

**REPORT OF
MARKET CONDUCT EXAMINATION
OF**

OHIO CASUALTY INSURANCE COMPANY
Fairfield, Ohio

WEST AMERICAN INSURANCE COMPANY
Indianapolis, Indiana

**AS OF
April 4, 2006**

COMMONWEALTH OF PENNSYLVANIA

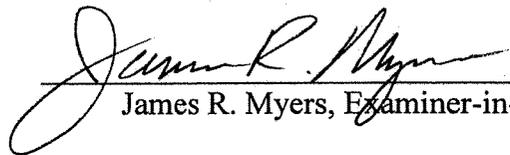


**INSURANCE DEPARTMENT
MARKET CONDUCT DIVISION**

Issued: May 31, 2006

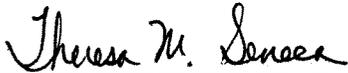
VERIFICATION

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

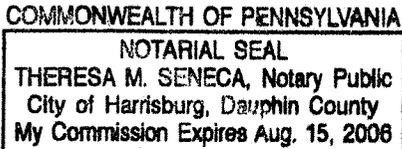

James R. Myers, Examiner-in-Charge

Sworn to and Subscribed Before me

This 26 Day of January, 2006



Notary Public



**OHIO CASUALTY INSURANCE COMPANY
WEST AMERICAN INSURANCE COMPANY**

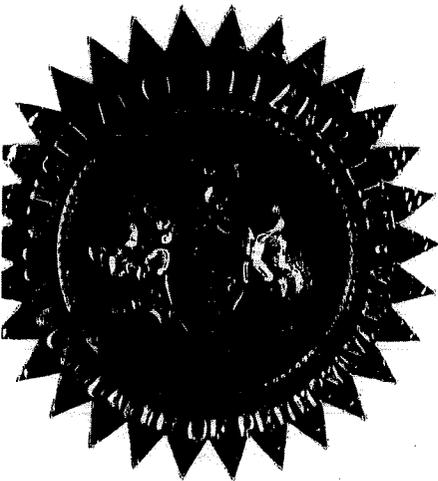
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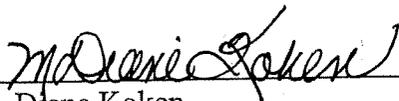
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BEFORE THE INSURANCE COMMISSIONER
OF THE
COMMONWEALTH OF PENNSYLVANIA

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:
	:	
OHIO CASUALTY INSURANCE	:	Sections 641.1-A and 671-A of
COMPANY	:	Act 147 of 2002 (40 P.S. §§ 310.41
WEST AMERICAN INSURANCE	:	and 310.71)
COMPANY	:	
9450 Seward Road	:	Section 903(a) of the Insurance
Fairfield, OH 45014	:	Department Act, Act of May 17, 1921,
	:	1921, P.L. 682, No. 284 (40 P.S.
	:	§ 323.3)
	:	
	:	Act 1990-6, Sections 1716, 1791.1(b),
	:	1799.3(a) and 1799.3(d) (Title 75,
	:	Pa.C.S. §§ 1716, 1791 and 1799)
	:	
	:	Sections 1, 2, 3(a)(2), 3(a)(3),
	:	3(a)(3)(ii), 3(a)(5), 3(a)(6), 4(a),
	:	4(b) and 7(c) of the Act of July 3,
	:	1986, P.L. 396, No. 86 (40 P.S. §§
	:	3401, 3402, 3403, 3404 and 3407)
	:	
	:	Sections 2002(c)(3), 2003(a)(11),
	:	2003(b), 2003(d), 2004, 2006, 2006(1),
	:	(2) and (3), and 2008(b) of Act 68 of
	:	1998 (40 P.S. §§991.2002, 991.2003,
	:	991.2004, 991.2006 and 991.2008)
	:	
	:	Sections 4(a) and 4(h) of the Act of
	:	June 11, 1947, P.L. 538, No. 246
	:	(40 P.S. §§ 1184)
	:	
	:	Section 506.1 of the Insurance
	:	Company Law, Act of May 17, 1921,
	:	P.L. 682, No. 284 (40 P.S. § 636.1)
	:	
	:	Section 653 of the Workers
	:	Compensation Law, Act of June 2,
	:	1915, P.L. 736, No. 338 (40 P.S.
	:	§ 813)
	:	

: Sections 5(a)(4), 5(a)(9), 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), 62.3(e)(1), 62.3(e)(7),
 : 69.22(c), 69.52(b), 113.88, 146.3,
 : 146.5(a), 146.5(d), 146.6, and
 : 146.7(a)(1)
 :
 : Title 18, Pennsylvania Consolidated
 : Statutes, Section 4117(k)(1)
 :
 : Title 75, Pennsylvania Consolidated
 : Statutes, Sections 1161(a)(b) and 1822
 :
 : Sections 16.A.1, 16.A.2 and 16.A.4 of
 : the Pennsylvania Assigned Risk Plan
 :
 Respondent. : Docket No. MC06-05-001

CONSENT ORDER

AND NOW, this 31st day of *MAY*, 2006, this Order is hereby
 issued by the Deputy Insurance Commissioner of the Commonwealth of
 Pennsylvania pursuant to the statutes cited above and in disposition of the matter
 captioned above.

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

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

FINDINGS OF FACT

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

- (a) Respondent is Ohio Casualty Insurance Company and West American Insurance Company, and maintains its address at 9450 Seward Road, Fairfield, Ohio 45014.
- (b) A market conduct examination of Respondent was conducted by the Insurance Department covering the period from July 1, 2003 through June 30, 2004.
- (c) On April 4, 2006, the Insurance Department issued a Market Conduct Examination Report to Respondent.
- (d) A response to the Examination Report was provided by Respondent on May 2, 2006.
- (e) The Examination Report notes violations of the following:

- (i) Section 641.1-A of Act 147 of 2002 prohibits any entity or the appointed agent of any entity from transacting the business of insurance through anyone acting without an insurance producer license (40 P.S. § 310.41a);

- (ii) Section 671-A of Act 147 of 2002 prohibits producers from transacting business within this Commonwealth without written appointment as required by the Act (40 P.S. § 310.71).

- (iii) Section 903(a) of the Insurance Department Act, No. 285 (40 P.S. § 323.3), which requires every company or person subject to examination must keep all books, records, accounts, papers, documents and any or all computer or other recordings relating to its property, assets, business and affairs in such manner and for such time periods as the Department may require, in order that its representatives may ascertain whether the company has complied with the laws of the Commonwealth;

- (iv) Sections 1161(a) and (b) of Title 75, Pa.C.S. (2004 Sup.), states: (a) a person who owns, possesses or transfers a vehicle located or registered in the Commonwealth which qualifies as a salvage vehicle shall make application to the Department for a certificate of salvage, and (b) an owner who transfers a vehicle to be destroyed, dismantled, salvaged or recycled shall assign the

certificate of title to the person to whom the vehicle is transferred. The transferee shall immediately present the assigned certificate of title the Department with an application for a certificate of salvage upon a form furnished by the Department. An insurer to which title to a vehicle is assigned upon payment to the insured or claimant of the replacement value of a vehicle shall be regarded as a transferee;

- (v) Section 1716 of Act 1990-6, Title 75, Pa. C.S. § 1716, which requires that benefits are overdue if not paid within 30 days after the insurer receives reasonable proof of the amount of benefits. If reasonable proof is not supplied as to all benefits, the portion supported by reasonable proof is overdue if not paid within 30 days after the proof is received by the insurer. Overdue benefits shall bear interest at the rate of 12% per annum from the date the benefits become due. In the event the insurer is found to have acted in an unreasonable manner in refusing to pay the benefits when due, the insurer shall pay, in addition to the benefits owed and the interest thereon, a reasonable attorney fee based upon actual time expended;
- (vi) Section 1791.1(b) of Act 1990-6, Title 75, Pa.C.S. § 1791, which requires an insurer to provide an insured with a notice of the availability of two alternatives of full tort insurance and limited tort insurance;
- (vii) Section 1799.3(a) of Act 1990-6, Title 75, Pa.C.S. § 1799, which prohibits

insurers from applying a surcharge, rate penalty or driver record point assignment where, during the preceding three year period, the aggregate cost to the insurer for any person injured or property damaged is determined to be less than \$950 in excess of any self insured retention or deductible applicable to the named insured;

(viii) Section 1799.3(d) of Act 1990-6, Title 75, Pa.C.S. § 1799, which requires insurers who make a determination to impose a surcharge, rate penalty or driver record point assignment, to inform the named insured of the determination and specify the manner in which the surcharge, rate penalty or driver record point assignment was made and clearly identify the amount of the surcharge or rate penalty on the premium notice for as long as the surcharge or rate penalty is in effect;

(ix) 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;

(x) Section 2 of Act 86 (40 P.S. § 3402), 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 termination;

- (xi) 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;
- (xii) Section 3(a)(3) of Act 86 (40 P.S. § 3403), which requires that a cancellation notice be forwarded to the named insured at least 60 days in advance of the effective date of termination;
- (xiii) Section 3(a)(3)(ii) of Act 86 (40 P.S. § 3403), which requires that a midterm cancellation notice shall be forwarded directly to the named insured or insureds at least 60 days in advance of the effective date of termination unless one or more of the following exist: The insured has failed to pay a premium when due, whether the premium is payable directly to the company or its agents or indirectly under a premium finance plan or extension of credit, in which case, the prescribed written notice of cancellation shall be forwarded directly to the named insured at least 15 days in advance of the effective date of termination;
- (xiv) Section 3(a)(5) of Act 86 (40 P.S. § 3403), which requires that a nonrenewal notice shall state the specific reasons for nonrenewal. The reasons shall identify the condition, factor or loss experience which caused the nonrenewal, and the notice shall provide sufficient information or data

for the insured to correct the deficiency;

- (xv) Section 3(a)(6) of Act 86 (40 P.S. § 3403), which requires that a nonrenewal notice shall state that at the insured's request, the insurer shall 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;
- (xvi) Section 4(a) of Act 86 (40 P.S. § 3404), which 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;
- (xvii) Section 4(b) of Act 86 (40 P.S. § 3404), which requires that unearned premium be returned to the insured not later than 30 days after the effective date of termination where commercial property or casualty risks are cancelled in mid-term by the insured;
- (xviii) Section 7(c) of Act 86 (40 P.S. § 3407), which states that this act does not apply to commercial property and casualty insurance policies that are in effect less than 60 days, unless they are renewals. An insurer may cancel the policy provided it gives at least 30 days' notice of the termination and provided it gives notice no later than the 60th day, unless the policy

provides for a longer period of notification;

- (xix) Section 2002(c)(3) of Act 68 (40 P.S. § 991.2003), which requires that an insurer supply the insured with a written statement of the reasons for cancellation;

- (xx) Section 2003(a)(11) of Act 68 (40 P.S. § 991.2003), which prohibits an insurer from canceling or refusing to write or renew a policy of automobile insurance for the following reason: The refusal of another insurer to write a policy or the cancellation or refusal to renew an existing policy by another insurer;

- (xxi) Section 2003(b) of Act 68 (40 P.S. § 991.2003), which prohibits an insurer from canceling or refusing to renew a policy of automobile insurance on the basis of one accident within the 36 month period prior to the upcoming anniversary date of the policy;

- (xxii) Section 2003(d) of Act 68 (40 P.S. § 991.2003), which requires that a nonrenewal notice advise the insured of his right to request in writing that the Insurance Commissioner review the action of the insurer;

- (xxiii) 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;

- (xxiv) Section 2006 of Act 68 of 1998 (40 P.S. § 991.2006), which requires that nonrenewal by an insurer of a policy of automobile insurance shall not be effective unless the insurer delivers or mails to the insured a written notice of the nonrenewal;
- (xxv) Section 2006(1) of Act 68 of 1998 (40 P.S. § 991.2006), which requires that a nonrenewal notice be in a form acceptable to the Insurance Commissioner;
- (xxvi) 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;
- (xxvii) Section 2006(3) 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;

- (xxviii) Section 2008(b) of Act 68 of 1998 (40 P.S. § 991.2008), which requires any applicant for a policy who is refused such policy by an insurer shall be given a written notice of the refusal to write by the insurer. The notice shall state the specific reason or reasons of the insurer for refusal to write a policy for the applicant;
- (xxix) 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;
- (xxx) Section 506.1 of the Insurance Company Law, No. 284 (40 P.S. § 636.1), which states basic property insurance shall be continued 180 days after the death of the named insured on the policy, or until the sale of the property, whichever event occurs first provided that the premiums for the coverage are paid;
- (xxxi) Section 653 of the Workers Compensation Law, No. 338 (40 P.S. § 813), which states that except for nonpayment of premium, no policy of insurance issued or renewed against liability under the Act of June 2, 1915, P.L. 736,

No. 338, may be cancelled or terminated by an insurer during the term of the policy;

