

**REPORT OF
MARKET CONDUCT EXAMINATION
OF**

AMERICAN HOME ASSURANCE COMPANY
Albany, New York

**AS OF
February 22, 2005**

COMMONWEALTH OF PENNSYLVANIA

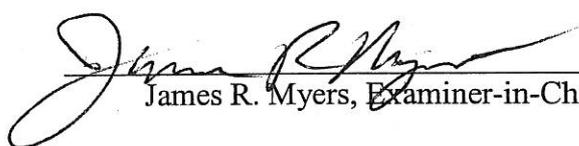


**INSURANCE DEPARTMENT
MARKET CONDUCT DIVISION**

Issued: April 20, 2005

VERIFICATION

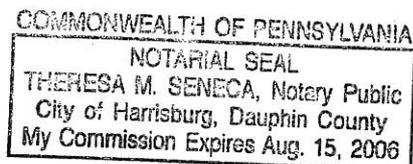
Having been duly sworn, I hereby verify that the statements made in the within document are true and correct to the best of my knowledge, information and belief. I understand that false statements made herein are subject to the penalties of 18 Pa. C.S. §4903 (relating to false swearing).


James R. Myers, Examiner-in-Charge

Sworn to and Subscribed Before me

This 23 Day of November, 2004


Notary Public



AMERICAN HOME ASSURANCE COMPANY

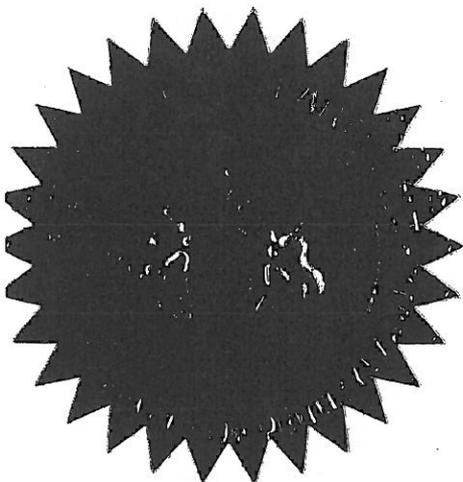
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BEFORE THE INSURANCE COMMISSIONER
OF THE
COMMONWEALTH OF PENNSYLVANIA

ORDER

AND NOW, this 29 day of April, 2002, 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 Randolph L. Rohrbaugh, 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.





M. Diane Koken
Insurance Commissioner

BEFORE THE INSURANCE COMMISSIONER
OF THE
COMMONWEALTH OF PENNSYLVANIA

IN RE:	:	VIOLATIONS:
	:	
AMERICAN HOME ASSURANCE	:	Sections 641.1-A and 671-A of
COMPANY	:	Act 147 of 2002 (40 P.S. §§ 310.41
175 Water Street, 18 th Floor	:	and 310.71)
New York, NY 10038	:	
	:	Sections 605, 623 and 903(a) of the
	:	Insurance Department Act, Act of May
	:	17, 1921, P.L. 682, No. 284 (40 P.S.
	:	§§ 235, 253 and 323.3)
	:	
	:	Act 1990-6, Sections 1705(a)(1) & (3),
	:	1716, 1731(b)(c), 1734, 1738(d)(1)(2),
	:	1791, 1791.1(a) and (b), 1792(b)(1),
	:	1793(b)(1)(2), and 1799.3(d) (Title 75,
	:	Pa.C.S. §§ 1705, 1716, 1731, 1734,
	:	1738, 1791, 1793 and 1799)
	:	
	:	Sections 1, 3(a)(2) and 3(a)(5) of the
	:	Act of July 3, 1986, P.L. 396, No. 86
	:	(40 P.S. §§ 3401 and 3403)
	:	
	:	Sections 2003(a)(1), 2003(a)(14) and
	:	2008(b) of Act 68 of 1998 (40 P.S.
	:	§§991.2003 and 991.2008)
	:	
	:	Title 31, Pennsylvania Code, Sections
	:	62.3(e)(7), 69.22(c), 69.42, 69.43,
	:	69.52(b), 69.52(e), 69.53(a), 113.88,
	:	146.3, 146.5(a), (b), (d), 146.6 and
	:	146.7(a)(1)
	:	
	:	Title 75, Pennsylvania Consolidated
	:	Statutes, Section 1822
	:	
	:	
Respondent.	:	Docket No. MC05-02-020

CONSENT ORDER

AND NOW, this 20th day of April, 2005, this Order is hereby issued by the Deputy Insurance Commissioner 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 Deputy Insurance Commissioner finds true and correct each of the following Findings of Fact:

- (a) Respondent is American Home Assurance Company, and maintains its business address at 175 Water Street, New York, New York 10038.

(b) A market conduct examination of Respondent was conducted by the Insurance Department covering the period from January 1, 2003 through December 31, 2003.

(c) On February 22, 2005, the Insurance Department issued a Market Conduct Examination Report to Respondent.

(d) A response to the Examination Report was provided by Respondent on March 24, 2005.

(e) The Examination Report notes violations of the following:

(i) Section 641.1-A of Act 147 of 2002 prohibits any entity or the appointed agent of any entity from transacting the business of insurance through anyone acting without an insurance producer license (40 P.S. § 310.41a);

(ii) Section 671-A of Act 147 of 2002 prohibits producers from transacting business within this Commonwealth without written appointment as required by the Act (40 P.S. § 310.71).

- (iii) Section 605 of The Insurance Department Act prohibits agents from transacting business within this Commonwealth without written appointment as required by the Act (40 P.S. § 235).

- (iv) Section 623 of the Insurance Department Act, No. 285 (40 P.S. § 253), which prohibits doing business with unlicensed brokers;

- (v) Section 903(a) of the Insurance Department Act, No. 285 (40 P.S. § 323.3), which requires every company or person subject to examination must keep all books, records, accounts, papers, documents and any or all computer or other recordings relating to its property, assets, business and affairs in such manner and for such time periods as the Department may require, in order that its representatives may ascertain whether the company has complied with the laws of the Commonwealth;

- (vi) Section 1705(a)(1) and (3) of Act 1990-6, Title 75, Pa.C.S. § 1705(a)(1) and (3), 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. If the named insured does not indicate a choice in 20 days, the insurer shall send an identical second notice. If the named insured has not responded to either notice, he is presumed to have chosen the full tort option;

- (vii) Section 1716 of Act 1990-6, Title 75, Pa. C.S. § 1716, which requires that benefits are overdue if not paid within 30 days after the insurer receives reasonable proof of the amount of benefits. If reasonable proof is not supplied as to all benefits, the portion supported by reasonable proof is overdue if not paid within 30 days after the proof is received by the insurer. Overdue benefits shall bear interest at the rate of 12% per annum from the date the benefits become due. In the event the insurer is found to have acted in an unreasonable manner in refusing to pay the benefits when due, the insurer shall pay, in addition to the benefits owed and the interest thereon, a reasonable attorney fee based upon actual time expended;
- (viii) Section 1731(b)(c) of Act 1990-6, Title 75, Pa.C.S. § 1731, which requires the insurer to advise that named insured shall be informed that he may exercise the waiver for uninsured and underinsured motorist coverage by signing written rejection forms;
- (ix) Section 1734 of Act 1990-6, Title 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;
- (x) Section 1738(d)(1)(2) of Act 1990-6, Title 75, Pa.C.S. § 1738, which requires the insurer to advise that named insured shall be informed that he

may exercise the waiver for stacked uninsured and underinsured motorist coverage by signing written rejection forms;

- (xi) Section 1791 of Act 1990-6, Title 75, Pa.C.S. § 1791, which states it shall be presumed that the insured has been advised of the benefits available under this chapter provided the notice is given to the insured at the time of application;

- (xii) Section 1791.1(a) of Act 1990-6, Title 75, Pa.C.S. § 1791, 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;

- (xiii) Section 1791.1(b) of Act 1990-6, Title 75, Pa.C.S. § 1791, which requires an insurer to provide an insured with a notice of the availability of two alternatives of full tort insurance and limited tort insurance;

- (xiv) Section 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;

- (xv) Section 1793(b)(1)(2) of Act 1990-6, Title 75, Pa. C.S. § 1793, 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;

- (xvi) Section 1799.3(d) of Act 1990-6, Title 75, Pa.C.S. § 1799, which requires insurers who make a determination to impose a surcharge, rate penalty or driver record point assignment, to inform the named insured of the determination and specify the manner in which the surcharge, rate penalty

or driver record point assignment was made and clearly identify the amount of the surcharge or rate penalty on the premium notice for as long as the surcharge or rate penalty is in effect;

- (xvii) Section 1 of Act 86 (40 P.S. § 3401), which requires a policy of insurance covering property or casualty risks in this Commonwealth shall provide for not less than 30 days advance notice to the named insured of an increase in renewal premium;
- (xviii) Section 3(a)(2) of Act 86 (40 P.S. § 3403), which requires that a nonrenewal notice be forwarded directly to the named insured or insureds at least 60 days in advance of the effective date of the termination;
- (xix) Section 3(a)(5) of Act 86 (40 P.S. § 3403), which requires that a nonrenewal notice shall state the specific reasons for nonrenewal. The reasons shall identify the condition, factor or loss experience which caused the nonrenewal, and the notice shall provide sufficient information or data for the insured to correct the deficiency;
- (xx) Section 2003(a)(1) of Act 68 of 1998 (40 P.S. § 991.2003), which prohibits an insurer from canceling or refusing to write or renew a policy of automobile insurance for any of the following reasons: Age;

