

**REPORT OF
MARKET CONDUCT EXAMINATION
OF**

**PEERLESS INDEMNITY INSURANCE
COMPANY**
Lisle, Illinois

**AS OF
June 12, 2009**

COMMONWEALTH OF PENNSYLVANIA

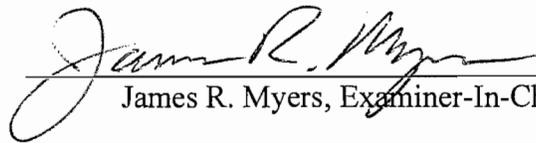


**INSURANCE DEPARTMENT
MARKET CONDUCT DIVISION**

Issued: August 3, 2009

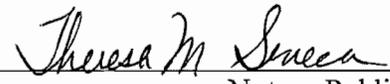
VERIFICATION

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


James R. Myers, Examiner-In-Charge

Sworn to and Subscribed Before me

This 11 Day of *May*, 2009


Notary Public
COMMONWEALTH OF PENNSYLVANIA

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

PEERLESS INDEMNITY INSURANCE COMPANY

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BEFORE THE INSURANCE COMMISSIONER
OF THE
COMMONWEALTH OF PENNSYLVANIA

ORDER

AND NOW, this 22ND day of July, 2008, 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 Ronald A. Gallagher, Deputy Insurance Commissioner, to consider and review all documents relating to the market conduct examination of any company and person who is the subject of a market conduct examination and to have all powers set forth in said statute including the power to enter an Order based on the review of said documents. This designation of authority shall continue in effect until otherwise terminated by a later Order of the Insurance Commissioner.





Joel S. Ario
Insurance Commissioner

BEFORE THE INSURANCE COMMISSIONER
OF THE
COMMONWEALTH OF PENNSYLVANIA

IN RE: : VIOLATIONS:
: :
PEERLESS INDEMNITY : Section 671-A of Act 147 of 2002 (40
INSURANCE COMPANY : P.S. § 310.71)
175 Berkeley Street :
Boston, MA 02116 : Section 903(a) of the Insurance Department
: Act, Act of May 17, 1921, P.L. 789,
: No. 285 (40 P.S. §323.3)
: :
: Act 1990-6, Sections 1705(a)(1) and (4),
: 1716, 1731(b) and (c), 1731(c)(1), 1734,
: 1738(c)(d)(1)&(2), 1792(b)(1), 1799.3(d)
: and 1799.3(f) (Title 75 Pa.C.S. §§ 1705,
: 1716, 1731, 1734, 1738, 1792 and 1799)
: :
: Sections 3(a)(5) and 3(a)(6) of the Act of
: July 3, 1986, P.L. 396, No. 86 (40 P.S.
: §§3403)
: :
: Sections 2003(a)(1) and (11), 2004,
: 2006, 2006(4) and 2008(b) of Act 68 of
: 1998 (40 P.S. §§991.2003, 2004, 2006 and
: 2008)
: :
: Sections 5(a)(9) and 5(a)(9)(iv) of the
: Unfair Insurance Practices Act, Act of
: July 22, 1974, P.L. 589, No. 205 (40 P.S.
: §§ 1171.5)
: :
: Title 31, Pennsylvania Code, Section
: 59.9(b), 62.3(e)(7), 69.52(b), 113.88,
: 146.3, 146.5(a), and 146.6
: :
: Title 75, Pennsylvania Consolidated
: Statutes, Section 1161(a) and (b)
: :
Respondent. : Docket No. MC09-07-002

CONSENT ORDER

AND NOW, this 3rd day of August, 2009, 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 Peerless Indemnity Insurance Company, and maintains its address at 175 Berkeley Street, Boston, Massachusetts 02116.

- (b) A market conduct examination of Respondent was conducted by the Insurance Department covering the experience periods from July 1, 2007 through June 30, 2008.
- (c) On June 12, 2009, the Insurance Department issued a Market Conduct Examination Report to Respondent.
- (d) A response to the Examination Report was provided by Respondent on July 13, 2009.
- (e) The Examination Report notes violations of the following:
 - (i) Section 671-A of Act 147 of 2002 (40 P.S. § 310.71), which prohibits producers from transacting business within this Commonwealth without written appointment as required by the Act;
 - (ii) Section 903(a) of the Insurance Department Act (40 P.S. §323.3), which requires every company subject to examination keep all records and documents relating to its business in such manner as may be required in order that the Department may verify whether the company has complied with the laws of this Commonwealth;
 - (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) Title 75, Pennsylvania Consolidated Statutes, Section 1716, states 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 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;
- (vi) Section 1731(c)(1) of Act 1990-6, Title 75, Pa.C.S. § 1731, which states on policies in which either uninsured or underinsured motorist coverage has been rejected, the policy renewals must contain notice in prominent type that the

policy does not provide protection against damages caused by uninsured or underinsured motorists;

- (vii) Section 1734 of Act 1990-6, Title 75, Pa.C.S. § 1734, which allows a named insured to request in writing the issuance of coverages under Section 1731 in amount equal to or less than the limits of liability for bodily injury;
- (viii) Section 1738(c)(d)(1) and (2) of Act 1990-6, Title 75, Pa.C.S. § 1738, which requires the named insured to be informed that he may exercise the waiver of stacked limits for uninsured and underinsured motorist coverage by signing written rejection forms;
- (ix) Section 1792(b)(1) of Act 1990-6, Title 75, Pa.C.S. § 1792(b)(1), which requires every private passenger automobile insurance policy providing collision coverage to provide a deductible in the amount of \$500.00 for collision coverage, unless the named insured signs a statement indicating the insured is aware that the purchase of a lower deductible is permissible and that there is an additional cost of purchasing a lower deductible and the insured agrees to accept it;

- (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 1799.3(f) of Act 1990-6, Title 75, Pa.C.S. §1799, which states if requested by the applicant, an agent for an insurer shall submit an application for automobile insurance to the insurer or provide the applicant written notice of the reasons for refusal to write on a form supplied by the insurer and approved by the Commissioner. An applicant receiving a notice of reasons under this subsection may obtain review by the Commissioner pursuant to the Automobile Insurance Policy Act. If either the applicant or insurer is aggrieved by the Commissioner's review, the Commissioner may, in his discretion and for cause shown, hold a hearing pursuant to the Automobile Insurance Policy Act. No insurer shall take any action, overt or otherwise, against any agent or broker for complying with this subsection;

