



**COMMONWEALTH OF PENNSYLVANIA  
INSURANCE DEPARTMENT**

**MARKET CONDUCT  
EXAMINATION REPORT**

**OF**


**WESTFIELD INSURANCE COMPANY  
WESTFIELD CENTER, OH**

**As of: June 11, 2014  
Issued: July 28, 2014**

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

VERIFICATION

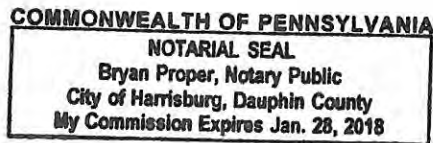
Having been duly sworn, I hereby verify that the statements made in the within document are true and correct to the best of my knowledge, information and belief. I understand that false statements made herein are subject to the penalties of 18 Pa. C.S. §4903 (relating to false swearing).

  
\_\_\_\_\_  
June A. Coleman, MCM, Examiner-In-Charge

Sworn to and Subscribed Before me

This 22 Day of April, 2014

  
\_\_\_\_\_  
Notary Public



**WESTFIELD INSURANCE COMPANY**  
**TABLE OF CONTENTS**

Order	
I.	Introduction . . . . . 1
II.	Scope of Examination . . . . . 3
III.	Company History/Licensing . . . . . 4
IV.	Underwriting Practices and Procedures . . . . . 6
V.	Rating
	A. Private Passenger Automobile . . . . . 9
	B. Homeowner . . . . . 24
	C. Package . . . . . 32
VI.	Forms . . . . . 55
VII.	Complaints . . . . . 56
VIII.	Data Integrity . . . . . 58
IX.	Recommendations . . . . . 59
X.	Company Response . . . . . 63

BEFORE THE INSURANCE COMMISSIONER  
OF THE  
COMMONWEALTH OF PENNSYLVANIA

ORDER

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



  
Michael F. Consedine  
Insurance Commissioner

BEFORE THE INSURANCE COMMISSIONER  
OF THE  
COMMONWEALTH OF PENNSYLVANIA

IN RE: : VIOLATIONS:  
: :  
WESTFIELD INSURANCE : Sections 2003(a)(1), (11), (13) & (14),  
COMPANY : 2003(b), 2004 of Act 68 of 1998  
One Park Circle : (40 P.S. §§ 991.2003 and 2004)  
Westfield Center, OH 44251 : :  
: Sections 4 and 5(a)(11) of the Unfair  
: Insurance Practices Act, Act of  
: July 22, 1974, P.L. 589, No. 205  
: (40 P.S. §§1171.4 and 1171.5)  
: :  
: Sections 4(a) and 4(h) of the Act of  
: June 11, 1947, P.L. 589, No. 246  
: (40 P.S. §§ 1184)  
: :  
: 75 Pennsylvania Consolidated  
: Statutes, Sections 1702, 1705(a)(4)  
: 1711(b), 1725, 1731(b) & (c)  
: 1731(c.1), 1734, 1738(d)(1) & (2),  
: 1738(e), 1791.1(a), 1792(a), 1792(b)(1),  
: 1793(b), 1799(a), 1799.1, 1799.2 and  
: (75 Pa. C.S. 1702, 1705, 1711,  
: 1725, 1731, 1734, 1738, 1791, 1792, 1793  
: and 1799)  
: :  
Respondent. : Docket No. MC14-06-005

CONSENT ORDER

AND NOW, this *28<sup>th</sup>* day of *July*, 2014, this Order is hereby  
issued by the Insurance Department of the Commonwealth of Pennsylvania pursuant to  
the statutes cited above and in disposition of the matter captioned above.

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

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

#### FINDINGS OF FACT

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

- (a) Respondent is Westfield Insurance Company and maintains its address at One Park Circle, Westfield Center, OH 44251.
- (b) A market conduct examination of Respondent was conducted by the Insurance Department covering the experience period from January 1, 2012 through June 30, 2013.



- (c) On June 11, 2014, the Insurance Department issued a Market Conduct Examination Report to Respondent.
- (d) A response to the Examination Report was provided by Respondent on July 2, 2014.
- (e) The Market Conduct Examination of Respondent revealed violations of the following:
  - (i) Section 2003(a)(1) of Act 68 of 1998 (40 P.S. §991.2003(a)(1)), which prohibits an insurer from canceling or refusing to renew a policy of automobile insurance on the basis of age/or the number of years driving experience;
  - (ii) Section 2003(a)(11) of Act 68 of 1998 (40 P.S. §991.2003(a)(11)), which states an insurer may not cancel or refuse to renew a policy of automobile insurance on the basis of the refusal of another insurer to write a policy or the cancellation or refusal to renew an existing policy by another insurer;
  - (iii) Section 2003(a)(13) of Act 68 of 1998 (40 P.S. §991.2003(a)(13)), which states an insurer may not cancel or refuse to renew a policy of automobile insurance on the basis of any not-at-fault accidents described in (i), (ii), (iii), (iv), (v), (vi), (vii), (viii) and (ix).

- (iv) Section 2003(a)(14) of Act 68 of 1998 (40 P.S. §991.2003(a)(14)), which states an insurer may not cancel or refuse to renew a policy of automobile insurance on the basis of any claim under the comprehensive portion of the policy unless such loss was intentionally caused by the insured;
- (v) Section 2003(b) of Act 68 of 1998 (40 P.S. § 991.2003(b)), which states that an insurer may not cancel or refuse to renew a policy of automobile insurance on the basis of one accident within the thirty-six (36) month period prior to the upcoming anniversary date of the policy;
- (vi) Section 2004 of Act 68 of 1998 (40 P.S. § 991.2004), which requires that no insurer shall cancel a policy of automobile insurance except for nonpayment of premium, suspension or revocation of the named insured's driver license or motor vehicle registration or a determination that the insured has concealed a material fact or has made a material allegation contrary to fact or has made a misrepresentation of material fact and that such concealment, allegation or misrepresentation was material to the acceptance of the risk by the insurer;
- (vii) Section 4 of Act 205 (40 P.S. § 1171.4), which prohibits any person to engage in this state in any trade practice which is defined or determined to be an unfair method of competition or an unfair or deceptive act or practice in the business of insurance pursuant to this act;



- (viii) Section 5(a)(11) of the Unfair Insurance Practices Act, No. 205 (40 P.S. § 1171.5), which requires a complete record of all complaints received during the preceding four years;
- (ix) Sections 4(a) and 4(h) of the Casualty and Surety Rate Regulatory Act, No. 246 (40 P.S. § 1184), which requires every insurer to file with the Insurance Commissioner every manual of classifications, rules and rates, every rating plan and every modification of any rating plan which it proposes to use in this Commonwealth and prohibits an insurer from making or issuing a contract or policy with rates other than those approved;
- (x) 75 Pa. C.S. 1702 – Definitions. The following words and phrases when used in this chapter shall have the meanings given to them in this section unless the context clearly indicates otherwise: “Financial responsibility.” The ability to respond in damages for liability on account of accidents arising out of the maintenance or use of a motor vehicle in the amount of \$15,000 because of injury to one person in any one accident, in the amount of \$30,000 because of injury to two or more persons in any one accident and in the amount of \$5,000 because of damage to property of others in any one accident. The financial responsibility shall be in a form acceptable to the Department of Transportation;
- (xi) Act 1990-6, Section 8, 75 Pa. C.S. § 1705(a)&(4), which requires every insurer, prior to the issuance of a private passenger motor vehicle liability

insurance policy to provide each applicant an opportunity to elect a tort option. A policy may not be issued unless the applicant has been provided an opportunity to elect a tort option;

(xii) Act 1990-6, Section 9, 75 Pa. C.S. 1711(b) – Required

Benefits. (b) Minimum Policy – All insurers subject to this chapter shall make available for purchase a motor vehicle insurance policy which contains only the minimum requirements of financial responsibility and medical benefits as provided for in this chapter;

(xiii) 75 Pa.C.S. § 1725, which 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;

(xiv) Act 1990-6, Section 9, 75 Pa. C.S. § 1731(b)&(c), which requires the named insured to be informed that he may reject uninsured and underinsured motorist coverage by signing a written rejection form;

(xv) Act 1990-6, Section 9, 75 Pa. C.S. § 1731(c)(1), which states on policies in which either uninsured or underinsured motorist coverage has been rejected, the policy renewals must contain notice in prominent type that the policy does not provide protection against damages caused by uninsured or underinsured motorists;

- (xvi) Act 1990-6, Section 11, 75 Pa. C.S. § 1734, which allows a named insured to request in writing the issuance of coverages under Section 1731 in amount equal to or less than the limits of liability for bodily injury;
- (xvii) Act 1990-6, Section 12, 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;
- (xviii) Act 1990-6, Section 12, 75 Pa. C.S. § 1738(e), which states the forms described in subsection (d) must be signed by the first named insured and dated to be valid. Any rejection form that does not comply with this section is void;
- (xix) Act 1990-6, Section 17, 75 Pa. C.S. § 1791.1(a), which requires that at the time of application for original coverage and every renewal thereafter, an insurer must provide to an insured an itemized invoice listing the minimum motor vehicle insurance coverage levels mandated by the commonwealth and the premium charge for the insured to purchase the minimum mandated coverages. The invoice must contain the following notice in print of no less than ten-point type: “The laws of the Commonwealth of Pennsylvania, as enacted by the General Assembly, only require you to purchase liability and first-party medical benefit coverages.