- (xxi) Section 2003(a)(14) of Act 68 of 1998 (40 P.S. § 991.2003), which prohibits an insurer from canceling or refusing to write or renew a policy of automobile insurance for any of the following reasons: Any claim under the comprehensive portion of the policy unless intentionally caused by the insured;
- (xxii) Section 2008(b) of Act 68 of 1998 (40 P.S. § 991.2006), which requires any applicant for a policy who is refused such policy by an insurer shall be given a written notice of the refusal to write by the insurer. The notice shall state the specific reason or reasons of the insurer for refusal to write a policy for the applicant;
- (xxiii) Title 31, Pennsylvania Code, Section 62.3(e)(7), which requires a company to provide a copy of the total loss evaluation sheet to the consumer within five working days after the appraisal is completed;
- (xxiv) Title 31, Pennsylvania Code, Section 69.22(c), which states if an insured's first-party limits have been exhausted, the insurer shall, within 30 days of the receipt of the provider's bill, provide notice to the provider and the insured that the first-party limits have been exhausted;
- (xxv) Title 31, Pennsylvania Code, Section 69.42, which requires an insurer to make payments to providers in accordance with the Medicare Program as

applied in this Commonwealth by the carrier and intermediaries. Coverage shall be reimbursed at 110% of the Medicare payment or a difference allowance as may be determined under Title 31, Pennsylvania Code, Section 69.12;

(xxvi) Title 31, Pennsylvania Code, Section 69.43, which requires an insurer to make payments (a) For Part A providers, the payment shall be 110% of the Medicare reimbursement allowance plus, when applicable, the estimated pass-through costs and applicable cost or day outliers which are facility specific as calculated by the intermediaries; (b) If a Medicare fee schedule exists, for outpatient, rehabilitation and physician services, insurers shall pay Part A and B providers at 110%. If the Medicare reimbursement allowance is the Medicare aggregate payment, payment shall be 110% of the actual cost based upon the cost-to-charge ratios for each ancillary, outpatient, or other reimbursement cost center service utilized by the insurer; (c) An insurer shall pay the provider's usual and customary charge for services rendered when the charge is less than the 110% of the Medicare payment or a different allowance as may be determined under Title 31, Pennsylvania Code, Section 69.12(b). An insurer shall pay 80% of the provider's usual and customary charge rendered if no Medicare payment exists; (d) An insurer shall provide a completed explanation of the calculations made in computing its determination of the amount payable including whether the calculation is based on 110% of the Medicare

payment, 80% of the usual and customary charge, or at a different allowance determined by the Pennsylvania Insurance Commissioner under Section 69.12(b);

(xxvii) Title 31, Pennsylvania Code, Section 69.52(b), which requires an insurer to pay medical bills for care that are not referred to a Peer Review Organization within 30 days after the insurer receives sufficient documentation supporting the bill;

(xxviii) Title 31, Pennsylvania Code, Section 69.52(e), which requires an insurer to provide copies of the Peer Review Organization's written analysis to the provider and the insured within five days of receipt;

(xxix) Title 31, Pennsylvania Code, Section 69.53(a), which requires that a PRO shall contract, in writing, jointly and separately with an insurer for the provision of peer review services;

(xxx) Title 31, Pennsylvania Code, Section 113.88, which states the reason given for cancellation shall be clear and complete. It shall be stated so that a person of average intelligence and education can understand it. Phrases such as "losses" or "underwriting reasons" are not sufficiently specific reasons for cancellation;

(xxxi) Title 31, Pennsylvania Code, Section 146.3, requires the claim files of the insurer be subject to examination by the Commissioner or by appointed designees. The files shall contain all notes and work papers pertaining to the claim in such detail that pertinent events and the dates of such events can be reconstructed;

(xxxii) Title 31, Pennsylvania Code, Section 146.5(a), requires every insurer, upon receiving notification of a claim, shall, within ten working days, acknowledge the receipt of such notice unless payment is made within such period of time;

(xxxiii) Title 31, Pennsylvania Code, Section 146.5(b), requires every insurer, upon receipt of any inquiry from the Department respecting a claim shall, within 15 working days of receipt of such inquiry, furnish the Department with an adequate response;

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

(xxxv) Title 31, Pennsylvania Code, Section 146.6, requires that every insurer shall complete investigation of a claim within 30 days after notification of the claim, unless such investigation cannot reasonably be completed within 30 days, and every 45 days thereafter, the insurer shall provide the claimant with a reasonable written explanation for the delay and state when a decision on the claim may be expected;

(xxxvi) Title 31, Pennsylvania Code, Section 146.7(a)(1), which requires within 15 working days after receipt by the insurer of properly executed proofs of loss, the first-party claimant shall be advised of the acceptance or denial of the claim by the insurer. No insurer shall deny a claim on the grounds of a specific policy provision, condition or exclusion unless reference to such provision, condition or exclusion is included in the denial. The denial must be given to the claimant in writing and the claim file of the insurer shall contain a copy of the denial; and

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

CONCLUSIONS OF LAW

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

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

- (b) Respondent's violations of Sections 641.1-A and 671-A of Act 147 of 2002 are punishable by the following, under Section 691-A of Act 147 of 2002 (40 P.S. § 310.91):
 - (i) suspension, revocation or refusal to issue the certificate of qualification or license;
 - (ii) imposition of a civil penalty not to exceed five thousand dollars (\$5,000.00) for every violation of the Act;
 - (iii) an order to cease and desist; and
 - (iv) any other conditions as the Commissioner deems appropriate.

- (c) Respondent's violations of Sections 605 and 623 of The Insurance Department Act (40 P.S. §§ 235 and 253) are punishable by the following, under Section 639 of the Insurance Department Act (40 P.S. § 279):

- (i) suspension, revocation or refusal to issue the certificate of qualification or license;
 - (ii) imposition of a civil penalty not to exceed five thousand dollars (\$5,000.00) for every violation of the Act.
 - (iii) issue an order to cease and desist.
 - (iv) impose such other conditions as the department may deem appropriate.
- (d) Respondent's violations of Sections 1, 3(a)(2) and 3(a)(5) of Act 86 (40 P.S. §§ 3401 and 3403), are punishable under Section 8 (40 P.S. § 3408) of this act by one or more of the following causes of action:
- (i) Order that the insurer cease and desist from the violation.
 - (ii) Impose a fine or not more than \$5,000 for each violation.
- (e) Respondent's violations of Sections 2003 and 2008 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).

(f) Respondent's violations of Title 31, Pennsylvania Code, Sections 146.3, 146.5, 146.6 and 146.7 are punishable under Sections 9, 10 and 11 of the Unfair Insurance Practices Act (40 P.S. §§ 1171.9, 1171.10 and 1171.11):

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

(g) In addition to any penalties imposed by the Commissioner for Respondent's violations of 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).

ORDER

5. In accord with the above Findings of Fact and Conclusions of Law, the Deputy Insurance Commissioner 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 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.
- (c) Respondent shall comply with all recommendations contained in the attached Report.
- (d) Respondent shall pay Seventy-Five Thousand Dollars (\$75,000.00) to the Commonwealth of Pennsylvania in settlement of all violations contained in the Report.
- (e) Payment of this matter shall be made by check payable to the Commonwealth of Pennsylvania. Payment should be directed to Sharon L. Harbert, Administrative Assistant, Bureau of Enforcement, 1227 Strawberry Square,

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

6. In the event the Deputy Insurance Commissioner 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 Deputy Insurance Commissioner 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 Deputy Insurance Commissioner 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 Deputy Commissioner finds that there has been a breach of any of the provisions of this Order, the Deputy Commissioner 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 Deputy Insurance Commissioner. Only the Insurance Commissioner or a duly authorized Deputy Insurance Commissioner 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 Deputy Insurance Commissioner.

BY: AMERICAN HOME ASSURANCE
COMPANY, Respondent



President / Vice-President
John Q. Doyle



Secretary / Treasurer

Elizabeth M. Tuck



RANDOLPH L. ROHRBAUGH
Deputy Insurance Commissioner
Commonwealth of Pennsylvania

I. INTRODUCTION

The market conduct examination was conducted at American Home Assurance Company's offices located in Berkeley Heights, New Jersey, and Wilmington, Delaware, from June 23, 2004, to July 23, 2004. Subsequent review and follow-up was conducted in the office of the Pennsylvania Insurance Department.

Pennsylvania Market Conduct Examination Reports generally note only those items to which the Department, after review, takes exception. However, the Examination Report may include management recommendations addressing areas of concern noted by the Department, but for which no statutory violation was identified. This enables Company management to review those areas of concern in order to determine the potential impact upon Company operations or future compliance. A violation is any instance of Company activity that does not comply with an insurance statute or regulation. Violations contained in the Report may result in imposition of penalties.

In certain areas of review listed in this Report, the examiners will refer to "error ratio." This error ratio is calculated by dividing the number of policies with violations by the total number of policies reviewed. For example, if 100 policies are reviewed and it is determined that there are 20 violations on 10 policies, the error ratio would be 10%.