- (xii) Section 3(a)(5) of Act 86 (40 P.S. § 3403), which requires that a midterm cancellation or nonrenewal notice shall state the specific reasons for the cancellation or nonrenewal. The reasons shall identify the condition,

factor or loss experience which caused the midterm cancellation or nonrenewal. The notice shall provide sufficient information or data for the insured to correct the deficiency;

- (xiii) Section 3(a)(6) of Act 86 (40 P.S. § 3403), which requires that a cancellation notice shall state that at the insured's request, the insurer shall provide loss information to the insured for at least three years or the period of time during which the insurer has provided coverage to the insured, whichever is less;
- (xiv) Section 2003(a)(1) of Act 68 of 1998 (40 P.S. §991.2003(a)(1)), which states an insurer may not cancel or refuse to renew a policy of automobile insurance on the basis of age;
- (xv) Section 2003(a)(11) of Act 68 of 1998 (40 P.S. §991.2003(a)(11)), which states an insurer may not cancel or refuse to renew a policy of automobile insurance on the basis of the refusal of another insurer to write a policy or the cancellation or refusal to renew an existing policy by another insurer;
- (xvi) Section 2004 of Act 68 of 1998 (40 P.S. § 991.2004), which requires that no insurer shall cancel a policy of automobile insurance except for nonpayment of premium, suspension or revocation of the named insured's driver license or motor vehicle registration or a determination that the insured has concealed a material fact or has made a material allegation contrary to fact

or has made a misrepresentation of material fact and that such concealment, allegation or misrepresentation was material to the acceptance of the risk by the insurer;

- (xvii) Section 2006 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;
- (xviii) Section 2006(4) of Act 68 (40 P.S. §991.2006(4)), which requires that a cancellation notice advise the insured of his right to request in writing that the Insurance Commissioner review the action of the insurer;
- (xix) 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;
- (xx) Section 5(a)(9) of Act 205 (40 P.S. §1171.5(a)(9)), which defines an unfair act or practice as: (9) cancelling any policy of insurance covering owner-occupied

private residential properties or personal property of individuals that has been in force for 60 days or more or refusing to renew any such policy unless the policy was obtained through material misrepresentation, fraudulent statements, omissions or concealment of fact material to the acceptance of the risk or to the hazard assumed by the company; or there has been a substantial change or increase in hazard in the risk assumed by the company subsequent to the date the policy was issued; or there is a substantial increase in hazards insured against by reason of willful or negligent acts or omissions by the insured; or the insured has failed to pay any premium whether such premium is payable directly to the company or its agent or indirectly under any premium finance plan or extension of credit; or for any other reasons approved by the Commissioner pursuant to rules and regulations promulgated by the Commissioner. No cancellation or refusal to renew by any person shall be effective unless a written notice of the cancellation or refusal to renew is received by the insured whether at the address shown in the policy or at a forwarding address;

- (xxi) Section 5(a)(9)(iv) of the Unfair Insurance Practices Act, No. 205 (40 P.S. § 1171.5), which requires that a cancellation notice shall advise the insured of his right to request, in writing, within ten days of the receipt of the notice of cancellation or intention not to renew that the Insurance Commissioner review the action of the insurer;

- (xxii) Title 31, Pennsylvania Code, Section 59.9(b), which requires an insurer give at least 30 days notice of termination and provided it gives notice no later than the 60th day;

- (xxiii) 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 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 within 5 days after its completion;

- (xxiv) 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;

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

- (xxvi) Title 31, Pennsylvania Code, Section 146.3, which requires the claim files of the insurer shall be subject to examination by the Commissioner or by his appointed designees. The files shall contain notes and work papers pertaining to the claim in the detail that pertinent events and the dates of the events can be reconstructed;
- (xxvii) Title 31, Pennsylvania Code, Section 146.5(a), which states every insurer, upon receiving notification of a claim, shall within ten working days, acknowledge the receipt of such notice, unless payment is made within such period. If an acknowledgement is made by means other than writing, an appropriate notation of such acknowledgment shall be made in the claim file of the insurer;
- (xxviii) Title 31, Pennsylvania Code, Section 146.6 states that if an investigation cannot 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; and
- (xxix) 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.

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 Section 671-A of Act 147 of 2002 are punishable by the following, under Section 691-A of Act 147 of 2002 (40 P.S. § 310.91):
 - (i) suspension, revocation or refusal to issue the certificate of qualification or license;
 - (ii) imposition of a civil penalty not to exceed five thousand dollars (\$5,000.00) for every violation of the Act;
 - (iii) an order to cease and desist; and
 - (iv) any other conditions as the Commissioner deems appropriate.

- (c) Respondent's violations of Act 86, Sections 3(a)(5) and 3(a)(6) (40 P.S. §§ 3403) are punishable under Section 8 (40 P.S. § 3408) of this act by one or more of the following causes of action:

- (i) Order that the insurer cease and desist from the violation.
 - (ii) Impose a fine or not more than \$5,000 for each violation.
- (d) Respondent's violations of Sections 2003, 2004, 2006 and 2008 of Act 68 of 1998 are punishable by the following, under Section 2013 of the Act (40 P.S. § 991.2013): Any individual or insurer who violates any of the provisions of this article may be sentenced to pay a fine not to exceed five thousand dollars (\$5,000.00).
- (e) Respondent's violations of Sections 5(a)(9) and 5(a)(9)(iv) 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.
- (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).

(g) Respondent's violations of Title 31, Pennsylvania Code, Sections 146.3, 146.5 and 146.6 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 described 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 Fifty-Seven Thousand Dollars (\$57,000.00) 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, Bureau of Market Conduct, 1227 Strawberry Square, Harrisburg, Pennsylvania 17120. Payment must be made no later than thirty (30) days after the date of this Order.

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

7. Alternatively, in the event the Insurance Department finds that there has been a breach of any of the provisions of this Order, the Department may declare this Order to be

null and void and, thereupon, reopen the entire matter for appropriate action pursuant to the Administrative Agency Law, supra, or other relevant provision of law.

