

**REPORT OF
MARKET CONDUCT EXAMINATION
OF**

**INTERINSURANCE EXCHANGE OF THE
AUTOMOBILE CLUB**

Costa Mesa, California

**AS OF
February 8, 2010**

COMMONWEALTH OF PENNSYLVANIA



**INSURANCE DEPARTMENT
MARKET CONDUCT DIVISION**

Issued: March 31, 2010

VERIFICATION

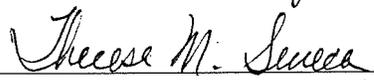
Having been duly sworn, I hereby verify that the statements made in the within document are true and correct to the best of my knowledge, information and belief. I understand that false statements made herein are subject to the penalties of 18 Pa. C.S. §4903 (relating to false swearing).



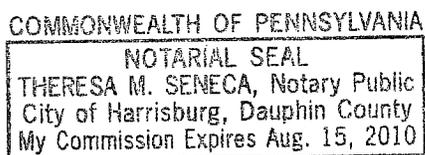
Joseph S. Meizen, Examiner-In-Charge

Sworn to and Subscribed Before me

This 1 Day of February, 2010



Notary Public



INTERINSURANCE EXCHANGE OF THE AUTOMOBILE CLUB

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BEFORE THE INSURANCE COMMISSIONER
OF THE
COMMONWEALTH OF PENNSYLVANIA

ORDER

AND NOW, this 22ND day of July, 2008, 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 Ronald A. Gallagher, 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.





Joel S. Ario
Insurance Commissioner

BEFORE THE INSURANCE COMMISSIONER
OF THE
COMMONWEALTH OF PENNSYLVANIA

IN RE:	:	VIOLATIONS:
	:	
INTERINSURANCE EXCHANGE	:	Act 1990-6, Sections 1705(a)(1) and (4),
OF THE AUTOMOBILE CLUB	:	1738(c)(d)(1) and (2), and 1797(b)(1)
3333 Fairview Road	:	(Title 75, Pa.C.S. §§1705, 1738 and 1797)
Costa Mesa, CA 92626	:	
	:	Sections 2003(a)(10) and 2004
	:	(40 P.S. §§991.2003 and 991.2004)
	:	
	:	Title 31, Pennsylvania Code, Sections
	:	69.22(c), 69.52(b), 69.53(a), and 146.6
	:	
	:	Title 18, Pennsylvania Consolidated
	:	Statutes, Section 4117(k)(1)
	:	
	:	Title 75, Pennsylvania Consolidated
	:	Statutes, Section 1822
	:	
Respondent.	:	Docket No. MC10-02-015

CONSENT ORDER

AND NOW, this 31st day of March, 2010, this Order is hereby issued by the Insurance Department of the Commonwealth of Pennsylvania pursuant to the statutes cited above and in disposition of the matter captioned above.

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

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

FINDINGS OF FACT

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

- (a) Respondent is Interinsurance Exchange of the Automobile Club, and maintains its address at 3333 Fairview Road, Costa Mesa, California 92626.
- (b) A market conduct examination of Respondent was conducted by the Insurance Department covering the period from January 1, 2008 through December 31, 2008.
- (c) On February 8, 2010, the Insurance Department issued a Market Conduct Examination Report to Respondent.
- (d) A response to the Examination Report was provided by Respondent on March 8, 2010.
- (e) The Examination Report notes violations of the following:

- (i) 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;

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

- (iii) 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,

- (iv) Section 2003(a)(10) of Act 68 of 1998 (40 P.S. §991.2003) states an insurer may not cancel or refuse to write or renew a policy of automobile insurance due to lawful occupation (including military service);

- (v) Section 2004 of Act 68 of 1998 (40 P.S. § 991.2004), which requires that no insurer shall cancel a policy of automobile insurance except for nonpayment of premium, suspension or revocation of the named insured's

driver license or motor vehicle registration or a determination that the insured has concealed a material fact or has made a material allegation contrary to fact or has made a misrepresentation of material fact and that such concealment, allegation or misrepresentation was material to the acceptance of the risk by the insurer;