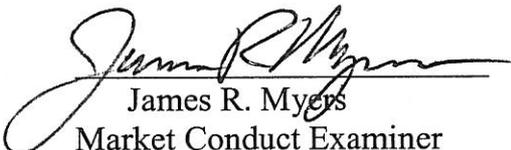
Throughout the course of the examination, Company officials were provided with status memoranda, which referenced specific policy numbers with citation to each section of law violated. Additional information was requested to clarify apparent violations. An exit conference was conducted with Company personnel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

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

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



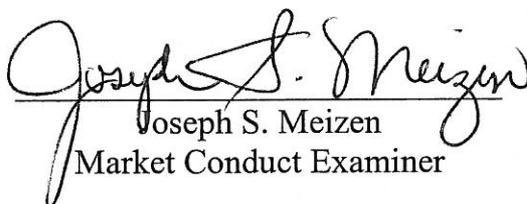
Chester A. Derk, Jr., AIE, HIA
Market Conduct Division Chief



James R. Myers
Market Conduct Examiner



M. Katherine Sutton
Market Conduct Examiner



Joseph S. Meizen
Market Conduct Examiner

II. SCOPE OF EXAMINATION

The Market Conduct Examination was conducted on American Home Assurance Company, hereinafter referred to as "Company," at their offices located in Berkeley Heights, New Jersey, and Wilmington, Delaware. The examination was conducted pursuant to Sections 903 and 904 (40 P.S. §§323.3 and 323.4) of the Insurance Department Act and covered the experience period of January 1, 2003, through December 31, 2003, 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. Personal Automobile
 - Underwriting - Appropriate and timely notices of nonrenewal, midterm cancellations, 60-day cancellations, declinations and rescissions.
 - Rating - Proper use of all classification and rating plans and procedures.
2. Commercial Property
 - Underwriting – Appropriate and timely notices of nonrenewals, midterm cancellations, 60-day cancellations, declinations, renewals and rescissions.
3. Commercial Automobile
 - Underwriting – Appropriate and timely notices of nonrenewals, midterm cancellations, 60-day cancellations, declinations, renewals and rescissions.
4. Workers' Compensation
 - Underwriting – Appropriate and timely notices of nonrenewals and midterm cancellations.

5. Medical Malpractice

- Underwriting – Appropriate and timely notice of midterm cancellations and renewals.

6. Claims

7. Forms

8. Advertising

9. Complaints

10. Licensing

III. COMPANY HISTORY

American Home Assurance Company was organized in February 1899, under the title Globe and Rutgers Fire Insurance Company by the consolidation of the Globe Fire Insurance Company (organized 1863) and the Rutgers Fire Insurance Company (organized 1853).

The title of the company was changed on December 31, 1954, from Globe and Rutgers Fire Insurance Company to American Home Assurance Company. Adoption of the revised title followed a merger with or the absorption of a former subsidiary, which bore the name of American Home Assurance Company.

American Home Assurance Company is a wholly owned affiliate of the American International Group, Inc.

IV. LICENSING

American Home Assurance Company's Certificate of Authority to write business in the Commonwealth was last issued on April 1, 2004. The Company is licensed in all states, District of Columbia and Puerto Rico. The Company's 2003 annual statement reflects Direct Written Premium for all lines of business in the Commonwealth of Pennsylvania as \$157,996,660. Premium volume related to the areas of this review were: Fire \$75,326; Commercial Multiple Peril \$771,443; Inland Marine \$2,820,576; Medical Malpractice \$3,553,538; Workers' Compensation \$91,625,661; Other Liability \$19,497,721; Private Passenger Automobile Direct Written Premium was reported as Private Passenger Auto No-Fault (personal injury protection) \$1,286,855; Private Passenger Auto Liability \$6,956,569; and Private Passenger Auto Physical Damage \$6,242,266; Other Commercial Auto Liability \$14,360,526 and Commercial Auto Physical Damage \$634,536.

V. UNDERWRITING PRACTICES AND PROCEDURES

As part of the examination, the Company was requested to supply underwriting guides, bulletins, directives or other forms of underwriting procedure communications for each line of business being reviewed. Underwriting guides were furnished for all commercial lines and private passenger automobile. The purpose of this review was to identify any inconsistencies which could be considered discriminatory, specifically prohibited by statute or regulation, or unusual in nature. No violations were noted.

VI. UNDERWRITING

A. Private Passenger Automobile

1. 60-Day Cancellations

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

The primary purpose of the review was to determine compliance with Act 68, Section 2003 (40 P.S. §991.2003), which establishes conditions under which action by the insurer is prohibited. These files were also reviewed for compliance with Act 68, Section 2002(b)(3) [40 P.S. §991.2002(b)(3)], which requires an insurer who cancels a policy of automobile insurance in the first 60 days, to supply the insured with a written statement of the reason for cancellation.

The universe of 45 personal automobile files identified as being cancelled in the first 60 days of new business was selected for review. All 45 files selected were received and reviewed. No violations were noted.

CONCERN: The cancellation notice (CNU-PA (1/01) that is being used for the 60-Day cancellation is very misleading to the consumer. The notice is mailed to the insured approximately 20 days in advance of the cancellation effective date. However, the notice advises the insured that he has “a minimum of 60 days from the date of mailing to get new coverage.” Although there are no regulations regarding the use of approved forms for cancellations within the first 60 days of new business, it is the Department’s recommendation that the Company discontinue use of this particular form.

2. Mid-term Cancellations

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

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

From the universe of 1,453 private passenger automobile files identified as mid-term cancellations by the Company, 200 files were selected for review. All 200 files selected were received and reviewed. No violations were noted.

3. Nonrenewals

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

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

From the universe of 123 private passenger automobile files identified as nonrenewals by the Company, 50 files were selected for review. All 50 files selected were received and reviewed. No violations were noted.

4. Declinations

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

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

From the universe of 1,042 automobile declinations, 100 files were selected for review. All 100 files selected were received and reviewed. The 39 violations were based on 36 files, resulting in an error ratio of 36%.

The following findings were made:

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

Discrimination Prohibited – (a) An insurer may not cancel or refuse to write or renew a policy of automobile insurance for any of the following reasons: Age. The Company is using age as criteria for refusal to write a policy of automobile insurance. The 14 violations noted were the result of refusing to write policies to individuals with less than 3 years driving experience.

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

Discrimination Prohibited – (a) An insurer may not cancel or refuse to write or renew a policy of automobile insurance for any of the following reasons: Any claim under the comprehensive portion of the policy unless intentionally caused by the insured. The violation noted was the result of

refusing to write a policy because of 6 or more comprehensive claims.

24 Violations Act 68, Section 2008(b) [40 P.S. §991.2008(b)]

Requires any applicant for a policy who is refused such policy by an insurer shall be given a written notice of the refusal to write by the insurer. The notice shall state the specific reason or reasons of the insurer for refusal to write a policy for the applicant. The 24 violations were for failure to provide a written notice for refusal to write.

B. Private Passenger Automobile – Assigned Risk

The Company is an excused carrier under the assigned risk Limited Assignment Distribution procedure. Under this procedure groups of companies not under common ownership or management may form a Limited Assignment Distribution (LAD) arrangement. Each LAD arrangement has one servicing company, which writes assigned risk business on behalf of those members, which choose to buy out from their private passenger quota. As part of this arrangement the Company wrote no assigned risk business during the experience period.

C. Commercial Automobile

The purpose of the review was to determine compliance with Act 86, Section 2 (40 P.S. §3402), which prohibits cancellation except for specified reasons and Section 3 (40 P.S. §3403), which establishes the requirements, which must be met regarding the form and condition of the cancellation notice.

1. Midterm Cancellations

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

The Company reported no policies were cancelled midterm during the experience period.

2. Nonrenewals

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

The review was conducted to determine compliance with Act 86, Section 3 (40 P.S. §3403), which establishes the requirements that must be met regarding the form and condition of the nonrenewal notice.

The universe of 27 commercial automobile policies identified as nonrenewals by the Company was selected for review. All 27 files selected were received and reviewed. The 2 violations noted were based on 2 files, resulting in an error ratio of 7%.

The following findings were made:

2 Violations Act 86, Section 3(a)(2) [40 P.S. §3403(a)(2)]

Requires a nonrenewal notice be forwarded by registered mail or first class mail or delivered by the insurance company directly to the named insured or insureds. The 2 violations noted were absent any evidence a notice was delivered or mailed to the insured.

3. 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 86, Section 1 (40 P.S. §3401), which requires 30 days advance notice of an increase in renewal premium.

The universe of 33 commercial automobile policies, which were renewed during the experience period, was selected for review. Of the 33 files selected, 32 were received and reviewed. The 19 violations noted were based on 19 files, resulting in an error ratio of 58%.

The following findings were made:

18 Violations Act 86, Section 1 [40 P.S. §3401]

This section provides that notwithstanding any other provision of law, a policy of insurance covering commercial property or casualty risks in this Commonwealth shall provide for not less than 30 days advance notice to the named insured of an increase in renewal premium. This section does not apply to policies written on a retrospective rating plan. The 18 violations noted did not evidence the 30 day notice requirement was complied with.

1 Violation Insurance Department Act, Section 903(a) [40 P.S. §323.3]

Requires every company or person subject to examination in accordance with this act must keep all books, records, accounts, papers, documents and any or all computer or other

recordings relating to its property, assets, business and affairs in such manner and for such time periods as the Department in its discretion, may require in order that its authorized representatives may ascertain whether the company or person has complied with the laws of the Commonwealth. The violation noted was for failure to provide one of the requested files.

4. Declinations

A declination is any application that is received and the Company declines to write the coverage.