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

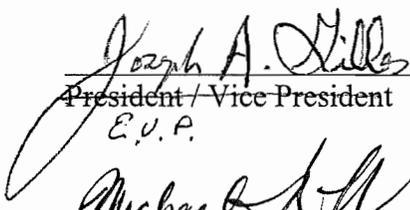
9. Respondent hereby expressly waives any relevant statute of limitations and application of the doctrine of laches for purposes of any enforcement of this Order.

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

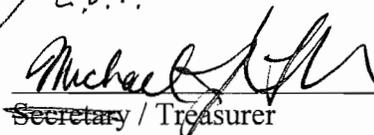
11. This Order shall be final upon execution by the Insurance Department. Only the Insurance Commissioner or a duly authorized delegate is authorized to bind the Insurance Department with respect to the settlement of the alleged violations of law

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

BY: PEERLESS INDEMNITY INSURANCE
COMPANY, Respondent



President / Vice President
E.V.P.



Secretary / Treasurer



RONALD A. GALLAGHER, JR.
Deputy Insurance Commissioner
Commonwealth of Pennsylvania

I. INTRODUCTION

The market conduct examination was conducted at Peerless Indemnity Insurance Company's office located in Camp Hill, Pennsylvania, from December 15, 2008, through January 22, 2009. 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%.

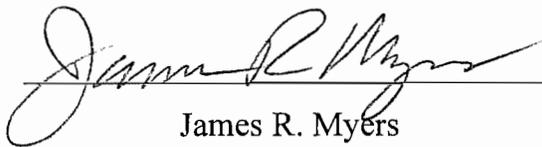
Throughout the course of the examination, Company officials were provided with status memoranda, which referenced specific policy numbers with citation to each section of law violated. Additional information was requested to clarify apparent violations. An exit conference was conducted with Company personnel.

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

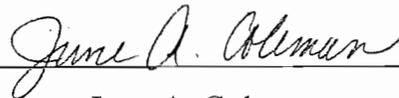
The undersigned participated in this examination and in preparation of this Report.



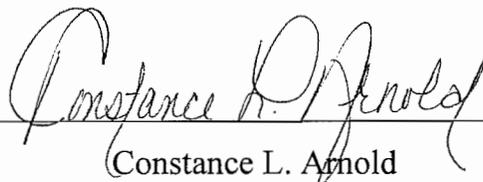
Chester A. Derk, Jr., AIE, HIA
Market Conduct Division Chief



James R. Myers
Market Conduct Examiner



June A. Coleman
Market Conduct Examiner



Constance L. Arnold
Market Conduct Examiner

II. SCOPE OF EXAMINATION

The Market Conduct Examination was conducted on Peerless Indemnity Insurance Company, hereinafter referred to as “Company,” at their office located in Camp Hill, Pennsylvania. The examination was conducted pursuant to Sections 903 and 904 (40 P.S. §§323.3 and 323.4) of the Insurance Department Act and covered the experience period of July 1, 2007, through June 30, 2008, 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, 60-day cancellations and declinations.
- Rating – Proper use of all classification and rating plans and procedures.

2. Property

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

3. Commercial Property

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

4. Commercial Automobile

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

5. Workers' Compensation

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

6. Claims

7. Forms

8. Advertising

9. Complaints

10. Licensing

III. COMPANY HISTORY AND LICENSING

Peerless Indemnity Insurance Company was incorporated on October 10, 1977, under the laws of New York, to serve as the corporate vehicle in the domestication of the United States Branch of the Atlas Assurance Company, Limited, London, England, which entered the United States through the state of Illinois in 1886. The domestication became effective January 1, 1978. Effective December 31, 2002, the Company merged into a newly formed Company, Peerless Indemnity Insurance Company, for the purpose of redomesticating to Illinois.

LICENSING

Peerless Indemnity Insurance Company's Certificate of Authority to write business in the Commonwealth was last issued on April 1, 2009. The Company is licensed in all states, and the District of Columbia. The Company's 2007 annual statement reflects Direct Written Premium for all lines of business in the Commonwealth of Pennsylvania as \$25,796,786. Premium volume related to the areas of this review were: Homeowners Multiple Peril \$5,155,625; Commercial Multiple Peril (Non-liability portion) \$1,514,793; Commercial Multiple Peril (Liability portion) \$1,495,762; Workers' Compensation \$143,217; Private Passenger Automobile Direct Written Premium was reported as Private Passenger Auto No-Fault (personal injury protection) \$1,358,096; Other Private Passenger Auto Liability \$8,338,795 and Private Passenger Auto Physical Damage \$6,105,153; Commercial Automobile Direct Written Premium was reported as Commercial Auto No-Fault (personal injury protection) \$45,954; Other Commercial Auto Liability \$933,133 and Commercial Auto Physical Damage \$335,662.

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 underwriting guides were furnished for private passenger automobile, homeowners and commercial lines. The purpose of this review was to identify any inconsistencies which could be considered discriminatory, specifically prohibited by statute or regulation, or unusual in nature.

The following findings were made:

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

Discrimination Prohibited – (a) An insurer may not cancel or refuse to write or renew a policy of automobile insurance for any of the following reasons: Age. The Company referenced age as criteria for refusal to write a policy of automobile insurance in 3 separate instances referring to minor convictions, at-fault accidents and total at-fault accidents/convictions.

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

Discrimination Prohibited – (a) An insurer may not cancel or refuse to write or renew a policy of automobile insurance for the following reason: The refusal of another insurer to write a policy or the cancellation or refusal to renew an existing policy by another insurer. The Company's automobile underwriting guideline states: "The following business exposures cannot be bound without the Company's prior approval: Coverage declined, canceled or nonrenewed".

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 643 private passenger automobile files identified as being cancelled in the first 60 days of new business, 25 files were selected for review. All 25 files were received and reviewed. No violations were 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 1,324 private passenger automobile files identified as midterm cancellations, 12 files were selected for review. All 12 files were received and reviewed. No violations were noted.

