



**COMMONWEALTH OF PENNSYLVANIA
INSURANCE DEPARTMENT**

**MARKET CONDUCT
EXAMINATION REPORT**

OF

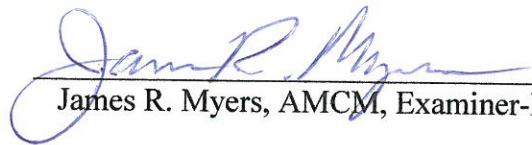
**FIRST ACCEPTANCE INSURANCE
COMPANY, INC.
DALLAS, TX**

**As of: November 6, 2014
Issued: December 15, 2014**

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

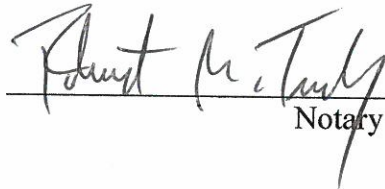
VERIFICATION

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).


James R. Myers, AMCM, Examiner-In-Charge

Sworn to and Subscribed Before me

This 5th Day of November, 2014


Notary Public

COMMONWEALTH OF PENNSYLVANIA
NOTARIAL SEAL
ROBERT M. TURLEY, Notary Public
Bridgeport, Montgomery Co., PA
My Commission Expires April 18, 2017

FIRST ACCEPTANCE INSURANCE COMPANY, INC.

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BEFORE THE INSURANCE COMMISSIONER
OF THE
COMMONWEALTH OF PENNSYLVANIA

ORDER

AND NOW, this 10 day of March, 2014, 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 Arthur F. McNulty, 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 F. Consedine
Insurance Commissioner

BEFORE THE INSURANCE COMMISSIONER
OF THE
COMMONWEALTH OF PENNSYLVANIA

IN RE: : VIOLATIONS:
: :
FIRST ACCEPTANCE : 40 P.S. §323.4
INSURANCE COMPANY, INC. : :
817 West Pioneer Parkway, Suite 114 : 40 P.S. §§310.71 and 310.41(a)
Grand Prairie, TX 75051 : :
: 40 P.S. §§991.2001, 991.2004
: 991.2006(1)(2)(3)(4)(5)(6) and (7)
: :
: 40 P.S. §§1171.5(a)(10)(vi)
: :
: 40 P.S. §1184
: :
: 18 Pa. C.S. §4117(k)(1)
: :
: 31 Pa. Code §§62.3(e)(7), 69.52(b)
: 69.53(a), 146.4, 146.5(d), and 146.6
: :
: 75 Pa. C.S. §§1161(a)(b), 1705(a)(4)
: 1713, 1716, 1725, 1734, 1738(d)(1)&(2)
: 1738(e), 1791.1(a), 1791.1(b), 1791.1(c)
: 1793(b), 1797(b)(1), 1798(a), 1799.3(d)
: and 1822
: :
: :
Respondent. : Docket No. MC14-11-002

CONSENT ORDER

AND NOW, this *15th* day of *December*, 2014, 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 First Acceptance Insurance Company, Inc. and maintains its address at 817 West Pioneer Parkway, Suite 114, Grand Prairie, TX 75051.
- (b) A market conduct examination of Respondent was conducted by the Insurance Department covering the experience period from January 1, 2012 through December 31, 2012.

- (c) On November 6, 2014, the Insurance Department issued a Market Conduct Examination Report to Respondent.

- (d) A response to the Examination Report was provided by Respondent on November 21, 2014.

- (e) The Market Conduct Examination of Respondent revealed violations of the following:
 - (i) 40 P.S. §323.4 requires every company or person from whom information is sought must provide to the examiners timely, convenient and free access 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;

 - (ii) 40 P.S. §310.71, prohibits producers from transacting business within this Commonwealth without written appointment as required by the Act;

 - (iii) 40 P.S. §310.41(a) prohibits any entity or the appointed agent of any entity from transacting the business of insurance through anyone acting without an insurance producer license.

- (iv) 40 P.S. §991.2001 defines “Nonpayment of premium” as failure of the named insured to discharge when due any obligation in connection with the payment of premiums on a policy or any installment of such premium, whether the premium is payable directly to the insurer or its agent or indirectly under any premium finance plan or extension or credit.

