

**REPORT OF  
MARKET CONDUCT EXAMINATION  
OF**

**LINCOLN GENERAL INSURANCE COMPANY  
York, Pennsylvania**

**AS OF  
December 28, 2007**

**COMMONWEALTH OF PENNSYLVANIA**

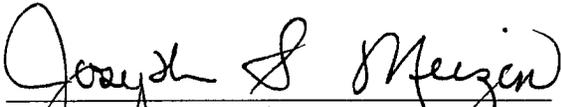


**INSURANCE DEPARTMENT  
MARKET CONDUCT DIVISION**

**Issued: February 26, 2008**

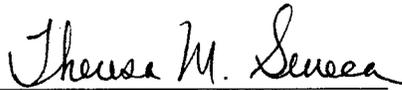
VERIFICATION

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).

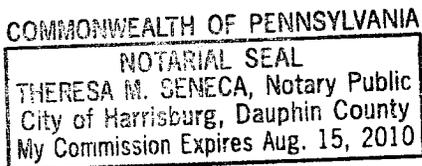
  
Joseph S. Meizen, Examiner-In Charge

Sworn to and Subscribed Before me

This 26 Day of November, 2007



Notary Public



# LINCOLN GENERAL INSURANCE COMPANY

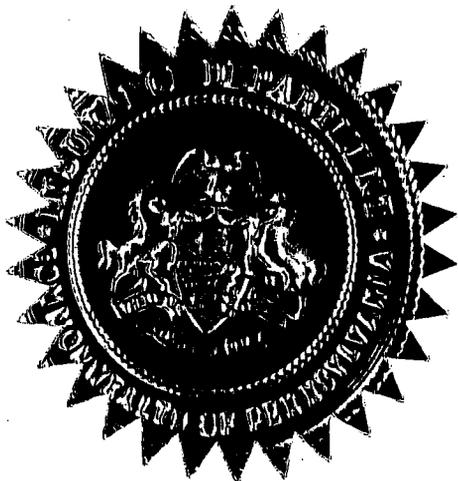
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BEFORE THE INSURANCE COMMISSIONER  
OF THE  
COMMONWEALTH OF PENNSYLVANIA

ORDER

AND NOW, this 6<sup>th</sup> day of July, 2007, 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.



  
\_\_\_\_\_  
Joel S. Ario  
Insurance Commissioner

BEFORE THE INSURANCE COMMISSIONER  
OF THE  
COMMONWEALTH OF PENNSYLVANIA

IN RE: : VIOLATIONS:  
: :  
LINCOLN GENERAL INSURANCE : Sections 641.1-A and 671-A of  
COMPANY : Act 147 of 2002 (40 P.S. §§ 310.41  
3501 Concord Road : and 310.71)  
York, PA 17402 :  
: Section 903(a) of the Insurance  
: Department Act, Act of May 17, 1921,  
: P.L. 789, No. 285 (40 P.S. § 323.3)  
: :  
: Act 1990-6, Sections 1786(3), 1791.1(a)  
: and 1797(b)(1) (Title 75 Pa.C.S. §§  
: 1786, 1791 and 1797)  
: :  
: Sections 1, 3(a)(1), 3(a)(2), 3(a)(5),  
: 3(a)(6), 4(a) and 4(b) of the Act of  
: July 3, 1986, P.L. 396, No. 86  
: (40 P.S. §§ 3401, 3403 and 3404  
: :  
: Sections 2003(c)(1) and (2), 2003(d),  
: 2004 and 2006(2) of Act 68 of 1998  
: (40 P.S. §§991.2003, 2004 and 2006)  
: :  
: Sections 4(a) and 4(h) of the Act of  
: June 11, 1947, P.L. 538, No. 246  
: (40 P.S. §§ 1184)  
: :  
: Sections 5(a)(9)(i), 5(a)(9)(ii), and  
: 5(a)(9)(iv) of the Unfair Insurance  
: Practices Act, Act of July 22, 1974,  
: P.L. 589, No. 205 (40 P.S. §§ 1171.5)  
: :  
: Title 31, Pennsylvania Code, Sections  
: 59.9(b), 69.53(a), 113.88,  
: 146.6 and 146.7(a)(1)  
: :  
: Title 75, Pennsylvania Consolidated  
: Statutes, Section 1535(a)(3362)  
: :

Respondent. : Section 2.A.(1) of the Pennsylvania  
: Assigned Risk Plan  
: Docket No. MC08-01-002

### CONSENT ORDER

AND NOW, this 26<sup>th</sup> day of February, 2008, 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 Lincoln General Insurance Company, and maintains its address at 3501 Concord Road, York, Pennsylvania 17402.
- (b) A market conduct examination of Respondent was conducted by the Insurance Department covering the experience periods from January 1, 2006 through December 31, 2006.
- (c) On December 28, 2007, the Insurance Department issued a Market Conduct Examination Report to Respondent.
- (d) A response to the Examination Report was provided by Respondent on January 28, 2008.
- (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 (40 P.S. § 310.71), which prohibits producers from transacting business within this Commonwealth without written appointment as required by the Act;

- (iii) Section 903(a) of the Insurance Department Act, No. 285 (40 P.S. § 323.3), which requires every company subject to examination keep all books, records, accounts, papers, documents and any or all computer or other recordings relating to its property, assets, business and affairs in such manner and for such time as may be required in order that the Department may verify whether the company has complied with the laws of this Commonwealth;
- (iv) Section 1786(3) of Act 1990-6, Title 75, Pa.C.S. § 1786, which requires an insurer to notify the Department of Transportation if the insurance has been cancelled or terminated by the insured or the insurer. The insurer shall notify the Department not later than 10 days following the effective date of the cancellation or termination;
- (v) Section 1791.1(a) of Act 1990-6, Title 75, Pa.C.S. § 1791, which requires that at the time of application for original coverage and every renewal thereafter, an insurer must provide to an insured an itemized invoice listing the minimum motor vehicle insurance coverage levels mandated by the Commonwealth and the premium charge for the insured to purchase the minimum mandated coverages. The invoice must contain the following notice in print of no less than ten-point type: "The laws of the Commonwealth of Pennsylvania, as enacted by the General Assembly, only require you to purchase liability and first-party medical benefit coverages."

