

**REPORT OF
MARKET CONDUCT EXAMINATION
OF**

OMNI INSURANCE COMPANY
Chicago, Illinois

**AS OF
July 6, 2005**

COMMONWEALTH OF PENNSYLVANIA

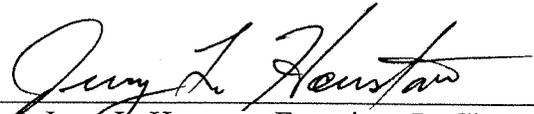


**INSURANCE DEPARTMENT
MARKET CONDUCT DIVISION**

Issued: September 6, 2005

VERIFICATION

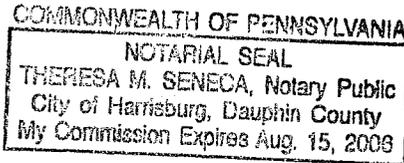
Having been duly sworn, I hereby verify that the statements made in the within document are true and correct to the best of my knowledge, information and belief. I understand that false statements made herein are subject to the penalties of 18 Pa. C.S. §4903 (relating to false swearing).


Jerry L. Houston, Examiner-In-Charge

Sworn to and Subscribed Before me

This *23* Day of *May*, 2005


Notary Public



OMNI INSURANCE COMPANY

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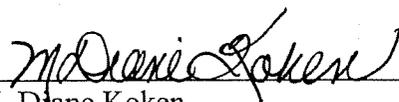
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BEFORE THE INSURANCE COMMISSIONER
OF THE
COMMONWEALTH OF PENNSYLVANIA

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

Sep-06-2005 13:23

From-MTF JESSUP

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T-517 P.002

F-558

BEFORE THE INSURANCE COMMISSIONER
OF THE
COMMONWEALTH OF PENNSYLVANIA

IN RE:

OMNI INSURANCE COMPANY
2018 Powers Ferry Road
Atlanta, GA 30339

Violations:

Sections 641.1-A and 671-A of Act 147
of 2002 (40 P.S. §§ 310.41a and 310.71)

Sections 4(a) and 4(h) of the Act of
June 11, 1947, P.L. 538, No. 246
(40 P.S. §§ 1184)

Act 1990-6, Sections 1705(a)(1) and (4),
1716, 1731(b) and (c), 1734,
1738(c)(d)(1) and (2), 1791.1(a) and (b),
and 1799.3(a) and (d) (Title 75, Pa.C.S.
§§ 1705, 1716, 1731, 1734, 1738, 1791
and 1799)

Sections 2002(c)(3), 2003(a)(10) and
2006(3) of Act 68 of 1998 (40 P.S.
§§ 991.2002, 991.2003 and
991.2006)

Title 31, Pennsylvania Code, Sections
62.3(e)(4), 62.3(e)(7), 69.42, 69.43,
69.52(b), 146.6 and 146.7(a)(1)

Title 75, Pennsylvania Consolidated
Statutes, Section 1161(a) and (b)

Respondent.

Docket No. MC05-07-002

CONSENT ORDER

AND NOW, this 6th day of September, 2005, this Order is hereby
issued by the Deputy Insurance Commissioner of the Commonwealth of

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F-558

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.

3. Without admitting the allegations of fact and conclusions of law contained herein, Respondent specifically denies that it violated any law or regulation of the Commonwealth.

FINDINGS OF FACT

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

- (a) Respondent is Omni Insurance Company, and maintains its address at 2018 Powers Ferry Road, Atlanta, Georgia 30339.

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- (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 July 6, 2005, the Insurance Department issued a Market Conduct Examination Report to Respondent.
- (d) A response to the Examination Report was provided by Respondent on August 5, 2005.
- (e) The Examination Report notes violations of the following:
- (i) Section 641.1-A of Act 147 of 2002, which prohibits doing business with unlicensed persons (40 P.S. § 310.41a);
 - (ii) Section 671-A of Act 147 of 2002, which prohibits producers from transacting business within this Commonwealth without written appointment as required by the Act (40 P.S. § 310.71);
 - (iii) 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

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to use in this Commonwealth and prohibits an insurer from making or issuing a contract or policy with rates other than those approved;

- (iv) Section 1705(a)(1) and (4) of Act 1990-6, Title 75, Pa.C.S. § 1705(a)(1) and (4), 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;
- (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 1731(b) and (c) of Act 1990-6, Title 75, Pa.C.S. § 1731, which requires the named insured to be informed that he may reject uninsured and underinsured motorist coverage by signing a written rejection form;