- (v) 40 P.S. §991.2004 requires that no insurer shall cancel a policy of automobile insurance except for (a) nonpayment of premium, (b) suspension or revocation of the named insured’s driver license or motor vehicle registration or a (c) determination that the insured has concealed a material fact or has made a material allegation contrary to fact or has made a misrepresentation of material fact and that such concealment, allegation or misrepresentation was material to the acceptance of the risk by the insurer;

- (vi) 40 P.S. §991.2006(1), requires that a nonrenewal notice be in a form acceptable to the Insurance Commissioner;

- (vii) 40 P.S. §991.2006(2), prohibits a cancellation or refusal to renew from being effective unless the insurer delivers or mails a written notice of the cancellation or refusal to renew, which will include the date, not less than 60 days after the date of mailing or delivery, on which the cancellation or refusal to renew shall become effective. When the policy is being cancelled or not

renewed for reasons set forth in Sections 2004(1) and (2), however, the effective date may be 15 days from the date of mailing or delivery;

- (viii) 40 P.S. §991.2006(3), requires an insurer to deliver or mail to the named insured a cancellation notice or refusal to renew and state the specific reason or reasons of the insurer;
- (ix) 40 P.S. §991.2006(4), requires that a cancellation notice advise the insured of his right to request in writing that the Insurance Commissioner review the action of the insurer;
- (x) 40 P.S. §991.2006(5), requires that either in the cancellation notice or in an accompanying statement, the insured be advised of his possible eligibility for insurance through the automobile assigned risk plan;
- (xi) 40 P.S. §991.2006(6), requires that a cancellation notice advise the insured that he must obtain compulsory automobile insurance coverage if he operates or registers a motor vehicle in this Commonwealth and that the insurer is notifying the Department of Transportation that the insurance is being cancelled and the insured must notify the Department of Transportation that he has replaced said coverage;

- (xii) 40 P.S. §991.2006(7), requires that a cancellation notice clearly state that when coverage is to be terminated due to nonresponse to a citation imposed under 75 Pa. C.S. §1533, or nonpayment of a fine or penalty imposed under that section, coverage shall not terminate if the insured provides the insurer with proof that the insured has responded to all citations and paid all fines and penalties and that he has done so on or before the termination date of the policy;
- (xiii) 40 P.S. §1171.5(a)(10)(vi), states any of the following acts, if committed or performed with such frequency as to indicate a business practice, shall constitute unfair claim settlement or compromise practices: Not attempting in good faith to effectuate prompt, fair and equitable settlements of claims in which the company's liability under the policy has become reasonably clear;
- (xiv) 40 P.S. §1184, requires every insurer to file with the Insurance Commissioner every manual of classifications, rules and rates, every rating plan and every modification of any rating plan which it proposes to use in this Commonwealth and prohibits an insurer from making or issuing a contract or policy with rates other than those approved;
- (xv) 18 Pa. C.S. §4117(k)(l), 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.

(xvi) 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;

(xvii) 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;

(xviii) 31 Pa. Code §69.53(a), requires a Peer Review Organization to contract, in writing, jointly or separately with an insurer for the provision of peer review services as authorized by Act 1990-6 and this chapter.

(xix) 31 Pa. Code §146.4, states an insurer or agent may not fail to fully disclose to first-party claimants pertinent benefits, coverages or other provisions of an insurance policy or insurance contract under which a claim is presented or when the benefits, coverages or other provisions are pertinent to a claim.

(xx) 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;

(xxi) 31 Pa. Code §146.6, states that if an investigation cannot be completed within 30 days, and every 45 days thereafter, the insurer shall provide the claimant with a reasonable written explanation for the delay and state when a decision on the claim may be expected;

(xxii) 75 Pa. C.S. §1161(a)&(b), states an insurer who owns, possesses or transfers a vehicle located or registered in the Commonwealth which qualifies as a salvage vehicle shall make application to the Department for a certificate of salvage for that vehicle. If an owner retains possession of a vehicle which is damaged to the extent that it qualifies for vehicle replacement payment, the owner shall apply for a certificate of salvage immediately. In this case, an insurer shall not pay vehicle replacement value until the owner produces evidence to the insurer that the certificate of salvage has been issued.

(xxiii) 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.

(xxiv)75 Pa. C.S. §1713, states a person who suffers injury arising out of the maintenance or use of a motor vehicle shall recover first party benefits against applicable insurance coverage in the following order of priority: (1) For a named insured, the policy on which he is the named insured. (2) For an insured, the policy covering the insured. (3) For the occupants of an insured motor vehicle, the policy on that motor vehicle. (4) For a person who is not the occupant of a motor vehicle, the policy on any motor vehicle involved in the accident.

(xxv)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;

(xxvi) 75 Pa. C.S. §1725, requires every motor vehicle insurance policy to contain a notice whether the policy covers collision damage to rental vehicles, and any limitations on such coverage. The notice shall be written in clear, plain language and shall be printed on the first page of the policy in boldface capital letters;

(xxvii) 75 Pa. C.S. §1734, allows a named insured to request in writing the issuance of coverages under §1731 in amount equal to or less than the limits of liability for bodily injury;

(xxviii) 75 Pa. C.S. §1738(d)(1) & (2), requires the named insured to be informed that he may exercise the waiver of stacked limits for uninsured and underinsured motorist coverage by signing written rejection forms;

(xxix) 75 Pa. C.S. §1738(e), states the forms described in subsection (d) must be signed by the first named insured and dated to be valid. Any rejection form that does not comply with this section is void;