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

(vi) Section 1797(b)(1) of Act 1990-6, Title 75, Pa.C.S. § 1797, which requires a peer review plan for challenges to reasonableness and necessity of treatment. 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, for the purpose of confirming that 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;

(vii) Section 1 of Act 86 (40 P.S. § 3401), which requires a policy of insurance covering property or casualty risks in this Commonwealth shall provide for not less than 30 days advance notice to the named insured of an increase in renewal premium;

- (viii) Section 3(a)(1) of Act 86 (40 P.S. § 3401), which requires that a nonrenewal notice be forwarded by registered mail or first class mail or delivered by the insurance company directly to the named insured or insureds;
- (ix) Section 3(a)(2) of Act 86 (40 P.S. § 3403), which requires that a nonrenewal notice be forwarded directly to the named insured or insureds at least 60 days in advance of the effective date of the termination;
- (x) Section 3(a)(5) of Act 86 (40 P.S. § 3403), which requires that a midterm cancellation or nonrenewal notice shall state the specific reasons for the cancellation or nonrenewal. The reasons shall identify the condition, factor or loss experience which caused the midterm cancellation or nonrenewal. The notice shall provide sufficient information or data for the insured to correct the deficiency;
- (xi) Section 3(a)(6) of Act 86 (40 P.S. § 3403), which requires the mid-term cancellation notice 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;

- (xii) Section 4(a) of Act 86 (40 P.S. § 3404), which requires that unearned premium must be returned to the insured not later than 10 business days after the effective date of termination where commercial property or casualty risks are cancelled in mid-term by the insurer;
- (xiii) Section 4(b) of Act 86 (40 P.S. § 3404), which requires unearned premium must 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;
- (xiv) Section 2003(c)(1) and (2) of Act 68 of 1998 (40 P.S. § 991.2003), which states that an insurer may not cancel or refuse to renew existing policies written through the terminated agent because of such termination except those that could have been cancelled or nonrenewed had the agency relationship continued;
- (xv) Section 2003(d) of Act 68 of 1998 (40 P.S. § 991.2003), which states that an insurer may not cancel or refuse to renew existing policies written through the terminated agent without offering each such insured coverage on a direct basis or offering to refer the insured to one or more new agents in the event the terminated agent could not find a suitable insurer acceptable to the policyholder for such business;

- (xvi) 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;
- (xvii) Section 2006(2) of Act 68 of 1998 (40 P.S. § 991.2006), which requires an insurer to deliver or mail to the named insured a nonrenewal notice and state the specific reason or reasons of the insurer for cancellation;
- (xviii) 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;

- (xix) Section 5(a)(9)(i) of Act 205 (40 P.S. §1171.5), which requires that a cancellation notice be approved as to form by the Insurance Commissioner prior to use;
  
- (xx) Section 5(a)(9)(ii) of Act 205 (40 P.S. § 1171.5), which requires that a cancellation notice state the date, not less than 30 days after the date of delivery or mailing on which such cancellation or refusal to renew shall become effective;
  
- (xxi) Section 5(a)(9)(iv) of Act 205 (40 P.S. § 1171.5), which requires that a cancellation notice shall advise the insured of his right to request, in writing, within ten days of the receipt of the notice of cancellation or intention not to renew that the Insurance Commissioner review the action of the insurer;
  
- (xxii) Title 31, Pennsylvania Code, Section 59.9(b), which requires an insurer give at least 30 days notice of termination and provided it gives notice no later than the 60<sup>th</sup> day;
  
- (xxiii) Title 31, Pennsylvania Code, Section 69.53(a), which states 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;

(xxiv) Title 31, Pennsylvania Code, Section 113.88, which states 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;

(xxv) 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;

(xxvi) 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;

- (xxvii) Title 75, Pa. Consolidated Statutes, Section 1535(a)(3362), relating to exceeding maximum speed – 11 to 15 mph over limit – 3 points; and
- (xxviii) Pennsylvania Assigned Risk Plan, Section 2.A(1), states an insured is a Clean Risk who, for the 36 months preceding the date of application, has not been involved in an accident as a driver and has not received more than 3 points under Title 75 Pa.C.S. § 1535, or whose operator's license has not been suspended or revoked.

