

**REPORT OF
MARKET CONDUCT EXAMINATION
OF**

**MUTUAL SERVICE CASUALTY
INSURANCE COMPANY**

Arden Hills, Minnesota

**AS OF
January 28, 2004**

COMMONWEALTH OF PENNSYLVANIA



**INSURANCE DEPARTMENT
MARKET CONDUCT DIVISION**

Issued: March 22, 2004

MUTUAL SERVICE CASUALTY INSURANCE COMPANY

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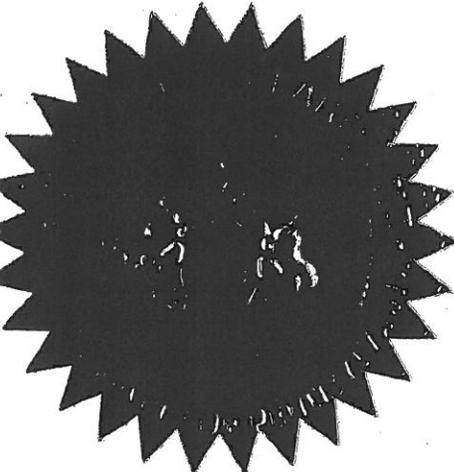
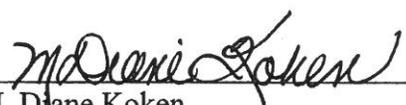
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BEFORE THE INSURANCE COMMISSIONER
OF THE
COMMONWEALTH OF PENNSYLVANIA

ORDER

AND NOW, this 29 day of April, 2002, in accordance with Section 905(c) of the Pennsylvania Insurance Department Act, Act of May 17, 1921, P.L. 789, as amended, P.S. § 323.5, I hereby designate Randolph L. Rohrbaugh, Deputy Insurance Commissioner, to consider and review all documents relating to the market conduct examination of any company and person who is the subject of a market conduct examination and to have all powers set forth in said statute including the power to enter an Order based on the review of said documents. This designation of authority shall continue in effect until otherwise terminated by a later Order of the Insurance Commissioner.

M. Diane Koken
Insurance Commissioner

BEFORE THE INSURANCE COMMISSIONER
OF THE
COMMONWEALTH OF PENNSYLVANIA

IN RE: : VIOLATIONS:
: :
MUTUAL SERVICE CASUALTY : Section 605 of the Insurance
INSURANCE COMPANY : Department Act, Act of May 17, 1921,
Two Pine Tree Drive : P.L. 789, No. 285 (40 P.S. § 235)
Arden Hills, MN 55112 :
: Act 1990-6, Title 75 Pennsylvania
: Consolidated Statutes, Sections
: 1793(b) and 1797(b)(1)
: :
: Section 2006(2) of Act 68 of 1998
: (40 P.S. § 991.2006)
: :
: Title 31, Pennsylvania Code, Sections
: 62.3(f)(8), 69.42, 69.43 and 146.3
: :
Respondent. : Docket No. MC04-02-052

CONSENT ORDER

AND NOW, this 22nd day of *March*, 2004, this Order is hereby
issued by the Deputy Insurance Commissioner of the Commonwealth of
Pennsylvania pursuant to the statutes cited above and in disposition of the matter
captioned above.

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

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

FINDINGS OF FACT

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

- (a) Respondent is Mutual Service Casualty Insurance Company, and maintains its address at Two Pine Tree Drive, Arden Hills, Minnesota 55112..
- (b) A market conduct examination of Respondent was conducted by the Insurance Department covering the period from January 1, 2002 through December 31, 2002.
- (c) On January 28, 2004, the Insurance Department issued a Market Conduct Examination Report to Respondent.
- (d) A response to the Examination Report was provided by Respondent on February 27, 2004.

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

(i) Section 605 of the Insurance Department Act, No. 285 (40 P.S.