(xxx) 75 Pa. C.S. §1791.1(a), requires that at the time of application for original coverage and every renewal thereafter, an insurer must provide to an insured an itemized invoice listing the minimum motor vehicle insurance coverage levels mandated by the commonwealth and the premium charge for the insured to purchase the minimum mandated coverages. The invoice must

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

(xxxii) 75 Pa. C.S. §1791.1(b), requires an insurer to provide an insured with a notice of the availability of two alternatives of full tort insurance and limited tort insurance;

(xxxiii) 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;

(xxxiiii) 75 Pa. C.S. §1793(b), requires the insurer to provide to the insured a surcharge disclosure plan. The insurer providing the surcharge disclosure plan shall detail the provisions of the plan and shall deliver the plan to each insured at least once annually. Additionally, the surcharge information plan shall be given to each prospective insured at the time application is made for motor vehicle insurance coverage;

(xxxiv) 75 Pa. C.S. §1797(b)(1), requires that a peer review plan for challenges to reasonableness and necessity of treatment by the insurer shall contract jointly or separately with any peer review organization for the purpose of evaluating treatment, health care services, products or accommodations provided to any injured person;

(xxxv) 75 Pa. C.S. §1798(a), no attorney's fee for representing a claimant in connection with a claim for first party benefits or a claim for catastrophic loss benefits under Subchapter F shall be calculated, determined or paid on a contingent fee basis, nor shall any attorney 's fees be deducted from the benefits enumerated in this subsection which are otherwise due such claimant. The Company deducted attorney 's fees from first party benefits.

(xxxvi) 75 Pa. C.S. §1799.3(d), requires insurers who make a determination to impose a surcharge, rate penalty or driver record point assignment, to inform the named insured of the determination and specify the manner in which the surcharge, rate penalty or driver record point assignment was made and clearly identify the amount of the surcharge or rate penalty on the premium notice for as long as the surcharge or rate penalty is in effect;

(xxxvii) 75 Pa. C.S. §1822, requires not later than May 1, 1990, all applications for insurance, renewals and claim forms shall contain a statement that clearly states, in substance, the following: Any person who

knowingly and with intent to injure or defraud any insurer files an application or claim containing any false, incomplete or misleading information shall, upon conviction, be subject to imprisonment for up to seven years and payment of a fine of up to \$15,000.00.

CONCLUSIONS OF LAW

4. In accord with the above Findings of Fact and applicable provisions of law, the Insurance Department makes the following Conclusions of Law:
- (a) Respondent is subject to the jurisdiction of the Pennsylvania Insurance Department.
 - (b) Respondent's violations of 40 P.S. §§310.71 and 310.41(a) 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) Respondent's violations of 40 P.S. §§991.2001, 991.2004, 991.2006(1)(2)(3)(4)(5)(6)and(7) of Act 68 of 1998 are punishable by the following, under Section 2013 of the Act (40 P.S. §991.2013): Any individual or insurer who violates any of the provisions of this article may be sentenced to pay a fine not to exceed five thousand dollars (\$5,000.00).
- (d) Respondent's violations of 40 P.S. §1171.5(a)(10)(vi) 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. §1171.5(a)(10)(vi), the Commissioner may, under Sections 10 and 11 of the Unfair Insurance Practices Act (40 P.S. §§1171.10, 1171.11) file an action in which the Commonwealth Court may impose the following civil penalties:
- (i) for each method of competition, act or practice which the company knew or should have known was in violation of the law, a penalty of not more than five thousand dollars (\$5,000.00);
 - (ii) for each method of competition, act or practice which the company did not know nor reasonably should have known was in violation of the law, a penalty of not more than one thousand dollars (\$1,000.00).

- (f) Violations of Section 4 of the Casualty and Surety Rate Regulatory Act, No. 246 (40 P.S. §1184) 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 §§146.4, 146.5(d) and 146.6 are punishable under Section 9 of the Unfair Insurance Practices Act (40 P.S. §1171.9):
 - (i) cease and desist from engaging in the prohibited activity;
 - (ii) suspension or revocation of the license(s) of Respondent.

- (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) Respondents shall pay Two Hundred Twenty-Five Thousand Dollars (\$225,000.00) to the Commonwealth of Pennsylvania in settlement of all violations contained in the Report.
- (c) Payment of this matter shall be made by check payable to the Pennsylvania Insurance Department. 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 fourteen (14) 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.
- (f) After a period of 12 months from the date of this Order, Respondent shall be re-examined to verify corrective actions have been implemented.

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.

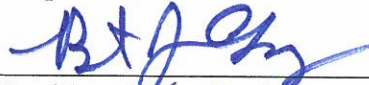
9. Respondent hereby expressly waives any relevant statute of limitations and application of the doctrine of laches for purposes of any enforcement of this Order.

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.