The primary purpose of the review was to determine compliance with Act 205, Section 5 [40 P.S. §1171.5], which defined unfair methods of competition and unfair or deceptive acts or practices.

The Company reported no policies were declined during the experience period.

D. Commercial Property

1. 60-Day Cancellations

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

The primary purpose of the review was to determine compliance with Act 86, Section 7 (40 P.S. §3407), which requires an insurer, who cancels a policy that is in effect less than 60 days, to provide 30 days notice of termination no later than the 60th day unless the policy provides for a longer period of notification.

The Company did not report any commercial property 60-day cancellations during the experience period.

2. Midterm Cancellations

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

The purpose of the review was to determine compliance with Act 86, Section 2 (40 P.S. §3402), which prohibits cancellation except for specified reasons and Section 3 (40 P.S. §3403), which establishes the requirements, which must be met regarding the form and condition of the cancellation notice.

The universe of 1 commercial package policy, which was cancelled during the experience period, was selected for review. The file was received and reviewed. No violations were noted.

3. Nonrenewals

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

The review was conducted to determine compliance with Act 86, Section 3 (40 P.S. §3403), which establishes the requirements that must be met regarding the form and condition of the nonrenewal notice.

The Company reported no property policies were nonrenewed during the experience period.

4. 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 86, Section 1 (40 P.S. §3401), which requires 30 days advance notice of an increase in renewal premium.

The universe of 6 commercial property policies, which were renewed during the experience period, was selected for review. The commercial property policies consisted of commercial package, commercial property and commercial inland marine. All 6 files selected were received and reviewed. No violations were noted.

E. Workers Compensation

1. Midterm Cancellations

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

The purpose of the review was to determine compliance with Insurance Company Law, Section 653 (40 P.S. §813), which prohibits midterm cancellation with exceptions for nonpayment of premium or by request of the insured.

From the universe of 366 workers' compensation policies, which were cancelled during the experience period, 46 files were selected for review. All 46 files selected were received and reviewed. Of the 46 files reviewed, 7 were identified as 60 Day cancellations. 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 measure compliance with Act 86, Section 1 (40 P.S. §3401), which requires 30 days advance notice of an increase in renewal premium.

From the universe of 1,162 worker's compensation policies, which were renewed during the experience period, 50 files were selected for review. All 50 files selected were received and reviewed. The 5 violations noted were based on 5 files, resulting in an error ratio of 10%

5 Violations Act 86, Section 1 [40 P.S. §3401]

This section provides that notwithstanding any other provision of law, a policy of insurance covering commercial property or casualty risks in this Commonwealth shall provide for not less than 30 days advance notice to the named insured of an increase in renewal premium. This section does not apply to policies written on a retrospective rating plan.

The 5 files noted were absent any evidence the 30 day advance notice requirement was complied with.

F. Medical Malpractice

1. 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 86, Section 1 (40 P.S. §3401), which requires 30 days advance notice of an increase in renewal premium.

The universe of 26 medical malpractice policies, which were renewed during the experience period, was selected for review. All 26 files selected were received and reviewed. No violations were noted.

VII. RATING

A. Private Passenger Automobile

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

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.

Private Passenger Automobile – New Business Without Surcharges

From the universe of 1,498 personal automobile policies identified as new business without surcharges by the Company, 100 files were selected for review. All 100 files were received and reviewed. The 5,993 violations were based on the universe of 1,498 files, resulting in an error ratio of 100%.

The following findings were made:

1 Violation Act 1990-6, Section 8, Title 75, Pa. C.S. §1705(a)(1) & (3)

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. If the named insured does not indicate a choice in 20 days, the insurer shall send an identical second notice. If the named insured has not responded to either notice, the named insured and those he is empowered by this section to bind by his choice are presumed to have chosen the full tort option. The violation noted was the result of a policy issued with limited tort with no evidence of a signed limited tort selection form.

1,498 Violations Act 1990-6, Section 16, Title 75, Pa. C.S. §1791

It shall be presumed that the insured has been advised of the benefits available under this chapter provided the notice is given to the insured at the time of application. The 1,498 violations noted were for failure to provide the required notice of benefits available at the time of application.

1,498 Violations Act 1990-6, Section 17, 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 1,498 violations noted were result of not providing a minimum coverage invoice at the time of application.

1,498 Violations Act 1990-6, Section 17, Title 75, Pa. C.S. §1791.1(b)

Requires that in addition to the invoice required, an insurer must, at the time of application and every renewal thereafter, provide to an insured a notice of the availability of two alternatives of full tort insurance and limited tort insurance. The 1,498 violations noted were the result of the Company not providing the required notice of tort options at the time of application.

1,498 Violations Title 75, Pa. C.S. §1793(b)(1)(2)

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 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 1,498 violations noted were the result of the Company not providing the insured with a copy of a surcharge disclosure plan at the time of application.

Private Passenger Automobile – New Business With Surcharges

The Company was asked to identify files that were written as new business and surcharged as a result of accidents or violations. From the universe of 309 policies written new with surcharges, 100 files were selected for review. All 100 files requested were received and reviewed. The 1,563 violations noted were based on the universe of 309 files, resulting in an error ratio of 100%.

The following findings were made:

6 Violations Act 1990-6, Section 8, Title 75, Pa. C.S. §1705(a)(1)&(3)

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. If the named insured does not indicate a choice in 20 days, the insurer shall send an identical second notice. If the named

insured has not responded to either notice, the named insured and those he is empowered by this section to bind by his choice are presumed to have chosen the full tort option. The 6 violations noted were the result of policies issued with limited tort and no evidence of a signed limited tort selection form.

3 Violations Act 1990-6, Section 9, Title 75, Pa. C.S. §1731(b)(c)

Requires the insurer to advise that named insured shall be informed that he may exercise the waiver for uninsured and underinsured motorist coverage by signing written rejection forms. The 3 violations noted were the result of the Company not advising the insured of his right to reject coverage and sign the mandated rejection forms for uninsured and underinsured motorist coverage

1 Violation Act 1990-6, Section 18, 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 amount equal to or less than the limits of liability for bodily injury. The violation noted was the result of the file not containing a written request for lower limits of liability.

6 Violations Act 1990-6, Section 12, Title 75, Pa. C.S. §1738(d)(1) & (2)

Requires the insurer to advise that named insured shall be informed that he may exercise the waiver for stacked uninsured and underinsured motorist coverage by signing written rejection forms. The 6 violations noted were the

result of policies written without stacked uninsured and underinsured motorist coverage and absent signed rejection forms for nonstacked uninsured and underinsured motorist coverage.

309 Violations Act 1990-6, Section 16, Title 75, Pa. C.S. §1791

It shall be presumed that the insured has been advised of the benefits available under this chapter provided the notice is given to the insured at the time of application. The 309 violations noted were for failure to provide the required notice at the time of application.

309 Violations Act 1990-6, Section 17, 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 309

violations noted were the result of not providing a minimum coverage invoice at the time of application.

309 Violations Act 1990-6, Section 17, Title 75, Pa. C.S. §1791.1(b)

Requires that in addition to the invoice required, an insurer must, at the time of application and every renewal thereafter, provide to an insured a notice of the availability of two alternatives of full tort insurance and limited tort insurance. The 309 violations noted were the result of the Company not providing the required notice of tort options at the time of application.

2 Violations Act 1990-6, Section 18, 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 2 violations noted were the result of not having the required signed statement from the insured.

309 Violations Title 75, Pa. C.S. §1793(b)(1)(2)

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 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 309 violations noted were the result of the Company not providing the insured with a copy of a surcharge disclosure plan.

309 Violations Act 1990-6, Section 19, Title 75, Pa. C.S. §1799.3(d)

Requires insurers who make a determination to impose a surcharge, rate penalty or driver record point assignment, to inform the named insured of the determination and specify the manner in which the surcharge, rate penalty or driver record point assignment was made and clearly identify the amount of the surcharge or rate penalty on the premium notice for as long as the surcharge or rate penalty is in effect. The 309 files noted failed to identify and provide a description of the accident or violation, which resulted in the surcharge and advise the insured at the time of 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 processes and issues personal automobile policies using an automated system. In order to verify the automated system, several policies were manually rated to ensure the computer had been programmed correctly. Once the computer programming had been verified, only the input data needed to be verified. By reviewing base premiums, territory assignments, rating symbols, classifications and surcharge disclosures, the examiners were able to determine compliance with the Company's filed and approved rating plans.

Private Passenger Automobile – Renewals Without Surcharges

From the universe of 7,905 private passenger automobile policies renewed during the experience period, 100 files without surcharges were selected for review. All 100 files selected were received and reviewed. The 7,905 violations were based on the universe of 7,905 files, resulting in an error ratio of 100%.

The following findings were made:

7,905 Violations Title 75, Pa. C.S. §1793(b)(1)(2)

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 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 7,905 violations noted were the result of the Company not providing the insured with a copy of a surcharge disclosure plan at the time of renewal.

Private Passenger Automobile – Renewals With Surcharges

From the universe of 1,229 private passenger automobile policies renewed during the experience period with surcharges, 100 files were selected for review. All 100 files selected were received and reviewed. The 2,458 violations were based on the universe of 1,229 files, resulting in an error ratio of 100%.

The following findings were made:

1,229 Violations Title 75, Pa. C.S. §1793(b)(1)(2)

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 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 1,229 violations noted were the result of the Company not providing the insured with a copy of a surcharge disclosure plan at the time of renewal.