#### 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 641.1-A and 671-A of Act 147 of 2002 are punishable by the following, under Section 691-A of Act 147 of 2002 (40 P.S. § 310.91):
  - (i) suspension, revocation or refusal to issue the certificate of qualification or license;

- (ii) imposition of a civil penalty not to exceed five thousand dollars (\$5,000.00) for every violation of the Act;
  - (iii) an order to cease and desist; and
  - (iv) any other conditions as the Commissioner deems appropriate.
- (c) Respondent's violations of Act 86, Sections 1, 3 and 4 (40 P.S. §§ 3401, 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.
- (d) Respondent's violations of Sections 2003, 2004 and 2006 of Act 68 of 1998 are punishable by the following, under Section 2013 of the Act (40 P.S. § 991.2013): Any individual or insurer who violates any of the provisions of this article may be sentenced to pay a fine not to exceed five thousand dollars (\$5,000.00).
- (e) Respondent's violations of Sections 4(a) and (h) of the Casualty and Surety Rate Regulatory Act, No. 246 (40 P.S. § 1184) are punishable under Section 16 of the Casualty and Surety Rate Regulatory Act:
- (i) imposition of a civil penalty not to exceed \$50 for each violation or not more than \$500 for each such wilful violation;

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

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

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

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

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

(ii) for each method of competition, act or practice which the company did

not know nor reasonably should have known was in violation of the law,  
a penalty of not more than one thousand dollars (\$1,000.00).

- (h) Respondent's violations of Title 31, Pennsylvania Code, Sections 146.6 and 147(a)(1) 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 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 Sixty-Five Thousand Dollars (\$65,000.00) 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, Office Manager, 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 Insurance Department finds that there has been a breach of any of the provisions of this Order, based upon the Findings of Fact and Conclusions of Law contained herein may pursue any and all legal remedies available, including but not limited to the following: The Insurance Department may enforce the provisions of this Order in the Commonwealth Court of Pennsylvania or in any other court of law or equity having jurisdiction; or the Department may enforce the provisions of this Order in an administrative action pursuant to the Administrative Agency Law, supra, or other relevant provision of law.

7. Alternatively, in the event the Insurance Department finds that there has been a breach of any of the provisions of this Order, the Department may declare this Order to be null and void and, thereupon, reopen the entire matter for appropriate

action pursuant to the Administrative Agency Law, supra, or other relevant provision of law.

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

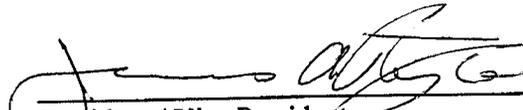
9. Respondent hereby expressly waives any relevant statute of limitations and application of the doctrine of laches for purposes of any enforcement of this Order.

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

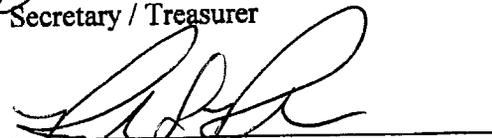
11. This Order shall be final upon execution by the Insurance Department. Only the Insurance Commissioner or a duly authorized delegee is authorized to bind the Insurance Department with respect to the settlement of the alleged violations of law

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

BY: LINCOLN GENERAL INSURANCE  
COMPANY, Respondent

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

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

  
\_\_\_\_\_  
RANDOLPH L. ROHRBAUGH  
Deputy Insurance Commissioner  
Commonwealth of Pennsylvania

## I. INTRODUCTION

The market conduct examination was conducted at Lincoln General Insurance Company's office located in York, Pennsylvania, from June 28, 2007, through July 27, 2007. 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%.

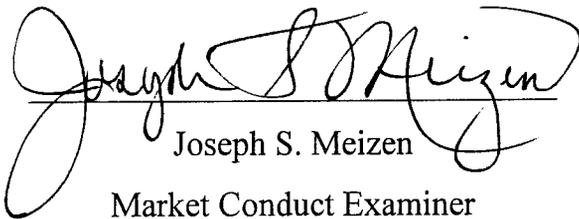
Throughout the course of the examination, Company officials were provided with status memoranda, which referenced specific policy numbers with citation to each section of law violated. Additional information was requested to clarify apparent violations. An exit conference was conducted with Company personnel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

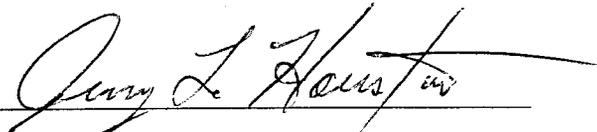
The undersigned participated in this examination and in preparation of this Report.



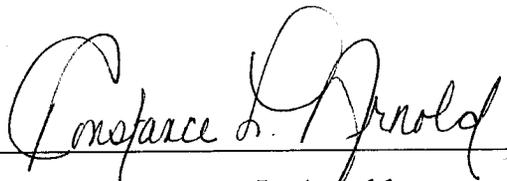
Chester A. Derk, Jr., AIE, HIA  
Market Conduct Division Chief



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 Lincoln General Insurance Company, hereinafter referred to as "Company," at their office located in York, Pennsylvania. The examination was conducted pursuant to Sections 903 and 904 (40 P.S. §§323.3 and 323.4) of the Insurance Department Act and covered the experience period of January 1, 2006, through December 31, 2006, 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.
  
2. Assigned Risk Automobile
  - Underwriting – Appropriate and timely notices of nonrenewal and midterm cancellations.
  - Rating – Proper use of all classification and rating plans and procedures.
  
3. Property
  - Underwriting – Appropriate and timely notices of nonrenewal, midterm cancellations, 60-day cancellations and rescissions.
  
4. Commercial Property
  - Underwriting – Appropriate and timely notices of nonrenewal, midterm cancellations and renewals.

5. Commercial Automobile

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

6. Workers' Compensation

- Underwriting – Appropriate and timely notices of nonrenewal and renewals.

7. Claims

8. Forms

9. Advertising

10. Complaints

11. Licensing

### III. COMPANY HISTORY AND LICENSING

Lincoln General Insurance Company was incorporated on March 17, 1977, under the laws of Pennsylvania and began business on May 13 of the same year.

