

**REPORT OF
MARKET CONDUCT EXAMINATION
OF**

MERCURY INSURANCE COMPANY OF FLORIDA
Clearwater, Florida

AS OF
January 15, 2008

COMMONWEALTH OF PENNSYLVANIA

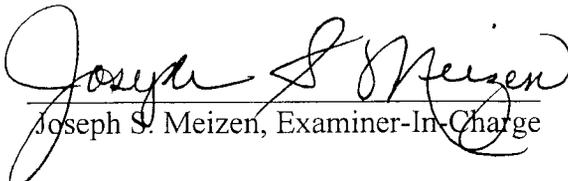


**INSURANCE DEPARTMENT
MARKET CONDUCT DIVISION**

Issued: March 11, 2008

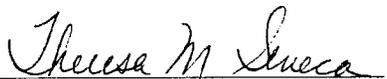
VERIFICATION

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


Joseph S. Meizen, Examiner-In-Charge

Sworn to and Subscribed Before me

This 17 Day of *December*, 2007



Notary Public

COMMONWEALTH OF PENNSYLVANIA

NOTARIAL SEAL

THERESA M. SENECA, Notary Public
City of Harrisburg, Dauphin County
My Commission Expires Aug. 15, 2010

MERCURY INSURANCE COMPANY OF FLORIDA

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BEFORE THE INSURANCE COMMISSIONER
OF THE
COMMONWEALTH OF PENNSYLVANIA

ORDER

AND NOW, this 6th day of July, 2007, in accordance with
Section 905(c) of the Pennsylvania Insurance Department Act, Act of May 17, 1921,
P.L. 789, as amended, P.S. § 323.5, I hereby designate Randolph L. Rohrbaugh, Deputy
Insurance Commissioner, to consider and review all documents relating to the market
conduct examination of any company and person who is the subject of a market conduct
examination and to have all powers set forth in said statute including the power to enter
an Order based on the review of said documents. This designation of authority shall
continue in effect until otherwise terminated by a later Order of the Insurance
Commissioner.





Joel S. Ario
Insurance Commissioner

CONSENT ORDER

AND NOW, this 11th day of March, 2008, this Order is hereby issued by the Insurance Department of the Commonwealth of Pennsylvania pursuant to the statutes cited above and in disposition of the matter captioned above.

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

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

FINDINGS OF FACT

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

- (a) Respondent is Mercury Insurance Company of Florida, and maintains its address at 19 British American Boulevard, East, Latham, New York 12110.

- (b) A market conduct examination of Respondent was conducted by the Insurance Department covering the period from July 1, 2006 through June 30, 2007.
- (c) On January 15, 2008, the Insurance Department issued a Market Conduct Examination Report to Respondent.
- (d) A response to the Examination Report was provided by Respondent on February 13, 2008.
- (e) The Examination Report notes violations of the following:
 - (i) Section 641.1-A of Act 147 of 2002 prohibits any entity or the appointed agent of any entity from transacting the business of insurance through anyone acting without an insurance producer license (40 P.S. § 310.41a);
 - (ii) Section 671-A of Act 147 of 2002 prohibits producers from transacting business within this Commonwealth without written appointment as required by the Act (40 P.S. § 310.71).
 - (iii) Sections 1705(a)(1) & (4) of Act 1990-6, Title 75, Pa.C.S. § 1705, which requires every insurer, prior to the issuance of a private passenger motor vehicle liability insurance policy to provide each applicant an opportunity to

elect a tort option. A policy may not be issued unless the applicant has been provided an opportunity to elect a tort option;

(iv) 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;

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

(vi) Section 1791.1(a) of Act 1990-6, Title 75, Pa.C.S. § 1791, which requires that at the time of application for original coverage and every renewal thereafter, an insurer must provide to an insured an itemized invoice listing the minimum motor vehicle insurance coverage levels mandated by the

commonwealth and the premium charge for the insured to purchase the minimum mandated coverages. The invoice must contain the following notice in print of no less than ten-point type: "The laws of the Commonwealth of Pennsylvania, as enacted by the General Assembly, only require you to purchase liability and first-party medical benefit coverages. Any additional coverage or coverages in excess of the limits required by law are provided only at your request as enhancements to basic coverages." The insurer shall provide the itemized invoice to the insured in conjunction with the declaration of coverage limits and premiums for the insured's existing coverages;

- (vii) 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;
- (viii) Section 1791.1(c) of Act 1990-6, Title 75, Pa.C.S. § 1791, which requires an insurer to provide an insured a notice stating that discounts are available for drivers who meet the requirements of Section 1799;
- (ix) Section 1793(b) of Act 1990-6, Title 75, Pa. C.S. § 1793, which requires the insurer to provide to the insured a surcharge disclosure plan. The insurer providing the surcharge disclosure plan shall detail the provisions of the plan and shall deliver the plan to each insured at least once annually.

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

- (x) 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;
- (xi) Section 5(a)(11) of Act 205 (40 P.S. § 1171.5), which requires a complete record of all complaints received during the preceding four years;
- (xii) Section 2002(c)(3) of Act 68 of 1998 (40 P.S. § 991.2002), which requires that an insurer supply the insured with a written statement of the reason for cancellation. While most of Act 68 does not apply to new policies cancelled in the first 60 days, the company must provide 15 days of notice of cancellation;
- (xiii) Section 2003(a)(13) of Act 68 of 1998 (40 P.S. § 991.2003), which prohibits an insurer from canceling or refusing to write or renew a policy of

automobile insurance for any of the following reasons: The company is using not-at-fault accidents, in general, as criteria for refusal to write a policy of automobile insurance;

(xiv) 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;

(xv) Section 2005(c) of Act 68 of 1998 (40 P.S. § 991.2005), which requires all 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;

(xvi) 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 cancellation;

- (xvii) Section 2006(2) of Act 68 of 1998 (40 P.S. § 991.2006), which requires an insurer to deliver or mail to the named insured a nonrenewal notice and state the date, not less than 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 15 days from the date of mailing or delivery;

- (xviii) 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;