1,229 Violations Act 1990-6, Section 19, Title 75, Pa. C.S. §1799.3(d)

Requires insurers who make a determination to impose a surcharge, rate penalty or driver record point assignment, to inform the named insured of the determination and specify the manner in which the surcharge, rate penalty or driver record point assignment was made and clearly identify the amount of the surcharge or rate penalty on the premium notice for as long as the surcharge or rate penalty is in effect. The 1,229 files noted failed to identify and provide a description of the accident or violation, which resulted in the surcharge and advise the insured of the surcharge information.

Private Passenger Automobile – Renewals In a Higher Plan

This Company did not report any automobile renewals in a higher plan during the experience period.

B. Private Passenger Automobile – Assigned Risk

The Company is an excused carrier under the assigned risk Limited Assignment Distribution procedure. Under this procedure groups of companies not under common ownership or management may form a Limited Assignment Distribution (LAD) arrangement. Each LAD arrangement has one servicing company, which writes assigned risk business on behalf of those members, which choose to buy out from their private passenger quota. As part of this arrangement, the Company wrote no assigned risk business during the experience period.

VIII. CLAIMS

The Company was requested to provide copies of all established written claim handling procedures utilized during the experience period. Written claim handling procedures were received and reviewed for any inconsistencies, which could be considered discriminatory, specifically prohibited by statute or regulation, or unusual in nature. No violations were noted.

The Claims review consisted of the following areas of review:

- A. Automobile Property Damage Claims
- B. Automobile Comprehensive Claims
- C. Automobile Collision Claims
- D. Automobile Total Loss Claims
- E. Automobile First Party Medical Claims
- F. Automobile First Party Medical Claims Referred to a PRO

The primary purpose of the review was to determine compliance with Title 31, Pennsylvania Code, Chapter 146, Unfair Claims Settlement Practices. The files were also reviewed to determine compliance with Act 205, Section 4 (40 P.S. §1171.4) and Section 5(a)(10)(vi) [40 P.S. §1171.5(a)(10)(vi)], Unfair Insurance Practices Act.

A. Automobile Property Damage Claims

From the universe of 756 private passenger automobile property damage claims reported during the experience period, 75 claim files were selected for review. All 75 files requested were received and reviewed. The 5 violations noted were based on 5 files resulting in an error ratio of 7%.

The following findings were made:

5 Violations Title 31, Pa. Code, Section 146.6

Every insurer shall complete investigation of a claim within 30 days after notification of the claim, unless such investigation cannot reasonably be completed within 30 days, and every 45 days thereafter, the insurer shall provide the claimant with a reasonable written explanation for the delay and state when a decision on the claim may be expected. The 5 violations noted were absent 30 or 45 day status letters.

B. Automobile Comprehensive Claims

From the universe of 879 private passenger automobile comprehensive claims reported during the experience period, 75 claim files were selected for review. All 75 files requested were received and reviewed. The 4 violations noted were based on 3 files resulting in an error ratio of 4%.

The following findings were made:

2 Violations Title 31, Pa. Code, Section 146.6

Every insurer shall complete investigation of a claim within 30 days after notification of the claim, unless such investigation cannot reasonably be completed within 30 days, and every 45 days thereafter, the insurer shall provide the claimant with a reasonable written explanation for the delay and state when a decision on the claim may be expected. The 2 violations noted were absent 30 or 45 day status letters.

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

Within 15 working days after receipt by the insurer or properly executed proofs of loss, the first-party claimant shall be advised of the acceptance or denial of the claim by the insurer. The 2 violations noted resulted from failure to accept or deny the claim within 15 working days after proof of loss was received.

C. Automobile Collision Claims

From the universe of 1,157 private passenger automobile collision claims reported during the experience period, 100 claim files were selected for review. All 100 files requested were received and reviewed. The violation noted resulted in an error ratio of 1%.

1 Violation Title 31, Pa. Code, Section 146.6

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

D. Automobile Total Loss Claims

From the universe of 194 private passenger automobile total loss claims reported during the experience period, 50 files were selected for review. All 50 files selected were received and reviewed. The 8 violations were based on 8 files, resulting in an error ratio of 16%.

The following findings were made:

2 Violations Title 31, Pa. Code, Section 146.6

Every insurer shall complete investigation of a claim within 30 days after notification of the claim, unless such investigation cannot reasonably be completed within 30 days, and every 45 days thereafter, the insurer shall provide the claimant with a reasonable written explanation for the delay and state when a decision on the claim may be expected. The 2 violations noted were absent any 30 or 45 day status letter.

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

Requires a Company to provide a copy of the total loss evaluation sheet to the consumer within five working days after the appraisal is completed. The 3 violations noted were absent any evidence the total loss evaluation was provided to the consumer within 5 days of completion.

3 Violations Title 31, Pa. Code, Section 146.3

The claim files of an insurer shall be subject to examination by the Commissioner or by duly appointed designees. Such files shall contain all notes and work papers pertaining to the claim in such detail that pertinent events and the dates of such events can be reconstructed. The 3 violations noted were the result of 3 incomplete files. The files did not include total loss evaluations.

E. Automobile First Party Medical Claims

From the universe of 494 private passenger automobile first party medical claims reported during the experience period, 150 claim files were selected for review. All 150 files requested were received and reviewed. Of the 150 files reviewed, 6 were identified and reviewed as being referred to a PRO. The 42 violations noted were based on 38 files, resulting in an error ratio of 26%.

The following findings were made:

8 Violations Title 31, Pa. Code Section 69.22(c)

If an insured's first-party limits have been exhausted, the insurer shall, within 30 days of the receipt of the provider's bill, provide notice to the provider and the insured that the first-party limits have been exhausted. The 8 violations noted were for failure to notify the insured the first-party benefits have been exhausted.

6 Violations Title 31, Pa. Code, Section 69.42

Requires an insurer to make payments to providers in accordance with the Medicare Program as applied in this Commonwealth by the carrier and intermediaries. Coverage shall be reimbursed at 110% of the Medicare payment or a difference allowance as may be determined under Title 31, Pa. Code, Section 69.12.

AND

Title 31, Pa. Code, Section 69.43

Requires an insurer to make payments (a) For Part A providers, the payment shall be 110% of the Medicare reimbursement allowance plus, when applicable, the estimated pass-through costs and applicable cost or day outliers which are facility specific as calculated by the intermediaries; (b) If a Medicare fee schedule exists, for out-patient, rehabilitation and physician services, insurers shall pay Part A and B providers at 110%. If the Medicare reimbursement allowance is the Medicare aggregate payment, payment shall be 110% of the actual cost based upon the cost-to-charge ratios for each ancillary, out-patient, or other reimbursement cost center service utilized by the insurer; (c) An insurer shall pay the provider's usual and customary charge for services rendered when the charge is less than the 110% of the Medicare payment or a different allowance as may be determined under Title 31, Pa. Code, Section 69.12(b). An insurer shall pay 80% of the provider's usual and customary charge rendered if no Medicare payment exists; (d) An insurer shall provide a completed explanation of the calculations made in computing its determination of the amount payable including whether the calculation is based on 110% of the Medicare payment, 80% of the usual and customary charge, or at a different allowance determined by the Pennsylvania Insurance Commissioner under §69.12(b). The 6 violations noted were for failure to have medical bills repriced or adjusted for cost containment.

11 Violations Title 31, Pa. Code, Section 69.52(b)

Requires an insurer to pay bills for care that are not referred to a Peer Review Organization within 30 days after the insurer receives sufficient documentation supporting the bill. The 11 violations noted were the result of bills not being paid within 30 days.

3 Violations Title 75, Pa. C.S. §1716

Payment of Benefits. Benefits are overdue if not paid within 30 days after the insurer receives reasonable proof of the amount of benefits. If reasonable proof is not supplied as to all benefits, the portion supported by reasonable proof is overdue if not paid within 30 days after the proof is received by the insurer. Overdue benefits shall bear interest at the rate of 12% per annum from the date the benefits become due. In the event the insurer is found to have acted in an unreasonable manner in refusing to pay the benefits when due, the insurer shall pay, in addition to the benefits owed and the interest thereon, a reasonable attorney fee based upon actual time expended. The 3 violations noted were the result of the Company not paying the first party medical bills within 30 days.

2 Violations Title 31, Pa. Code, Section 146.5(d)

Requires an insurer, upon receiving notification of a claim, shall provide within ten working days necessary claim forms, instructions and reasonable assistance so that first-party claimants can comply with policy conditions and reasonable requirements of the insurer. The 2 violations noted were the

result of not providing claimant with the necessary claim forms within ten working days.

12 Violations Title 31, Pa. Code, Section 146.6

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

F. Automobile First Party Medical Claims Referred to a PRO

The universe of 6 automobile first party medical claims referred to a Peer Review Organization was selected for review. The 5 violations noted were based on 4 files, resulting in an error ratio of 67%.

The following findings were made:

4 Violations Title 31, Pa. Code, Section 69.52(e)

Requires an insurer to provide copies of the Peer Review Organization's written analysis to the provider and the insured within 5 days of receipt. The 4 violations noted were the result of the Company not providing a copy of the PRO analysis to the insured within 5 days of receipt.

1 Violation Title 31, Pa. Code, Section 69.53(a)

Requires that a PRO shall contract, in writing, jointly and separately with an insurer for the provision of peer review services. The violation noted was the result of referring a file to a licensed PRO for review and not having a written contract in place.