3. Nonrenewals

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

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

From the universe of 91 private passenger automobile files identified as nonrenewals, 50 files were selected for review. All 50 files were received and reviewed. The 25 violations noted were based on 25 files, resulting in an error ratio of 50%.

The following findings were made:

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

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. The 25 files noted did not contain any evidence that a nonrenewal notice was sent to the insured, or if the notice met format requirements.

4. Declinations

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

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

From the universe of 1,438 private passenger automobile files identified as being refused by the Company during the experience period, 25 files were selected for review. The Company was able to produce a list of declinations but was unable to provide the examiners with access to review the reasons supplied by the Company. It is the examiner's understanding that the producers maintain these records. The 1,438 violations noted were based on the universe of 1,438, resulting in an error ratio of 100%.

The following findings were made:

1,438 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.

AND

Title 75, Pa. C.S. §1799.3(f)

Notice of refusal to write. If requested by the applicant, an agent for an insurer shall submit an application for automobile insurance to the insurer or provide the applicant written notice of the reasons for refusal to write on a form supplied by the insurer and approved by the Commissioner. An applicant receiving a notice of reasons under this subsection may obtain review by the Commissioner pursuant to the Automobile Insurance Policy Act. If either the applicant or insurer is aggrieved by the Commissioner's review, the Commissioner may, in his discretion and for cause shown, hold a hearing pursuant to the Automobile Insurance Policy Act. No insurer shall take any action, overt or otherwise, against any agent or broker for complying with this subsection. The Company did not provide any evidence that the applicant was given a written notice, that the notice was approved by the Commissioner, the reason for refusal to write or that the notice provided the required wording that the action may be reviewed by the Insurance Commissioner.

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.

C. Property

1. 60-Day Cancellations

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

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

From the universe of 353 homeowner policies which were cancelled within the first 60 days of new business, 14 files were selected for review. All 14 files were received and reviewed. The 5 violations noted were based on 5 files, resulting in an error ratio of 36%.

The following findings were made:

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

Requires an insurer give at least 30 days notice of termination and provided it gives notice no later than the 60th day. The Company failed to provide 30 days notice of cancellation for the 5 files noted.

2. Midterm Cancellations

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

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

From the universe of 999 property policies which were cancelled midterm during the experience period, 17 files were selected for review. The property policies consisted of homeowners and tenant homeowners. All 17 files were received and reviewed. Of the 17 files reviewed, 5 files were identified as 60-day cancellations. The 4 violations noted were based on 4 files, resulting in an error ratio of 24%.

The following findings were made:

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

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

approved by the Commissioner. The Company did not provide a proper reason for cancellation for the 4 files noted.

3. Nonrenewals

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

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

From the universe of 31 property policies which were nonrenewed during the experience period, 16 files were selected for review. The property policies consisted of homeowners and tenant homeowners. All 16 files were received and reviewed. The 4 violations noted were based on 4 files, resulting in an error ratio of 25%.

The following findings were made:

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

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

company; or there has been a substantial change or increase in hazard in the risk assumed by the company subsequent to the date the policy was issued; or there is a substantial increase in hazards insured against by reason of willful or negligent acts or omissions by the insured; or the insured has failed to pay any premium when due or for any other reasons approved by the Commissioner. The Company did not provide any evidence that a nonrenewal notice was mailed, the reason for nonrenewal, or if the notice met format requirements for the 4 files noted.

4. Declinations

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

The primary purpose of the review was to determine compliance with Act 205, Unfair Insurance Practices Act, Section 5(a)(7)(iii) [40 P.S. §1171.5(a)(7)(iii)], discriminatory reasons.

From the universe of 3,096 personal property files which were identified as declinations by the Company during the experience period, 25 files were selected for review. The files consisted of homeowner applications. The files were not presented for review. The producers retain the information. No violations were noted.

5. Personal Package Declinations

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

The primary purpose of the review was to determine compliance with Act 205, Unfair Insurance Practices Act, Section 5(a)(7)(iii) [40 P.S. §1171.5(a)(7)(iii)], discriminatory reasons and Act 68, Section 2003 [40 P.S. §991.2003], which establishes conditions under which action by the insurer is prohibited.

From the universe of 2,988 personal package applications declined by the Company during the experience period, 50 files were selected for review. The files consisted of a combination personal automobile and homeowner application. The files were not presented for review. The producers retain the information. The 2,988 violations noted were based on the universe of 2,988, resulting in an error ratio of 100%.

The following findings were made:

2,988 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.

AND

Title 75, Pa. C.S. §1799.3(f)

Notice of refusal to write. If requested by the applicant, an agent for an insurer shall submit an application for

automobile insurance to the insurer or provide the applicant written notice of the reasons for refusal to write on a form supplied by the insurer and approved by the Commissioner. An applicant receiving a notice of reasons under this subsection may obtain review by the Commissioner pursuant to the Automobile Insurance Policy Act. If either the applicant or insurer is aggrieved by the Commissioner's review, the Commissioner may, in his discretion and for cause shown, hold a hearing pursuant to the Automobile Insurance Policy Act. No insurer shall take any action, overt or otherwise, against any agent or broker for complying with this subsection. The Company did not provide any evidence that the applicant was given a written notice, that the notice was approved by the Commissioner, the reason for refusal to write or that the notice provided the required wording that the action may be reviewed by the Insurance Commissioner.

D. Commercial Property

1. 60-Day Cancellations

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

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

From the universe of 102 commercial package policies cancelled within the first 60 days, 10 files were selected for review. All 10 files were received and reviewed. No violations were noted.

2. Midterm Cancellations

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

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

From the universe of 152 commercial package policies cancelled midterm during the experience period, 25 files were selected for review. All 25 files were received and reviewed. The 21 violations noted were based on 21 files, resulting in an error ratio of 84%.

The following findings were made:

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

Requires that a cancellation notice shall state that at the insured's request, the insurer shall provide loss information to the insured for at least three years or the period of time during which the insurer has provided coverage to the insured, whichever is less. The Company did not provide an offer of loss information on the notice as required for the 21 files noted.

3. Nonrenewals

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

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

The universe of 1 commercial package policy nonrenewed during the experience period was selected for review. The file was received and reviewed. No violations were noted.