In 1999 and 2000, Lincoln General absorbed the assets and liabilities of its sister companies, Comp. America and Yorktowne Insurance, respectively. Lincoln General assumed all of the insurance liabilities of Yorktowne and replaced it as the risk-bearing company. Comp. America and Yorktowne Insurance were subsequently dissolved.

#### LICENSING

Lincoln General Insurance Company's Certificate of Authority to write business in the Commonwealth was issued on May 13, 1977. The Company is licensed in District of Columbia and all states except Massachusetts. The Company also operates on a surplus lines or non-admitted basis in U.S. Virgin Islands. The Company's 2006 annual statement reflects Direct Written Premium for all lines of business in the Commonwealth of Pennsylvania as \$25,285,554. Premium volume related to the areas of this review were: Commercial multiple peril (non-liability portion) \$9,652; Commercial multiple peril (liability portion) \$31,175; Inland Marine \$271,606; Workers' Compensation \$331,458; Private Passenger Automobile Direct Written Premium was reported as Private passenger auto no-fault (personal injury protection) \$296,242; Other private passenger auto liability \$426,034 and Private passenger auto physical damage \$35,506; Commercial Automobile Direct Written Premium was reported as Commercial auto no-fault (personal injury protection) \$330,877; Other commercial auto liability \$20,164,391 and Commercial auto physical damage \$1,738,932.

#### **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 Pennsylvania automobile product guides were furnished for personal and commercial lines. The purpose of this review was to identify any inconsistencies which could be considered discriminatory, specifically prohibited by statute or regulation, or unusual in nature.

No violations were noted.

## V. UNDERWRITING

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

#### 1. 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 346 private passenger automobile policies which were identified as nonrenewals during the experience period, 50 files were selected for review. From the universe of 5,508 private passenger automobile policies which were identified as nonrenewals during June 1, 2005 to December 31, 2005, 125 files were selected for review. The 2005 files were reported as nonrenewals, but were terminated midterm. All 175 files were received and reviewed. The 12,057 violations noted were based on the entire universe, resulting in an error ratio of 100%.

The following findings were made:

#### *5,508 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 5,508 policies terminated midterm in 2005 were cancelled for an invalid reason. The Company terminated all 5,508 policies for the following reason: "Managing General Agent is no longer able to continue to service the policies and therefore Lincoln is not able to continue to provide coverage".

*346 Violations Act 68, Section 2003(c)(1)&(2)[40 P.S. 991.2003(c)(1)&(2)]*

States that an insurer may not cancel or refuse to renew existing policies written through the terminated agent because of such termination except those that could have been cancelled or nonrenewed had the agency relationship continued.

*AND*

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

States that an insurer may not cancel or refuse to renew existing policies written through the terminated agent without offering each such insured coverage on a direct basis or offering to refer the insured to one or more new agents in the event the terminated agent could not find a suitable insurer acceptable to the policyholder for such business. The Company nonrenewed 346 policies for the following reason: "Managing General Agent is no longer able to continue to service the policies and therefore Lincoln is not able to

continue to provide coverage". The Company did not offer to insure on a direct basis.

*349 Violations Act 68, Section 2006(2) [40 P.S. §991.2006(2)]*

Requires an insurer to deliver or mail to the named insured a nonrenewal notice and state the date, not less than sixty (60) days after the date of the mailing or delivery, on which cancellation shall become effective. When the policy is being cancelled for the nonpayment of premium, the effective date may be fifteen (15) days from the date of mailing or delivery. The Company failed to provide 60 days notice of nonrenewal to the insured on all policies nonrenewed in 2006 and 3 policies nonrenewed in 2005.

*5,854 Violations Title 75, Pa. C.S. §1786(3)*

Requires an insurer to notify the Department of Transportation if the insurance has been cancelled or terminated by the insured or the insurer. The insurer shall notify the Department not later than 10 days following the effective date of the cancellation or termination. The Company did not notify the Department of Transportation within 10 days as required.

**B. Private Passenger Automobile – Assigned Risk**

Lincoln General Insurance Company reports its premium writings for private passenger automobile to the Pennsylvania Assigned Risk Plan. As a result, the Company receives all assignments from the Pennsylvania Assigned Risk Plan.

1. 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 Title 75, Pennsylvania Consolidated Statutes, Sections 1742, 1743 and 1744 [75 Pa. C.S. §1742, 1743 and 1744], and all the rules of the Pennsylvania Assigned Risk Plan and Manual.

From the universe of 520 private passenger automobile assigned risk policies cancelled during the experience period, 25 files were selected for review. All 25 files selected 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 anniversary date.

The purpose of the review was to determine compliance with Title 75, Pennsylvania Consolidated Statutes, Sections 1742, 1743, 1744 [75 Pa. C.S. §1742, 1743 and 1744], and all the rules of the Pennsylvania Assigned Risk Plan and Manual.

The universe of 3 private passenger assigned risk policies nonrenewed during the experience period was selected for review. All 3 files were received and reviewed. No violations were noted.

## 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.

From the universe of 304 inland marine pet care policies which were cancelled within the first 60 days of new business, 25 files were selected for review. All 25 files were received and reviewed. The 304 violations noted were based on the entire universe, resulting in an error ratio of 100%.