IX. 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 and claim files were also reviewed to verify compliance with Act 165 of 1994 [18 Pa. CS §4117(k)(1)] and Act 6 of 1990 [75 Pa. CS §1822] which requires all insurers to provide an insurance fraud notice on all applications for insurance, all claims forms and all renewals of coverage.

The following findings were made:

Automobile Rating – New Business With Surcharges

1 Violation Act 1990-6, Title 75, Pa. C.S. §1822

Warning notice on application for insurance and claim forms. Not later than May 1, 1990, all applications for insurance, renewals and claim forms shall contain a statement that clearly states in substance the following: “Any person who knowingly and with intent to injure or defraud any insurer files an application or claim containing false, incomplete or misleading information shall, upon conviction, be subject to imprisonment for up to seven years and payment of a fine of up to \$15,000.” The violation noted was the result of a new

business questionnaire being used absent the required fraud statement.

Personal Automobile – Total Loss Claims

1 Violation Act 1990-6, Title 75, Pa. C.S. §1822

Warning notice on application for insurance and claim forms. Not later than May 1, 1990, all applications for insurance, renewals and claim forms shall contain a statement that clearly states in substance the following: “Any person who knowingly and with intent to injure or defraud any insurer files an application or claim containing false, incomplete or misleading information shall, upon conviction, be subject to imprisonment for up to seven years and payment of a fine of up to \$15,000.” The violation noted was the result of using a Medical Authorization form absent the required fraud statement.

Personal Automobile – First Party Medical Claims

3 Violations Act 1990-6, Title 75, Pa. C.S. §1822

Warning notice on application for insurance and claim forms. Not later than May 1, 1990, all applications for insurance, renewals and claim forms shall contain a statement that clearly states in substance the following: “Any person who knowingly and with intent to injure or defraud any insurer files an application or claim containing false, incomplete or misleading information shall, upon conviction, be subject to imprisonment for up to seven years and payment of a fine of up to \$15,000.” The 3 violations noted were the result of the required fraud statement being absent on a Questionnaire,

Application for Benefits form, and NJ/PA Choice of Benefits
letter.

X. ADVERTISING

The Company was requested to provide copies of all advertising, sales material and internet advertisements in use during the experience period.

The purpose of this review was to determine compliance with Act 205, Section 5 [40 P.S. §1171.5], which defines unfair methods of competition and unfair or deceptive acts or practices in the business of insurance, as well as Title 31, Pennsylvania Code, Section 51.2(c) and Section 51.61.

The Company provided 76 pieces of advertising, which included direct mailers, telephone scripts and brochures. Internet advertising was also reviewed. No violations were noted.

XI. CONSUMER COMPLAINTS

The Company was requested to identify all consumer complaints received during the experience period and provide copies of their consumer complaint logs for the preceding four years. The Company identified 45 consumer complaints received during the experience period and provided all consumer complaint logs requested. All 45 files were selected 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 following violations were noted.

1 Violation Title 31, Pa. Code Section 146.5(a)

Requires every insurer, upon receiving notification of a claim, shall, within ten working days, acknowledge the receipt of such notice unless payment is made within such period of time. The violation noted was for failure to acknowledge claimant within ten working days.

1 Violation Title 31, Pa. Code Section 146.5(b)

Requires every insurer, upon receipt of any inquiry from the Department respecting a claim shall, within 15 working days of receipt of such inquiry, furnish the Department with an adequate

response. The violation noted was for failure to respond to the Department within 15 working days of receipt of an inquiry.

1 Violation Act 86, Section 3(a)(5) [40 P.S. §3403(a)(5)]

Requires that a nonrenewal notice shall state the specific reasons for nonrenewal. The reasons shall identify the condition, factor or loss experience, which caused the nonrenewal. The notice shall provide sufficient information or data for the insured to correct the deficiency.

AND

Title 31, Pa. Code, Section 113.88

Requires that the reason given for nonrenewal or cancellation shall be clear and complete. It shall be stated so that a person of average intelligence and education can understand it. Phrases such as “losses” or “underwriting reasons” are not sufficiently specific reasons for nonrenewal or cancellation. The violation noted was absent any evidence these requirements were complied with.

The following synopsis reflects the nature of the 45 complaints that were reviewed.

• 21	Cancellation/Nonrenewal	47%
• 12	Premium Related	26%
• 7	Claims	16%
• 4	Service Related	9%
• 1	Underwriting	2%
—		—
45		100%

XII. LICENSING

In order to determine compliance by the Company and its agency force with the licensing requirements applicable to Section 605 [40 P.S. §235] and Section 623 [40 P.S. §253] of the Insurance Department Act, and effective June 4, 2003, Section 641.1(a) [40 P.S. §310.41(a)] and Section 671-A [40 P.S. §310.71] of the Insurance Department Act No 147, the Company was requested to furnish a list of all active agents during the experience period and a listing of all agents terminated during the experience period. Underwriting files were checked to verify proper licensing and appointment.

The following findings were made:

1 Violation Insurance Department Act, Section 605 [40 P.S. §235]

Appointment.

- (a) No agent shall do business on behalf of any entity without a written appointment from that entity.
- (b) All appointments shall be obtained by procedures established by the Insurance Department's regulations.
- (c) Insurance entities authorized by law to transact business in this Commonwealth shall, from time to time as determined by the Insurance Department, certify to the Insurance Department the names of all agents appointed by them.
- (d) Each appointment fee, both new and renewal shall be paid in full by the entity appointing the agent.

The following producer was found to be writing policies and was not found in the Insurance Department records as having an appointment by the Company.

Claude Reick, III

4 Violations Insurance Department Act, Section 623 [40 P.S. §253] Doing Business with Unlicensed Brokers. Any entity or the appointed agent of any entity accepting applications or orders for insurance or securing any insurance business through anyone acting without a license commits a misdemeanor of the third degree.

The following producers were found to be writing policies and were not found in the Insurance Department records as having an appointment by the Company and/or possessing a brokers license.

Agency Resources, Inc
CMS, LLC
Appalachian Underwriter, Inc
Smith Bell & Thompson, Inc

7 Violations Insurance Department Act, No. 147, Section 641.1A [40 P.S. §310.41a] Effective 06/04/2003

(a) Any insured entity or licensee accepting applications or orders for insured or securing any insurance business that was sold, solicited or negotiated by any person acting without an insurance producer license shall be subject to civil penalty of no more than \$5,000.00 per violation in accordance with this act. This section shall not prohibit an insurer from accepting an insurance application directly from a consumer or prohibit the payment or receipt of referral fees in accordance with this act. The following producers were found to be writing and /or soliciting policies but were not found in Insurance Department records as holding a Pennsylvania producer license.

Mindy Cox
Dawn Duke
Janet Walton
Melinda Glenn
Brooks Insurance Agency, Inc
IDS Agency, Inc
Preferred Employers Group, Inc

*5 Violations Insurance Department Act, No. 147, Section 671-A (40 P.S. §310.71)
Effective 06/04/2003*

- (a) Representative of the insurer – An insurance producer shall not act on behalf of or as a representative of the insurer unless the insurance producer is appointed by the insurer. An insurance producer not acting as a representative of an insurer is not required to be appointed.
- (b) Representative of the consumer – An insurance producer acting on behalf of or representing an insurance consumer shall execute a written agreement with the insurance consumer prior to representing or acting on their behalf that:
- (1) Delineate the services to be provided; and
 - (2) Provide full and complete disclosure of the fee to be paid to the insurance producer by the insurance consumer.
- (c) Notification to Department – An insurer that appoints an insurance producer shall file with the Department a notice of appointment. The notice shall state for which companies within the insurer's holding company system or group the appointment is made.
- (d) Termination of appointment – Once appointed, an insurance producer shall remain appointed by an insurer until such time as the

insurer terminates the appointment in writing to the insurance producer or until the insurance producer's license is suspended, revoked or otherwise terminated.

(e) Appointment fee – An appointment fee of \$12.50 will be billed annually to the insurer for each producer appointed by the insurer during the preceding calendar year regardless of the length of time the producer held the appointment with the insurer. The appointment fee may be modified by regulation.

(f) Reporting – An insurer shall, upon request, certify to the Department the names of all licensees appointed by the insurer. The following producers were found to be writing policies but were not found in Insurance Department records of having an appointment. The Company failed to file a notice of appointment and submit appointment fees to the Department.

Jennifer Stant

Kevin M Coleman

Kim Lavern Brown

Hartan Brokerage, Inc

Swett & Crawford

XIII. RECOMMENDATIONS

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

1. The Company should review and revise internal control procedures to ensure compliance with the claims handling requirements of Title 31, Pennsylvania Code, Chapter 146, Unfair Claims Settlement Practices so that the violations relating to status letters, and claim denials as noted in the Report do not occur in the future.
2. The Company must review Title 31, Pa. Code, Section 69.52(b) with its claim staff to ensure that first party medical bills are paid within 30 days.
3. The Company must review the first party medical claims, which have not been paid within 30 days. Those claims that have not been paid within 30 days shall bear interest at the rate of 12% annum from the date the benefits become due. The interest amount must be paid to the claimant and proof of such payment must be provided to the Insurance Department within 30 days of the Report issue date.
4. The Company must review Title 31, Pa. Code, Section 69.22 with its claim staff to ensure that the insured is properly notified that first-party medical benefits have been exhausted.

