

**REPORT OF
MARKET CONDUCT EXAMINATION
OF**

FIREMAN'S FUND INSURANCE COMPANY
Novato, California

NATIONAL SURETY CORPORATION
Chicago, Illinois

**AS OF
August 16, 2006**

COMMONWEALTH OF PENNSYLVANIA

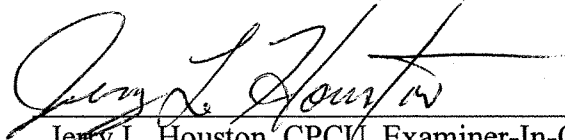


**INSURANCE DEPARTMENT
MARKET CONDUCT DIVISION**

Issued: October 3, 2006

VERIFICATION

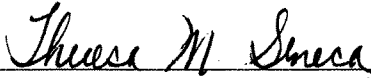
Having been duly sworn, I hereby verify that the statements made in the within document are true and correct to the best of my knowledge, information and belief. I understand that false statements made herein are subject to the penalties of 18 Pa. C.S. §4903 (relating to false swearing).



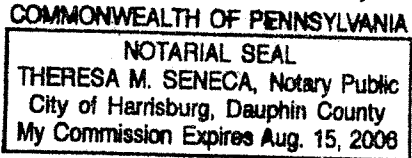
Jerry L. Houston, CPCU, Examiner-In-Charge

Sworn to and Subscribed Before me

This 24 Day of July, 2006



Notary Public



**FIREMAN'S FUND INSURANCE COMPANY
NATIONAL SURETY CORPORATION**

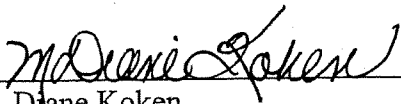
TABLE OF CONTENTS

Order	
I.	Introduction..... 1
II.	Scope of Examination..... 3
III.	Company History/Licensing..... 5
IV.	Underwriting Practices and Procedures..... 8
V.	Underwriting
	A. Private Passenger Automobile..... 10
	B. Assigned Risk..... 12
	C. Property..... 12
	D. Commercial Property..... 16
	E. Commercial Automobile..... 21
	F. Workers' Compensation..... 23
	G. Medical Malpractice..... 25
VI.	Rating
	A. Private Passenger Automobile..... 27
	B. Assigned Risk..... 42
	C. Homeowners..... 42
	D. Dwelling Fire..... 45
VII.	Claims..... 46
VIII.	Forms..... 57
IX.	Advertising..... 59
X.	Consumer Complaints..... 60
XI.	Licensing..... 63
XII.	Recommendations..... 67
XIII.	Company Response..... 71

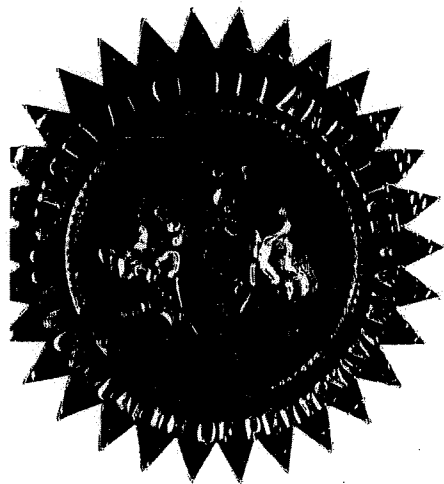
BEFORE THE INSURANCE COMMISSIONER
OF THE
COMMONWEALTH OF PENNSYLVANIA

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:
	:	
FIREMAN'S FUND INSURANCE	:	Sections 641-A and 671-A of Act 147
COMPANY	:	of 2002 (40 P.S. §§ 310.41 and 71)
NATIONAL SURETY CORPORATION:	:	
777 San Marin Drive	:	Sections 4(a) and 4(h) of the Act of
Novato, CA 94998	:	June 11, 1947, P.L. 538, No. 246
	:	(40 P.S. §§ 1184)
	:	
	:	Sections 3(a)(5), 3(a)(6) and 4(b) of
	:	the Act of July 3, 1986, P.L. 396, No.
	:	86 (40 P.S. §§ 3403 and 3404)
	:	
	:	Act 1990-6, Sections 1705(a)(1) and
	:	(4), 1725, 1734, 1738(d)(1)(2),
	:	1791.1(b), 1792(b)(1), 1793(b),
	:	1797(b)(1) and 1799.3(d) (Title 75,
	:	Pa.C.S. §§ 1705, 1725, 1734, 1738,
	:	1792, 1793, 1797 and 1799)
	:	
	:	Sections 4, 5(a)(4), 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. §§ 1171.4
	:	and 1171.5)
	:	
	:	Title 31, Pennsylvania Code,
	:	Sections 69.52(a) and (e), 69.53(a),
	:	69.55(a), 113.88, 146.6 and
	:	146.7(a)(1)
	:	
	:	Title 18, Pennsylvania Consolidated
	:	Statutes, Section 4117(k)(1)
	:	
	:	Title 75, Pennsylvania Consolidated
	:	Statutes, Sections 1161(a) and (b),
	:	and 1822
	:	
	:	
Respondent.	:	Docket No. MC06-09-014

CONSENT ORDER

AND NOW, this 3rd day of October, 2006, 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 Fireman's Fund Insurance Company and National Surety Corporation, and maintains its address at 777 San Marin Drive, Novato, California 94998.

- (b) A market conduct examination of Respondent was conducted by the Insurance Department covering the period from January 1, 2005 through December 31, 2005.
- (c) On August 16, 2006, the Insurance Department issued a Market Conduct Examination Report to Respondent.
- (d) A response to the Examination Report was provided by Respondent on September 15, 2006.
- (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) 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;

- (iv) 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;
- (v) Section 3(a)(6) of Act 86 (40 P.S. § 3403), which requires that a nonrenewal notice shall state that at the insured's request, the insurer shall state that at the insured's request, the insurer shall provide loss information to the insured for at least three years or the period of time during which the insurer has provided coverage to the insured, whichever is less;
- (vi) Section 4(b) of Act 86 (40 P.S. § 3404), which requires that unearned premium be returned to the insured not later than 30 days after the effective date of termination where commercial property or casualty risks are cancelled in mid-term by the insured;

- (v) Sections 1705(a)(1) & (4) of Act 1990-6, Title 75, Pa.C.S. § 1705, which requires every insurer, prior to the issuance of a private passenger motor vehicle liability insurance policy to provide each applicant an opportunity to elect a tort option. A policy may not be issued unless the applicant has been provided an opportunity to elect a tort option;

- (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 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;

- (viii) 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;

- (ix) 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;

- (x) 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 \$500.00 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;

- (xi) 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;

- (xii) 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;

(xiii) 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;

(xiv) Section 4 of Act 205 (40 P.S. § 1171.4), which states no person shall engage in any trade practice which is defined or determined to be an unfair method of competition or an unfair or deceptive act or practice in the business of insurance pursuant to this act;

(xv) Section 5(a)(4) of Act 205 (40 P.S. § 1171.5), which defines as an unfair method of competition or unfair or deceptive acts or practices as entering

into any agreement to commit, or by any concerted action committing, any act of boycott, coercion or intimidation resulting in or tending to result in unreasonable restraint of, or monopoly in, the business of insurance;

(xvi) Section 5(a)(7)(iii) of Act 205 (40 P.S. § 1171.5), which defines as an unfair method of competition or unfair or deceptive acts or practices as making or permitting any unfair discrimination between individuals of the same class and essentially the same hazard with regard to underwriting standards and practices or eligibility requirements by reason of race, religion, nationality, or ethnic group, age, sex, family size, occupation, place of residence or marital status;

(xvii) Section 5(a)(9) of Act 205 (40 P.S. §1171.5), which defines an unfair act or practice as: (9) cancelling any policy of insurance covering owner-occupied private residential properties or personal property of individuals that has been in force for 60 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 whether such premium is payable directly to the company or its agent or indirectly under any premium finance plan or extension of credit; or for any other reasons approved by the Commissioner pursuant to rules and regulations promulgated by the Commissioner. No cancellation or refusal to renew by any person shall be effective unless a written notice of the cancellation or refusal to renew is received by the insured whether at the address shown in the policy or at a forwarding address;

(xviii) Title 31, Pennsylvania Code, Section 69.52(a), which requires an insurer to refer a provider's bill to a PRO only when circumstances or conditions relating to medical and rehabilitative services provided cause a prudent person, familiar with PRO procedures, standards and practices to believe it necessary that a PRO determine the reasonableness and necessity of care, when appropriateness of the setting where the care is rendered, and the appropriateness of the delivery of the care. The insurer shall notify a provider, in writing, when referring bills for PRO review at the time of referral;

(xix) 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;

- (xx) 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;
- (xxi) Title 31, Pennsylvania Code, Section 69.55(a), which requires a PRO to apply in writing to the Commissioner for approval to contract with an insurer to provide peer review services in accordance with the act and this chapter;
- (xxii) 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;
- (xxiii) 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;

(xxiv) 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;

(xxv) Title 18, Pennsylvania Consolidated Statutes, Section 4117(k), which requires all applications for insurance and all claim forms shall contain or have attached thereto the following notice: "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";

(xxvi) Section 1161(a) and (b) of Title 75, Pa. C.S., which states an insurer who owns, possesses or transfers a vehicle located or registered in the Commonwealth which qualifies as a salvage vehicle shall make application to the Department for a certificate of salvage for that vehicle; and

(xxvii) 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-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 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 Sections 3(a)(5), 3(a)(6) and 4(b) of Act 86 (40 P.S. §§ 3403 and 3404), 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 4 and 5 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.