(xxxii) Section 5(a)(4) of Act 205 (40 P.S. § 1171.5), which defines as an unfair method of competition or unfair or deceptive acts or practices as entering into any agreement to commit, or by any concerted action committing, any act of boycott, coercion or intimidation resulting in or tending to result in unreasonable restraint of, or monopoly in, the business of insurance;

(xxxiii) Section 5(a)(9) of Act 205 (40 P.S. §1171.5), which defines an unfair act or practice as: (9) cancelling any policy of insurance covering owner-occupied private residential properties or personal property of individuals that has been in force for 60 days or more or refusing to renew any such policy unless the policy was obtained through material misrepresentation, fraudulent statements, omissions or concealment of fact material to the acceptance of the risk or to the hazard assumed by the company; or there has been a substantial change or increase in hazard in the risk assumed by the company subsequent to the date the policy was issued; or there is a substantial increase in hazards insured against by reason of willful or negligent acts or omissions by the insured; or the insured has failed to pay any premium whether such premium is payable directly to the company or its agent or indirectly under any premium finance plan or extension of credit; or for any other reasons approved by the Commissioner pursuant to rules and

regulations promulgated by the Commissioner. No cancellation or refusal to renew by any person shall be effective unless a written notice of the cancellation or refusal to renew is received by the insured whether at the address shown in the policy or at a forwarding address;

(xxxiv) 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;

(xxxv) 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;

(xxxvi) 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 10 days of receipt of the notice of cancellation or intention not to renew, that the Commissioner review the action of the insurer;

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

- (xxxviii) Title 31, Pennsylvania Code, Section 62.3(e)(1), which requires the appraised value of the loss shall be the replacement value of the motor vehicle if the cost of repairing a motor vehicle exceeds its appraised value less salvage value, or the motor vehicle cannot be repaired to its pre-damaged condition. Replacement value under the policy provisions covering the total loss of a motor vehicle including an unrecovered motor vehicle shall be determined by one of the approved methods;
- (xxxix) Title 31, Pennsylvania Code, Section 62.3(e)(7), 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;
- (xxxx) Title 31, Pennsylvania Code, Section 69.22(c), which requires if an insured's first-party limits have been exhausted, the insurer shall, within 30 days of the receipt of the provider's bill, provide notice to the provider and the insured that the first-party benefits have been exhausted;
- (xxxxi) Title 31, Pennsylvania Code, Section 69.52(b), which requires an insurer to make a referral to a PRO within 90 days of the insurer's receipt of sufficient documentation supporting the bill. An insurer shall pay bills for care that are not referred to a PRO within 30 days after the insurer receives sufficient documentation supporting the bill. If an insurer makes its referral after the

30th day and on or before the 90th day, the provider's bill for care shall be paid;

(xxxxii) Title 31, Pennsylvania Code, Section 113.88, which states the reason given for cancellation shall be clear and complete. It shall be stated so that a person of average intelligence and education can understand it. Phrases such as "losses" or "underwriting reasons" are not sufficiently specific reasons for cancellation;

(xxxxiii) 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;

(xxxxiv) Title 31, Pennsylvania Code, Section 146.5(a), which requires every insurer, upon receiving notification of a claim, shall, within 10 working days, acknowledge the receipt of such notice unless payment is made within such period of time. If an acknowledgement is made by means other than writing, an appropriate notation of such acknowledgment shall be made in the claim file of the insurer and dated. Notification given to an agent of an insurer shall be notification to the insurer, dating from the time the insurer receives notice;

(xxxxv) Title 31, Pennsylvania Code, Section 146.5(d), requires an insurer, upon receiving notification of a claim, shall provide within ten working days necessary claim forms, instructions and reasonable assistance so that first-party claimants can comply with policy conditions and reasonable requirements of the insurer;

(xxxxvi) 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;

(xxxxvii) 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;

(xxxxviii) Title 18, Pennsylvania Consolidated Statutes, Section 4117(k)(1), which requires all applications for insurance and all claim forms shall contain or have attached thereto the following notice: "Any person who knowingly and with intent to defraud any insurance company or other person files an application for insurance or statement of claim containing any materially false information or conceals for the purpose of misleading, information concerning any fact material thereto commits a fraudulent insurance act, which is a crime and subjects such person to criminal and civil penalties."

(xxxxix) Title 75, Pennsylvania Consolidated Statutes, Section 1822, which requires not later than May 1, 1990, all applications for insurance, renewals and claim forms shall contain a statement that clearly states, in substance, the following: Any person who knowingly and with intent to injure or defraud any insurer files an application or claim containing any false, incomplete or misleading information shall, upon conviction, be subject to imprisonment for up to seven years and payment of a fine of up to \$15,000.00;

(xxxxx) Pennsylvania Assigned Risk Plan, Section 16.A(1), which states that, upon determination that an applicant does not qualify for a clean risk rate, the designated company shall notify the insured of the reason for this determination and issue the policy at other-than-clean risk rates;

(xxxxxi) Pennsylvania Assigned Risk Plan, Section 16.A(2), which states that renewal premium quotations will be made as stipulated in the Plan rules 30 days prior to the renewal effective date; and

(xxxxxii) Pennsylvania Assigned Risk Plan, Section 16.A(4), which states that, at least 60 calendar days prior to the expiration date of the final renewal, the company shall notify the insured that the period of assignment under the Plan will terminate on said expiration date.

CONCLUSIONS OF LAW

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

- (a) Respondent is subject to the jurisdiction of the Pennsylvania Insurance Department.
- (b) Respondent's violations of Sections 641.1-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 (40 P.S. §§ 3401, 3402, 3403, 3404 and 3407), 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 2002, 2003, 2004, 2006 and 2008 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 Section 506.1 of The Insurance Company Law (40 P.S. § 636.1) are punishable by the following, under 40 P.S. § 481: Any person, company, corporation or association violating the provisions of this act shall, upon conviction, be sentenced to pay a fine of not less than \$500 or more than \$1,000; or such person or members or officers of any corporation or company responsible for the violation shall be imprisoned in the county jail for a term of not less than six months or more than one year, or by both such fine and imprisonment, in the discretion of the court;

(g) Respondent's violations of Sections 5(a)(4) and 5(a)(9) of the Unfair Insurance Practices Act, No. 205 (40 P.S. §§ 1171.5) are punishable by the following, under Section 9 of the Unfair Insurance Practices Act (40 P.S. § 1171.9):

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

- (h) 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).
- (i) Respondent's violations of Title 31, Pennsylvania Code, Chapter 146 are punishable under Sections 9, 10 and 11 of the Unfair Insurance Practices Act (40 P.S. §§ 1171.9, 1171.10 and 1171.11), as stated above.

ORDER

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

- (a) Respondent shall cease and desist from engaging in the activities described herein in the Findings of Fact and Conclusions of Law.
- (b) Respondent shall file an affidavit stating under oath that it will provide each of its directors, at the next scheduled directors meeting, a copy of the adopted Report and related Orders. Such affidavit shall be submitted within thirty (30) days of the date of this Order.
- (c) Respondent shall comply with all recommendations contained in the attached Report.
- (d) Respondent shall pay Eighty-Five Thousand Dollars (\$85,000.00) 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, 1227 Strawberry Square, Harrisburg, Pennsylvania 17120. Payment must be made no later than thirty (30) days after the date of this Order.

6. In the event the Deputy Insurance Commissioner finds that there has been a breach of any of the provisions of this Order, based upon the Findings of Fact and

Conclusions of Law contained herein may pursue any and all legal remedies available, including but not limited to the following: The Deputy Insurance Commissioner may enforce the provisions of this Order in the Commonwealth Court of Pennsylvania or in any other court of law or equity having jurisdiction; or the Deputy Insurance Commissioner may enforce the provisions of this Order in an administrative action pursuant to the Administrative Agency Law, supra, or other relevant provision of law.

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

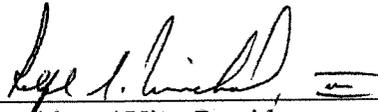
8. In any such enforcement proceeding, Respondent may contest whether a breach of the provisions of this Order has occurred but may not contest the Findings of Fact and Conclusions of Law contained herein.

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

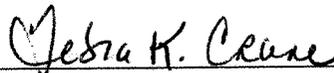
10. This Order constitutes the entire agreement of the parties with respect to the matters referred to herein, and it may not be amended or modified except by an amended order signed by all the parties hereto.

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

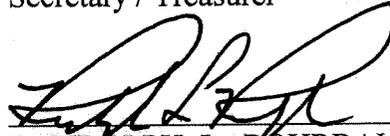
BY: OHIO CASUALTY INSURANCE
COMPANY, WEST AMERICAN
INSURANCE COMPANY, Respondent



President / ~~Vice President~~



Secretary / ~~Treasurer~~



RANDOLPH L. ROHRBAUGH
Deputy Insurance Commissioner
Commonwealth of Pennsylvania

I. INTRODUCTION

The Market Conduct Examination was conducted at Ohio Casualty Insurance Company and West American Insurance Company offices located in Cincinnati, Ohio, from August 1, 2005 to September 30, 2005. Subsequent review and follow-up was conducted in the office of the Pennsylvania Insurance Department.

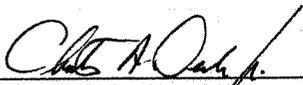
Pennsylvania Market Conduct Examination Reports generally note only those items to which the Department, after review, takes exception. However, the Examination Report may include management recommendations addressing areas of concern noted by the Department, but for which no statutory violation was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

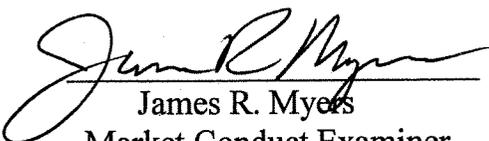
Throughout the course of the examination, Company officials were provided with status memoranda, which referenced specific policy numbers with citation to each section of law violated. Additional information was requested to clarify apparent violations. An exit conference was conducted with Company personnel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

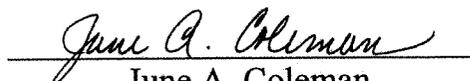
The undersigned participated in this examination and in preparation of this Report.



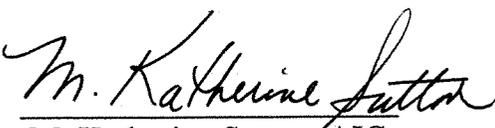
Chester A. Derk, Jr., AIE, HIA
Market Conduct Division Chief



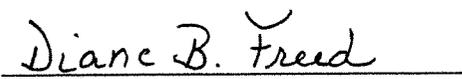
James R. Myers
Market Conduct Examiner



June A. Coleman
Market Conduct Examiner



M. Katherine Sutton, AIC
Market Conduct Examiner



Diane B. Freed
Market Conduct Examiner

II. SCOPE OF EXAMINATION

The Market Conduct Examination was conducted on Ohio Casualty Insurance Company and West American Insurance Company, hereinafter referred to as "Company," at their offices in Cincinnati, Ohio. The examination was conducted pursuant to Sections 903 and 904 [40 P.S. §§323.3 and 323.4] of the Insurance Department Act and covered the experience period of July 1, 2003 through June 30, 2004, 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 60-day cancellations, midterm cancellations and nonrenewals.
- Rating - Proper use of all classification and rating plans and procedures.

2. Assigned Risk

- Underwriting – Appropriate and timely notices of midterm cancellations and nonrenewals.
- Rating – Proper use of all classification and rating plans and procedures.

3. Personal Lines Property

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

4. Dwelling Fire

- Rating – Proper use of all classification and rating plans and procedures.

5. Commercial Automobile

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

6. Commercial Property

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

7. Workers' Compensation

- Underwriting – Appropriate and timely notices of midterm cancellations and nonrenewals.

8. Claims

9. Forms

10. Advertising

11. Complaints

12. Licensing

III. COMPANY HISTORY

Ohio Casualty Insurance Company was incorporated November 6, 1919 under the laws of Ohio and began business on March 1, 1920. On November 10, 1960, a wholly-owned fire and casualty subsidiary, The Ohio Insurance Company, sponsored and organized in 1925, was converted to a legal reserve life insurance company under the title, The Ohio Life Insurance Company. Two other subsidiaries, West American Insurance Company of Anaheim, California, and Ohio Security Insurance Company, Hamilton, Ohio, were acquired in 1945 and 1962, respectively. The Company acquired complete ownership of the American Fire and Casualty Company, Orlando, Florida, effective August 27, 1969. The Company moved its corporate headquarters from Hamilton, Ohio to Fairfield, Ohio in 2001.

The original West American Insurance Company, sponsored by interests identified with the Commercial Discount Company and incorporated on May 9, 1923 under the laws of California as The Commercial Insurance Company, commenced business on May 26, 1923. The title of the Company was changed to West American Commercial Insurance Company on November 13, 1928 and for brevity to its present form on October 12, 1931. Effective May 31, 1995, West American re-domiciled from California to Indiana and merged into the inactive Butler Insurance Company, which was incorporated on September 6, 1991 for the purpose of facilitating the re-domestication of West American. Simultaneously, the name was changed to West American Insurance Company. The Company's administrative offices are located in Fairfield, Ohio.

