

**REPORT OF
MARKET CONDUCT EXAMINATION
OF**

AMERICAN MODERN HOME INSURANCE COMPANY

Amelia, Ohio

**AS OF
May 17, 2004**

COMMONWEALTH OF PENNSYLVANIA



**INSURANCE DEPARTMENT
MARKET CONDUCT DIVISION**

Issued: July 6, 2004

American Modern Home Insurance Company

TABLE OF CONTENTS

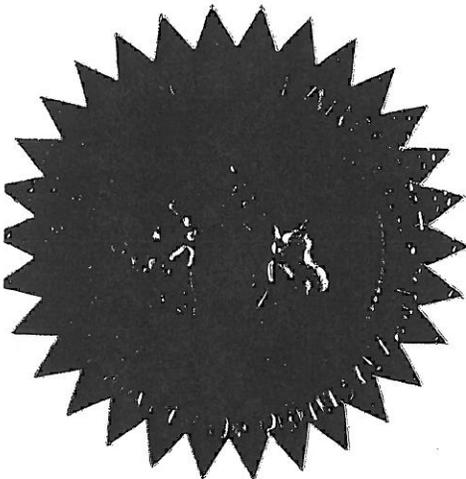
ORDER

I.	Introduction	1
II.	Scope of Examination	3
III.	Company History/Licensing	5
IV.	Underwriting Practices and Procedures	6
V.	Underwriting	
	A. Private Passenger Automobile	6
	B. Private Passenger Automobile – Assigned Risk.....	12
	C. Personal Lines Property.....	12
	D. Commercial Lines.....	16
VI.	Rating	
	A. Private Passenger Automobile	18
	B. Personal Lines Property.....	24
VII.	Claims	27
VIII.	Forms	36
IX.	Advertising	38
X.	Consumer Complaints	39
XI.	Licensing	42
XII.	Recommendations	46
XIII.	Company Response	48

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 MODERN HOME : Sections 605, 623 and 903(a) of the
INSURANCE COMPANY : Insurance Department Act, Act of
7000 Midland Boulevard : May 17, 1921, P.L. 789, No. 285
Amelia, OH 45102 : (40 P.S. §§ 235, 253 and 323.3)
: :
: Sections 4(a) and 4(h) of the Act of
: June 11, 1947, P.L. 538, No. 246
: (40 P.S. § 1184)
: :
: Act 1990-6, Sections 1117(a), 1725,
: 1731(b) and (c), 1734, 1738(c)(d)(1) and
: (2), 1791.1(a), 1791.1(b), 1792(b)(1),
: 1793(b), 1797(b)(1) and 1799.3(d)
: (Title 75, Pa.C.S. §§ 1117, 1725, 1731,
: 1734, 1738, 1791, 1792, 1793, 1797
: and 1799)
: :
: Section 7(c) of the Act of July 3,
: 1986, P.L. 396, No. 86 (40 P.S. § 3403)
: :
: Sections 5(a)(7)(iii) and 5(a)(9) of the
: Unfair Insurance Practices Act, Act of
: July 22, 1974, P.L. 589, No. 205
: (40 P.S. §§ 1171.5)
: :
: Sections 2003(d), and 2006(1), (4), (5),
: (6) and (7) of Act 68 of 1998 (40 P.S.
: §§ 991.2003 991.2006)
: :
: Title 31, Pennsylvania Code, Sections
: 59.9(b), 61.13, 62.3(f)(5), 62.3(f)(8),
: 69.53(a), 146.4, 146.5(a), 146.6, 146.7,
: 146.7(a)(1), and 146.7(c)(1)
: :
: Title 75, Pennsylvania Consolidated
: Statutes, Section 1822
: :

Respondent. : Title 18, Pennsylvania Consolidated
: Statutes, Section 4117(k)(1)
:
: Docket No. MC04-05-027

CONSENT ORDER

AND NOW, this 6th day of July, 2004, 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. Respondent neither admits nor denies the findings herein.

FINDINGS OF FACT

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

- (a) Respondent is American Modern Home Insurance Company, and maintains its address at 7000 Midland Boulevard, Amelia, Ohio 45102.
- (b) A market conduct examination of Respondent was conducted by the Insurance Department covering the period from July 1, 2002 through June 30, 2003.
- (c) On May 17, 2004, the Insurance Department issued a Market Conduct Examination Report to Respondent.
- (d) A response to the Examination Report was provided by Respondent on June 16, 2004.
- (e) The Examination Report notes violations of the following:
 - (i) Section 605 of the Insurance Department Act, No. 285 (40 P.S. § 235), which requires that: (1) no agent shall do business on behalf of any entity without written appointment from that entity, (2) all appointments shall be obtained by procedures established by the Insurance Department's regulations, (3) insurance entities authorized by law to transact business in this Commonwealth shall, from time to time as determined by the Department, certify to the Department the names of all agents appointed by them, and (4) each appointment fee, both new and renewal, shall be paid in full by the entity appointing the agent;

- (ii) Section 623 of the Insurance Department Act (40 P.S. § 253), which prohibits doing business with unlicensed brokers;

- (iii) Section 903(a) of the Insurance Department Act, No. 285 (40 P.S. § 323.3), which requires every company subject to examination 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 as may be required in order that the Department may verify whether the company has complied with the laws of this Commonwealth;

- (iv) Sections 4(a) and 4(h) of the Casualty and Surety Rate Regulatory Act, No. 246 (40 P.S. § 1184), which requires every insurer to file with the Insurance Commissioner every manual of classifications, rules and rates, every rating plan and every modification of any rating plan which it proposes to use in this Commonwealth and prohibits an insurer from making or issuing a contract or policy with rates other than those approved;

- (v) Section 1117(a) of Act 1990-6, Title 75, Pa.C.S. § 1117(a), which requires any owner who transfers a vehicle to be salvaged must assign the certificate of title to the person to whom the vehicle is transferred. The transferee shall immediately present the assigned certificate of title to the department with an application for a certificate of salvage. If the owner retains possession of

a vehicle which is damaged to the extent that it qualifies for vehicle replacement, the owner shall apply for a certificate of salvage immediately;

- (vi) Section 1725 of Act 1990-6, Title 75, Pa.C.S. § 1725, which requires every motor vehicle insurance policy to contain a notice as to whether the policy covers collision damage to rental vehicles, and any limitations on such coverage. The notice shall be written in clear, plain language and shall be printed on the first page of the policy in boldface capital letters;
- (vii) Section 1731(b) and (c) of Act 1990-6, Title 75, Pa.C.S. § 1731, which requires the named insured to be informed that he may reject uninsured and underinsured motorist coverage by signing a written rejection form;
- (viii) Section 1734 of Act 1990-6, Title 75, Pa.C.S. § 1734, which provides a named insured may request in writing the issuance of coverages under Section 1731 in amounts to or less than the limits of liability for bodily injury;
- (ix) Section 1738(c)(d)(1)(2) of Act 1990-6, Title 75, Pa.C.S. § 1738, which requires the named insured to be informed that he may exercise the waiver of stacked limits for uninsured and underinsured motorist coverage by signing written rejection forms;