(f) 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).

- (g) Respondent's violations of Title 31, Pennsylvania Code, Sections 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 Twenty-Five Thousand Dollars (\$25,000.00) 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. Fraser, 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.

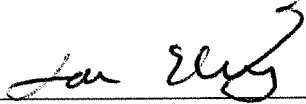
11. This Order shall be final upon execution by the Deputy Insurance Commissioner. Only the Insurance Commissioner or a duly authorized Deputy Insurance Commissioner is authorized to bind the Insurance Department with respect to the settlement of the alleged violations of law contained herein, and this Consent

Order is not effective until executed by the Insurance Commissioner or a duly authorized Deputy Insurance Commissioner.

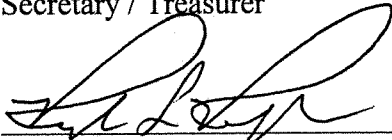
BY: FIREMAN'S FUND INSURANCE
COMPANY and NATIONAL SURETY
CORPORATION, Respondent



President / ~~Vice~~ President



Secretary / Treasurer



RANDOLPH L. ROHRBAUGH
Deputy Insurance Commissioner
Commonwealth of Pennsylvania

I. INTRODUCTION

The market conduct examination was conducted at Fireman's Fund Insurance Company and National Surety Corporation's offices located in Earth City, Missouri, Bethlehem, Pennsylvania and Liberty Corner, New Jersey, from April 25, 2006, through May 26, 2006. 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.

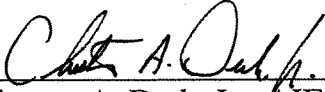
In certain areas of review listed in this Report, the examiners will refer to "error ratio." This error ratio is calculated by dividing the number of policies with violations by the total number of policies reviewed. For example, if 100 policies are reviewed and it is determined that there are 20 violations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

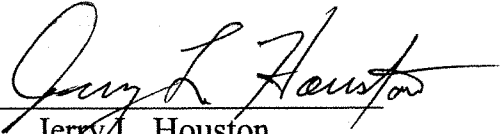
the various types of violations identified during the examination and review written summaries provided on the violations found.

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

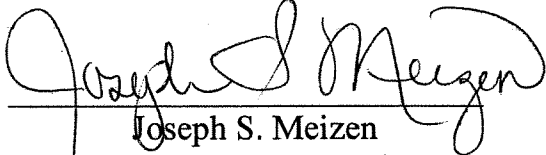
The undersigned participated in this examination and in preparation of this Report.




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



Jerry L. Houston
Market Conduct Examiner



Joseph S. Meizen
Market Conduct Examiner



Diane B. Freed
Market Conduct Examiner

II. SCOPE OF EXAMINATION

The Market Conduct Examination was conducted on Fireman's Fund Insurance Company and National Surety Corporation, hereinafter referred to as "Company," at their offices located in Earth City, Missouri, Bethlehem, Pennsylvania and Liberty Corner, New Jersey. 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, 2005, through December 31, 2005, unless otherwise noted. The purpose of the examination was to determine the Company's compliance with Pennsylvania insurance laws and regulations.

The examination focused on Company operations in the following areas:

1. Private Passenger Automobile

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

2. Property

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

3. Commercial Property

- Underwriting – Appropriate and timely notices of nonrenewal, midterm cancellations, 60-day cancellations and renewals.

4. Commercial Automobile

- Underwriting – Appropriate and timely notices of nonrenewal, midterm cancellations and renewals.

5. Workers' Compensation

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

6. Medical Malpractice

- Underwriting – Appropriate and timely notice of midterm cancellation.

7. Claims

8. Forms

9. Advertising

10. Complaints

11. Licensing

III. COMPANY HISTORY AND LICENSING

Fireman's Fund Insurance Company began business in 1864 as the Home Mutual Insurance Company. The name was changed to Home Fire and Marine Insurance Company of California in December 1900 and was changed again on January 4, 1966, to the present form. Operations were suspended in 1906 and resumed early in 1918 with financial aid extended by interests identified with the previous management. The Western National Insurance Company was merged into this Company on December 31, 1949.

The status of this Company changed on January 4, 1966, when the former Fireman's Fund Insurance Company altered its corporate status to that of a holding company operating as Fireman's Fund Corporation. With this development the Home Fire and Marine Insurance Company of California adopted and preserved the title Fireman's Fund Insurance Company.

Under a reinsurance and reorganization agreement on January 1, 1964, the Home Fire and Marine Insurance Company of California reinsured and assumed all risks and liabilities under all policies and contracts outstanding and in force in the name of the Fireman's Fund.

National Surety Corporation was incorporated with the title Fireman's Fund Insurance Company of Illinois under the laws of Illinois on September 3, 1970, to act as the vehicle for the transfer of the corporate domicile of National Surety Corporation from New York City to Chicago. The present title was adopted concurrent with the December 31, 1972, absorption by merger of the National Surety Corporation, New York, New York, which was incorporated under the laws of New York on April 28, 1933, and commenced business May 1, 1933.

LICENSING

Fireman's Fund Insurance Company's Certificate of Authority to write business in the Commonwealth was last issued on April 1, 2006. The Company is licensed in all states, District of Columbia, Guam, Puerto Rico and the U.S. Virgin Islands. The Company's 2005 annual statement reflects Direct Written Premium for all lines of business in the Commonwealth of Pennsylvania as \$44,492,785. Premium volume related to the areas of this review were: Fire \$36,581; Homeowners multiple peril \$1,974,792; Commercial Multiple Peril (non-liability portion) \$6,662,836; Commercial Multiple Peril (liability portion) \$1,625,283; Inland Marine \$10,649,965; Medical Malpractice \$15,836; Workers' Compensation \$2,538,443; Private Passenger Automobile Direct Written Premium was reported as Private Passenger Auto No-Fault (personal injury protection) \$370,276; Other Private Passenger Auto Liability \$2,700,317 and Private Passenger Auto Physical Damage \$2,192,117; Commercial Automobile Direct Written Premium was reported as Commercial Auto No-Fault (personal injury protection) \$9,655; Other Commercial Auto Liability \$144,600 and Commercial Auto Physical Damage \$32,046.

National Surety Corporation's Certificate of Authority to write business in the Commonwealth was last issued on April 1, 2006. The Company is licensed in all states, District of Columbia and Puerto Rico. The Company's 2005 annual statement reflects Direct Written Premium for all lines of business in the Commonwealth of Pennsylvania as \$18,133,989. Premium volume related to the areas of this review were: Homeowners multiple peril \$5,701,968; Commercial Multiple Peril (non-liability portion) \$4,445,243; Commercial Multiple Peril (liability portion) \$3,747,930; Inland Marine \$908,582; Medical Malpractice \$30,383; Workers' Compensation \$957,225; Private Passenger Automobile Direct Written Premium was reported as Private Passenger Auto No-Fault (personal

injury protection) \$6,889; Other Private Passenger Auto Liability \$45,905 and Private Passenger Auto Physical Damage \$47,472; Commercial Automobile Direct Written Premium was reported as Commercial Auto No-Fault (personal injury protection) \$14,344; Other Commercial Auto Liability \$342,977 and Commercial Auto Physical Damage \$97,744.

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 personal and commercial lines of business. The purpose of this review was to identify any inconsistencies which could be considered discriminatory, specifically prohibited by statute or regulation, or unusual in nature.

