



**COMMONWEALTH OF PENNSYLVANIA  
INSURANCE DEPARTMENT**

**MARKET CONDUCT  
EXAMINATION REPORT**

**OF**

**ERIE INSURANCE EXCHANGE  
ERIE, PA**

**As of: October 24, 2017  
Issued: December 18, 2017**

**BUREAU OF MARKET ACTIONS  
PROPERTY AND CASUALTY DIVISION**

VERIFICATION

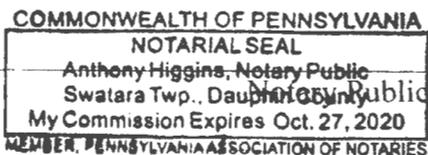
Having been duly sworn, I hereby verify that the statements made in the within document are true and correct to the best of my knowledge, information and belief. I understand that false statements made herein are subject to the penalties of 18 Pa. C.S. §4903 (relating to false swearing).

*Paul E. Town LP*

\_\_\_\_\_  
(Examiner Name), Examiner-in-Charge

Sworn to and Subscribed Before me

This 20<sup>th</sup> Day of *October*, 2017



*Anthony Higgins*

BEFORE THE INSURANCE COMMISSIONER  
OF THE  
COMMONWEALTH OF PENNSYLVANIA

IN RE:	:	VIOLATIONS:
	:	
ERIE INSURANCE EXCHANGE	:	40 P.S. §§323.3(a) and 323.4(b)
ATTN: Mandy Elder	:	
100 Erie Insurance Place	:	40 P.S. §1171.5(a)(4), 1171.5(a)(9)
Erie, PA 16530	:	and 1171.5(a)(9)(iv)
	:	
	:	18 Pa. Code §4117(k)(1)
	:	
	:	31 Pa. Code §§59.6(1), 146.6, 146.7(a)(1)
	:	and 146.7(c)(1)
	:	
	:	
	:	
Respondent.	:	Docket No. MC17-11-020

CONSENT ORDER

AND NOW, this 18<sup>th</sup> day of December, 2017, 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 Erie Insurance Exchange, and maintains its address at 100 Erie Insurance Place, Erie, PA 16530.
- (b) A market conduct examination of Respondent was conducted by the Insurance Department covering the experience period from January 1, 2016 through December 31, 2016.
- (c) On October 24, 2017, the Insurance Department issued a Market Conduct Examination Report to Respondent.
- (d) A response to the Examination Report was provided by Respondent on November 27, 2017.

(e) The Market Conduct Examination of Respondent revealed violations of the following:

- (i) 40 P.S. §323.3(a), requires every company subject to examination to keep all books, records, accounts, papers, documents and any computer or other recordings relating to its property, assets, business and affairs in such manner and for such time periods as the Department may require in order that its representatives may readily ascertain whether the company has complied with the laws of this Commonwealth;
- (ii) 40 P.S. §323.4(b), requires every company or person from whom information is sought, its officers, directors and agents must provide to the examiners timely, convenient and free access at all reasonable hours at its offices to all books, records, accounts, papers, documents and any or all computer or other recordings relating to the property, assets, business and affairs of the company being examined;
- (iii) 40 P.S. §1171.5(a)(4), prohibits unfair methods of competition and unfair or deceptive acts or practices by entering into any agreement to commit, or by any concerted action committing, any act or boycott, coercion or intimidation resulting in or tending to result in unreasonable restraint of, or monopoly in, the business of insurance;

- (iv) 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;
  
- (v) 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;
  
- (vi) 18 Pa. C.S. §4117(k)(1), states any person who knowingly and with intent to defraud any insurance company or other person files an application for insurance or statement of claim containing any materially false information or conceals for the purpose of misleading, information concerning any fact material thereto, commits a fraudulent insurance act, which is a crime and subjects such person to criminal and civil penalties;

- (vii) 31 Pa. Code §59.6(1) states notices of cancellation or refusal to renew shall meet the following requirements: (1) The form shall be clearly labeled: “Notice of Cancellation or Refusal to Renew;”
  
