stacking waiver forms do not need to be re-signed when a vehicle is added to a multi-

vehicle policy. Based specifically on the <u>Sackett</u> cases, we instituted a process that mails the UM and UIM stacking waiver forms (8057 (06/00) and 8058 (06/00) respectively) to the policyholder anytime a single-vehicle policy, stacked or non-stacked, is endorsed with an additional vehicle making it a multi-vehicle policy. In addition to mailing the forms, we issue an accompanying letter (ACC) to policyholders explaining the reason for sending the forms and the ramifications of not returning signed forms. The current process began in March of 2009.

For the 17 violations noted, these were simply human errors and not a general business practice. We have sent out new forms to the policyholders if the policy was still in-force to determine what coverage they want. We also issued a reminder on April 3, 2014 to all of our Pennsylvania representatives reminding them of this process to ensure compliance.

2. The Company must review and revise internal control procedures to ensure compliance with the claims handling requirements of Title 31, Pennsylvania Code, Chapter 146, Unfair Claims Settlement Practices so that the violations relating to status letters and claim denials, as noted in the Report do not occur in the future.

Progressive's Response:

x

We believe this to be an isolated incident and not reflective of our overall level of compliance. An email was sent to Pennsylvania Claims Leaders on March 27, 2014 reinforcing the requirements of this regulation.

3. The Company must review Title 31, Pa. Code, Section 62.3(e)(4) with its claim staff to ensure that correct sales tax is included in the replacement value of a motor vehicle.

Progressive's Response:

We believe this to be an isolated incident and not reflective of our overall level of compliance. A payment of \$92.40 was issued to the insured on August 2, 2013.

4. The Company must review Title 31, Pa. Code, Section 62.3(e)(7) with its claim staff to ensure that each file contains adequate documentation and evidence that the consumer received the total loss evaluation report within 5 working days after the appraisal is completed.

Progressive's Response:

We believe these to be isolated incidents and not reflective of our overall level of compliance. Conference calls were held with Pennsylvania Claims Leaders on February 25, 2014 and February 28, 2014 to reinforce the requirements of this regulation.