IV. LICENSING

Ohio Casualty Insurance Company's Certificate of Authority to write business in the Commonwealth was last issued on April 1, 2005. The Company is licensed in all states and District of Columbia excluding California. The Company's 2004 annual statement reflects Direct Written Premium for all lines of business in the Commonwealth of Pennsylvania as \$38,450,396. Premium volume related to the areas of this review were: Fire \$900,671; Homeowners' Multiple Peril \$1,775,606; Commercial Multiple Peril (non-liability portion) \$2,058,308; Commercial Multiple Peril (liability portion) \$1,896,896; Inland Marine \$995,866; Workers' Compensation \$4,440,953; Private Passenger Automobile Direct Written Premium was reported as Private Passenger Auto No-Fault (personal injury protection) \$724,080; Private Passenger Auto Liability \$2,586,838 and Private Passenger Auto Physical Damage \$1,820,368; Commercial Automobile Direct Written Premium was reported as Commercial Auto No-Fault (personal injury protection) \$203,366; Other Commercial Auto Liability \$4,113,005 and Commercial Auto Physical Damage \$1,689,968.

West American Insurance Company of America's Certificate of Authority to write business in the Commonwealth was last issued on April 1, 2005. The Company is licensed in all states and District of Columbia excluding California, Hawaii, Maine and Vermont. The Company's 2004 annual statement reflects Direct Written Premium for all lines of business in the Commonwealth of Pennsylvania as \$71,441,603. Premium volume related to the areas of this review were: Fire \$590,560; Homeowners' Multiple Peril \$14,009,080; Commercial Multiple Peril (non-liability portion) \$8,300,384; Commercial Multiple Peril (liability portion) \$6,148,553; Inland Marine \$345,282; Workers' Compensation \$2,271,958; Private Passenger Automobile Direct Written Premium was reported as Private Passenger Auto No-Fault (personal injury protection) \$3,958,563; Private Passenger Auto

Liability \$14,750,549 and Private Passenger Auto Physical Damage \$11,623,616; Commercial Automobile Direct Written Premium was reported as Commercial Auto No-Fault (personal injury protection) \$281,517; Other Commercial Auto Liability \$5,174,073 and Commercial Auto Physical Damage \$2,036,273.

V. UNDERWRITING PRACTICES AND PROCEDURES

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

The following findings were made:

Ohio Casualty Insurance Company

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

Unfair Methods of Competition and Unfair or Deceptive Acts or Practices Defined. Entering into any agreement to commit, or by any concerted action committing, any act of boycott, coercion or intimidation resulting in or tending to result in unreasonable restraint of, or monopoly in, the business of insurance. The Company required supporting coverage stating "Seasonal & secondary dwelling can only be written with the primary dwelling as collateral."

West American Insurance Company

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

Unfair Methods of Competition and Unfair or Deceptive Acts or Practices Defined. Entering into any agreement to commit, or by any concerted action committing, any act of boycott, coercion or intimidation resulting in or tending to result in

unreasonable restraint of, or monopoly in, the business of insurance. The Company required supporting coverage stating “Seasonal & secondary dwelling can only be written with the primary dwelling as collateral.”

VI. UNDERWRITING

A. Private Passenger Automobile

1. 60-Day Cancellations

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

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

From the universe of 325 private passenger automobile policies that were cancelled within the first 60 days of new business, 65 files were selected for review. All 65 files requested were received and reviewed. The four (4) violations noted were based on four (4) files, resulting in an error ratio of six percent (6%).

The following findings were made:

Ohio Casualty Insurance Company

1 Violation Act 68, Section 2003(a)(11) [40 P.S. §991.2003(a)(11)]

Discrimination Prohibited – (a) An insurer may not cancel or refuse to write or renew a policy of automobile insurance for the following reason: The refusal of another insurer to write a policy or the cancellation or refusal to renew an existing

policy by another insurer. The file noted was cancelled for other than permitted reasons.

1 Violation Act 68, Section 2006(2) [40 P.S. §991.2006(2)]

Requires an insurer to deliver or mail to the named insured a cancellation 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 nonpayment of premium, the effective date may be fifteen (15) days from the date of mailing or delivery. The violation noted resulted in cancellation notices that did not provide the required notice of 15 days from the date of mailing.

1 Violation Act 68, Section 2002(c)(3) [40 P.S. §991.2003(c)(3)]

Requires that an insurer supply the insured with a written statement of the reason for cancellation.

AND

Insurance Department Act, Section 903(a) [40 P.S. §323.3]

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. The file noted did not contain a record of cancellation or documentation that the notice of cancellation was sent.

West American Insurance Company

1 Violation Act 68, Section 2008(b) [40 P.S. §991.2008(b)]

Any applicant for a policy who is refused such policy by an insurer shall be given a written notice of refusal to write by the insurer. Such notice shall state the specific reason or reasons of the insurer for refusal to write a policy for the applicant. Within 30 days of the receipt of such reasons, the applicant may request in writing to the Insurance Commissioner that he review the action of the insurer in refusing to write a policy for the applicant. The violation noted was a result of the Company not providing a specific reason for cancellation.

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 2,297 private passenger automobile policies, which were cancelled midterm during the experience period, 175 files were selected for review. All 175 files requested were received and reviewed. Of the 175 policies reviewed, 11 were identified as 60-day cancellations. The 12 violations noted were based on 12 files, resulting in an error ratio of seven percent (7%).

The following findings were made:

Ohio Casualty Insurance Company

5 Violations Act 68, Section 2008(b) [40 P.S. §991.2008(b)]

Any applicant for a policy who is refused such policy by an insurer shall be given a written notice of refusal to write by the insurer. Such notice shall state the specific reason or reasons of the insurer for refusal to write a policy for the applicant. Within 30 days of the receipt of such reasons, the applicant may request in writing to the Insurance Commissioner that he review the action of the insurer in refusing to write a policy for the applicant. The files noted were cancelled within the first 60 days and contained notices which did not provide the appeal information as required.

1 Violation 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 file noted was cancelled for other than permitted reasons.

West American Insurance Company

6 Violations Act 68, Section 2008(b) [40 P.S. §991.2008(b)]

Any applicant for a policy who is refused such policy by an insurer shall be given a written notice of refusal to write by the insurer. Such notice shall state the specific reason or reasons of the insurer for refusal to write a policy for the applicant. Within 30 days of the receipt of such reasons, the applicant may request in writing to the Insurance Commissioner that he review the action of the insurer in refusing to write a policy for the applicant. The files noted were cancelled within the first 60 days and contained notices which did not provide the appeal information as required.

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 268 private passenger automobile policies which were nonrenewed during the experience period, 92 files were selected for review. All 92 files requested were received and reviewed. Of the 92 files reviewed, six (6) files were identified as midterm cancellations. The 26 violations noted were based on 24 files, resulting in an error ratio of 26%.

The following findings were made:

Ohio Casualty Insurance Company

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

Requires that no insurer shall cancel a policy of automobile insurance except for nonpayment of premium, suspension or revocation of the named insured's driver license or motor vehicle registration or a determination that the insured has concealed a material fact or has made a material allegation contrary to fact or has made a misrepresentation of material fact and that such concealment, allegation or misrepresentation was material to the acceptance of the risk by the insurer. The two (2) files noted were cancelled for other than permitted reasons.

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

Requires that a cancellation or refusal to write or renew by an insurer of a policy of insurance must be in a form acceptable to the Insurance Commissioner. The file noted contained a New Jersey nonrenewal form.

2 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 nonpayment of premium, the effective date may be fifteen (15) days from the date of mailing or delivery. The

two (2) files noted contained nonrenewal notices that did not provide the required notice 60 days from the date of mailing.

1 Violation Act 68, Section 2006(3) [40 P.S. §991.2006(3)]

Requires an insurer to give proper notice of intent to nonrenew. The notice shall state the specific reason or reasons for the nonrenewal. The violation noted was the result of not providing specific dates of accidents on the nonrenewal notice.

West American Insurance Company

9 Violations 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 nine (9) files noted were the result of nonrenewal notices being issued that did not provide offers to write the insureds direct.

4 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 four (4) files noted were cancelled for other than permitted reasons.

7 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 nonpayment of premium, the effective date may be fifteen (15) days from the date of mailing or delivery. The seven (7) files noted contained nonrenewal notices that did not provide the required notice 60 days from the date of mailing.

B. Private Passenger Automobile – Assigned Risk

Ohio Casualty 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 Manual.

From the universe of 179 private passenger automobile assigned risk policies cancelled midterm during the experience period, 50 files were selected for review. All 50 files requested 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 Manual.

From the universe of 45 assigned risk private passenger automobile policies which were nonrenewed during the experience period, 20 files were selected for review. All 20 files requested were received and reviewed. The 23 violations were based on 18 files, resulting in an error ratio of 90%.

The following findings were made:

Ohio Casualty Insurance Company

5 Violations PA Assigned Risk Plan, Section 16A(2)

Requires the renewal premium quotations be made as stipulated in the Plan rules (30 days prior to the renewal effective date). The five (5) violations noted were for failure to provide premium quotations at least 30 days prior to expiration.

18 Violations Insurance Department Act, Section 903(a) [40 P.S. §323.3]
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. The 18 violations noted were for failure of files not containing take out notices.

C. Personal Lines Property

1. 60-Day Cancellations

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

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

From the universe of 331 personal property policies which were cancelled within the first 60 days of new business during the experience period, 110 files were selected for review. Of the 110 files requested, 107 files were received and reviewed. The 30 violations noted were based on 26 files, which resulted in an error ratio of 24%.

The following findings were made:

Ohio Casualty Insurance Company

2 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 two (2) violations noted were the result of cancellation notices being issued that did not provide the required thirty days.

18 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 18 violations noted were the result of cancellation notices being issued without the required information.

West American Insurance Company

8 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 eight (8) violations noted were the result of cancellation notices being issued without the required right of review by the Insurance Commissioner.

2 Violations Title 31, Pa. Code, Section 59.9(b)

Provides an insurer may cancel a policy in the first 60 days but must provide a notice of cancellation to the insured. The two (2) violations noted were the result of the Company not providing a cancellation notice to the insured.

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 1,142 personal property policies which were cancelled midterm during the experience period, 259 files were selected for review. The files consisted of homeowners, tenant homeowners, owner occupied dwelling fire, inland marine and boat policies. All 259 files were received and reviewed. Of the 259 policies reviewed, 174 were identified as nonrenewals. The ten (10) violations noted were based on nine (9) files, which resulted in an error ratio of three percent (3%).

The following findings were made:

Ohio Casualty Insurance Company

1 Violation 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 violation noted was the result of a cancellation notice being issued that did not provide the required thirty days.

1 Violation Insurance Company Law, Section 506.1 [40 P.S. §636.1]

After-Death Continuation of Basic Property Insurance. (a) Basic property insurance shall be continued one hundred and eighty days after the death of the named insured on the policy or until the sale of the property, whichever event occurs first provided that the premiums for the coverage are paid. The Company did not provide adequate documentation to determine compliance.

West American Insurance Company

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

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

increase in hazards insured against by reason of willful or negligent acts or omissions by the insured; or the insured has failed to pay any premium when due or for any other reasons approved by the Commissioner. The six (6) violations noted were the result of an improper reason to nonrenew the policy.

1 Violation Act 205, Section 5(a)(9)(i) [40 P.S. §1171.5(a)(9)(i)]
Prohibits a cancellation or refusal to renew by any person to be effective unless a written notice of the cancellation or refusal to renew is received by the insured either at the address shown in the policy or at a forwarding address. Such notice shall: (i) Be approved as to form by the Insurance Commissioner prior to use. The violation noted was the result of the file containing an unapproved notice.

1 Violation 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 violation noted was the result of a cancellation notice being issued that did not provide the required thirty days.

3. Nonrenewals

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

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

cancellation of a policy is permissible along with the form requirements of the nonrenewal notice.

From the universe of 368 personal property policies which were nonrenewed during the experience period, 178 files were selected for review. The files consisted of homeowners, tenant homeowners, owner occupied dwelling fire, inland marine and boat policies. All 178 files were received and reviewed. The 150 violations noted were based on 149 files, resulting in an error ratio of 84%.

The following findings were made:

Ohio Casualty Insurance Company

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

Unfair Methods of Competition and Unfair or Deceptive Acts or Practices Defined. Entering into any agreement to commit, or by any concerted action committing, any act of boycott, coercion or intimidation resulting in or tending to result in unreasonable restraint of, or monopoly in, the business of insurance. The two (2) violations noted were a result of the Company requiring supporting coverage.