The following findings were made:

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

Unfair Methods of Competition and Unfair or Deceptive Acts or Practices Defined. Entering into any agreement to commit, or by any concerted action committing, any act of boycott, coercion or intimidation resulting in or tending to result in unreasonable restraint of, or monopoly in, the business of insurance. The Company's dwelling fire and homeowner and scheduled valuable possessions underwriting guidelines required supporting coverage in 3 separate instances.

4 Violations Act 205, Section 5(a)(7)(iii) [40 P.S. §1171.5(a)(7)(iii)]

Unfair Methods of Competition and Unfair or Deceptive Acts or Practices Defined. "Unfair Methods of Competition" and "Unfair or Deceptive Practices" in the business of insurance means: Unfairly discriminating by means of: Making or permitting any unfair discrimination between individuals of the same class and essentially the same hazard with regard to underwriting standards and practices

or eligibility requirements by reason of race, religion, nationality or ethnic group, age, sex, family size, occupation, place of residence or marital status. The Company's dwelling fire and homeowner and scheduled valuable possessions guidelines indicated additional considerations for risks involving individuals frequently in the public eye in 3 separate instances. In addition, the Company's homeowner and scheduled valuable possessions guidelines required different minimum coverage limits based upon territory.

2 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 Company's homeowner and scheduled valuable possessions guidelines provide additional considerations to risks with an exposure to loss for which rate adequacy is not achievable through the filed rates and individuals with an Insurance Bureau Score or financial condition that indicates a high exposure to loss such as bankruptcy, judgment(s) or tax lien(s).

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.

Fireman's Fund Insurance Company

This Company did not report any private passenger automobile 60-day cancellations during the experience period.

National Surety Corporation

The universe of one private passenger automobile policy cancelled within the first 60 days of new business was selected for review. The file was received and reviewed. 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 which must be met regarding the form and conditions of the cancellation notice.

Fireman's Fund Insurance Company

The universe of 75 private passenger automobile files identified as midterm cancellations by the Company was selected for review. All 75 files were received and reviewed. No violations were noted.

National Surety Corporation

This universe of 2 private passenger automobile files identified as midterm cancellations by the Company was selected for review. The 2 files 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.

Fireman's Fund Insurance Company

The universe of 28 private passenger automobile files identified as nonrenewals by the Company was selected for review. All 28 files were received and reviewed. No violations were noted.

National Surety Corporation

This Company did not report any private passenger automobile nonrenewals 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.

C. 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.

Fireman's Fund Insurance Company

The universe of one homeowner policy which was cancelled within the first 60 days of new business was selected for review. The file was received and reviewed. No violations were noted.

National Surety Corporation

This Company did not report any 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 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.

Fireman's Fund Insurance Company

The universe of 55 property policies which were cancelled midterm during the experience period was selected for review. The property policies consisted of homeowners, inland marine and boat. All 55 files were received and reviewed. No violations were noted.

National Surety Corporation

From the universe of 159 property policies which were cancelled midterm during the experience period, 54 files were selected for review. The property policies consisted of homeowners and boat. All 54 files 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.

Fireman's Fund Insurance Company

The universe of 6 homeowner policies which were nonrenewed during the experience period was selected for review. All 6 files were received and reviewed. The 5 violations noted were based on 5 files, resulting in an error ratio of 83%.

The following findings were made:

5 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 Company nonrenewed the 5 files noted for improper reasons. The reasons for nonrenewal were agency termination, lack of cooperation regarding inspection, plumbing losses and lack of plumbing certificate.

National Surety Corporation

The universe of 7 homeowner policies which were nonrenewed during the experience period was selected for review. All 7 files were received and reviewed. The 4 violations noted were based on 4 files, resulting in an error ratio of 57%.

The following findings were made:

4 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 Company nonrenewed the 4 files noted for improper reasons. The reasons for nonrenewal were agency termination, lack of central alarm, failure to install a central alarm and lack of cooperation for a survey.

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.

Fireman's Fund Insurance Company

The universe of one tenant occupied dwelling fire policy, which was cancelled within the first 60 days, was selected for review. The file was received and reviewed. No violations were noted.

National Surety Corporation

This Company did not report any commercial property 60-day cancellations within 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.

Fireman's Fund Insurance Company

The universe of 33 commercial property policies which were cancelled during the experience period was selected for review. The policies consisted of tenant occupied dwelling fire, commercial inland marine and commercial multi-peril. All 33 files were received and reviewed. The violation noted resulted in an error ratio of 3%.

The following finding was made:

1 Violation Act 86, Section 4(b) [40 P.S. §3404(b)]

Requires that unearned premium be returned to the insured not later than 30 days after the effective date of termination where commercial property or casualty risks are cancelled in mid-term by the insured. The Company did not return the

unearned premium to the insured within 30 days after the effective date of termination.

National Surety Corporation

The universe of 11 commercial multi-peril policies which were cancelled during the experience period was selected for review. All 11 files were received and reviewed. The 2 violations noted were based on 2 files, resulting in an error ratio of 18%.

The following findings were made:

1 Violation Act 86, Section 4(b) [40 P.S. §3404(b)]

Requires that unearned premium be returned to the insured not later than 30 days after the effective date of termination where commercial property or casualty risks are cancelled in mid-term by the insured. The Company did not return the unearned premium to the insured within 30 days after the effective date of termination.

1 Violation Act 86, Section 3(a)(6) [40 P.S. §3403(a)(6)]

Requires that a cancellation notice shall state that at the insured's request, the insurer shall provide loss information to the insured for at least three years or the period of time during which the insurer has provided coverage to the insured, whichever is less. The file noted contained a cancellation notice which did not provide 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 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.

Fireman's Fund Insurance Company

The universe of 2 commercial property policies identified as nonrenewals by the Company was selected for review. The 2 files were received and reviewed. The violation noted resulted in an error ratio of 50%.

The following finding was made:

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 the 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

The reason given for nonrenewal 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. The Company did not provide a specific reason for nonrenewal.

National Surety Corporation

The universe of 9 commercial property policies identified as nonrenewals by the Company was selected for review. All 9 files were received and reviewed. The 7 violations noted were based on 7 files, resulting in an error ratio of 78%.

The following findings were made:

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

Requires that a nonrenewal notice shall state the specific reasons for the 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

The reason given for nonrenewal 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. The Company did not provide a specific reason for nonrenewal for the 7 files 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.

Fireman's Fund Insurance Company

From the universe of 508 commercial property policies which were renewed during the experience period, 104 files were selected for review. The policies consisted of tenant occupied dwelling fire, commercial inland marine and commercial multi-peril. All 104 files were received and reviewed. No violations were noted.

National Surety Corporation

From the universe of 178 commercial multi-peril policies which were renewed during the experience period, 25 files were selected for review. All 25 files were received and reviewed. No violations were noted.

E. Commercial Automobile

1. 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.

Fireman's Fund Insurance Company

This Company did not report any commercial automobile policies cancelled midterm during the experience period.

National Surety Corporation

The universe of 2 commercial automobile policies which were cancelled during the experience period was selected for review. The 2 files were received and reviewed. No violations were noted.

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.

Fireman's Fund Insurance Company

The universe of 4 commercial automobile policies identified as nonrenewals by the Company was selected for review. The 4 files were received and reviewed. No violations were noted.

National Surety Corporation

The universe of 8 commercial automobile policies identified as nonrenewals by the Company was selected for review. All 8 files were received and reviewed. No violations were noted.

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.

Fireman's Fund Insurance Company

The universe of 4 commercial automobile policies which were renewed during the experience period was selected for review. All 4 files were received and reviewed. No violations were noted.

National Surety Corporation

The universe of 12 commercial automobile policies which were renewed during the experience period was selected for review. All 12 files were received and reviewed. No violations were noted.

F. 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.

Fireman's Fund Insurance Company

This Company did not report any workers' compensation policies cancelled during the experience period.

National Surety Corporation

The universe of one workers' compensation policy cancelled during the experience period was selected for review. The file was received and reviewed. No violations were noted.

2. 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 review was conducted to determine compliance with Act 86, Section 3 (40 P.S. §3403), which establishes notice requirements for nonrenewals.

Fireman's Fund Insurance Company

The universe of one workers' compensation policy nonrenewed during the experience period was selected for review. The file was received and reviewed. The violation noted resulted in an error ratio of 100%.