- (viii) 31 Pa. Code §146.6, states that if an investigation cannot be completed within thirty (30) days, and every forty-five (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;
  
- (ix) 31 Pa. Code §146.7(a)(1), requires within 15 working days after receipt by the insurer of properly executed proofs of loss, the first-party claimant shall be advised of the acceptance or denial of the claim by the insurer;
  
- (x) 31 Pa. Code §146.7(c)(1), states the following provisions govern acceptance or denial of a claim where additional time is needed to make a determination:  
(1) If the insurer needs more time to determine whether a first-party claim should be accepted or denied, it shall so notify the first-party claimant within 15 working days after receipt of the proofs of loss giving the reasons more time is needed. If the investigation remains incomplete, the insurer shall, 30 days from the date of the initial notification and every 45 days thereafter, send to the claimant a letter setting forth the reasons additional time is needed for investigation and state when a decision on the claim may be expected;

## 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 40 P.S. §1171.5(a)(9) and 1171.5(a)(9)(iv) 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.
- (c) In addition to any penalties imposed by the Commissioner for Respondent's violations of 40 P.S. §§1171.1 – 1171.5, the Commissioner may, under (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). .

- (d) Respondent's violations of 31 Pa. Code §§146.6, 146.7(a)(1) and 146.71(c)(1) are punishable under Sections 1 through 5 and Section 9 of the Unfair Insurance Practices Act (40 P.S. §§1171.1 – 1171.5 and 1171.9):
  - (i) cease and desist from engaging in the prohibited activity;
  - (ii) suspension or revocation of the license(s) of Respondent.
  
- (e) In addition to any penalties imposed by the Commissioner for Respondent's violations of 40 P.S. §§1171.1 – 1171.5, the Commissioner may, under (40 P.S. §§1171.10, 1171.11) file an action in which the Commonwealth Court may impose the following civil penalties:
  - (i) for each method of competition, act or practice which the company knew or should have known was in violation of the law, a penalty of not more than five thousand dollars (\$5,000.00);
  - (ii) for each method of competition, act or practice which the company did not know nor reasonably should have known was in violation of the law, a penalty of not more than one thousand dollars (\$1,000.00).

ORDER

5. In accord with the above Findings of Fact and Conclusions of Law, the 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 pay Seven Thousand Five Hundred Dollars (\$7,500.00) in settlement of all violations contained in the Report.
- (c) Payment of this matter shall be made to the Commonwealth of Pennsylvania. Payment should be directed to April Phelps, Insurance Department, Bureau of Market Actions, 1227 Strawberry Square, Harrisburg, Pennsylvania 17120. Payment must be made no later than thirty (30) days after the date of this Order.
- (d) 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.
- (e) Respondent shall comply with all recommendations contained in the attached Report.

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.

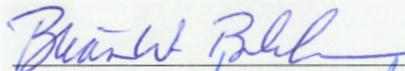
10. This Order constitutes the entire agreement of the parties with respect to the matters referred to herein, and it may not be amended or modified except by an amended order signed by all the parties hereto.

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

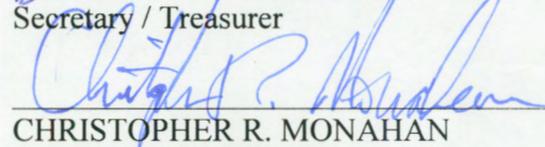
BY: ERIE INSURANCE EXCHANGE  
Respondent



\_\_\_\_\_  
President / Vice President



\_\_\_\_\_  
Secretary / Treasurer



\_\_\_\_\_  
CHRISTOPHER R. MONAHAN  
Deputy Insurance Commissioner  
Commonwealth of Pennsylvania

## **I. INTRODUCTION**

The market conduct examination was conducted at the claims office of Erie Insurance Exchange, hereinafter referred to as “Company,” located in Mechanicsburg, Pennsylvania from April 24, 2017, through May 5, 2017. Subsequent review and follow-up was conducted in the office of the Pennsylvania Insurance Department.

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

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

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

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

The following examiners participated in this examination and in preparation of this Report.