- (xix) Section 2006(7) of Act 68 of 1998 (40 P.S. § 991.2006), which requires that a nonrenewal notice clearly state that when coverage is to be terminated due to nonresponse to a citation imposed under 75 Pa.C.S. § 1533 or nonpayment of a fine or penalty imposed under that section, coverage shall not terminate if the insured provides the insurer with proof that the insured has responded to all citations and paid all fines and penalties and that he has done so on or before the termination date of the policy;

- (xx) 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 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 Commissioner that he review the action of the insurer in refusing to write a policy for the applicant;

(xxi) Title 31, Pennsylvania Code, Section 69.52(b), which requires an insurer to pay medical bills for care that are not referred to a Peer Review Organization within 30 days after the insurer receives sufficient documentation supporting the bill;

(xxii) Title 31, Pennsylvania Code, Section 146.5(d), which requires every insurer, upon receiving notification of a claim, to provide within 10 working days, necessary claim forms, instructions and assistance so the first-party claimants can comply with the policy conditions and reasonable requirements of the insurer;

(xxiii) Title 31, Pennsylvania Code, Section 146.6, which requires complete investigation of a claim within thirty days after notification of a claim. If such investigation cannot reasonably be completed within such time, provide the claimant with a reasonable written explanation for the delay and state when a decision on the claim may be expected, within thirty days and every forty-five days thereafter;

(xxiv) Title 31, Pennsylvania Code, Section 146.7(a)(1), which requires within 15 working days after receipt by the insurer of properly executed proofs of loss, the first-party claimant shall be advised of the acceptance or denial of the claim by the insurer. No insurer shall deny a claim on the grounds of a specific policy provision, condition or exclusion unless reference to such provision, condition or exclusion is included in the denial. The denial must be given to the claimant in writing and the claim file of the insurer shall contain a copy of the denial;

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

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

CONCLUSIONS OF LAW

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

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

- (b) Respondent's violations of Sections 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 Sections 5(a)(11) 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.
- (d) In addition to any penalties imposed by the Department for Respondent's violations of the Unfair Insurance Practices Act (40 P.S. §§ 1171.1 – 1171.5), the Department 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).
- (e) Respondent's violations of Sections 2002, 2003, 2004, 2005, 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).

- (f) Respondent's violations of Title 31, Pennsylvania Code, Sections 146.5, 146.6 and 146.7 are punishable under Sections 9, 10 and 11 of the Unfair Insurance Practices Act (40 P.S. §§ 1171.9, 1171.10 and 1171.11), as stated above.

ORDER

5. In accord with the above Findings of Fact and Conclusions of Law, the Insurance Department orders and Respondent consents to the following:
- (a) Respondent shall cease and desist from engaging in the activities described herein in the Findings of Fact and Conclusions of Law.
 - (b) Respondent shall file an affidavit stating under oath that it will provide each of its directors, at the next scheduled directors meeting, a copy of the adopted Report and related Orders. Such affidavit shall be submitted within thirty (30) days of the date of this Order.
 - (c) Respondent shall comply with all recommendations contained in the attached Report.
 - (d) Respondent shall pay Forty Five Thousand Dollars (\$45,000.00) to the Commonwealth of Pennsylvania in settlement of all violations contained in the Report.

(e) Payment of this matter shall be made by check payable to the Commonwealth of Pennsylvania. Payment should be directed to Sharon L. Fraser, Office Manager, Bureau of Enforcement, 1227 Strawberry Square, Harrisburg, Pennsylvania 17120. Payment must be made no later than thirty (30) days after the date of this Order.

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

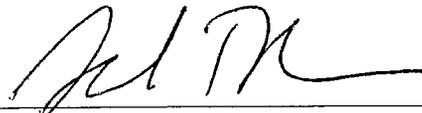
8. In any such enforcement proceeding, Respondent may contest whether a breach of the provisions of this Order has occurred but may not contest the Findings of Fact and Conclusions of Law contained herein.

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

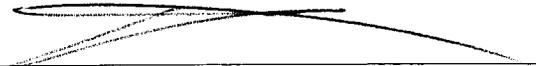
10. This Order constitutes the entire agreement of the parties with respect to the matters referred to herein, and it may not be amended or modified except by an amended order signed by all the parties hereto.

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

BY: MERCURY INSURANCE COMPANY OF
FLORIDA, Respondent



President / Vice President



Secretary / Treasurer



COMMONWEALTH OF PENNSYLVANIA

By: Randolph L. Rohrbaugh
Deputy Insurance Commissioner

I. INTRODUCTION

The market conduct examination was conducted at Mercury Insurance Company of Florida's office located in Latham, New York, from September 24, 2007, through October 12, 2007. Subsequent review and follow-up was conducted in the office of the Pennsylvania Insurance Department.

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

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

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

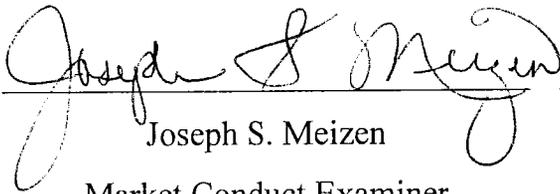
The courtesy and cooperation extended by the officers and employees of the Company during the course of the examination is hereby acknowledged.

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



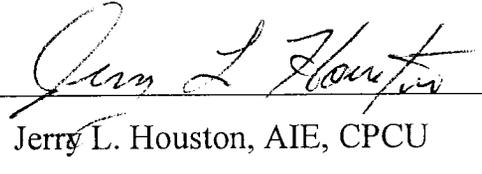
Chester A. Derk, Jr., AIE, HIA

Market Conduct Division Chief



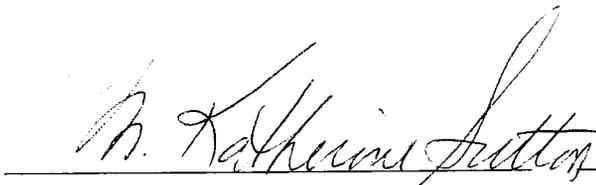
Joseph S. Meizen

Market Conduct Examiner



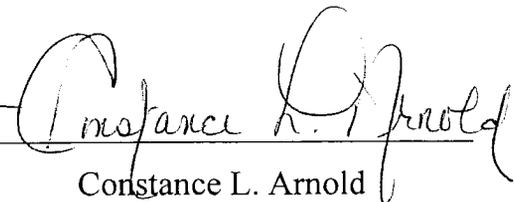
Jerry L. Houston, AIE, CPCU

Market Conduct Examiner



M. Katherine Sutton

Market Conduct Examiner



Constance L. Arnold

Market Conduct Examiner

II. SCOPE OF EXAMINATION

The Market Conduct Examination was conducted on Mercury Insurance Company of Florida, hereinafter referred to as "Company," at their office located in Latham, New York. 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, 2006, through June 30, 2007, unless otherwise noted. The purpose of the examination was to determine the Company's compliance with Pennsylvania insurance laws and regulations.