Any additional coverage or coverages in excess of the limits required by law are provided only at your request as enhancements to basic coverages.” The insurer shall provide the itemized invoice to the insured in conjunction with the declaration of coverage limits and premiums for the insured’s existing coverages;

(xx) Act 1990-6, Section 18, 75 Pa.C.S. § 1792(a), which requires insurers issuing a policy of bodily injury liability coverage make available for purchase higher limits of uninsured, underinsured and bodily injury liability coverages up to at least \$100,000 because of injury to one person in any accident and up to at least \$300,000 because of injury to two or more persons in any one accident or, at the option of the insurer, up to at least \$300,000 in a single limits for these coverages.

(xxi) Act 1990-6, Section 18, 75 Pa.C.S. § 1792(b)(1), which requires every private passenger automobile insurance policy providing collision coverage to provide a deductible in the amount of \$500.00 for collision coverage, unless the named insured signs a statement indicating the insured is aware that the purchase of a lower deductible is permissible and that there is an additional cost of purchasing a lower deductible and the insured agrees to accept it;

(xxii) 75 Pa. C.S. § 1793(b), which requires the insurer to provide to the insured a surcharge disclosure plan. The insurer providing the surcharge



disclosure plan shall detail the provisions of the plan and shall deliver the plan to each insured at least once annually. Additionally, the surcharge information plan shall be given to each prospective insured at the time application is made for motor vehicle insurance coverage;

(xxiii) Act 1990-6, Section 19, 75 Pa.C.S. § 1799(a), which requires insurers to provide premium discounts for motor vehicles equipped with passive restraint devices. These discounts shall apply to the first party benefits coverage and shall be approved by the Commissioner as part of the insurer's rate filing, provided that such discounts shall not be less than 15% for passive seat belts, 20% for one airbag on the operator's side of the vehicle and 30% for two airbags. Some or all of the premium discounts required by this subsection may be omitted upon demonstration to the Commissioner in an insurer's rate filing that the discounts are duplicative of other discounts provided by the insurer or specifically reflected in the insurer's experience.

(xxiv) Act 1990-6, Section 19, 75 Pa.C.S. § 1799.1, which requires insurers to provide premium discounts for motor vehicles with passive antitheft devices. These discounts shall apply to the comprehensive coverage and shall be approved by the Commissioner as part of the insurer's rate filing, provided that such discounts shall not be less than 10%. Some or all of the premium discounts required by this subsection may be omitted upon demonstration to

the Commissioner in an insurer's rate filing that the discounts are duplicative of other discounts provided by the insurer.

(xxv) Act 1990-6, Section 19, 75 Pa.C.S. § 1799.2, which requires insurers to provide a premium discount for each motor vehicle on a policy under which all named insureds are 55 years of age or older and have successfully completed a motor vehicle driver improvement course meeting the standards of the Department of Transportation. This discount shall apply to all coverages for all policy periods beginning within the three-year period immediately following the successful completion of the course and shall be provided by the Commissioner as part of the insurer's rate filing, provided that such discount shall not be less than 5%.

#### 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 Sections 2003(a)(1), (11), (13), (14), 2003(b) and 2004, 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).

(c) Respondent's violations of Section 4 and 5(a)(11) of the Unfair Insurance Practices Act, No. 205 (40 P.S. §§ 1171.4 and 1171.5) are punishable by the following, under Section 9 of the Unfair Insurance Practices Act (40 P.S. §1171.9):

- (i) cease and desist from engaging in the prohibited activity;
- (ii) suspension or revocation of the license(s) of Respondent.

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

- (i) for each method of competition, act or practice which the company knew or should have known was in violation of the law, a penalty of not more than five thousand dollars (\$5,000.00);



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

(e) Respondent's violations of Sections 4(a) and (h) of the Casualty and Surety Rate Regulatory Act, No. 246 (40 P.S. § 1184) are punishable under Section 16 of the Casualty and Surety Rate Regulatory Act:

(i) imposition of a civil penalty not to exceed \$50 for each violation or not more than \$500 for each such wilful violation;

(ii) suspension of the license of any insurer which fails to comply with an Order of the Commissioner within the time limited by such Order, or any extension thereof which the Commissioner may grant.

#### ORDER

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

(a) Respondent shall cease and desist from engaging in the activities described herein in the Findings of Fact and Conclusions of Law.



- (b) Respondent shall pay Thirty Five Thousand Dollars (\$35,000.00) in settlement of all violations contained in the Report.
- (c) Payment of this matter shall be made by check payable to the Commonwealth of PA. Payment should be directed to April Phelps, Insurance Department, Bureau of Market Actions, 1227 Strawberry Square, Harrisburg, Pennsylvania 17120. Payment must be made no later than thirty (30) days after the date of this Order.
- (d) Respondent shall file an affidavit stating under oath that it will provide each of its directors, at the next scheduled directors meeting, a copy of the adopted Report and related Orders. Such affidavit shall be submitted within thirty (30) days of the date of this Order.
- (e) 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.

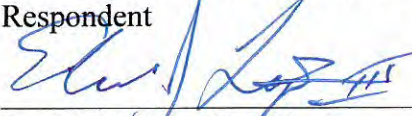
9. Respondent hereby expressly waives any relevant statute of limitations and application of the doctrine of laches for purposes of any enforcement of this Order.

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.

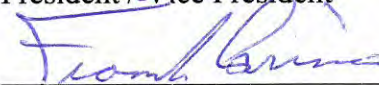
11. This Order shall be final upon execution by the Insurance Department. Only the Insurance Commissioner or a duly authorized delegee is authorized to bind the Insurance Department with respect to the settlement of the alleged violations of law

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

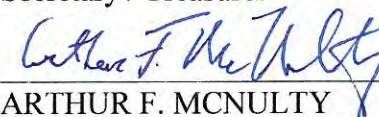
BY: WESTFIELD INSURANCE COMPANY,  
Respondent



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



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



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

## I. INTRODUCTION

The Market Conduct Examination was conducted at the office of Westfield Insurance Company (Company) located in Lititz, Pennsylvania, from November 12, 2013 through November 22, 2013. Subsequent review and follow-up was conducted in the office of the Pennsylvania Insurance Department.

The Pennsylvania Market Conduct Examination Report, hereinafter referred to as "Report", generally notes only those items to which the Department, after review, takes exception. However, the 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

Kelly A. Krakowski  
Market Conduct Examiner

Karen A. Veronikis  
Market Conduct Examiner

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

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

## II. SCOPE OF EXAMINATION

The Market Conduct Examination was conducted on Westfield Insurance Company at their office located in Lititz, Pennsylvania. 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 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
  - Rating - Proper use of all classification and rating plans and procedures.
  
2. Personal Lines Property
  - Rating – Proper use of all classification and rating plans and procedures.
  
3. Package
  - Rating – Proper use of all classification and rating plans and procedures.
  
4. Forms
  
5. Complaints
  
6. Data Integrity

### III. COMPANY HISTORY

A member of the Westfield Insurance group of companies, Westfield Insurance Company was formed as a companion carrier to Ohio Farmers Insurance Company at a time when a single enterprise was not authorized by law to write both fire and casualty forms of insurance coverages, and underwriting operations were conducted separately until the enactment of multiple line underwriting legislation. The Company was incorporated on July 12, 1929, under the laws of Ohio, and started business July 19, 1929. Operations were conducted under the name of Ohio Farmers Indemnity Company from inception until June 12, 1959, when the name was changed to Superior Risk Insurance Company. The present name was adopted on December 15, 1970. Westfield has been licensed in Pennsylvania since 1938.

Westfield is a multiple line property and casualty insurance company, writing business primarily in the midwest, mid-Atlantic and south. Westfield sells its products through an independent agency force and it is directed by the same officers and management as direct each of the insuring companies in the Westfield Insurance Group.