5. The Company must review Title 31, Pa. Code, Section 69.42 and Section 69.43 with its claim staff to ensure that provider bills are repriced for cost containment as required.
6. The Company must review Title 31, Pa. Code, Section 69.52(e) with its claim staff to ensure that the insured is provided a copy of a PRO evaluation in a timely manner.
7. When a surcharge is imposed on a private passenger automobile policy the Company must include specifics of accidents and citations and give notice to the insured. This procedure must be implemented within 30 days of the Report issue date. This is to ensure that violations noted under Act 1990-6, Section 19, Title 75, Pa. C.S. §1799.3(d) do not occur in the future.
8. The Company must revise its underwriting procedures to ensure that each applicant for private passenger automobile liability insurance is provided an opportunity to elect a tort option and that signed tort option selection forms are obtained and retained with the underwriting file. This is to ensure that violations noted under Act 1990-6, Section 8, Title 75 Pa. C.S. §1705(a)(1)(3) 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 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 Act 1990-6, Section 9, Title 75 Pa. C.S. §1731(b)(c) do not occur in the future.

10. The Company must revise underwriting procedures to ensure that the insured is aware that he may exercise the waiver of stacked limits for uninsured and underinsured motorist coverage by signing written rejection forms. This is to ensure that violations noted under Act 1990-6, Section 12, Title 75, Pa. C.S. §1738(d)(1) and (2) do not occur in the future.
11. The Company must ensure that all applications for insurance, claim forms and renewals contain a statement that clearly states in substance the following: “Any person who knowingly and with intent to injure or defraud any insurer files an application or claim containing false, incomplete information or misleading information shall, upon conviction, be subject to imprisonment for up to seven years and payment of a fine of up to \$15,000.” This is to ensure that violations noted under Act 1990-6, Title 75, Pa. C.S. §1822 do not occur in the future.
12. The Company must review and revise internal procedures to ensure compliance with notice requirements of Act 68, Section 2008 [40 P.S. §991.2008] so that the violations regarding refusals to write as noted in the Report do not occur in the future.
13. The Company must review Title 75, Pa. C.S. §1793(b) to ensure that violations regarding the requirement to provide the insured with a surcharge disclosure plan as noted in the Report do not occur in the future.
14. The Company must review Act 1990-6, Section 17, Title 75, Pa. C.S. §1791.1(a) and (b) to ensure that violations of providing an itemized

invoice listing minimum coverages and tort options at the time of application and every renewal thereafter as noted in the Report do not occur in the future.

15. The Company must review Act 1990-6, Section 16, Title 75, Pa. C.S. §1791 to ensure that the notice of available benefit is given to the insured at the time of application as noted in the Report.
16. The Company must review Act 1990-6, Section 18, 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 kept in files as noted in the Report.
17. The Company must ensure all producers are properly licensed and appointed, as required by Section 641.1(a) and Section 671-A [40 P.S. §310.41a and 40 P.S. §310.71] of the Insurance Department Act No 147, prior to accepting any business from any producer
18. The Company must review Act 86, Section 1 [40 P.S. §3401] to ensure that violations regarding notification to the insured of an increase in premium do not occur in the future.

XIV. COMPANY RESPONSE



American International Companies®
DBG Legal Services
175 Water Street, 18th Floor
New York, NY 10038

EXPRESS MAIL

(212) 458-7026

March 23, 2005

Mr. Chester A. Derk, Jr.
Market Conduct Division Chief
Bureau of Enforcement
Pennsylvania Department of Insurance
1321 Strawberry Square
Harrisburg, Pennsylvania 17120

Re: **AMERICAN HOME ASSURANCE COMPANY**
Market Conduct Examination - January 1, 2003 to December 31, 2003
Report on Examination - Commercial and personal lines

Dear Mr. Derk:

This will acknowledge receipt of the captioned Report received in our office on February 23, 2005. We are responding to both the commercial lines (Exhibit A) and personal lines (Exhibit B) sections of the Report with the attachments to this correspondence.

Thank you in advance for your cooperation and resolution of this matter.

Sincerely,

Allan L. Wadsworth
Manager
Regulatory Affairs
American International Companies

ALW/aw
Enclosures
CC: K. Colonna, AIG, NYC
M. Popp, AIG, Wilmington
M. Blake, AIG, NYC
Cderkreportresponse32305

AMERICAN HOME ASSURANCE COMPANY
COMMERCIAL LINES RESPONSE

EXHIBIT A

PENNSYLVANIA MARKET CONDUCT EXAMINATION
Exam period: January 1, 2003 to December 31, 2003

We have taken general corrective measures for the following:

Commercial Automobile and Workers' Compensation

Renewal Notices

As we have stated during the examination, the Insureds often do not forward the requested and essential information on renewal so that the Company can provide the Insured with the notice of increase in premium within 30 days of the renewal date. However, we have advised the underwriting units of the importance of the Pennsylvania requirement. In addition, we have counseled the units that have supplied the policies for the examination as the specific requirement. Further, the following Bulletin was published to address this requirement. (*See Underwriting Bulletin ML 2005 02 attached*)

Licensing

We have advised the underwriting units of the importance of the licensing requirement and have addressed this in the same underwriting bulletin (see above). While this examination was in progress, we have actively sought the proper licenses for those who place business with our Company. Please be advised that the following additional licenses have been secured and are attached:

Brokers licenses

Marketscout Corporation (IDS Agency)

Agency licenses

CMS, LLC

Appointments

Hartan Brokerage, Inc.

Regulatory Compliance

DATE: March 17, 2005
CIRCULATE TO: DBG Profit Centers
STATE: Pennsylvania
SUMMARY: Market Conduct Issues

This bulletin is to remind all underwriters of certain Pennsylvania regulations that must be adhered to. These items were raised in the most recent Pennsylvania Market Conduct Examination.

1. **NOTICE OF INCREASED PREMIUM** (Commercial Auto & Workers' Compensation)

Act 86, Section 1 (40 P.S. Section 3401), effective 8-12-95:

*Company must provide not less than 30 days advance notice to the Named Insured of an increase in premium. File must document that this was properly completed.

2. **NOTICE OF NON-RENEWAL** (Commercial Auto)

Act 86, Section 3 (a) (5) [40 P.S. Section 3403 (a) (5)]

*Company must give specific reason for non-renewal.

Title 31, Section 113.88

*Reason for non-renewal must be clear and complete.

3. **PRODUCER LICENSING** - Pennsylvania Producer Modernization Act, effective 6/4/03

Pa. Statute, Act 147, Section 641.1-A - [40 P.S. Section 310.41a]

*Insurance Agency must be licensed in Pennsylvania.

Pa. Statute, Act 147, Section 671-A [40 P.S. Section 310.71]

*Insurance Agencies must be appointed.

UNAUTHORIZED COPY

Detach this wallet size license and carry on your person.

MARKETSCOUT CORPORATION
 License Number 65623
 License Type: Non-Resident Producer Agy
 Expiration Date: 10-06-2006

Lines of Authority:
 Property and Allied
 Lines

MARKETSCOUT CORPORATION
 13727 NOEL RD STE 700
 DALLAS, TX 75240

- This is your new Insurance Producer License. Please note your new license number and check your lines of authority to be certain they are correct.

- If your license is subject to Continuing Education (CE) requirements, this requirement MUST BE SATISFIED prior to your license expiration date.
 - To obtain information on your CE requirements and current CE status, access www.sireon.com

- You must notify the Insurance Department of address changes within 30 days of the change.
 - You may report the address change via e-mail sent to ra-in-producer@state.pa.us
- For additional information on the services of the Insurance Department visit our website at www.insurance.state.pa.us

- You must notify the Insurance Department in writing within 30 days of any convictions for a misdemeanor or felony.

Visit the Pennsylvania Insurance Department's WEB Site at www.insurance.state.pa.us

DETACH BELOW

MARKETSCOUT CORPORATION
License Number 65623

is licensed to engage in the business of insurance in the Commonwealth of Pennsylvania in the capacity stated below, subject to applicable laws and rules.

License Type: Non-Resident Producer Agy
Expiration Date: 10-06-2006



Lines of Authority:
Property and Allied Lines

MARKETSCOUT CORPORATION
13727 NOEL RD STE 700
DALLAS, TX 75240

Detach this wallet size
license and carry on your
person.

C M S, LLC
License Number 58034

License Type: Non-Resident Producer Agy
Expiration Date: 04-11-2006

C M S, LLC
95 GRAND AVENUE
MASSAPEQUA, NY 11758-0000

Lines of Authority:
Casualty and Allied
Lines, Property and
Allied Lines

- If your license is subject to Continuing Education (CE) requirements, this requirement **MUST BE SATISFIED** prior to your license expiration date.
 - To obtain information on your CE requirements and current CE status, access www.sircon.com
- You must notify the Insurance Department of address changes within 30 days of the change.
 - You may report the address change via e-mail sent to ra-in-producer@state.pa.us
- For additional information on the services of the Insurance Department visit our website at www.insurance.state.pa.us

You must notify the Insurance Department in writing within 30 days of any convictions for a misdemeanor or felony.

Visit the Pennsylvania Insurance Department's WEB Site at www.insurance.state.pa.us

RECEIVED APR 2 2004

DETACH BELOW

C M S, LLC
License Number 58034

is licensed to engage in the business of insurance in the Commonwealth of Pennsylvania in the capacity stated below, subject to applicable laws and rules.