§ 235), which requires that: (1) no agent shall do business on behalf of any entity without written appointment from that entity, (2) all appointments shall be obtained by procedures established by the Insurance Department's regulations, (3) insurance entities authorized by law to transact business in this Commonwealth shall, from time to time as determined by the Department, certify to the Department the names of all agents appointed by them, and (4) each appointment fee, both new and renewal, shall be paid in full by the entity appointing the agent;

(ii) Section 1793(b) of Act 1990-6, Title 75, Pa.C.S. § 1793(b), which requires all insurers to provide to the insured a surcharge disclosure plan. The insurer providing the surcharge disclosure plan shall detail the provisions of the plan including, but not limited to, a description of conditions that would assess a premium surcharge to an insured along with the estimated increase of the surcharge per policy period, per policyholder and the number of years any surcharge will be in effect. The surcharge disclosure plan shall be delivered to each insured by the insurer at least once annually.

Additionally, the surcharge information plan shall be given to each prospective insured at the time application is made for motor vehicle insurance coverage;

- (iii) Section 1797(b)(1) of Act 1990-6, Title 75, Pa.C.S. § 1797(b), which requires a peer review plan for challenges to reasonableness and necessity of treatment and the insurer shall contract jointly and separately with any peer review organization for the purpose of evaluating treatment, health care services, products or accommodations provided to any injured person;

- (iv) Section 2006(2) of Act 68 of 1998 (40 P.S. § 991.2006), which requires a cancellation or refusal to renew by an insurer of a policy of automobile insurance shall not be effective unless the insurer delivers or mails to the named insured at the address shown in the policy a written notice of the cancellation or refusal to renew. The notice shall: (2) state the date, not less than 60 days after the date of the mailing or delivery, on which cancellation or refusal to renew shall become effective. When the policy is being cancelled or not renewed for the reasons set forth in Section 2004(1) and (2), however, the effective date may be 15 days from the date of mailing or delivery;

- (v) Title 31, Pennsylvania Code, Section 62.3(f)(8), which requires a company to provide a copy of the total loss evaluation sheet to the consumer within five working days after the appraisal is completed;

(vi) Title 31, Pennsylvania Code, Section 69.42, which requires an insurer to make payments to providers in accordance with the Medicare Program as applied in this Commonwealth by the carriers and intermediaries.

Coverage shall be reimbursed at 110% of the Medicare payment or a difference allowance as may be determined under Title 31, Pennsylvania Code, Section 69.12;

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

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

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

CONCLUSIONS OF LAW

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

- (a) Respondent is subject to the jurisdiction of the Pennsylvania Insurance Department.
- (b) Respondent's violations of Section 605 (40 P.S. §235) of the Insurance Department Act are punishable by the following, under Section 639 of the Insurance Department Act (40 P.S. § 279):

- (i) suspension, revocation or refusal to issue the certificate of qualification or license;
 - (ii) imposition of a civil penalty not to exceed five thousand dollars (\$5,000.00) for every violation of the Act.
 - (iii) issue an order to cease and desist.
 - (iv) impose such other conditions as the department may deem appropriate.
- (c) Respondent's violations of Sections 2006(2) 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).
- (d) Respondent's violations of Title 31, Pennsylvania Code, Section 146.3, are punishable under Sections 9, 10 and 11 of the Unfair Insurance Practices Act (40 P.S. §§ 1171.9, 1171.10 and 1171.11):
- (i) cease and desist from engaging in the prohibited activity;
 - (ii) suspension or revocation of the license(s) of Respondent.

- (e) In addition to any penalties imposed by the Commissioner for Respondent's violations of the Unfair Insurance Practices Act (40 P.S. §§ 1171.1 – 1171.5), the Commissioner may, under Sections 10 and 11 of the Unfair Insurance Practices Act (40 P.S. §§ 1171.10, 1171.11) file an action in which the Commonwealth Court may impose the following civil penalties:
- (i) for each method of competition, act or practice which the company knew or should have known was in violation of the law, a penalty of not more than five thousand dollars (\$5,000.00);
 - (ii) for each method of competition, act or practice which the company did not know nor reasonably should have known was in violation of the law, a penalty of not more than one thousand dollars (\$1,000.00).

ORDER

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

- (a) Respondent shall cease and desist from engaging in the activities described herein in the Findings of Fact and Conclusions of Law.