The examination focused on Company operations in the following areas:

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

III. COMPANY HISTORY AND LICENSING

Mercury Insurance Company of Florida was incorporated in Florida on August 27, 2001, and commenced business on January 2, 2002.

LICENSING

Mercury Insurance Company of Florida's Certificate of Authority to write business in the Commonwealth was last issued on April 1, 2007. The Company is licensed in Florida and Pennsylvania. The Company's 2006 annual statement reflects Direct Written Premium for all lines of business in the Commonwealth of Pennsylvania as \$7,036,676. Premium volume related to the areas of this review were: Private Passenger Automobile Direct Written Premium was reported as Private Passenger Auto No-Fault (personal injury protection) \$38,266; Other Private Passenger Auto Liability \$4,046,701 and Private Passenger Auto Physical Damage \$2,951,709.

IV. UNDERWRITING PRACTICES AND PROCEDURES

As part of the examination, the Company was requested to supply manuals, underwriting guides, bulletins, directives or other forms of underwriting procedure communications for each line of business being reviewed. Agency bulletins and Pennsylvania automobile product guides were furnished for private passenger automobile, homeowners and tenant occupied dwelling 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 finding was made:

1 Violation Act 68, Section 2003(a)(13) [40 P.S. §991.2003(a)(13)]

Discrimination Prohibited – (a) An insurer may not cancel or refuse to write or renew a policy of automobile insurance for any of the reasons specified in 2003(a)(13). The Company's guideline lists unacceptable risks as drivers with 3 accidents in the past 3 years or 3 accidents in the last 5 years if two of the accidents were in the last 3 years regardless of fault.

V. UNDERWRITING

A. Private Passenger Automobile

1. 60-Day Cancellations

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

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

From the universe of 133 private passenger automobile files identified as being cancelled in the first 60 days of new business, 43 files were selected for review. All 43 files were received and reviewed. The 8 violations noted were based on 8 files, resulting in an error ratio of 19%.

The following findings were made:

5 Violations Act 68, Section 2002(c)(3) [40 P.S. §991.2002(c)(3)]

Requires that an insurer supply the insured with a written statement of the reason for cancellation and provide at least 15 days notice to give insureds ample time to make other arrangements for insurance. The Company did not provide a copy of the cancellation notice for review for the 5 files noted.

3 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 Company failed to provide a specific reason for cancellation for the 3 files noted.

2. Midterm Cancellations

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

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

From the universe of 1,532 private passenger automobile files identified as midterm cancellations by the Company, 49 files were selected for review. All 49 files were received and reviewed. The 1,550 violations noted were based on the universe of 1,532 files, resulting in an error ratio of 100%.

The following findings were made:

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

Requires that cancellation 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 Company failed to provide documentation indicating that a notice of cancellation was mailed for the 12 files noted.

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

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

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

The Company failed to provide 60 days notice of cancellation for the 2 files noted.

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

Requires an insurer to deliver or mail to the named insured a cancellation notice and state the specific reason or reasons of the insurer for cancellation. The Company provided a specific reason for cancellation for the 2 files noted.

1,532 Violations Act 68, Section 2006(7) [40 P.S. §991.2006(7)]

Requires that a cancellation notice clearly state that when coverage is to be terminated due to nonresponse to a citation imposed under 75 Pa. C.S. §1533 (relating to suspension of operating privilege for failure to respond to a citation) or nonpayment of a fine or penalty imposed under that section, coverage shall not terminate if the insured provides the insurer with proof that the insured has responded to all citations and paid all fines and penalties and that he has done so on or before the termination date of the policy. The Company failed to provide the required wording on the notice regarding nonresponse to a citation.

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.

The universe of 22 private passenger automobile files identified as nonrenewals by the Company was selected for review. All 22 files were received and reviewed. The 33 violations noted were based on the universe of 22 files, resulting in an error ratio of 100%.

The following findings were made:

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

Requires an insurer to deliver or mail to the named insured a nonrenewal notice and state the date, not less than sixty (60) days after the date of the mailing or delivery, on which cancellation shall become effective. When the policy is being cancelled for the nonpayment of premium, the effective date may be fifteen (15) days from the date of mailing or delivery. The Company failed to provide 60 days notice of nonrenewal to the insured for the 6 files noted.

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

Requires an insurer to deliver or mail to the named insured a cancellation notice and state the specific reason or reasons of the insurer for cancellation. The Company failed to provide a specific reason of nonrenewal for the 5 files noted.

22 Violations Act 68, Section 2006(7) [40 P.S. §991.2006(7)]

Requires that a nonrenewal notice clearly state that when coverage is to be terminated due to nonresponse to a citation imposed under 75 Pa. C.S. §1533 (relating to suspension of operating privilege for failure to respond to a citation) or nonpayment of a fine or penalty imposed under that section, coverage shall not terminate if the insured provides the insurer with proof that the insured has responded to all citations and paid all fines and penalties and that he has done so on or before the termination date of the policy. The Company did not provide the required information on the nonrenewal notice for the 22 files noted.

B. Private Passenger Automobile – Assigned Risk

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

VI. RATING

A. Private Passenger Automobile

1. New Business

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

The primary purpose of the review was to measure compliance with Act 246, Sections 4(a) and (h) [40 P.S. §1184], which requires every insurer to file with the Insurance Commissioner every manual of classifications, rules and rates, every rating plan and every modification of any rating plan, which it proposes to use in the Commonwealth. Also, no insurer shall make or issue a contract or policy except in accordance with filings or rates, which are in effect at that time. Files were also reviewed to determine compliance with all provisions of Act 6 of 1990 and Act 68, Section 2005(c) [40 P.S. §991.2005(c)], which requires insurers to provide to insureds a detailed statement of the components of a premium and shall specifically show the amount of surcharge or other additional amount that is charged as a result of a claim having been made under a policy of insurance or as a result of any other factors.

