



**COMMONWEALTH OF PENNSYLVANIA  
INSURANCE DEPARTMENT**

MARKET CONDUCT  
EXAMINATION REPORT

OF

**FIRST ACCEPTANCE  
INSURANCE COMPANY**  
DALLAS, TX

As of: November 9, 2022  
Issued: January 13, 2023

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



PENNSYLVANIA INSURANCE DEPARTMENT
EXAMINATION VERIFICATION

I, Nanette R. Soliday, Market Conduct Examiner II from
(Name of Examiner) (Title of Examiner)

The Pennsylvania Insurance Department, certify that I was the Examiner-In-Charge of the Report of
(Name of Vendor/Department)

Examination of First Acceptance Insurance made as of 11/3/2022
Company (Name of Examined Company) (Date)

The last date of examination file review was 6/24/22 and the written Report
(Date)

of Examination was reviewed and accepted by Paul E. Towsen, III
(Chief of Market Conduct Examiner)
on 11/9/2022
(Date)

I have reviewed the completed written Report of Examination and certify that the facts and figures recited therein are true and accurate, according to the records, documents and other evidence obtained during the course of the examination.

Nanette R. Soliday
(Examiner-in Charge)

Pennsylvania Insurance Department
(Name of Vendor/Department)

Bureau of Market Actions, 1321 Strawberry Square Harrisburg, PA 17120
(Address of Vendor/Department)

Nanette Soliday 11/3/2022
(Examiner in Charge Signature) (Date)

IN ORDER TO SATISFY SECTION 40 P.S. § 323.5(b), THAT PROVIDES FOR NO LONGER THAN SIXTY (60) DAYS FROM THE COMPLETION OF THE EXAMINATION, THE EXAMINER IN CHARGE SHALL FILE WITH THE DEPARTMENT A VERIFIED WRITTEN REPORT OF EXAMINATION UNDER OATH.

Office of Market Regulation | Bureau of Market Actions | 1345 Strawberry Square | Harrisburg, Pennsylvania 17120
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**FIRST ACCEPTANCE INSURANCE COMPANY**  
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BEFORE THE INSURANCE COMMISSIONER  
OF THE  
COMMONWEALTH OF PENNSYLVANIA

**ORDER**

AND NOW, this \_\_31st\_\_ day of \_\_March\_\_, 2022, 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 David J. Buono, Jr., 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.



  
\_\_\_\_\_  
Michael Humphreys  
Acting Insurance Commissioner



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 First Acceptance Insurance Company and maintains its address at 3813 Green Hills Village Drive, Nashville, TN 37215.
- (b) A market conduct examination of Respondent was conducted by the Insurance Department covering the experience period from January 1, 2021 through December 31, 2021.
- (c) On November 9, 2022, the Insurance Department issued a Market Conduct Examination Report to Respondent.

- (d) A response to the Examination Report was provided by Respondent on December 9, 2022.
  
- (e) The Market Conduct Examination of Respondent revealed violations of the following:
  - (i) 40 P.S. §310.71, prohibits producers from transacting business within this Commonwealth without written appointment as required by the Act;
  
  - (ii) 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;
  
  - (iii) 40 P.S. §991.2008(b), 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;



- (iv) 40 P.S. §1171.5(a)(12), states that “Unfair methods of competition” and “unfair or deceptive acts or practices” in the business of insurance means making false statements or representations on or relative to an application for an insurance policy, for the purpose of obtaining a fee, commission, money or other benefit from any insurers, agent, broker or individual;
- (v) 40 P.S. §1184(a)&(h), requires every insurer to file with the Insurance Commissioner every manual of classifications, rules and rates, every rating plan and every modification of any rating plan which it proposes to use in this Commonwealth and prohibits an insurer from making or issuing a contract or policy with rates other than those approved;
- (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 §62.3, requires that an appraisal shall meet all applicable standards per statute;

- (viii) 31 Pa. Code §62.3(e)(4), requires that applicable sales tax on the replacement cost of a motor vehicle shall be included as part of the replacement value;
- (ix) 31 Pa. Code §62.3(e)(7), 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;
- (x) 31 Pa. Code §69.52(b), 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;
- (xi) 31 Pa. Code §146.3, requires the claim files of the insurer shall be subject to examination by the Commissioner or by his/her 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;
- (xi) 31 Pa. Code §146.5(a), 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 and dated;

- (xii) 31 Pa. Code §146.5(a), 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 and dated;
  
- (xiii) 31 Pa. Code §146.5(d), states that an insurer, upon receiving notification of a claim, shall provide within ten working days necessary claim forms, instructions and reasonable assistance so that first-party claimants can comply with policy conditions and reasonable requirements of the insurer;
  
- (xi) 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;
  
- (xii) 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;

- (xiii) 63 P.S. §861(b), requires the appraiser shall furnish a legible copy of his appraisal to the repair shop selected by the consumer to make the repairs and furnish a copy to the owner of the vehicle. This appraisal shall contain the name of the insurance company ordering it, if an, the insurance file number, the number of the appraiser's license and the proper identification number of the vehicle being inspected;
  
- (xiv) 75 Pa. C.S. §1705(a)(4), requires every insurer, prior to the first issuance of a private passenger motor vehicle liability insurance policy to provide each applicant with the notice required by paragraph (1). A policy may not be issued until the applicant has been provided an opportunity to elect a tort option. The notice shall be standardized form as adopted by the Commissioner;
  
- (xv) 75 Pa. C.S. §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.

- (xvi) 75 Pa. C.S. §1791.1(c), requires an insurer to provide an insured a notice stating that discounts are available for drivers who meet the requirements of Sections 1799, 1799.1 and 1799.2;
  
- (xvii) 75 Pa .C.S. §1793(c), states when an insurer cancels a motor vehicle insurance policy within the first 60 days of new business, the insurer shall within 30 days of canceling the policy return to the insured all premiums paid under the policy less any proration for the period the policy was in effect. Premiums are overdue if not paid to the insured within 30 days after canceling the policy. Overdue return premiums shall bear interest at the rate of 12% per annum from the date the return premium became due;

#### 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. §310.71 are punishable by the following, under (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) Violations of 40 P.S. §991.2008(b) (relating to motor vehicles) of 40 P.S. are punishable by the following, under Section 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).
  