Kelly Krakowski, MCM  
Market Conduct Division Chief  
Pennsylvania Insurance Department

Paul Towsen  
Market Conduct Examiner  
Pennsylvania Insurance Department

Ryan Sellers  
Market Conduct Examiner  
Pennsylvania Insurance Department

Josh Taylor  
Market Conduct Examiner  
Pennsylvania Insurance Department

## **II. SCOPE OF EXAMINATION**

The Market Conduct Examination was conducted on Erie Insurance Exchange, at its claims office located in Mechanicsburg, Pennsylvania. The examination was conducted pursuant to Sections 903 and 904 (40 P.S. §§323.3 and 323.4) of the Insurance Department Act of 1921 and covered the experience period of January 1, 2016, through December 31, 2016, 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 midterm cancellations.
2. Personal Property
  - Underwriting - Appropriate and timely notices of midterm cancellations.
3. Claims
4. Forms
5. Complaints
6. Data Integrity

### **III. COMPANY HISTORY**

Erie Insurance Exchange was organized and licensed on April 1, 1925 under the laws of Pennsylvania. It began business on April 20 of the same year. The Exchange is a reciprocal insurance exchange organized under Article X of Pennsylvania's Insurance Company Law of 1921 under which individuals, partnerships and corporations are authorized to exchange reciprocal or inter-insurance contracts with each other, or with individuals, partnerships, and corporations of other states and countries, providing indemnity among themselves from any loss which may be insured against under any provision of the insurance laws except life insurance.

### **LICENSING**

Erie Insurance Exchange's Certificate of Authority to write business in the Commonwealth was issued on April 20, 1925. The Company is licensed in Connecticut, Illinois, Indiana, Kentucky, Maine, Maryland, Minnesota, New York, North Carolina, Ohio, Pennsylvania, Rhode Island, Tennessee, Virginia, West Virginia, Wisconsin and the District of Columbia. The Company's 2016 annual statement reflects Direct Written Premium for all lines of business in the Commonwealth of Pennsylvania as \$1,979,636,138. Premium volume related to the Personal Property Direct Written Premium was reported as Fire \$12,608,005; Allied Lines \$6,379,285; Homeowners Multiple Peril \$365,367,136; Inland Marine \$9,257,633. Premium volume related to Private Passenger Automobile Direct Written Premium was reported as Private Passenger Auto No-Fault (Personal Injury Protection) \$92,215,894; Other Private Passenger Auto Liability \$471,137,704; and Private Passenger Auto Physical Damage \$513,335,898.

## **IV. UNDERWRITING**

### **A. Private Passenger Automobile**

#### 1. Mid-term Cancellations

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

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

From the universe of 50,298 private passenger automobile policies which were cancelled during the experience period, 100 files were selected for review. All 100 files requested were received and reviewed. No violations were noted.

The following concerns were noted:

**CONCERN:** The following language; “*Amount needed to reinstate*”, on non-pay notices of cancellation is misleading and contradicts other statements contained in the same notice. This language appears to indicate the policy is cancelled at date of notice, when in fact coverage is still in effect. The Company should remove this language from notices of cancellation for non-payment when policy coverage is still in force.

**CONCERN:** The Company is issuing cancellation notices on insured request cancellations. The Company should either eliminate sending

notices following insured requested cancellations, change "Cancellation Notice" heading to "Acknowledgement of Cancellation Request", or remove the heading completely.

## **B. Personal Property**

### **1. Mid-term Cancellations**

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

The primary purpose of the review was to determine compliance with Act 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 32,980 property policies which were cancelled midterm during the experience period, 115 files were selected for review. The property files consisted of homeowners, tenant homeowners, and owner occupied dwelling fire policies. All 115 files requested were received and reviewed. The 45 violations noted were based on 35 files, resulting in an error ratio of 30%.

The following findings were made:

#### *35 Violations 31 Pa. Code §59.6(1)*

Requires that a cancellation notice clearly be labeled "Notice Of Cancellation or Refusal to Renew". The files noted contained a notice that was not labeled "Notice of Cancellation or Refusal to Renew".