(x) 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;

(xi) Section 1791.1(b) of Act 1990-6, Title 75, Pa.C.S. § 1791, which requires, in addition to the invoice required under subsection (a), an insured must, at the time of application for original coverage for private passenger motor vehicle insurance and every renewal thereafter, provide to an insured the following notice of the availability of two alternatives of full tort insurance and limited tort insurance;

(xii) Section 1792(b)(1) of Act 1990-6, Title 75, Pa.C.S. § 1792, which requires every private passenger automobile insurance policy providing collision coverage to provide a deductible in the amount of \$500 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;

(xiii) Section 1793(b) 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;

(xiv) Section 1797(b)(1) of Act 1990-6, Title 75, Pa. C.S. § 1797, which requires insurers to contract jointly or separately with any peer review organization established for the purpose of evaluating treatment, health care services, products or accommodations provided to any injured person. Such evaluation shall be for the purpose of confirming that such treatment, products, services or accommodations conform to the professional standards of performance and are medically necessary. An

insurer's challenge must be made to a PRO within 90 days of the insurer's receipt of the provider's bill for treatment or services or may be made at any time for continuing treatment or services.

- (xv) 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;
- (xvi) Section 7(c) of Act 86 (40 P.S. § 3403), which requires that an insurer may cancel the policy provided it gives at least 30 days' notice of the termination and provided it gives notice no later than the 60th day, unless the policy provides for a longer period of notification;
- (xvii) Section 5(a)(7)(iii) of the Unfair Insurance Practices Act, No. 205 (40 P.S. §1171.5), which prohibits discrimination with regard to underwriting standards and practices or eligibility requirements by reason of age;
- (xviii) Section 5(a)(9) of the Unfair Insurance Practices Act, No. 205 (40 P.S. § 1171.5), which prohibits cancellation of any policy of insurance covering

owner-occupied private residential properties or personal property of individuals that has been in force for sixty days or more or refusing to renew any such policy unless misrepresentation, fraudulent statements, omissions or concealment of fact material to the acceptance of the risk or to the hazard assumed by the company; or there has been a substantial change or increase in hazard in the risk assumed by the company subsequent to the date the policy was issued;

(xix) Section 2003(d) of Act 68 of 1998 (40 P.S. § 991.2003), which states that subsequent to the 12 month period after notice of termination given to an agent, an insurer may not cancel or refuse to renew existing policies written through the terminated agent without offering each insured coverage on a direct basis or offering to refer the insured to one or more new agents in the event the terminated agent could not find a suitable insurer acceptable to the policyholder for such business. The offer need not be made if the insurer could have cancelled or nonrenewed the policy had the agency relationship continued. If the insurer retains ownership of the expirations of such policies, the insurer need not offer a new agent;

(xx) Section 2006(1) of Act 68 of 1998 (40 P.S. § 991.2006), which requires that a cancellation notice be in a form acceptable to the Insurance Commissioner;

- (xxi) Section 2006(4) of Act 68 of 1998 (40 P.S. § 991.2006), which requires that a cancellation notice advise the insured of his right to request in writing within 30 days of receipt of the notice of cancellation that the Insurance Commissioner review the action of the insurer;
- (xxii) Section 2006(5) of Act 68 of 1998 (40 P.S. § 991.2006), which requires that either in the cancellation notice or in an accompanying statement, the insured be advised of his possible eligibility for insurance through the automobile assigned risk plan;
- (xxiii) Section 2006(6) of Act 68 of 1998 (40 P.S. § 991.2006), which requires that a cancellation notice advise the insured that he must obtain compulsory automobile insurance coverage if he operates or registers a motor vehicle in this Commonwealth and that the insurer is notifying the Department of Transportation that the insurance is being cancelled and the insured must notify the Department of Transportation that he has replaced said coverage;
- (xxiv) Section 2006(7) of Act 68 of 1998 (40 P.S. § 991.2006), which requires that a cancellation notice clearly state that when coverage is to be terminated due to nonresponse to a citation imposed under 75 Pa.C.S. § 1533, or nonpayment of a fine or penalty imposed under that section, coverage shall not terminate if the insured provides the insurer with proof that the insured

has responded to all citations and paid all fines and penalties and that he has done so on or before the termination date of the policy;

(xxv) Title 31, Pennsylvania Code, Section 59.9(b), which provides an insurer may cancel a policy in the first 60 days but must provide a notice of cancellation to the insured;

(xxvi) Title 31, Pennsylvania Code, Section 61.13, which requires each insurer to maintain records of the number of cancellations and refusals to write or renew policies and the reasons therefore, and shall file with the Insurance Department, within 60 days following June 30 and December 31, a report summarizing the record of all such actions during the six-month period ending on these dates;

(xxvii) Title 31, Pennsylvania Code, Section 62.3(f)(5), which requires applicable sales tax on the replacement cost of a motor vehicle shall be included as part of the replacement value;

(xxviii) Title 31, Pennsylvania Code, Section 62.3(f)(8), 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;

- (xxix) Title 31, Pennsylvania Code, Section 69.53(a), which requires a Peer Review Organization to contract, in writing, jointly or separately with an insurer for the provision of peer review services as authorized by Act 1990-6 and this chapter.
- (xxx) Title 31, Pennsylvania Code, Section 146.4, which prohibits an insurer or agent from failing to fully disclose to first-party claimants pertinent benefits, coverages or other provisions of an insurance policy or insurance contract under which a claim is presented;
- (xxxi) Title 31, Pennsylvania Code, Section 146.5(a), which requires that every insurer, upon receiving notification of a claim, shall within 10 working days, acknowledge receipt of the notice unless payment is made within the period of time. If an acknowledgment is made by means other than writing, an appropriate notation of the acknowledgment shall be made in the claim file of the insurer and dated. Notification given to an agent of an insurer shall be notification to the insurer, dating from the time the insurer receives notice;
- (xxxii) 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;

(xxxiii) Title 31, Pennsylvania Code, Section 146.7, which provides that an insurer may not deny a claim on the grounds of a specific policy provision, condition or exclusion unless reference to the provision, condition or exclusion is included in the denial. The denial shall be given to the claimant in writing and the claim file of the insurer shall contain a copy of the denial;

(xxxiv) 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;

(xxxv) Title 31, Pennsylvania Code, Section 146.7(c)(1), which requires that if the insurer needs more time to determine whether a claim should be accepted or denied, it shall so notify the claimant within 15 working days after receipt of documentation supporting payment, giving the reasons more time is needed;

- (xxxvi) Title 75, Pa. C.S. § 1822, which requires all applications for insurance, renewals and claim forms include the required fraud notice; and
- (xxxvii) Title 18, Pennsylvania Consolidated Statutes, Section 4117(k)(1), which requires all insurers to issue a specific insurance fraud warning notice on all applications for insurance and claim forms. “Any person who knowingly and with intent to defraud any insurance company or other person files an application for insurance or statement of claim containing any materially false information or conceals for the purpose of misleading, information concerning any fact material thereto, commits a fraudulent insurance act, which is a crime and subjects such person to criminal and civil penalties.”