- (d) Respondent's violations of 40 P.S. §1171.5(a)(12) 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.
  
- (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).
- (f) Violations of Section 4 of the Casualty and Surety Rate Regulatory Act, No. 246 (40 P.S. §1184(a)&(h)) are punishable under Section 16 of the Act:
- (i) imposition of a civil penalty not to exceed \$50 for each violation or not more than \$500 for each such willful violation.
  - (ii) suspension of the license of any insurer which fails to comply with an Order of the Commissioner within the time limited by such Order, or any extension thereof which the Commissioner may grant.
- (g) Respondent's violations of 31 Pa. Code §§146.3, 146.5(a), 146.5(d), 146.6 and 146.7(a)(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.

- (h) 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 One Hundred Five Thousand Dollars (\$105,000) 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 Paul Towsen, Insurance Department, Bureau of Market Actions, 1209 Strawberry Square, Harrisburg, Pennsylvania 17120. Payment must be made no later than thirty (30) days after the date of this Order.
- (d) The Department reserves the right to follow up with the Company within a minimum of 12 months to determine that the Company has complied with the recommendations in the Report.
- (e) 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.
- (f) 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.

Type text here

BY: FIRST ACCEPTANCE INSURANCE  
COMPANY  
Respondent

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

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

  
\_\_\_\_\_  
DAYID J. BUONO  
Deputy Insurance Commissioner  
Commonwealth of Pennsylvania

## **I. INTRODUCTION**

The Market Conduct Examination of First Acceptance Insurance Company, hereinafter referred to as “Company”, was conducted at the Pennsylvania Insurance Department beginning March 3, 2022. There was no on-site portion of the exam.

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.

Paul Towsen, MCM  
Market Conduct Division Chief  
Pennsylvania Insurance Department

Joshua Gotwalt, MCM  
Market Conduct Examiner II  
Pennsylvania Insurance Department

Vernon Schmidt, MCM  
Market Conduct Examiner II  
Pennsylvania Insurance Department

Nanette Soliday, MCM  
Market Conduct Examiner II, EIC  
Pennsylvania Insurance Department

## *II. SCOPE OF EXAMINATION*

The Market Conduct Examination was conducted on First Acceptance Insurance Company, at the Pennsylvania Insurance Department, located in Harrisburg, 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, 2021, through December 31, 2021, 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, declinations, and rescissions.
  - Rating – Proper use of all classification and rating plans and procedures.
2. Claims
3. Complaints
4. Advertising
5. Producer Licensing
6. Underwriting Practices and Procedures
7. Forms

8. Data Integrity

9. MCAS Reporting

- Private Passenger Automobile

### **III. COMPANY HISTORY**

First Acceptance Insurance Company, Inc. was incorporated in Tennessee on July 12, 1995 as USAuto Insurance Company. The current title was adopted on January 6, 2006. First Acceptance Corporation (FAC) is the operating holding company. FAC owns three insurance companies; First Acceptance Insurance Company (FAIC) writes in 13 states; First Acceptance Insurance Company of Georgia (FAGA) writes in Georgia only; and First Acceptance of Tennessee (FATN) writes in Tennessee only. These insurance companies are pooled: FAIC – 59%; FAGA – 28%; FATN – 13%. Acceptance Insurance of Tennessee is an MGA in Florida and Georgia / Broker in California.

### **LICENSING**

First Acceptance Insurance Company's last Certificate of Authority to write business in the Commonwealth was last issued on April 1, 2022. The Company is licensed in 26 states, Alabama, Arizona, Arkansas, California, Colorado, Florida, Georgia, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Missouri, Mississippi, New Mexico, Nevada, Ohio, Oklahoma, Pennsylvania, South Carolina, Tennessee, Texas, Utah, Virginia, and West Virginia. The Company's 2020 annual statement reflects Direct Written Premium for all lines of business in the Commonwealth of Pennsylvania as \$8,082,031. Premium volume related to the areas of this review were: Private Passenger Automobile Direct Written Premium was reported as Private Passenger Auto no-fault (personal injury protection) \$1,044,863; Other private passenger auto liability \$4,968,144; and Private Passenger Auto Physical Damage \$2,042,875.



## **IV. UNDERWRITING**

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

#### **1. 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 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 138 private passenger automobile policies which were nonrenewed during the experience period, 35 files were selected for review. All 35 files requested were received and reviewed. There were no violations. The following concern was noted.

CONCERN: The Company is sending a Notice of Cancellation with no address and phone number to contact Assigned Risk. The Company should add the telephone number and address of Assigned Risk so the insured can contact if needed.

#### **2. Mid-term Cancellations**

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

The primary purpose of the review was to determine compliance with

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

From the universe of 3,316 private passenger automobile policies which were cancelled midterm, 65 files were selected for review. All 65 files requested were received and reviewed. There were no violations. The following concern was noted.

**CONCERN:** The Company is sending a Notice of Cancellation with no address and phone number to contact Assigned Risk. The Company should add the telephone number and address of Assigned Risk so the insured can contact if needed.

### 3. 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(c)(3) (40 P.S. §991.2002(c)(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 3,409 private passenger automobile policies that were cancelled within the first 60 days of new business, 65 files were selected for

review. All 65 files requested were received and reviewed. Of the 65 files reviewed, two files were determined to be rescissions. The one violation noted was based on one file, resulting in an error ratio of 2%.

The following finding was noted:

*1 Violation 75 Pa. C.S. §1793(c)*

When an insurer cancels a motor vehicle insurance policy within the first 60-days of new business, the insurer shall within 30 days of canceling the policy return to the insured all premiums paid under the policy less any proration for the period the policy was in effect. Premiums are overdue if not paid to the insured within 30 days after canceling the policy. Overdue return premiums shall bear interest at the rate of 12% per annum from the date the return premium became due. The Company failed to return unearned premium within 30 days of canceling the policy and failed to pay the proper amount of interest on the overdue returned premium for the seven files noted. The Company has already provided proof that the correct interest amount has been paid on the file noted.