4. Declinations

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

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

From the universe of 21 commercial package files identified as declinations by the Company during the experience period, 10 files were selected for review. Of the 10 files requested, 8 were received and reviewed. No violations were noted.

The following concern was noted:

Concern: The Company should retain documentation for all risks that are declined.

5. Renewals

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

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

From the universe of 815 commercial package policies renewed during the experience period, 25 files were selected for review. All 25 files were received and reviewed. No violations were noted.

E. Commercial Automobile

1. 60-Day Cancellations

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

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

From the universe of 70 commercial automobile policies cancelled within the first 60 days of new business, 10 files were selected for review. All 10 files were received and reviewed. Of the 10 files reviewed, 2 files were identified as nonrenewals and 1 file was cancelled midterm. The violation noted resulted in an error ratio of 10%.

The following finding was made:

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

Requires that a cancellation notice shall state that at the insured's request, the insurer shall provide loss information to the insured for at least three years or the period of time during which the insurer has provided coverage to the insured, whichever is less. The Company did not provide an offer of loss information on the notice as required for the file noted.

2. Midterm Cancellations

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

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

From the universe of 55 commercial automobile policies cancelled midterm during the experience period, 10 files were selected for review. All 10 files were received and reviewed. The 5 violations noted were based on 5 files, resulting in an error ratio of 50%.

The following findings were made:

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

Requires that a cancellation notice shall state that at the insured's request, the insurer shall provide loss information to the insured for at least three years or the period of time during which the insurer has provided coverage to the insured, whichever is less. The Company did not provide an offer of loss information on the notice as required for the 4 files noted.

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

Requires every company subject to examination to keep all books, records, accounts, papers, documents and any or all computer or other recordings relating to its business in such manner and for such time as may be required in order that the Department may readily verify whether the Company has complied with the laws of this Commonwealth. The Company failed to provide documentation to determine compliance.

3. Nonrenewals

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

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

The universe of 1 commercial automobile policy nonrenewed during the experience period was selected for review. The file was received and reviewed. The violation noted resulted in an error ratio of 100%.

The following finding was made:

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

Requires that a nonrenewal notice shall state the specific reasons for the nonrenewal. The reasons shall identify the condition, factor or loss experience, which caused the nonrenewal. The notice shall provide sufficient information or data for the insured to correct the deficiency.

AND

Title 31, Pa. Code, Section 113.88

The reason given for nonrenewal shall be clear and complete. It shall be stated so that a person of average intelligence and education can understand it. Phrases such as “losses” or “underwriting reasons” are not sufficiently specific reasons for nonrenewal. The Company did not provide a specific reason for nonrenewal for the file noted.

4. Declinations

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

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

The universe of 11 commercial automobile files identified as declinations by the Company during the experience period was selected for review. All 11 files were received and reviewed. No violations were noted.

5. Renewals

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

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

From the universe of 242 commercial automobile policies renewed during the experience period, 25 files were selected for review. All 25 files were received and reviewed. No violations were noted.

F. Workers' Compensation

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

The universe of 4 commercial automobile policies cancelled within the first 60 days of new business was selected for review. All 4 files were received and reviewed. All 4 files were identified as midterm cancellations. No

violations were noted.

2. Midterm Cancellations

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

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

The universe of 1 workers' compensation policy identified as a midterm cancellation was selected for review. The file was received and reviewed. No violations were noted.

3. Renewals

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

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

From the universe of 15 workers' compensation policies which were renewed during the experience period, 5 files were selected for review. All 5 files were received and reviewed. No violations were noted.

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 10,562 private passenger automobile policies identified as new business without surcharges, 25 files were selected for review. All 25 files were received and reviewed. The 2 violations noted were based on 2 files, resulting in an error ratio of 8%.

The following findings were made:

1 Violation 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 Company failed to provide a written request for lower uninsured and underinsured limits.

1 Violation Title 75, Pa. C.S. §1792(b)(1)

Requires every private passenger automobile insurance policy providing collision coverage to provide a deductible in the amount of \$500.00 for collision coverage, unless the named insured signs a statement indicating the insured is aware that the purchase of a lower deductible is permissible and that there is an additional cost of purchasing a lower deductible and the insured agrees to accept it. The violation noted was the result of not having the required signed statement from the insured.

Private Passenger Automobile - New Business With Surcharges

From the universe of 436 private passenger automobile policies identified as new business with surcharges by the Company, 25 files were selected for review. All 25 files were received and reviewed. The 441 violations noted were based on the universe of 436 files, resulting in an error ratio of 100%.

The following findings were made:

2 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 Company failed to have signed limited tort selection forms in the file for the 2 files noted.

1 Violation 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 Company failed to provide a signed written rejection form for uninsured and underinsured motorist coverage.

1 Violation 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 Company did not provide the signed rejection form of stacked

limits for uninsured and underinsured motorists coverage for the file noted.

1 Violation Title 75, Pa. C.S. §1792(b)(1)

Requires every private passenger automobile insurance policy providing collision coverage to provide a deductible in the amount of \$500.00 for collision coverage, unless the named insured signs a statement indicating the insured is aware that the purchase of a lower deductible is permissible and that there is an additional cost of purchasing a lower deductible and the insured agrees to accept it. The Company failed to provide a signed statement from the insured requesting a deductible of less than \$500.

436 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 identifying the amount of surcharge or rate penalty on the premium notice.

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 6,382 private passenger automobile policies renewed without surcharges during the experience period, 25 files were selected for review. All 25 files were received and reviewed. The 2 violations noted were based on 2 files, resulting in an error ratio of 8%.

The following findings were made:

2 Violations Title 75, Pa. C.S. §1731(c)(1)

On policies in which either uninsured or underinsured motorist coverage has been rejected, the policy renewals must contain notice in prominent type that the policy does not provide protection against damages caused by uninsured or underinsured motorists. The policy renewal did not reflect the prominent notice as required for the 2 files noted.

Private Passenger Automobile – Renewals With Surcharges

From the universe of 280 private passenger automobile policies renewed with surcharges during the experience period, 25 files were selected for review. All 25 files were received and reviewed. The 281 violations noted were based on the universe of 280, resulting in an error ratio of 100%.