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- (vii) Section 1734 of Act 1990-6, Title 75, Pa.C.S. § 1734, which provides a named insured may request in writing the issuance of coverages under Section 1731 in amounts to or less than the limits of liability for bodily injury;
- (viii) Section 1738(c)(d)(1) and (2), which states 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;
- (ix) 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;

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- (x) Section 1791.1(b) of Act 1990-6, Title 75, Pa.C.S. § 1791, which requires, in addition to the invoice required under subsection (a), an insured must, at the time of application for original coverage for private passenger motor vehicle insurance and every renewal thereafter, provide to an insured the following notice of the availability of two alternatives of full tort insurance and limited tort insurance;
- (xi) 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 \$1,050 in excess of any self-insured retention or deductible applicable to the named insured;
- (xii) 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 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;

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- (xiii) 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;
- (xiv) Section 2003(a)(10) 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 lawful occupation, including military service;
- (xv) 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;
- (xvi) Title 31, Pennsylvania Code, Section 62.3(e)(4), which requires that applicable sales tax on the replacement cost of a motor vehicle shall be included as part of the replacement value;
- (xvii) Title 31, Pennsylvania Code, Section 62.3(e)(7), which states the appraiser is responsible for ensuring that a copy of the total loss evaluation report be sent within five working days to the consumer by the appraiser after the appraisal is completed. If a settlement offer is extended before the consumer receives the total loss evaluation report, the consumer shall be

advised of the total loss evaluation report's contents and of the consumer's right to be sent a copy within five days after its completion;

- (xviii) Title 31, Pennsylvania Code, Sections 69.42 and 69.43, which require an insurer to make payments to providers in accordance with the Medicare Program as applied in this Commonwealth by the carrier and intermediaries. Care covered under the Medicare Program shall be reimbursed at 110% of the Medicare payment or a different allowance as may be determined under Section 69.12(b);
- (xix) 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;
- (xx) 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;

(xxi) 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; and

(xxii) Title 75, Pa. C.S. § 1161(a) and (b), which requires a certificate of salvage:

(a) A person, including an insurer or self-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

(b) 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. 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 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;

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CONCLUSIONS OF LAW

5. 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) issue an order to cease and desist.
 - (iv) impose such other conditions as the department may deem appropriate.
- (c) 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.
- (d) Respondent's violations of Sections 2002, 2003 and 2006 of Act 68 of 1998 are punishable by the following, under Section 2013 of the Act (40 P.S. § 991.2013): Any individual or insurer who violates any of the provisions of this article may be sentenced to pay a fine not to exceed five thousand dollars (\$5,000.00).
- (e) Respondent's violations of Title 31, Pennsylvania Code, Sections 146.6 and 146.7 are punishable 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.
- (f) In addition to any penalties imposed by the Commissioner for Respondent's violations of the Unfair Insurance Practices Act (40 P.S. §§ 1171.1 –

1171.5), the Commissioner may, under Sections 10 and 11 of the Unfair Insurance Practices Act (40 P.S. §§ 1171.10, 1171.11) file an action in which the Commonwealth Court may impose the following civil penalties:

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

ORDER

6. 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 must review all total loss claims going back five years from the date of this Order and identify all claims which did not include sales tax in the calculation of replacement value. For those claims identified, sales tax must be calculated, along with interest, and paid to the claimants. Proof of such

payments must be provided to the Department within ninety (90) days of the date of this Order.

- (c) 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.
- (d) Respondent shall comply with all recommendations contained in the attached Report.
- (e) Respondent shall pay Sixty-Eight Thousand Dollars (\$68,000.00) to the Commonwealth of Pennsylvania in settlement of all violations contained in the Report.
- (f) 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.

7. 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.

8. 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.

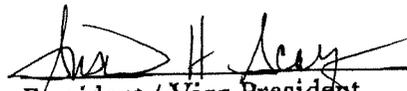
9. In any such enforcement proceeding, Respondent may contest whether a breach of the provisions of this Order has occurred but may not contest the Findings of Fact and Conclusions of Law contained herein.

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

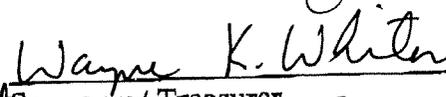
11. This Order constitutes the entire agreement of the parties with respect to the matters referred to herein, and it may not be amended or modified except by an amended order signed by all the parties hereto.

12. 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.

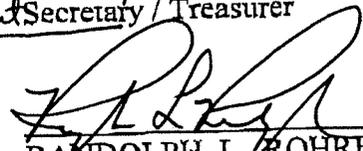
BY: OMNI INSURANCE COMPANY,
Respondent



President / Vice President



Assistant Secretary / Treasurer



RANDOLPH L. ROHRBAUGH
Deputy Insurance Commissioner
Commonwealth of Pennsylvania

I. INTRODUCTION

The market conduct examination was conducted at Omni Insurance Company's office located in Atlanta, Georgia, from March 14, 2005, through April 8, 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%.