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

Private Passenger Automobile – New Business Without Surcharges

From the universe of 1,166 private passenger automobile policies identified as new business without surcharges, 25 files were selected for review. All 25 files were received and reviewed. The 3,499 violations noted were based on the universe of 1,166, resulting in an error ratio of 100%.

The following findings were made:

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

Requires every insurer, prior to the first issuance of a private passenger motor vehicle liability insurance policy to provide each applicant with the notice required by paragraph (1). A policy may not be issued until the applicant has been provided an opportunity to elect a tort option. The notice shall be a standardized form as adopted by the Commissioner. The Company failed to provide the signed limited tort selection form for the file noted.

1,166 Violations Title 75, Pa. C.S. §1791.1(a)

Requires that at the time of application for original coverage and every renewal thereafter, an insurer must provide to an insured an itemized invoice listing the minimum motor vehicle insurance coverage levels mandated by the Commonwealth and the premium charge for the insured to purchase the minimum mandated coverages. The invoice must contain the following notice in print of no less than ten-point type: “The laws of the Commonwealth of Pennsylvania, as enacted by the General Assembly, only require you to purchase liability and first-party medical

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

1,166 Violations Title 75, Pa. C.S §1791.1(b)

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

1,166 Violations Title 75, Pa. C.S. §1791.1(c)

Requires an insurer to provide an insured a notice stating that discounts are available for drivers who meet the requirements of Sections 1799, 1799.1 and 1799.2. The Company failed to provide the required notice at the time of application.

Private Passenger Automobile - New Business With Surcharges

From the universe of 273 private passenger automobile policies identified as new business with surcharges by the Company, 50 files were selected for review. All 50 files were received and reviewed. The 1,093 violations noted were based on the universe of 273, resulting in an error ratio of 100%.

The following findings were made:

1 Violation Title 75, Pa. C.S. §1738(d)(1)&(2)

The named insured shall be informed that he may exercise the waiver of stacked limits for uninsured and underinsured motorist coverage by signing written rejection forms. The Company did not provide the signed rejection form of stacked limits for uninsured and underinsured motorists coverage for the file noted.

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

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

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

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

273 Violations Act 68, Section 2005(c) [40 P.S. §991.2005(c)]

All insurers shall 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.

AND

Title 75, Pa. C.S. §1799.3(d)

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

273 Violations Title 75, Pa. C.S. §1791.1(c)

Requires an insurer to provide an insured a notice stating that discounts are available for drivers who meet the requirements of Sections 1799, 1799.1 and 1799.2. The Company failed to provide the required notice at the time of application.

2. Renewals

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

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

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

examiners were able to determine compliance with the Company's filed and approved rating plans.

Private Passenger Automobile – Renewals Without Surcharges

From the universe of 3,656 private passenger automobile policies renewed without surcharges during the experience period, 35 files were selected for review. All 35 files were received and reviewed. The 14,624 violations noted were based on the universe of 3,656 files, resulting in an error ratio of 100%.

The following findings were made:

3,656 Violations Title 75, Pa. C.S. §1791.1(a)

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

premiums for the insured's existing coverages. The Company failed to provide the required notice at renewal.

3,656 Violations Title 75, Pa. C.S §1791.1(b)

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

3,656 Violations Title 75, Pa. C.S. §1793(b)

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

3,656 Violations Title 75, Pa. C.S. §1791.1(c)

Requires an insurer to provide an insured a notice stating that discounts are available for drivers who meet the requirements of Sections 1799, 1799.1 and 1799.2. The Company failed to provide the required notice at renewal.

Private Passenger Automobile – Renewals With Surcharges

From the universe of 389 private passenger automobile policies renewed with surcharges during the experience period, 50 files were selected for

review. All 50 files were received and reviewed. The 1,945 violations noted were based on the universe of 389 files, resulting in an error ratio of 100%.

The following findings were made:

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

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

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

Requires an insurer to provide an insured a notice of the availability of two alternatives of full tort insurance and

limited tort insurance. The Company did not provide the notice of tort options to the insured at renewal.

389 Violations Act 68, Section 2005(c) [40 P.S. §991.2005(c)]

All insurers shall 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.

AND

Title 75, Pa. C.S. §1799.3(d)

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

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

Requires the insurer to provide to the insured a copy of their surcharge disclosure plan. The insurer providing the surcharge disclosure plan shall detail the provisions of the plan and the plan shall be delivered to each insured by the insurer at least once annually. Additionally, the surcharge information plan shall be given to each prospective insured at

the time application is made for motor vehicle insurance coverage. The Company failed to provide the surcharge disclosure plan at renewal.

389 Violations Title 75, Pa. C.S. §1791.1(c)

Requires an insurer to provide an insured a notice stating that discounts are available for drivers who meet the requirements of Sections 1799, 1799.1 and 1799.2. The Company failed to provide the required notice at renewal.

Private Passenger Automobile – Renewals In a Higher Plan

The Company was requested to provide renewals in a higher rating plan. Only one rating plan has been filed so there is no higher plan; however, the Company did provide a list of 14 private passenger automobile policies renewed in a higher tier. All 14 files were selected, received and reviewed. The 52 violations noted were based on 14 files, resulting in an error ratio of 100%.

The following findings were made:

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

Requires that at the time of application for original coverage and every renewal thereafter, an insurer must provide to an insured an itemized invoice listing the minimum motor vehicle insurance coverage levels mandated by the Commonwealth and the premium charge for the insured to purchase the minimum mandated coverages. The invoice must contain the following notice in print of no less than ten-point type: “The laws of the Commonwealth of

Pennsylvania, as enacted by the General Assembly, only require you to purchase liability and first-party medical benefit coverages. Any additional coverage or coverages in excess of the limits required by law are provided only at your request as enhancements to basic coverages.” The insurer shall provide the itemized invoice to the insured in conjunction with the declaration of coverage limits and premiums for the insured’s existing coverages. The Company failed to provide the required notice at renewal.