### LICENSING

Westfield Insurance Company's Certificate of Authority to write business in the Commonwealth was last issued on April 1, 2013. The Company is licensed in the District of Columbia and all states except Alaska, California, Connecticut, Hawaii, Maine and New Hampshire. The Company's 2012 annual statement reflects Direct Written Premium for all lines of business in the Commonwealth of Pennsylvania as \$194,933,535. Premium volume related to the areas of this

review were: Fire \$2,210,883; Homeowners Multiple Peril \$34,717,135; Private Passenger Automobile Direct Written Premium was reported as Other Private Passenger Auto Liability \$28,161,992 and Private Passenger Auto Physical Damage \$22,521,676.



#### IV. UNDERWRITING PRACTICES AND PROCEDURES

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

The following findings were made:

*16 Violations Act 68, Section 2003(a)(1) [40 P.S. §991.2003(a)(1)]*

States that an insurer may not refuse to write, cancel or refuse to renew a policy of automobile insurance on the basis of age. The 16 violations noted were the result of the Company refusing to write based on the number of years driving experience or operator's age.

*4 Violations Act 68, Section 2003(a)(11) [40 P.S. §991.2003(a)(11)]*

States that an insurer may not refuse to write, cancel or refuse to renew a policy of automobile insurance on the basis that another insurer refused to write a policy or the cancellation or refusal to renew an existing policy by another insurer. The four (4) violations noted were the result of the Company refusing to write after cancellation or non-renewal by another insurer.

*8 Violations Act 68, Section 2003(a)(13) [40 P.S. §991.2003(a)(13)]*

*Act 68, Section 2003(a)(14) [40 P.S. §991.2003(a)(14)]*

States that an insurer may not refuse to write, cancel or refuse to renew a policy of automobile insurance for any of the reasons specified in 2003(a)(13) and for any claim under the comprehensive portion of the policy unless such loss was intentionally caused by the insured. The eight (8) violations noted were the result of the Company refusing to write in the Westpak Program for the reason of prior not-at-fault accidents or comprehensive claims unless such loss was intentionally caused by the insured.

*6 Violations Act 68, Section 2003(a)(14) [40 P.S. §991.2003(a)(14)]*

States that an insurer may not refuse to write, cancel or refuse to renew a policy of automobile insurance for the reason: Any claim under the comprehensive portion of the policy unless such loss was intentionally caused by the insured. The six (6) violations noted were the result of the Company refusing to write in the Westpak Program for the reason of prior comprehensive claims unless such loss was intentionally caused by the insured.

*4 Violations Title 75, Pa. C.S. §1702*

*Title 75, Pa. C.S. §1711(b)*

*Title 75, Pa. C.S. §1792(a)*

All insurers subject to this chapter shall make available for purchase a motor vehicle insurance policy which contains only the minimum requirements of financial responsibility and medical benefits as provided for in this chapter. An insurer shall also make available for purchase higher limits of uninsured, underinsured and bodily injury liability coverages. The four (4) violations noted were the

result of the Company failing to offer the required minimum limits and additional options for bodily injury, property damage, and uninsured and underinsured motorist coverages in the WesPak Program.

*7 Violations Act 205, Section 4 [40 P.S. §1171.4]*

Unfair Methods of Competition and Unfair or Deceptive Acts or Practices Prohibited. Prohibits any trade practice which is defined or determined to be an unfair method of competition or unfair or deceptive act or practice in the business of insurance. Of the seven (7) violations noted, five (5) violations were the result of the Company requiring supporting coverage. The remaining two (2) violations noted were the result of the Company failing to offer comprehensive deductible less than \$250 to all age and driving experience groups.

The following concern was noted:

**CONCERN:** The WesPak Auto and Estate Underwriting Guides [APV UG 37 (PA), Page 2, (7/2011, 12/2011, 2/2013 editions and WNE AUG 37 (PA), Page B, (7/2011, 12/2011, 2/2013 editions)] indicated the minimum collision deductible was \$500. The Company should amend the Guides to indicate a lower collision deductible may be selected.

## V. RATING

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

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

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

The primary purpose of the review was to measure compliance with Act 246, Sections 4(a) and (h) [40 P.S. §1184], which requires every insurer to file with the Insurance Commissioner every manual of classifications, rules and rates, every rating plan and every modification of any rating plan, which it proposes to use in the Commonwealth. Also, no insurer shall make or issue a contract or policy except in accordance with filings or rates, which are in effect at the time. Files were also reviewed to determine compliance with all provisions of Act 6 of 1990 and Act 68, Section 2005(c) [40 P.S. §991.2005(c)], which requires insurers to provide to insureds a detailed statement of the components of a premium and shall specifically show the amount of surcharge or other additional amount that is charged as a result of a claim having been made under a policy of insurance, or as a result of any other factors.

The Company uses an automated system to process and issue personal automobile policies. In order to verify the automated system, several policies were manually rated to ensure the computer had been programmed correctly. Once the computer programming had been verified, only the input data needed to be verified. By reviewing base premiums, territory assignments, rating symbols, classifications and surcharge disclosures, the examiners were able to determine compliance with the Company's filed and approved rating plans.

Private Passenger Automobile Rating – New Business without Surcharges

From the universe of 928 private passenger automobile policies identified as new business without surcharges by the Company, 100 files were selected for review. All 100 policy files requested were received and reviewed. The 1,865 violations noted were based on the universe of 928 files, resulting in an error ratio of 100%.

The following findings were made:

*1 Violation Act 246, The Casualty and Surety Rate Regulatory Act,*

*Section 4 [40 P.S. §1184]*

*Title 75, Pa. C.S. §1738(d)(1) & (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. 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 violation was the result of the policy not being issued and rated per insured's request to reject stacked limits for underinsured and uninsured motorist coverage.

*2 Violations Act 246, The Casualty and Surety Rate Regulatory Act,  
Section 4 [40 P.S. §1184]*

*Title 75, Pa. C.S. §1799.2*

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. A premium discount for all named insureds who are 55 years of age or older and have successfully completed a motor vehicle driver improvement course meeting the standards of the Department of Transportation shall apply to all coverages. The discount shall be approved by the commissioner as part of the insurer's rate filing, provided that such discount shall not be less than 5%. The two (2) violations were the result of the Defensive Driving Course Discount not being applied to all coverages which resulted in undercharges of \$12. The discount was also misapplied in the rating order process.

*1 Violation Title 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 violation noted was the result of a file that contained a form signed for both limited and full tort.



*1 Violation Title 75, Pa. C.S. §1731(b) & (c)*

The named insured shall be informed that he may reject uninsured and underinsured motorist coverage by signing a written rejection form. The violation noted was the result of a file that contained a form which was signed for all underinsured motorist coverage options.

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

A named insured may request in writing the issuance of coverages under Section 1731 (relating to availability, scope and amount of coverage) in an amount equal to or less than the limits of liability for bodily injury. The two (2) files noted did not contain a written request for lower limits of liability.

*2 Violations Title 75, Pa. C.S. §1738(e)*

Requires that the rejection of stacked limits for uninsured and underinsured motorist coverage be signed by the first named insured and dated to be valid. The two (2) files noted did not contain a rejection form of stacked limits for uninsured and underinsured signed by the first named insured.

*928 Violations Title 75, Pa. C.S. §1791.1(a)*

Requires that at the time of application for original coverage and every renewal thereafter, an insurer must provide to an insured an itemized invoice listing the minimum motor vehicle insurance coverage levels mandated by the Commonwealth and the premium charge for the insured to purchase the minimum mandated coverages. The invoice must contain the following notice in print of no less than

ten-point type: “The laws of the Commonwealth of Pennsylvania, as enacted by the General Assembly, only require you to purchase liability and first-party medical benefit coverages. Any additional coverage or coverages in excess of the limits required by law are provided only at your request as enhancements to basic coverages.” The insurer shall provide the itemized invoice to the insured in conjunction with the declaration of coverage limits and premiums for the insured’s existing coverages. The 928 violations were the result of the Company not providing the insured with the required wording on the itemized invoice at the time of application.

*928 Violations Title 75, Pa. C.S. §1793(b)*

Requires the insurer to provide to the insured a copy of their surcharge disclosure plan. The insurer providing the surcharge disclosure plan shall detail the provisions of the plan and the plan shall be delivered to each insured by the insurer at least once annually. Additionally, the surcharge information plan shall be given to each prospective insured at the time application is made for motor vehicle insurance coverage. The 928 violations were the result of the Company not providing the insured with a copy of a surcharge disclosure plan.

Private Passenger Automobile Rating – New Business with Surcharges

From the universe of 89 private passenger automobile policies identified as new business with surcharges by the Company, 50 files were selected for review. All 50 policy files requested were received and reviewed. The 189

violations noted were based on the universe of 89 files, resulting in an error ratio of 100%.