The following concern was noted:

**CONCERN:** The Company is sending a Notice of Cancellation with no address and phone number to contact Assigned Risk. The Company should add the telephone number and address of Assigned Risk so the insured can contact if needed.

#### 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 95 declinations for private passenger automobile insurance, 25 files were selected for review. All 25 files requested were received and reviewed. The 95 violations noted were based on the entire universe of 95 files, resulting in an error ratio of 100%.

The following finding was noted:

##### *95 Violations 40 P.S. §991.2008(b)*

Any applicant for a policy who is refused such policy by an insurer shall be given a written notice of refusal to write by the insurer. Such notice shall state the specific reason or reasons of the insurer for refusal to write a policy for the applicant. Within 30 days of the receipt of such reasons, the applicant may request in writing to the Insurance Commissioner that he review the action of the insurer in refusing to write a policy for the applicant. The Company failed to provide a written notice of refusal to write for the 95 files noted.

## 5. Rescissions

A rescission is any policy which was void ab initio by the Company.

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

From the universe of 41 private passenger automobile policies identified by the Company as rescissions, 20 files were selected for review. All 20 files requested were received and reviewed. There were no violations.

## V. 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 The Casualty and Surety Rate Regulatory Act, Section 4(a) and (h) (40 P.S. §1184(a), (h)), 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 all provisions of the Motor Vehicle Financial Responsibility Law (75 Pa. C.S. §§1701 – 1799.7) 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 uses an automated system to process and issue personal automobile policies. 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 Rating – New Business without Surcharges

From the universe of 7,165 private passenger automobile policies identified as new business without surcharges by the Company, 100 files were selected for review. All 100 policy files requested were received and reviewed. The entire universe (1520) of phone sales where the policy had 3<sup>rd</sup> party Nation Safe Driver (NSD) coverages and/or Life Insurance coverage through Life of the South added to the policy was reviewed as well.

The following findings were noted:

*1,520 Violations 40 P.S. §1171.5(a)(12)*

Prohibits making false or fraudulent statements or representations on or relative to an application for an insurance policy, for the purpose of obtaining a fee, commission, money or other benefit from any insurers, agent, broker or individual. The Company failed to disclose and/or explain the third party add-on coverages (NSD and/or Life of the South) during the phone sale with the potential insured for the 1,520 files noted.

*1 Violation 40 P.S. §1184(a)&(h)*

Requires every insurer to file with the Insurance Commissioner every manual of classifications, rules and rates, every rating plan, and every modification of any rating plan, which it proposes to use in the Commonwealth. Also,

no insurer shall make or issue a contract or policy except in accordance with filings or rates, which are in effect at the time of issue. The Company failed to issue policies in accordance with the Company's filed and approved rating plan. The Company issued one policy with improper rounding of the premium. The amount of the undercharge was \$1.00

*3 Violations 75 Pa. C.S. §1705(a)(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 provide a signed and dated limited tort form for the three files noted.

*2 Violations 75 Pa. C.S. §1731(b)(c)(c.1)*

The named insured shall be informed that he may reject uninsured and underinsured motorist coverage by signing written rejection forms. The Company failed to have a signed rejection form for uninsured and underinsured motorist coverage for the two files noted.

*2 Violations 75 Pa. C.S. §1738(d)(1)&(2)(e)*

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 failed to provide the signed rejection form of



stacked limits for uninsured and underinsured motorist coverage for the two files noted.

The following concerns were noted:

**CONCERN** – The Fee Disclosure on auto policies written from 12/2/21 NB and 12/24/21 RB do not match the Company’s Pennsylvania approved rate filing. (See below) The Fee Disclosure on the Company auto policy page should match the approved rates listed in Rating Table 24.

Rating Table 24  
Page 1

**First Acceptance Insurance Company, Inc.**  
**Private Passenger Auto - Pennsylvania**  
**Rate Plan Effective 12/02/2021 NB, 12/24/2021 RB**  
Policy Fees/Miscellaneous Coverages

Rating Category	Policy Term	
	6 Months	12 Months
Late Fee	\$10.00	\$10.00
NSF Check Fee	\$25.00	\$25.00
New Business Policy Fee	\$30.00	\$30.00
Renewal Business Policy Fee	\$30.00	\$30.00
Premium Installment Fee	\$12.00	\$12.00
Premium Installment Fee (EFT)	\$7.00	\$7.00
Reinstatement Fee	\$15.00	\$15.00
SR-22 Filing Fee	\$25.00	\$25.00
Cancellation Fee	\$50.00	\$50.00

From a sample policy – effective 12/22/21:

**DISCLOSURE:**

Certain Fees may be applied to your policy during each policy period. These fees are charged in addition to your policy premium and will apply to all renewal and rewritten policies, regardless of any lapses or cancellations. The fees listed below may be charged:

NSF CHECK FEE	25.00
POLICY FEE	30.00
PREMIUM INSTALLMENT FEE	12.00
PREMIUM INSTALLMENT FEE (EFT)	7.00
REINSTATEMENT FEE	25.00
SR-22 FILING FEE	25.00
CANCELLATION FEE	50.00

**CONCERN** – On the new business policy premium page, the Company lists the third-party coverages for the Travel Club as Nation Safe Hospital Indemnity Plan (not affiliated with First Acceptance). This should be labeled as NSD Travel Club (not affiliated with First Acceptance) to avoid a misrepresentation regarding the entity that is providing the coverage to the insured.

**CONCERN** – The Company charges \$78.00 for the Nation Safe Towbusters third party Cov C. Based on the rate pages provided by the Company this \$78.00 charge is correct. However, the verbiage in the NSD Towbusters contract shows Cov C at a rate of \$75.00. This information may be misleading to the policyholder.

Private Passenger Automobile Rating – New Business with Surcharges

From the universe of 1,549 private passenger automobile policies identified as new business with surcharges by the Company, 50 files were selected for review. All 50 policy files requested were received and reviewed. The five violations noted were based on three files, resulting in an error ratio of 6%.