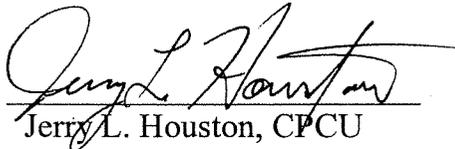
Throughout the course of the examination, Company officials were provided with status memoranda, which referenced specific policy numbers with citation to each section of law violated. Additional information was requested to clarify apparent violations. An exit conference was conducted with Company personnel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

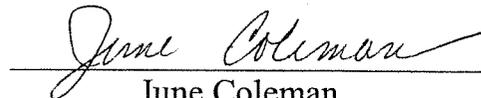
The undersigned participated in this examination and in preparation of this Report.



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



Jerry L. Houston, CPCU
Market Conduct Examiner



June Coleman
Market Conduct Examiner

II. SCOPE OF EXAMINATION

The Market Conduct Examination was conducted on Omni Insurance Company, hereinafter referred to as “Company,” at their office located in Atlanta, Georgia. 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. Personal Automobile
 - Underwriting - Appropriate and timely notices of nonrenewal, midterm cancellations, 60-day cancellations, rescissions and report of 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

Omni Insurance Company was incorporated on June 23, 1980, under the laws of Georgia as the American Hanover Insurance Company and commenced operations on September 19, 1980. On February 19, 1981, the current title was adopted. Effective December 31, 1994, the Company redomesticated from Georgia to Illinois.

LICENSING

Omni Insurance Company's Certificate of Authority to write business in the Commonwealth was last issued on April 1, 2005. The Company is licensed in the District of Columbia and all states except for the following: Idaho, Maine, Massachusetts, Michigan, New Hampshire, New Jersey, New Mexico and Rhode Island. The Company's 2004 annual statement reflects Direct Written Premium for all lines of business in the Commonwealth of Pennsylvania as \$4,711,998. Premium volume related to the areas of this review were: Private Passenger Automobile Direct Written Premium was reported as Private Passenger Auto Liability \$3,427,540 and Private Passenger Auto Physical Damage \$1,284,458.

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. Underwriting guides were furnished for private passenger automobile. The purpose of this review was to identify any inconsistencies which could be considered discriminatory, specifically prohibited by statute or regulation, or unusual in nature. The following violation was noted.

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

Discrimination Prohibited – (a) An insurer may not cancel or refuse to write or renew a policy of automobile insurance for the following reason: Lawful Occupation (including military service). The Company's guideline stated the following: "Unacceptable Risks - In the military and not permanently stationed in a state in which Omni operates" and "A professional entertainer or person of notoriety".

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 472 personal automobile files identified as being cancelled in the first 60 days of new business, 50 files were selected for review. All 50 files selected were received and reviewed. The 2 violations noted were based on 2 files, resulting in an error ratio of 4%.

The following findings were made:

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

Adjudications: Tampa v. State Farm (P91-06-01, 1991)

Gorba v. Allstate (P92-02-92, 1993)

Requires that an insurer supply the insured with a written statement of the reason for cancellation. The 2 files noted were policies cancelled within the first 60 days of new business inception date and did not contain evidence of the required 15 days notice.

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 954 private passenger automobile files identified as midterm cancellations by the Company, 150 files were selected for review. All 150 files selected were received and reviewed. No violations were noted.

3. Nonrenewals

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

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

The universe of 22 private passenger automobile files identified as nonrenewals by the Company was selected for review. The 22 files selected were received and reviewed. The 2 violations noted were based on 2 files, resulting in an error ratio of 9%.

The following findings were made:

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 nonrenewal notice and state the specific reason or reasons of the insurer for cancellation. The 2 violations noted resulted in cancellation notices being issued without a specific reason for cancellation.

4. Rescissions

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

The primary purpose of the review was to determine compliance with Act 68, Section 2003 [40 P.S. §991.2003], which establishes conditions under which action by the insurer is prohibited. The review also determines compliance with the rescission requirements established by the Supreme Court of Pennsylvania in *Erie Insurance Exchange v. Lake*.

The universe of 34 private passenger automobile files were identified by the Company as rescissions and selected for review. All 34 files were received and reviewed. No violations were noted.

5. Report of Cancellations, Nonrenewals and Refusals to Write

The purpose of the review was to determine compliance with the provisions of Title 31, Pa. Code, Section 61.13 regarding records and reports to the Insurance Department of cancellations, nonrenewals and refusals to write.