The following finding was made:

1 Violation Act 205, Section 5(a)(4) [40 P.S. §1171.5(a)(4)]

Unfair Methods of Competition and Unfair or Deceptive Acts or Practices Defined. Entering into any agreement to commit, or by any concerted action committing, any act of boycott, coercion or intimidation resulting in or tending to result in unreasonable restraint of, or monopoly in, the business of insurance. The Company nonrenewed the policy due to lack of supporting business.

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.

Firemans Fund Insurance Company

The universe of 27 workers' compensation policies which were renewed during the experience period was selected for review. All 27 files were received and reviewed. No violations were noted.

National Surety Corporation

From the universe of 93 workers' compensation policies which were renewed during the experience period, 25 files were selected for review. All 25 files were received and reviewed. No violations were noted.

G. Medical Malpractice

1. 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.

Fireman's Fund Insurance Company

This Company did not report any commercial automobile policies cancelled midterm during the experience period.

National Surety Corporation

The universe of one medical malpractice policy cancelled midterm during the experience period was selected for review. The file was received and reviewed. No violations were noted.

VI. RATING

A. Private Passenger Automobile

1. New Business

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

The primary purpose of the review was to measure compliance with 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 that time. Files were also reviewed to determine compliance with all provisions of Act 6 of 1990 and Act 68, Section 2005(c) [40 P.S. §991.2005(c)], which requires insurers to provide to insureds a detailed statement of the components of a premium and shall specifically show the amount of surcharge or other additional amount that is charged as a result of a claim having been made under a policy of insurance or as a result of any other factors.

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

Private Passenger Automobile – New Business Without Surcharges

Fireman's Fund Insurance Company

The universe of 24 private passenger automobile policies identified as new business without surcharges by the Company was selected for review. All 24 files requested were received and reviewed. Of the 24 files reviewed, 2 policies were surcharged. The 81 violations noted were based on the universe of 24 files, resulting in an error ratio of 100%.

The following findings were made:

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

Requires an insurer to provide an insured a notice of the availability of two alternatives of full tort insurance and limited tort insurance. The Company did not provide the notice of tort options to the insured at the time of application.

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

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

24 Violations Title 75, Pa. C.S. §1725

Every motor vehicle insurance policy shall contain a notice as to whether the policy covers collision damage to rental vehicles, and any limitations on such coverage. The notice shall be written in clear, plain language and shall be printed on the first page of the policy in boldface capital letters. The Company did not provide the required notice.

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

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

1 Violation Title 75, Pa. C.S. §1734

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

4 Violations 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 Company did not provide the signed rejection form of stacked limits for uninsured and underinsured motorists coverage for the 4 files noted.

1 Violation Title 75, Pa. C.S. §1705(a)(1)&(4)

Requires every insurer, prior to the issuance of a private passenger motor vehicle liability insurance policy to provide each applicant an opportunity to elect a tort option. A policy may not be issued unless the applicant has been provided an opportunity to elect a tort option. The violation noted was the result of a policy issued with limited tort and no evidence of a signed limited tort selection form.

2 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 Company did not provide a surcharge disclosure statement for the 2 files that were surcharged.

National Surety Corporation

The universe of 12 private passenger automobile policies identified as new business without surcharges by the Company was selected for review. All 12 files were received and reviewed. Of the 12 files reviewed, 7 policies

were surcharged. The 52 violations noted were based on the universe of 12 files, resulting in an error ratio of 100%.

The following findings were made:

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

Requires an insurer to provide an insured a notice of the availability of two alternatives of full tort insurance and limited tort insurance. The Company did not provide the notice of tort options to the insured at the time of application.

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

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

12 Violations Title 75, Pa. C.S. §1725

Every motor vehicle insurance policy shall contain a notice as to whether the policy covers collision damage to rental vehicles, and any limitations on such coverage. The notice shall be written in clear, plain language and shall be printed

on the first page of the policy in boldface capital letters. The Company did not provide the required notice.

7 Violations 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 Company did not provide the signed rejection form of stacked limits for uninsured and underinsured motorists coverage for the 7 files noted.

2 Violations Title 75, Pa. C.S. §1705(a)(1)&(4)

Requires every insurer, prior to the issuance of a private passenger motor vehicle liability insurance policy to provide each applicant an opportunity to elect a tort option. A policy may not be issued unless the applicant has been provided an opportunity to elect a tort option. The 2 violations noted were the result of policies issued with limited tort and no evidence of a signed limited tort selection form.

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

Company did not provide a surcharge disclosure statement for the 7 files that were surcharged.

Private Passenger Automobile – New Business With Surcharges

Fireman’s Fund Insurance Company

The universe of 3 private passenger automobile policies identified as new business with surcharges by the Company was selected for review. All 3 files were received and reviewed. The 13 violations noted were based on the universe of 3 files, resulting in an error ratio of 100%.

The following findings were made:

3 Violations Title 75, Pa. C.S. §1725

Every motor vehicle insurance policy shall contain a notice as to whether the policy covers collision damage to rental vehicles, and any limitations on such coverage. The notice shall be written in clear, plain language and shall be printed on the first page of the policy in boldface capital letters. The Company did not provide the required notice.

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

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

copy of the surcharge disclosure plan at the time of application.

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

Requires an insurer to provide an insured a notice of the availability of two alternatives of full tort insurance and limited tort insurance. The Company did not provide the notice of tort options to the insured at the time of application.

3 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 Company did not provide a surcharge disclosure statement for the 3 files noted.

1 Violation Act 246, The Casualty and Surety Rate Regulatory Act, Section 4 (40 P.S. §1184)

Requires every insurer to file with the Insurance Commissioner every manual of classifications, rules and rates, every rating plan and every modification of any rating plan, which it proposes to use in the Commonwealth. Also, no insurer shall make or issue a contract or policy except in accordance with filings or rates, which are in effect at the time of issue. The policy was not rated in accordance with

the filed and approved rating plan which resulted in an undercharge of \$537.

National Surety Corporation

The universe of 9 private passenger automobile policies identified as new business with surcharges by the Company was selected for review. All 9 files were received and reviewed. Of the 9 files reviewed, only 8 policies were surcharged. The 38 violations noted were based on the universe of 9 files, resulting in an error ratio of 100%.

The following findings were made:

9 Violations Title 75, Pa. C.S. §1725

Every motor vehicle insurance policy shall contain a notice as to whether the policy covers collision damage to rental vehicles, and any limitations on such coverage. The notice shall be written in clear, plain language and shall be printed on the first page of the policy in boldface capital letters. The Company did not provide the required notice.

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

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

copy of the surcharge disclosure plan at the time of application.

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

Requires an insurer to provide an insured a notice of the availability of two alternatives of full tort insurance and limited tort insurance. The Company did not provide the notice of tort options to the insured at the time of application.

8 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 Company did not provide a surcharge disclosure statement for the 8 files noted.

3 Violations 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 Company did not provide the signed rejection form of stacked limits for uninsured and underinsured motorists coverage for the 3 files 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 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

Fireman’s Fund Insurance Company

From the universe of 1,349 private passenger automobile policies renewed without surcharges during the experience period, 100 files were selected for review. All 100 files were received and reviewed. The 1,349 violations were based on the universe of 1,349, resulting in an error ratio of 100%.

The following findings were made:

1,349 Violations Title 75, Pa. C.S. §1725

Every motor vehicle insurance policy shall contain a notice as to whether the policy covers collision damage to rental vehicles, and any limitations on such coverage. The notice shall be written in clear, plain language and shall be printed on the first page of the policy in boldface capital letters. The Company did not provide the required notice.

National Surety Corporation

The universe of 8 private passenger automobile policies renewed without surcharges during the experience period was selected for review. All 8 files were received and reviewed. The 12 violations were based on the universe of 8 files, resulting in an error ratio of 100%.

The following findings were made:

8 Violations Title 75, Pa. C.S. §1725

Every motor vehicle insurance policy shall contain a notice as to whether the policy covers collision damage to rental vehicles, and any limitations on such coverage. The notice

shall be written in clear, plain language and shall be printed on the first page of the policy in boldface capital letters. The Company did not provide the required notice.

4 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 4 policies were not rated in accordance with the filed and approved rating plan which resulted in overcharges of \$1,517.

Private Passenger Automobile – Renewals With Surcharges

Fireman’s Fund Insurance Company

From the universe of 248 private passenger automobile policies renewed with surcharges during the experience period, 75 files were selected for review. All 75 files were received and reviewed. The 497 violations noted were based on the universe of 248, resulting in an error ratio of 100%.