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

Prohibits canceling any policy of insurance covering owner-occupied private residential properties or personal property of individuals that has been in force for sixty days or more or refusing to renew any such policy unless the policy was obtained through material misrepresentation, fraudulent statements, omissions or concealment of fact material to the

acceptance of the risk or to the hazard assumed by the company; or there has been a substantial change or increase in hazard in the risk assumed by the company subsequent to the date the policy was issued; or there is a substantial increase in hazards insured against by reason of willful or negligent acts or omissions by the insured; or the insured has failed to pay any premium when due or for any other reasons approved by the Commissioner. The 23 violations noted were the result of an improper reason to nonrenew the policy.

West American Insurance Company

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

Unfair Methods of Competition and Unfair or Deceptive Acts or Practices Defined. Entering into any agreement to commit, or by any concerted action committing, any act of boycott, coercion or intimidation resulting in or tending to result in unreasonable restraint of, or monopoly in, the business of insurance. The three (3) violations noted were a result of the Company requiring supporting coverage.

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

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

in hazard in the risk assumed by the company subsequent to the date the policy was issued; or there is a substantial increase in hazards insured against by reason of willful or negligent acts or omissions by the insured; or the insured has failed to pay any premium when due or for any other reasons approved by the Commissioner. Of the 115 violations noted, 111 were the result of the Company nonrenewing because the producer no longer represents the Company. One violation was the result of the Company nonrenewing because an employee discount was ineligible. The remaining three (3) violations noted were the result of the Company not providing a notice of nonrenewal to the insured.

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

Prohibits canceling any policy of insurance covering owner-occupied private residential properties or personal property of individuals that has been in force for sixty days or more or refusing to renew any such policy unless the policy was obtained through material misrepresentation, fraudulent statements, omissions or concealment of fact material to the acceptance of the risk or to the hazard assumed by the company; or there has been a substantial change or increase in hazard in the risk assumed by the company subsequent to the date the policy was issued; or there is a substantial increase in hazards insured against by reason of willful or negligent acts or omissions by the insured; or the insured has failed to pay any premium when due or for any other reasons approved by the Commissioner.

AND

Adjudication: Mohanal/Lebanon Mutual, P95-08-048 (1998)

When the insurer notifies its agent of an allegedly hazardous condition on the insureds' property together with recommendations to correct the condition but does not notify the insureds, a cancellation based upon a failure to comply with the recommendations violates Act 205. The five (5) violations noted were the result of the Company not notifying the insured of recommendations and or the required underwriting information.

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

Prohibits a cancellation or refusal to renew by any person to be effective unless a written notice of the cancellation or refusal to renew is received by the insured either at the address shown in the policy or at a forwarding address. Such notice shall: (i) Be approved as to form by the Insurance Commissioner prior to use. The two (2) violations noted were the result of the files containing unapproved notices.

D. Commercial Automobile

1. 60-Day Cancellations

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

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

From the universe of 63 commercial automobile identified by the Company as being cancelled within the first 60 days of new business, 45 files were selected for review. All 45 files requested were received and reviewed. The five (5) violations noted were based on five (5) files, resulting in an error ratio of 11%.

The following finding was made:

Ohio Casualty Insurance Company

2 Violations Act 86, Section 7(c) [40 P.S. §3407(c)]

Requires that an insurer may cancel the policy provided it gives at least 30 days' notice of the termination and provided it gives notice no later than the 60th day, unless the policy provides for a longer period of notification. The two (2) violations noted were the result of the Company not providing evidence of how and why the policies were cancelled.

West American Insurance Company

3 Violations Act 86, Section 7(c) [40 P.S. §3407(c)]

Requires that an insurer may cancel the policy provided it gives at least 30 days' notice of the termination and provided it gives notice no later than the 60th day, unless the policy provides for a longer period of notification. The three (3) violations noted were the result of the Company not providing evidence of how and why the policies were cancelled.

2. Midterm Cancellations

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

The purpose of the review was to determine compliance with Act 86, Section 2 [40 P.S. §3402], which prohibits cancellation except for specified reasons and Section 3 [40 P.S. §3403], which establishes the requirements, which must be met regarding the form and condition of the cancellation notice.

From the universe of 689 commercial automobile policies which were cancelled midterm during the experience period, 80 were selected for review. All 80 files requested were received and reviewed. The 18 violations noted were based on 16 files, resulting in an error ratio of 20%.

The following findings were made:

Ohio Casualty Insurance Company

1 Violation Act 86, Section 2 [40 P.S. §3402]

Grounds for cancellation. Canceling in midterm a policy of insurance covering commercial property and casualty risks is prohibited for any reason other than those enumerated under this section. The violation noted was a result of the Company cancelling a policy for other than permitted reasons.

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

Requires that a Midterm cancellation notice shall be forwarded directly to the named insured or insureds at least 60 days in advance of the effective date of termination unless one or more of the following exist: The insured has failed to pay a premium when due, whether the premium is payable directly to the company or its agents or indirectly under a

premium finance plan or extension of credit, in which case, the prescribed written notice of cancellation shall be forwarded directly to the named insured at least 15 days in advance of the effective date of termination. The Company did not provide the required 15 days notice for nonpayment of premium for the two (2) files noted.

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

Requires that a cancellation notice shall state that at the insured's request, the insurer shall provide loss information to the insured for at least three years or the period of time during which the insurer has provided coverage to the insured, whichever is less. The two (2) files noted were absent of the required loss of information.

6 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 six (6) files noted were the result of the Company not providing the refund to the insureds within 30 days after the effective date of termination.

West American Insurance Company

1 Violation Act 86, Section 2 [40 P.S. §3402]

Grounds for cancellation. Canceling in midterm a policy of insurance covering commercial property and casualty risks is prohibited for any reason other than those enumerated under

this section. The file noted was cancelled for other than permitted reasons.

6 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 six (6) files noted were the result of the Company not providing the refund to the insureds 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.

From the universe of 106 commercial automobile policies identified as nonrenewals by the Company during the experience period, 40 files were selected for review. All 40 files requested were received and reviewed. The six (6) violations noted were based on six (6) files, resulting in an error ratio of 15%.

The following findings were made:

Ohio Casualty Insurance Company

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 violation noted was the result of the Company not providing at least 60 days advance notice of the effective date of termination.

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

Requires that a cancellation notice shall state the specific reasons for cancellation. The reasons shall identify the condition, factor or loss experience, which caused the cancellation. 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 cancellation shall be clear and complete. It shall be stated so that a person of average intelligence and education can understand it. Phrases such as “losses” or “underwriting reasons” are not sufficiently specific reasons for cancellation. The two (2) files noted were absent of a specific reason for nonrenewal.

West American Insurance Company

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

Requires that a cancellation notice shall state the specific reasons for cancellation. The reasons shall identify the condition, factor or loss experience, which caused the

cancellation. 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 cancellation shall be clear and complete. It shall be stated so that a person of average intelligence and education can understand it. Phrases such as “losses” or “underwriting reasons” are not sufficiently specific reasons for cancellation. The three (3) files noted were absent of a specific reason for nonrenewal.

4. Renewals

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

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

From the universe of 2,618 commercial automobile policies which were renewed by the Company during the experience period, 100 files were selected for review. All 100 files requested were received and reviewed. The eight (8) violations noted were based on eight (8) files, resulting in an error ratio of eight percent (8%).

The following findings were made:

Ohio Casualty Insurance Company

5 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. Of the five (5) violations noted, four (4) were the result of the Company not providing a 30 day notice to the insured of an increase in premium. The remaining one (1) violation noted was the result of the Company providing a notice of nonrenewal that was less than 30 days.

West American Insurance Company

3 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. Of the three (3) violations noted, two (2) were the result of the Company not providing a 30 day notice to the insured of an increase in premium. The remaining one (1) violation noted was the result of the Company providing a notice of nonrenewal to the insured that was less than 30 days.

E. Commercial Property

1. 60-Day Cancellations

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

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

From the universe of 139 commercial property policies which were cancelled within the first 60 days of new business during the experience period, 102 files were selected for review. The commercial property files consisted of commercial inland marine, commercial property, commercial package and tenant occupied dwelling fire policies. All 102 files requested were received and reviewed. The two (2) violations noted were based on two (2) files, resulting in an error ratio of two percent (2%).

The following finding was made:

West American Insurance Company

2 Violations Act 86, Section 7(c) [40 P.S. §3407(c)]

Requires that an insurer may cancel the policy provided it gives at least 30 days' notice of the termination and provided it gives notice no later than the 60th day, unless the policy provides for a longer period of notification. The two (2) violations noted were the result of the Company failing to provide 30 days notice of cancellation.

2. Midterm Cancellations

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

The purpose of the review was to determine compliance with Act 86, Section 2 [40 P.S. §3402], which prohibits cancellation except for specified reasons and Section 3 [40 P.S. §3403], which establishes the requirements, which must be met regarding the form and condition of the cancellation notice.

From the universe of 1,147 commercial property policies identified as midterm cancellations by the Company, 219 files were selected for review. The commercial files consisted of commercial inland marine, commercial fire, commercial package, business owners and tenant occupied dwelling fire policies. All 219 files requested were received and reviewed. The 17 violations noted were based on 16 files, resulting in an error ratio of seven percent (7%).

The following findings were made:

Ohio Casualty Insurance Company

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

Requires that a cancellation notice must be forwarded to the named insured or insureds at least 60 days in advance of the effective date of termination. The Company terminated the tenant occupied dwelling fire policy without providing at least 60 days advance notice of the effective date of termination for the violation noted.

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

Requires that a cancellation notice shall state that at the insured's request, the insurer shall provide loss information to the insured for at least three years or the period of time during which the insurer has provided coverage to the insured, whichever is less. The file noted was absent of the required loss of information.

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 refund the insured within 10 business days after the effective date of termination for the file noted.

4 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 refund the insureds within 30 days after the effective date of termination for the four (4) files noted.

West American Insurance Company

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 refund the insured within 10 business days after the effective date of termination for the file noted.

9 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 refund the insureds within 30 days after the effective date of termination for the nine (9) files noted.

3. Nonrenewals

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

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

From the universe of 186 commercial property policies identified as nonrenewals by the Company, 107 files were selected for review. The commercial files consisted of commercial inland marine, commercial property, commercial package, business owners and tenant occupied dwelling fire policies. All 107 files requested were received and reviewed. Of the 107 files reviewed, five (5) files were identified as midterm cancellations. The 53 violations were based on 48 files, resulting in an error ratio of 45%.

The following findings were made:

Ohio Casualty Insurance Company

1 Violation Act 86, Section 2 [40 P.S. §3402]

Grounds for cancellation. Canceling in midterm a policy of insurance covering commercial property and casualty risks is prohibited for any reason other than those enumerated under this section. The file noted was cancelled for other than permitted reasons.

3 Violations 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.

AND

Pursell/Goschenhoppen Mutual, PH91-11-24 (1992).

When computing the thirty-day time period required for notice of cancellation under Act 205, the first and thirtieth terminal days must be excluded from the calculation. The Company did not provide at least 60 days advance notice of the effective date of termination for the three (3) files noted.

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

Requires that a cancellation notice shall state the specific reasons for cancellation. The reasons shall identify the condition, factor or loss experience, which caused the cancellation. 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 cancellation shall be clear and complete. It shall be stated so that a person of average intelligence and education can understand it. Phrases such as “losses” or “underwriting reasons” are not sufficiently specific reasons for cancellation. The seven (7) files noted were absent of a specific reason for nonrenewal.

18 Violations 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 18 files noted were absent of the offer of loss information.

West American Insurance Company

7 Violations 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.

AND

Pursell/Goschenhoppen Mutual, PH91-11-24 (1992).

When computing the thirty-day time period required for notice of cancellation under Act 205, the first and thirtieth terminal days must be excluded from the calculation. The Company did not provide at least 60 days advance notice of the effective date of termination for the seven (7) files noted.

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

Requires that a cancellation notice shall state the specific reasons for cancellation. The reasons shall identify the condition, factor or loss experience, which caused the cancellation. 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 cancellation shall be clear and complete. It shall be stated so that a person of average intelligence and education can understand it. Phrases such as “losses” or “underwriting reasons” are not sufficiently specific reasons for cancellation. The five (5) files noted were absent of a specific reason for nonrenewal.

12 Violations 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 12 files noted were absent of the offer of loss information.

4. Renewals

A renewal is considered to be any policy, which was previously written by the Company and renewed on the normal twelve-month anniversary date. The purpose of the review was to measure compliance with Act 86, Section 1 [40 P.S. §3401], which requires 30 days advance notice of an increase in renewal premium.

From the universe of 9,551 commercial property policies which were renewed by the Company during the experience period, 295 files were selected for review. The commercial property files consisted of commercial inland marine, commercial property, commercial package and tenant occupied dwelling fire policies. All 295 files requested were received and reviewed. The 11 violations noted were based on 11 files, resulting in an error ratio of four percent (4%).

The following finding was made:

Ohio Casualty Insurance Company

5 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 failed to provide 30 days notice to the named insureds in the five (5) violations noted.

West American Insurance Company

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 failed to provide 30 days notice to the named insureds in the six (6) violations noted.