The following findings were made:

1 Violation Title 75, Pa. C.S. §1731(c)(1)

On policies in which either uninsured or underinsured motorist coverage has been rejected, the policy renewals must contain notice in prominent type that the policy does not provide protection against damages caused by uninsured or underinsured motorists. The policy renewal did not reflect the prominent notice as required for the file noted.

280 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 identifying the amount of surcharge or rate penalty on the premium notice.

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.

C. Homeowners

1. New Business

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

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

a contract or policy except in accordance with filings or rates, which are in effect at the time.

Homeowner Rating – New Business Without Surcharges

From the universe of 5,966 homeowner policies written as new business during the experience period, 25 files were selected for review. All 25 files were received and reviewed. No violations were noted.

2. Renewals

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

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

Homeowner Rating – Renewals Without Surcharges

From the universe of 5,023 homeowner policies renewed during the experience period, 25 files were selected for review. All 25 files were received and reviewed. No violations were noted.

Homeowner Rating – Renewals With Surcharges

From the universe of 111 homeowner policies renewed with surcharges during the experience period, 11 files were selected for review. All 11 files were received and reviewed. No violations were noted.

D. Tenant Homeowners

1. New Business

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

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

From the universe of 520 tenant homeowner policies written as new business without surcharges during the experience period, 10 files were selected for review. All 10 files were received and reviewed. No violations were noted.

2. Renewals

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

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

Tenant Homeowner Rating – Renewals Without Surcharges

From the universe of 242 tenant homeowner policies renewed without surcharges during the experience period, 20 files were selected for review. All 20 files were received and reviewed. No violations were noted.

Tenant Homeowner Rating – Renewals With Surcharges

The universe of 2 tenant homeowner policies renewed with surcharges during the experience period was selected for review. Both files were received and reviewed. No violations were noted.

VII. CLAIMS

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

The Claims review consisted of the following areas of review:

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

The primary purpose of the review was to determine compliance with Title 31, Pennsylvania Code, Chapter 146, Unfair Claims Settlement Practices. The files were also reviewed to determine compliance with Act 205, 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 874 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 violation noted resulted in an error ratio of 4%.

The following finding was made:

1 Violation Title 31, Pa. Code, Section 146.6

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

B. Automobile Comprehensive Claims

From the universe of 2,117 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 1,297 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 398 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 9 violations noted were based on 9 files, resulting in an error ratio of 18%.

The following findings were made:

4 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 consumer for the 4 files noted.

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 5 files noted did not reflect a Pennsylvania salvage title was obtained.

E. Automobile First Party Medical Claims

From the universe of 102 private passenger automobile first party medical claims reported during the experience period, 25 files were selected for review. All 25 files were received and reviewed. The 13 violations noted were based on 7 files, resulting in an error ratio of 28%.

The following findings were made:

5 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 Company failed to pay medical bills within 30 days for the 5 files noted.

5 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 Company did not pay interest on 5 claims that were not paid within 30 days.

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

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

1 Violation Title 31, Pa. Code, Section 146.3

The claim files of an insurer shall be subject to examination by the Commissioner or by duly appointed designees. Such files shall contain all notes and work papers pertaining to the claim in such detail that pertinent events and the dates of such events can be reconstructed. The Company failed to provide claim file with application for benefits, correspondence,

medical bills and the explanation of benefits for the file 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 a timely status letter for the claim noted.

F. Automobile First Party Medical Claims Referred to a PRO

The universe of 11 automobile first party medical claims referred to a peer review organization was selected for review. All 11 files were received and reviewed. The Company was also asked to provide a copy of all peer review contracts in place during the experience period. The contracts were received and reviewed. No violations were noted.

G. Property Claims

From the universe of 561 property claims reported during the experience period, 25 files were selected for review. All 25 files were received and reviewed. The 3 violations noted were based on 3 files, resulting in an error ratio of 12%.

The following findings were made:

3 Violations Title 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 3 claims 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 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.

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 43 pieces of advertising in use during the experience period. The advertising materials provided included: brochures, agent's kits and newsletters. 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 14 consumer complaints received during the experience period and provided all consumer complaint logs requested. All 14 complaint files 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:

1 Violation Act 68, Section 2003 [40 P.S. §991.2003]

Discrimination prohibited. An insurer may not cancel or refuse to write or renew a policy of automobile insurance for any of the following reasons: (1) Age. The Company refused to write the policy based on lack of driving experience.

1 Violation Act 68, Section 2004 [40 P.S. §991.2004]

Requires that no insurer shall cancel a policy of automobile insurance except for nonpayment of premium, suspension or revocation of the named insured's driver license or motor vehicle registration or a determination that the insured has concealed a material fact or has made a material allegation contrary to fact or has

made a misrepresentation of material fact and that such concealment, allegation or misrepresentation was material to the acceptance of the risk by the insurer. The file noted was cancelled for other than permitted reasons.

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

Requires that a cancellation notice advise the insured of his right to request in writing that the Insurance Commissioner review the action of the insurer. The 2 violations noted resulted from cancellation notices which did not advise the insured of his right to request in writing a review by the Insurance Commissioner within 30 days.

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

Prohibits canceling any policy of insurance covering owner-occupied private residential properties or personal property of individuals that has been in force for sixty days or more or refusing to renew any such policy unless the policy was obtained through material misrepresentation, fraudulent statements, omissions or concealment of fact material to the acceptance of the risk or to the hazard assumed by the company; or there has been a substantial change or increase in hazard in the risk assumed by the company subsequent to the date the policy was issued; or there is a substantial increase in hazards insured against by reason of willful or negligent acts or omissions by the insured; or the insured has failed to pay any premium when due or for any other reasons approved by the Commissioner. The Company used an improper reason to cancel the policy. No increase in hazard presented.

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

Requires that a cancellation notice shall advise the insured of his right to request, in writing, within ten days of the receipt of the notice of cancellation or intention not to renew that the Insurance Commissioner review the action of the insurer. The 3 violations noted were the result of cancellation notices which did not advise the insured of his right to request in writing a review by the Insurance Commissioner within 10 days.

The following synopsis reflects the nature of the 14 complaints that were reviewed.