The following findings were made:

*1 Violation Act 246, The Casualty and Surety Rate Regulatory Act,  
Section 4 [40 P.S. §1184]*

*Title 75, Pa. C.S. §1738(d)(1) & (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. 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 violation was the result of the policy not being issued and rated per insured's request of stacked limits for underinsured and uninsured motorist coverage.

*4 Violations Title 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 four (4) files noted did not contain a signed limited tort form from the insured.

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

A named insured may request in writing the issuance of coverages under Section 1731 (relating to availability, scope and amount of coverage) in an amount equal to or less than the limits of liability for bodily injury. The two (2) files noted did not contain a written request for lower limits of liability.

*3 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. The Company did not provide the signed rejection form of stacked limits for uninsured and underinsured motorists coverage for the three (3) files noted.

*1 Violation Title 75, Pa. C.S. §1738(e)*

Requires that the rejection of stacked limits for uninsured and underinsured motorist coverage be signed by the first named insured and dated to be valid. The file noted did not contain a rejection form of stacked limits for uninsured and underinsured signed by the first named insured.

*89 Violations Title 75, Pa. C.S. §1791.1(a)*

Requires that at the time of application for original coverage and every renewal thereafter, an insurer must provide to an insured an itemized invoice listing the minimum motor vehicle insurance coverage levels mandated by the Commonwealth and the premium charge for the insured to purchase the minimum mandated coverages. The invoice



must contain the following notice in print of no less than ten-point type: “The laws of the Commonwealth of Pennsylvania, as enacted by the General Assembly, only require you to purchase liability and first-party medical benefit coverages. Any additional coverage or coverages in excess of the limits required by law are provided only at your request as enhancements to basic coverages.” The insurer shall provide the itemized invoice to the insured in conjunction with the declaration of coverage limits and premiums for the insured’s existing coverages. The 89 violations were the result of the Company not providing the insured with the required wording on the itemized invoice at the time of application.

*89 Violations Title 75, Pa. C.S. §1793(b)*

Requires the insurer to provide to the insured a copy of their surcharge disclosure plan. The insurer providing the surcharge disclosure plan shall detail the provisions of the plan and the plan shall be delivered to each insured by the insurer at least once annually. Additionally, the surcharge information plan shall be given to each prospective insured at the time application is made for motor vehicle insurance coverage. The 89 violations were the result of the Company not providing the insured with a copy of a surcharge disclosure plan with the number of years each surcharge will be in effect.

## 2. Renewals

A renewal is considered to be any policy, which was previously written by the Company and renewed on the normal twelve-month anniversary date.

The purpose of the review was to measure compliance with Act 246, Sections 4(a) and (h) [40 P.S. §1184], which requires every insurer to file with the Insurance Commissioner every manual of classifications, rules and rates, every rating plan and every modification of any rating plan, which it proposes to use in the Commonwealth. Also, no insurer shall make or issue a contract or policy except in accordance with filings or rates, which are in effect at the time. Files were also reviewed to determine compliance with Act 68, Section 2005(c) [40 P.S. §991.2005(c)], which requires insurers to provide to insureds a detailed statement of the components of a premium and shall specifically show the amount of surcharge or other additional amount that is charged as a result of a claim having been made under a policy of insurance, or as a result of any other factors.

The Company uses an automated system to process and issue personal automobile policies. In order to verify the automated system, several policies were manually rated to ensure the computer had been programmed correctly. Once the computer programming had been verified, only the input data needed to be verified. By reviewing base premiums, territory assignments, rating symbols, classifications and surcharge disclosures, the examiners were able to determine compliance with the Company's filed and approved rating plans.

### Private Passenger Automobile Rating – Renewals without Surcharges

From the universe of 24,519 personal automobile policies identified as renewals without surcharges, 100 files were selected for review. All 100

policy files requested were received and reviewed. The 49,436 violations noted were based on the universe of 24,519 files, resulting in an error ratio of 100%.

The following findings were made:

*114 Violations Act 246, The Casualty and Surety Rate Regulatory Act, Section 4 [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 114 violations were the result of a prior insurance discount percentage being applied and not the filed and approved loyalty discount percentage which resulted in undercharges of \$4,985.

*273 Violations Act 246, The Casualty and Surety Rate Regulatory Act, Section 4 [40 P.S. §1184]*

*Title 75, Pa. C.S. §1799.2*

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. A premium discount for all

named insureds who are 55 years of age or older and have successfully completed a motor vehicle driver improvement course meeting the standards of the Department of Transportation shall apply to all coverages. The discount shall be approved by the commissioner as part of the insurer's rate filing, provided that such discount shall not be less than 5%. The 273 violations were the result of the Defensive Driving Course Discount not being applied to all coverages which resulted in undercharges of \$1,482 and overcharges of \$267. The discount was also misapplied in the rating order process.

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

On policies in which either uninsured or underinsured motorist coverage has been rejected, the policy renewals must contain notice in prominent type that the policy does not provide protection against damages caused by uninsured or underinsured motorists. The 11 violations noted were the result of the policy renewal not containing the prominent notice as required.

*24,519 Violations Title 75, Pa. C.S. §1791.1(a)*

Requires that at the time of application for original coverage and every renewal thereafter, an insurer must provide to an insured an itemized invoice listing the minimum motor vehicle insurance coverage levels mandated by the Commonwealth and the premium charge for the insured to purchase the minimum mandated coverages. The invoice must contain the



following notice in print of no less than ten-point type: “The laws of the Commonwealth of Pennsylvania, as enacted by the General Assembly, only require you to purchase liability and first-party medical benefit coverages. Any additional coverage or coverages in excess of the limits required by law are provided only at your request as enhancements to basic coverages.” The insurer shall provide the itemized invoice to the insured in conjunction with the declaration of coverage limits and premiums for the insured’s existing coverages. The 24,519 violations were the result of the Company not providing the insured with the required wording on the itemized invoice at the time of application.

*24,519 Violations Title 75, Pa. C.S. §1793(b)*

Requires the insurer to provide to the insured a copy of their surcharge disclosure plan. The insurer providing the surcharge disclosure plan shall detail the provisions of the plan and the plan shall be delivered to each insured by the insurer at least once annually.

Additionally, the surcharge information plan shall be given to each prospective insured at the time application is made for motor vehicle insurance coverage. The 24,519 violations were the result of the Company not providing the insured with a copy of a surcharge disclosure plan.

Private Passenger Automobile Rating – Renewals with Surcharges

From the universe of 2,371 private passenger automobile policies identified as renewals with surcharges, 25 files were selected for review. All 25 policy files requested were received and reviewed. The 4,785 violations noted were based on the universe of 2,371 files, resulting in an error ratio of 100%.

The following findings were made:

*10 Violations Act 246, The Casualty and Surety Rate Regulatory Act,  
Section 4 [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 ten (10) violations were the result of a prior insurance discount percentage being applied and not the filed and approved loyalty discount percentage which resulted in undercharges of \$808.

*30 Violations Act 246, The Casualty and Surety Rate Regulatory Act,  
Section 4 [40 P.S. §1184]  
Title 75, Pa. C.S. §1799.2*

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. A premium discount for all named insureds who are 55 years of age or older and have successfully completed a motor vehicle driver improvement course meeting the standards of the Department of Transportation shall apply to all coverages. The discount shall be approved by the commissioner as part of the insurer's rate filing, provided that such discount shall not be less than 5%. The 30 violations were the result of the Defensive Driving Course Discount not being applied to all coverages which resulted in undercharges of \$252 and overcharges of \$14. The discount was also misapplied in the rating order process.

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

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

*2,371 Violations Title 75, Pa. C.S. §1791.1(a)*

Requires that at the time of application for original coverage and every renewal thereafter, an insurer must provide to an insured an itemized invoice listing the minimum motor vehicle insurance coverage levels mandated by the Commonwealth and the premium

charge for the insured to purchase the minimum mandated coverages. The invoice must contain the following notice in print of no less than ten-point type: “The laws of the Commonwealth of Pennsylvania, as enacted by the General Assembly, only require you to purchase liability and first-party medical benefit coverages. Any additional coverage or coverages in excess of the limits required by law are provided only at your request as enhancements to basic coverages.” The insurer shall provide the itemized invoice to the insured in conjunction with the declaration of coverage limits and premiums for the insured’s existing coverages. The 2,371 violations were the result of the Company not providing the insured with the required wording on the itemized invoice at the time of application.

*2,371 Violations Title 75, Pa. C.S. §1793(b)*

Requires the insurer to provide to the insured a copy of their surcharge disclosure plan. The insurer providing the surcharge disclosure plan shall detail the provisions of the plan and the plan shall be delivered to each insured by the insurer at least once annually.

Additionally, the surcharge information plan shall be given to each prospective insured at the time application is made for motor vehicle insurance coverage. The 2,371 violations were the result of the Company not providing the insured with a copy of a surcharge disclosure plan with the number of years each surcharge will be in effect.