The following findings were made:

1 Violation Act 246, The Casualty and Surety Rate Regulatory Act, Section 4 (40 P.S. §1184)

Requires every insurer to file with the Insurance Commissioner every manual of classifications, rules and

rates, every rating plan and every modification of any rating plan, which it proposes to use in the Commonwealth. Also, no insurer shall make or issue a contract or policy except in accordance with filings or rates, which are in effect at the time of issue. The policy was not rated in accordance with the filed and approved rating plan which resulted in an undercharge of \$467.

248 Violations Title 75, Pa. C.S. §1725

Every motor vehicle insurance policy shall contain a notice as to whether the policy covers collision damage to rental vehicles, and any limitations on such coverage. The notice shall be written in clear, plain language and shall be printed on the first page of the policy in boldface capital letters. The Company did not provide the required notice.

248 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 Company did not provide a surcharge disclosure statement for the 248 files noted.

National Surety Corporation

The universe of 2 private passenger automobile policies renewed with surcharges during the experience period was selected for review. The 2 files were received and reviewed. The 6 violations noted were based on the universe of 2 files, resulting in an error ratio of 100%.

The following findings were made:

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

Requires every insurer to file with the Insurance Commissioner every manual of classifications, rules and rates, every rating plan and every modification of any rating plan, which it proposes to use in the Commonwealth. Also, no insurer shall make or issue a contract or policy except in accordance with filings or rates, which are in effect at the time of issue. The 2 policies were not rated in accordance with the filed and approved rating plan which resulted in an overcharges of \$481.

2 Violations Title 75, Pa. C.S. §1725

Every motor vehicle insurance policy shall contain a notice as to whether the policy covers collision damage to rental vehicles, and any limitations on such coverage. The notice shall be written in clear, plain language and shall be printed on the first page of the policy in boldface capital letters. The Company did not provide the required notice.

2 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 Company did not provide a surcharge disclosure statement for the 2 files noted.

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. Homeowners

1. New Business

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

The purpose of the review was to measure compliance with Act 246, Sections 4(a) and (h) (40 P.S. §1184), which require every insurer to file with the Insurance Commissioner every manual of classifications, rules and

rates, every rating plan and every modification of any rating plan, which it proposes to use in the Commonwealth. Also, no insurer shall make or issue a contract or policy except in accordance with filings or rates, which are in effect at the time.

Homeowner Rating – New Business Without Surcharges

Fireman’s Fund Insurance Company

The universe of 19 homeowner policies written as new business without surcharges during the experience period was selected for review. All 19 files were received and reviewed. No violations were noted.

National Surety Corporation

From the universe of 95 homeowner policies written as new business without surcharges during the experience period, 25 files were selected for review. All 25 files were received and reviewed. No violations were noted.

2. Renewals

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

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

Homeowner Rating – Renewals Without Surcharges

Fireman's Fund Insurance Company

From the universe of 706 homeowner policies renewed without surcharges during the experience period, 50 files were selected for review. All 50 files were received and reviewed. No violations were noted.

National Surety Corporation

From the universe of 2,110 homeowner policies renewed without surcharges during the experience period, 75 files were selected for review. All 75 files were received and reviewed. The 4 violations noted were based on 4 files, resulting in an error ratio of 5%.

The following findings were made:

*4 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 Company applied an incorrect territory factor when rating the policies, which resulted in undercharges of \$805 and overcharges of \$225.

D. Dwelling Fire

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 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.

Fireman's Fund Insurance Company

The universe of one dwelling fire policy renewed without surcharges during the experience period was selected for review. The file was received and reviewed. No violations were noted.

National Surety Corporation

This Company did not report any dwelling fire renewals during the experience period.

VII. CLAIMS

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

The Claims review consisted of the following areas of review:

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

Fireman's Fund Insurance Company

From the universe of 126 private passenger automobile property damage claims reported during the experience period, 25 files were selected for

review. All 25 files were received and reviewed. No violations were noted.

National Surety Corporation

The universe of one private passenger automobile property damage claim reported during the experience period was selected for review. The file was received and reviewed. No violations were noted.

B. Automobile Comprehensive Claims

Fireman's Fund Insurance Company

From the universe of 194 private passenger automobile comprehensive claims reported during the experience period, 50 files were selected for review. All 50 files were received and reviewed. The violation noted resulted in an error ratio of 2%.

The following finding was made:

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

Within 15 working days after receipt by the insurer of properly executed proofs of loss, the first-party claimant shall be advised of the acceptance or denial of the claim by the insurer. The Company failed to provide a denial letter to the claimant within 15 working days.

National Surety Corporation

The universe of 2 private passenger automobile comprehensive claims reported during the experience period was selected for review. The 2 files were received and reviewed. No violations were noted.

C. Automobile Collision Claims

Fireman's Fund Insurance Company

From the universe of 158 private passenger automobile collision claims reported during the experience period, 25 files were selected for review. All 25 files were received and reviewed. No violations were noted.

National Surety Corporation

The universe of one private passenger automobile collision claim reported during the experience period was selected for review. The file was received and reviewed. No violations were noted.

D. Automobile Total Loss Claims

Fireman's Fund Insurance Company

The universe of 31 private passenger automobile total loss claims reported during the experience period was selected for review. All 31 files were received and reviewed. The violation noted resulted in an error ratio of 3%.

The following finding was made:

1 Violation Title 75, Pa. C.S. §1161(a)&(b) – Certificate of Salvage Required.

(a) General rule – Except as provided in Sections 1162 and 1163, a person, including an insurer or self-insurer as defined in Section 1702 (relating to definitions), who owns, possesses or transfers a vehicle located or registered in the Commonwealth which qualifies as a salvage vehicle shall make application to the Department for a certificate of salvage for that vehicle.

(b) Application for certificate of salvage. – An owner who transfers a vehicle to be destroyed or dismantled, salvaged or recycled shall assign the certificate of title to the person to whom the vehicle is transferred. Except as provided in Section 1163, the transferee shall immediately present the assigned certificate of title to the Department or an authorized agent of the Department with an application for a certificate of salvage upon a form furnished and prescribed by the Department. An insurer as defined in Section 1702 to which title to a vehicle is assigned upon payment to the insured or claimant of the replacement value of a vehicle shall be regarded as a transferee under this subsection. The file noted did not reflect a Pennsylvania salvage title was obtained.

National Surety Corporation

The universe of 6 private passenger automobile total loss claims reported during the experience period was selected for review. All 6 files were received and reviewed. No violations were noted.

E. Automobile First Party Medical Claims

Fireman's Fund Insurance Company

The universe of 12 private passenger automobile first party medical claims reported during the experience period was selected for review. All 12 files were received and reviewed. No violations were noted.

National Surety Corporation

This Company did not report any private passenger automobile first party medical claims during the experience period.

F. Automobile First Party Medical Claims Referred to a PRO

Fireman's Fund Insurance Company

The universe of 24 private passenger automobile first party medical claims referred to a peer review organization was selected for review. The 24 claim files were received and reviewed. Of the 24 files reviewed, only 3 claims had been referred to a peer review organization. The Company was also requested to provide copies of all contracts with peer review organizations. The 8 violations noted were based on 3 files.

The following findings were made:

3 Violations Title 31, Pa. Code, Section 69.52(a)

Requires an insurer to refer a provider's bill to a PRO only when circumstances or conditions relating to medical and rehabilitative services provided cause a prudent person, familiar with PRO procedures, standards and practices, to believe it necessary that a PRO determine the reasonableness and necessity of care, the appropriateness of the setting where the care is rendered, and the appropriateness of the delivery of the care. The insurer shall notify a provider, in writing, when referring bills for PRO review at the time of referral. The 3 violations noted were the result of the Company not notifying the provider, in writing, upon referring bills to a PRO.

3 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 Company did not

provide copies of the written analysis to the providers and the insureds for the 3 files noted.

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

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 Company failed to have a signed written contract in place with an approved peer review organization.

1 Violation Title 31, Pa. Code, Section 69.55(a)

A PRO shall apply in writing to the Commissioner for approval to contract with an insurer to provide peer review services in accordance with the act and this chapter.

AND

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 Company failed to use a peer review organization approved by the Commissioner. The unapproved peer review organization is Quality Medical Evaluations, Inc.

National Surety Corporation

Although this Company did not refer any private passenger automobile first party medical claims to a peer review organization during the experience period, the Company was requested to provide any signed contracts it has in place with a peer review organization. The Company did not provide any contracts.