- (b) Respondent shall file an affidavit stating under oath that it will provide each of its directors, at the next scheduled directors meeting, a copy of the adopted Report and related Orders. Such affidavit shall be submitted within thirty (30) days of the date of this Order.

- (c) Respondent shall comply with all recommendations contained in the attached Report.

- (d) Respondent shall pay Ten Thousand Dollars (\$10,000.00) to the Commonwealth of Pennsylvania in settlement of all violations contained in the Report.

- (e) Payment of this matter shall be made by check payable to the Commonwealth of Pennsylvania. Payment should be directed to Sharon L. Harbert, Administrative Assistant, Bureau of Enforcement, 1311 Strawberry Square, Harrisburg, Pennsylvania 17120. Payment must be made no later than thirty (30) days after the date of this Order.

6. In the event the Deputy Insurance Commissioner finds that there has been a breach of any of the provisions of this Order, based upon the Findings of Fact and Conclusions of Law contained herein may pursue any and all legal remedies available, including but not limited to the following: The Deputy Insurance Commissioner may enforce the provisions of this Order in the Commonwealth Court of Pennsylvania or in

any other court of law or equity having jurisdiction; or the Deputy Insurance Commissioner may enforce the provisions of this Order in an administrative action pursuant to the Administrative Agency Law, supra, or other relevant provision of law.

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

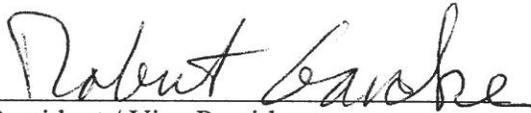
8. In any such enforcement proceeding, Respondent may contest whether a breach of the provisions of this Order has occurred but may not contest the Findings of Fact and Conclusions of Law contained herein.

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

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

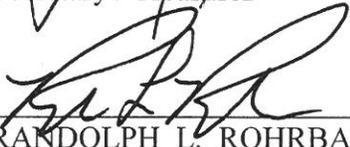
11. This Order shall be final upon execution by the Deputy Insurance Commissioner. Only the Insurance Commissioner or a duly authorized Deputy Insurance Commissioner is authorized to bind the Insurance Department with respect to the settlement of the alleged violations of law contained herein, and this Consent Order is not effective until executed by the Insurance Commissioner or a duly authorized Deputy Insurance Commissioner.

BY: MUTUAL SERVICE CASUALTY
INSURANCE COMPANY, Respondent



President / Vice President


As Secretary / Treasurer



RANDOLPH L. ROHRBAUGH
Deputy Insurance Commissioner
Commonwealth of Pennsylvania

I. INTRODUCTION

The market conduct examination was conducted at Mutual Service Casualty Insurance Company's offices located in Arden Hills, Minnesota from September 8, 2003, through September 19, 2003. Subsequent review and follow-up was conducted in the office of the Pennsylvania Insurance Department.

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

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

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

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

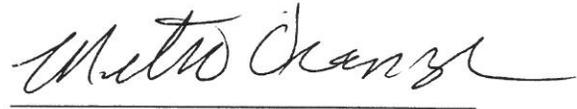
The undersigned participated in this examination and in preparation of this Report.



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



James R Myers
Market Conduct Examiner



Metro Orange
Market Conduct Examiner

II. SCOPE OF EXAMINATION

The Market Conduct Examination was conducted on Mutual Service Casualty Insurance Company, hereinafter referred to as "Company," at their office located in Arden Hills, Minnesota.

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, 2002, through December 31, 2002, unless otherwise noted. The purpose of the examination was to determine the Company's compliance with Pennsylvania insurance laws and regulations.

The examination focused on Company operations in the following areas:

1. Personal Automobile
 - Underwriting - Appropriate and timely notices of nonrenewal, mid-term cancellations, 60-day cancellations and declinations.
 - Rating - Proper use of all classification and rating plans and procedures.
2. Claims
3. Forms
4. Advertising
5. Complaints
6. Licensing

III. COMPANY HISTORY AND LICENSING

Mutual Service Casualty Insurance Company was incorporated under the laws of Minnesota on August 1, 1919 and became licensed on October 11, 1919, under the title American Farmers Mutual Automobile Insurance Company. All the assets and liabilities of the Cooperative Insurance Mutual, Milwaukee, Wisconsin, were absorbed on October 24, 1948. On September 1, 1949, the present title was adopted. A companion fire carrier, Mutual Service Fire Insurance Company, organized in 1949, was merged into the company on May 31, 1952. Administrative offices were moved from St. Paul to Arden Hills, Minnesota, in early 1979.