- (vi) Title 31, Pennsylvania Code, Section 69.22(c), which requires the insurer, when an insured's first-party limits have been exhausted, to provide notice to the provider and the insured within 30 days of the receipt of the provider's bill;
- (vii) Title 31, Pennsylvania Code, Section 69.52(b), which requires an insurer to pay medical bills for care that are not referred to a Peer Review Organization within 30 days after the insurer receives sufficient documentation supporting the bill;
- (viii) 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;
- (ix) 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;

- (x) Title 18, Pennsylvania Consolidated Statutes, Section 4117(k)(1), 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”; and

- (xi) Title 75, Pa. C.S. § 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 Insurance Department makes the following Conclusions of Law:

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

- (b) Respondent's violations of Sections 2003 and 2004 of Act 68 of 1998 are punishable by the following, under Section 2013 of the Act (40 P.S. § 991.2013):
Any individual or insurer who violates any of the provisions of this article may be sentenced to pay a fine not to exceed five thousand dollars (\$5,000.00).

- (c) Respondent's violations of Title 31, Pennsylvania Code, Section 146.6 are punishable by the following, under Section 9 of the Unfair Insurance Practices Act (40 P.S. §1171.9):
 - (i) cease and desist from engaging in the prohibited activity;
 - (ii) suspension or revocation of the license(s) of Respondent.

- (d) In addition to any penalties imposed by the Commissioner for Respondent's violations of the Unfair Insurance Practices Act (40 P.S. §§1171.1 – 1171.5), the Commissioner may, under Sections 10 and 11 of the Unfair Insurance Practices

Act (40 P.S. §§1171.10, 1171.11) file an action in which the Commonwealth Court may impose the following civil penalties:

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

ORDER

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

- (a) Respondent shall cease and desist from engaging in the activities described herein in the Findings of Fact and Conclusions of Law.
- (b) Respondent shall 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 Five Thousand Dollars (\$5,000.00) 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, Bureau of Market Actions, 1227 Strawberry Square, Harrisburg, Pennsylvania 17120. Payment must be made no later than thirty (30) days after the date of this Order.

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

7. Alternatively, in the event the Insurance Department finds that there has been a breach of any of the provisions of this Order, the Department may declare this Order to be null and void and, thereupon, reopen the entire matter for appropriate action pursuant to the Administrative Agency Law, supra, or other relevant provision of law.

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

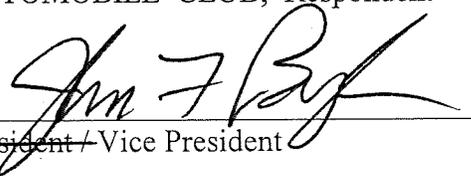
9. Respondent hereby expressly waives any relevant statute of limitations and application of the doctrine of laches for purposes of any enforcement of this Order.

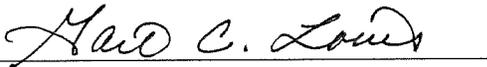
10. This Order constitutes the entire agreement of the parties with respect to the matters referred to herein, and it may not be amended or modified except by an amended order signed by all the parties hereto.

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

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

ACSC MANAGEMENT SERVICES, INC.,
Attorney-in-Fact, on behalf of
BY: INTERINSURANCE EXCHANGE OF THE
AUTOMOBILE CLUB, Respondent


Executive ~~President~~ / Vice President


Secretary / ~~Treasurer~~


RONALD A. GALLAGHER, JR.
Deputy Insurance Commissioner
Commonwealth of Pennsylvania

I. INTRODUCTION

The market conduct examination was conducted at Interinsurance Exchange of the Automobile Club's office located in Portland, Maine, from September 28, 2009, through October 29, 2009. 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%.

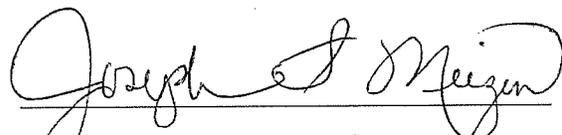
Throughout the course of the examination, Company officials were provided with status memoranda, which referenced specific policy numbers with citation to each section of law violated. Additional information was requested to clarify apparent violations. An exit conference was conducted with Company personnel 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.