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

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 Company failed to have a signed written contract in place with an approved peer review organization.

G. Homeowner Claims

Fireman's Fund Insurance Company

From the universe of 88 homeowner claims reported during the experience period, 25 files were selected for review. All 25 files were received and reviewed. The 2 violations noted were based on 2 files, resulting in an error ratio of 8%.

The following findings were made:

1 Violation Title 31, Pa. Code, Section 146.6

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

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

Within 15 working days after receipt by the insurer of properly executed proofs of loss, the first-party claimant shall be advised of the acceptance or denial of the claim by the insurer. The Company failed to send a written denial letter within the required time.

National Surety Corporation

From the universe of 169 homeowner claims reported during the experience period, 50 files were selected for review. 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:

7 Violations Title 31, Pa. Code, Section 146.6

Every insurer shall complete investigation of a claim within 30 days after notification of the claim, unless such investigation cannot reasonably be completed within 30 days, and every 45 days thereafter, the insurer shall provide the claimant with a reasonable written explanation for the delay and state when a decision on the claim may be expected. The Company did not provide timely status letters for the 7 claims noted.

H. Dwelling Fire Claims

Fireman's Fund Insurance Company

The universe of one dwelling fire claim reported during the experience period was selected for review. The file was selected, received and reviewed. The violation noted resulted in an error ratio of 100%

The following finding was made:

1 Violation Title 31, Pa. Code, Section 146.6

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

National Surety Corporation

This Company did not report any dwelling fire claims during the experience period.

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. C.S. §4117(k)(1)] and Title 75, Pa. C.S. §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:

Fireman's Fund Insurance Company

4 Violations 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 Company did not provide the fraud warning on the following automobile claim forms: Release of Liability/

Authorization to Pay, Power of Attorney, Odometer Disclosure Statement and Affidavit of Correction.

National Surety Corporation

4 Violations 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 Company did not provide the fraud warning on the following automobile claim forms: Release of Liability/ Authorization to Pay, Power of Attorney, Odometer Disclosure Statement and Affidavit of Correction.

2 Violations Act 165 of 1994 [18 Pa. C.S. §4117(k)(1)]

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 Company did not provide the fraud warning on the following homeowner claim forms: Sworn Statement in Proof of Loss (PRO765 Rev. 9/99) and Personal Property Inventory Worksheet.

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 152 pieces of advertising material which included: agency mailers, agency monthly news bulletins, newspaper advertisements, sample sale letters and brochures. Internet advertising was also reviewed. There are no direct solicitations for business as they firmly believe in the American Agency system. In addition, the Company has an "iCustomer Series" portal..their online platform that is customized by industry based sites and designed to help their customers better manage their business and its related needs. 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 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.

Fireman's Fund Insurance Company

The Company identified 10 consumer complaints received during the experience period and provided all consumer complaint logs requested. The 10 complaint files were requested, received and reviewed.

The following findings were made:

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

Within 15 working days after receipt by the insurer of properly executed proofs of loss, the first-party claimant shall be advised of the acceptance or denial of the claim by the insurer. The Company failed to deny the claim within the proper time frame.

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 the 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. The Company did not provide a specific reason for nonrenewal.

1 Violation Act 86, Section 3(a)(6) [40 P.S. §3403(a)(6)]

Requires that a nonrenewal notice shall state that at the insured's request, the insurer shall provide loss information to the insured for at least three years or the period of time during which the insurer has provided coverage to the insured, whichever is less. The file noted contained a nonrenewal notice which did not provide the required information.

National Surety Corporation

The Company identified 6 consumer complaints received during the experience period and provided all consumer complaint logs requested. The 6 complaint files were requested, received and reviewed.

The following finding was made:

1 Violation Act 205, Section 4 (40 P.S. §1171.4)

Unfair Methods of Competition and Unfair or Deceptive Acts or Practices Prohibited. No person shall engage in this State in any trade practice which is defined or determined to be an unfair method of competition or an unfair or deceptive act or practice in the business of insurance pursuant to this act. The Company applied an improper premium increase during the policy term.

The following synopsis reflects the nature of the 16 complaints that were reviewed.

•	7	Cancellation/Nonrenewal	44%
•	6	Claims	38%
•	1	Rating	6%
•	1	Billing	6%
•	1	Service	6%
	<hr/>		<hr/>
	16		100%

XI. LICENSING

In order to determine compliance by the Company and its agency force with the licensing requirements applicable to 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 producers during the experience period and a listing of all producers terminated during the experience period. Underwriting files were checked to verify proper licensing and appointment.

The following findings were made:

38 Violations Insurance Department Act, No. 147, Section 671-A (40 P.S. §310.71)

- (a) Representative of the insurer – An insurance producer shall not act on behalf of or as a representative of the insurer unless the insurance producer is appointed by the insurer. An insurance producer not acting as a representative of an insurer is not required to be appointed.
- (b) Representative of the consumer – An insurance producer acting on behalf of or representing an insurance consumer shall execute a written agreement with the insurance consumer prior to representing or acting on their behalf that:
 - (1) Delineates the services to be provided; and
 - (2) Provides full and complete disclosure of the fee to be paid to the insurance producer by the insurance consumer.
- (c) Notification to Department – An insurer that appoints an insurance producer shall file with the Department a notice of appointment. The notice shall state for which companies within the

insurer's holding company system or group the appointment is made.

(d) Termination of appointment – Once appointed, an insurance producer shall remain appointed by an insurer until such time as the insurer terminates the appointment in writing to the insurance producer or until the insurance producer's license is suspended, revoked or otherwise terminated.

(e) Appointment fee – An appointment fee of \$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 as having an appointment. The Company failed to file a notice of appointment and submit appointment fees to the Department.

Fireman's Fund Insurance Company
America Insurance Agency, Inc.
Chamberlin & Reinheimer
Conway E&S, Inc.
Dewitt Stern Group, Inc.
Dewitt Stern of California, LLC
First Niagara Risk Management, Inc.
Genatt Associates, Inc.
Haas & Wilkerson, Inc.
Insurance Incorporated
ISG International, Inc
JIMCOR Agencies, Inc.
Lane McVicker, LLC

Lawley Service, Inc.
Mechanics Group, Inc. The
Meiers Company, C.M. Inc.
Miers Insurance Inc.
New Agency Partners, LLC
Nielson & Associates, Inc.
Pennock Insurance, Inc.
Senn, Dunn, Marsh & Roland, LLC
Signature Group, LLC, The
Spodek Insurance Agency, Inc.
Wallberg Company, Inc.
York International Agency, Inc.
Restaurant Programs of America
Wood, Hugh, Inc.
Block, Huntington T.
Hauser Group
Fleet Ins. Serv., LLC
Madara Company/Div of Bollinger

National Surety Corporation
Burnham & Company, John
GLN Worldwide, LTD
Insurance Management Assoc.
National Penn Insurance
Otterstedt Insurance Agency, Inc.
Signature Group, LLC, The
Szerlip & Company
Dewitt Stern of Calif., LLC

7 Violations Insurance Department Act, No. 147, Section 641.1A

[40 P.S. §310.41a]

(a) Any insurance entity or licensee accepting applications or orders for insurance from any person 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.

Fireman's Fund Insurance Company

Bayside Underwriters, Inc.
Bethea Insurance Group LLC, The
USAA General Agency, Inc.

National Surety Corporation

Barry, Richard R. d/b/a Arts, Venue & Entertainment, Ins. Services
MacLean Agency LLC
McGraw, Robert G. & Company
MRL Agency Corp.

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 review Act 205, Section 5(a)(9) [40 P.S. §1171.5(a)(9)] to ensure compliance with cancellation and nonrenewal notice requirements so that the violations noted in the Report do not occur in the future.
2. The Company must review and revise internal control procedures to ensure compliance relative to commercial cancellation and nonrenewal requirements of Act 86, Sections 3 and 4 [40 P.S. §§3403 and 3404], so that the violations noted in the Report do not occur in the future.
3. The Company must revise underwriting procedures to ensure that the insured is aware that there is an additional cost for purchasing a lower deductible for collision coverage. This is to ensure that violation noted under Title 75, Pa. C.S. §1792(b)(1) does not occur in the future.
4. The Company must review Title 75, Pa. C.S. §1734 to ensure that the insured signs a request for lower limits of liability for uninsured and underinsured motorist coverage and a copy kept in files as noted in the Report.
5. The Company must revise underwriting procedures to ensure that the insured is aware that he may exercise the waiver of stacked limits for uninsured and underinsured motorist coverage by signing written

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

6. The Company must review Title 75, Pa. C.S. 1793(b) to ensure that violations regarding the requirement to provide the insured with a surcharge disclosure plan at the time of application, as noted in the Report, do not occur in the future.
7. The Company must review Title 75, Pa. C.S. §1791.1(b) to ensure that the notice of tort options is provided at the time of application, as noted in the Report, and does not occur in the future.
8. The Company must review Title 75, Pa. C.S. §1725 to ensure that a notice as to whether the policy covers collision damage to rental vehicles, and any limitations on such coverage shall be printed on the first page of the policy in boldface capital letters.
9. 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 Title 75, Pa. C.S. §1799.3(d) do not occur in the future.
10. The Company must review Act 246, Section 4(a) and (h) [40 P.S. §1184] and take appropriate measures to ensure the rating violations listed in the Report do not occur in the future.