LICENSING

Mutual Service Casualty Insurance Company's Certificate of Authority to write business in the Commonwealth was last issued on April 1, 2003. The Company is licensed in 48 states, the District of Columbia, and Puerto Rico. The Company's 2002 annual statement reflects Direct Written Premium for all lines of business in the Commonwealth of Pennsylvania as \$21,120. Premium volume related to the areas of this review were: Private Passenger Automobile Direct Written Premium was reported as Private Passenger Auto No-Fault (personal injury protection) (\$13,443); Private Passenger Auto Liability \$18,268 and Private Passenger Auto Physical Damage \$15,884. It should be noted that the Company filed and received approval to withdraw writing private passenger automobile insurance in 2001.

IV. UNDERWRITING PRACTICES AND PROCEDURES

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

V. UNDERWRITING

A. Private Passenger Automobile

1. 60-Day Cancellations

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

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

The Company reported no policies were cancelled with the first 60 days of new business during the experience period.

2. Mid-term Cancellations

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

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

From the universe of 636 private passenger automobile files identified as mid-term cancellations by the Company, 100 files were selected for review. All 100 files selected were received and reviewed. No violations were noted.

3. Nonrenewals

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

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

From the universe of 832 private passenger automobile policies which were nonrenewed during the experience period, 100 files were selected for review. All 100 files requested were received and reviewed. The 3 violations noted were based on 3 files, resulting in an error ratio of 3%.

The following findings were made:

3 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 3 files did not show evidence that a cancellation or nonrenewal notice was mailed or delivered to the insured.

4. Declinations

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

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

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

4. Rescissions

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.

The universe of 1 personal automobile file was identified as being a rescission by the Company during the experience period was selected for review. The file selected was 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.

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.

Private Passenger Automobile – New Business Without Surcharges

The Company reported no personal automobile policies were written as new business without surcharge during the experience period.

Private Passenger Automobile – New Business With Surcharges

The Company reported no personal automobile policies were written as new business with surcharges during the experience period.

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 920 private passenger automobile policies renewed during the experience period, 100 files without surcharges were selected for review. All 100 files selected were received and reviewed. The 920 violations were based on the universe of 920 files, resulting in an error ratio of 100%.

The following findings were made:

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

Requires the insurer to provide to the insured a surcharge disclosure plan. The insurer providing the surcharge disclosure plan shall detail the provisions of the plan and shall be delivered to each insured by the insurer at least once annually. Additionally, the surcharge information plan shall be given to each prospective insured at the time application is made for motor vehicle insurance coverage. The 920

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

Private Passenger Automobile – Renewals With Surcharges

The universe of 42 private passenger automobile policies renewed during the experience period with surcharges was selected for review. All 42 files requested were received and reviewed. The 42 violations were based on the entire universe of 42 files, resulting in an error ratio of 100%.

The following findings were made:

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

Requires the insurer to provide to the insured a surcharge disclosure plan. The insurer providing the surcharge disclosure plan shall detail the provisions of the plan and shall be delivered to each insured by the insurer at least once annually. Additionally, the surcharge information plan shall be given to each prospective insured at the time application is made for motor vehicle insurance coverage. The 42 violations were the result of the Company not providing the insured with a copy of a surcharge disclosure plan.

Private Passenger Automobile – Renewals In a Higher Plan

The Company did not report any automobile policies renewed in a higher rating plan during the experience period.

B. Private Passenger Automobile – Assigned Risk

The Company is an excused carrier under the assigned risk Limited Assignment Distribution procedure. Under this procedure groups of

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

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

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 173 private passenger automobile property damage claims reported during the experience period, 50 claim files were selected for review. Of the 50 files requested, 47 files were received and reviewed. The 1 violation was based on 1 file, resulting in an error ratio of 2%.