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) 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.

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

- (i) imposition of a civil penalty not to exceed \$50 for each violation or not more than \$500 for each such wilful violation;
- (ii) suspension of the license of any insurer which fails to comply with an Order of the Commissioner within the time limited by such Order, or any extension thereof which the Commissioner may grant.

- (d) Respondent's violations of Title 75 Section 1117(a) are punishable under Section 1117(f) – any person violating the provision of subsections (a) or (e) is guilty of a summary offense and shall, upon conviction, be sentenced to pay a fine of \$200 for each violation.

- (e) Respondent's violations of Section 7(c) of Act 86 (40 P.S. §§ 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.

- (f) Respondent's violations of Sections 5(a)(7)(iii) and 5(a)(9) of the Unfair Insurance Practices Act, No. 205 (40 P.S. § 1171.5) are punishable by the following, under Section 9 of the Unfair Insurance Practices Act (40 P.S. § 1171.9):
 - (i) cease and desist from engaging in the prohibited activity;
 - (ii) suspension or revocation of the license(s) of Respondent.

- (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).
- (h) Respondent's violations of Sections 2003 and 2006 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).
- (i) Respondent's violations of Title 31, Pennsylvania Code, Sections 146.4, 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), as stated above.

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 Thirty-Nine Thousand Dollars (\$39,000.00) 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, 1311 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.

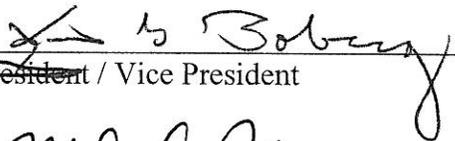
8. In any such enforcement proceeding, Respondent may contest whether a breach of the provisions of this Order has occurred but may not contest the Findings of Fact and Conclusions of Law contained herein.

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.

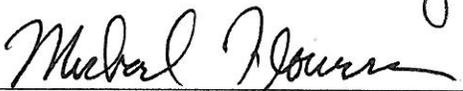
10. This Order constitutes the entire agreement of the parties with respect to the matters referred to herein, and it may not be amended or modified except by an amended order signed by all the parties hereto.

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.

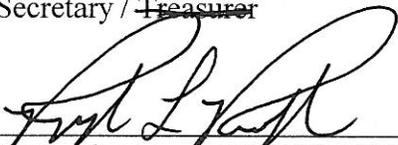
BY: AMERICAN MODERN HOME
INSURANCE COMPANY, Respondent



President / Vice President



Secretary / Treasurer



RANDOLPH E. ROHRBAUGH
Deputy Insurance Commissioner
Commonwealth of Pennsylvania

I. INTRODUCTION

The market conduct examination was conducted at American Modern Home Insurance Company, at their offices located in Amelia, Ohio, from August 18, 2003, through October 31, 2003. Subsequent review and follow-up was conducted in the office of the Pennsylvania Insurance Department.

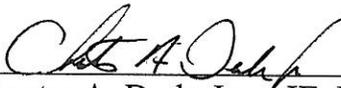
Pennsylvania Market Conduct Examination Reports generally note only those items to which the Department, after review, takes exception. However, the Examination Report may include management recommendations addressing areas of concern noted by the Department, but for which no statutory violation was 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



Jerry Houston, CPCU
Market Conduct Examiner



M. Katherine Sutton, AIC
Market Conduct Examiner

II. SCOPE OF EXAMINATION

The Market Conduct Examination was conducted on American Modern Home Insurance Company, hereinafter referred to as “Company,” at their offices located in Amelia, Ohio. 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 July 1, 2002 through June 30, 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 and declinations.
 - Rating - Proper use of all classification and rating plans and procedures.

2. Personal Lines Property
 - Underwriting – Appropriate and timely notices of nonrenewal, midterm cancellations, 60-day cancellations and declinations.
 - Rating – Proper use of all classification and rating plans and procedures.

3. Commercial Lines
 - Underwriting – Appropriate and timely notices of nonrenewals, midterm cancellations, 60-day cancellations, declinations and renewals.

4. Claims

5. Forms

6. Advertising

7. Consumer Complaints

8. Licensing

III. COMPANY HISTORY AND LICENSING

American Modern Home Insurance Company was incorporated under the laws of Ohio on January 25, 1965, and commenced business September 1, 1965. The Company is part of the American Modern Insurance Group, which contains six property and casualty companies plus two credit life companies, and is a subsidiary of The Midland Company, Amelia, Ohio. The Company first received its authority to write business in the Commonwealth on June 3, 1981.

LICENSING

American Modern Home Insurance Company's Certificate of Authority to write business in the Commonwealth was last issued on April 1, 2003. The Company is licensed in all 50 states plus DC and Guam. The Company's 2003 annual statement reflects Direct Written Premium for all lines of business in the Commonwealth of Pennsylvania as \$11,981,522. Premium volume related to the areas of this review were: Homeowners' Multiple Peril \$134,470; Fire \$864,225; Allied Lines \$414,251; Private Passenger Auto no-fault \$100,159; Other Private Passenger Automobile Liability \$3,152,775; Private Passenger Auto Physical Damage \$4,658,484; Other Commercial Auto Liability \$174,694; Commercial Auto Physical Damage \$1,633,789

IV. UNDERWRITING PRACTICES AND PROCEDURES

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

The following finding was made:

1 Violation Act 205, Section 5(a)(7)(iii) [40 P.S. §1171.5(a)(7)(iii)] Prohibits discrimination with regard to underwriting standards and practices or eligibility requirements by reason of age. Pages 2 and 3 of the underwriting guidelines for motor homes in all three tiers (Premiere, Prestige and Valued) state no driver under age 26 is eligible. Therefore, the age requirement does not evidence compliance with the Act.

V. UNDERWRITING

A. Private Passenger Automobile

1. 60-Day Cancellations

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

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

which action by the insurer is prohibited. These files were also reviewed for compliance with Act 68, Section 2002(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 9 personal automobile files identified as being cancelled in the first 60 days of new business was selected for review. All 9 files selected were received and reviewed. The files consisted of private passenger auto, motor home and travel trailers policies. No violations were noted.