The following findings were noted:

*1 Violation 40 P.S. §1184(a)&(h)*

Requires every insurer to file with the Insurance Commissioner every manual of classifications, rules and rates, every rating plan, and every modification of any rating plan, which it proposes to use in the Commonwealth. Also, no insurer shall make or issue a contract or policy except in accordance with filings or rates, which are in effect at the

time of issue. The Company failed to issue policies in accordance with the Company's filed and approved rating plan. The Company issued one policy with improper rounding of the premium. The amount of the undercharge was \$1.00

*2 Violations 75 Pa. C.S. §1705(a)(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 provide a signed and dated tort option selection form for the two files noted.

*2 Violations 75 Pa. C.S. §1731(b)(c)(c.1)*

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 have a signed rejection form for uninsured and underinsured motorist coverage for the two files noted.

The following concerns were noted:

**CONCERN** – The Fee Disclosure on auto policies written from 12/2/21 NB and 12/24/21 RB do not match the Company's Pennsylvania approved rate filing. (See below) The Fee Disclosure on the Company auto policy page should match the approved rates listed in Rating Table 24.

**First Acceptance Insurance Company, Inc.**  
**Private Passenger Auto - Pennsylvania**  
**Rate Plan Effective 12/02/2021 NB, 12/24/2021 RB**  
 Policy Fees/Miscellaneous Coverages

Rating Category	Policy Term	
	6 Months	12 Months
Late Fee	\$10.00	\$10.00
NSF Check Fee	\$25.00	\$25.00
New Business Policy Fee	\$30.00	\$30.00
Renewal Business Policy Fee	\$30.00	\$30.00
Premium Installment Fee	\$12.00	\$12.00
Premium Installment Fee (EFT)	\$7.00	\$7.00
Reinstatement Fee	\$15.00	\$15.00
SR-22 Filing Fee	\$25.00	\$25.00
Cancellation Fee	\$50.00	\$50.00

From a sample policy – effective 12/22/21:

**DISCLOSURE:**

Certain Fees may be applied to your policy during each policy period. These fees are charged in addition to your policy premium and will apply to all renewal and rewritten policies, regardless of any lapses or cancellations. The fees listed below may be charged:

NSF CHECK FEE	25.00
POLICY FEE	30.00
PREMIUM INSTALLMENT FEE	12.00
PREMIUM INSTALLMENT FEE (EFT)	7.00
REINSTATEMENT FEE	25.00
SR-22 FILING FEE	25.00
CANCELLATION FEE	50.00

**CONCERN** – On the new business policy premium page, the Company lists the third-party coverages for the Travel Club as Nation Safe Hospital Indemnity Plan (not affiliated with First Acceptance). This should be labeled as NSD Travel Club (not affiliated with First Acceptance) to avoid a misrepresentation regarding the entity that is providing the coverage to the insured.

**CONCERN** – The Company charges \$78.00 for the Nation Safe Towbusters third party Cov C. Based on the rate pages provided by the Company this \$78.00 charge is correct. However, the verbiage in the NSD

Towbusters contract shows Cov C at a rate of \$75.00. This information may be misleading to the policyholder.

## 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 The Casualty and Surety Rate Regulatory Act, Section 4(a) and (h) (40 P.S. §1184(a), (h)), 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 of 1998, 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 2,288 private passenger automobile policies identified as renewals without surcharges, 75 files were selected for review. All 75 policy files requested were received and reviewed. Of the 75 files reviewed, one file was determined to be a renewal with surcharges. The one violation noted was based on one file, resulting in an error ratio of 1%.

The following findings were noted:

*1 Violation 40 P.S. §1184(a)&(h)*

Requires every insurer to file with the Insurance Commissioner every manual of classifications, rules and rates, every rating plan, and every modification of any rating plan, which it proposes to use in the Commonwealth. Also, no insurer shall make or issue a contract or policy except in accordance with filings or rates, which are in effect at the time of issue. The Company failed to issue policies in accordance with the Company's filed and approved rating plan. The Company issued one policy with improper rounding of the premium. The amount of the overcharge was \$2.00. The Company has already provided that the overcharge was refunded to the insured on the file noted.

The following concern was noted:

**CONCERN:** On the renewal policy Summary of Coverages page sent with the renewal invoice, The Company lists the third-party coverage for the Travel Club as Nation Safe Hospital Indemnity Plan (not affiliated with First Acceptance). This should be labeled as NSD Travel Club (not affiliated with First Acceptance) to avoid a misrepresentation regarding the entity that is providing the coverage to the insured.

Private Passenger Automobile – Renewals with Surcharges

From the universe of 341 private passenger automobile policies identified as renewals with surcharges, 50 files were selected for review. All 50 policy files requested were received and reviewed. Of the 50 files reviewed, two files were determined to be renewals without surcharges. The two violations noted were based on two files, resulting in an error ratio of 4%.

The following findings were noted:

*2 Violations 40 P.S. §1184(a)&(h)*

Requires every insurer to file with the Insurance Commissioner every manual of classifications, rules and rates, every rating plan, and every modification of any rating plan, which it proposes to use in the Commonwealth. Also, no insurer shall make or issue a contract or policy except in accordance with filings or rates, which are in effect at the time of issue. The Company failed to issue policies in accordance with the Company's filed and approved rating plan. The Company issued two policies with improper rounding of the premium. The amount of the undercharges was \$3.00

The following concern was noted:

**CONCERN:** On the renewal policy Summary of Coverages page sent with the renewal invoice, The Company lists the third-party coverage for the Travel Club as Nation Safe Hospital Indemnity Plan (not affiliated with First Acceptance). This should be labeled as NSD Travel Club (not affiliated with First Acceptance) to avoid a misrepresentation regarding the entity that is providing the coverage to the insured.



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

The primary purpose of the review was to determine compliance with 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. Automobile Property Damage Claims**

From the universe of 1,485 private passenger automobile property damage liability claims reported during the experience period, 75 files were selected for review. All 75 files selected were received and reviewed. Of the 75 files reviewed, two files were identified as comprehensive claims. The 13 violations noted were based on 10 files, resulting in an error ratio of 13%.