The Company was requested to provide copies of reports to the Insurance Department of Private Passenger Automobile policies, which had been cancelled, nonrenewed or refused to be written within the experience period. The Company provided the 2 semi-annual reports for the experience period. No violations were noted.

B. Private Passenger Automobile – Assigned Risk

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

VI. RATING

A. Private Passenger Automobile

1. New Business

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

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.

Private Passenger Automobile – New Business Without Surcharges

From the universe of 1,590 personal automobile policies identified as new business without surcharges by the Company, 100 files were selected for review. All 100 files requested were received and reviewed. The 3,215 violations noted were based on the universe of 1,590 files, resulting in an error ratio of 100%.

The following findings were made:

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

Requires every insurer, prior to the issuance of a private passenger motor vehicle liability insurance policy to provide each applicant an opportunity to elect a tort option. A policy may not be issued unless the applicant has been provided an opportunity to elect a tort option. The 14 violations noted were the result of policies issued with limited tort and no evidence of a signed limited tort selection form.

15 Violations Title 75, Pa. C.S. §1731(b) & (c)

The named insured shall be informed that he may reject uninsured and underinsured motorist coverage by signing a written rejection form. The 15 violations noted were the result of the policy being issued without uninsured and underinsured motorist coverage and no evidence of a signed written rejection form in the file.

5 Violations Title 75, Pa. C.S. §1734

A named insured may request in writing the issuance of coverages under Section 1731 (relating to availability, scope and amount of coverage) in an amount equal to or less than the limits of liability for bodily injury. The 5 files noted did not contain a written request for lower limits of liability.

1 Violation Act 246, The Casualty and Surety Rate Regulatory Act, Section 4 (40 P.S. §1184)

Requires every insurer to file with the Insurance Commissioner every manual of classifications, rules and rates, every rating plan and every modification of any rating

plan, which it proposes to use in the Commonwealth. Also, no insurer shall make or issue a contract or policy except in accordance with filings or rates, which are in effect at the time of issue. The Company provided and charged for stacked limits of uninsured and underinsured motorist coverage when only one vehicle was listed on the policy. This resulted in an overcharge of \$9.

1,590 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 did not provide the itemized invoice listing the minimum motor vehicle insurance coverage levels and premium charge for the insured to purchase the minimum mandated coverages at the time of application.

1,590 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.

Private Passenger Automobile – New Business With Surcharges

From the universe of 1,338 personal automobile policies identified as new business with surcharges by the Company, 100 files were selected for review. All 100 files requested were received and reviewed. The 4,072 violations noted were based on the universe of 1,338 files, resulting in an error ratio of 100%.

The following findings were made:

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

Requires every insurer, prior to the issuance of a private passenger motor vehicle liability insurance policy to provide each applicant an opportunity to elect a tort option. A policy may not be issued unless the applicant has been provided an opportunity to elect a tort option. The 9 violations noted were the result of policies issued with limited tort and no evidence of a signed limited tort selection form.

11 Violations Title 75, Pa. C.S. §1731(b) & (c)

The named insured shall be informed that he may reject uninsured and underinsured motorist coverage by signing a written rejection form. The 11 violations noted were the result of policies issued without uninsured and underinsured

motorist coverage and no evidence of a signed written rejection form in the file.

8 Violations Title 75, Pa. C.S. §1734

A named insured may request in writing the issuance of coverages under Section 1731 (relating to availability, scope and amount of coverage) in an amount equal to or less than the limits of liability for bodily injury. The 8 files noted did not contain a written request for lower limits of liability.

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

The named insured shall be informed that he may exercise the waiver of stacked limits for uninsured and underinsured motorist coverage by signing written rejection forms. The 2 files noted were absent any evidence this requirement was complied with.

21 Violations 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 21 files noted contained improper accident surcharges applied to the policy, which resulted in overcharges of \$6,040.64.

*7 Violations Act 246, The Casualty and Surety Rate Regulatory Act,
Section 4 (40 P.S. §1184)*

Requires every insurer to file with the Insurance Commissioner every manual of classifications, rules and rates, every rating plan and every modification of any rating plan, which it proposes to use in the Commonwealth. Also, no insurer shall make or issue a contract or policy except in accordance with filings or rates, which are in effect at the time of issue. Of the 7 violations noted, 4 were the result of policies being issued with stacked limits for uninsured and underinsured motorist coverage when only one vehicle was on the policy. One violation was due to charging for stacked limits when a rejection form for uninsured and underinsured was submitted. One violation was the result of an incorrect surcharge for defective equipment, which was not included in the Company's surcharge disclosure plan. The remaining violation was due to an incorrect surcharge for accidents. These violations resulted in overcharges of \$559.80.