11. The premium overcharges noted in the rating section of this Report must be refunded to the insureds and proof of such refunds must be provided to the Insurance Department within 30 days of the report issue date.
12. The Company 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 denials, as noted in the Report, do not occur in the future.
13. The Company must review Title 31, Pa. Code, Section 69.52(e) with its claim staff to ensure that the insured and provider is provided a copy of a PRO evaluation in a timely manner.
14. The Company must review Title 75, Pa. C.S. §1161(a)&(b) with its claim staff to ensure that Pennsylvania salvage certificates are obtained and are retained with the claim file.
15. The Company must review Title 31, Pa. Code, Sections 69.53(a) and 69.55(a) as well as Title 75, Pa. C.S. §1797(b)(1) with its claim staff to ensure that a contract is in place 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. The peer review organization shall be approved by the Commissioner.

16. The Company must revise and reissue their underwriting guidelines for use in Pennsylvania to ensure that the guidelines do not exclude applicants from being eligible to obtain insurance based on occupation and territory.
17. The Company must review Act 205, Section 5(a)(4) [40 P.S. §1171.5(a)(4)] to ensure that the violations relative to supporting coverage noted in the Report does not occur in the future.
18. The Company must ensure that all claim forms contain the required fraud warning notice.
19. 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. §310.41(a) and 40 P.S. §310.71] of the Insurance Department Act No. 147, prior to accepting any business from any producer.

XIII. COMPANY RESPONSE

Fireman's Fund
Insurance Company



Direct: (415) 899-5550
Fax: (415) 899-2852

September 8, 2006

Chester A. Derk Jr., AIE HIA
Market Conduct Division Chief
Commonwealth of Pennsylvania
Insurance Department, Bureau of Enforcement
1227 Strawberry Square
Harrisburg, PA 17120

Re: Fireman's Fund Insurance Company 0761-21873
National Surety Corporation 0761-21881

Dear Mr. Derk:

Fireman's Fund Insurance Company and National Surety Corporation hereby respectfully submit the following in response to the Report of Examination for the 2005 Underwriting and Claim Exam.

Response to the Recommendations:

Recommendation #1 – The Company must review Act 205, Section 5(a)(9) [40 P.S. §1171.5(a)(9)] to ensure compliance with cancellation and non-renewal notice requirements so that the violations noted in the Report do not occur in the future.

Company Response:

Regarding non-renewals for agency termination, the Company recognized that notices went out in error and remedial action has already occurred. In fact, renewals were issued on each of these policies approximately 4 weeks prior to the 2005 renewal dates. This was a procedural error and has since been reviewed and corrected.

Regarding the other reasons (lack of cooperation regarding inspections, plumbing losses and lack of a plumbing certificate); the Company has reviewed our underwriting interpretation of the statute and determined that some additional training is warranted to provide our underwriters with a better understanding of the law.

Recommendation #2 – The company must review and revise internal control procedures to ensure compliance relative to commercial cancellation and non-renewal requirements of Act 86, Sections 3 and 4 [40 P.S. §§3403 and 3404], so that the violations noted in the Report do not occur in the future.

Company Response: In one instance, where a policy non-renewal notice was issued by our agent, that notice indicated non-renewal for adverse loss experience, but failed to provide specific detail. We have instructed our agent to provide specific loss detail on future non-renewal notices. The agent was also provided a copy of the relevant statute.

In one instance where the non-renewal notice was issued by our agent, we are aware that upon non-renewal we are obligated to provide the insured with loss detail if the insured so requests. We are implementing steps to see that insureds are advised of that right on future non-renewal notices as a best practice standard.

In one instance we failed to use the correct system for notices. This has been rectified and should not happen in the future.

In one instance we failed to return the unearned premium within 30 days. This is not the normal practice for the company. We have reviewed the error with the appropriate person to ensure there is not a training need and that this error will not occur again in the future. It was due to a manual process and human error and should not happen again.

We sent a memo to our Commercial Lines Underwriting Managers reminding them of the appropriate wording required on non-renewal notices, in the event we terminate any of our Programs. Please see a copy of the memo attached as Exhibit #1.

Recommendation #3 – The Company must revise underwriting procedures to ensure that the insured is aware that there is an additional cost for purchasing a lower deductible for collision coverage. This is to ensure that violation noted under Title 75, Pa. C.S. §1792(b)(1) does not occur in the future.

Company Response: This criticism is a result of a change that was implemented for our microfilming procedures. We are reviewing this process, and will revise internal control procedures to ensure compliance relative to this requirement. We will also request new signed forms (ACORD 61 PA) from the insured requesting a collision deductible lower than \$500 for those policies listed with this criticism.

Recommendation #4 – The Company must review Title 75, Pa. C.S. §1734 to ensure that the insured signs a request for lower limits of liability for uninsured and underinsured motorist coverage and a copy kept in files as noted in the Report.

Company Response:

This criticism is also a result of a change that was implemented for our microfilming procedures. We are reviewing this process, and will revise internal control procedures to ensure compliance relative to this requirement. We will also request new signed forms (ACORD 60/62 PA) for UM/UIM limits for those policies listed with this criticism.

Recommendation #5 – 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 Title 75, Pa. C.S. §1738(d)(1) and (2) do not occur in the future.

Company Response: This criticism is also a result of a change that was implemented for our microfilming procedures. We are reviewing this process, and will revise internal control procedures to ensure compliance relative to this requirement. We will also request new signed forms (ACORD 60/62 PA) for UM/UIM stacking/rejection of stacking for those policies listed with this criticism.

Recommendation #6 - The Company must review Title 75, Pa.C.S. 1793(b) to ensure that violations regarding the requirement to provide the insured with a surcharge disclosure plan at the time of application, as noted in the Report do not occur in the future.

Company Response:

We agree with this criticism, since this form has not been part of our application process. We will be implementing a procedure to require the disclosure of Policyholder Message 302121 at the time of application, which provides information on our surcharge plan, including a description of the conditions that would assess a premium surcharge, along with the estimated increase of the surcharge per policy period per policyholder, and the number of years the surcharge will be in effect. Please see attachment Exhibit 2 – Policyholder Message, 302121 02-05 PA

Recommendation #7 – The Company must review Title 75, Pa. C.S. §1791.1(b) to ensure that the notice of tort options is provided at the time of application, as noted in the Report, do not occur in the future.

Company Response:

We disagreed with this criticism initially since it was our understanding that *ACORD 61 PA, Pennsylvania Auto Supplement – Important Notice* provided the two alternatives of full tort and limited tort insurance to the applicant. Since it is required to provide this notice separately and in addition to *ACORD 61 PA*, we are revising our requirements to include this additional document at the time of application. Please see attachment Exhibit 3 – Proposed Tort Disclosure and Notice of Tort Options

Recommendation #8 - The company must review Title 75, Pa. C.S. §1725 to ensure that a notice as to whether the policy cover collision damage to rental vehicles, and any limitations on such coverage shall be printed on the first page of the policy in boldface capital letters.

Company Response:

Although we are currently including this notice in all new business policies, it does not appear on the first page. Therefore, we are agreeing with this criticism and are implementing a systems change to move this notice to the first page of the policy. Please see attachment Exhibit 4 – Form #302529 06-01 PA

Recommendation #9 - 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 Title 75, Pa. C.S. §1799.3(d) do not occur in the future.

Company Response:

The Company is currently attaching a surcharge disclosure form with all new and renewal business policies issued. However, to comply with the requirement described in this regulation, we are reviewing and revising our policy issuance procedures to include the following: the determination and the manner in which the surcharge was made, and the amount of the surcharge on the premium notice, for as long as it is in effect.