The following findings were made:

#### *304 Violations Title 31, Pa. Code, Section 59.9(b)*

Requires an insurer give at least 30 days notice of termination and provided it gives notice no later than the 60<sup>th</sup> day. The Company did not provide the required 30 days notice of cancellation for the 304 files 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 1,160 inland marine pet care policies which were cancelled midterm during the experience period, 50 files were selected for review. All 50 files were received and reviewed. The 3,471 violations noted were based on 1,157 files, resulting in an error ratio of 99.7%.

The following findings were made:

*1,157 Violations Act 205, Section 5(a)(9)(ii) [40 P.S. §1171.5(a)(9)(ii)]*

Requires that a cancellation notice shall state the date, not less than thirty days after the date of delivery or mailing on which such cancellation or refusal to renew shall become effective. The Company failed to provide 30 days notice of cancellation for the 1,157 files noted.

*1,157 Violations Act 205, Section 5(a)(9)(i) [40 P.S. §1171.5(a)(9)(i)]*

Requires that a cancellation notice be approved as to form by the Insurance Commissioner prior to use. The Company failed to use a cancellation notice form that was approved by the Commissioner.

*1,157 Violations Act 205, Section 5(a)(9)(iv) [40 P.S. §1171.5(a)(9)(iv)]*

Requires that a cancellation notice shall advise the insured of his right to request, in writing, within ten days of the receipt

of the notice of cancellation or intention not to renew that the Insurance Commissioner review the action of the insurer. The Company failed to advise the insured of their right of review by the Commissioner.

## **D. Commercial Property**

### **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.

The universe of 6 commercial property policies which were cancelled during the experience period was selected for review. The policies consisted of commercial package and commercial inland marine. All 6 files were received and reviewed. The 4 violations noted were based on 4 files, resulting in an error ratio of 67%.

The following findings were made:

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

Requires that unearned premium be returned to the insured not later than 10 business days after the effective date of termination where commercial property or casualty risks are cancelled in mid-term by the insurer. The Company did not

return the unearned premium to the insured within 10 business days after the effective date of termination.

*3 Violations 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 for the 3 files 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.

The universe of 3 motor truck cargo policies identified as nonrenewals was selected for review. All 3 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.

The universe of 44 commercial property policies renewed during the experience period was selected for review. The commercial property policies consisted of commercial inland marine and commercial package. All 44 files were received and reviewed. The 6 violations noted were based on 6 files, resulting in an error ratio of 14%.

The following findings were made:

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

This section provides that notwithstanding any other provision of law, a policy of insurance covering commercial property or casualty risks in this Commonwealth shall provide for not less than 30 days advance notice to the named insured of an increase in renewal premium. This section does not apply to policies written on a retrospective rating plan. The Company did not provide at least 30 days advance notice to the named insured of an increase in renewal premium for the 6 files noted.

**E. Commercial Automobile**

1. 60-Day Cancellations

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

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

The universe of 5 commercial automobile policies which were cancelled within the first 60 days was selected for review. All 5 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 purpose of the review was to determine compliance with Act 86, Section 2 (40 P.S. §3402), which prohibits cancellation except for specified reasons and Section 3 (40 P.S. §3403), which establishes the requirements, which must be met regarding the form and condition of the cancellation notice.

The universe of 9 commercial automobile policies identified as midterm cancellations was selected for review. All 9 files were received and reviewed. The 2 violations noted were based on 2 files, resulting in an error ratio of 22%.

The following findings were made:

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

Requires that unearned premium be returned to the insured not later than 10 business days after the effective date of termination where commercial property or casualty risks are cancelled in mid-term by the insurer. The Company did not return the unearned premium to the insured within 10 business days after the effective date of termination.

*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.

### 3. Nonrenewals

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

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

The universe of 39 commercial automobile policies identified as nonrenewals by the Company was selected for review. All 39 files were received and reviewed. The 25 violations noted were based on 23 files, resulting in an error ratio of 59%.

The following findings were made:

*20 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 20 files noted.

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

Requires that a nonrenewal notice be forwarded by registered mail or first class mail or delivered by the insurance company directly to the named insured or insureds. The Company did not send a written notice as required. There was no evidence of a nonrenewal notice in the 3 files noted.

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

Requires that a nonrenewal notice be forwarded directly to the named insured or insureds at least 60 days in advance of the effective date of the termination. The Company did not provide at least 60 days notice of 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 Company did not provide an offer of loss information on the notice for the file noted.

4. Declinations

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

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

From the universe of 630 commercial automobile files identified as declinations by the Company, 25 files were selected for review. All 25 files were received and reviewed. No violations were noted.

5. Rescissions

A rescission is any policy, which was void *ab initio*.

The primary purpose of the 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.

The universe of 1 commercial automobile policy identified as a rescission was selected, received and reviewed. No violations were noted.

## 6. Renewals

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

The purpose of the review was to measure compliance with Act 86, Section 1 (40 P.S. §3401), which requires 30 days advance notice of an increase in renewal premium.

From the universe of 292 commercial automobile policies which were renewed during the experience period, 10 files were selected for review. All 10 files were received and reviewed. The 2 violations noted were based on 2 files, resulting in an error ratio of 20%.

The following findings were made:

### *2 Violations Act 86, Section 1 [40 P.S. §3401]*

This section provides that notwithstanding any other provision of law, a policy of insurance covering commercial property or casualty risks in this Commonwealth shall provide for not less than 30 days advance notice to the named insured of an increase in renewal premium. This section does not apply to policies written on a retrospective rating plan. The Company did not provide at least 30 days advance notice to the named insured of an increase in renewal premium for the 2 files noted.