1,338 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 did not provide the itemized invoice listing the minimum motor vehicle insurance coverage levels and premium charge for the insured to purchase the minimum mandated coverages at the time of application.

1,338 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.

1,338 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 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 provide a correct surcharge disclosure providing the amount of surcharge.

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 983 private passenger automobile policies renewed without surcharges during the experience period, 100 files were selected for

review. All 100 files selected were received and reviewed. The 1,972 violations were based on the universe of 983, resulting in an error ratio of 100%.

The following findings were made:

6 Violations Act 246, The Casualty and Surety Rate Regulatory Act, Section 4 (40 P.S. §1184)

Requires every insurer to file with the Insurance Commissioner every manual of classifications, rules and rates, every rating plan and every modification of any rating plan, which it proposes to use in the Commonwealth. Also, no insurer shall make or issue a contract or policy except in accordance with filings or rates, which are in effect at the time of issue. The Company provided and charged for stacked limits of uninsured and underinsured motorist coverage when only one vehicle was on the policy. This resulted in overcharges of \$201.25.

983 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 insured with an itemized invoice listing the minimum motor vehicle insurance coverage levels and the premium charge for the insured to purchase the minimum mandated coverages at the time of renewal.

983 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 renewal.

Private Passenger Automobile – Renewals With Surcharges

From the universe of 717 private passenger automobile policies renewed with surcharges during the experience period, 100 files were selected for review. All 100 files selected were received and reviewed. The 2,153 violations were based on the universe of 717 files, resulting in an error ratio of 100%.

The following findings were made:

2 Violations 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 2 files noted contained improper accident surcharges, which resulted in overcharges of \$456.84.

717 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 insured with an itemized invoice listing the minimum motor vehicle insurance coverage levels and the

premium charge for the insured to purchase the minimum mandated coverages at the time of renewal.

717 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 renewal.

717 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 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 provide a surcharge disclosure statement providing the amount of surcharge.

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

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 Comprehensive Claims

The universe of 69 private passenger automobile comprehensive claims reported during the experience period was selected for review. All 69 files requested were received and reviewed. The violation resulted in an error ratio of 1%.

The following finding was made:

1 Violation Title 31, Pa. Code, Section 146.7(a)(1)

Within 15 working days after receipt by the insurer or 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 send a written denial letter to the claimant.

B. Automobile Collision Claims

From the universe of 178 private passenger automobile collision claims reported during the experience period, 50 files were selected for review. All 50 files requested were received and reviewed. No violations were noted.

C. Automobile Total Loss Claims

From the universe of 94 private passenger automobile total loss claims reported during the experience period, 50 files were selected for review. All 50 files requested were received and reviewed. The 10 violations noted were based on 9 files, resulting in an error ratio of 18%.

The following findings were made:

6 Violations Title 31, Pa. Code, Section 62.3(e)(4)

Requires that applicable sales tax on the replacement cost of a motor vehicle shall be included as part of the replacement value. The 6 files noted did not include sales tax as part of the replacement value of the vehicle.

2 Violations Title 31, Pa. Code, Section 62.3(e)(7)

The appraiser is responsible for ensuring that a copy of the total loss evaluation report be sent within 5 working days to the consumer by the appraiser after the appraisal is completed. If a settlement offer is extended before the consumer receives the total loss evaluation report, the consumer shall be advised of the total loss evaluation report's contents and of the consumer's right to be sent a copy of within 5 days after its completion. The Company did not provide a copy of the total loss evaluation to the insured within the required time.

2 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 2 files noted did not include a certificate of salvage.

D. Automobile Property Damage Claims

From the universe of 416 private passenger automobile property damage claims reported during the experience period, 50 files were selected for review. All 50 files selected were received and reviewed. The 4 violations noted were based on 3 files, resulting in an error ratio of 6%.

The following findings were made:

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 3 violations noted were absent any evidence this requirement was complied with.

1 Violation Title 31, Pa. Code, Section 146.7(a)(1)

Within 15 working days after receipt by the insurer or properly executed proofs of loss, the first-party claimant shall be advised of the acceptance or denial of the claim by the insurer. Notes in the file indicated a denial letter was sent to

the claimant; however, the Company did not retain a copy of the denial letter.

E. Automobile First Party Medical Claims

From the universe of 116 private passenger automobile first party medical claims reported during the experience period, 50 files were selected for review. All 50 files selected were received and reviewed. The 17 violations were based on 9 files, resulting in an error ratio of 18%.