Recommendation #10 – The Company must review Act 246, Section 4(a) and (h) [40 P.S. §1184] and take appropriate measures to ensure the rating violations listed in the Report do not occur in the future.

Company Response:

Reasons for the incorrect rating included the following:

- When implementation of our new Auto Strategy rating became effective on 2/1/05, there were some policies with surcharges or credits that were rating incorrectly. A systems fix was implemented and the policies were subsequently corrected, either upon renewal or when a midterm changes was completed. The amounts of undercharges were previously supplied to the Department of Insurance. Overcharges were refunded to the insured, and proof was also provided to the Department of Insurance.
- The Company applied an incorrect territory factor when rating policies. Corrections have been made to each of these policies. The amounts of undercharges were previously supplied to the Department of Insurance. Overcharges were refunded to the insured, and proof was also provided to the Department of Insurance.

Recommendation #11 – The premium overcharges noted in the rating section of this Report must be refunded to the insured's and proof of such refunds must be provided to the Insurance Department within 30 days of the report issue date.

Company Response:

See attachments: Exhibits 5a.thru 5h. Proof of Refunds.

Recommendation #12 - 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 denials, as noted in the Report, do not occur in the future.

Company Response:

The Company agrees with the findings and recommendation. We have reviewed the above Title with the adjusters and the information pertaining to Title 31 is housed in our internal database for future reference. We are requiring that a written status be sent at 30 and 45 days thereafter. We are requiring our adjusters to set diaries on files with reminders to send out the required status letters. We will monitor this through supervisor spots checks, quality file reviews and internal compliance audits.

Recommendation #13 - The Company must review Title 31 Pa Code Section 69.52(e) with its claim staff to ensure that the insured and provider is provided a copy of a PRO evaluation in a timely manner.

Company Response:

The Company agrees with the findings and the recommendation. We have reviewed the Code with the adjusters to ensure future compliance with Title 31 Section 69.52(e). We will monitor compliance through supervisor spot checks, quality file reviews and internal compliance audits.

Recommendation #14 - The Company must review Title 75, Pa CS 1161(a) & (b) with its claim staff to ensure that PA salvage certificates are obtained and are retained with the claim file.

Company Response:

There was 1 file that did not contain the front copy of the salvage certificate. Both the front and back copies of the Salvage Certificate should have been attached to the claim file. We met with the mail room staff on June 19th 2006 (see below) and came up with a workflow to ensure all attachments are placed in the proper file and that the total loss file is attached to the main file. We have also requested a copy of the front of the salvage title from the state, so we can place it in our file. Salvage titles usually take 6 months or longer to receive from the state. We will continue our efforts to stay in full compliance with this regulation through supervisor spot checks, quality file reviews and internal compliance audits.

Salvage Title and Total Loss File Jacket Workflows for the Mail Room:

- Once a copy of the salvage title is received it will be given to the CSR Salvage Clerk, along with the Copart invoice. (Copart is our salvage vendor and they obtain the salvage title for us on all total losses, both 1st and 3rd party. Copart sends the salvage title to us and they are routed to CSR Salvage Clerk.)
- Once the invoice and attached salvage title are given to CSR Salvage Clerk, he will document our Atlas progress notes that the salvage title has been received and will then forward to the mailroom to attach it to the total loss file.
- A special stamp has been ordered for the CSR Salvage Clerk to stamp the mail to ensure it is placed in the total loss file jacket. The CSR Salvage Clerk will stamp the title and send it to the proper mail bin to have it attached to the file.

- The mailroom staff will attach the salvage title and the invoice to the total loss file. This will ensure the salvage paperwork gets to the correct file jacket. The mailroom will make sure the total loss file jacket gets attached to the fastpath Automobile file jacket before or after the file is sent to archives. These files will be combined to ensure all paperwork can be found in the file upon review.

Recommendation #15 - The company must review Title 31, Pa Code Sections 69.53(a) and 69.55(a) as well as Title 75 Pa CS 1797 (b)(1) with its claim staff to ensure that a contract is in place 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. The peer review organization shall be approved by the Commissioner.

Company Response:

The Company agrees with the findings and recommendation. We are currently in contract negotiations with CorVel Corp. We hope to finalize and have a contract in place within the next 60-90 days to ensure compliance with the above statute.

Recommendation #16 – The Company must revise and reissue their underwriting guidelines for use in Pennsylvania to ensure that the guidelines do not exclude applicants from being eligible to obtain insurance based on occupation and territory.

Company Response:

The Additional Considerations supplement to our underwriting guidelines reads as follows:
*The following situations require the application be referred prior to binding coverage:
(Please provide full details describing the situation)*

- *Risks involving individuals frequently in the public eye.*

The reason we have restricted Binding Authority in this case is so that we can obtain the additional information needed to properly underwrite the applicant regarding their lifestyle: maturity and stability, how they conduct themselves in public, how they manage their assets, etc. We are not discriminating against any individual because of their occupation, but is restricting binding authority until we receive the necessary underwriting information. In light of the Department's view on this matter, we will have this supplement revised to state:

- *Risks involving individuals frequently in the public eye other than due to the insured's occupation.*

Our underwriting guidelines from January 2002 (R) contained entry levels for western Pennsylvania territories at \$400,000 and the Remainder of the State at \$500,000. The lower entry level for the western part of the state contemplated a lower replacement cost for a home that was of similar age, size and construction to those in the eastern part of the state. This has since been changed with our guidelines effective June 2005, which makes no reference at all to any entry levels of coverage. See attachment Exhibit 6 - Current PA Underwriting Guidelines

Recommendation #17 – The Company must revise and reissue their underwriting guidelines Act 205, Section 5(a)(4) [40 P.S. §1171.5(a)(4)] to ensure that the violations relative to supporting coverage noted in the Report does not occur in the future.

Company Response:

The Additional Considerations supplement to our underwriting guidelines reads as follows:

The following situations require the application be referred prior to binding coverage:

(Please provide full details describing the situation)

- *Secondary or seasonal residences where Fireman's Fund does not write the primary residence.*

It is not a requirement that Fireman's Fund write the primary residence in order for secondary/seasonal business to be written. We have restricted Binding Authority for this reason so that we can obtain the additional information needed to properly underwrite the applicant, such as loss history on all locations, amount of time spent at each location, etc. Upon receipt of the necessary underwriting information needed permission to bind will then be considered. In light of the Department's view on this matter, we will have this supplement revised to state:

Secondary or seasonal residences where Fireman's Fund does not write the primary residence; however, acceptability of the risk cannot be based on supporting coverage.

Recommendation #18 - The Company must ensure that all claim forms contain the required fraud warning notice.

Company Response:

The Company agrees with the findings and the recommendation. We were aware of the requirement and thought we were in full compliance by having the fraud language appear on the cover letter of our forms. We are in the process of placing the appropriate fraud language on all of our forms to ensure full compliance going forward.

Recommendation #19 – The Company must ensure all procedures are properly licensed and appointed, as required by Section 641.1(a) and Section 671-A [40 P.S. §310.41(a) and 40 P.S. §310.71] of the Insurance Department Act No. 147, prior to accepting any business from any producer.

Company Response:

The violations noted were incurred due to staff errors. We had previously recognized a need to change our current process and are currently implementing the following changes:

To improve and reinforce our commitment to compliance with state rules and regulations, we centralized license and company appointment verification and processing in one location. The team at this location has been directed to follow the business processes outlined below and will periodically audit records in our license and appointment system to confirm compliance. We are currently engaged in a full "cleanup" effort to verify and request licenses and company appointments that are missing for active agent(s) and agencies recorded in our license and appointment system.

Direct: (415) 899-5550
Fax: (415) 899-2852

Business Processes:

Prior to contracting with an agency, resident agent/agency licenses are verified and collected for agents who plan to sell policies on behalf of our companies.

At the time a contract is executed, resident company appointment requests are submitted to the state for the agent(s)/agency. If the agent/agency advises they are planning to sell policies in neighboring state(s), non-resident agent/agency licenses are requested/verified and non-resident company appointment requests are submitted to the state.

For every new business application that is executed, resident and non-resident agent/agency licenses and appointments are verified in our license and appointment system. If we identify missing licenses and/or appointments, the agency is contacted to obtain licenses and company appointment requests are submitted to the state

Please do not hesitate to contact our office, if you have any questions or concerns.

Sincerely,



Kelly G. Rodriguez
Compliance Specialist
Corporate Compliance Office
Krodrigu@ffic.com

KGR