## **F. Workers' Compensation**

### **1. 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.

The universe of 10 workers' compensation policies nonrenewed during the experience period was selected for review. All 10 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 86, Section 1 (40 P.S. §3401), which requires 30 days advance notice of an increase in renewal premium.

The universe of 1 workers' compensation policy renewed during the experience period was selected for review. The file was received and reviewed. No violations were noted.

## VI. RATING

### **A. Private Passenger Automobile – Assigned Risk**

Lincoln General Insurance Company reports its premium writings for private passenger automobile to the Pennsylvania Assigned Risk Plan. As a result, the Company receives all assignments from the Pennsylvania Assigned Risk Plan.

#### 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 primary purpose of the review was to determine compliance with Act 246, The Casualty and Surety Rate Regulatory Act, 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. Review was also made of all the rules and rates of the Assigned Risk Plan, compliance with all provisions of Act 6 of 1990, as well as Title 75, Pa. C.S. Sections 1741, 1742, 1743 and 1744 [40 P.S. §1741, 1742, 1743 and 1744], which establishes the Assigned Risk Plan and requires insurers to abide by the rules of the Plan.

#### Assigned Risk Private Passenger Automobile – New Business – Clean

From the universe of 2,236 assigned risk private passenger automobile new business policies written as clean during the experience period, 25 files were selected for review. All 25 files were received and reviewed. The 3

violations noted were based on 3 files, resulting in an error ratio of 12%.

The following findings were made:

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

Requires that at the time of application for original coverage and every renewal thereafter, an insurer must provide to an insured an itemized invoice listing the minimum motor vehicle insurance coverage levels mandated by the Commonwealth and the premium charge for the insured to purchase the minimum mandated coverages. The invoice must contain the following notice in print of no less than ten-point type: "The laws of the Commonwealth of Pennsylvania, as enacted by the General Assembly, only require you to purchase liability and first-party medical benefit coverages. Any additional coverage or coverages in excess of the limits required by law are provided only at your request as enhancements to basic coverages." The insurer shall provide the itemized invoice to the insured in conjunction with the declaration of coverage limits and premiums for the insured's existing coverages. The Company failed to provide the minimum comparisons when higher limits were elected for the 3 files noted.

Assigned Risk Private Passenger Automobile – New Business – Other Than Clean

From the universe of 1,010 assigned risk private passenger automobile new business policies written as other than clean during the experience period, 50 files were selected for review. All 50 files were received and reviewed.

The 8 violations noted were based on 8 files, resulting in an error ratio of 16%.

The following findings were made:

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

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

*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.

*AND*

*Assigned Risk Plan, Blue Pages §2(A)(1)*

Clean risk is an insured who for the 36 month period immediately preceding the date of application or renewal has not been involved in an accident as a driver; has not received more than three points under Title 75, §1535 or whose operator's license has not been suspended or revoked.

*AND*

*Title 75, Pa. C.S. §1535(a)(3362)*

Exceeding maximum speed – 11 to 15 mph over limit – 3 points. The policy was not classified in accordance with the filed and approved Assigned Risk rate plan, which resulted in an undercharge of \$149.

Assigned Risk Private Passenger Automobile – Renewals – Clean

The universe of 7 assigned risk private passenger automobile renewal policies written as clean during the experience period was selected for review. Of the 7 files requested, 6 files were received and reviewed. The violation noted resulted in an error ratio of 14%.

The following finding was made:

*1 Violation Insurance Department Act, Section 903(a) [40 P.S. §323.3]*  
Requires every company subject to examination to keep all books, records, accounts, papers, documents and any or all computer or other recordings relating to its business in such manner and for such time as may be required in order that the Department may readily verify whether the Company has complied with the laws of this Commonwealth. The file noted was not produced by the Company.

Assigned Risk Private Passenger Automobile – Renewals – Other Than Clean

The universe of 5 assigned risk private passenger automobile renewal policies written as other than clean during the experience period was selected for review. All 5 files were received and reviewed. No violations were noted.

## 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 First Party Medical Claims
- E. Automobile First Party Medical Claims Referred to a PRO

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

### **A. Automobile Property Damage Claims**

From the universe of 576 private passenger automobile property damage claims reported during the experience period, 50 files were selected for review. All 50 files were received and reviewed. The 2 violations noted were based on 1 file, resulting in an error ratio of 2%.

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 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 provide a denial letter within 15 working days for the claim noted.

**B. Automobile Comprehensive Claims**

The universe of 4 private passenger automobile comprehensive claims reported during the experience period was selected for review. All 4 files were received and reviewed. No violations were noted.

**C. Automobile Collision Claims**

From the universe of 38 private passenger automobile collision claims reported during the experience period, 22 files were selected for review. All 22 files were received and reviewed. No violations were noted.

#### **D. Automobile First Party Medical Claims**

From the universe of 200 private passenger automobile first party medical claims reported during the experience period, 75 files were selected for review. All 75 files were received and reviewed. No violations were noted.

#### **E. Automobile First Party Medical Claims Referred to a PRO**

The Company was asked to provide a list of all first party medical claims that were referred to a peer review organization. The Company did not report any claims referred to a peer review organization. The Company was also requested to provide copies of any written contracts with the peer review organization it has contracted. The Company advised that they did not have any written contracts in place with a 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 utilized a peer review organization without having a written contract in place.

### 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 Title 75, Pa. C.S. §1822 and Act 165 of 1994 [18 Pa. CS §4117(k)(1)], which requires all insurers to provide an insurance fraud notice on all applications for insurance, all claims forms and all renewals of coverage.