The following findings were made:

6 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 6 violations noted resulted because the bills were not paid within 30 days.

6 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 6 violations are the result of the Company not paying first party medical bills within 30 days.

5 Violations Title 31, Pa. Code, Sections 69.42 and 69.43

Payments under the act. An insurer shall make payments to providers in accordance with the Medicare Program as applied in this Commonwealth by the carrier and intermediaries. Care covered under the Medicare Program shall be reimbursed at 110% of the Medicare payment or a different allowance as may be determined under §69.12(b). The Company failed to have medical bills repriced or adjusted for cost containment on the 5 files noted.

F. Automobile First Party Medical Claims Referred to a Peer Review

Organization

Although the Company did not report any first party medical claims referred to a peer review organization during the experience period, a copy of a peer review contract was requested for review. The Company did provide a copy of a contract 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 Act 165 of 1994 [18 Pa. CS §4117(k)(1)] and Act 6 of 1990 [75 Pa. CS §1822] which requires all insurers to provide an insurance fraud notice on all applications for insurance, all claims forms and all renewals of coverage. No violations were noted.

IX. ADVERTISING

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

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

The Company provided 2 brochures and one print of a rate quote request page. The Company does not have a stand-alone internet website, but is included with the website of their parent company, The Hartford. 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 19 consumer complaints received during the experience period and provided all consumer complaint logs requested. The 19 complaints reported, were selected, received and reviewed.

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

No violations were noted.

The following synopsis reflects the nature of the 19 complaints that were reviewed.

•	10	Cancellation/Nonrenewal	53%
•	7	Claims Related	37%
•	2	Miscellaneous	10%
	<hr/>		<hr/>
	19		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 insured entity or licensee accepting applications or orders for insured 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.

Bucks County Insurance

9 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) 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 for casualty insurance while writing automobile insurance.

Agent's Choice, Inc.
Eastern Insurance Group, Inc.
G L Public Services
Johnson, Kendall & Johnson, Inc.
Lehmann-Pifer & Associates
PNP Union LLC
Roser & Einstein, Inc.
Rupp & Fiore
Skyline Services, 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 Title 75, Pa. C.S. §1791.1(a) and (b) to ensure that violations of providing an itemized invoice listing minimum coverages and tort options at the time of application and every renewal thereafter as noted in the Report do not occur in the future.
2. The Company must review Title 75, Pa. C.S. §1799.3(d) to ensure that violations regarding the requirement to provide the insured with a surcharge disclosure statement listing the dates of accidents and/or violations as noted in the Report do not occur in the future.
3. The Company must revise its underwriting procedures to ensure that each applicant for private passenger automobile liability insurance is provided an opportunity to elect a tort option and that signed tort option selection forms are obtained and retained with the underwriting file. This is to ensure that violations noted under Title 75 Pa. C.S. §1705(a)(1)(4) do not occur in the future.
4. The Company must revise its underwriting procedures to ensure that each applicant for private passenger automobile liability insurance is provided an opportunity to exercise the waiver for uninsured and underinsured motorist coverage forms are obtained and retained with the underwriting file. This is to ensure that violations noted under Title 75, Pa. C.S. §1731(b) & (c) do not occur in the future.

5. The Company must revise underwriting procedures to ensure that the insured is aware that he may exercise the waiver of stacked limits for uninsured and underinsured motorist coverage by signing written rejection forms. This is to ensure that violations noted under Title 75, Pa. C.S. §1738(d)(1) and (2) do not occur in the future.
6. The Company must review Title 75, Pa. C.S. §1734 to ensure that the insured signs a request for lower limits of liability for uninsured and underinsured motorist coverage and a copy kept in files as noted in the Report.
7. The Company must review Title 75, Pa. C.S. §1799.3(a) to ensure that a policy is not surcharged 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.
8. The Company must review Act 246, Section 4 [40 P.S. §1184] and take appropriate measures to ensure the automobile rating violations listed in the report do not occur in the future.
9. The premium overcharges noted in the rating section of this report must be refunded to the insureds and proof of such refunds must be provided to the Insurance Department within 30 days of the report issue date.
10. The Company must ensure all producers are properly licensed and appointed, as required by Section 641.1(a) and Section 671-A [40 P.S. §310.41(a) and 40 P.S. §310.71] of the Insurance Department Act No. 147, prior to accepting any business from any producer.

11. 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 denials as noted in the Report do not occur in the future.
12. The Company must review Title 31, Pennsylvania Code, Sections 62.3(e)(4) and 62.3(e)(7) regarding total loss evaluations as noted in the Report do not occur in the future.
13. The Company must review Title 31, Pa. Code, Sections 69.42 and 69.43 with its claim staff to ensure that provider bills are repriced for cost containment as required.
14. 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.
15. 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. 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.
16. The Company must revise and reissue underwriting guidelines to address violation of Act 68, Section 2003(a)(10) [40 P.S. §991.2003(a)(10)] as noted in the Report on page 5.