## **B. Homeowner**

### **1. New Business**

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

The purpose of the review was to measure compliance with Act 246, Sections 4(a) and (h) (40 P.S. §1184), which require 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.

#### Homeowner Rating – New Business without Surcharges

From the universe of 1,054 homeowner policies identified as new business without surcharges by the Company, 50 files were selected for review. All 50 policy files requested were received and reviewed. The nine (9) violations noted were based on the universe of 1,054 files, resulting in an error ratio of 1%.

The following findings were made:

*9 Violations Act 246, The Casualty and Surety Rate Regulatory Act,  
Section 4 [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 nine (9) violations were the result of an incorrect rating factor in the calculation of Amount of Insurance being applied which resulted in undercharges of \$29 and overcharges of \$37.

#### Homeowner Rating – New Business with Surcharges

The universe of 12 homeowner policies identified as new business with surcharges by the Company was selected for review. All 12 policy files requested were received and reviewed. The violation noted resulted in an error ratio of 8%.

The following finding was made:

*1 Violation Act 246, The Casualty and Surety Rate Regulatory Act, Section 4 [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 violation was the result of an incorrect rating factor in the calculation of Amount of Insurance being applied which resulted in an undercharge of \$1.

#### 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 determine compliance with Act 246, Sections 4(a) and (h) (40 P.S. §1184), which require 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.

#### Homeowner Rating – Renewals without Surcharges

From the universe of 38,681 homeowner policies renewed without surcharges during the experience period, 25 files were selected for review. All 25 policy files requested were received and reviewed. The 106 violations noted were based on the universe of 38,681 files, resulting in an error ratio of 0.3%.

The following finding was made:

#### *106 Violations Act 246, The Casualty and Surety Rate Regulatory Act, Section 4 [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 106 violations were the result of an incorrect rating factor in the calculation of Amount of Insurance being applied which resulted in undercharges of \$496 and overcharges of \$779.

### Homeowner Rating – Renewals with Surcharges

From the universe of 1,132 homeowner policies renewed with surcharges during the experience period, 25 files were selected for review. All 25 files were received and reviewed. The two (2) violations noted were based on the universe of 1,132 files, resulting in an error ratio of 0.2%.

The following findings were made:

*2 Violations Act 246, The Casualty and Surety Rate Regulatory Act,  
Section 4 [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 two (2) violations were the result of an incorrect rating factor in the calculation of Amount of Insurance being applied which resulted in undercharges of \$28.

## **C. Tenant Homeowner**

### 1. New Business

New business, for the purpose of this examination, was defined as policies written for the first time by the Company during the experience period. The purpose of the review was to measure compliance with Act 246, Sections 4(a) and (h) (40 P.S. §1184), which require 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.

Tenant Homeowner Rating – New Business without Surcharges

From the universe of 505 tenant homeowner policies identified as new business without surcharges by the Company, 25 files were selected for review. All 25 policy files requested were received and reviewed. The 28 violations noted were based on the universe of 505 files, resulting in an error ratio of 1%.

The following findings were made:

*5 Violations Act 246, The Casualty and Surety Rate Regulatory Act, Section 4 [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 five (5) violations were the result of an incorrect rating factor in the calculation of Amount of Insurance being applied which resulted in undercharges of \$22 and overcharges of \$7.

Tenant Homeowner Rating – New Business with Surcharges

The universe of five (5) tenant homeowner policies identified as new business with surcharges by the Company was selected for review. All five

(5) policy files requested were received and reviewed. No violations were noted.

## 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 determine compliance with Act 246, Sections 4(a) and (h) (40 P.S. §1184), which require 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.

### Tenant Homeowner Rating – Renewals without Surcharges

From the universe of 4,541 tenant homeowner policies renewed without surcharges during the experience period, 25 files were selected for review. All 25 policy files requested were received and reviewed. The 28 violations noted were based on the universe of 4,541 files resulting in an error ratio of 1%.

The following findings were made:

*28 Violations Act 246, The Casualty and Surety Rate Regulatory Act, Section 4 [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 28 violations were the result of an incorrect rating factor in the calculation of Amount of Insurance being applied which resulted in undercharges of \$150 and overcharges of \$80.

Tenant Homeowner Rating – Renewals with Surcharges

The universe of 21 tenant homeowner policies renewed with surcharges during the experience period was selected for review. All 21 files were received and reviewed. The violation resulted in an error ratio of 5%.

The following finding was made:

*1 Violation Act 246, The Casualty and Surety Rate Regulatory Act, Section 4 [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 violation was the result of an incorrect rating factor in the calculation of Amount of Insurance being applied which resulted in undercharges of \$1.

## **D. Dwelling Fire**

### **1. New Business**

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

The purpose of the review was to measure compliance with Act 246, Sections 4(a) and (h) (40 P.S. §1184), which require 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.

From the universe of 63 dwelling fire policies identified as new business without surcharges by the Company, 25 files were selected for review. All 25 policy files requested were received and reviewed. No violations were noted.

### **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 determine compliance with Act 246, Sections 4(a) and (h) (40 P.S. §1184), which require 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.

From the universe of 1,242 dwelling fire policies renewed without surcharges during the experience period, 25 files were selected for review. All 25 policy files requested were received and reviewed. The 81 violations noted were based on the universe of 1,242 files, resulting in an error ratio of 7%.

The following findings were made:

*81 Violations Act 246, The Casualty and Surety Rate Regulatory Act, Section 4 [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. Of the 81 violations, ten (10) violations were the result of an incorrect extended coverage premium group rating being applied which resulted in undercharges of \$355. The remaining 71 violations were the result of applying a rating step and premium group modification factor that were not filed and approved.

## **E. Package Policy**

### **1. New Business**

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



The primary purpose of the review was to measure compliance with Act 246, Sections 4(a) and (h) [40 P.S. §1184], which requires every insurer to file with the Insurance Commissioner every manual of classifications, rules and rates, every rating plan and every modification of any rating plan, which it proposes to use in the Commonwealth. Also, no insurer shall make or issue a contract or policy except in accordance with filings or rates, which are in effect at the time. Files were also reviewed to determine compliance with all provisions of Act 6 of 1990 and Act 68, Section 2005(c) [40 P.S. §991.2005(c)], which requires insurers to provide to insureds a detailed statement of the components of a premium and shall specifically show the amount of surcharge or other additional amount that is charged as a result of a claim having been made under a policy of insurance, or as a result of any other factors.

The Company uses an automated system to process and issue personal automobile policies. In order to verify the automated system, several policies were manually rated to ensure the computer had been programmed correctly. Once the computer programming had been verified, only the input data needed to be verified. By reviewing base premiums, territory assignments, rating symbols, classifications and surcharge disclosures, the examiners were able to determine compliance with the Company's filed and approved rating plans.

#### Package Policy Rating – New Business without Surcharges

From the universe of 2,861 package policies identified as new business without surcharges by the Company, 100 files were selected for review. All 100 policy files requested were received and reviewed. The 8,727 violations noted were based on the universe of 2,861 files, resulting in an error ratio of 100%.

The following findings were made:

*32 Violations Act 246, The Casualty and Surety Rate Regulatory Act,  
Section 4 [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 32 violations were the result of an incorrect rating factor in the calculation of Amount of Insurance being applied which resulted in undercharges of \$115 and overcharges of \$56.

*2 Violations Act 246, The Casualty and Surety Rate Regulatory Act,  
Section 4 [40 P.S. §1184]*

*Title 75, Pa. C.S. §1738(d)(1) & (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. 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 two (2) violations were the result of the policy not

being issued and rated per insured's request for stacking of underinsured and uninsured motorist coverage.

*37 Violations Act 246, The Casualty and Surety Rate Regulatory Act,  
Section 4 [40 P.S. §1184]*

*Title 75, Pa. C.S. §1799.2*

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. A premium discount for all named insureds who are 55 years of age or older and have successfully completed a motor vehicle driver improvement course meeting the standards of the Department of Transportation shall apply to all coverages. The discount shall be approved by the commissioner as part of the insurer's rate filing, provided that such discount shall not be less than 5%. The 37 violations were the result of the Defensive Driving Course Discount not being applied to all coverages which resulted in undercharges of \$75 and overcharges of \$52. The discount was also misapplied in the rating order process.

*72 Violations Act 246, The Casualty and Surety Rate Regulatory Act,  
Section 4 [40 P.S. §1184]*

*Title 75, Pa. C.S. §1734*

*Title 75, Pa. C.S. §1731(b)(c)*

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. A named insured may request in writing the issuance of coverages under Section 1731 (relating to availability, scope and amount of coverage) in an amount equal to or less than the limits of liability for bodily injury. The 72 violations were the result of issuing policies with a rate for uninsured and underinsured motorist coverage that was not filed and approved.