*10 Violations 40 P.S. §1171.5(a)(9)(iv)*

Requires that a cancellation notice advise the insured of his right to request, in writing within ten days of the receipt of notice of cancellation or intention to renew that the insurance commissioner review the action of the insurer. The 10 files noted did not contain this information.

The following concerns were noted:

**CONCERN:** The following language; “*Amount needed to reinstate*”, on non-pay notices of cancellation is misleading and contradicts other statements contained in the same notice. This language appears to indicate the policy is cancelled at date of notice, when in fact coverage is still in effect. The Company should remove this language from notices of cancellation for non-payment when policy coverage is still in force.

**CONCERN:** The Company is issuing cancellation notices on insured request cancellations. The Company should either eliminate sending notices following insured requested cancellations, change "Cancellation Notice" heading to “Acknowledgement of Cancellation Request”, or remove the heading completely.

## V. 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.

The Claims review consisted of the following areas of review:

- A. Homeowner Claims
- B. Tenant Homeowner Claims
- C. Dwelling Fire Claims

The primary purpose of the review was to determine compliance with 31 Pa. 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) of the Unfair Insurance Practices Act (40 P.S. §1171.5(a)(10)(vi)).

### **A. Homeowner Claims**

From the universe of 23,352 homeowner claims reported during the experience period, 200 files were selected for review. All 200 files selected were received and reviewed. The seven violations were based on seven files, resulting in an error ratio of 4%.

The following findings were made:

*3 Violations 31 Pa. Code §146.6*

Every insurer shall complete investigation of a claim within

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

*2 Violations 31 Pa. Code §146.7(a)(1)*

Acceptance or denial of a claim shall comply with the following: Within 15 working days after receipt by the insurer of properly executed proofs of loss, the first-party claimant shall be advised of the acceptance or denial of the claim by the insurer. An insurer may not deny a claim on the grounds of a specific policy provision, condition or exclusion unless reference to the provision, condition or exclusion is included in the denial. The denial shall be given to the claimant in writing and the claim file of the insurer shall contain a copy of the denial. The Company did not accept or deny coverage within 15 working days of receipt of proof of loss for the two claims noted.

*1 Violation 31 Pa. Code §146.7(c)(1)*

The following provisions govern acceptance or denial of a claim where additional time is needed to make a determination:

(1) If the insurer needs more time to determine whether a first-party claim should be accepted or denied, it shall so notify the first-party claimant within 15 working days after receipt of the proofs of loss giving the reasons more time is needed. If the

investigation remains incomplete, the insurer shall, 30 days from the date of the initial notification and every 45 days thereafter, send to the claimant a letter setting forth the reasons additional time is needed for investigation and state when a decision on the claim may be expected. The Company failed to provide the claimant a reason why more time was needed to determine if the claim would be accepted or denied for the claim noted.

*1 Violation 40 P.S. §323.4*

Every company or person from whom information is sought, its officers, directors and agents must provide to the examiners appointed under subsection (a) timely convenient and free access at all reasonable hours at its offices to all books, records accounts, papers, documents and any or all computer or other recordings relating to the property, assets, business and affairs of the company being examined. The officers, directors, employees and agents of the company or person must facilitate such examination and aid in such examination so far as it is in their power to do so. The refusal of any company by its officers, directors, employees or agents to submit to examination or to comply with any reasonable written request of the examiners shall be grounds for suspension or refusal of or nonrenewal of any license or authority held by the company to engage in an insurance or other business subject to the department's jurisdiction. Any such proceedings for suspension, revocation or refusal of any license or authority shall be conducted pursuant to 2 Pa. C.S. (relating to administrative law and procedure). The Company

failed to maintain a complete file in order to determine compliance for the claim noted.

## **B. Tenant Homeowner Claims**

From the universe of 582 tenant homeowner claims reported during the experience period, 50 files were selected for review. All 50 files selected were received and reviewed. The two violations noted were based on two files, resulting in an error ratio of 4%.

The following findings were made:

### *2 Violations 31 Pa. Code §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 failed to provide timely status letters for the two claims noted.