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

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

10 Violations Act 68, Section 2005(c) [40 P.S. §991.2005(c)]

All insurers shall 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.

AND

Title 75, Pa. C.S. §1799.3(d)

Requires insurers who make a determination to impose a surcharge, rate penalty or driver record point assignment, to inform the insured of the determination and specify the manner in which the surcharge, rate penalty or driver record point assignment was made and clearly identify the amount of

the surcharge or rate penalty on the premium notice for as long as the surcharge or rate penalty is in effect. The Company failed to specify the manner in which the surcharge or rate penalty was made and identify the amount of the surcharge for the 10 files noted.

14 Violations Title 75, Pa. C.S. §1791.1(c)

Requires an insurer to provide an insured a notice stating that discounts are available for drivers who meet the requirements of Sections 1799, 1799.1 and 1799.2. The Company failed to provide the required notice at renewal.

B. Private Passenger Automobile – Assigned Risk

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

VII. CLAIMS

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

The Claims review consisted of the following areas of review:

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

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

A. Automobile Property Damage Claims

From the universe of 369 private passenger automobile property damage claims reported during the experience period, 25 files were selected for review. All 25 files were received and reviewed. The 7 violations noted were based on 4 files, resulting in an error ratio of 16%.

The following findings were made:

4 Violations Title 31, Pa. Code, Section 146.6

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

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 subrogation claims submitted by the claimant's insurer were not addressed by the Company within 15 days.

B. Automobile Comprehensive Claims

From the universe of 610 private passenger automobile comprehensive claims reported during the experience period, 25 files were selected for review. All 25 files were received and reviewed. No violations were noted.

C. Automobile Collision Claims

From the universe of 610 private passenger automobile collision claims reported during the experience period, 25 files were selected for review. All 25 files were received and reviewed. No violations were noted.

D. Automobile Total Loss Claims

From the universe of 114 private passenger automobile total loss claims reported during the experience period, 50 files were selected for review. All 50 files were received and reviewed. The 7 violations noted were based on 7 files, resulting in an error ratio of 14%.

The following findings were made:

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

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

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

failed to obtain salvage certificates prior to paying claimant damages for the 5 claims noted.

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 2 claims noted.

E. Automobile First Party Medical Claims

From the universe of 244 private passenger automobile first party medical claims reported during the experience period, 50 files were selected for review. All 50 files were received and reviewed. The 4 violations noted were based on 2 files, resulting in an error ratio of 4%.

The following findings were made:

1 Violation Title 31, Pa. Code, Section 69.52(b)

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

1 Violation 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 Company did not pay interest on a claim that was 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 Company did not send the application for benefits within 10 working days for the claim noted.

1 Violation Title 31, Pa. Code, Section 146.6

Every insurer shall complete investigation of a claim within 30 days after notification of the claim, unless such investigation cannot reasonably be completed within 30 days, and every 45 days thereafter, the insurer shall provide the

claimant with a reasonable written explanation for the delay and state when a decision on the claim may be expected. The Company did not provide timely status letters for the claim noted.

F. Automobile First Party Medical Claims Referred to a PRO

The Company was asked to provide a list of all first party medical claims that were referred to a peer review organization. The Company did not report any claims referred to a peer review organization. The Company was also requested to provide copies of any written contracts with the peer review organization it has contracted. A written contract was provided with an approved peer review organization. No violations were noted.

VIII. FORMS

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

The following findings were made:

3 Violations Title 75, Pa. C.S. §1822

Warning notice on application for insurance and claim forms. Not later than May 1, 1990, all applications for insurance, renewals and claim forms shall contain a statement that clearly states in substance the following: "Any person who knowingly and with intent to injure or defraud any insurer files an application or claim containing false, incomplete or misleading information shall, upon conviction, be subject to imprisonment for up to seven years and payment of a fine of up to \$15,000." The Company failed to provide the required fraud warning on a bill of sale claim form, power of attorney form and an application for benefits form.

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

Requires every insurer, prior to the first issuance of a private passenger motor vehicle liability insurance policy to provide each applicant with the notice required by paragraph (1). A policy may not be issued until the applicant has been provided an opportunity to elect a tort option. The notice shall be a standardized form as adopted by the Commissioner. The Company failed to provide a statutory election of tort option form.

Automobile Rating – Renewals Without Surcharges

3,656 Violations Title 75, Pa. C.S. §1822

Warning notice on application for insurance and claim forms. Not later than May 1, 1990, all applications for insurance, renewals and claim forms shall contain a statement that clearly states in substance the following: "Any person who knowingly and with intent to injure or defraud any insurer files an application or claim containing false, incomplete or misleading information shall, upon conviction, be subject to imprisonment for up to seven years and payment of a fine of up to \$15,000." The Company failed to provide the fraud warning at the time of renewal for the 3,656 files noted.

Automobile Rating – Renewals With Surcharges

389 Violations Title 75, Pa. C.S. §1822

Warning notice on application for insurance and claim forms. Not later than May 1, 1990, all applications for insurance, renewals and claim forms shall contain a statement that clearly states in substance the following: "Any person who knowingly and with intent to injure or defraud any insurer files an application or claim containing false, incomplete or misleading information shall, upon conviction, be

subject to imprisonment for up to seven years and payment of a fine of up to \$15,000." The Company failed to provide the fraud warning at the time of renewal for the 389 files noted.

Automobile Rating – Renewals In a Higher Plan

14 Violations Title 75, Pa. C.S. §1822

Warning notice on application for insurance and claim forms. Not later than May 1, 1990, all applications for insurance, renewals and claim forms shall contain a statement that clearly states in substance the following: "Any person who knowingly and with intent to injure or defraud any insurer files an application or claim containing false, incomplete or misleading information shall, upon conviction, be subject to imprisonment for up to seven years and payment of a fine of up to \$15,000." The Company failed to provide the fraud warning at the time of renewal for the 14 files noted.

IX. ADVERTISING

The Company was requested to provide copies of all advertising, sales material and internet advertisements in use during the experience period.

The purpose of this review was to determine compliance with Act 205, Section 5 [40 P.S. §1171.5], which defines unfair methods of competition and unfair or deceptive acts or practices in the business of insurance, as well as Title 31, Pennsylvania Code, Section 51.2(c) and Section 51.61.