2. Midterm Cancellations

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

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

From the universe of 105 private passenger automobile files identified as midterm cancellations by the Company, 57 files were selected for review. All 57 files selected were received and reviewed. The files consisted of private passenger auto, motor home and travel trailer policies. The 50 violations noted were based on 26 files, resulting in an error ratio of 46%.

The following findings were made:

18 Violations Act 68, Section 2006(1) [40 P.S. §991.2006(1)]

Requires that a cancellation notice be in a form acceptable to the Insurance Commissioner. The files noted contained the words “Reminder Notice” not Cancellation Notice, and pertained to nonpayment of premium. Therefore, the notices did not conform to acceptable standards.

8 Violations Act 68, Section 2006(4) [40 P.S. §991.2006(4)]

Requires that a cancellation notice advise the insured of his right to request in writing within 30 days of receipt of the notice of cancellation that the Insurance Commissioner review the action of the insurer. The violations resulted from cancellation notices which stated 10 days to request in writing a review by the Insurance Commissioner.

8 Violations Act 68, Section 2006(5) [40 P.S. §991.2006(5)]

Requires that either in the cancellation notice or in an accompanying statement, the insured be advised of this possible eligibility for insurance through the automobile assigned risk plan. The violations noted resulted from cancellation notices issued which did not advise the insured of the required information.

8 Violations Act 68, Section 2006(6) [40 P.S. §991.2006(6)] Requires that a cancellation notice advise the insured that he must obtain compulsory automobile insurance coverage if he operates or registers a motor vehicle in this Commonwealth and that the

insurer is notifying the Department of Transportation that the insurance is being cancelled and the insured must notify the Department of Transportation that he has replaced said coverage. The violations noted resulted from the cancellation notices not advising the insured of the required information.

8 Violations Act 68, Section 2006(7) [40 P.S. §991.2006(7)]

Requires that a cancellation notice clearly state that when coverage is to be terminated due to nonresponse to a citation imposed under 75 Pa. C.S. §1533 (relating to suspension of operating privilege for failure to respond to a citation) or nonpayment of a fine or penalty imposed under that section, coverage shall not terminate if the insured provides the insurer with proof that the insured has responded to all citations and paid all fines and penalties and that he has done so on or before the termination date of the policy. The violations resulted from cancellation notices that did not advise the insured of the required information.

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 that must be met regarding the form and conditions of the cancellation notice.

From the universe of 31 private passenger automobile files identified as nonrenewals by the Company, all 31 files were selected, received and reviewed. The files consisted of private passenger auto, motor home and travel trailer policies. The 24 violations noted were based on 24 files, resulting in an error ratio of 77%.

The following findings were made:

24 Violations Act 68, Section 2003(d)[40 P.S. §991.2003(d)]

Subsequent to the twelve (12) month period after notice of termination given to an agent, an insurer may not cancel or refuse to renew existing policies written through the terminated agent without offering each such insured coverage on a direct basis or offering to refer the insured to one or more new agents in the event the terminated agent could not find a suitable insurer acceptable to the policyholder for such business. The offer need not be made if the insurer could have cancelled or nonrenewed the policy had the agency relationship continued. If the insurer retains ownership of the expirations of such policies, the insurer need not offer a new agent. The files examined were nonrenewed and failed to comply with this requirement.

4. Declinations

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

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

The Company reported no declinations or refusals to write during the experience period. No violations were noted.

5. Report of Cancellations, Nonrenewals and Refusals to write

The purpose of the review is to determine compliance with the provisions of Title 31, Pa Code, Section 61.13 regarding records and reports to the Insurance Department of cancellations, nonrenewals and refusals to write.

The Company was requested to provide copies of reports to the Insurance Department of Private Passenger Automobile policies which had been cancelled, nonrenewed or refused to be written within the experience period.

The following findings were made:

2 Violations Title 31, Pa Code, Section 61.13

Each insurer shall maintain records of the number of cancellations and refusals to write or renew policies and the reasons therefor, and shall file with the Insurance

Department, within 60 days following June 30 and December 31, a report summarizing the record of all such actions during the 6-month period ending on these dates. The Company did not provide copies of the reports as required, so compliance with the report requirement was not met.

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. No violations were noted.

C. Personal Lines 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 205, Unfair Insurance Practices Act, Section 5(a)(7)(iii) [40 P.S. §1171.5(a)(7)(iii)], which prohibits an insurer from canceling a policy for discriminatory reasons and Title 31, Pennsylvania Code, Section 59.9(b), which requires an insurer who cancels a policy in the first 60 days to provide at least 30 days notice of the termination.

From the universe of 43 personal lines property policies, which were identified as being cancelled within the first 60 days of new business, all 43 files were selected, received and reviewed. The property policies consisted of Mobile Homeowners and Dwelling Fire policies. The 10 violations noted were based on 10 files, resulting in an error ratio of 23%.

The following findings were made:

2 Violations Act 86, Section 7(c) [40 P.S. §3407(c)]. An insurer may cancel the policy provided it gives at least 30 days' notice of the termination and provided it gives notice no later than the 60th day, unless the policy provides for a longer period of notification. The violations resulted from evidence of cancellation notices not being found in the electronic files.

8 Violations Title 31, Pennsylvania Code, Section 59.9(b). An insurer may cancel a policy in the first 60 days but must provide a notice of cancellation to the insured. The violations noted resulted from evidence of cancellation notices not being found in the electronic files.

2. Midterm Cancellations

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

The primary purpose of the review was to determine personal lines compliance with Act 205, Unfair Insurance Practices Act, Section 5(a)(9) [40 P.S. §1171.5(a)(9)], which establishes the conditions under which cancellation of a policy is permissible along with the form requirements of the cancellation notice.

From the universe of 40 personal lines property policies, which were cancelled midterm during the experience period, all 40 files were selected for review. The property policies consisted of Homeowners, Dwelling Fire, and Mobile Homeowners policies. All 40 files requested were received and reviewed. No violations were noted.

3. Nonrenewals

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

The primary purpose of the review was to determine personal lines compliance with Act 205, Unfair Insurance Practices Act, Section 5(a)(9) [40 P.S. §1171.5(a)(9)], which establishes the conditions under which cancellation of a policy is permissible along with the form requirements of the nonrenewal notice.

The universe of 167 personal lines property policies, which were nonrenewed during the experience period, were selected for review. The property policies consisted of Homeowners, Manufactured Homeowners and Mobile Homeowners. All 167 files were received and reviewed. The 96 violations noted were based on 96 files, resulting in an error ratio of 57%.