## **C. Dwelling Fire Claims**

From the universe of 978 owner occupied dwelling fire claims reported during the experience period, 80 files were selected for review. All 80 files selected were received and reviewed. Of the 80 files reviewed, 62 files were identified as not being owner occupied. The two violations noted were based on two files, resulting in an error ratio of 3%.

The following findings were made:

*1 Violation 31 Pa. Code §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 failed to provide a timely status letter for the claim noted.

*1 Violation 31 Pa. Code §146.7(a)(1)*

Standards for prompt, fair and equitable settlements applicable to insurers. (a) Acceptance or denial of a claim shall comply with the following: (1) Within 15 working days after receipt by the insurer of properly executed proofs of loss, the first-party claimant shall be advised of the acceptance or denial of the claim by the insurer. No insurer shall deny a claim on the grounds of a specific policy provision, condition, or exclusion unless reference to such provision, condition or exclusion is included in the denial. The denial must be given to the claimant in writing and the claim file of the insurer shall contain a copy of the denial. The Company did not accept or deny coverage within 15 working days of receipt of proof of loss for the file noted.

The following concern was noted:

**CONCERN:** When the Company closes a claim file with no payment, they are not providing the policyholder/claimant with written notice indicating their action. The Company should provide policyholders/claimants with written notice when a claim file is being closed with no payment.

## VI. FORMS

Throughout the course of the examination, all underwriting files were reviewed to identify the policy forms used in order to verify compliance with the Insurance Company Law, Section 354 (40 P.S. §477b), Approval of Policies, Contracts, etc., Prohibiting the Use Thereof Unless Approved. During the experience period of the examination, Section 354 provided that it shall be unlawful for any insurance company to issue, sell, or dispose of any policy contract or certificate covering fire, marine, title and all forms of casualty insurance or use applications, riders, or endorsements in connection therewith, until the forms have been submitted to and formally approved by the Insurance Commissioner. All underwriting and claim files were also reviewed to verify compliance with Title 75, Pa. C.S. §1822, which requires all insurers to provide an insurance fraud notice on all applications for insurance, all claims forms and all renewals of coverage and Title 18, Pa. C.S. §4177(k)(1), which requires all insurers to provide an insurance fraud notice on all applications for insurance and all claim forms.

The following findings were made:

### *8 Violations 18 Pa. C.S. §4117(k)(1)*

All applications for insurance and all claim forms shall contain or have attached thereto the following notice: Any person who knowingly and with intent to defraud any insurance company or other person files an application for insurance or statement of claim containing any materially false information or conceals for the purpose of misleading, information concerning any fact material thereto commits a fraudulent insurance act, which is a crime and subjects such person to criminal and civil penalties. Of the eight

violations noted, the Company failed to provide the required fraud warning on two claim forms and failed to provide the required verbatim fraud warning on six claim forms.

*2 Violations 31 Pa. Code §59.6(1)*

Requires that a cancellation notice clearly be labeled “Notice Of Cancellation or Refusal to Renew”. The Company failed to label two forms “Notice of Cancellation or Refusal to Renew”.

The following concern was noted:

**CONCERN:** The following language; “*Amount needed to reinstate*”, on non-pay notices of cancellation is misleading and contradicts other statements contained in the same notice. This language appears to indicate the policy is cancelled at date of notice, when in fact coverage is still in effect. The Company should remove this language from notices of cancellation for non-payment when policy coverage is still in force.

Cancellation Notice (932EXC 6/00; PAPA 12/11)

## **VII. 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 707 consumer complaints received during the experience period and provided all consumer complaint logs requested. From the universe of 707 complaint files, 175 files were selected for review. All 175 files were received and reviewed. Of the 175 files reviewed, two files were identified as being outside the experience period.

The purpose of the review was to determine compliance with the Unfair Insurance Practices Act, (40 P.S. §§1171.1 – 1171.5). Section 5(a)(11) of the Act (40 P.S. §1171.5(a)(11)), 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 individual complaint files were reviewed for the relevancy to applicable statutes and to verify compliance with 31 Pa. Code §146.5(b)(c).