• 9	Cancellation/Nonrenewal	64%
• 5	Claims	36%
<hr/>		<hr/>
14		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:

17 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 was 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.

Associated Insurance & Financial Services, LLC
Lecker Insurance Agency, LLC
Service Unlimited
Whitford Insurance Network, inc.
Susquehanna Insurance Management
S. T. Good, Inc.
Warren A. Gingrich Agency, Inc.
TLM Insurance, LLC
The Dunlop Berkshire Group
Gannon Associates, Inc.
Paladino Insurance Agency, Inc.
Gooder Agency, Inc.
Thomas Hoover

American Union Insurance & Benefits, LLC
Don Jacobs Insurance Services, Inc.
CSC Insurance Options
First National Insurance Agency, LLC

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 and nonrenewal notice requirements of Act 68, Sections 2003, 2004 and 2006 [40 P.S. §991.2003, 991.2004 and 2006], so that the violations noted in the Report do not occur in the future.
2. The Company must review and revise internal procedures to ensure compliance with notice requirements of Act 68, Section 2008 [40 P.S. §991.2008] and Title 75, 1799.3(f), so that the violations regarding refusals to write as noted in the Report do not occur in the future.
3. The Company must review Act 205, Section 5(a)(9) [40 P.S. §1171.5(a)(9)] to ensure that the violation regarding the requirement for nonrenewal notices, as noted in the Report, does not occur in the future.
4. The Company must review and revise internal control procedures to ensure compliance with cancellation notice requirements of Title 31, Section 59.9(b), so that the violations noted in the Report do not occur in the future.
5. The Company must reinforce its internal underwriting controls to ensure that all records and documents are maintained in accordance with

Insurance Department Act, Section 903(a) [40 P.S. §323.3], so that the violation noted in the Report do not occur in the future.

6. 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 Title 75, Pa. C.S. §1799.3(d) do not occur in the future.

7. 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.

8. 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 the violation noted under Title 75, Pa. C.S. §1731(b) & (c) does not occur in the future.

9. On policies in which either uninsured or underinsured coverage has been rejected, the policy renewal must contain notice in prominent type that the policy does not provide protection against damages caused by uninsured or underinsured motorists. This procedure must be implemented within 30 days of the Report issue date. This is to ensure

that violations noted under Title 75, Pa. C.S. §1731(c)(1) do not occur in the future.

10. 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 the violation noted under Title 75, Pa. C.S. §1738(d)(1) and (2) does not occur in the future.
11. 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.
12. The Company must review and revise internal control procedures to ensure compliance relative to commercial cancellation and nonrenewal requirements of Act 86, Section 3 [40 P.S. §3403], so that the violations noted in the Report do not occur in the future.
13. The Company must revise underwriting procedures to ensure that the insured is aware that there is an additional cost for purchasing a lower deductible for collision coverage. This is to ensure that violations noted under Title 75, Pa. C.S. §1792(b)(1) do not occur in the future.
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 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 incomplete claim file, claim acknowledgement and status letters, as noted in the Report, do not occur in the future.
16. 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.
17. The Company must review Title 31, Pa. Code, Section 62.3(e)(7) with its claim staff to ensure that the consumer receives the total loss evaluation report within 5 working days after the appraisal is completed.
18. 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.
19. The Company must ensure all producers are properly appointed, as required by Section 671-A [40 P.S. §310.71] of the Insurance Department Act No. 147, prior to accepting any business from any producer.

20. 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 of Act 68 [40 P.S. §991.2003].

XIII. COMPANY RESPONSE



Hector Reyes, ARM
Regional Director, Market Conduct Services
Liberty Mutual Group
175 Berkeley Street
P.O. Box 140
Boston, MA 02116-0140
Telephone: (617) 357-9500

July 13, 2009

VIA EMAIL and OVERNIGHT DELIVERY

Mr. Chester A. Derk, Jr., AIE, HIA
Market Conduct Division Chief
Bureau of Market Conduct
Pennsylvania Insurance Department
1221 Strawberry Square
Harrisburg, PA 17120

Re: **Peerless Indemnity Insurance Company**
Examination Warrant Number 08-M22-018

Dear Mr. Derk:

The Company reviewed the Report of Examination of Peerless Indemnity Insurance Company (Company) issued by the Pennsylvania Insurance Department for the period of July 1, 2007, through June 30, 2008, as of the close of business on June 12, 2009. We thank the Market Conduct Division for the observations and the recommendations that are part of the report.

The Company strives to comply with the Pennsylvania statutes and Department regulations; it believes that market conduct examinations do serve the consumers of the Commonwealth and the Company as an effective tool to help avoid compliance issues. The Report, in addition to individual findings, contains Recommendations in Section XII. To address the Division's recommendations, the Company is enclosing its response to each of them. There are findings in the Report that we believe can be categorized as human error, which are statistically insignificant, differences in the interpretation of Pennsylvania law, or findings that are statistically material, in all the Company accepts the findings and either has already or will shortly implement the recommendations. The Company respectfully submits that any finding of a violation of Pennsylvania law by the Department was not intentional.

We want to thank you and the entire staff of the Bureau for the cooperation it extended to everyone in the Company associated with this examination. I look forward to working with you to reach a mutually agreeable resolution to the Report. If you have any question in connection with the Company's response or require additional information, please do not hesitate to call me.

Sincerely,

Hector D. Reyes, ARM
Regional Director, Market Conduct Services
Office of Corporate Compliance

Attachment

1. The Company must review and revise internal control procedures to ensure compliance with cancellation and nonrenewal notice requirements of Act 68, Section 2003, 2004 and 2006 [40 P.S. §991.2003, 991.2004 and 2006], so that the violations noted in the Report do not occur in the future.