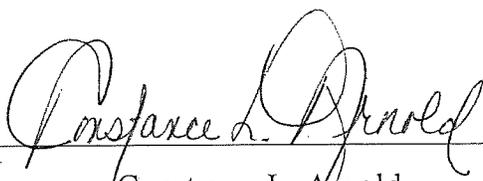
Chester A. Derk, Jr., AIE, HIA
Market Conduct Division Chief



Joseph S. Meizen
Market Conduct Examiner



Jerry L. Houston, AIE, CPCU
Market Conduct Examiner



Constance L. Arnold
Market Conduct Examiner

II. SCOPE OF EXAMINATION

The Market Conduct Examination was conducted on Interinsurance Exchange of the Automobile Club, hereinafter referred to as “Company,” at their office located in Portland, Maine. 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, 2008, through December 31, 2008, 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. Claims
4. Forms
5. Advertising

6. Complaints

7. Licensing

III. COMPANY HISTORY AND LICENSING

Interinsurance Exchange of the Automobile Club was organized and began business on October 4, 1912, as the Interinsurance Exchange of the Automobile Club of Southern California. Effective January 15, 1997, the words “of Southern California” were removed from the title.

LICENSING

Interinsurance Exchange of the Automobile Club’s Certificate of Authority to write business in the Commonwealth was last issued on April 1, 2009. The Company is licensed in California, Hawaii, Maine, New Hampshire, New Mexico, Ohio, Pennsylvania, Texas and Vermont. The Company's 2008 annual statement reflects Direct Written Premium for all lines of business in the Commonwealth of Pennsylvania as \$6,260,528. Premium volume related to the areas of this review were: Homeowners Multiple Peril \$800,712; Private Passenger Automobile Direct Written Premium was reported as Other Private Passenger Auto Liability \$3,110,744 and Private Passenger Auto Physical Damage \$2,349,072.

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. Agency bulletins and underwriting guides were furnished for private passenger automobile and homeowners. The purpose of this review was to identify any inconsistencies which could be considered discriminatory, specifically prohibited by statute or regulation, or unusual in nature.

The following finding was made:

1 Violation Act 68, Section 2003(a)(10) [40 P.S. §991.2003(a)(10)]

An insurer may not cancel or refuse to write or renew a policy of automobile insurance due to lawful occupation (including military service). The Company's guidelines stated "Not Acceptable-Spouse or dependents of military personnel without a Pennsylvania driver's license."

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.

From the universe of 74 private passenger automobile files identified as being cancelled in the first 60 days of new business, 10 files were selected for review. All 10 files were 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.

From the universe of 411 private passenger automobile files identified as midterm cancellations, 48 files were selected for review. All 48 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.

From the universe of 441 private passenger automobile files identified as nonrenewals, 32 files were selected for review. All 32 files were received and reviewed. The 2 violations noted were based on 2 files, resulting in an error ratio of 6%.

The following findings were made:

2 Violations Act 68, Section 2004 [40 P.S. §991.2004]

Requires that no insurer shall cancel a policy of automobile insurance except for nonpayment of premium, suspension or revocation of the named insured's driver license or motor vehicle registration or a determination that the insured has concealed a material fact or has made a material allegation contrary to fact or has made a misrepresentation of material fact and that such concealment, allegation or

misrepresentation was material to the acceptance of the risk by the insurer. The 2 files noted were cancelled midterm for other than permitted reasons. One file was cancelled due to two at-fault accidents and the other file was cancelled for a license suspension which was not in the policy 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.

The universe of 25 property policies which were cancelled within the first 60 days of new business was selected for review. The policies consisted of homeowner and tenant homeowner. All 25 files were received and reviewed. No violations were noted.

2. Midterm Cancellations

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

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

From the universe of 84 property policies which were cancelled midterm during the experience period, 40 files were selected for review. The property policies consisted of homeowner and tenant homeowner. All 40 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.