The following findings were made:

### *1 Violation 31 Pa. Code §146.6*

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

*1 Violation 40 P.S. §323.3(a)*

Every company or person subject to examination in accordance with this act must keep all books, records, accounts, papers, documents and any or all computer or other recordings relating to its property, assets, business and affairs in such manner and for such time periods as the department, in its discretion, may require in order that its authorized representatives may readily verify the financial condition of the company or person and ascertain whether the company or person has complied with the laws of this Commonwealth. The Company did not maintain a complete file to determine compliance.

*1 Violation 40 P.S. §1171.5(a)(4)*

Unfair methods of competition and unfair or deceptive acts or practices defined. (a) “Unfair methods of competition” and “unfair or deceptive acts or practices” in the business of insurance means: (4) Entering into any agreement to commit, or by any concerted action committing, any act of boycott, coercion or intimidation resulting in or tending to result in unreasonable restraint of, or monopoly in, the business of insurance. The Company required supporting business to write a personal inland marine policy for the file noted.

*1 Violation 40 P.S. §1171.5(a)(9)*

Unfair methods of competition and unfair or deceptive acts or practices defined. (a) “Unfair methods of competition” and “unfair or deceptive acts or practices” in the business of insurance means:

(9) 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 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. 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 either at the address shown in the policy or at a forwarding address. The Company failed to provide a valid reason for cancellation for the file noted.

The following synopsis reflects the nature of the 175 complaints that were reviewed.

79	Cancellation/Nonrenewal	45%
72	Claims Related	41%
17	Billing/Premium	10%
3	Agency Conduct	2%
4	Miscellaneous	2%
<hr/>		<hr/>
175		100%

## **VIII. DATA INTEGRITY**

As part of the examination, the Company was sent a preliminary examination packet in accordance with NAIC uniformity standards and provided specific information relative to the exam. The purpose of the packet was to provide certain basic examination information, identify preliminary requirements and to provide specific requirements for requested data call information. Once the Company provided all requested information and data contained within the data call, the Department reviewed and validated the data to ensure its accuracy and completeness to determine compliance with Insurance Department Act of 1921, Section 904(b) (40 P.S. §323.4(b)). Several data integrity issues were found during the on-site portion of the exam.

The data integrity issue of each area of review is identified below.

### **Dwelling Fire Claims**

**Situation:** The Company was asked to provide a list of all owner occupied dwelling fire claims. As the examiners reviewed the sampled claim files, it was noted that the Company provided tenant occupied dwelling fire claims.

**Finding:** Of the 45 files selected for review in the original sample, 36 files were identified as being tenant occupied dwelling fire policies. Of the 35 files selected for review from the second sample, 26 files were identified as being tenant occupied dwelling fire policies.

## **Consumer Complaints**

Situation: As the examiners reviewed the consumer complaint files of the exam, it was noted that not all 175 files selected for review were within the experience period.

Finding: Of the 175 consumer complaint files selected for review, two files were identified as being outside the 2016 experience period.

The following finding was made:

### *General Violation 40 P.S. §323.4(b)*

Requires every company or person from whom information is sought, its officers, directors and agents must provide to the examiners timely convenient and free access at all reasonable hours at its offices to all books, records, accounts, papers, documents and any or all computer or other recordings relating to the property, assets, business and affairs of the company being examined. The violation was the result of a failure to exercise sufficient due diligence to ensure compliance with Insurance Department Act of 1921.

## **IX. 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 40 P.S. §1171.5(a)(9) to ensure that violations regarding the requirements for cancellation notices, as noted in the Report, do not occur in the future.
2. The Company must review 31 Pa. Code §59.6(1) to ensure that violations regarding the label of the form, as noted in the Report, do not occur in the future.
3. The Company should review and revise internal control procedures to ensure compliance with the claims handling requirements of 31 Pa. Code, Chapter 146, Unfair Claims Settlement Practices so that the violations relating to claim acceptance or denials and status letters, as noted in the Report, do not occur in the future.
4. The Company must review 18 Pa. C.S. §4117(k)(1) to ensure that violations regarding the requirement of a fraud warning on all applications and claim forms, as noted in the Report, do not occur in the future.
5. The Company must reinforce its internal data controls to ensure that all records and documents are maintained in accordance with 40 P.S. §§323.3 and 323.4, so that violations noted in the Report do not occur in the future.