F. Workers' Compensation

1. Midterm Cancellations

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

The purpose of the review was to determine compliance with Insurance Company Law, Section 653 [40 P.S. §813], which prohibits midterm cancellation with exceptions for nonpayment of premium or by request of the insured.

From the universe of 249 workers' compensation policies identified as midterm cancellations by the Company during the experience period, 50 files were selected for review. All 50 files requested were received and reviewed. The three (3) violations were based on three (3) files, resulting in an error ratio of six percent (6%).

The following findings were made:

Ohio Casualty Insurance Company

3 Violations Insurance Company Law, Section 653 [40 P.S. §813]

Except for nonpayment of premium, no policy of insurance issued or renewed against liability under the Act of June 2, 1915 (P.L. 736, No. 338), known as the Pennsylvania Workers' Compensation Act, may be cancelled or terminated by an insurer during the term of the policy. The three (3) violations noted were cancelled for an improper reason.

2. Nonrenewals

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

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

The universe of 47 workers' compensation policies identified as nonrenewals by the Company during the experience period was selected for review. All 47 files requested were received and reviewed. The ten (10) violations were based on ten (10) files, resulting in an error ratio of 21%.

The following findings were made:

Ohio Casualty Insurance Company

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 advance notice of the effective date of termination for the violation noted.

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

Requires that a cancellation notice shall state the specific reasons for cancellation. The reasons shall identify the condition, factor or loss experience, which caused the cancellation. 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 cancellation shall be clear and complete. It shall be stated so that a person of average intelligence and education can understand it. Phrases such as “losses” or “underwriting reasons” are not sufficiently specific reasons for cancellation. The Company failed to provide a specific reason for nonrenewal in the three (3) violations noted.

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

Unfair Methods of Competition and Unfair or Deceptive Acts or Practices Defined. Entering into any agreement to commit, or by any concerted action committing, any act of boycott, coercion or intimidation resulting in or tending to result in unreasonable restraint of, or monopoly in, the business of insurance. The five (5) violations noted were a result of the Company requiring supporting coverage.

West American Insurance Company

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 advance notice of the effective date of termination for the violation noted.

VII. 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

From the universe of 4,145 private passenger automobile policies identified as new business without surcharges by the Company, 100 files were selected for review. All 100 policy files requested were received and reviewed. The 2,073 violations were based on the universe of 4,145 files, resulting in an error ratio of 50%.

The following findings were made:

Ohio Casualty Insurance Company

379 Violations Act 1990-6, Section 17, Title 75, Pa. C.S §1791.1(b)

Requires an insurer to provide an insured a notice of the availability of two alternatives of full tort insurance and limited tort insurance. The 379 violations noted were the result of the Company not providing the notice of tort options to the insured at the time of application.

West American Insurance Company

1,694 Violations Act 1990-6, Section 17, Title 75, Pa. C.S §1791.1(b)

Requires an insurer to provide an insured a notice of the availability of two alternatives of full tort insurance and limited tort insurance. The 1,694 violations noted were

the result of the Company not providing the notice of tort options to the insured at the time of application.

Private Passenger Automobile – New Business with Surcharges

From the universe of 758 private passenger automobile policies identified as new business with surcharges by the Company during the experience period, 100 policies were selected for review. All 100 files requested were received and reviewed. The 1,137 violations were based on the universe of 758 files, resulting in an error ratio of 100%.

The following findings were made:

Ohio Casualty Insurance Company

103 Violations Act 1990-6, Section 17, Title 75, Pa. C.S §1791.1(b)

Requires an insurer to provide an insured a notice of the availability of two alternatives of full tort insurance and limited tort insurance. The 103 violations noted were the result of the Company not providing the notice of tort options to the insured at the time of application.

206 Violations Title 75, Pa. C.S. §1799.3(d)

Requires insurers who make a determination to impose a surcharge, rate penalty or driver record point assignment, to inform the named insured of the determination and specify the manner in which the surcharge, rate penalty or driver record point assignment was made and clearly identify the amount of the surcharge or rate penalty on the premium notice for as long as the surcharge or rate penalty is in effect. The 206 violations noted were the

result of the Company failing to clearly identify the amount of the surcharge or rate penalty.

West American Insurance Company

276 Violations Act 1990-6, Section 17, Title 75, Pa. C.S §1791.1(b)

Requires an insurer to provide an insured a notice of the availability of two alternatives of full tort insurance and limited tort insurance. The 276 violations noted were the result of the Company not providing the notice of tort options to the insured at the time of application.

552 Violations Title 75, Pa. C.S. §1799.3(d)

Requires insurers who make a determination to impose a surcharge, rate penalty or driver record point assignment, to inform the named insured of the determination and specify the manner in which the surcharge, rate penalty or driver record point assignment was made and clearly identify the amount of the surcharge or rate penalty on the premium notice for as long as the surcharge or rate penalty is in effect. The 552 violations noted were the result of the Company failing to clearly identify the amount of the surcharge or rate penalty.

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 in a Higher Plan

The universe of 21 private passenger automobiles policies identified as renewals in a higher plan by the Company during the experience period was selected for review. All 21 files requested were received and reviewed. The 13 violations noted were based on 13 files, resulting in an error ratio of 62%.

The following findings were made:

Ohio Casualty Insurance Company

1 Violation 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 violation noted was the result of the Company cancelling for other than permitted reasons.

3 Violations Act 68, Section 2006 [40 P.S. §991.2006]

Requires that a nonrenewal by an insurer of a policy of automobile insurance shall not be effective unless the insurer delivers or mails to the insured a written notice of the cancellation. The three (3) violations were the result of the Company not providing evidence that the notices were sent to the insureds.

1 Violation Act 68, Section 2006(3) [40 P.S. §991.2006(3)]

Requires an insurer to give proper notice of intent to nonrenew. The notice shall state the specific reason or reasons for the nonrenewal. The violation noted was the result of not providing specific dates of accidents. The file noted indicated no accidents.

West American Insurance Company

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

Requires that a nonrenewal by an insurer of a policy of automobile insurance shall not be effective unless the insurer delivers or mails to the insured a written notice of the cancellation. The four (4) violations noted were a result of the Company not providing evidence that the notices were sent to the insureds.

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

An insurer may not cancel or refuse to renew a policy of automobile insurance on the basis of one accident within the thirty-six (36) month period prior to the upcoming anniversary date of the policy. The two (2) violations noted were the result of the Company refusing to renew based on one (1) accident in the past 36 months.

1 Violation Act 68, Section 2006(3) [40 P.S. §991.2006(3)]

Requires an insurer to give proper notice of intent to nonrenew. The notice shall state the specific reason or reasons for the nonrenewal. The violation noted was the result of not providing specific dates of accidents. The file noted indicated no accidents.

1 Violation Title 75, Pa. C.S. §1799.3(a)

Prohibits insurers from applying a surcharge, rate penalty or driver record point assignment where, during the preceding three-year period, the aggregate cost to the insurer for any person injured or property damaged is determined to be less

than \$1,050 in excess of any self insured retention or deductible applicable to the named insured. The violation noted was the result of the Company refusing to renew based on accidents with a three year aggregate of less than \$1,050.

Private Passenger Automobile – Renewals without Surcharges

From the universe of 18,992 private passenger automobile policies identified as renewals without surcharges by the Company during the experience period, 100 files were selected for review. All 100 policy files requested were received and reviewed. No violations were noted.

Private Passenger Automobile – Renewals with Surcharges

From the universe of 1,967 private passenger automobile policies identified as renewals with surcharges by the Company during the experience period, 100 files were selected for review. All 100 policy files requested were received and reviewed. The 1,968 violations were based on the universe of 1,967 files, resulting in an error ratio of 100%.

The following findings were made:

Ohio Casualty Insurance Company

384 Violations Title 75, Pa. C.S. §1799.3(d)

Requires insurers who make a determination to impose a surcharge, rate penalty or driver record point assignment, to inform the named insured of the determination and specify the manner in which the surcharge, rate penalty or driver record point assignment was made and clearly identify the amount of the surcharge or rate penalty on the premium notice for as long as the surcharge or rate penalty is in effect.

The 384 violations noted were the result of the Company failing to identify and provide a description of the accident or violation on the premium renewal notice.

West American Insurance Company

1,583 Violations Title 75, Pa. C.S. §1799.3(d)

Requires insurers who make a determination to impose a surcharge, rate penalty or driver record point assignment, to inform the named insured of the determination and specify the manner in which the surcharge, rate penalty or driver record point assignment was made and clearly identify the amount of the surcharge or rate penalty on the premium notice for as long as the surcharge or rate penalty is in effect. The 1,583 files noted were the result of the Company failing to identify and provide a description of the accident or violation on the premium renewal notice

1 Violation Title 75, Pa. C.S. §1799.3(a)

Prohibits insurers from applying a surcharge, rate penalty or driver record point assignment where, during the preceding three-year period, the aggregate cost to the insurer for any person injured or property damaged is determined to be less than \$1,050 in excess of any self insured retention or deductible applicable to the named insured. The violation noted was the result of improper surcharge. The policy file did not indicate an amount paid as a result of an accident. The Company is required to rerate the policy without the surcharge.

B. Private Passenger Automobile - Assigned Risk

Ohio Casualty Insurance Company reports its premium writings for private passenger automobile to the Pennsylvania Assigned Risk Plan. As a result, Ohio Casualty Insurance 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 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 206 assigned risk private passenger automobile policies identified as new business clean by the Company during the experience period, 25 files were selected for review. All 25 files requested were received and reviewed. No violations were noted.

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

The universe of 73 assigned risk private passenger automobile policies identified as new business other than clean by the Company during the experience period was selected for review. All 73 files requested were received and reviewed. The two (2) violations noted were based on two (2) files, resulting in an error ratio of three percent (3%).

The following findings were made:

2 Violations PA Assigned Risk Plan, Section 16A(1)

Upon determination that an applicant does not qualify for a clean risk rate, the designated company shall notify the insured of the reason for this determination and issue the policy at other than clean risk rates. The two (2) violations noted were the result of the Company not providing the notice to the insured of the reason for the determination of other than clean risk.

Assigned Risk Private Passenger Automobile – Renewals – Clean

From the universe of 138 assigned risk private passenger automobile policies identified as renewals issued clean by the Company during the experience period, 25 files were selected for review. All 25 files requested were received and reviewed. The one (1) violation noted was based on one (1) file, resulting in an error ratio of four percent (4%).

The following finding was made:

1 Violation PA Assigned Risk Plan, Section 16A(2)

Renewal premium quotations will be made as stipulated in the Plan rules 30 days prior to the renewal effective date. The violation noted was the result of the Company not providing the renewal quotation 30 days prior to the renewal effective date.

Assigned Risk Private Passenger Automobile – Renewals – Other than Clean

The universe of 29 assigned risk private passenger automobile policies identified as renewals issued as other than clean by the Company during the experience period was selected for review. All 29 files requested were received and reviewed. The one (1) violation noted was based on one (1) file, resulting in an error ratio of three percent (3%).

The following finding was made:

1 Violation PA Assigned Risk Plan, Section 16A(4)

At least 60 calendar days prior to the expiration date of the final renewal, the company shall notify the insured that the period of assignment under the Plan will terminate on said expiration date. A copy of such notice shall be sent to the producer of record. The violation noted was the result of the Company failing to provide a notice 60 days prior to the expiration date.

C. Homeowners

1. New Business

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

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

From the universe of 3,890 homeowner policies written as new business during the experience period, 50 files were selected for review. All 50 files requested were received and reviewed. No violations were noted.

2. Renewals

A renewal is considered to be any policy, which was previously written by the Company and renewed on the normal twelve-month anniversary date. The purpose of the review was to determine compliance with Act 246, Sections 4(a) and (h) (40 P.S. §1184), which require every insurer to file with the Insurance Commissioner every manual of classifications, rules and rates, every rating plan and every modification of any rating plan which it proposes to use in the Commonwealth. Also, no insurer shall make or issue a contract or policy except in accordance with filings or rates which are in effect at the time.

From the universe of 29,938 homeowner policies renewed during the experience period, 50 files were selected for review. All 50 files requested were received and reviewed. No violations were noted.

3. Homeowner Rating – New Business and Renewals

Prior to the on-site examination, the Company identified a universe of 20,932 new and renewal homeowner policies that contained a base rate error which was inconsistent with filed and approved rates. The Company had already implemented a plan to correct the issue by refunding the overcharges to the affected policyholders. Refunds were issued to affected policyholders totaling \$620,182.49.

The following findings were made:

Ohio Casualty Insurance Company

2,411 Violations Act 246, Section 4(h) [40 P.S. §1184]

Beginning ninety (90) days after the effective date of this Act, no insurer shall make or issue a contract or policy except in accordance with filings or rates which are in effect for said insurer as provided in this Act or in accordance with subsections (f) or (g) of this section. The 2,411 violations were the result of the Company utilizing rates other than those that were filed and approved. The total amount the Company refunded to the policyholders was \$69,657.49.