XIII. COMPANY RESPONSE



August 4, 2005

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

RECEIVED
INSURANCE DEPT.

AUG 05 2005

BUREAU OF ENFORCEMENT

RE: Examination Warrant Number: 04-M19-030
Omni Insurance Company

Dear Mr. Derk:

Enclosed please find a copy of our response to the Department's Report of Examination of Omni Insurance Company covering the period from July 1, 2003 through June 30, 2004.

Our responses are noted in bold under each section where we either disagree with the finding or have mitigating circumstances or other information that we would like the Department to consider.

We also look forward to working with the Department in reaching an appropriate resolution of the issues addressed in the report.

Should you have any questions during the course of your review of our response, please call me at (866) 300-6433 x29343.

Sincerely,

Diane Ernst

Diane Ernst
Compliance Coordinator
Omni Insurance Company
866-300-6433 x29343
Diane.Ernst@TheHartford.com

P.O. Box 105440
Atlanta, GA 30348
Toll Free 1 800 777 6664

**OMNI INSURANCE COMPANY
RESPONSES TO
COMMONWEALTH OF PENNSYLVANIA
INSURANCE DEPARTMENT
REPORT OF EXAMINATION
DATED JULY 6, 2005**

August 5, 2005

XIII. COMPANY RESPONSE

IV. UNDERWRITING PRACTICES AND PROCEDURES

Act 68, Section 2003(a)(10) [40 P.S. Section 991.2003(a)(10)] Discrimination Prohibited -

(a) An insurer may not cancel or refuse to write or renew a policy of automobile insurance for any of the following reason: Lawful Occupation (including military service). The Company's guideline stated the following: "Unacceptable Risks – In the military and not permanently stationed in a state in which Omni operates" and "A professional entertainer or person of notoriety".

Military Service

We respectfully disagree that this standard violates Section 2003(a)(10), which prohibits discrimination based upon lawful occupation, including military service. This Underwriting guideline is not based upon the insured's lawful occupation. This guideline is specifically listed in the Underwriting Guideline for those in the military because serving in the military is a unique situation in which an insured may have a place where he/she is permanently stationed which may be a state in which The Company does not have a certificate of authority and does not operate, while having a residence in another state in which The Company does operate. The Company can not accurately underwrite a risk located in a state in which it does not operate. Therefore, it is an unacceptable risk for an insured who permanently resides in a state in which The Company does not operate. We would reject this risk for military and nonmilitary applicants. Agents know to reject a risk located in another state in which The Company does not operate for nonmilitary applicants. The referenced guideline is to provide guidance in unique situations where a person in the military has a residence in a state in which The Company operates, but is permanently stationed in a state where The Company does not operate and, therefore, can not accurately underwrite the risk. However, in order to avoid any misconception of discrimination because of military service, we are deleting this guideline from our underwriting guidelines.

Professional Entertainer

We agree that this underwriting guideline was a violation of 40 PS 991.2003(a)(10) for the portion of the examination period prior to December 2003. We revised our underwriting guidelines as of December 2003 and eliminated this guideline. We respectfully request that the Department take this fact into consideration.

VI. RATING

Private Passenger Automobile - New Business Without Surcharges

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 that you purchase liability and first-party medical benefit coverages. Any additional coverages 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 premium for the insured's existing coverages.

We agree that this invoice was not printing for the experience period during which this examination was conducted. We discovered that it was not printing prior to the time of examination and we programmed an invoice to print at the time of application beginning in January of 2005. However, upon the advice of the Department, we are currently revising the invoice to more fully comply with this requirement.

Title 75, Pa. C.S., §1791.1(b) - Notice of tort options. In addition to the invoice required under subsection (a), an insurer must, at the time of application for original coverage for private passenger motor vehicle insurance and every renewal thereafter, provide to an insured a notice of the availability of two alternatives of full tort insurance and limited tort insurance described in section 1705(c) and (d) (relating to election of tort options).

We agree that we were not providing the notice at the time of application, however, we have been providing the notice with the declarations package. We respectfully request that the Department take this fact into consideration. We are in the process of revising our process to ensure the notice is provided at the time of application.

Private Passenger Automobile - New Business With Surcharges

Title 75, Pa. C.S., §1791.1(a) - Invoice. 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 that you purchase liability and first-party medical benefit coverages. Any additional coverages 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 premium for the insured's existing coverages.