No violations were noted.

## 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 6 pieces of advertising in use during the experience period, which included brochures, trade magazine advertising and a newsletter. 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 18 consumer complaints received during the experience period and provided all consumer complaint logs requested. All 18 complaints were requested, received and reviewed.

The purpose of the review was to determine compliance with the Unfair Insurance Practices Act, No. 205 (40 P.S. §1171). Section 5(a)(11) of the Act requires a Company to maintain a complete record of all complaints received during the preceding four years. This record shall indicate the total number of complaints, their classification by line of insurance, the nature of each complaint, the disposition of these complaints and the time it took to process each complaint.

No violations were noted.

The following synopsis reflects the nature of the 18 complaints that were reviewed.

•	12	Claims	67%
•	3	Billing	16%
•	3	Miscellaneous	17%
•	<hr/>		<hr/>
	18		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:

*3 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.

PetCare Insurance Agency, LTD  
Transportation Insurance Specialists  
Transportation Risk Specialists, LLC

*26 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.

Aarow Insurance Agency, Inc.  
Access General Agency of PA  
Avalon Risk Management  
BISYS Specialty Programs  
Bubby's Auto Tags and Insurance LLC  
Centerpointe Insurance Services, LTD  
Clauss Bovard Agency, Inc.  
Fedele Insurance Services, Inc.  
Grisafi, Joseph P  
KCI Insurance Agency, Inc.  
Knowles Associates, LLC  
Kukish, Warren  
Lunney, Mark D  
Markley Agency Inc., The  
Martin Company, The  
Neshaminy Insurance LLC  
PA Auto Ins Outlet Corp  
PetCare Insurance Brokers, LTD  
Post, P. A. Agency LLC  
Pryce, Sarah E.  
Rexach, Carlos  
Rueter Insurance Agency, Inc. The  
Troast-Singley, Kim Ann  
Tuscano, W. N. Agency, Inc.  
UIS Brokers East, LTD  
USI

## *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 cancellation notice requirements of Act 68, Sections 2003, 2004 and 2006 [40 P.S. §§991.2003, 2004 and 2006], so that the violations noted in the Report do not occur in the future.
2. The Company must review Title 75, Pa. C.S. §1786(3) to ensure that the violations regarding notifying the Department of Transportation when insurance has been cancelled does not occur in the future.
3. The Company must review Act 205, Section 5(a)(9) [40 P.S. §1171.5(a)(9)] to ensure that the violation regarding the requirement for cancellation notices, as noted in the Report, does not occur in the future.
4. The Company must review Title 31, Pa. Code, Section 59.9(b) to ensure that violations regarding the requirements for cancellation notices, as noted in the Report, do not occur in the future.
5. 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.

6. The Company must review Act 86, Section 1 [40 P.S. §3401], to ensure that violations regarding notification to the insured of an increase in premium do not occur in the future.
7. The Company must review Title 75, Pa. C.S. §1791.1(a) to ensure that an itemized invoice listing minimum coverages is provided when higher limits are elected.
8. The Company must reinforce its internal underwriting controls to ensure that all records and documents are maintained in accordance with Insurance Department Act, Section 903(a) [40 P.S. §323.3], so that violations noted in the Report do not occur in the future.
9. The Company must review Act 246, Section 4 [40 P.S. §1184], Assigned Risk Plan Manual and Title 75, Pa. C.S. §1535(a)(3362) and take appropriate measures to ensure the violation listed in the report does not occur in the future.
10. The Company should review and revise internal control procedures to ensure compliance with the claims handling requirements of Title 31, Pennsylvania Code, Chapter 146, Unfair Claims Settlement Practices so that the violations relating to status letters and claim denials, as noted in the Report, do not occur in the future.
11. 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.

12. The Company must review Title 31, Pa. Code, Section 69.55(a) with its claim staff to ensure that the Company uses services only from an approved peer review organization.

**XIII. COMPANY RESPONSE**



January 24, 2008

**UPS OVERNIGHT DELIVERY**

Commonwealth of Pennsylvania Insurance Department  
Bureau of Enforcement  
Attn: Mr. Chester Derk Jr., Market Conduct Division Chief  
1227 Strawberry Square  
Harrisburg, PA 17120

Re: Lincoln General Insurance Company  
NAIC # 33855  
Examination Warrant Number: 07-M30-020

Dear Mr. Derk:

On behalf of Lincoln General Insurance Company, this letter will serve as our response to your Report of Examination received on December 28, 2007. We have reviewed the report and respectfully submit the following responses. Please be advised that Lincoln General will be conducting periodic audits to ensure compliance with each recommendation addressed in the report.

Lincoln General Insurance Company would like to thank your department and the examiners for the professional and friendly experience during the examination process. The recommendations provided by the department are greatly appreciated and will help ensure that Lincoln General is compliant with Pennsylvania state statutes.