West American Insurance Company

18,521 Violations Act 246, Section 4(h) [40 P.S. §1184]

Beginning ninety (90) days after the effective date of this Act, no insurer shall make or issue a contract or policy except in accordance with filings or rates which are in effect for said insurer as provided in this Act or in accordance with subsections (f) or (g) of this section.

The 18,521 violations were the result of the Company utilizing rates other than those that were filed and approved. The total amount the Company refunded to the policyholders was \$550,525.00.

D. Dwelling Fire

1. New Business

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

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

From the universe of 919 dwelling fire policies written as new business during the experience period, 50 files were selected for review. All 50 files requested were received and reviewed. No violations were noted.

2. Renewals

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

The purpose of the review was to determine compliance with Act 246, Sections 4(a) and (h) [40 P.S. §1184], which 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.

From the universe of 5,514 dwelling fire policies written as renewal business during the experience period, 50 files were selected for review. All 50 files requested were received and reviewed. Of the 50 policies reviewed, five (5) were owner occupied and 45 were tenant occupied dwellings. No violations were noted.

VIII. 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 Physical Damage Claims
- B. Automobile Total Loss Claims
- C. Automobile First Party Medical Claims
- D. Automobile First Party Medical Claims Referred to a PRO
- E. Homeowner Claims
- F. Dwelling Fire Claims

The primary purpose of the review was to determine compliance with Title 31, Pennsylvania Code, Chapter 146, Unfair Claims Settlement Practices. The files were also reviewed to determine compliance with Act 205, Sections 4 and 5(a)(10)(vi) [40 P.S. §§ 171.4 and 1171.5(a)(10)(vi)], Unfair Insurance Practices Act.

A. Automobile Physical Damage Claims

The Company was not able to provide individual universes for comprehensive, collision and property damage liability claims. From the combined universe of 3,329 private passenger automobile physical damage claims reported during the experience period, 291 files were selected for review. All 291 files requested were received and reviewed. The 19

violations noted were based on 15 files, resulting in an error ratio of five percent (5%).

The following findings were made:

Ohio Casualty Insurance Company-Assigned Risk

2 Violations Title 31, Pa. Code, Section 146.6

Every insurer shall complete investigation of a claim within 30 days after notification of the claim, unless such investigation cannot reasonably be completed within 30 days, and every 45 days thereafter, the insurer shall provide the claimant with a reasonable written explanation for the delay and state when a decision on the claim may be expected. The Company did not provide timely status letters for the two (2) violations 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 violation noted resulted from the Company not providing evidence that a written denial was sent in a timely manner.

Ohio Casualty Insurance Company

1 Violation Title 31, Pa. Code, Section 146.5(a)

Every insurer, upon receiving notification of a claim, shall, within ten working days, acknowledge the receipt of such notice unless payment is made within such period of time. If

an acknowledgment is made by means other than writing, an appropriate notation of such acknowledgment shall be made in the claim file of the insurer and dated. Notification given to an agent of an insurer shall be notification to the insurer, dating from the time the insurer receives notice. The violation noted was the result of the Company not acknowledging the claim within 10 working days.

5 Violations Title 31, Pa. Code, Section 146.6

Every insurer shall complete investigation of a claim within 30 days after notification of the claim, unless such investigation cannot reasonably be completed within 30 days, and every 45 days thereafter, the insurer shall provide the claimant with a reasonable written explanation for the delay and state when a decision on the claim may be expected. The Company did not provide timely status letters for the five (5) violations 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 violation noted resulted from the Company not providing evidence that a written denial was sent in a timely manner.

West American Insurance Company

2 Violations Title 31, Pa. Code, Section 146.5(a)

Every insurer, upon receiving notification of a claim, shall, within ten working days, acknowledge the receipt of such notice unless payment is made within such period of time. If an acknowledgment is made by means other than writing, an appropriate notation of such acknowledgment shall be made in the claim file of the insurer and dated. Notification given to an agent of an insurer shall be notification to the insurer, dating from the time the insurer receives notice. The Company did not acknowledge the claims within 10 working days for the two (2) violations noted.

6 Violations Title 31, Pa. Code, Section 146.6

Every insurer shall complete investigation of a claim within 30 days after notification of the claim, unless such investigation cannot reasonably be completed within 30 days, and every 45 days thereafter, the insurer shall provide the claimant with a reasonable written explanation for the delay and state when a decision on the claim may be expected. The Company did not provide timely status letters for the six (6) violations 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 violation noted resulted from the Company not

providing evidence that a written denial was sent in a timely manner.

B. Automobile Total Loss Claims

From the universe of 352 private passenger automobile total loss claims that were reported during the experience period, 112 files were selected for review. All 112 files requested were received and reviewed. The 23 violations noted were based on 20 files, resulting in an error ratio of 18%.

The following findings were made:

Ohio Casualty Insurance Company

4 Violations Title 75, Pa. C.S. (2004 Sup.) §1161(a)(b) – Certificate of Salvage Required.

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

(b) Application for certificate of salvage. – An owner who transfers a vehicle to be destroyed or dismantled, salvaged or recycled shall assign the certificate of title to the person to whom the vehicle is transferred. Except as provided in Section 1163, the transferee shall immediately present the assigned certificate of title to the Department or an authorized agent of the Department with an application for a certificate of salvage upon a form furnished and prescribed by the

Department. An insurer as defined in Section 1702 to which title to a vehicle is assigned upon payment to the insured or claimant of the replacement value of a vehicle shall be regarded as a transferee under this subsection. The four (4) violations noted were the result of the Company paying the vehicle replacement value to the insured before the insured provided the issued certificate of salvage.

6 Violations Title 31, Pa. Code, Section 146.6

Every insurer shall complete investigation of a claim within 30 days after notification of the claim, unless such investigation cannot reasonably be completed within 30 days, and every 45 days thereafter, the insurer shall provide the claimant with a reasonable written explanation for the delay and state when a decision on the claim may be expected. The Company did not provide timely status letters for the six (6) violations noted.

2 Violations Title 31, Pa. Code, Section 146.5(a)

Every insurer, upon receiving notification of a claim, shall, within ten working days, acknowledge the receipt of such notice unless payment is made within such period of time. If an acknowledgment is made by means other than writing, an appropriate notation of such acknowledgment shall be made in the claim file of the insurer and dated. Notification given to an agent of an insurer shall be notification to the insurer, dating from the time the insurer receives notice. The two (2) violations noted were the result of the Company not acknowledging the claim within 10 working days.

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 violation noted resulted from the Company failing to advise the first-party claimant of the acceptance or denial of the claim within 15 working days after receipt by the insurer of properly executed proofs of loss.

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

Requires the appraised value of the loss shall be the replacement value of the motor vehicle if the cost of repairing a motor vehicle exceeds its appraised value less salvage value, or the motor vehicle cannot be repaired to its predamaged condition. Under this subsection, replacement value of under the policy provisions covering the total loss of a motor vehicle including an unrecovered motor vehicle shall be determined by one of the approved methods. The violation was the result of the Company not providing evidence that the replacement value under the policy provisions covering the total loss was determined by one of the approved methods.

West American Insurance Company

5 Violations Title 75, Pa. C.S. (2004 Sup.) §1161(a)(b) – Certificate of Salvage Required.

(a) General rule – Except as provided in Sections 1162 and 1163, a person, including an insurer or self-insurer as defined in Section 1702 (relating to definitions), who owns, possesses or transfers a vehicle located or registered in the

Commonwealth which qualifies as a salvage vehicle shall make application to the Department for a certificate of salvage for that vehicle.

(b) Application for certificate of salvage. – An owner who transfers a vehicle to be destroyed or dismantled, salvaged or recycled shall assign the certificate of title to the person to whom the vehicle is transferred. Except as provided in Section 1163, the transferee shall immediately present the assigned certificate of title to the Department or an authorized agent of the Department with an application for a certificate of salvage upon a form furnished and prescribed by the Department. An insurer as defined in Section 1702 to which title to a vehicle is assigned upon payment to the insured or claimant of the replacement value of a vehicle shall be regarded as a transferee under this subsection. The four (4) violations noted were the result of the Company paying the vehicle replacement value to the insured before the insured provided the issued certificate of salvage. The remaining violation noted was the result of the Company failing to have a certificate of salvage in the claim file.

3 Violations Title 31, Pa. Code, Section 146.6

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

Company did not provide timely status letters for the three (3) violations noted.

1 Violation Title 31, Pa. Code, Section 62.3(e)(7)

Requires a Company to provide a copy of the total loss evaluation sheet to the consumer within five working days after the appraisal is completed. The violation noted was the result of failing to provide evidence that the total loss evaluation was provided to the consumer within five (5) days of completion of the appraisal.

C. Automobile First Party Medical Claims

From the universe of 551 private passenger automobile first party medical claims reported during the experience period, 119 files were selected for review. Of the 119 files requested, 118 files were received and reviewed. The 56 violations noted were based on 28 files, resulting in an error ratio of 24%.

The following findings were made:

Ohio Casualty Insurance Company-Assigned Risk

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

If an insured's first-party limits have been exhausted, the insurer shall, within 30 days of the receipt of the provider's bill, provide notice to the provider and the insured that the first-party limits have been exhausted. The violation noted resulted for failure to provide the insured with a copy of the provider's letter that the first-party benefits had been exhausted.

1 Violation Title 31, Pa. Code, Section 146.5(d)

Requires an insurer, upon receiving notification of a claim, shall provide within ten working days necessary claim forms, instructions and reasonable assistance so that first-party claimants can comply with policy conditions and reasonable requirements of the insurer. The violation noted was the result of not providing the claimant with the necessary claim forms within ten (10) working days.

Ohio Casualty Insurance Company

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

Requires an insurer to pay bills for care that are not referred to a Peer Review Organization within 30 days after the insurer receives sufficient documentation supporting the bill. The nine (9) violations noted were the result of bills not being paid within 30 days.

8 Violations Title 75, Pa. C.S. §1716

Payment of Benefits. Benefits are overdue if not paid within 30 days after the insurer receives reasonable proof of the amount of benefits. If reasonable proof is not supplied as to all benefits, the portion supported by reasonable proof is overdue if not paid within 30 days after the proof is received by the insurer. Overdue benefits shall bear interest at the rate of 12% per annum from the date the benefits become due. In the event the insurer is found to have acted in an unreasonable manner in refusing to pay the benefits when due, the insurer shall pay, in addition to the benefits owed and the interest thereon, a reasonable attorney fee based upon actual time

expended. The eight (8) violations noted were the result of the Company failing to pay interest on the first party medical bills not paid within 30 days.

1 Violation Title 31, Pa. Code, Section 146.5(d)

Requires an insurer, upon receiving notification of a claim, shall provide within ten working days necessary claim forms, instructions and reasonable assistance so that first-party claimants can comply with policy conditions and reasonable requirements of the insurer. The violation noted was the result of not providing the claimant with the necessary claim forms within ten (10) working days.

2 Violations Title 31, Pa. Code, Section 69.22(c)

If an insured's first-party limits have been exhausted, the insurer shall, within 30 days of the receipt of the provider's bill, provide notice to the provider and the insured that the first-party limits have been exhausted. The two (2) violations noted were for failure to provide the insured with a copy of the provider's letter that the first-party benefits had been exhausted.

West American Insurance Company

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

Requires an insurer to pay bills for care that are not referred to a Peer Review Organization within 30 days after the insurer receives sufficient documentation supporting the bill. The 15 violations noted were the result of bills not being paid within 30 days.

15 Violations Title 75, Pa. C.S. §1716

Payment of Benefits. Benefits are overdue if not paid within 30 days after the insurer receives reasonable proof of the amount of benefits. If reasonable proof is not supplied as to all benefits, the portion supported by reasonable proof is overdue if not paid within 30 days after the proof is received by the insurer. Overdue benefits shall bear interest at the rate of 12% per annum from the date the benefits become due. In the event the insurer is found to have acted in an unreasonable manner in refusing to pay the benefits when due, the insurer shall pay, in addition to the benefits owed and the interest thereon, a reasonable attorney fee based upon actual time expended. The 15 violations noted were the result of the Company failing to pay interest on the first party medical bills not paid within 30 days.

3 Violations Title 31, Pa. Code, Section 69.22(c)

If an insured's first-party limits have been exhausted, the insurer shall, within 30 days of the receipt of the provider's bill, provide notice to the provider and the insured that the first-party limits have been exhausted. The three (3) violations noted were for failure to provide to the insured a copy of the provider's letter to the insured that the first-party benefits had been exhausted.

1 Violation Title 31, Pa. Code, Section 146.3

The claim files of the 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. The violation noted was the result of not providing a complete claim file for examination.

D. Automobile First Party Medical Claims Referred to a PRO

The universe of one private passenger automobile first party medical claim referred to a peer review organization was selected for review. The claim file requested was received and reviewed. A contract with Managed Care Network, Inc, an approved Peer Review Organization, was also received and reviewed. No violations were noted.