From the universe of 73 property policies which were nonrenewed during the experience period, 52 files were selected for review. The property policies consisted of homeowners and tenant homeowners. All 52 files were 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

From the universe of 2,379 private passenger automobile policies identified as new business without surcharges, 25 files were selected for review. All 25 files were received and reviewed. The 4 violations noted were based on 2 files, resulting in an error ratio of 8%.

The following findings were made:

2 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 2 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 Company failed to provide signed limited tort selection forms for the 2 files noted.

Private Passenger Automobile - New Business With Surcharges

From the universe of 310 private passenger automobile policies identified as new business with surcharges by the Company, 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 measure compliance with Act 246, Sections 4(a) and (h) (40 P.S. §1184), which requires every insurer to file with the Insurance Commissioner every manual of classifications, rules and rates, every rating plan and every modification of any rating plan, which it proposes to use in the Commonwealth. Also, no insurer shall make or issue a contract or policy except in accordance with filings or rates, which are in effect at the time. Files were also reviewed to determine compliance with Act 68, Section 2005(c) (40 P.S. §991.2005(c)), which requires insurers to provide to insureds a detailed statement of the components of a premium and shall specifically show the amount of surcharge or other additional amount that is charged as a result of a claim having been made under a policy of insurance, or as a result of any other factors.

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

Private Passenger Automobile – Renewals Without Surcharges

From the universe of 3,001 private passenger automobile policies renewed without surcharges during the experience period, 25 files were selected for review. All 25 files were received and reviewed. No violations were noted.

Private Passenger Automobile – Renewals With Surcharges

From the universe of 461 private passenger automobile policies renewed with surcharges during the experience period, 25 files were selected for review. All 25 files were received and reviewed. No violations were 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

I. New Business

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

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

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

Homeowner Rating – New Business Without Surcharges

From the universe of 576 homeowner policies written as new business during the experience period, 25 files were selected for review. All 25 files were received and reviewed. No violations were noted.

Homeowner Rating – New Business With Surcharges

The universe of 15 homeowner policies written as new business with surcharges during the experience period was selected, received and reviewed. No violations were noted.

The following concern was made:

Concern: The homeowner policies are subject to surcharges for losses; therefore, it is a concern that no surcharge disclosure plan is provided to these policyholders. The disclosure plan should state what surcharge percentage applies for paid losses as provided in the Company's rate filing. Notification of the surcharge disclosure requirement was provided to all companies, in an Important Notice date 9/18/1998.

2. Renewals

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

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

Homeowner Rating – Renewals Without Surcharges

From the universe of 938 homeowner policies renewed during the experience period, 25 files were selected for review. All 25 files were received and reviewed. No violations were noted.

Homeowner Rating – Renewals With Surcharges

From the universe of 31 homeowner policies renewed with surcharges during the experience period, 15 files were selected for review. All 15 files were received and reviewed. No violations were noted.

The following concern was made:

Concern: The homeowner policies are subject to surcharges for losses; therefore, it is a concern that no surcharge disclosure plan is provided to these policyholders. The disclosure plan should state what surcharge percentage applies for paid losses as provided in the Company's rate filing. Notification of the surcharge disclosure requirement was provided to all companies, in an Important Notice date 9/18/1998.

D. Tenant 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.

Tenant Homeowner Rating - New Business Without Surcharges

From the universe of 140 tenant homeowner policies written as new business without surcharges during the experience period, 15 files were selected for review. All 15 files were received and reviewed. No violations were noted.

Tenant Homeowner Rating – New Business With Surcharges

The universe of 2 tenant homeowner policies written as new business with surcharges was selected, received and reviewed. No violations were noted.

The following concern was made:

Concern: The homeowner policies are subject to surcharges for losses; therefore, it is a concern that no surcharge disclosure plan is provided to these policyholders. The disclosure plan should state what surcharge percentage applies for paid losses as provided in the Company's rate filing.

Notification of the surcharge disclosure requirement was provided to all companies, in an Important Notice date 9/18/1998.