The following findings were noted:

*4 Violations 31 Pa. Code §62.3*

An appraisal shall meet all applicable standards per statute. The Company failed to provide an appraisal that meets all applicable standards per statute for the four claim files noted.

*1 Violation 31 Pa. Code §146.3*

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. The Company failed to provide a complete claim file for the claim file noted.

*5 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 be 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 five claim files noted.

*3 Violations 63 P.S. §861(b)*

The appraiser shall furnish a legible copy of the appraisal to the repair shop selected by the consumer to make the repairs

and also furnish a copy to the owner of the vehicle. The appraisal shall contain the name of the insurance company ordering it, if any, the insurance file number, the number of the appraiser's license and the proper identification number of the vehicle being inspected. The appraisals were missing the appraiser's license number for the three claim files noted.

The following concern was noted:

**CONCERN:** In some files reviewed, the Company did not issue the policyholder / claimant a written notice indicating it was closing the file without payment. The Company should, in all cases of claims closed without payment, issue a written notice to the policyholder / claimant indicating the file is being closed with no payment.

## **B. Automobile Collision Claims**

From the universe of 566 private passenger automobile collision claims reported during the experience period, 50 files were selected for review. All 50 files selected were received and reviewed. The 18 violations noted were based on 12 files, resulting in an error ratio of 24%.

The following findings were noted:

### *5 Violations 31 Pa. Code §62.3*

An appraisal shall meet all applicable standards per statute. The Company failed to provide an appraisal that meets all applicable standards per statute for the five claim files noted.

*1 Violation 31 Pa. Code §146.3*

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. The Company failed to provide a complete file for the claim file noted.

*1 Violation 31 Pa. Code §146.5(a)*

Every insurer, upon receiving notification of a claim, shall, within 10 working days, acknowledge the receipt of the notice unless payment is made within the period of time. If an acknowledgement is made by means other than writing, an appropriate notation of the acknowledgement 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 failed to acknowledge the claim within 10 working days for the claim file noted.

*6 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 be 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 six claim files noted.

*1 Violation 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 failed to accept or deny the claim within 15 working days for the claim file noted.

*4 Violations 63 P.S. §861(b)*

The appraiser shall furnish a legible copy of the appraisal to the repair shop selected by the consumer to make the repairs and also furnish a copy to the owner of the vehicle. The appraisal shall contain the name of the insurance company ordering it, if any, the insurance file number, the number of the appraiser's license and the proper identification number of the vehicle being inspected. The appraisals were missing the appraiser's license number for the four claim files noted.

The following concern was noted:

**CONCERN:** In some files reviewed, the Company did not issue the policyholder / claimant a written notice indicating it was closing the file without payment. The Company should, in all cases of claims closed without payment, issue a written notice to the policyholder / claimant indicating the file is being closed with no payment.

### **C. Automobile Comprehensive Claims**

From the universe of 122 private passenger automobile comprehensive claims reported during the experience period, 35 files were selected for review. All 35 files selected were received and reviewed. The seven violations noted were based on four files, resulting in an error ratio of 11%.

The following findings were noted:

*3 Violations 31 Pa. Code §62.3*

An appraisal shall meet all applicable standards per statute. The Company failed to provide an appraisal that meets all applicable standards for the three claim files noted.

*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 be 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 claim file noted.

*3 Violations 63 P.S. §861(b)*

The appraiser shall furnish a legible copy of the appraisal to the repair shop selected by the consumer to make the repairs and also furnish a copy to the owner of the vehicle. The appraisal shall contain the name of the insurance company ordering it, if any, the insurance file number, the number of the appraiser's license and the proper identification number of the vehicle being inspected. The appraisals were missing the appraiser's license number for the three claim files noted.

The following concern was noted:

**CONCERN:** In some files reviewed, the Company did not issue the policyholder / claimant a written notice indicating it was closing the file without payment. The Company should, in all cases of claims closed without payment, issue a written notice to the policyholder / claimant indicating the file is being closed with no payment.

**D. Automobile Total Loss Claims**

From the universe of 265 private passenger automobile collision claims reported during the experience period, 40 files were selected for review. All 40 files selected were received and reviewed. The 22 violations noted were based on 14 files, resulting in an error ratio of 35%.

The following findings were made:

*4 Violations 31 Pa. Code §62.3*

An appraisal shall meet all applicable standards per statute.

The Company failed to provide an appraisal that meets all applicable standards for the four claim files noted.

*1 Violation 31 Pa. Code §62.3(e)(4)*

Applicable sales tax on the replacement cost of a motor vehicle shall be included as part of the replacement value. The Company failed to include sales tax on property damage payment for the claim file noted.

*2 Violations 31 Pa. Code §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 within 5 days after its completion. The Company failed to provide a copy of the total loss evaluation to the insured within five working days for the two claim files noted.

*9 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 be 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 nine claim files noted.

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

Requires 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. The Company failed to notify the claimant of the intent to accept or deny the claim within 15 working days of receipt for two of the claim files noted and failed to deny the claim in writing for the other two claim files noted.

*2 Violations 63 P.S. §861(b)*

The appraiser shall furnish a legible copy of the appraisal to the repair shop selected by the consumer to make the repairs and also furnish a copy to the owner of the vehicle. The appraisal shall contain the name of the insurance company ordering it, if any, the insurance file number, the number of the appraiser's license and the proper identification number of the vehicle being inspected. The appraisals were missing the appraiser's license number for the two claim files noted.

The following concern was noted:

**CONCERN:** In some files reviewed, the Company did not issue the policyholder / claimant a written notice indicating it was closing the file without payment. The Company should, in all cases of claims closed

without payment, issue a written notice to the policyholder / claimant indicating the file is being closed with no payment.

### **E. Automobile First Party Medical Claims**

From the universe of 1,201 private passenger automobile first party medical claims reported during the experience period, 40 files were selected for review. All 40 files selected were received and reviewed. The 16 violations noted were based on 15 files, resulting in an error ratio of 38%.

The following findings were noted:

*4 Violations 31 Pa. Code §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 four claim files noted.