The following findings were made:

94 Violations Act 205, Section 5(a)(9) [40 P.S. §1171.5(a)(9)]

Prohibits canceling any policy of insurance covering owner-occupied private residential properties or personal property of individuals that has been in force for sixty days or more or refusing to renew any such policy unless the policy was obtained through material misrepresentation, fraudulent statements, omissions or concealment of fact material to the acceptance of the risk or to the hazard assumed by the company; or there has been a substantial change or increase in hazard in the risk assumed by the company subsequent to

the date the policy was issued; or there is a substantial increase in hazards insured against by reason of willful or negligent acts or omissions by the insured; or the insured has failed to pay any premium when due or for any other reasons approved by the Commissioner. The violations are for policies cancelled for reasons not permitted by the Act.

2 Violations Insurance Department Act, Section 903 (40 P.S. 323.3)

Authority, Scope and Scheduling of Examinations. (a)

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 readily verify the company or person has complied with the laws of this Commonwealth. The violations were the result of no evidence of nonrenewal notices contained in the Company records.

4. Declinations

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

The primary purpose of the review was to determine compliance with Act 205, Unfair Insurance Practices Act, Section 5(a)(7)(iii) [40 P.S. §1171.5(a)(7)(iii)], discriminatory reasons. The Company reported no

personal lines property policies were declined or refused. No violations were noted.

D. Commercial 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 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 had no policies cancelled during the first 60 days. No violations were noted.

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.

From the universe of 7 commercial auto policies which were cancelled midterm during the experience period, all 7 files were selected for review.

The files consisted of physical damage commercial auto. All 7 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 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 nonrenewals during the experience period. No violations were noted.

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.

From the universe of 24 commercial auto master policies reviewed, no violations were noted.

VI. RATING

A. Private Passenger Automobile

1. New Business

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

From the universe of 464 automobile policies consisting of 204 private passenger automobile (Elite and Select), 20 motor home, and 240 travel trailers, identified as new business by the Company, 125 files were selected for review. All 125 files selected were received and reviewed. The 484 violations were based on 224 files, which was the universe size of antique and collectible auto policies and motor home policies. This resulted in an error ratio of 100%.

The following findings were made:

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

Requires that at the time of application for original coverage and every renewal thereafter, an insurer must provide to an insured an itemized invoice listing the minimum motor vehicle insurance coverage levels mandated by the Commonwealth and the premium charge for the insured to purchase the minimum mandated coverages. The invoice must contain the following notice in print of no less than ten-point type: "The laws of the Commonwealth of Pennsylvania, as enacted by the General Assembly, only require you to purchase liability and first-party medical benefit coverages. Any additional coverage or coverages in

excess of the limits required by law are provided only at your request as enhancements to basic coverages.” The insurer shall provide the itemized invoice to the insured in conjunction with the declaration of coverage limits and premiums for the insured’s existing coverages. The violations noted were for the universe of antique and collectible and motor home policies. The files reviewed did not evidence compliance with this requirement.

204 Violations Title 75, Pa. C.S., §1725. Rental Vehicles.

Every motor vehicle insurance policy shall contain a notice as to whether the policy covers collision damage to rental vehicles, and any limitations on such coverage. The notice shall be written in clear, plain language and shall be printed on the first page of the policy in boldface capital letters. The violations noted are for the universe of antique and collectible automobile policies. The files reviewed did not evidence compliance with this requirement.

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

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. The violations were the result of the Company not providing the motor home

insureds with a copy of the surcharge disclosure plan as required.

7 Violations 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 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 violations were on motor home policies where an inexperienced operator point surcharge of 10% was applied, but the amount of the surcharge was not shown on the premium notice as required.

2 Violations Title 75, Pa. C.S., §1731(b) & (c)

The named insured shall be informed that he may reject uninsured and underinsured motorist coverage by signing a written rejection form. The violations noted were the result of the policy being issued without uninsured and underinsured motorist coverage and no evidence of a signed written rejection form in the file as required.

1 Violation Title 75, Pa. C.S., Section 1734. Uninsured and

Underinsured Motorist Coverage - Request for lower limits of coverage. A named insured may request in writing the issuance of coverages under section 1731 (relating to availability, scope and amount of coverage) in amounts

equal to or less than the limits of liability for bodily injury. The violation referenced provided lower limits, but the file did not evidence the insured's signed request.

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

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

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

The named insured shall be informed that he may exercise the waiver of stacked limits for uninsured and underinsured motorist coverage by signing written rejection forms. The violation resulted as the file did not evidence compliance with this requirement.

4 Violations Title 75, Pa. C.S., §1791.1(b)

Requires an insurer to provide an insured with a notice of the availability of two alternatives of full tort insurance and limited tort insurance. The files did not evidence a signed limited tort election by the insured.

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.

Private Passenger Automobile – Renewals

From the universe of 1,197 private passenger automobile policies renewed during the experience period, 175 files were selected for review. All 175 files selected were received and reviewed. The files consisted of private passenger automobile antique and collectible policies in the Elite and Select programs, motor homes and travel trailer policies. The 1,975 violations noted were based on 986 files, resulting in an error ratio of 100%.

The following findings were made:

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

Requires that at the time of application for original coverage and every renewal thereafter, an insurer must provide to an insured an itemized invoice listing the minimum motor vehicle insurance coverage levels mandated by the Commonwealth and the premium charge for the insured to purchase the minimum mandated coverages. The invoice must contain the following notice in print of no less than ten-point type: “The laws of the Commonwealth of Pennsylvania, as enacted by the General Assembly, only require you to purchase liability and first-party medical benefit coverages. Any additional coverage or coverages in excess of the limits required by law are provided only at your request as enhancements to basic coverages.” The insurer shall provide the itemized invoice to the insured in

conjunction with the declaration of coverage limits and premiums for the insured's existing coverages. The violations noted are for the universe of renewals for the antique and collectible, and motor home policies. The files reviewed did not evidence compliance with this requirement.

947 Violations Title 75, Pa. C.S., §1725. Rental Vehicles.

Every motor vehicle insurance policy shall contain a notice as to whether the policy covers collision damage to rental vehicles, and any limitations on such coverage. The notice shall be written in clear, plain language and shall be printed on the first page of the policy in boldface capital letters. The violations noted are for the universe of renewals for private passenger antique and collectible vehicle policies. The files reviewed did not evidence compliance with this requirement.

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

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. The violations noted are for the universe of motor home policies. The files reviewed did not evidence compliance with this requirement.

3 Violations Title 75, Pa. C.S., § 1734. Uninsured and Underinsured Motorist Coverage - Request for lower limits of coverage. A named insured may request in writing the issuance of coverages under section 1731 (relating to availability, scope and amount of coverage) in amounts equal to or less than the limits of liability for bodily injury. The violations noted involve motor home policies, and the files reviewed did not evidence the insured's signed request as required.