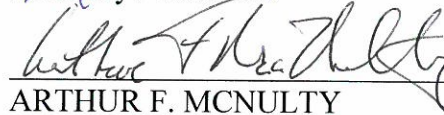
BY: FIRST ACCEPTANCE
INSURANCE COMPANY, INC.
Respondent



President / Vice President



Secretary / Treasurer



ARTHUR F. MCNULTY
Deputy Insurance Commissioner
Commonwealth of Pennsylvania

I. INTRODUCTION

The market conduct re-examination was conducted at the office of First Acceptance Insurance Company, Inc., hereinafter referred to as “Company” located in Nashville, Tennessee, from January 20, 2014, through January 31, 2014. Subsequent review and follow-up was conducted in the office of the Pennsylvania Insurance Department.

Pennsylvania Market Conduct Re-Examination Reports generally note only those items to which the Department, after review, takes exception. However, the Re-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 re-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 re-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 re-examination is hereby acknowledged.

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

Constance L. Arnold, MCM
Market Conduct Division Chief
Pennsylvania Insurance Department

Karen Veronikis
Market Conduct Examiner
Pennsylvania Insurance Department

Kelly Krakowski
Market Conduct Examiner
Pennsylvania Insurance Department

James R Myers, MCM
Market Conduct Examiner
INS Regulatory Insurance Services

June A Coleman, MCM
Market Conduct Examiner
INS Regulatory Insurance Services

II. SCOPE OF RE-EXAMINATION

The Market Conduct Re-examination was conducted on First Acceptance Insurance Company, Inc., at its office in Nashville, Tennessee. The re-examination was conducted pursuant to Sections 903 and 904 (40 P.S. §§323.3 and 323.4) of the Insurance Department Act and covered the experience period of January 1, 2012, through December 31, 2012, unless otherwise noted. The purpose of the re-examination was to determine the Company's compliance with Pennsylvania insurance laws and regulations and the Recommendations listed in the Examination Report of May 2, 2011.

The re-examination focused on Company operations in the following areas:

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

III. COMPANY HISTORY AND LICENSING

First Acceptance Insurance Company, Inc. was incorporated in Tennessee on July 12, 1995, as USAuto Insurance Company. It commenced business on October 7, 1995. The current title was adopted on January 6, 2006. On November 20, 2006, the company re-domesticated from Nashville, Tennessee to Grand Prairie, Texas and subsequently relocated its statutory home office to Dallas, Texas

LICENSING

First Acceptance Insurance Company, Inc.'s Certificate of Authority to write business in the Commonwealth was last issued on April 1, 2014. The Company is licensed in Alabama, Arizona, Arkansas, Colorado, Florida, Georgia, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Mississippi, Missouri, Nevada, New Mexico, Ohio, Oklahoma, Pennsylvania, South Carolina, Tennessee, Texas, Utah, Virginia, and West Virginia. The Company's 2012 annual statement reflects Direct Written Premium for all lines of business in the Commonwealth of Pennsylvania as \$8,491,253. 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) \$1,246,447; Other Private Passenger Auto Liability \$5,178,431 and Private Passenger Auto Physical Damage \$2,066,275.

IV. UNDERWRITING PRACTICES AND PROCEDURES

As part of the re-examination, the Company was requested to supply manuals, underwriting guides, bulletins, directives or other forms of underwriting procedure communications for each line of business being reviewed. Underwriting guides were furnished for private passenger automobile. The purpose of this review was to identify any inconsistencies which could be considered discriminatory, specifically prohibited by statute or regulation, or unusual in nature.

No violations were noted.

V. UNDERWRITING

A. Private Passenger Automobile

1. Midterm Cancellations

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

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

From the universe of 4,075 private passenger automobile policies which were cancelled during the experience period, 50 files were selected for review. All 50 files requested were received and reviewed. Of the 50 files reviewed, 4 files were identified as 60-day cancellations. The 17 violations noted were based on 17 files, resulting in an error ratio of 34%.

The following findings were made:

2 Violations 40 P.S. §991.2004

40 P.S. §991.2001

Adjudication: Nguyen/Old Guard, P01-01-019 (2001)

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

contrary to fact or has made a misrepresentation of material fact and that such concealment, allegation or misrepresentation was material to the acceptance of the risk by the insurer. The 2 files noted resulted in the Company sending a nonpayment cancellation notice when premium was not yet due.

15 Violations 40 P.S. §991.2006(2)

Adjudication: Konek/PA National, (P91-05-55, 1992);
Requires an insurer to deliver or mail to the named insured a cancellation notice and state the date, not less than sixty (60) days after the date of the mailing or delivery, on which cancellation shall become effective. When the policy is being cancelled for the nonpayment of premium, the effective date may be fifteen (15) days from the date of mailing or delivery. The 15 files noted contained cancellation notices for nonpayment of premium, but did not provide 15 days from the date of mailing.