*12 Violations 31 Pa. Code §146.5(d)*

Requires an insurer, upon notification of a claim, shall provide within 10 working days necessary claim forms, instructions, and reasonable assistance so that first-party claimants can comply with policy conditions and reasonable requirements of the insurer. The Company did not provide the necessary claim forms to the claimant within ten working days for the 12 claim files noted.

The following concerns were noted:

**CONCERN:** In some files reviewed, the Company did not issue the policyholder / claimant a written notice indicating it was closing the file without payment. The Company should, in all cases of claims closed without payment, issue a written notice to the policyholder / claimant indicating the file is being closed with no payment.

**CONCERN:** In some instances, the Company is issuing payments for medical bills without receipt of a signed application for benefits form and in other instances the Company will pay medical bills only after the signed application for benefits is received. The Company should maintain consistency when handling the payment of any medical bills.

**F. Automobile First Party Medical Claims Referred to a PRO**

There were no First Party Benefits referred to a PRO for the experience period 1/1/21 to 12/31/21.

## **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 15 consumer complaints received during the experience period and provided all consumer complaint logs requested. All 15 complaint files were reviewed.

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). There were no violations.

The following synopsis reflects the nature of the 15 complaints that were received.

3	Cancellation/Nonrenewal	20%
10	Claims Related	67%
<u>2</u>	Miscellaneous	<u>13%</u>
15		100%

### **VIII. ADVERTISING**

The Company was requested to provide copies of all advertising, sales material, and internet advertisements in use during the experience period. There were no materials to review.

## **IX. PRODUCER LICENSING**

In order to determine compliance by the Company and its agency force with the licensing requirements applicable to Section 641.1-A(a) and Section 671-A of the Insurance Department Act No. of 1921, (40 P.S. §§310.41(a)a, 310.71), 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 and rating files were checked to verify proper licensing and appointment.

The following findings were noted:

### *3 Violations 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 \$15 will be billed annually to the insurer for each producer appointed by the insurer during the preceding calendar year regardless of the length of time the producer held the appointment with the insurer. The appointment fee may be modified by regulation.

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

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

Adoniram Insurance Agency

Grisafi Insurance Agency

Gianni Perez

## **X. UNDERWRITING PRACTICES AND PROCEDURES**

As part of the examination, the Company was requested to supply manuals, underwriting guides, bulletins, directives, or other forms of underwriting procedure communications for each line of business being reviewed.

Underwriting guides and supplements were furnished for private passenger automobile. The purpose of this review was to identify any inconsistencies which could be considered discriminatory, specifically prohibited by statute or regulation, or unusual in nature. There were no violations.



## **XI. 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 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 18 Pa. C.S. §4117(k)(1), which requires all insurers to provide an insurance fraud notice on all applications for insurance and all claim forms.

The following concern was noted:

**CONCERN:** The Company should use the fraud warning under 18 Pa. C.S. §4117(k)(1), “Any person who knowingly, and with intent to defraud any insurance company or other person files an application for insurance or Statement of claim containing any materially false information or conceals for the purpose of misleading, information concerning any fact material thereto commits a fraudulent insurance act, which is a crime and subjects such person to criminal and civil penalties”, on all forms. The Company was using the fraud warning from 75 Pa. C.S. §1822 on the three forms listed.

First Party Medical Claims – Application for Benefits Form

Total Loss Claims – Claim Authorization Form

Rating Renewals – Notice of Available Tort Options Form

## **XII. 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. §323.3(a)). Several data integrity issues were found during the exam.

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

### **Automobile 60-Day Cancellations**

**Situation:** The Company was asked to provide a list of all automobile 60-day cancellations. As the examiners reviewed the automobile 60-day cancellation files of the underwriting section of the exam, it was noted that not all the files selected for review were 60-day cancellation files.

**Finding:** Of the 65 automobile 60-day cancellation files reviewed, two files were identified as automobile rescission files.

### **Automobile Rescissions**

**Situation:** The Company was asked to provide a list of all automobile rescissions during the experience period. The Company stated it had no rescissions. During the course of the exam, it was discovered that there were 41 rescissions in the 60-day cancellation universe list.

Finding: The automobile rescission policies were pulled from the automobile 60-day cancellation universe list.

#### Automobile Rating Renewals without Surcharges

Situation: The Company was asked to provide a list of all automobile renewal files with surcharges. As the examiners reviewed the renewal files of the rating section of the exam, it was noted that not all files selected for review were renewals without surcharges.

Finding: Of the 75 automobile rating renewal without surcharge files reviewed, one file was identified as automobile rating renewal with surcharges.

#### Automobile Rating Renewals with Surcharges

Situation: The Company was asked to provide a list of all automobile renewal files with surcharges. As the examiners reviewed the renewal files of the rating section of the exam, it was noted that not all files selected for review were renewals with surcharges.

Finding: Of the 50 automobile rating renewal with surcharge files reviewed, two files were identified as automobile rating renewals without surcharges.

#### Automobile Property Damage Claims

Situation: The Company was asked to provide a list of all automobile property damage claim files. As the examiners reviewed the files in the claims section of the exam, it was noted that not all files selected for review were automobile property damage claims.

Finding: Of the 75 automobile property damage claim files reviewed, two files were identified as automobile comprehensive claims.

The following finding was noted:

*General Violation 40 P.S. §323.3(a)*

Requires 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 that company or person and ascertain whether the company or person has complied with the laws of this Commonwealth. The general violation was the result of a failure to exercise sufficient due diligence to ensure compliance with the Insurance Department Act of 1921.

**XIII. PRIVATE PASSENGER AUTOMOBILE MCAS REPORTING**

In Pennsylvania, insurers are required annually to submit a Market Conduct Annual Statement (MCAS) to the National Association of Insurance Commissioners (NAIC). The review of MCAS data was conducted pursuant to the authority granted by Section 903 and 904 (40 P.S. §§323.3 and 323.4) of the Insurance Department Act and covered the Market Conduct Annual Statement (MCAS) reporting for 2020.

The examination team reviewed the Company’s 2020 MCAS Submissions. All companies that submit an MCAS filing must attest to the completeness and accuracy of their submission. The attestation is required once per filing period and applies to all submissions for a specific company code. No submissions will be accepted until an attestation is completed for the company. Below are the private passenger automobile sections that were reviewed.