Response: **The Company will reinforce its internal controls to ensure compliance with cancellation and nonrenewal notice requirements.**

2. The Company must review and revise internal control procedures to ensure compliance with Act 68, Section 2008[40 P.S. §991.2008] and Title 75, 1799.3(f), so that the violations regarding refusals to write as noted in the Report do not occur in the future

Response: **The Company will revise its private passenger rating system will offer a quote to all applicants. Once this change is implemented, this program will no longer refuse to offer a quote to any risk. This change in quoting procedure for private passenger automobile will rectify the finding for personal property package policies, because that finding for that policy type was due to the quoting process for the automobile portion of the personal property package.**

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

Response: **The Company will reinforce internal underwriting cancellation requirements to comply. However, we believe the 4 errors are isolated occurrences.**

4. The Company should review and revise internal control procedures to ensure compliance with cancellation notice requirements of Title 31, Section 59.9(b), so that the violations noted in the Report do not occur in the future.

Response: **The Company will reinforce internal underwriting cancellation requirements to comply. However, we believe the 5 errors are isolated occurrences.**

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

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

6. When 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 Title 75, Pa. C.S. §1799.3(d) do not occur in the future.

Response: The Company will reprogram the policy publishing system to clearly display the amount of the surcharge when a surcharge is imposed on a policy. The notice will be included with the policy renewal. This effort may take more than the 30 days recommended but the Company will work expeditiously to implement this change.

7. 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.

Response: The Company will reinforce the underwriting procedures that are in place to allow each applicant the opportunity to elect a tort option. The signed tort option selection form is both obtained and retained. However, we believe the 2 incidents cited are isolated occurrences.

8. 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 the violation noted under Title 75, Pa. C.S. §1731(b) & (c) does not occur in the future.

Response: The Company will reinforce the underwriting procedures that are in place to ensure each applicant is provided the opportunity to exercise the waiver for uninsured and underinsured motorist coverage. The forms will be obtained and retained in the underwriting folder. However, we believe the 1 incident cited is an isolated occurrence.

9. On policies in which either uninsured or underinsured coverage has been rejected, the policy renewal must contain notice in prominent type that the policy does not provide protection against damages caused by uninsured or underinsured motorists. This procedure must be implemented within 30 days of the Report issue date. This is to ensure that the violations noted under Title 75, Pa. C.S. §1731(c)(1) do not occur in the future.

Response: The Company already corrected this issue. We now provide a notice in prominent type showing that the policy does not provide protection against damages caused by uninsured or underinsured motorists.

10. The Company must revise underwriting procedure 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 the violation noted under Title 75, Pa. C.S. §1738(d)(1) and (2) does not occur in the future.

Response: The Company will reinforce the underwriting procedures are in place to ensure that the insured is aware that he/she may exercise the waiver of stacked limits for uninsured and underinsured motorist coverage by signing the written rejection form. However, we believe the 1 incident cited is an isolated occurrence.

11. 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 the files as noted in the Report.

Response: The Company will review and ensure that the insured signs a request for a lower limit of liability for uninsured and underinsured motorist coverage. We believe the 1 incident cited is an isolated occurrence.

12. The Company must revise internal control procedures to ensure compliance relative to commercial cancellation and nonrenewal requirements of Act 86, Section 3 [40 P.S. §3403], so that the violations noted in the Report do not occur in the future.

Response: The Company will reinforce its internal underwriting procedures to ensure compliance with the cancellation and nonrenewal requirements are met. However, we believe the 1 error cited is an isolated human error and is not representative of a non-compliant business practice. We will strive to eliminate human errors of this nature.

13. The Company must revise underwriting procedures to ensure that the insured is aware that there is an additional cost for purchasing a lower deductible for collision coverage. This is to ensure that violations noted under Title 75, Pa. C.S. §1792(b)(1) do not occur in the future.

Response: The Company will review and reinforce its underwriting procedures to ensure that the insured is aware that there is additional cost for purchasing a lower deductible for collision. However, we believe the 1 incident cited is an isolated occurrence.

14. The Company must review Title 31, Pa. Code, Section 69.52(b) with its claims staff to ensure that first party medical bills are paid within 30 days.

Response: Medical bills will be processed in order of receipt on a particular claim. Medical bill reviewers will be required to also follow the above protocol. Performance expectations of payments accomplished within 30 days will be enforced with all involved with the process. Internal quality control audits will be conducted on a representative sample of such claims to confirm timely processing of medical bill payments

15. 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 incomplete claims

file, claim acknowledgement and status letters, as noted in the Report, do not occur in the future.

Response: Receipt of claims will be acknowledged within 10 working days. The exception will be those claims wherein payment is accomplished within the initial 10 days. The acknowledgement will be accomplished with either written correspondence or documented record of telephone communication. Every reasonable effort will be made to complete investigation of a claim within 30 days. Notification will be provided to first party claimants to advise when investigation cannot be completed within 30 days. Every 45 days thereafter wherein investigation remains incomplete, notification will be provided explaining the reason for the delay and indicating when completion of the investigation can be expected. Internal quality control audits will be conducted on a representative sample of such claims to confirm compliance with the above protocol.

16. The Company must review the first party medical claim, 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 benefit became due as requires 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.

Response: There were 5 medical bills that were not paid within 30 days of receipt. We have reviewed all 5 and have calculated the interest payments due. Interest payments have been made on all 5 at a rate of 12% per annum. We will reaffirm with staff the need to issue payments within 30 days of receipt of medical proofs.

17. The Company must review Title 31, Pa. Code, Section 62.3(e)(7) with its claim staff to ensure that the consumer receives the total loss evaluation report within 5 days after the appraisal is completed.

Response: Upon receipt of the total loss evaluation report by the Claim Adjuster, a review of the vehicle and the criteria used in the evaluation of the subject vehicle will be conducted with the vehicle owner and an offer tendered that will include the applicable sales tax and title transaction fees associated with the State of Pennsylvania Regulatory requirements. A copy of the evaluation used to tendered said offer will be supplied to the vehicle owner and a copy maintained in the claim file.

18. 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.

Response: Copies of Certificates of Title and Pennsylvania Salvage Certificates will be maintained in the claim file. Our salvage vendor has been notified of the regulatory expectations for the securing of Pennsylvania Salvage Certificates on vehicles sold outside of the State of Pennsylvania.

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

Response: **The Company agrees to take reasonable steps to ensure all producers requiring an appointment are appointed prior to acting on behalf of or as a representative of the Company.**

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

Response: **The Company will review underwriting guidelines for Pennsylvania to eliminate in appropriate reasons for eligibility and will reissue guidelines if needed.**