2. Nonrenewals

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

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

The universe of 35 private passenger automobile policies which were nonrenewed during the experience period was selected for review. All 35 files requested were received and reviewed. Of the 35 nonrenewal files received, 22 files were identified as nonrenewals and 13 files were identified as midterm cancellations. The 226 violations noted were based on 35 files, resulting in an error ratio of 100%.

The following findings were made:

12 Violations 40 P.S. §991.2004

Requires that no insurer shall cancel a policy of automobile insurance except for nonpayment of premium, suspension or revocation of the named insured's driver license or motor vehicle registration or a determination that the insured has concealed a material fact or has made a material allegation contrary to fact or has made a misrepresentation of material fact and that such concealment, allegation or misrepresentation was material to the acceptance of the risk by the insurer. The 12 files noted were cancelled for other than permitted reasons.

35 Violations 40 P.S. §991.2006(1)

Requires that a nonrenewal notice be in a form acceptable to the Insurance Commissioner. The 35 files noted did not contain a nonrenewal notice that was in an acceptable form. It is also noted that the May 2011 First Acceptance Insurance Company, Inc. Report of Market Conduct Examination also found that the Company violated 40 P.S. §991.2006(1).

27 Violations 40 P.S. §991.2006(2)

Adjudication: Konek/PA National, (P91-05-55, 1992);

Requires an insurer to deliver or mail to the named insured a nonrenewal notice and state the date, not less than sixty (60) days after the date of the mailing or delivery, on which cancellation shall become effective. When the policy is being cancelled for the nonpayment of premium, the effective date may be fifteen (15) days from the date of mailing or delivery. The Company failed to provide the proper number of days' notice on the nonrenewal for the 27 files noted. It is also noted that the May 2011 First Acceptance Insurance Company, Inc. Report of Market Conduct Examination also found that the Company violated 40 P.S. §991.2006(2).

12 Violations 40 P.S. §991.2006(3)

Requires an insurer to deliver or mail to the named insured a nonrenewal notice and state the specific reason or reasons of the insurer for the cancellation. The 12 files noted resulted in nonrenewal notices not being issued with a specific reason for the nonrenewal. It is also noted that the May 2011 First Acceptance Insurance Company, Inc. Report of Market Conduct Examination also found that the Company violated 40 P.S. §991.2006(3).

35 Violations 40 P.S. §991.2006(4)

Requires that a nonrenewal notice advise the insured of his right to request in writing that the Insurance Commissioner review the action of the insurer. The 35 files noted failed to contain a nonrenewal notice which would have advised the

insured of his or her right to request in writing a review by the Insurance Commissioner.

35 Violations 40 P.S. §991.2006(5)

Requires that either in the nonrenewal notice or in an accompanying statement, the insured be advised of the possible eligibility for insurance through the automobile assigned risk plan. The 35 violations noted were nonrenewals not issued which would have advised the insured of his or her eligibility for insurance through the assigned risk plan.

35 Violations 40 P.S. §991.2006(6)

Requires that a nonrenewal notice advise the insured that he must obtain compulsory automobile insurance coverage if he operates or registers a motor vehicle in this Commonwealth and that the insurer is notifying the Department of Transportation that the insurance is being cancelled and the insured must notify the Department of Transportation that he has replaced said coverage. The 35 violations noted resulted from a nonrenewal notice not being issued which would advise the insured of the required information.

35 Violations 40 P.S. §991.2006(7)

Requires that a nonrenewal notice clearly state that when coverage is to be terminated due to nonresponse to a citation imposed under 75 Pa. C.S. §1533 (relating to suspension of operating privilege for failure to respond to a citation) or nonpayment of a fine or penalty imposed under that section, coverage shall not terminate if the insured provides the

insurer with proof that the insured has responded to all citations and paid all fines and penalties and that he has done so on or before the termination date of the policy. The 35 violations resulted from a nonrenewal notice not being issued, which would have advised the insured of the required information.

VI. RATING

A. Private Passenger Automobile

1. New Business

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

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

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

Private Passenger Automobile – New Business without Surcharges

From the universe of 7,928 private passenger automobile policies identified as new business without surcharges by the Company, 100 files were selected for review. All 100 files were received and reviewed. The 14,809 violations noted were based on the universe of 7,928 files, resulting in an error ratio of 100%.

The following findings were made:

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

The named insured shall be informed that he may reject stacked limits of underinsured motorist coverage by signing a written rejection form. The Company failed to provide a signed rejection of stacked limits for underinsured motorist coverage for the file noted.

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

75 Pa. C.S. §1738(e)

The named insured shall be informed that he may reject stacked limits of uninsured and underinsured motorist coverage by signing a written rejection form. The forms must be signed by the first named insured and dated to be valid. The Company failed to provide forms for rejection of stacked limits for uninsured and underinsured motorist coverage signed by the first named insured.

2 Violations 40 P.S. §323.4

Requires every company or person from whom information is sought must provide to the examiners timely, convenient and free access 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 Company failed to provide applications and forms for the 2 files noted.