A.	Number of autos which have policies in-force at the end of the period.
B.	Number of Policies in-force at the end of the period.
C.	Number of new business policies written during the period.
D.	Number of Company-Initiated nonrenewals during the period.
E.	Dollar amount of direct written premium during the period.
F.	Number of cancellations for non-pay, non-sufficient funds, or insured’s request.
G.	Number of Company-Initiated cancellations that occur in the first 59 days after effective date, excluding rewrites to an affiliated Company.
H.	Number of Company-Initiated cancellations that occur 60 or more days after effective date, excluding rewrites to an affiliated Company.
I.	Number of Complaints received directly from the consumer.
J.	Number of Claims open at the beginning of the Period

K.	Number of Claims opened during the period.
L.	Number of Claims closed during the period, with payment.
M.	Number of Claims closed during the period, without payment.
N	Number of Claims remaining open at the end of the period.
O.	Number of Claims closed with payment within 0-60 days.
P	Number of Claims closed with payment >60 days.
Q.	Number of Suits open at beginning of the period.
R	Number of Suits opened during the period.
S.	Number of Suits closed during the period.
T.	Number of Suits open at end of period.

The review consisted of two phases, as noted below.

### **Phase 1**

The Company was asked to provide the claims and policy data listings that support the 2020 MCAS filing. Each list contained the claim and policy numbers for each category. The 2020 data submitted was validated to ensure the information was accurate and consistent with the information provided to the NAIC.

The following findings were noted:

#### *4 Violations 40 P.S. §323.3(a)*

Requires 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 that company or person and ascertain whether the company or person has complied with the laws of this Commonwealth. The Company failed to provide 2020 data that was consistent with the information provided to the NAIC for four claims categories.

## **Phase 2**

The Company was asked to provide a record of all claims and policy data listings which supported the 2020 MCAS filings. From each universe list of 2020 data, a random sample of five claims or underwriting files was requested, received, and reviewed. The files were reviewed to ensure compliance with the Commonwealth of Pennsylvania's Statutes and Regulations.

The following findings were noted:

### *20 Violations 40 P.S. §323.3(a)*

Requires 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 that company or person and ascertain whether the company or person has complied with the laws of this Commonwealth. The Company failed to provide accurate data for the 20 files noted in one underwriting category and eight claim categories.



**Phase 3**

Not applicable

#### **XIV. 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 18 Pa. C.S. §4117(k)(1) to ensure that violations regarding the requirement of a fraud warning on all forms, as noted in the Report, do not occur in the future.
2. The Company must review 31 Pa. Code §62.3 with its claim staff to ensure appraisal requirements are met, so the violations noted in the Report do not occur in the future.
3. The Company must review 31 Pa. Code §62.3(e)(4) with its claim staff to ensure that applicable sales tax on the replacement cost of a motor vehicle is included in the replacement value of the vehicle.
4. The Company must review 31 Pa. Code §62.3(e)(7) with its claim staff to ensure a copy of the total loss evaluation is provided to the insured within 5 working days so the violations noted in the Report do not occur in the future.
5. The Company must review 31 Pa. Code §69.52(b) with its claim staff to ensure that violations for first party medical bills not paid within 30 days, as noted in the Report, do not occur in the future.
6. The Company must 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 acknowledgement, status letters, acceptance and denials, and sending claim forms timely, as noted in the Report, do not occur in the future.

7. The Company must review 31 Pa Code §146.3 with its claim staff to ensure that the violations for not maintaining complete claims files, as noted in the Report, do not occur in the future.
8. The Company must ensure all producers are properly appointed, as required by 40 P.S. §310.71 prior to accepting any business from any producer.
9. The Company must review its internal data controls to ensure that all records and documents are maintained in accordance with 40 P.S. §323.3(a), so that violations noted in the Report do not occur in the future.
10. The Company must review 40 P.S. §991.2008(b) with its underwriting staff to revise internal control procedures and ensure compliance that auto declination notices are sent, so that violations, as noted in the Report, do not occur in the future.
11. The Company must review 40 P.S. §1171.5(a)(12) and take appropriate actions to ensure that on all phone sales where third party coverages are added on that the agent discloses and explains the coverages to the insured. The insured should be made aware that these third party coverages are optional and should be made aware of the cost of each, so that the violations, as noted in the Report, do not occur in the future.

12. The Company must review 40 P.S. §1184 and take appropriate measures to ensure the automobile rating violations, as noted in the Report, do not occur in the future.
13. The Company must review 63 P.S. §861(b) with its claim staff to ensure violations for missing appraiser name and appraiser license information on auto appraisal copies, as noted in the Report, do not occur in the future.
14. 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 75 Pa. C.S. §1705(a)(4) do not occur in the future.
15. The Company must revise its underwriting procedures to ensure that each applicant for private passenger automobile liability insurance is provided an opportunity to exercise the waiver for uninsured and underinsured motorist coverage forms are obtained and retained with the underwriting file. This is to ensure that violations noted under 75 Pa. C.S. §1731(b) & (c)(c.1) do not occur in the future.
16. The Company must revise underwriting procedures to ensure that the insured is aware that he may exercise the waiver of stacked limits for uninsured and underinsured motorist coverage by signing written rejection forms. This is to ensure that violations noted under 75 Pa. C.S. §1738(d)(1) and (2)(e) do not occur in the future.

17. The Company must review 75 Pa. C.S. §1793(c) to ensure that violations regarding the requirement to return premium within 30 days and pay the proper amount of interest, as noted in the Report, do not occur in the future.

**XV. COMPANY RESPONSE**

11/21/2022

**EMAIL DELIVERY**

Pennsylvania Insurance Department  
Attn: Paul E. Towsen III  
P&C/Life & Annuities Division Chief  
1321 Strawberry Square  
Harrisburg, PA 17120

RE: Examination Warrant Number: 21-M43-041

Dear Mr. Towsen:

On behalf of First Acceptance Insurance Company, Inc. (Acceptance), please accept this letter as our response to the 17 recommendations listed in the Report of Examination dated November 9, 2022.