B. Personal Lines Property

1. New Business.

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

The purpose of the review was to measure compliance with Act 246, Sections 4(a) and (h) (40 P.S. §1184), which require every insurer to file with the Insurance Commissioner every manual of classifications, rules and rates, every rating plan and every modification of any rating plan, which it proposes to use in the Commonwealth. Also, no insurer shall make or issue a contract or policy except in accordance with filings or rates, which are in effect at the time.

The universe of 1,066 personal lines property policies was reported by the Company as new business during the experience period. They consisted of Homeowners, Mobile Homeowners and Dwelling Fire policies. A total of 186 files were selected for review. All 186 files selected were received and reviewed. The 39 violations noted were based on 39 files, resulting in an error ratio of 21%.

6 Violations Act 246, The Casualty and Surety Rate Regulatory Act, Section 4 (40 P.S. §1184) Requires every insurer to file with the Insurance Commissioner every manual of classifications, rules and rates, every rating plan and every modification of any rating plan, which it proposes to use in the Commonwealth. Also, no insurer shall make or issue a contract or policy except in accordance with filings or rates, which are in effect at the time of issue. The violations noted were the result of the Company applying various credits that were not supported by information on the application, or not applying a surcharge in accordance with Company filings. This resulted in undercharges which did not conform to the Company's rating plan.

33 Violations Act 246, The Casualty and Surety Rate Regulatory Act, Section 4 (40 P.S. §1184)
Requires every insurer to file with the Insurance Commissioner every manual of classifications, rules and rates, every rating plan and every modification of any rating plan, which it proposes to use in the Commonwealth. Also, no insurer shall make or issue a contract or policy except in accordance with filings or rates, which are in effect at the time of issue. The violations noted reflect improper application of the \$500 deductible credit which did not conform to the Company's rating plan.

2. Renewal

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

The purpose of the review was to determine compliance with Act 246, Sections 4(a) and (h) (40 P.S. §1184), which require every insurer to file with the Insurance Commissioner every manual of classifications, rules and rates, every rating plan and every modification of any rating plan which it proposes to use in the Commonwealth. Also, no insurer shall make or issue a contract or policy except in accordance with filings or rates which are in effect at the time.

From a universe of 5,524 Personal Property policies reported as renewal business during the experience period, consisting of Mobile Homeowners, Homeowners, and Dwelling Fire policies, 273 files were selected for review. All 273 files selected were received and reviewed. The 3 violations noted were based on 3 files, resulting in an error ratio of 1%.

3 Violations Act 246, The Casualty and Surety Rate Regulatory Act, Section 4 (40 P.S. §1184) Requires every insurer to file with the Insurance Commissioner every manual of classifications, rules and rates, every rating plan and every modification of any rating plan, which it proposes to use in the Commonwealth. Also, no insurer shall make or issue a contract or policy except in accordance with filings or rates, which are in effect at the time of issue. The violations noted reflect improper application of the \$500 deductible credit which did not conform to the Company's rating plan.

VII. CLAIMS

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

The Claims review consisted of the following areas of review:

- A. Automobile Comprehensive Claims
- B. Automobile Collision Claims
- C. Automobile Property Damage Liability Claims
- D. Automobile Total Loss Claims
- E. Automobile First Party Benefits Claims
- F. Automobile First Party Benefits Claims Referred to a Peer Review Organization (PRO)
- G. Personal Property Claims – Homeowners and Dwelling Fire

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 Comprehensive Claims

The universe of 50 private passenger automobile comprehensive claims reported during the experience period was selected for review. The claim files consisted of 6 antique and collectible vehicles and 44 recreational vehicles and travel trailers. All 50 files selected were received and

reviewed. The 7 violations noted were based on 7 files, resulting in an error ratio of 14%.

The following findings were made:

5 Violations Title 31, Pa Code, Section 146.6 - Standards for prompt investigation of claims. If the investigation cannot be completed within 30 days, and every 45 days thereafter, the insurer shall provide the claimant with a reasonable written explanation for the delay and state when a decision on the claim may be expected. The violations noted did not evidence status letters were sent as required.

2 Violations Title 31, Section 146.7(a)(1) Requires that 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. The violations noted reflected files that did not evidence compliance with this requirement.

B. Automobile Collision Claims

The universe of 17 private passenger automobile collision claims reported during the experience period was selected for review. The claim files consisted of antique and collectible vehicles, recreational vehicles and travel trailers. All 17 files requested were received and reviewed. The 3 violations noted were based on 3 files, resulting in an error ratio of 18%.

The following findings were made:

3 Violations Title 31, Pa Code, Section 146.6 - Standards for prompt investigation of claims. If the investigation cannot be completed within 30 days, and every 45 days thereafter, the insurer shall provide the claimant with a reasonable written explanation for the delay and state when a decision on the claim may be expected. The violations noted reflected claim files that had no evidence of a status letter being sent as required.

C. Automobile Property Damage Liability Claims

The universe of 5 private passenger automobile property damage liability claims reported during the experience period was selected for review. The claim files consisted of antique and collectible vehicles, recreational vehicles and travel trailers. All 5 files selected were received and reviewed. The 1 violation noted was based on 1 file, resulting in an error ratio of 20%.

The following finding was made:

1 Violation Title 31, Pa. Code, § 146.5(a). Failure to acknowledge pertinent communications. Requires

that every insurer, upon receiving notification of a claim, shall, within 10 working days, acknowledge the receipt of the notice unless payment is made within the period of time. If an acknowledgment is made by means other than writing, an appropriate notation of the acknowledgment shall be made in the claim file of the insurer and dated. Notification given to an agent of an insurer shall be notification to the insurer, dating from the time the insurer receives notice. The violation noted reflected a claim file that did not evidence the claimant was contacted and the claim acknowledged within 10 working days.

D. Automobile Total Loss Claims

The universe of 4 private passenger total loss claims was selected for review. The claim files selected were received and reviewed. The 7 violations noted were based on 4 files, resulting in an error ratio of 100%.

The following finding was made:

1 Violation Title 31, Pa Code, Chapter 62, Motor Vehicle Physical Damage Appraisers, Section 62.3(f) The following standards shall be used to determine replacement value under policy provisions covering the total loss of a motor vehicle including an unrecovered vehicle:

(5) Applicable sales tax on the replacement cost of a motor vehicle shall be included as part of the replacement value.

The violation noted reflected a settlement for total loss which did not include Pennsylvania sales tax of \$294.

3 Violations Title 31, Pa. Code, Section 146.4. Misrepresentation of policy provisions.

(a) An insurer or agent may not fail to fully disclose to first-party claimants pertinent benefits, coverages or other provisions of an insurance policy or insurance contract under which a claim is presented. There is no evidence the Company increased the limit of liability on a quarterly basis as required in the Select Automobile policy on page 4, Sections A, and B, for a Stated Amount or Agreed Amount which is indicated in the policy declarations. This resulted in an underpayment of three total loss claims of \$489.00, \$50.00 and \$606.00 respectively.