License Type: Non-Resident Producer Agy
Expiration Date: 04-11-2006



Lines of Authority:
Casualty and Allied Lines,
Property and Allied Lines

C M S, LLC
95 GRAND AVENUE
MASSAPEQUA, NY 11758-0000

2004-04-12 08:06:39 31 125p001

SCOTT H CHARNEY
License Number 338082
License Type: Non-Resident Producer Indv
Expiration Date: 05-14-2006

Lines of Authority:
Property and Allied
Lines

CHARNEY, SCOTT H
2172 SENECA DRIVE SOUTH
MERRICK, NY 11566-0000

Detach this wallet size license and carry on your person.
Principal of CMS

- If your license is subject to Continuing Education (CE) requirements, this requirement **MUST BE SATISFIED** prior to your license expiration date.
 - To obtain information on your CE requirements and current CE status, access www.sirgen.com
- You must notify the Insurance Department of address changes within 30 days of the change.
 - You may report the address change via e-mail sent to ra-in-producer@state.pa.us
- For additional information on the services of the Insurance Department visit our website at www.insurance.state.pa.us
- You must notify the Insurance Department in writing within 30 days of any convictions for a misdemeanor or felony.

Visit the Pennsylvania Insurance Department's WEB Site at www.insurance.state.pa.us

DETACH BELOW

SCOTT H CHARNEY
License Number 338082

Is licensed to engage in the business of insurance in the Commonwealth of Pennsylvania in the capacity stated below, subject to applicable laws and rules.

License Type: Non-Resident Producer Indv
Expiration Date: 05-14-2006



Lines of Authority:
Property and Allied Lines

CHARNEY, SCOTT H
2172 SENECA DRIVE SOUTH
MERRICK, NY 11566-0000

2004-05-14 16:09:03 6071p001

Detach this wallet size license and carry on your person.

HARTAN BROKERAGE INC License Number 20210 License Type: Non-Resident Broker Expiration Date: 10-11-2005		Lines of Authority: Casualty and Allied Lines, Property and Casualty, Property and Allied Lines
HARTAN BROKERAGE INC 33 WEST 60TH STREET 6TH FLOOR NEW YORK, NY 10023		

- If your license is subject to Continuing Education (CE) requirements, this requirement **MUST BE SATISFIED** prior to your license expiration date.
To obtain information on your CE requirements and current CE status, access www.sireen.com
- You must notify the Insurance Department of address changes within 30 days of the change.
 - You may report the address change via e-mail sent to sa-in-producer@state.pa.us
- For additional information on the services of the Insurance Department visit our website at www.insurance.state.pa.us
- You must notify the Insurance Department by writing within 30 days of any conviction for a misdemeanor or felony.

Visit the Pennsylvania Insurance Department's WEB Site at www.insurance.state.pa.us

DETACH BELOW

HARTAN BROKERAGE INC
License Number 20210

is licensed to engage in the business of insurance in the Commonwealth of Pennsylvania in the capacity stated below, subject to applicable laws and rules.

License Type: Non-Resident Broker
Expiration Date: 10-11-2005



Lines of Authority:
Casualty and Allied Lines
Property and Casualty, Property
and Allied Lines

HARTAN BROKERAGE INC
33 WEST 60TH STREET
6TH FLOOR
NEW YORK, NY 10023

**AMERICAN HOME ASSURANCE COMPANY
PERSONAL LINES RESPONSE**

EXHIBIT B

**PENNSYLVANIA MARKET CONDUCT EXAMINATION
January 1, 2003 to December 31, 2003**

IV. UNDERWRITING:

A. Private Passenger Auto

1. 60-Day Cancellations

Page 8: Company respectfully requests that it be noted that Company has already made the change requested.

4. Declinations

Page 10: Section 2003(a)(1) – Company continues to assert that it is in compliance with this provision as the criteria used is “years licensed” rather than age.

Page 11: Section 2008(b) – Company respectfully requests that it be noted that Company has a procedure in place to send the required notice and that these violations were failure to maintain proof of sending rather than failing to send.

VII. RATING:

A. Private Passenger Automobile

1. New Business without Surcharges

Page 20: Section 16, Title 75, Pa.C.S. §1791

The Company continues to disagree with the Department’s findings that Company failed to provide the Act-6 §1791 notices and the §1793 (1) (b) notice at the time of the application. For the reasons set forth below, Company requests that these allegations be removed from the examination report as violations, and requests, instead, that the Department note these as concerns only and, further, that the Company be afforded the opportunity to revise its practices consistent with the Department’s interpretation of Act-6.

As previously noted, Company is a direct writer of personal lines automobile policies and produces 85% of its business through inbound calls from consumers.

Pursuant to Company procedures, the licensed call center agents discuss the coverages at issue while on the call with the prospective insured. The agents review and discuss tort options, surcharge disclosures, discounts, minimum limits and coverage selections with the prospective insured, along with other underwriting factors such as vehicle usage and number of operators.

The rating system used during the incoming call process is capable of generating a quote for both full and limited tort options and the premium for each option is available to the prospective insured. The sales agent is also able to obtain MVR and CLUE information during the course of the call. This enables the agent to render an accurate quote based on the nature of the risk being underwritten and to bind the coverage should the caller be interested in buying with an effective date of the next day at the earliest.

As a result of having access to the necessary underwriting information, the Company is able to bind coverage, effective 12:01 am the day after the call, subject to the payment of the premium or a premium deposit. If the prospective insured wants to purchase the coverage, payment is tendered during the call. The Act-6 disclosures, which the Act, by its language, contemplates be in writing, are then mailed to the insured within 24 hours. The forms which are mailed contain the verbatim language of Act-6 and are in the form as prescribed by that statute. The Department does not contest the validity of the forms.

The Department takes the position that the Company's practice of complying with Act 6 by submitting the required forms within 24 hours is too late to provide full and fair disclosure. The Department asserts that, because the buying decision has been made and the coverage has already been selected and bound, that a subsequent mailing is not sufficiently timely to permit an informed buying decision and thus, circumvents the intent of Act-6.

The Company, through discussion with the Department, now understands the Department's interpretation that "at the time of application" means "at the time coverage is selected and bound", although the Department is not able to cite to a statutory definition.

Thus, the only issue raised is one of the timeliness of the disclosure to the policyholder and a means of acknowledging receipt. Please note that Company does not concede that the described practices herein violate any provision of the statutes cited.

2. New Business with Surcharges

Page 22: Section 16, Title 75, Pa.C.S. §1791

Please see number 1. above.

3. Renewals without Surcharges

Page 27: Title 75, Pa. C.S. §1793(b)(1)(2) - Company respectfully requests that it be noted that this error was discovered by the Company prior to the examiners arriving on-site and that it was corrected.

4. Renewals with Surcharges

Page 28: Title 75, PA.C.S. §1793(b)(1)(2) - Company respectfully requests that it be noted that this error was discovered by the Company prior to the examiners arriving on-site and that it was corrected.

XIII. RECOMMENDATIONS:

Page 29 – Company respectfully requests that its responses to the Recommendations noted below become a part of the examination report.

1. Company has reviewed and reinforced its procedures to ensure compliance with the requirements relating to status letters and claim denials.
2. Company has reinforced its procedures with regard to the payment of first party medical bills.
3. Company will review the 3 files in question to determine the amount of interest due and will pay that interest on those files.
4. Company has reinforced its procedures to properly notify insureds when first party medical benefits have been exhausted.
5. Company has reinforced its procedures to ensure provider bills are re-priced for cost containment as required.
6. Company has reinforced its procedures to ensure that the insured is provided a copy of a PRO evaluation in a timely manner.
7. Company will begin the process to comply with this requirement.
8. Company procedure is to secure and maintain copies of tort option selection forms and is currently reviewing all Pennsylvania files to ensure forms are available where needed.
9. Company procedure is to secure and maintain uninsured and underinsured motorist coverage forms and is currently reviewing all Pennsylvania files to ensure forms are available where needed. In addition, Company requests that this Recommendation be removed as only three violations were noted.

10. Company procedure is to secure and maintain stacked uninsured and underinsured motorist coverage forms and is currently reviewing all Pennsylvania files to ensure forms are available where needed.
11. Company is in the process of correcting the forms in question.
12. Company procedure is to maintain evidence that declination notices were sent. This procedure will be reinforced.
13. As previously noted, Company discovered this problem on its own and corrected it. Proof of same was provided with Company's previous response.
14. Company agrees to begin a process to revise its telephone binding process to develop procedures to ensure that the mandatory Act-6 disclosures are provided during the telephone sale when the coverage is bound. This may involve one or more combinations of the following options:
 - the use of e-mail to transmit the forms;
 - fax transmissions to submit the forms;
 - use of the internet for real-time disclosure and form acceptance;
 - activation of an IVR recorded message to provide the mandatory disclosures
 - e-delivery of forms and e-signatures as acknowledgement of receipt;
 - other procedures as determined by the Company to be in compliance

Company revised process will seek to include an appropriate mechanism to capture and document the dissemination of disclosures and acknowledgement of receipt by the insured.

Company trusts and expects that the Department will apply timely and consistent standards in the review and enforcement of Act 6 requirements to all companies in the Commonwealth in the interest of maintaining a level playing field and so as not to create any competitive disadvantage.

15. Please see response to number 14. above.
16. Company procedure is to secure and maintain lower limit of liability selection forms and is currently reviewing all Pennsylvania files to ensure forms are available where needed. In addition, Company requests that this Recommendation be removed from the Report as only one violation was noted.