We would like to thank the examiners who participated in this examination for their diligence, professionalism, and flexibility during the examination process. Per the responses summarized in this letter, Acceptance will address each concern raised during the examination process to remain in compliance with Pennsylvania laws and regulations.

Thank you for this opportunity to respond to the listed recommendations and please contact me should you have any questions or concerns.

Sincerely,



Alicia Crenshaw  
Sr. Director, Compliance

Enclosure

## XV. COMPANY RESPONSE

1. The Company must review 18 Pa. C.S.§4117(k)(1) to ensure that violations regarding the requirement of a fraud warning on all forms, as noted in the Report, do not occur in the future.

**Response:** The Company has reviewed the applicable statutes and has implemented the recommended fraud warning changes to the noted forms

2. The Company must review 31 Pa. Code §62.3 with its claim staff to ensure appraisal requirements are met, so the violations noted in the Report do not occur in the future.

**Response:** The Company has reviewed the applicable statutes with the Claims staff and provided coaching and reminders to assure that all noted appraisal requirements are met.

3. The Company must review 31 Pa. Code §62.3(e)(4) with its claim staff to ensure that applicable sales tax on the replacement cost of a motor vehicle is included in the replacement value of the vehicle.

**Response:** The Company has reviewed the applicable statutes with the Claims staff and provided coaching and reminders to assure that all noted requirements regarding applicable sales tax are met.

4. The Company must review 31 Pa. Code §62.3(e)(7) with its claim staff to ensure a copy of the total loss evaluation is provided to the insured within 5 working days so the violations noted in the Report do not occur in the future.

**Response:** The Company has reviewed the applicable statutes with the Claims staff and provided coaching and reminders to assure that all noted requirements regarding total loss evaluation reports are met.

5. The Company must review 31 Pa. Code §69.52(b) with its claim staff to ensure that violations for first party medical bills not paid within 30 days, as noted in the Report, do not occur in the future.

**Response:** The Company has reviewed the applicable statutes with the Claims staff and provided coaching and reminders to assure that all noted requirements regarding payment of first party medical bills are met.



6. The Company must 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 acknowledgement, status letters, acceptance and denials, and sending claim forms timely, as noted in the Report, do not occur in the future.

**Response:** The Company has reviewed the applicable statutes with the Claims staff and provided coaching and reminders to assure that all noted requirements regarding adherence to the Unfair Claims Settlement Practices laws are met.

7. The Company must review 31 Pa Code §146.3 with its claim staff to ensure that the violations for not maintaining complete claims files, as noted in the Report, do not occur in the future.

**Response:** The Company has reviewed the applicable statutes with the Claims staff and provided coaching and reminders to assure that all noted requirements regarding maintaining complete claim files are met.

8. The Company must ensure all producers are properly appointed, as required by 40 P.S. §310.71 prior to accepting any business from any producer.

**Response:** The Company has reviewed the applicable statutes and also directed agency licensing staff to provide coaching and reminders to assure that all agents selling Company policies are duly licensed and appointed.

9. The Company must review its internal data controls to ensure that all records and documents are maintained in accordance with 40 P.S. §323.3(a), so that violations noted in the Report do not occur in the future.

**Response:** The Company has reviewed and revised its internal data controls and processes as necessary to assure production of accurate records when requested and as required by statute.

10. The Company must review 40 P.S. §991.2008(b) with its underwriting staff to revise internal control procedures and ensure compliance that auto declination notices are sent, so that violations, as noted in the Report, do not occur in the future.

**Response:** The Company has reviewed and is revising its process for handling declinations to assure that all noted requirements, including appropriate notices, are provided in accordance with Pennsylvania law.

11. The Company must review 40 P.S. §1171.5(a)(12) and take appropriate actions to ensure that on all phone sales where third party coverages are added on that the agent discloses and explains the coverages to the insured. The insured should be made aware that these third party coverages are optional and should be made aware of the cost of each, so that the violations, as noted in the Report, do not occur in the future.

**Response:** The Company has reviewed the applicable statutes and also directed agency phone sales staff to provide additional coaching and training to assure that all noted requirements, including proper disclosure of feature and cost details regarding optional product sales, are met.

12. The Company must review 40 P.S. §1184 and take appropriate measures to ensure the automobile rating violations, as noted in the Report, do not occur in the future.

**Response:** The Company has reviewed and revised its rating practices and controls as necessary to assure that all noted requirements regarding premium rating are met.

13. The Company must review 63 P.S. §861(b) with its claim staff to ensure violations for missing appraiser name and appraiser license information on auto appraisal copies, as noted in the Report, do not occur in the future.

**Response:** The Company has reviewed the applicable statutes with the Claims staff and provided coaching and reminders to assure that all noted requirements regarding listing the appraiser's name and license number are met.

14. 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 75 Pa. C.S. §1705(a)(4) do not occur in the future.

**Response:** The Company has reviewed the applicable statutes with the Underwriting staff and directed agency sales operations to provide additional coaching and reminders to assure that all noted document and signature requirements are met.

15. The Company must revise its underwriting procedures to ensure that each applicant for private passenger automobile liability insurance is provided an opportunity to exercise the waiver for uninsured and underinsured motorist coverage forms are obtained and retained with the underwriting file. This is to ensure that violations noted under 75 Pa. C.S. §1731(b) & (c)(c.1) do not occur in the future.

**Response:** The Company has reviewed the applicable statutes with the Underwriting staff and directed agency sales operations to provide additional coaching and reminders to assure that all noted document and signature requirements are met.

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

**Response:** The Company has reviewed the applicable statutes with the Underwriting staff and directed agency sales operations to provide additional coaching and reminders to assure that all noted document and signature requirements are met.

17. The Company must review 75 Pa. C.S. §1793(c) to ensure that violations regarding the requirement to return premium within 30 days and pay the proper amount of interest, as noted in the Report, do not occur in the future.

**Response:** The Company has reviewed the applicable statutes with the Underwriting staff to provide additional coaching and reminders to assure that all noted premium refund requirements are met.