2. Renewals

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

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

Tenant Homeowner Rating – Renewals Without Surcharges

From the universe of 138 tenant homeowner policies renewed without surcharges during the experience period, 15 files were selected for review. All 15 files were received and reviewed. No violations were noted.

Tenant Homeowner Rating – Renewals With Surcharges

The universe of 2 tenant homeowner policies renewed with surcharges was selected, received and reviewed. No violations were noted.

The following concern was made:

Concern: The homeowner policies are subject to surcharges for losses; therefore, it is a concern that no surcharge disclosure plan is provided to these policyholders. The disclosure plan should state what surcharge

percentage applies for paid losses as provided in the Company's rate filing. Notification of the surcharge disclosure requirement was provided to all companies, in an Important Notice date 9/18/1998.

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. Tenant Homeowner Claims

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

A. Automobile Property Damage Claims

From the universe of 262 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.

B. Automobile Comprehensive Claims

From the universe of 263 private passenger automobile comprehensive claims reported during the experience period, 25 files were selected for review. All 25 files were received and reviewed. No violations were noted.

C. Automobile Collision Claims

From the universe of 472 private passenger automobile collision claims reported during the experience period, 25 files were selected for review. All 25 files were received and reviewed. The 4 violations noted were based on 4 files, resulting in an error ratio of 16%.

The following findings were made:

4 Violations Title 31, Pa. Code, Section 146.6

Every insurer shall complete investigation of a claim within 30 days after notification of the claim, unless such investigation cannot reasonably be completed within 30 days, and every 45 days thereafter, the insurer shall provide the claimant with a reasonable written explanation for the delay and state when a decision on the claim may be expected. The Company did not provide timely status letters for the 4 claims noted.

D. Automobile Total Loss Claims

From the universe of 84 private passenger automobile total loss claims reported during the experience period, 25 files were selected for review. All 25 files were received and reviewed. No violations were noted.

E. Automobile First Party Medical Claims

From the universe of 119 private passenger automobile first party medical claims reported during the experience period, 35 files were selected for review. All 35 files were received and reviewed. The 9 violations noted were based on 9 files, resulting in an error ratio of 26%.

The following findings were made:

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

Requires an insurer to pay bills for care that are not referred to a Peer Review Organization within 30 days after the insurer receives sufficient documentation supporting the bill. The Company did not pay medical bills within 30 days for the 8 files noted.

1 Violation Title 31, Pa. Code, Section 69.22(c)

Requires the insurer when an insured's first-party limits have been exhausted, to provide notice to the provider and the insured within 30 days of the receipt of the provider's bill. The Company failed to provide notification of exhausted first party benefits to the provider and the insured for the claim noted.

F. Automobile First Party Medical Claims Referred to a PRO

Although no automobile first party medical claims referred to a peer review organization were reported, the Company was asked to provide a copy of all peer review contracts in place during the experience period. The

Company did not contract with any peer review organization.

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 challenges 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 contract in place with an approved peer review organization as required.

G. Homeowner Claims

From the universe of 74 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:

2 Violations Title 31, Pa. Code, Section 146.6

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

H. Tenant Homeowner Claims

The universe of 5 tenant homeowner claims reported during the experience period was selected for review. All 5 files were received and reviewed. No violations were noted.

VIII. FORMS

Throughout the course of the examination, all underwriting files were reviewed to identify the policy forms used in order to verify compliance with Insurance Company Law, Section 354 (40 P.S. §477b), Approval of Policies, Contracts, etc., Prohibiting the Use Thereof Unless Approved. During the experience period of the examination, Section 354 provided that it shall be unlawful for any insurance company to issue, sell, or dispose of any policy contract or certificate covering fire, marine, title and all forms of casualty insurance or use applications, riders, or endorsements in connection therewith, until the forms have been submitted to and formally approved by the Insurance Commissioner. All underwriting and claim files were also reviewed to verify compliance with Act 165 of 1994 [18 Pa. CS §4117(k)(1)] and 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:

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 failed to include a proper fraud statement on a Power of Attorney form, an Affidavit of Vehicle

Theft form, a Release in Full Settlement and Compromise form and a Property Damage Release form.