E. Homeowner Claims

From the universe of 1,027 homeowner claims reported during the experience period, 100 files were selected for review. All 100 files requested were received and reviewed. The 22 violations noted were based on 22 files, resulting in an error ratio of 22%.

The following findings were made:

Ohio Casualty Insurance Company

9 Violations Title 31, Pa. Code, Section 146.6

Every insurer shall complete investigation of a claim within 30 days after notification of the claim, unless such investigation cannot reasonably be completed within 30 days, and every 45 days thereafter, the insurer shall provide the claimant with a reasonable written explanation for the delay and state when a decision on the claim may be expected. The Company did not provide timely status letters for the nine (9) violations 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 violation noted resulted from the Company not providing evidence of a written denial of the non-covered loss.

1 Violation Title 31, Pa. Code, Section 146.5(a)

Every insurer, upon receiving notification of a claim, shall, within ten working days, acknowledge the receipt of such notice unless payment is made within such period of time. If an acknowledgment is made by means other than writing, an appropriate notation of such acknowledgment shall be made in the claim file of the insurer and dated. Notification given to an agent of an insurer shall be notification to the insurer, dating from the time the insurer receives notice. The violation noted was the result of the Company not acknowledging the claim within 10 working days.

West American Insurance Company

10 Violations Title 31, Pa. Code, Section 146.6

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

Company did not provide timely status letters for the ten (10) violations 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 violation noted resulted from the Company not providing evidence of a written denial of the non-covered loss.

F. Dwelling Fire Claims

From the universe of 119 dwelling fire claims reported during the experience period, 50 files were selected for review. All 50 files requested were received and reviewed. The 15 violations noted were based on 13 files, resulting in an error ratio of 26%.

The following findings were made:

Ohio Casualty Insurance Company

6 Violations Title 31, Pa. Code, Section 146.6

Every insurer shall complete investigation of a claim within 30 days after notification of the claim, unless such investigation cannot reasonably be completed within 30 days, and every 45 days thereafter, the insurer shall provide the claimant with a reasonable written explanation for the delay and state when a decision on the claim may be expected. The Company did not provide timely status letters for the six (6) violations noted.

2 Violations 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 two (2) violations noted resulted from failure to accept or deny the claim within 15 working days.

West American Insurance Company

4 Violations Title 31, Pa. Code, Section 146.6

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

3 Violations 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 three (3) violations noted resulted from the Company not providing evidence of a written denial of non-covered loss and not accepting or denying the claim within 15 working days.

IX. FORMS

Throughout the course of the examination, all underwriting files were reviewed to identify the policy forms used in order to verify compliance with Insurance Company Law, Section 354 [40 P.S. §477b], Approval of Policies, Contracts, etc., Prohibiting the Use Thereof Unless Approved. During the experience period of the examination, Section 354 provided that it shall be unlawful for any insurance company to issue, sell, or dispose of any policy contract or certificate covering fire, marine, title and all forms of casualty insurance or use applications, riders, or endorsements in connection therewith, until the forms have been submitted to and formally approved by the Insurance Commissioner. All underwriting and claim files were also reviewed to verify compliance with Act 165 of 1994 [18, Pa. C.S. §4117(k)(1)] and Title 75, Pa. C.S. §1822 which require all insurers to provide an insurance fraud notice on all applications for insurance, all claims forms and all renewals of coverage.

The following findings were made:

4 Violations Act 1990-6, Title 75, Pa. C.S. §1822

Warning notice on application for insurance and claim forms. Not later than May 1, 1990, all applications for insurance, renewals and claim forms shall contain a statement that clearly states in substance the following: "Any person who knowingly and with intent to injure or defraud any insurer files an application or claim containing false, incomplete or misleading information shall, upon conviction, be subject to imprisonment for up to seven years and payment of a fine of up to \$15,000." The four (4) violations noted were the result

of the required fraud statement being absent from the automobile claim forms.

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

Any person who knowingly and with intent to defraud any insurance company or other person files an application for insurance or statement of claim containing any materially false information or conceals for the purpose of misleading, information concerning any fact material thereto, commits a fraudulent insurance act, which is a crime and subjects such person to criminal and civil penalties. The violation noted was the result of the Company not providing the required fraud warning on the policyholder's Schedule of Property in the homeowner claim file.

X. ADVERTISING

The Company was requested to provide copies of all advertising and marketing materials used 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, Sections 51.2(c) and 51.61.

The Company provided 281 pieces of advertising material which included customer brochures for personal and commercial lines, producer's education kits, producer newsletters and incentive programs, loss control / prevention materials, radio spots, miscellaneous materials such as Electronic Fund Transfers for payments and audit procedures and the corporate website. No violations were noted.

XI. 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 44 consumer complaints received during the experience period and provided all consumer complaint logs requested. All 44 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, the classification by line of insurance, the nature of each complaint, the disposition of these complaints and the time it took to process each complaint.

The following findings were made:

Ohio Casualty Insurance Company

1 Violation 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 violation was due to the cancellation notice being issued that did not provide the required thirty days.

West American Insurance Company

2 Violations Title 31, Pa. Code, Section 146.6

Every insurer shall complete investigation of a claim within 30 days after notification of the claim, unless such

investigation cannot reasonably be completed within 30 days, and every 45 days thereafter, the insurer shall provide the claimant with a reasonable written explanation for the delay and state when a decision on the claim may be expected. The two (2) violations noted resulted in the failure to provide 30 or 45 day status letters.

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 violation noted resulted from failure to provide a written denial to the claimant and maintain a copy of the denial in the claim file.

1 Violation Title 75, Pa. C.S. (2004 Sup.) §1161(a)(b) – Certificate of Salvage Required.

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

(b) Application for certificate of salvage. – An owner who transfers a vehicle to be destroyed or dismantled, salvaged or recycled shall assign the certificate of title to the person to whom the vehicle is transferred. Except as provided in Section 1163, the transferee shall immediately present the

assigned certificate of title to the Department or an authorized agent of the Department with an application for a certificate of salvage upon a form furnished and prescribed by the Department. An insurer as defined in Section 1702 to which title to a vehicle is assigned upon payment to the insured or claimant of the replacement value of a vehicle shall be regarded as a transferee under this subsection. The violation noted was the result of the Company failing to have the insured show evidence of the issued certificate of salvage before paying the vehicle replacement value to the insured.

The following synopsis reflects the nature of the 44 complaints that were reviewed.

Ohio Casualty Insurance Company

• 16	Cancellation/Nonrenewal	85%
• 1	Claims Related	5%
• 1	Underwriting/Rating	5%
• 1	Miscellaneous (Producer Conduct)	5%
<hr/>		<hr/>
19		100%

West American Insurance Company

• 15	Cancellation/Nonrenewal	60%
• 7	Claims Related	28%
• 2	Underwriting/Rating	8%
• 1	Miscellaneous (Producer Conduct)	4%
<hr/>		<hr/>
25		100%

XII. LICENSING

In order to determine compliance by the Company and its agency force with the licensing requirements applicable to Sections 641.1(a) and 671-A [40 P.S. §§ 310.41a and 310.71] of Act 147 of 2002, 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:

Ohio Casualty Insurance Company

5 Violations Act 147 of 2002, Section 641.1A [40 P.S. §310.41a]

(a) Any insured 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 Pennsylvania producer licenses.

The Evarts Tremaine Flicker Company
Kirby, Kathleen

Steel-Wagner & Associates Inc

Steinhauser Agency Inc

Witwers Agency Inc

36 Violations Act 147 of 2002, 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) Delineate the services to be provided; and
- (2) Provide 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.

Advanced Financial Security Inc
Allegheny Professional Insurance Inc
Allegheny Valley Agency Inc
Altany, Loynd & Lindquist Inc
Anderson Jackson Metts
Assurance Agency of South Jersey PTR
Braunsdorf Associates Inc
Burlco Agency Inc
Cantrill Clark & Hays Inc
Central Insurers Group Inc
Cettei & Connell Inc
Daly-Merritt Inc
Davis-Trachtenber Inc
Duncan Insurance Group Inc
Henry Dunn Inc
Eaglemark Group Inc

First Insurance Center Inc
Fleet Insurance Services, LLC
Florey Insurance Agency Inc
Glenn Insurance Inc
Graff Insurance Agency Inc
Hartzell Insurance Associates Inc
Insurance Agency Alliance Inc
Ins Consultants of Pittsburgh
Insurance Incorporated
Insurance Office Inc
Jerich Insurance Agency Inc
Kish Agency Inc
Malone & Nenstiel Insurance Center Inc
M. C. Insurance Associates
McDowell Associates Inc
PKG Insurance Associates Inc
Russell Insurance Group Inc
Shields Insurance Agency Inc
Shrader & Gehr Insurance Agency Inc
Troha, Francis P.

West American Insurance Company

4 Violations Act 147 of 2002, Section 641.1A [40 P.S. §310.41a]

(a) Any insured 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 Pennsylvania producer licenses.

William A. Gum Inc
Howe Insurance Group
G Steel & Associates LLC
Stimmel & Graul

25 Violations Act 147 of 2002, 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 in 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) Delineate the services to be provided; and
- (2) Provide 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.

John T. Abram Inc

C. J. Adams Insurance Company Inc

Allegheny Valley Agency Inc

Associated Insurance & Financial Services LLC

B & W Insurance Agency Inc

Bartos-Hunsicker Inc

Bitner-Henry Insurance Agency Inc

Brett Insurance Agency Inc

Brouwer, Hansen & Izdebski Associates
Business Insurance Specialists, LTD
Central Insurers Group Inc
CPL Insurance Inc
Richard M. Coran Inc
Henry Dunn Inc
Ferrario Insurance Agency Inc
Gindin Insurance Agency Inc
Hare, Chase & Heckman Inc
Heritage Insurance Services Inc
Leonetti Insurance Agency Inc
Paist & Noe Inc
Pye Karr Ambler & Company Inc
Summit Insurance Agency Inc
Kimberley Vassal Insurance Services LTD
A. Horace Werner Inc
Wurm, Garry D

XIII. 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 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 69.52(b) with its claim staff to ensure that first party medical bills are paid within 30 days.
3. The Company must review Title 75, Pa. C.S. §1716 regarding first party medical claims, which have not been paid within 30 days. Those claims that have not been paid within 30 days shall bear interest at the rate of 12% annum from the date the benefits become due. The interest amount must be paid to the providers and proof of such payment must be provided to the Insurance Department within 30 days of the Report issue date.
4. The Company must review Title 31, Pa. Code, Section 69.22 with its claim staff to ensure that the insured and/or provider is properly notified that first-party medical benefits have been exhausted.

5. The Company must review Act 205, Section 5(a)(4) [40 P.S. §1171.5(a)(4)] to ensure that the violation relative to supporting coverage noted in the Report does not occur in the future.
6. The Company must review Act 205, Section 5(a)(9) [40 P.S. §1171.5] to ensure compliance with cancellation and nonrenewal notice requirements so that the violations regarding improper reasons for termination and improper forms as noted in the Report do not occur in the future.
7. When a surcharge is imposed on a private passenger automobile policy, the Company must identify the dates of accidents and citations and give notice to the insured. This procedure must be implemented within 30 days of the Report issue date. This is to ensure that violations noted under Title 75, Pa. C.S. §1799.3(d) do not occur in the future.
8. The Company must review Title 75, Pa. C.S. §1791.1(b) to ensure that violations regarding the requirement to provide the insured a notice of the availability of two alternatives of full tort insurance and limited tort insurance at time of application as noted in the Report do not occur in the future.
9. The Company must revise and reissue their underwriting guidelines for use in Pennsylvania to ensure that the nonrenewal notices being issued provide offers to write the insureds direct and to ensure guidelines do not exclude applicants from being eligible to obtain insurance for reasons established in Section 2003 of Act 68 [40 P.S. §991.2003].

10. The Company must review and revise internal control procedures to ensure compliance with cancellation notice requirements of Act 68, Sections 2002, 2004, 2006 and 2008 [40 P.S. §§991.2002, 2004, 2006 and 2008] so that the violations noted in the Report do not occur in the future.
11. The Company must review and revise internal control procedures to ensure compliance relative to commercial cancellation and nonrenewal requirements of Act 86, Sections 2, 3, 4 and 7 [40 P.S. §§3402, 3403 3404 and 3407], so that the violations noted in the Report do not occur in the future.
12. The Company must review Act 246, Section 4 [40 P.S. §1184] and take appropriate measures to ensure the rating violations listed in the Report do not occur in the future.
13. The Company must review Title 75, Pa. C.S. §1744 and the Assigned Risk Manual, Section 16 to ensure the violations pertaining to take out notices and premium quotations listed in the Report do not occur in the future.
14. The Company must review Title 75, Pa. C.S. §1161(a)&(b) with its claim staff to ensure that the Company obtains a salvage title when required.
15. The Company must ensure that all applications for insurance, claim forms and renewals contain a statement that clearly states in substance the following: “Any person who knowingly and with intent to injure or defraud any insurer files an application or claim containing false,

incomplete information or misleading information shall, upon conviction, be subject to imprisonment for up to seven years and payment of a fine of up to \$15,000.” This is to ensure that violations noted under Act 1990-6, Title 75, Pa. C.S. §1822 do not occur in the future.