7,928 Violations 75 Pa. C.S. §1791.1(b)

Requires an insurer to provide an insured a notice of the availability of two alternatives of full tort insurance and limited tort insurance. The Company did not provide the notice of tort options to the insured at the time of application for all new business policies issued during the experience period. It is noted that the May 2011 First Acceptance Insurance Company, Inc. Report of Market Conduct Examination also found that the Company violated 75 Pa. C.S. §1791.1(b)

Violation 40 P.S. §1184

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

accordance with the Company's filed and approved rating plan. Homeowner discounts were applied to policies without having the proper documentation to qualify for the discount. The Company was unable to provide the Department with the number of policyholders affected or the amount of undercharges involved. It is noted that the May 2011 First Acceptance Insurance Company, Inc. Report of Market Conduct Examination also found that the Company violated 40 P.S. §1184 for not requiring proper documentation for homeowner discounts.

6,870 Violations 40 P.S. §1184

Requires every insurer to file with the Insurance Commissioner every manual of classifications, rules and rates, every rating plan and every modification of any rating plan, which it proposes to use in the Commonwealth. Also, no insurer shall make or issue a contract or policy except in accordance with filings or rates, which are in effect at the time of issue. The Company failed to rate the policies in accordance with their filed and approved rating plan regarding the application of discounts for passive restraints and airbags without verifying the proper designation that is associated with the vehicle insured. The 6,870 violations noted resulted in a minimum of \$61,194.42 in overcharges. It is the responsibility of the Company to ensure the accuracy of the information.

2 Violations 40 P.S. §1184

Requires every insurer to file with the Insurance Commissioner every manual of classifications, rules and rates, every rating plan and every modification of any rating plan, which it proposes to use in the Commonwealth. Also, no insurer shall make or issue a contract or policy except in accordance with filings or rates, which are in effect at the time of issue. The Company failed to rate the 2 files noted in accordance with their filed and approved rating plan by improperly applying model year factors resulting in overcharges of \$544.77.

5 Violations 40 P.S. §1184

Requires every insurer to file with the Insurance Commissioner every manual of classifications, rules and rates, every rating plan and every modification of any rating plan, which it proposes to use in the Commonwealth. Also, no insurer shall make or issue a contract or policy except in accordance with filings or rates, which are in effect at the time of issue. The Company failed to rate the 5 files noted in accordance with their filed and approved rating plan by improperly applying model year 2011 and 2012 factors.

Private Passenger Automobile – New Business with Surcharges

From the universe of 2,871 private passenger automobile policies identified as new business with surcharges by the Company, 100 files were selected for review. All 100 files were received and reviewed. The 9,330 violations noted were based on the universe of 2,871 files, resulting in an error ratio of 100%.

The following findings were made:

3 Violations 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. The Company failed to provide a signed limited tort selection form for the 3 files noted.

2 Violations 75 Pa. C.S. §1734

A named insured may request in writing the issuance of coverages under Section 1731 (relating to availability, scope and amount of coverage) in an amount equal to or less than the limits of liability for bodily injury. The Company failed to provide a written request for lower underinsured motorist coverage for the 2 files noted.

3 Violations 40 P.S. §323.4

Requires every company or person from whom information is sought must provide to the examiners timely, convenient and free access 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 Company failed to provide the requested applications and forms for the 3 files noted.

2,871 Violations 75 Pa. C.S. §1791.1(b)

Requires an insurer to provide an insured a notice of the availability of two alternatives of full tort insurance and limited tort insurance. The Company did not provide the notice of tort options to the insured at the time of application for all new business policies issued during the experience period. It is noted that the May 2011 First Acceptance Insurance Company, Inc. Report of Market Conduct Examination also found that the Company violated 75 Pa. C.S. §1791.1(b).

2,871 Violations 75 Pa. C.S. §1799.3(d)

Requires insurers who make a determination to impose a surcharge, rate penalty or driver record point assignment, to inform the insured of the determination and specify the manner in which the surcharge, rate penalty or driver record point assignment was made and clearly identify the amount of the surcharge or rate penalty on the premium notice for as long as the surcharge or rate penalty is in effect. The Company failed to provide the required surcharge disclosure statement on the premium notice. It is noted that the May 2011 First Acceptance Insurance Company, Inc. Report of Market Conduct Examination also found that the Company violated 75 Pa. C.S. §1799.3(d).

Violation 40 P.S. §1184

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

plan, which it proposes to use in the Commonwealth. Also, no insurer shall make or issue a contract or policy except in accordance with filings or rates, which are in effect at the time of issue. The Company failed to issue policies in accordance with the Company's filed and approved rating plan. Homeowner discounts were applied to policies without having the proper documentation to qualify for the discount. The Company was unable to provide the Department with the number of policyholders affected or the amount of undercharges involved. It is noted that the May 2011 First Acceptance Insurance Company, Inc. Report of Market Conduct Examination also found that the Company violated 40 P.S. §1184 for not requiring proper documentation for homeowner discounts.