1 Violation Title 31, Pa. Code, Section 62.3(f)(8)

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 violation noted was for a claim file absent any evidence of compliance.

1 Violation Title 75, Pa. C.S. Section 1117.(a) Requires any owner who transfers a vehicle to be salvaged must assign the certificate of title to the person to whom the vehicle is transferred. The transferee shall immediately present the assigned certificate of title to the department with an application for a certificate of salvage. If the owner retains possession of a vehicle which is damaged to the extent that it qualifies for vehicle

replacement, the owner shall apply for a certificate of salvage immediately. In this case the insurer shall not pay vehicle replacement value until the owner produces evidence the certificate of salvage has been issued. The violation is for a claim file that reflected no salvage certificate as required.

1 Violation Title 31, Pa. 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. The violation noted was for a claim file absent any evidence of compliance with this requirement.

E. Automobile First Party Benefits Claims

The Company reported no first party benefits claims during the experience period and none was discovered during the examination. No violations were noted.

F. Automobile First Party Benefits Claims Referred to a Peer Review

Organization - PRO

The Company was requested to provide copies of any contracts with a Peer Review Organization with which they have contracted.

The following finding was made:

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

A Peer Review Organization shall contract, in writing, jointly or separately with an insurer for the provision of peer review services as authorized by Act 1990-6 and this chapter.

AND

Act 1990-6, Title 75, Pa. C.S. §1797(b)(1)

Peer review plan for challengers to reasonableness and necessity of treatment. Peer review plan. Insurers shall contract jointly or separately with any peer review organization established for the purpose of evaluating treatment, health care services, products or accommodations provided to any injured person. Such evaluation shall be for the purpose of confirming that such treatment, products, services or accommodations conform to the professional standards of performance and are medically necessary. An insurer's challenge must be made to a PRO within 90 days of the insurer's receipt of the provider's bill for treatment or services or may be made at any time for continuing treatment or services. The violation noted was the result of failing to have a signed contract in place with a Peer Review Organization.

G. Personal Property Claims

The universe of 519 personal property claims were reported during the experience period, and 100 files were selected for review. The files consisted of Homeowners and Dwelling Fire claims. All 100 files selected

were received and reviewed. The 7 violations noted were based on 6 files, resulting in an error ratio of 6%.

The following findings were made:

3 Violations. Title 31, Pa Code, Section 146.6 Standards for prompt investigation of claims. If the investigation cannot be completed within 30 days, and every 45 days thereafter, the insurer shall provide the claimant with a reasonable written explanation for the delay and state when a decision on the claim may be expected. The violations noted reflected claim files that did not evidence status letters were sent as required.

2 Violations Title 31, Pa Code, Section 146.7(c)(1) Standards for prompt, fair and equitable settlements applicable to insurers. Requires that if the insurer needs more time to determine whether a claim should be accepted or denied, it shall so notify the claimant within 15 working days after receipt of documentation supporting payment, giving the reasons more time is needed. The violations noted were the result of the Company not accepting or denying the claim within the required 15 days.

2 Violations Title 31, Pa. Code, Section 146.7- Standards for prompt, fair and equitable settlements applicable to insurers. Provides that an insurer may not deny a claim on the grounds of a specific policy provision, condition or exclusion unless reference to the

provision, condition or exclusion is included in the denial. The denial shall be given to the claimant in writing and the claim file of the insurer shall contain a copy of the denial. The violations noted were claim files that did not contain the required copy of the denial letter.

VIII. FORMS

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

1 Violation 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 was the result of the absence of

a fraud warning notice on the application for the Select Automobile Insurance Program.

1 Violation Act 165 of 1994 (Title 18, Pa. C.S. 4117(k)(1)). Requires all insurers to issue a specific insurance fraud warning notice on all applications for insurance and claim forms. “Any person who knowingly and with intent to defraud any insurance company or other person files an application for insurance or statement of claim containing any materially false information or conceals for the purpose of misleading, information concerning any fact material thereto, commits a fraudulent insurance act, which is a crime and subjects such person to criminal and civil penalties.” The violation noted is a result of no fraud warning notice on the Log Home Application.

IX. ADVERTISING

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

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

The Company provided 50 pieces of advertising, which included product brochures. The internet website was also reviewed. No violations were noted.

X. CONSUMER COMPLAINTS

The Company was requested to identify all consumer complaints received during the experience period and provide copies of their consumer complaint logs for the preceding four years. The Company identified 18 consumer complaints received during the experience period and provided all consumer complaint logs requested. All 18 complaints reported, 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 findings were made:

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

States that an insurer may not cancel or refuse to renew existing policies written through the terminated agent without offering each such insured coverage on a direct basis or offering to refer the insured to one or more new agents in the event the terminated agent could not find a suitable insurer acceptable to the policyholder for such business. The violation noted was the result of nonrenewal notice being issued for agency termination reasons and did not provide the required information to the insured.

3 Violations Act 205, Section 5(a)(9) [40 P.S. §1171.5(a)(9)]

Prohibits canceling any policy of insurance covering owner-occupied private residential properties or personal property of individuals that has been in force for sixty days or more or refusing to renew any such policy unless the policy was obtained through material misrepresentation, fraudulent statements, omissions or concealment of fact material to the acceptance of the risk or to the hazard assumed by the company; or there has been a substantial change or increase in hazard in the risk assumed by the company subsequent to the date the policy was issued; or there is a substantial increase in hazards insured against by reason of willful or negligent acts or omissions by the insured; or the insured has failed to pay any premium when due or for any other reasons approved by the Commissioner. The violations noted were for cancellation notices listing reasons not permitted by the Act.

The following synopsis reflects the nature of the 18 consumer complaints received:

<u>Number of Complaints</u>	<u>Nature of Complaints</u>	<u>Percentage</u>
11	Cancellation/Nonrenewal	61%
5	Claims	28%
2	Premium Refund	11%
<hr/> 18		<hr/> 100%

XI. 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, 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. The list provided was compared with Insurance Department records. In addition to the list provided, individual policies were checked to verify the agent licensing and appointments.

The following findings were made:

*26 Violations The 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 records of the Insurance Department were checked and evidence the following agents did not have a valid appointment with the company.

Agency/Agent

AFSC Agency, Inc

Augello, Richard C.

Behringer, John Francis

Belton, Barbara

Breslin, Norbert P.

Brown, Judy C.

Campisano, Joseph A.

Colardo, Sharon Margaret

Cooper, Sandra M.

Corcoran, Gary Kevin

Emmerich, William J.

Eshelman, Peter T.