*2,861 Violations Title 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 2,861 violations were the result of the Company not providing the insured with the required notice of rental coverage on the first page of the policy.

*2,861 Violations Title 75, Pa. C.S. §1791.1(a)*

Requires that at the time of application for original coverage and every renewal thereafter, an insurer must provide to an insured an itemized invoice listing the minimum motor vehicle insurance coverage levels mandated by the Commonwealth and the premium charge for the insured to purchase the minimum mandated coverages. The invoice must contain the following notice in print of no less than ten-point type: “The laws of the Commonwealth of Pennsylvania, as enacted by the General Assembly, only require you to purchase liability and first-party medical benefit coverages. Any additional coverage or coverages in excess of the limits required by law are provided only at your request as enhancements to basic coverages.” The insurer shall provide the itemized invoice to the insured in conjunction with the declaration of coverage limits and premiums for the insured’s existing coverages. The 2,861 violations were the result of the Company not providing the insured with the required wording on the itemized invoice at the time of application.

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

Requires every private passenger automobile insurance policy providing collision coverage to provide a deductible in the amount of \$500.00 for collision coverage, unless the named insured signs a statement indicating the insured is aware that the purchase of a lower deductible is permissible and that there is an additional cost of purchasing a lower deductible



and the insured agrees to accept it. The violation noted was the result of not having the required signed statement from the insured.

*2,861 Violations Title 75, Pa. C.S. §1793(b)*

Requires the insurer to provide to the insured a copy of their surcharge disclosure plan. The insurer providing the surcharge disclosure plan shall detail the provisions of the plan and the plan shall be delivered to each insured by the insurer at least once annually. Additionally, the surcharge information plan shall be given to each prospective insured at the time application is made for motor vehicle insurance coverage. The 2,861 violations were the result of the Company not providing the insured with a copy of a surcharge disclosure plan.

The following concern was noted.

**CONCERN:** The Company was mailing a proper Important Notice (Acord 61 PA (2007/08) at the time of application; however, they were also mailing an incorrect and conflicting Important Notice (AD 844 (Ed. 12-08)). The Company should amend AD 844 to include the required language for the PA Important Notice.

Package Policy Rating – New Business with Surcharges

From the universe of 115 package policies identified as new business with surcharges by the Company, 50 files were selected for review. All 50 policy files requested were received and reviewed. The 357 violations

noted were based on the universe of 115 files, resulting in an error ratio of 100%.

The following findings were made:

*1 Violation Act 246, The Casualty and Surety Rate Regulatory Act, Section 4 [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 violation was the result of an incorrect rating factor in the calculation of Amount of Insurance being applied which resulted in an undercharge of \$2.

*1 Violation Act 246, The Casualty and Surety Rate Regulatory Act, Section 4 [40 P.S. §1184]*

*Title 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 violation noted was the result of a policy not being issued and rated per insured's request for full tort.

*2 Violations Act 246, The Casualty and Surety Rate Regulatory Act,  
Section 4 [40 P.S. §1184]*

*Title 75, Pa. C.S. §1734*

*Title 75, Pa. C.S. §1731(b)(c)*

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. A named insured may request in writing the issuance of coverages under Section 1731 (relating to availability, scope and amount of coverage) in an amount equal to or less than the limits of liability for bodily injury. The two (2) violations were the result of issuing policies with a rate for uninsured and underinsured motorist coverage of \$35,000 that was not filed and approved.

*1 Violation Act 246, The Casualty and Surety Rate Regulatory Act,  
Section 4 [40 P.S. §1184]*

*Title 75, Pa. C.S. §1738(d)(1) & (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. 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 violation was the result of the policy not being issued and rated per insured's request of stacking of underinsured and uninsured motorist coverage.

*1 Violation Act 246, The Casualty and Surety Rate Regulatory Act,*

*Section 4 [40 P.S. §1184]*

*Title 75, Pa. C.S. §1799(a)*

*Title 75, Pa. C.S. §1799.1*

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. All insurance companies authorized to write private passenger automobile insurance within this Commonwealth shall provide premium discounts for motor vehicles equipped with passive restraint devices and with passive antitheft devices. The violation was the result of the not applying required premium discounts when the policy qualified for those discounts. This resulted in an overcharge of \$111.

*115 Violations Title 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 115 violations were the result of the Company not providing the insured with the required notice of rental coverage on the first page of the policy.

*2 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. The Company did not provide the signed rejection form of stacked limits for uninsured and underinsured motorists coverage for the two (2) files noted.

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

*Title 75, Pa. C.S. §1738(e)*

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 rejection of stacked limits for uninsured and underinsured motorist coverage must be signed by the first named insured and dated to be valid. The violation noted was the result of not providing the rejection form of stacked limits for uninsured and underinsured motorists coverage signed by the first name insured.

*115 Violations Title 75, Pa. C.S. §1791.1(a)*

Requires that at the time of application for original coverage and every renewal thereafter, an insurer must provide to an insured an itemized invoice listing the minimum motor vehicle insurance coverage levels



mandated by the Commonwealth and the premium charge for the insured to purchase the minimum mandated coverages. The invoice must contain the following notice in print of no less than ten-point type: “The laws of the Commonwealth of Pennsylvania, as enacted by the General Assembly, only require you to purchase liability and first-party medical benefit coverages. Any additional coverage or coverages in excess of the limits required by law are provided only at your request as enhancements to basic coverages.” The insurer shall provide the itemized invoice to the insured in conjunction with the declaration of coverage limits and premiums for the insured’s existing coverages. The 115 violations were the result of the Company not providing the insured with the required wording on the itemized invoice at the time of application.

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

Requires every private passenger automobile insurance policy providing collision coverage to provide a deductible in the amount of \$500.00 for collision coverage, unless the named insured signs a statement indicating the insured is aware that the purchase of a lower deductible is permissible and that there is an additional cost of purchasing a lower deductible and the insured agrees to accept it. The three (3) violations noted was the result of not having the required signed statement from the insured.

*115 Violations Title 75, Pa. C.S. §1793(b)*

Requires the insurer to provide to the insured a copy of their surcharge disclosure plan. The insurer providing the surcharge disclosure plan shall detail the provisions of the plan and the plan shall be delivered to each insured by the insurer at least once annually. Additionally, the surcharge information plan shall be given to each prospective insured at the time application is made for motor vehicle insurance coverage. The 115 violations were the result of the Company not providing the insured with a copy of a surcharge disclosure plan with number of years the surcharge will be in effect.

The following concerns were noted.

**CONCERN:** The Company was mailing a proper Important Notice (Acord 61 PA (2007/08) at the time of application; however, they were also mailing an incorrect and conflicting Important Notice (AD 844 (Ed. 12-08)). The Company should amend AD 844 to include the required language for the PA Important Notice.

**CONCERN:** The Company asked for the signature and date of the first named insured for the Liability Coverage Limits section of the application. Some policy applications were missing this signature and/or date. The Company should require agents to submit a complete and signed application.

## 2. Renewals

A renewal is considered to be any policy, which was previously written by the Company and renewed on the normal twelve-month anniversary date.

The purpose of the review was to measure compliance with Act 246, Sections 4(a) and (h) [40 P.S. §1184], which requires every insurer to file with the Insurance Commissioner every manual of classifications, rules and rates, every rating plan and every modification of any rating plan, which it proposes to use in the Commonwealth. Also, no insurer shall make or issue a contract or policy except in accordance with filings or rates, which are in effect at the time. Files were also reviewed to determine compliance with Act 68, Section 2005(c) [40 P.S. §991.2005(c)], which requires insurers to provide to insureds a detailed statement of the components of a premium and shall specifically show the amount of surcharge or other additional amount that is charged as a result of a claim having been made under a policy of insurance, or as a result of any other factors.

The Company uses an automated system to process and issue personal automobile policies. In order to verify the automated system, several policies were manually rated to ensure the computer had been programmed correctly. Once the computer programming had been verified, only the input data needed to be verified. By reviewing base premiums, territory assignments, rating symbols, classifications and surcharge disclosures, the examiners were able to determine compliance with the Company's filed and approved rating plans.

### Package Policy Rating – Renewals without Surcharges

From the universe of 20,970 package policies identified as renewals without surcharges, 100 files were selected for review. All 100 policy files

requested were received and reviewed. The 64,319 violations noted were based on the universe of 20,970 files, resulting in an error ratio of 100%.

The following findings were made:

*577 Violations Act 246, The Casualty and Surety Rate Regulatory Act, Section 4 [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. Of the 577 violations, 468 violations were the result of a prior insurance discount percentage being applied and not the filed and approved loyalty discount percentage which resulted in undercharges of \$19,856. The remaining 109 violations were the result of an incorrect rating factor in the calculation of Amount of Insurance being applied which resulted in undercharges of \$548 and overcharges of \$583.