The Company provided 5 pieces of advertising in use during the experience period, which included brochures, agency kits, mail solicitation and bulletins. Internet advertising was also reviewed. No violations were noted.

X. CONSUMER COMPLAINTS

The Company was requested to identify all consumer complaints received during the experience period and provide copies of their consumer complaint logs for the preceding four years. The Company identified 5 consumer complaints received during the experience period and provided complaint logs for 2005, 2006 and 2007. The Company just began writing business in Pennsylvania in 2004 and did not have any complaints in 2004. All 5 complaints were requested, received and reviewed.

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

The following findings were made:

2 Violations Act 205, Section 5(a)(11) [40 P.S. §1171.5(a)(11)]

Requires an insurer to maintain a complete record of all the complaints, which it has received during the preceding four years. This record shall indicate the total number of complaints, their classification by line of insurance, the nature of each complaint, the disposition of these complaints and time it took to process each complaint. The Complaint logs for years 2006 and 2007 were incomplete. The number complaints, line of insurance, disposition and time it took to process each complaint was not included in the complaint logs.

The following synopsis reflects the nature of the 5 complaints that were reviewed.

•	4	Cancellation	80%
•	1	Claims Related	20%
	<hr/>		<hr/>
	5		100%

XI. LICENSING

In order to determine compliance by the Company and its agency force with the licensing requirements applicable to Section 641.1(a) [40 P.S. §310.41(a) and Section 671-A [40 P.S. §310.71] of the Insurance Department Act No. 147, the Company was requested to furnish a list of all active producers during the experience period and a listing of all producers terminated during the experience period. Underwriting files were checked to verify proper licensing and appointment.

The following findings were made:

*1 Violation Insurance Department Act, No. 147, Section 641.1A
[40 P.S. §310.41a]*

(a) Any insurance entity or licensee accepting applications or orders for insurance from any person or securing any insurance business that was sold, solicited or negotiated by any person acting without an insurance producer license shall be subject to civil penalty of no more than \$5,000.00 per violation in accordance with this act. This section shall not prohibit an insurer from accepting an insurance application directly from a consumer or prohibit the payment or receipt of referral fees in accordance with this act.

The following producer was found to be writing and /or soliciting policies but was not found in Insurance Department records as holding a Pennsylvania producer license.

John R. Beck

63 Violations Insurance Department Act, No. 147, Section 671-A

(40 P.S. §310.71)

(a) Representative of the insurer – An insurance producer shall not act on behalf of or as a representative of the insurer unless the insurance producer is appointed by the insurer. An insurance producer not acting as a representative of an insurer is not required to be appointed.

(b) Representative of the consumer – An insurance producer acting on behalf of or representing an insurance consumer shall execute a written agreement with the insurance consumer prior to representing or acting on their behalf that:

(1) Delineates the services to be provided; and

(2) Provides full and complete disclosure of the fee to be paid to the insurance producer by the insurance consumer.

(c) Notification to Department – An insurer that appoints an insurance producer shall file with the Department a notice of appointment. The notice shall state for which companies within the insurer's holding company system or group the appointment is made.

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

(e) Appointment fee – An appointment fee of \$12.50 will be billed annually to the insurer for each producer appointed by the insurer during the preceding calendar year regardless of the length of time the producer held the appointment with the insurer. The

appointment fee may be modified by regulation.

(f) Reporting – An insurer shall, upon request, certify to the Department the names of all licensees appointed by the insurer.

The following producers were found to be writing policies but were not found in Insurance Department records as having an appointment. The Company failed to file a notice of appointment and submit appointment fees to the Department.

A Agency Insurance, Inc.
Jessica L Keller
Mark H Preiss
Matthew C Robbins
Frederick H Zeller
Advantage One Ins. & Financial Services Inc.
Emilio Amodei
All Insurance, Inc.
Ralph Williams Jr
Beck, John R
Cipriani, Dario
Combined Insurance Group LTD
Michael E. Dortch
Durham Insurance Group, Inc
Danny E Dennis
Dipietro, Silvio M
English, Michael G
Estadt, Daniel Ernest
Florey, Thomas E
Foglia Insurance, Inc.
Dennis Foglia
Maryhelen A Foglia
Vivian Maldonado
Joyce L Walz
Florey, Amy E
James Ford and Stephen Brown Agency Inc
Stephen M. Brown
James T. Ford
Fusco, William G

Gross, Donald R
Higgins, Thomas D
Hornafius Insurance Agency, Inc
Michael T Chromiak
Hrubes, Kimberly Ann
Insurance Man Inc., The
Christopher J. Foley
Ronald S. Maerz Jr
Jamie L Maerz
Lloyd, Inc.
Mackley Insurance, Inc.
Joseph J Mackley
Martin Shirman Agency, LLC
Mearhoff Insurance Agency, Inc.
Lee A Mearhoff
Mark H Mearhoff
Millers Insurance Agency, Inc.
Nalley, Lawrence Edward
Nalley, Raymond J
Niu, Zheng
Orvieto, Gary J
Pennsylvania Insurance Specialists, Inc.
Porter, Eric J
Runkles Insurance Agency, Inc.
Monique Barshinger
Maria Schlesier
Saracino, John A
Siegel, William R
Sommers, Leon H
Toner Organization of N A LTD
Walker and Marshall Insurance
Mickey C Marshall
Robert C Walker
Worthington C A Inc.

XII. RECOMMENDATIONS

The recommendations made below identify corrective measures the Department finds necessary as a result of the number of some violations, or the nature and severity of other statutory or regulatory violations, noted in the Report.

1. The Company must review and revise internal control procedures to ensure compliance with cancellation notice requirements of Act 68, Sections 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.
2. The Company must review Title 75, Pa. C.S. §1791.1(a) and (b) to ensure that an itemized invoice listing minimum coverages and tort options is provided at the time of application and every renewal thereafter, as noted in the Report, and does not occur in the future.
3. The Company must review Title 75, Pa. C.S. 1793(b) to ensure that violations regarding the requirement to provide the insured with a surcharge disclosure plan at the time of renewal.
4. When a surcharge is imposed on a private passenger automobile policy the Company must specify the manner in which the surcharge was made and clearly identify the amount of the surcharge 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 Act 68, Section 2005(c) [40 P.S. §991.2005(c)] and Title 75, Pa. C.S. §1799.3(d) do not occur in the future.