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We agree that we were not providing the notice at the time of application, however, we have been providing the notice with the declarations package. We respectfully request that the Department take this fact into consideration. We are in the process of revising our process to ensure the notice is provided at the time of application.

Act 6, Section 19, §1799.3(d) - Notice to the insured. If an insurer makes a determination to impose a surcharge, rate penalty or driver record point assignment, the insurer shall inform the named insured of the determination and shall 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 complies in part with this requirement. Although the amount of the surcharge, rate penalty or driver record point assignment did not appear on the premium notices, the Company informed the policyholder of the imposition of the surcharge, rate penalty or driver record point assignment. We are in the process of programming a notice to inform the named insured of the determination, amount and manner in which the surcharge, rate penalty or driver record point assignment.

Private Passenger Automobile – Renewals Without Surcharges

Title 75, Pa. C.S., §1791.1(b) - Notice of tort options. In addition to the invoice required under subsection (a), an insurer must, at the time of application for original coverage for private passenger motor vehicle insurance and every renewal thereafter, provide to an insured a notice of the availability of two alternatives of full tort insurance and limited tort insurance described in section 1705(c) and (d) (relating to election of tort options).

While we haven't been providing this notice with the renewal offer, we have been sending out a Minimum Coverage Tort Notice as required by 75, Pa.C.S.,§ 1705. We respectfully request that the Department take this fact into consideration.

Private Passenger Automobile – Renewals With Surcharges

Title 75, Pa. C.S., §1791.1(b) - Notice of tort options. In addition to the invoice required under subsection (a), an insurer must, at the time of application for original coverage for private passenger motor vehicle insurance and every renewal thereafter, provide to an insured a notice of the availability of two alternatives of full tort insurance and limited tort insurance described in section 1705(c) and (d) (relating to election of tort options).

While we haven't been providing this notice with the renewal offer, we have been sending out a Minimum Coverage Tort Notice as required by 75, Pa.C.S., § 1705. We respectfully request that the Department take this fact into consideration.

Act 6, Section 19, §1799.3(d) - Notice to the insured. If an insurer makes a determination to impose a surcharge, rate penalty or driver record point assignment, the insurer shall inform the named insured of the determination and shall 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 complies in part with this requirement. Although the amount of the surcharge, rate penalty or driver record point assignment did not appear on the premium notices, the Company informed the policyholder of the imposition of the surcharge, rate penalty or driver record point assignment. We are in the process of programming a notice to inform the named insured of determination, amount and manner in which the surcharge, rate penalty or driver record point assignment.

VII CLAIMS

Automobile Total Loss Claims

Title 31, Pa. Code, Section 62.3(e)(4) – Requires that applicable sales tax on the replacement cost of a motor vehicle be included as part of the replacement value. The 6 files noted did not include sales tax as part of the replacement value of the vehicle.

We respectfully disagree that this standard violates Section 62.3(e)(4). The six vehicles were settled as owner retention. Title 31, Pa. Code, Section 62.3(e)(4) requires including applicable sales tax on the replacement cost of a motor vehicle. The settlement of these total losses was based upon owner retention and did not constitute settlement based on replacing the damaged vehicles, but rather keeping the vehicles based on net value after deductions for the potential salvage value. There is no replacement cost when the vehicle is not being replaced, therefore, there was no violation of Title 31, Pa. Code, Section 62.3(e)(4).

Automobile Property Damage Claims

Title 31, Pa. Code, Section 146.7(a)(1) – Within 15 working days after receipt by the insurer or properly executed proofs of loss, the first-party claimant shall be advised on the acceptance or denial of the claim by the insurer. Notes in file indicated a denial letter was sent to claimant; however, the Company did not retain a copy of the denial letter.

We have reviewed this section with our Automobile handling staff to remind them of these document retention requirements. We have also asked the supervisory staff to be more diligent regarding compliance issues during normal file reviews.

XI. LICENSING

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 are licensed, but were not found in Insurance Department records as having an appointment with the Company.

Agent's Choice Inc.
Bucks County Insurance
Eastern Insurance Group Inc
G L Public Services
Johnson Kendall & Johnson Inc
Lehmann-Pifer & Associates
PNP Union LLC
Roser & Einstein Inc
Rupp & Fiore
Skyline Services Inc

Several of these producers were appointed in one of the Hartford affiliated companies, however, they were not appointed in The Company. These agencies were appointed in April of 2005 when it was discovered that they were not appointed.

XII. RECOMMENDATIONS

We agree to all Recommendations. We have previously forwarded proof of refunds as required by Recommendation number 9. Please advise if additional copies of these proofs are needed.