2,326 Violations 40 P.S. §1184

Requires every insurer to file with the Insurance Commissioner every manual of classifications, rules and rates, every rating plan and every modification of any rating plan, which it proposes to use in the Commonwealth. Also, no insurer shall make or issue a contract or policy except in accordance with filings or rates, which are in effect at the time of issue. The Company failed to rate the policies in accordance with their filed and approved rating plan regarding the application of discounts for passive restraints and airbags without verifying the proper designation that is associated with the vehicle insured. The 2,326 violations noted resulted in a minimum of \$21,615.20 in overcharges. It

is the responsibility of the Company to ensure the accuracy of the information.

1,248 Violations 40 P.S. §1184

Requires every insurer to file with the Insurance Commissioner every manual of classifications, rules and rates, every rating plan and every modification of any rating plan, which it proposes to use in the Commonwealth. Also, no insurer shall make or issue a contract or policy except in accordance with filings or rates, which are in effect at the time of issue. The Company failed to rate the policies according to their filed and approved rating plan by improperly applied surcharges for speeding and minor violations. The 1,248 violations noted resulted in a minimum of \$18,415.43 in overcharges. It is the responsibility of the Company to ensure the accuracy of the information.

1 Violation 40 P.S. §1184

Requires every insurer to file with the Insurance Commissioner every manual of classifications, rules and rates, every rating plan and every modification of any rating plan, which it proposes to use in the Commonwealth. Also, no insurer shall make or issue a contract or policy except in accordance with filings or rates, which are in effect at the time of issue. The Company failed to rate the policy in accordance with their filed and approved rating plan by improperly applying model year factors. The violation noted resulted in an overcharge of \$290.90.

2 Violations 40 P.S. §1184

Requires every insurer to file with the Insurance Commissioner every manual of classifications, rules and rates, every rating plan and every modification of any rating plan, which it proposes to use in the Commonwealth. Also, no insurer shall make or issue a contract or policy except in accordance with filings or rates, which are in effect at the time of issue. The Company failed to rate the 2 policies in accordance with their filed and approved rating plan by improperly applying model year 2011 and 2012 rate factors.

3 Violations 40 P.S. §1184

Requires every insurer to file with the Insurance Commissioner every manual of classifications, rules and rates, every rating plan and every modification of any rating plan, which it proposes to use in the Commonwealth. Also, no insurer shall make or issue a contract or policy except in accordance with filings or rates, which are in effect at the time of issue. The Company failed to issue policies in accordance with the Company's filed and approved rating plan. The Company misapplied the rounding rule for the 3 files noted, resulting in an overcharge of \$3 and undercharges of \$3.

2. Renewals

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

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

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

Private Passenger Automobile – Renewals without Surcharges

From the universe of 2,616 private passenger automobile policies identified as renewals without surcharges, 100 files were selected for review. All 100 files requested were received and reviewed. The 10,214 violations noted were based on the universe of 2,616 files, resulting in an error ratio of 100%.

The following findings were made:

2,616 Violations 75 Pa. C.S. §1725

Every motor vehicle insurance policy shall contain a notice as to whether the policy covers collision damage to rental vehicles, and any limitations on such coverage. The notice shall be written in clear, plain language and shall be printed on the first page of the policy in boldface capital letters. The Company failed to provide the required notice. It is noted that the May 2011 First Acceptance Insurance Company, Inc. Report of Market Conduct Examination also found that the Company violated 75 Pa. C.S. §1725.

2,616 Violations 75 Pa. C.S. §1791.1(a)

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

premiums for the insured's existing coverages. The Company failed to provide the required itemized invoice at renewal. It is noted that the May 2011 First Acceptance Insurance Company, Inc. Report of Market Conduct Examination also found that the Company violated 75 Pa. C.S. §1791.1(a).

2,616 Violations 75 Pa. C.S. §1791.1(c)

Requires an insurer to provide an insured a notice stating that discounts are available for drivers who meet the requirements of Sections 1799, 1799.1 and 1799.2. The Company failed to provide the required notice at renewal. It is noted that the May 2011 First Acceptance Insurance Company, Inc. Report of Market Conduct Examination also found that the Company violated 75 Pa. C.S. §1791.1(c).

2,616 Violations 75 Pa. C.S. §1793(b)

Requires the insurer to provide to the insured a copy of their surcharge disclosure plan. The insurer providing the surcharge disclosure plan shall detail the provisions of the plan and the plan shall be delivered to each insured by the insurer at least once annually. Additionally, the surcharge information plan shall be given to each prospective insured at the time application is made for motor vehicle insurance coverage. The Company failed to provide the surcharge disclosure plan with the estimated amount of increase at the time of renewal. It is noted that the May 2011 First Acceptance Insurance Company, Inc. Report of Market Conduct Examination also found that the Company violated 75 Pa. C.S. §1793(b).