*571 Violations Act 246, The Casualty and Surety Rate Regulatory Act, Section 4 [40 P.S. §1184]*

*Title 75, Pa. C.S. §1734*

*Title 75, Pa. C.S. §1731(b)(c)*

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. A named insured may request in writing the issuance of coverages under Section 1731 (relating to availability, scope and amount of coverage) in an amount equal to or less than the limits of liability for bodily injury. The 571 violations were the result of issuing policies with a rate for uninsured and underinsured motorist coverage of \$35,000 that was not filed and approved.

*260 Violations Act 246, The Casualty and Surety Rate Regulatory Act,  
Section 4 [40 P.S. §1184]  
Title 75, Pa. C.S. §1799.2*

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. A premium discount for all named insureds who are 55 years of age or older and have successfully completed a motor vehicle driver improvement course meeting the standards of the Department of Transportation shall apply to all coverages. The discount shall be approved by the commissioner as part of the insurer's rate filing, provided that such discount shall not be less than 5%. The 260 violations were the



result of the Defensive Driving Course Discount not being applied to all coverages which resulted in undercharges of \$1,142 and overcharges of \$319. The discount was also misapplied in the rating order process.

*20,970 Violations Title 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 20,970 violations were the result of the Company not providing the insured with the required notice of rental coverage on the first page of the policy.

*1 Violation Title 75, Pa. C.S. §1731(c.1)*

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

*20,970 Violations Title 75, Pa. C.S. §1791.1(a)*

Requires that at the time of application for original coverage and every renewal thereafter, an insurer must provide to an insured an itemized invoice listing the

minimum motor vehicle insurance coverage levels mandated by the Commonwealth and the premium charge for the insured to purchase the minimum mandated coverages. The invoice must contain the following notice in print of no less than ten-point type: “The laws of the Commonwealth of Pennsylvania, as enacted by the General Assembly, only require you to purchase liability and first-party medical benefit coverages. Any additional coverage or coverages in excess of the limits required by law are provided only at your request as enhancements to basic coverages.” The insurer shall provide the itemized invoice to the insured in conjunction with the declaration of coverage limits and premiums for the insured’s existing coverages. The 20,970 violations were the result of the Company not providing the insured with the required wording on the itemized invoice at the time of application.

*20,970 Violations Title 75, Pa. C.S. §1793(b)*

Requires the insurer to provide to the insured a copy of their surcharge disclosure plan. The insurer providing the surcharge disclosure plan shall detail the provisions of the plan and the plan shall be delivered to each insured by the insurer at least once annually.

Additionally, the surcharge information plan shall be given to each prospective insured at the time application is made for motor vehicle insurance coverage. The 20,970 violations were the result of the Company not

providing the insured with a copy of a surcharge disclosure plan.

Package Policy Rating – Renewals with Surcharges

From the universe of 1,040 package policies identified as renewals with surcharges, 100 files were selected for review. All 100 policy files requested were received and reviewed. The 3,190 violations noted were based on the universe of 1,040 files, resulting in an error ratio of 100%.

The following findings were made:

*36 Violations Act 246, The Casualty and Surety Rate Regulatory Act, Section 4 [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. Of the 36 violations, 24 violations were the result of a prior insurance discount percentage being applied and not the filed and approved loyalty discount percentage which resulted in undercharges of \$1,376. The remaining 12 violations were the result of an incorrect rating factor in the calculation of Amount of Insurance being applied which resulted in undercharges of \$77 and overcharges of \$192.

*24 Violations Act 246, The Casualty and Surety Rate Regulatory Act,  
Section 4 [40 P.S. §1184]*

*Title 75, Pa. C.S. §1734*

*Title 75, Pa. C.S. §1731(b)(c)*

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. A named insured may request in writing the issuance of coverages under Section 1731 (relating to availability, scope and amount of coverage) in an amount equal to or less than the limits of liability for bodily injury. The 24 violations were the result of issuing policies with a rate for uninsured and underinsured motorist coverage of \$35,000 that was not filed and approved.

*8 Violations Act 246, The Casualty and Surety Rate Regulatory Act,  
Section 4 [40 P.S. §1184]*

*Title 75, Pa. C.S. §1799.2*

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. A premium discount for all named insureds

who are 55 years of age or older and have successfully completed a motor vehicle driver improvement course meeting the standards of the Department of Transportation shall apply to all coverages. The discount shall be approved by the commissioner as part of the insurer's rate filing, provided that such discount shall not be less than 5%. The eight (8) violations were the result of the Defensive Driving Course Discount not being applied to all coverages which resulted in undercharges of \$42. The discount was also misapplied in the rating order process.

*1,040 Violations Title 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 1,040 violations were the result of the Company not providing the insured with the required notice of rental coverage on the first page of the policy.

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

On policies in which either uninsured or underinsured motorist coverage has been rejected, the policy renewals must contain notice in prominent type that the policy does not provide protection against damages caused by uninsured or underinsured motorists. The two (2) violations noted



were the result of the policy renewal not containing the prominent notice as required.

*1,040 Violations Title 75, Pa. C.S. §1791.1(a)*

Requires that at the time of application for original coverage and every renewal thereafter, an insurer must provide to an insured an itemized invoice listing the minimum motor vehicle insurance coverage levels mandated by the Commonwealth and the premium charge for the insured to purchase the minimum mandated coverages. The invoice must contain the following notice in print of no less than ten-point type: “The laws of the Commonwealth of Pennsylvania, as enacted by the General Assembly, only require you to purchase liability and first-party medical benefit coverages. Any additional coverage or coverages in excess of the limits required by law are provided only at your request as enhancements to basic coverages.” The insurer shall provide the itemized invoice to the insured in conjunction with the declaration of coverage limits and premiums for the insured’s existing coverages. The 1,040 violations were the result of the Company not providing the insured with the required wording on the itemized invoice at the time of application.

*1,040 Violations Title 75, Pa. C.S. §1793(b)*

Requires the insurer to provide to the insured a copy of their surcharge disclosure plan. The insurer providing the surcharge disclosure plan shall detail the provisions

of the plan and the plan shall be delivered to each insured by the insurer at least once annually.

Additionally, the surcharge information plan shall be given to each prospective insured at the time application is made for motor vehicle insurance coverage. The 1,040 violations were the result of the Company not providing the insured with a copy of a surcharge disclosure plan with the number of years each surcharge will be in effect.

## VI. FORMS

Throughout the course of the examination, all underwriting files were reviewed to identify the policy forms used in order to verify compliance with Insurance Company Law, Section 354 [40 P.S. §477b], Approval of Policies, Contracts, etc., Prohibiting the Use Thereof Unless Approved. During the experience period of the examination, Section 354 provided that it shall be unlawful for any insurance company to issue, sell, or dispose of any policy contract or certificate covering fire, marine, title and all forms of casualty insurance or use applications, riders, or endorsements in connection therewith, until the forms have been submitted to and formally approved by the Insurance Commissioner. All underwriting files were also reviewed to verify compliance with Act 165 of 1994 [18, Pa. C.S. §4117(k)(1)] and Title 75, Pa. C.S. §1822 which require all insurers to provide an insurance fraud notice on all applications for insurance, all claims forms and all renewals of coverage. No violations were noted.

## VII. CONSUMER COMPLAINTS

The Company was requested to identify all consumer complaints received during the experience period and provide copies of their consumer complaint logs for the preceding four years. The Company also identified 90 consumer complaints received during the experience period and provided all consumer complaint logs requested. From the universe of 90 complaints, 20 files were selected for review. All 20 files requested were received and reviewed.

The purpose of the review was to determine compliance with the Unfair Insurance Practices Act, No. 205 (40 P.S. §1171). Section 5(a)(11) of the Act requires a Company to maintain a complete record of all complaints received during the preceding four years. This record shall indicate the total number of complaints, their classification by line of insurance, the nature of each complaint, the disposition of these complaints and the time it took to process each complaint. The individual complaint files were reviewed for the relevancy to applicable statutes and to verify compliance with Title 31, PA. Code, Section 146.5(b)(c).

The following findings were made:

### *4 Violations Act 205, Section 5(a)(11) [40 P.S. §1171.5(a)(11)]*

Requires an insurer to maintain a complete record of all the complaints, which it has 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 time it took to process each complaint. The four (4) violations noted was the result of the Company not maintaining required complaint records for the preceding four years.

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

*Adjudication: Paul/Allstate, P94-03-17 (1995)*

States that an insurer may not cancel or refuse to renew a policy of automobile insurance on the basis of one accident within the thirty-six (36) month period prior to the upcoming anniversary date of the policy. The file noted was the result of a nonrenewal notice being issued based on one accident.