Best Regards,

Albert Miller  
Staff Counsel  
Lincoln General Insurance Company  
800 876 3350 ext 235  
FAX 717 757 7917

**RECEIVED**  
**INSURANCE DEPT.**

**JAN 28 2008**

cc: Terri Alwood  
Darrien Davenport  
Marcy Schmehl

**BUREAU OF ENFORCEMENT**

**Claims**

P.O. Box 3608  
York, PA 17402-0628  
Phone: 800-395-7489  
FAX: 717-751-0144

**Retail Underwriting**

P.O. Box 12008  
York, PA 17402-0608  
Phone: 800-876-3350  
FAX: 717-751-0165

**Program Underwriting**

P.O. Box 12009  
York, PA 17402-0609  
Phone: 800-876-3350  
FAX: 717-757-7916

**All Other Departments**

P.O. Box 3709  
York, PA 17402-0136  
Phone: 800-876-3350  
FAX: 717-751-0165

**Lincoln General Insurance Company**  
**Company Response to Examination Warrant Number 07-M30-020**

**Recommendation #1**

*The Company must review and revise internal control procedures to ensure compliance with cancellation notice requirements of Act 68, Sections 2003, 2004 and 2006 [40 P.S. §§991.2003, 2004 and 2006], so that the violations noted in the Report do not occur in the future.*

**Company Response to Recommendation #1**

Lincoln General will review our internal controls and implement new procedures to comply with the requirements of cancellation notices as listed in Act 68, Sections 2003, 2004 and 2006 [40 P.S. §§991.2003, 2004 and 2006].

**Recommendation #2**

*The Company must review Title 75, P.a. C.S. §1786(3) to ensure that the violations regarding notifying the Department of Transportation when insurance has been cancelled does not occur in the future.*

**Company Response to Recommendation #2**

The Company will review and enforce, with our Auto Liability Insurance Regulation team, Title 75, P.a. C.S. §1786(3) to ensure compliance regarding notifying the Department of Transportation when insurance has been cancelled.

**Recommendation #3**

*The Company must review Act 205, Section 5(a)(9) [40 P.S. §1171.5(a)(9)] to ensure that the violation regarding the requirements for cancellation notices, as noted in the Report, does not occur in the future.*

**Company Response to Recommendation #3**

Lincoln General will review Act 205, Section 5(a)(9) [40 P.S. §1171.5(a)(9)] and implement an action plan to ensure compliance regarding the requirements for cancellation notices.

**Recommendation #4**

*The Company must review Title 31, Pa. Code, Section 59.9(b) to ensure that violations regarding the requirements for cancellation notices, as noted in the Report, does not occur in the future.*

**Company Response to Recommendation #4**

Lincoln General will review Title 31, Pa. Code, Section 59.9(b) and implement an action plan to ensure compliance regarding the requirements for cancellation notices.

**Recommendation #5**

*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.*

**Company Response to Recommendation #5**

Lincoln General will review our internal controls and implement new procedures to comply with commercial cancellation and nonrenewal requirements as listed in Act 86, Sections 3 and 4 [40 P.S. §§3403 and 3404].

**Recommendation #6**

*The Company must review Act 86, Section 1 [40 P.S. §3401], to ensure that violations regarding notification to the insured of an increase in premium do not occur in the future.*

**Company Response to Recommendation #6**

Lincoln General will review Act 86, Section 1 [40 P.S. §3401] and implement an action plan to ensure compliance regarding the notification to the insured of an increase in their premium.

**Recommendation #7**

*The Company must review Title 75, Pa. C.S. §1791.1(a) to ensure that an itemized invoice listing minimum coverages is provided when higher limits are elected.*

**Company Response to Recommendation #7**

Lincoln General will review Title 75, Pa. C.S. §1791.1(a) to ensure compliance in providing an itemized invoice listing minimum coverages when higher limits are elected by the insured.

**Recommendation #8**

*The Company must reinforce its internal underwriting controls to ensure that all records and documents are maintained in accordance with Insurance Department Act, Section 903(a) [40 P.S. §323.3], so that violations noted in the Report do not occur in the future.*

**Company Response to Recommendation #8**

Lincoln General will reinforce internal underwriting controls to ensure compliance in the maintenance of all records and documents as listed in Insurance Department Act, Section 903(a) [40 P.S. §323.3].

**Recommendation #9**

*The Company must review Act 246, Section 4 [40 P.S. §1184], Assigned Risk Plan Manual and Title 75, Pa. C.S. §1535(a)(3362) and take appropriate measures to ensure that the violation listed in the report does not occur in the future.*

**Company Response to Recommendation #9**

Lincoln General will review Act 246, Section 4 [40 P.S. §1184] and Title 75, Pa. C.S. §1535(a)(3362) to ensure compliance in regards to filing all manuals of classifications, rules and rates including every rating plan and every modification of rating with which the company uses in the state of Pennsylvania.

**Recommendation #10**

*The Company should review and revise internal control procedures to ensure compliance with the claims handling requirements of Title 31, Pennsylvania Code, Chapter 146, Unfair Claims Settlement Practices so that the violations relating to status letters and claim denials, as noted in the Report, do not occur in the future.*

**Company Response to Recommendation #10**

Lincoln General will review our internal controls and implement new procedures to ensure compliance with claims handling relating to status letters and claim denials as listed in Title 31, Pennsylvania Code, Chapter 146, Unfair Claims Settlement Practices.

**Recommendation #11**

*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 to Recommendation #11**

On August 8, 2007 Lincoln General signed a service agreement with Medical Management Services, Inc. (PRO) in order to comply with Title 31, Pa. Code, Section 69.53(a) and Title 75, Pa. C.S. §1797(b)(1). Please find the attached copy of the Peer Review, IME and General Services Agreement with Medical Management Services, Inc.

**Recommendation #12**

*The Company must review Title 31, Pa. Code, Section 69.55(a) with its claim staff to ensure that the Company uses services only from an approved peer review organization.*

**Company Response to Recommendation #12**

Lincoln General will review Title 31, Pa. Code, Section 69.55(a) with the claims staff and provide training on how and when to utilize our newly acquired peer review organization.