4 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 failed to provide a proper fraud warning notice on a Property Loss Worksheet, an Affidavit-Lightning Losses form, a Property Loss Worksheet form and a Sworn Statement in Proof of Loss form.

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 30 pieces of advertising in use during the experience period. The advertising materials provided included: direct mailings to members and non-members, radio and TV and newspaper/magazine advertising. Internet advertising was also reviewed. No violations were noted.

X. CONSUMER COMPLAINTS

The Company was requested to identify all consumer complaints received during the experience period and provide copies of their consumer complaint logs for the preceding four years. The Company identified 10 consumer complaints received during the experience period and provided all consumer complaint logs requested since the Company began writing business in 2006. All 10 complaint files reported were requested, received and reviewed. No violations were noted.

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.

No violations were noted.

The following synopsis reflects the nature of the 10 complaints that were reviewed.

•	9	Cancellation/Nonrenewal	90%
•	1	Rating	10%
	<hr/>		<hr/>
	10		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.

No violations were noted.

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 and revise internal control procedures to ensure compliance with nonrenewal notice requirements of Act 68, Section 2004 [40 P.S. §991.2004], so that the violations noted in the Report do not occur in the future.
2. The Company must revise its underwriting procedures to ensure that each applicant for private passenger automobile liability insurance is provided an opportunity to elect a tort option and that signed tort option selection forms are obtained and retained with the underwriting file. This is to ensure that violations noted under Title 75, Pa. C.S. §1705(a)(1)(4) do not occur in the future.
3. 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.
4. 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 the acceptance and denial of claims, as noted in the Report, do not occur in the future.

5. The Company must review Title 31, Pa. Code, Section 69.52(b) with its claim staff to ensure that first party medical bills are paid within 30 days.
6. The Company must review Title 31, Pa. Code, Section 69.22 with its claim staff to ensure that the provider and insured are properly notified that first-party medical benefits have been exhausted.
7. The Company must review Title 31, Pa. Code, Section 69.53(a) and Title 75, Pa. C.S. §1797(b)(1) with its claim staff to ensure that a written contract is in place with an approved 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.
8. 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 for reasons established in Section 2003 of Act 68 [40 P.S. §991.2003].
9. The Company must ensure that all claim forms contain the required fraud warning notice.

XIII. COMPANY RESPONSE

INTERINSURANCE EXCHANGE OF THE AUTOMOBILE CLUB

HEADQUARTERS: 3333 Fairview Road, Costa Mesa, CA 92626-1610

MAILING: P.O. Box 25001, Santa Ana, California 92799-5001
714-885-2315

March 8, 2010

Chester A. Derk Jr., AIE, HIA
Market Conduct Division Chief
Office of Market Regulation
Bureau of Market Conduct
Property and Casualty Division
Pennsylvania Insurance Department
1227 Strawberry Square
Harrisburg, PA 17120

Re: Interinsurance Exchange of the Automobile Club
Examination Warrant Number: 09-M30-012
Company Response to Examination Report

Dear Mr. Derk:

Thank you for your letter dated February 8, 2010, enclosing the Department's Report of Examination of the Interinsurance Exchange of the Automobile Club (the "Company") for the period of January 1, 2008, through December 31, 2008.

The Company has accepted all of the Department's recommendations in the Report. This letter sets forth the Company's responses to each of the Department's recommendations. This letter also addresses the Department's concern about a homeowners surcharge disclosure plan.

The Company wishes to express its appreciation for the Department's professionalism during the examination.

Should you have any questions or comments, please feel free to contact me at 714-885-2315.

Sincerely,



Larry Perrin
Manager
Regulatory Affairs

Company Response to Department Recommendations

Recommendation 1

The Company must review and revise internal control procedures to ensure compliance with nonrenewal notice requirements of Act 68, Section 2004 [40 P.S. §991.2004], so that the violations noted in the Report do not occur in the future.