*1 Violation Act 68, Section 2004 [40 P.S. §991.2004]*

Requires that no insurer shall cancel a policy of automobile insurance except for nonpayment of premium, suspension or revocation of the named insured's driver license or motor vehicle registration or a determination that the insured has concealed a material fact or has made a material allegation contrary to fact or has made a misrepresentation of material fact and that such concealment, allegation or misrepresentation was material to the acceptance of the risk by the insurer. The file noted was cancelled for other than permitted reasons.

The following synopsis reflects the nature of the 20 complaints that were reviewed.

•	11	Cancellation/Nonrenewal	55%
•	3	Cancellation/Midterm	15%
•	2	Rates	10%
•	4	Claims	20%
	<hr/>		<hr/>
	20		100%



### VIII. 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, Section 904(b) [40 P.S. §904(b)]. No violations were noted.

## **IX. 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 Act 205, Section 4 [40 P.S. §1171.4] to ensure that the violations involving supporting coverage and failing to offer the same deductible amounts to all ages noted in the Report do not occur in the future.
2. The Company must review and revise internal control procedures to ensure compliance with nonrenewal and cancellation notice requirements of Act 68, Sections 2003(b) and 2004 [40 P.S. §§991.2003(b) and 2004], so that the violations noted in the Report do not occur in the future.
3. The Company must revise and reissue its underwriting guidelines for use in Pennsylvania to ensure that the guidelines do not exclude applicants from being eligible to obtain insurance for reasons established in Section 2003(a) of Act 68 [40 P.S. §991.2003(a)].
4. The Company must review Act 205, Section 5(a)(11) [40 P.S. §1171.5(a)(11)] to ensure that the violations relative to complaint records noted in the Report do not occur in the future.
5. The Company must review Act 246, Section 4(a) and (h) [40 P.S. §1184] and Title 75, Pa. C.S. §§1799(a), 1799.1 and 1799.2 to ensure the rating violations relative to the premium discounts listed in the report do not occur in the future.

6. 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.
7. The premium overcharge noted in this report must be refunded to the insured and proof of such refund must be provided to the Insurance Department within 30 days of the report issue date.
8. The Company must review practices and procedures that do not comply with the availability of limits and coverage requirements of Title 75, Pa. C.S. §§1702, 1711(b) and 1792(a) so that the violations noted in the Report do not occur in the future.
9. 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)(4) do not occur in the future.
10. The Company must review Title 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.
11. The Company must review Title 75, Pa. C.S. §1734 to ensure that the insured signs a request for lower limits of liability for uninsured and underinsured motorist coverage and a copy is kept in files as noted in the Report.

12. The Company must revise underwriting procedures to ensure that the first named 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) and 1738(e) do not occur in the future.
13. The Company must review Title 75, Pa. C.S. §1791.1(a) violations to ensure that the itemized invoice is given to the insured at the time of application and every renewal thereafter as noted in the Report.
14. The Company must revise underwriting procedures to ensure that the insured is aware that there is an additional cost for purchasing a lower deductible for collision coverage. This is to ensure that violations noted under Title 75, Pa. C.S. §1792(b)(1) do not occur in the future.
15. The Company must ensure the insured is provided a surcharge disclosure plan with the number of years each surcharge will be in effect at the time of application and once annually. This is to ensure that the violations under Title 75, Pa. C.S. 1793(b) do not occur in the future.
16. The Company must revise its underwriting procedures to ensure that each applicant for private passenger automobile liability insurance is provided an opportunity to exercise the waiver for uninsured and underinsured motorist coverage forms are obtained and retained with the underwriting file. This is to ensure that violations noted under Title 75, Pa. C.S. §1731(b) and (c) do not occur in the future.
17. On policies in which either uninsured or underinsured coverage has been rejected, the policy renewal must contain notice in prominent type that the

policy does not provide protection against damages caused by uninsured or underinsured motorists. This procedure must be implemented within 30 days of the Report issue date. This is to ensure that violations noted under Title 75, Pa. C.S. §1731(c)(1) do not occur in the future.



**X. COMPANY RESPONSE**



WESTFIELD  
INSURANCE

Sharing Knowledge. Building Trust.®

June 30, 2014

Constance Arnold  
Property & Casualty Division Chief  
Office of Market Regulation  
Pennsylvania Insurance Department  
1227 Strawberry Square  
Harrisburg, PA 17120

**RE: EXAMINATION WARRANT NUMBER 13-M08-025  
WESTFIELD INSURANCE COMPANY**

Dear Ms. Arnold:

We are in receipt of your Report of Examination of Westfield Insurance Company covering the period of January 1, 2012 through June 30, 2013. Thank you for the opportunity to respond to that Report.

In response to the Department's recommendations, we offer the following:

1. The Company must review Act 205, Section 4 [40.P.S. §1171.41] to ensure that the violations involving supporting coverage and failing to offer the same deductible amounts to all ages noted in the Report do not occur in the future.

**Response:** The Company has revised and implemented its underwriting guidelines for Auto, Homeowners and Dwelling policies to remove the language cited and has submitted proof of the changes to the Examiners. The Company issued notice of the changes to its underwriters and to its agents.

2. The Company must review and revise internal control procedures to ensure compliance with nonrenewal and cancellation notice requirements of Act 68, Sections 2003(b) and 2004 [40.P.S. §§991.2003(b) and 2004] so that the violations noted in the Report do not occur in the future.

**Response:** The Company has revised its cancellation and nonrenewal guidelines to ensure compliance with the statute. The Company issued notice of the changes to its underwriters.

3. The Company must revise and reissue its underwriting guidelines for use in Pennsylvania to ensure that the guidelines do not exclude applicants from being eligible to obtain insurance for reasons established in Section 2003(a) of Act 68 [40.P.S. §§991.2003(a)].

**Response:** The Company has revised its underwriting guidelines to ensure compliance with the statute and has submitted proof of the changes to the Examiners. The Company issued notice of the changes to its underwriters and to its agents.

4. The Company must review Act 205 Section 5(a)(11) [40.P.S. §1171.5(a)(11)] to ensure that the violations relative to complaint records noted in the Report do not occur in the future.

**Response:** The Company reviewed the statute and revised its complaint record keeping requirements accordingly. The Company notified those employees who are responsible for handling and keeping complaint records of the changes.

5. The Company must review Act 246 Section 4(a) and (h) [40.P.S. §1184] and Title 75, Pa. C.S. §§1799(a), 1799.1 and 1799.2 to ensure the rating violations relative to the premium discounts listed in the Report do not occur in the future.

**Response:** The Company reviewed the statute and revised its rating methodology to address the Department's findings as to policy discounts and revised its processing procedures to correct the VIN number loading error. The Company notified those employees who were affected by the change.

6. 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.

**Response:** The Company reviewed the statute and in addition to the corrections noted in other responses, the Company revised its Ratings Rules Manual. The Company filed the revised Manual with the Insurance Department which approved the changes. In addition to the corrections noted in other responses, the Company notified its underwriters and agents of the changes in procedures, guidelines, and the Manual.

7. The premium overcharge noted in this report must be refunded to the insured and proof of such refund must be provided to the Insurance Department with 30 days of the report issue date.

**Response:** Working with the Insurance Department, the Company identified the policies affected, refunded the premium overcharges, and submitted proof of the refunds to the Insurance Department Examiners prior to the issuance of the Examination Report.

8. The Company must review practices and procedures that do not comply with the availability of limits and coverage requirements of Title 75, Pa. C.S. §§1702(a), 1711(b) and 1792(a) so that the violations noted in the Report do not occur in the future.

**Response:** The Company revised its rules, its rates, and the system itself to ensure compliance with the statutes. The Company issued notice of the changes to its underwriters and to its agents.

9. 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)(4) do not occur in the future.

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

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

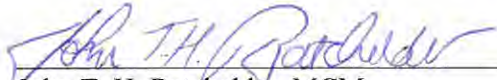
**Response:** The Company issued notice to its underwriters and to its agents, reminding them of the agents' obligation to present the waiver of UM/UIM coverage forms, to obtain the proper completion and signing of the forms (if selected), and to retain all completed forms.

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

**Response:** The Company revised the affected Declarations Sheets on renewal policies to reflect the notice required by the statute.

In addition to its responses to the recommendations, Westfield Insurance Company would like to thank the Examiners and the rest of the Insurance Department staff for the professionalism which they exhibited in their every dealing with us. We believe that everyone associated with the Department was patient, took the time to explain the Department's position to us, and was willing to listen and fairly evaluate our concerns. We appreciate it.

Sincerely,



John T. H. Batchelder, MCM  
Deputy General Counsel and  
Manager of Corporate Compliance

JTHB:jmi