5. The Company must review Title 75, Pa. C.S. §1791.1(c) to ensure that violations regarding the requirement to provide notice to insureds stating that discounts are available for drivers, as noted in the Report, do not occur in the future.
6. The Company must revise its underwriting procedures to ensure that each applicant for private passenger automobile liability insurance is provided an opportunity to elect a tort option and that signed tort option selection forms are obtained and retained with the underwriting file. This is to ensure the violation noted under Title 75, Pa. C.S. §1705(a)(1)(4) does not occur in the future.
7. The Company must revise underwriting procedures to ensure that the insured is aware that he may exercise the waiver of stacked limits for uninsured and underinsured motorist coverage by signing written rejection forms. This is to ensure the violation noted under Title 75, Pa. C.S. §1738(d)(1) and (2) does not occur in the future.
8. The Company must review Title 75, Pa. C.S. §1161(a)&(b) with its claim staff to ensure that Pennsylvania salvage certificates are obtained and are retained with the claim file.
9. The Company should review and revise internal control procedures to ensure compliance with the claims handling requirements of Title 31, Pennsylvania Code, Chapter 146, Unfair Claims Settlement Practices so that the violations relating to status letters, claim acceptance and sending necessary claim forms, as noted in the Report, do not occur in the future.

10. 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.
11. The Company must review the 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 as required by Title 75, Pa. C.S. §1716. The interest amount must be paid to the claimant and proof of such payment must be provided to the Insurance Department within 30 days of the Report issue date.
12. The Company must ensure all producers are properly licensed and appointed, as required by Section 641.1(a) [40 P.S. §310.41(a)] and Section 671-A [40 P.S. §310.71] of the Insurance Department Act No. 147, prior to accepting any business from any producer.
13. The Company must ensure that all renewals and claim forms contain the required fraud warning notice.
14. The Company must review Act 205, Section 5(a)(11) [40 P.S. §1171.5(a)(11)], to ensure that the violations relative to complaint records noted in the Report does not occur in the future.
15. The Company must revise and reissue their underwriting guidelines for use in Pennsylvania to ensure that the guidelines do not exclude applicants from being eligible to obtain insurance for reasons established in Section 2003(a)(13) of Act 68 [40 P.S. §991.2003].

XIII. COMPANY RESPONSE



19 British American Blvd. East
Latham, New York 12110-1400
877-533-6330

February 12, 2008

Mr. Chester A. Derk, Jr. AIE, HIA
Market Conduct Division Chief
Commonwealth of Pennsylvania Insurance Department
Bureau of Enforcement
Market Conduct Division
1321 Strawberry Square
Harrisburg, Pa 17120

Re: Mercury Insurance Company of Florida
Market Conduct Examination Warrant 07-M30-047

Dear Mr. Derk,

On behalf of Mercury Insurance Company of Florida ("the Company") I am enclosing the response to the December 13th 2007 exit summary. I can assure you that Mercury Insurance has taken affirmative steps to resolve the issues that arose in the examination and we trust that the responses shown below will demonstrate our actions.

We would like to take this opportunity to thank Mr. Meizen, Mr. Sutton and Ms. Arnold for their diligent and professional work. Should you have any questions please feel free to contact me at your earliest convenience.

Sincerely,

A handwritten signature in cursive script that reads 'Cindy VanHoesen' with a small 'PS' written below the name.

Cindy VanHoesen
Director of Marketing & Underwriting

CC: Ken Kitzmiller, Underwriting Vice President

XII. RECOMMENDATIONS

The recommendations made below identify corrective measures the Department finds necessary as a result of the number of some violations, or the nature and severity of other statutory or regulatory violations, noted in the Report.

1. *The Company must review and revise internal control procedures to ensure compliance with cancellation notice requirements of Act 68, Sections 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.*

Mercury Insurance Company of Florida takes no exception to the violations related to Act 68, Sections 2002, 2004, 2006 and 2008.

Mercury's internal control procedures have been reviewed and revised to ensure compliance with Section 2002(c)(3); namely, a policy will not be cancelled in the first sixty days unless "a written statement of the reason for cancellation" is provided to the insured.

Mercury's internal control procedures have been reviewed and revised to ensure compliance with Section 2004, namely, a policy may not be cancelled midterm for a reason not specified in Section 2004.

Mercury's internal control procedures have been reviewed and revised to ensure compliance with Section 2006, namely, a policy may not be cancelled midterm unless "a written notice of the cancellation or refusal to renew" is provided to the insured.

Mercury's internal control procedures have been reviewed and revised to ensure compliance with Sections 2006(3) and 2008(b); respectively "state the specific reason or reasons of the insurer for cancellation or refusal to renew" for midterm cancellations and renewals, as well as "state the specific reason or reasons of the insurer for refusal to write a policy for the applicant" for cancellations within the first sixty days of the policy.

Mercury's internal control procedures have been reviewed and revised to ensure compliance with Section 2006(2); at least sixty days notice will be provided to the insured as prescribed.

Mercury's internal control procedures will be reviewed and revised to ensure compliance with Section 2006(7); required wording regarding nonresponse to a citation will be added to our cancellation notices when the reason for cancellation relates to non-response to a citation.

2. *The Company must review Title 75, Pa. C.S. §1791.1 (a) and (b) to ensure that an itemized invoice listing minimum coverages and tort options is provided at the time of application and every renewal thereafter, as noted in the Report, and does not occur in the future.*

Mercury Insurance Company of Florida takes no exception to the violations related to Title 75, Pa. C.S. 1791.1(a) and (b).

Mercury will revise and provide at the time of application and every renewal thereafter the required itemized invoice listing the minimum motor vehicle insurance coverage levels mandated by the Commonwealth and the premium charge for the insured as prescribed by 1791.1(a).

Mercury will revise and provide at the time of application and every renewal thereafter the required notice of tort options required as prescribed by 1791.1(b). [Note: Mercury's form PA U7 is being used as an invoice, notice of tort options and an election of tort option form. PA U7 will be updated and expanded to meet the requirements of 1791.1(a) & (b) as well as 1705(a)(1) & (4).]