Company Response:

The Company accepts this recommendation. Underwriting Management has conducted meetings with all underwriters to review and reinforce existing internal control procedures to ensure compliance with the nonrenewal notice requirements of Act 68, Section 2004 [40 P.S. 991.2004]. Underwriting management will also continue re-auditing of risks to ensure compliance.

Recommendation 2

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

Company Response:

The Company accepts this recommendation. Underwriting Management has reviewed the Company's underwriting procedures and has conducted meetings with all underwriters to ensure that each applicant for private passenger automobile liability insurance is provided an opportunity to select a tort option and the signed tort option selection forms are obtained and made part of the application file.

Recommendation 3

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.

Company Response:

The Company accepts this recommendation. The Company has reviewed its internal procedures to ensure that the insured is aware that they may exercise the waiver of stacked limits for uninsured and underinsured motorist coverage by signing written rejection forms. The Product Line Manual is available for agents to ensure they know how to handle this situation.

Recommendation 4

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 the acceptance and denial of claims, as noted in the Report, do not occur in the future.

Company Response:

The Company accepts this recommendation. Claims Management has re-reviewed Title 31, Pa. Code, Chapter 146 with claims staff to ensure ongoing compliance with the requirement of sending timely status and acceptance/denial letters.

Recommendation 5

The Company must review Title 31, Pa. Code, Section 69.52(b) with its claim staff to ensure that first party medical bills are paid within 30 days.

Company Response:

The Company accepts this recommendation. Claims Management has re-reviewed Title 31, Chapter 69.52(b) with all Claims staff to ensure that first-party medical bills are paid within 30 days.

Recommendation 6

The Company must review Title 31, Pa. Code, Section 69.22 with its claim staff to ensure that the provider and insured are properly notified that first-party medical benefits have been exhausted.

Company Response:

The Company accepts this recommendation. Claims Management has re-reviewed Title 31, Pa. Code, Section 69.22(c) with all Claims staff to ensure that the provider and insured are properly notified that first-party medical benefits have been exhausted.

Recommendation 7

The Company must review Title 31, Pa. Code, Section 69.53(a) and Title 75, Pa. C.S. §1797(b)(1) with its claim staff to ensure that a written contract is in place with an approved 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.

Company Response:

The Company accepts this recommendation. The Company interpreted the law as requiring a contract only if there were peer reviews performed. Since the Company did not refer any files to a PRO in 2008, it did not have a contract with a PRO. However, in June 2009, the Company established a contract with a PA DOI-approved PRO. The Company will maintain a contract in the future.

Recommendation 8

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 for reasons established in Section 2003 of Act 68 [40 P.S. §991.2003].

Company Response:

The Company accepts this recommendation. The Company is clarifying and reissuing the wording of its acceptability guidelines to ensure that the guidelines do not exclude applicants from being eligible to obtain insurance for reasons established in Section 2003 of Act 68 [40 P.S. 991.2003]. Specifically the manual revisions will clarify the wording regarding military spouses' eligibility for coverage as long as a Pennsylvania license is obtained within 60 days from policy inception. This clarification will match our current business practice, which is to provide 60 days to all applicants who are required to obtain a Pennsylvania drivers license, including military spouses and dependents.

Recommendation 9

The Company must ensure that all claim forms contain the required fraud warning notice.

Company Response:

The Company accepts this recommendation. The Company has corrected the fraud warning language to ensure compliance with Title 75, PA. C.S., Section §1822. In addition, the regulation has been re-reviewed with Claims staff.

Homeowners Surcharge Disclosure Plan

The Department's Report noted the following concern about a homeowners surcharge disclosure plan:

Concern: The homeowners policies are subject to surcharges for losses; therefore, it is a concern that no surcharge disclosure plan is provided to these policyholders. The disclosure plan should state what surcharge percentage applies for paid losses as provided in the Company's rate filing. Notification of the surcharge disclosure requirement was provided to all companies, in an Important Notice dated 9/18/1998.

Company Response:

The Company is addressing the Department's concern by developing a homeowners surcharge disclosure plan and implementing it as soon as reasonably possible.