The following findings were made:

1 Violation Title 31, Pa. Code, Section 146.3

The claim files of an insurer shall be subject to examination by the Commissioner or by duly appointed designees. Such files shall contain all notes and work papers pertaining to the claim in such detail that pertinent events and the dates of such events can be reconstructed. One file did not provide evidence that a claim check had been mailed to the claimant.

B. Automobile Comprehensive Claims

The universe of 27 private passenger automobile comprehensive claims reported during the experience period was selected for review. All 27 files requested were received and reviewed. No violations were noted.

C. Automobile Collision Claims

From the universe of 151 private passenger automobile collision claims reported during the experience period, 75 claim files were selected for review. All 75 files requested were received and reviewed. No violations were noted.

D. Automobile Total Loss Claims

The universe of 17 private passenger automobile total loss claims reported during the experience period was selected for review. All 17 files requested were received and reviewed. The 15 violations were based on 15 files, resulting in an error ratio of 88%.

The following findings were made:

15 Violations Title 31, Pa. Code, Section 62.3(f)(8)

Requires a company to provide a copy of the total loss evaluation sheet to the consumer within five working days after the appraisal is completed. The 15 violations noted were absent any evidence this requirement was complied with.

E. Automobile First Party Medical Claims

From the universe of 383 private passenger automobile first party medical claims reported during the experience period, 75 files were selected for review. The 75 files requested were received and reviewed. The 33 violations noted were based on 33 files, resulting in an error ratio of 44%.

The following findings were made:

33 Violations Title 31, Pa. Code, Section 69.42

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

AND

Title 31, Pa. Code, Section 69.43

Requires an insurer to make payments (a) For Part A providers, the payment shall be 110% of the Medicare reimbursement allowance plus, when applicable, the estimated pass-through costs and applicable cost or day

outliers which are facility specific as calculated by the intermediaries; (b) If a Medicare fee schedule exists, for out-patient, rehabilitation and physician services, insurers shall pay Part A and B providers at 110%. If the Medicare reimbursement allowance is the Medicare aggregate payment, payment shall be 110% of the actual cost based upon the cost-to-charge ratios for each ancillary, out-patient, or other reimbursement cost center service utilized by the insurer; (c) An insurer shall pay the provider's usual and customary charge for services rendered when the charge is less than the 110% of the Medicare payment or a different allowance as may be determined under Title 31, Pa Code, Section 69.12(b). An insurer shall pay 80% of the provider's usual and customary charge rendered if no Medicare payment exists; (d) An insurer shall provide a completed explanation of the calculations made in computing its determination of the amount payable including whether the calculation is based on 110% of the Medicare payment, 80% of the usual and customary charge, or at a different allowance determined by the Pennsylvania Insurance Commissioner under §69.12(b). The 33 violations noted were for failure to have medical bills repriced or adjusted for cost containment.

F. Automobile First Party Medical Claims Referred to a PRO

The Company did not report any First Party Medical claims referred to a peer review organization during the experience period. The Company was requested to supply all signed contracts in place with a peer review organization. The Company indicated they did not have a signed contract in place.

The following finding was made:

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

Requires that a PRO shall contract, in writing, jointly and separately with an insurer for the provision of peer review services.

AND

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

Requires a peer review plan for challenges to reasonableness and necessity of treatment and the insurer shall contract jointly and separately with any peer review organization for the purpose of evaluating treatment, health care services, products or accommodations provided to any injured person. The violation noted was for the failure of the Company to have a contract in place with a Peer Review Organization.

VIII. FORMS

Throughout the course of the examination, all underwriting files were reviewed to identify the policy forms used in order to verify compliance with Insurance Company Law, Section 354 (40 P.S. §477b), Approval of Policies, Contracts, etc., Prohibiting the Use Thereof Unless Approved. During the experience period of the examination, Section 354 provided that it shall be unlawful for any insurance company to issue, sell, or dispose of any policy contract or certificate covering fire, marine, title and all forms of casualty insurance or use applications, riders, or endorsements in connection therewith, until the forms have been submitted to and formally approved by the Insurance Commissioner. All underwriting and claim files were also reviewed to verify compliance with Act 165 of 1994 [18 Pa. CS §4117(k)(1)] and Act 6 of 1990 [75 Pa. CS §1822] which requires all insurers to provide an insurance fraud notice on all applications for insurance, all claims forms and all renewals of coverage. 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 advised there were no methods of advertising subject to the above statutes used during the experience period.