- 3. The Company must review Title 75, Pa. C.S. 1793 (b) to ensure that violations regarding the requirement to provide the insured with a surcharge disclosure plan at the time of renewal.*

Mercury Insurance Company of Florida takes no exception to the violations related to Title 75, Pa. C.S. 1793(b).

Mercury will establish and provide at the time of application and at least once annually thereafter the required surcharge disclosure plan.

- 4. When a surcharge is imposed on a private passenger automobile policy the Company must specify the manner in which the surcharge was made and clearly identify the amount of the surcharge 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 Act 68, Section 2005 (c) [40 P.S. §991.2005(c)] and Title 75, Pa. C.S. §1799.3(d) do not occur in the future.*

Mercury Insurance Company of Florida takes no exception to the violations related to Act 68, Section 2005(c) and Title 75, Pa. C.S. 1799.3(d).

Mercury will establish and provide at the time of application and every renewal thereafter a detailed statement explaining the manner in which a surcharge or rate penalty was applied and the amount of the surcharge.

- 5. The Company must review Title 75, Pa. C.S. §1791.1(c) to ensure that violations regarding the requirement to provide notice to insureds stating that discounts are available for drivers, as noted in the Report, do not occur in the future.*

Mercury Insurance Company of Florida takes no exception to the violations related to Title 75, Pa. C.S. 1791.1(c).

Mercury will establish and provide at the time of application and every renewal thereafter a notice explaining discounts available for drivers who meet the requirements of sections 1799, 1799.1 and 1799.2.

- 6. The Company must revise its underwriting procedures to ensure that each applicant for private passenger automobile liability insurance is provided an opportunity to elect a tort option and that signed tort option selection forms are*

obtained and retained with the underwriting file. This is to ensure the violation noted under Title 75, Pa. C.S. §1705(a)(1)(4) does not occur in the future.

Mercury Insurance Company of Florida takes no exception to the violations related to Title 75, Pa. C.S. 1705(a)(1) & (4).

Mercury will revise and provide at the time of application the required Election of Tort Options form.

[Note: Mercury's form PA U7 is being used as an invoice, notice of tort options and an election of tort option form. PA U7 will be updated and expanded to meet the requirements of 1791.1(a) & (b) as well as 1705(a)(1) & (4).]

- 7. The Company must revise underwriting procedures to ensure that the insured is aware that he may exercise the waiver of stacked limits for uninsured and underinsured motorist coverage by signing written rejection forms. This is to ensure the violation noted under Title 75, Pa. C.S. §1738(d)(1) and (2) does not occur in the future.*

Mercury Insurance Company of Florida takes no exception to the violation related to Title 75, Pa. C.S. 1738(d)(1) and (2).

Of the 50 files reviewed 1 violation was documented. Mercury will reinforce internal control procedures to ensure compliance with Title 75, Pa C.S. 1738 (d)(1) & (2) on all applicable policies.

- 8. The Company must review Title 75, Pa. C.S. §1161(a) & (b) with its claim staff to ensure that Pennsylvania salvage certificates are obtained and are retained with the claim file.*

Mercury Insurance Company of Florida takes no exception to the findings of deficiencies under Title 75, Pa. C.S. §1161(a) & (b).

Mercury had adapted our procedures to comply with state requirements for procuring and retaining Salvage Certificates. Our staff has been trained on proper salvage handling and random open and closed file audits are conducted to ensure compliance.

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

Mercury Insurance Company of Florida takes no exception to the findings of deficiencies under Title 31, Pennsylvania Code, Chapter 146, and Unfair Claims Settlement Practices.

Mercury has conducted training with our staff on the requirements set forth by Title 31 and random open and closed files audits are conducted to ensure compliance.

10. 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.

Mercury Insurance Company of Florida takes no exception to the findings of deficiencies under Title 31, Pa. Code Section 69.52(b).

Mercury has reviewed the requirements as set forth in Title 31 with our staff and random open and closed file audits are conducted to ensure compliance.

11. The Company must review the 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 as required by Title 75, Pa. C.S. §1716. The interest amount must be paid to the claimant and proof of such payment must be provided to the Insurance Department within 30 days of the Report issue date.

Mercury Insurance Company of Florida takes no exception to the findings of deficiencies under Title 75, Pa. C.S. §1716.

Mercury has reviewed the requirements as set forth in Title 31 with our staff and random open and closed file audits are conducted to ensure compliance. Attached, please find supporting documentation showing interest payment made on the file found deficient in the Market Conduct Study.

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

Mercury Insurance Company of Florida takes no exception to the findings of deficiencies under Section 641.1(a) [40 P.S. §310.41(a)] and Section 671-A [40 P.S. §310.71] of the Insurance Department Act No. 147.

Mercury Insurance Company of Florida has changed the internal procedures to ensure that every producer and agency is appointed through the Commonwealth of Pennsylvania prior to accepting any business from that agency.

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

Mercury Insurance Company of Florida takes no exception to the violations related to fraud warning notice.

In accordance with Title 75, Pa. C.S. 1822 all renewals and claim forms has been updated to include the required fraud warning notice.

14. The Company must review Act 205, Section 5 (a)(11) [40 P.S. §1171.5 (a)(11)], to ensure that the violations relative to complaint records noted in the Report does not occur in the future.

Mercury Insurance Company of Florida takes no exception to the violations related to Act 205, Section 5(a)(11).

Mercury Insurance Company of Florida has changed its internal process to ensure all customer complaints are logged and tracked through resolution; including the number of complaints, lines of insurance, disposition and time taken to process each complaint.

15. The Company must revise and reissue their underwriting guidelines for use in Pennsylvania to ensure that the guidelines do not exclude applicants from being eligible to obtain insurance for reasons established in Section 2003(a)(13) of Act 68 [40 P.S. §991.2003].

Mercury Insurance Company of Florida takes no exception to the violations relating to Act 68, Section 2003(a) (13).

Mercury Insurance Company of Florida has changed its internal process to ensure no policy is cancelled or non-renewed for any of the reasons specified in 2003(a) (13).