N J National Associates, Inc.

Noley, Carolyn M.

Obrien, Timothy John

Paul, Elizabeth Susan

Petroy, Christine

Ramsell, Donald S.

Stahl, Patricia J.

Tatara, Margaret A.

Vanburen, Diane Lynn

Weinland, Peggy L.

Woolridge, Sonja Pat

Wroten, David P.

Yearout, Patricia S

Young, Crystal L.

*22 Violations The Insurance Department Act, Section 623 [40 P.S. §253]
Doing Business with Unlicensed Brokers. Any entity or
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 records of the Insurance Department were checked and evidence the following agents did not have the proper license.

Agency

AFSC Agency, Inc

Augello, Richard C.

Behringer, John Francis

Belton, Barbara

Breslin, Norbert P.

Campisano, Joseph A.

Cooper, Sandra M.

Emmerich, William J.

N J National Associates, Inc.

Noley, Carolyn M.

Obrien, Timothy John

Paul, Elizabeth Susan

Petroy, Christine

Ramsell, Donald S.

Stahl, Patricia J.

Tatara, Margaret A.

Vanburen, Diane Lynn

Weinland, Peggy L.

Woolridge, Sonja Pat

Wroten, David P.

Yearout, Patricia S

Young, Crystal L.

XII. RECOMMENDATIONS

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

1. The Company must implement procedures to ensure those agents doing business with the Company are licensed and appointed.
2. The Company must review the total loss claims noted in the Report and review Title 31, Pa Code, Chapter 62, Motor Vehicle Physical Damage Appraisers, Section 62.3(f), and Title 31, Pa. Code, Section 146.4. Within 30 days of the Report issue date, the Company must provide documentation the sales tax and underpayments have been paid to the claimants.
3. The Company must contract with a Peer Review Organization in accordance with Title 31, Pa. Code, Section 69.53(a) and Act 1990-6, Title 75, Pa. C.S. §1797(b)(1).
4. The Company must review Title 31, Pa. Code, Chapter 146, and implement the claim handling standards contained therein.
5. The Company must revise underwriting procedures and guidelines to ensure future compliance with Act 205, Section 5(a)(7)(iii)[40 P.S. §1171.5(a)(7)(iii)], which was cited in the Report.
6. The Company must review Act 68, Section 2006(1),(4),(5),(6) and (7) [40 P.S. §991.2006(1),(4),(5),(6) and (7)] regarding mid-term

cancellations of automobile policies mentioned in the Report, and put in place procedures to avoid these violations in the future.

7. The Company must review Act 205, Section 5(a)(9)[40 P.S. §1171.5(a)(9)] regarding nonrenewals of personal property policies and put in place procedures to implement proper nonrenewal reasons in the future.
8. The Company must ensure that all applications for insurance, claim forms and renewals contain fraud warning notices required by Title 75, Pa. C.S. §1822 and Title 18, Pa. C.S. §4117(k)(1).
9. The Company must review and implement procedures to address noted violations of Title 75, Pa. C.S., Sections 1791.1(a), and 1791.1(b), 1725, 1799.3(d), 1793(b), and 1734.
10. The Company must review Title 31, Pa. Code, Section 61.13 regarding the report of cancellations, nonrenewals and refusals to write, then implement procedures to provide these reports in the future.
11. The Company must review Act 246, The Casualty and Surety Rate Regulatory Act, Section 4 [40 P.S., §1184], to ensure proper application of rating procedures as filed and approved.

XIII. COMPANY RESPONSE



AMERICAN MODERN HOME
INSURANCE COMPANY

June 16, 2004

Mr. Chester A. Derk, Jr. AIE, HIA
Market Conduct Division Chief
Commonwealth of Pennsylvania
Insurance Department
1321 Strawberry Square
Harrisburg, PA 17120

RE: AMERICAN MODERN HOME INSURANCE COMPANY
Examination Warrant Number: 03-M19-010

Dear Mr. Derk,

After reviewing the latest Report of Examination, the American Modern Home Insurance Company acknowledges that the findings of the Commonwealth of Pennsylvania Insurance Department Market Conduct Division with regard to the above captioned Examination Warrant Number are consistent with the observations of the examiners while on site.

Following are responses to the recommendations as stated in part XII of the Report of Examination:

1. Our licensing technicians have a procedure in place to follow up on first time applications and outstanding appointment requests to ensure agents doing business with us are licensed and appointed.
2. All total losses will be handled by one adjuster which will assure policy provisions are met regarding Title 31, Pa. Code, Chapter 62, Motor Vehicle Physical Damage Appraisers, Section 62.3(f) and Title 31, Pa. Code, Section 146.4. Monthly audits are scheduled on the adjuster to assure compliance.
3. A contract has been completed with a Peer Review Organization to comply with Title 31, Pa. Code, Section 69.539(a) and Act 1990-6, Title 75, Pa. C.S. §1797(b)(1).
4. The claims department now has procedures in place such as using a diary system and monthly audits of the adjuster to ensure compliance with Title 31, Pa. Code, Chapter 146.
5. The underwriting guidelines as pertaining to the violation found for Act 205, Section 5(a)(7)(iii) [40 P.S. §1171.5(a)(7)(iii)] has been corrected in our Motorhome filing for tier eligibility. A copy of the amended guideline was submitted to the department with my previous response dated December 22, 2003.
6. Our cancellation notices are being brought into compliance with Act 68, Section 2006 (1),(4),(5),(6) and (7) [40 P.S. §991.2006(1),(4),(5),(6) and (7)].
7. A procedure will be put into place regarding nonrenewals of personal property policies to ensure compliance with Act 205, Section 5(a)(9) [40 P.S. §1171.5(a)(9)].
8. The company will ensure that all applications for insurance, claim forms and renewals contain fraud warning notices required by Title 75, Pa. C.S. §1822 and Title 18, Pa. C.S. §4117(k)(1).
9. The violations pertaining to Title 75, Pa. C.S., Sections 1791.1(a), and 1791.1(b), 1725, 1799.3(d), 1793(b) and 1734 have either been corrected as stated in my previous response dated December 22, 2003 and procedures will be implemented where necessary.

10. Report of Cancellations, Nonrenewals and Refusals to Write Title 31, Pa. Code, Section 61.13 – attached is a copy of the data call that our Statistical Unit submitted to the department of insurance.
11. The issues pertaining to Act 246, The Casualty and Surety Rate Regulatory Act, Section 4 [40 P.S. §1184] were addressed with the agent.

If I may be of further assistance, please contact me at (800) 759-9008, extension 6738.

Sincerely,

AMERICAN MODERN HOME INSURANCE COMPANY
FEIN 31-0715697 NAIC 23469



D. Eugene Stetler
Senior Vice President
Actuarial and Regulatory Services