16. The Company must ensure all producers are properly licensed and appointed, as required by Sections 641.1-A and 671-A [40 P.S. §§310.41a and 310.71] of Act 147 of 2002, prior to accepting any business from producers.
17. 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.

XIV. COMPANY RESPONSE



David A. Pustinger
Vice President, Marketing

VIA OVERNIGHT MAIL

May 1, 2006

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

**Re: Examination Warrant Number: 04-M08-044
The Ohio Casualty Insurance Company
West American Insurance Company**

Dear Mr. Derk:

Enclosed is the response of The Ohio Casualty Insurance Company and West American Insurance Company to the Report of Examination provided in your letter dated April 4, 2006. We appreciate the time and effort the Department has spent on this examination and as you will note in the enclosed response we have already given significant attention to the areas of concern identified in the Report. We value our Pennsylvania business and our relationship with the Department of Insurance and we will continue to improve our processes to ensure compliance with your statutes and regulations.

Recommendation number 3 requested proof of payment of interest to providers on first party medical claims that were not paid within 30 days. To protect the personal nonpublic information related to interest payments, proof of interest payments will be provided to the Insurance Department under separate cover, as this information should not be part of the public record.

If you have any questions while reviewing our response, please do not hesitate to contact me.

Sincerely,

David A. Pustinger

Enclosure

**Response of The Ohio Casualty Insurance Company
and West American Insurance Company to
Pennsylvania Report of Examination
Examination Warrant Number 04-M08-044**

V. Underwriting Practices and Procedures

The Company agrees with the violations and eliminated the requirement from the underwriting guidelines in April, 2005.

VI. Underwriting

A. Private Passenger Auto

Company agrees with the violations identified. With regard to the 11 violations for mid-term cancellations, Company has reviewed them with the third party vendor and the notice was amended February 2006.

B. Private Passenger Automobile - Assigned Risk

Company agrees with the violations identified with regard to the take out notices. The five violations regarding the premium quotations occurred as a result of a delay due to a pending rate change. It was the third party vendor's intention to provide one accurate quote rather than multiple quotes. All insureds were given the appropriate time to pay for the renewal policy based on the quote issue date. Violations and the requirements of the statute will be reviewed with our third party vendor.

C. Personal Lines Property

Company agrees with the violations identified. With regard to the 26 violations for cancellation notices issued without the required information, Company has reviewed them with the third party vendor and the notice was amended February 2006.

D. Commercial Automobile

Company agrees with the violations identified.

E. Commercial Property

Company agrees with the violations identified.

F. Workers' Compensation

Company agrees with the violations identified.

VII. Rating

A. Private Passenger Automobile

Company agrees with the violations identified.

B. Private Passenger Automobile - Assigned Risk

Company agrees with violations identified with regard to New Business - Other than Clean and will review the procedures with our vendor. Company agrees with the remaining violations and feels these were isolated incidents.

C. Homeowners

Company disagrees with the violations and notes that an inconsistency existed in the documentation filed with and approved by the Pennsylvania Insurance Department. As soon as the inconsistency was found, the Company proactively notified the Department of its intention to correct the inconsistency in favor of the affected policyholders. The process of issuing the refunds, including any necessary documentation was coordinated with and approved by the Department.

D. Dwelling Fire

No violations.

VIII. Claims

Company agrees with the violations identified.

IX. Forms

Company agrees with the violations identified.

X. Advertising

No violations.

XI. Consumer Complaints

Company agrees with the violations identified.

XII. Agency Licensing

Company agrees with violations identified.

XIV. Company Response to Recommendations

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.

Company Response: The company agrees with the Department's recommendation and has reviewed and made revisions as requested.

- A. The company has conducted training on Title 31, Pennsylvania Code, Chapter 146, Unfair Claims Settlement Practices with specific attention to:
1. Same day contact/acknowledgement of the claim within 10 days and file documentation guidelines.
 2. Providing 30 or 45 day status letters to claimants where necessary.
 3. Completing and sending written denial letters in a timely manner as required.
 4. Advising the first party claimant of the acceptance or denial of the claim within 15 working days after receipt by the insurer of properly executed proofs of loss.
 5. Providing application for benefits within 10 working days of notification of claim.

The following controls have been implemented and/or reinforced:

- Supervisors randomly audit claim files monthly while open and at closing to assure compliance.
 - Supervisors see all files at closing to assure compliance.
 - Supervisors are to review and approve all denial letters.
 - Adjusters are to place appropriate diaries on files to be sure they send out status letters and accept or deny coverage as required.
2. The Company must review Title 31, Pa. Code, Section 69.52(b) with its claim staff to ensure that first party medical bills are paid within 30 days.

Company Response: The company agrees with the Department's recommendation and has conducted training regarding the 30-day requirement to pay first party medical bills. In addition, the company has instituted a random audit to measure compliance.

3. The Company must review Title 75, Pa. C.S. § 1716 regarding first party medical claims, which have not been paid within 30 days. Those claims that have not been paid within 30 days shall bear interest at the rate of 12% annum from the date the benefits become due. The interest amount must be paid to the providers and proof of such payment must be provided to the Insurance Department within 30 days of the Report issue date.

Company Response: The company agrees with the Department's recommendation and has conducted training regarding the interest penalty requirement on first party medical bills not paid within 30 days. The company has paid interest on the bills identified in the audit. In addition, the company has instituted a random audit to measure compliance. To protect the personal nonpublic information related to interest payments, proof of interest payments will be provided to the Insurance Department under separate cover, as this information should not be part of the public record.

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

Company Response: The Company agrees with the Department's recommendation and has conducted training sessions regarding the requirement to send an exhaustion of benefits letter

to first party medical benefit providers. In addition, the company has instituted a random audit to measure compliance.

5. The Company must review Act 205, Section 5(a)(4) [40 P.S. § 1171.5(a)(4)] to ensure that the violation relative to supporting coverage noted in the Report does not occur in the future.

Company Response: The Company agrees with the violations and eliminated the requirement from the underwriting guidelines in April, 2005.

6. The Company must review Act 205, Section 5(a)(9) [40 P.S. § 1171.5] to ensure compliance with cancellation and nonrenewal notice requirements so that the violations regarding improper reasons for termination and improper forms as noted in the Report do not occur in the future.

Company Response: The Company agrees with the Department's recommendation and to ensure compliance with Cancellation and Non-renewal Notice requirements, training sessions will be held with all underwriters to review statutes for the Commonwealth of Pennsylvania. The training sessions will include review of Act 205, Section 5(a)(9) and the Company anticipates completing the training by June 30, 2006.

7. When a surcharge is imposed on a private passenger automobile policy, the company must identify the dates of accidents and citations and give notice to the insured. The procedure must be implemented within 30 days of the Report issue date. This is to ensure that violations noted under Title 75, Pa. C.S. § 1799.3(d) do not occur in the future.

Company Response: The Company agrees with the Department's recommendation and is taking the necessary action to properly identify surcharges for accidents and citations per Title 75, Pa C.S. 1799.3(d). The Company has taken steps to implement the changes. It is necessary to perform proper testing to verify the accuracy of the changes and it is anticipated these changes could be completed by July 27, 2006.

8. The Company must review Title 75, Pa. C.S. § 1791.1(b) to ensure that violations regarding the requirement to provide the insured a notice of the availability of two alternatives of full tort insurance and limited tort insurance at time of application as noted in the Report do not occur in the future.

Company Response: The Company agrees with the Department's recommendation and will review with the agents and company underwriting staff Title 75, Pa.C.S. 1791.1(b) and the requirement to provide the insured a notice of availability of two alternatives of full or limited tort insurance at the time of application. Additionally, the Company is developing a checklist and packet to be used as part of the application process and anticipates completion of the materials by September 30, 2006.

9. The Company must revise and reissue their underwriting guidelines for use in Pennsylvania to ensure that the nonrenewal notices being issued provide offers to write the insureds direct

and to ensure guidelines do not exclude applicants from being eligible to obtain insurance for reasons established in Section 2003 of Act 68 [40 P.S. §991.2003].

Company Response: The Company agrees with the Department's recommendation and will revise and reissue underwriting guidelines for Pennsylvania to ensure non renewal notices issued provide offers to write direct and do not exclude applicants for reasons in Sections 2003 of Act 68 [40P.S. 991.2003].

10. The Company must review and revise internal control procedures to ensure compliance with cancellation notice requirements of Act 68, Sections 2002, 2004, 2006 and 2008 [40P.S. §§991.2002, 2004, 2006 and 2008] so that the violations noted in the Report do not occur in the future.

Company Response: The Company agrees with the Department's recommendation and will use the violation noted to review, train and revise internal control procedures to be in compliance with cancellation notice requirements per Act 68, Sections 2002, 2004, 2006 and 2008 [40 P.S. 991.2002,2004,2006,and 2008]. The Company anticipates completing the training sessions by June 30, 2006.

11. The Company must review and revise internal control procedures to ensure compliance relative to commercial cancellation and nonrenewal requirements of Act 86, Sections 2, 3, 4 and 7 [40 P.S. §§3402, 3403, 3404, and 3407], so that the violations noted in the Report do not occur in the future.

Company Response: The Company agrees with the Department's recommendation and to ensure compliance with Cancellation and Non-renewal requirements, our companies will review and revise internal control procedures. Training sessions will be held with all branch underwriters and are anticipated to be completed by June 30, 2006. The training sessions will include review of Act 86, Sections 2,3,4 and 7.

12. The Company must review Act 246, Section 4 [40 P.S. §1184] and take appropriate measures to ensure the rating violations listed in the Report do not occur in the future.

Company Response: Company disagrees with the violations. The rates used were those approved by the Department. There were inconsistencies in the documents that were filed with and approved by the Department. Notwithstanding its disagreement, Company has made changes in the process of establishing the rate filings to mitigate future inconsistencies.

13. The Company must review Title 75, Pa. C.S. §1744 and the Assigned Risk Manual, Section 16 to ensure the violations pertaining to take out notices and premium quotations listed in the Report do not occur in the future.

Company Response: Company agrees with the Department's recommendation with regard to the take out notices. The five violations regarding the premium quotations occurred as a result of a delay due to a pending rate change. It was the third party vendor's intention to provide one accurate quote rather than multiple quotes. All insureds were given the

appropriate time to pay for the renewal policy based on the quote issue date. Violations and the requirements of the statute will be reviewed with our third party vendor.

14. The Company must review Title 75, Pa. C.S. §1161(a)&(b) with its claim staff to ensure that the Company obtains a salvage title when required.

Company Response: Company agrees with the Department's recommendation and has reviewed Title 75 Pa. C.S. 1161 (a) & (b) as requested. We have also taken the additional steps below:

- A. We have conducted adjuster and supervisor training on Title 75, Pa. C.S. 1161 (a) & (b) To assure the receipt of salvage titles when required.
- B. We are also developing a job aid for adjusters specific to Title laws in Pa. that can be used in their day-to-day handling of Pennsylvania auto claim files. The projected completion date of the job aid is June 30, 2006.

15. The Company must ensure that all applications for insurance, claim forms and renewals contain a statement that clearly states in substance the following: "Any person who knowingly and with intent to injure or defraud any insurer files an application or claim containing false, incomplete information or misleading information shall, upon conviction be subject to imprisonment for up to seven years and payment of a fine of up to \$15,000." This is to ensure that violations noted under Act 1990-6, Title 75, Pa. C.S. §1822 do not occur in the future.

Company Response: The Company has reinforced through Adjuster training the use of Pennsylvania claim forms that contain a statement that clearly states in substance the following: "Any person who knowingly and with intent to injure or defraud any insurer files an application or claim containing false, incomplete information or misleading information, upon conviction, be subject to imprisonment for up to seven years and payment of a fine of up to \$15,000."

16. The Company must ensure all producers are properly licensed and appointed, as required by Sections 641.1-A and 671-A [40 P.S. §§310.41a and 310.71] of Act 147 of 2002, prior to accepting any business from producers.

Company Response: The Company agrees with the Department's recommendation and is taking the following steps:

- Company has reviewed all active Pennsylvania agency records to insure compliance with the above provisions.
- During the 2006 renewal process, Company will verify all active Pennsylvania agencies are properly licensed and appointed.
- Prior to the examination, steps were taken to strengthen compliance processes.

17. 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: The Company agrees with the Department's recommendation and to ensure compliance with notification to the insured of an increase in premium, training

sessions will be held with all branch underwriters to review statutes for the Commonwealth of Pennsylvania. The training sessions will include review of Act 86, Section 1 and are anticipated to be completed by June 30, 2006.