6. The Company must review 40 P.S. §1171.5(a)(4) to ensure that the violation relative to supporting coverage, as noted in the Report, does not occur in the future.

**X. COMPANY RESPONSE**



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November 27, 2017

Kelly Krakowski  
Chief, Property & Casualty Division  
Office of Market Regulation  
1321 Strawberry Square  
Harrisburg, Pennsylvania 17120

RE: Market Conduct Examination Report of  
Erie Insurance Exchange (NAIC #26271)  
Examination Warrant Number: 17-M36-003

Dear Ms. Krakowski:

We are in receipt of the revised Report of Examination (“Report”) of Erie Insurance Exchange covering the period of January 1, 2016 through December 31, 2016, received on November 27, 2017. We agree with the findings stated in the Report and have enclosed our Corrective Action Plan.

It was a pleasure working with you and the examiners and we greatly appreciate the assistance and guidance we received throughout the examination. If you have any questions, please feel free to contact me.

Sincerely,

Mandy Elder  
Supervisor  
Market Conduct Services

ME/db

Enclosures

**Erie Insurance Exchange  
Corrective Action Plan to  
Pennsylvania Market Conduct Exam Recommendations**

- 1. The Company must review 40 P.S. §1171.5(a)(9) to ensure that violations regarding the requirements for cancellation notices, as noted in the Report, do not occur in the future.**

We are in the process of reviewing our guidelines and training procedures to ensure compliance with 40 P.S. §1171.5(a)(9).

- 2. The Company must review 31 Pa. Code 59.6(1) to ensure that violations regarding the label of the form, as noted in the Report, do not occur in the future.**

We are in the process of reviewing the labels of our personal property cancellation notices to ensure compliance with 31 Pa. Code 59.6(1).

In addition, we are in the process of updating the label of our form to read "Notice of Cancellation or Refusal to Renew" and will be filing this with the PA Insurance Department for approval.

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

The Company understands the importance of this regulatory requirement and expects full compliance by its claims staff. Adherence to 31 Pa. Code, Chapter 146 will be reinforced with all claims staff through a regulatory reminder certification program we currently have in place, and a state-wide communication to all managers, supervisors and staff reminding them of the importance of full compliance with this and other regulatory requirements. Further, we will continue to monitor adherence to this regulation and others through our regulatory compliance audits conducted by our Claims Quality Control Department, which include remediation plans for areas not in compliance.

- 4. The Company must review 18 Pa. C.S. §4117(k)(l) to ensure that violations regarding the requirement of a fraud warning on all applications and claim forms, as noted in the Report, do not occur in the future.**

The Company understands the importance of this regulatory requirement and expects full compliance by its claims staff. Prior to the announcement of this examination, our Claims Quality Control Department began an initiative to have all claim forms reviewed for regulatory compliance companywide, including the required fraud language. Once necessary changes are completed, a communication will be issued to all our claims offices mandating the use of the updated forms and destruction of outdated forms.

- 5. The Company must reinforce its internal data controls to ensure that all Records and documents are maintained in accordance with 40 P.S. §323.3 and 40 P.S. §323.4, so that violations noted in the Report do not occur in the future.**

The Company understands the importance of ensuring that all records and documents are maintained in accordance with 40 P.S. §323.3 and 40 P.S. §323.4. As such, we have taken the necessary steps to ensure the violations noted in the Report do not occur in the future.

- 6. The Company must review 40 P.S. §1171.5(a)(4) to ensure that the violation relative to supporting coverage, as noted in the Report, do not occur in the future.**

In August 2017, we reinforced our guidelines of not requiring supporting business and will continue to reinforce these guidelines in the future to ensure compliance with 40 P.S. §1171.5(a)(4).