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 a universe of 11 consumer complaints received during the experience period and provided all consumer complaint logs requested. All 11 files were selected and reviewed.

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

The following synopsis reflects the nature of the 11 complaints that were reviewed.

| | | |
|-------|-------------------------|-------|
| • 7 | Cancellation/Nonrenewal | 64% |
| • 2 | Premium Related | 18% |
| • 1 | Claim Related | 9% |
| • 1 | Underwriting | 9% |
| <hr/> | | <hr/> |
| 11 | | 100% |

XI. LICENSING

In order to determine compliance by the Company and its agency force with the licensing requirements applicable to Section 605 (40 P.S. §235) and Section 623 (40 P.S. §253) of the Insurance Department Act, the Company was requested to furnish a list of all active agents during the experience period and a listing of all agents terminated during the experience period. Underwriting files, applications, agency contracts and commission statements were also checked to verify proper licensing and appointment.

The following findings were made:

*5 Violations Insurance Department Act, Section 605 (40 P.S. §235)
Appointment.*

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

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

Open Insurance Corp

Nilien Insurance Services, Inc

J & J Insurance, Inc

A Agency Insurance, Inc

Bernard Gussman d/b/a Broad Street Auto Tags

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.

It is understood that the Company has made a formal plan of withdraw from writing Private Passenger Automobile insurance in the Commonwealth of Pennsylvania. Should the Company decide to re-enter the Commonwealth to write Private Passenger Automobile insurance, it is understood that the following recommendations will be adhered to:

1. The Company should review and revise internal control procedures to ensure compliance with the claims handling requirements of Title 31, Pennsylvania Code, Chapter 146, Unfair Claims Settlement Practices so that the violations noted in the Report do not occur in the future.
2. The Company must review Title 31, Pa. Code, Section 62.3(f)(8) with its claim staff to ensure that total loss appraisals are provided to the claimant with 5 days of completion.
3. The Company must review Title 31, Pa. Code, Section 69.42 and Title 31, Pa Code, Section 69.43 regarding first party medical claim payments that have not been repriced or adjusted for cost containment,
4. The Company must review Title 31, Pa. Code, Section 69.53(b) and Act 1990-6, Title 75, Pa C.S. §1797(b)(1) with its claim staff to ensure that a contract is in place with a Peer Review Organization.

5. The Company must review Title 75, Pa C.S. §1793(b) to ensure that violations regarding the requirement to provide the insured with a surcharge disclosure plan as noted in the Report do not occur in the future.

6. The Company must be sure that all producers are properly appointed to represent the Company.

XIII. COMPANY RESPONSE



Joseph J. Pingatore

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February 20, 2004

Chester A. Derk, Jr.
Market Conduct Division Chief
Commonwealth of Pennsylvania
1321 Strawberry Square
Harrisburg, PA 17120

Re: Examination Warrant Number: 03-M22-006

Dear Mr. Derk,

We have reviewed the Report of Examination of Mutual Service Casualty Insurance Company that you provided to us by letter dated January 28, 2004. We did appreciate the opportunity throughout the course of the examination to discuss the findings and provide our responses.

As the report recognized, our company has made a formal plan of withdrawal from writing auto insurance in Pennsylvania. It was always our intent during that withdrawal to treat policyholders fairly and consistent with Pennsylvania law. The majority of the findings in the exam came from a misunderstanding of the requirements of certain statutes during the withdrawal process.

We have reviewed the recommendations set forth in the report. Our company has no plans on reentering Pennsylvania. However, we do agree with all of the recommendations and would adhere to them if we were ever to reenter Pennsylvania.

Thank you and your staff for the courtesy and cooperation extended to us during the examination.

Sincerely,

JJP/skp

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