Violation 40 P.S. §1184

Requires every insurer to file with the Insurance Commissioner every manual of classifications, rules and rates, every rating plan and every modification of any rating plan, which it proposes to use in the Commonwealth. Also, no insurer shall make or issue a contract or policy except in accordance with filings or rates, which are in effect at the time of issue. The Company failed to rate policies in accordance with their filed and approved rating plan regarding the application of transfer discounts without having the proper documentation to qualify for the discount which resulted in undercharges. The Company was unable to provide the Department with the number of policyholders affected or the amount of undercharges involved. It is noted that the May 2011 First Acceptance Insurance Company, Inc Report of Market Conduct Examination also found that the Company violated 40 P.S. §1184 for not having the proper documentation to qualify for transfer discounts.

Violation 40 P.S. §1184

Requires every insurer to file with the Insurance Commissioner every manual of classifications, rules and rates, every rating plan and every modification of any rating plan, which it proposes to use in the Commonwealth. Also, no insurer shall make or issue a contract or policy except in accordance with filings or rates, which are in effect at the time of issue. The Company failed to rate the policies in accordance with their filed and approved rating plan regarding the application of homeowner discounts without

having the proper documentation to qualify for the discount. The Company was unable to provide the Department with the number of policyholders affected or the amount of undercharges involved. It is noted that the May 2011 First Acceptance Insurance Company, Inc Report of Market Conduct Examination also found that the Company violated 40 P.S. §1184 for not having the proper documentation to qualify for homeowner discounts.

110 Violations 40 P.S. §1184

Requires every insurer to file with the Insurance Commissioner every manual of classifications, rules and rates, every rating plan and every modification of any rating plan, which it proposes to use in the Commonwealth. Also, no insurer shall make or issue a contract or policy except in accordance with filings or rates, which are in effect at the time of issue. The Company failed to rate policies in accordance with their filed and approved rating plan regarding the application of Defensive Drive Course discounts without having the proper documentation to qualify for the discount. The 110 violations noted resulted in undercharges of \$2,742. It is noted that the May 2011 First Acceptance Insurance Company, Inc Report of Market Conduct Examination also found that the Company violated 40 P.S. §1184 for not having the proper documentation to qualify for Defensive Drive Course discounts. The Company elected not to make corrections to the affected policies as was recommended in the Report.

4,735 Violations 40 P.S. §1184

Requires every insurer to file with the Insurance Commissioner every manual of classifications, rules and rates, every rating plan and every modification of any rating plan, which it proposes to use in the Commonwealth. Also, no insurer shall make or issue a contract or policy except in accordance with filings or rates, which are in effect at the time of issue. The Company failed to rate the policies in accordance with their filed and approved rating plan regarding the application of discounts for passive restraints and airbags without verifying the proper designation that is associated with the vehicle insured. The 4,735 violations noted resulted in a minimum of \$112,224.93 in overcharges. It is the responsibility of the Company to ensure the accuracy of the information.

3 Violations 40 P.S. §1184

Requires every insurer to file with the Insurance Commissioner every manual of classifications, rules and rates, every rating plan and every modification of any rating plan, which it proposes to use in the Commonwealth. Also, no insurer shall make or issue a contract or policy except in accordance with filings or rates, which are in effect at the time of issue. The Company failed to rate the 3 policies in accordance with their filed and approved rating plan regarding the rounding of premium charges which resulted in an overcharge of \$1.00 and undercharges of \$4.00.

50 Violations 40 P.S. §1184

Requires every insurer to file with the Insurance Commissioner every manual of classifications, rules and rates, every rating plan and every modification of any rating plan, which it proposes to use in the Commonwealth. Also, no insurer shall make or issue a contract or policy except in accordance with filings or rates, which are in effect at the time of issue. The Company failed to rate the 50 policies in accordance with their filed and approved rating plan by improperly applying model year factors resulting in overcharges of \$13,283.56.

82 Violations 40 P.S. §1184

Requires every insurer to file with the Insurance Commissioner every manual of classifications, rules and rates, every rating plan and every modification of any rating plan, which it proposes to use in the Commonwealth. Also, no insurer shall make or issue a contract or policy except in accordance with filings or rates, which are in effect at the time of issue. The Company failed to rate the 82 files noted regarding the application of rating factors for model years 2011 and 2012 that were not filed and approved.

2 Violations 40 P.S. §1184

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

accordance with filings or rates, which are in effect at the time of issue. The Company applied territory factors on the two files noted based on zip codes that were not filed and approved.

Private Passenger Automobile – Renewals with Surcharges

From the universe of 562 private passenger automobile policies identified as renewals with surcharges, 75 files were selected for review. All 75 files requested were received and reviewed. The 4,255 violations noted were based on the universe of 562 files, resulting in an error ratio of 100%.

The following findings were made:

562 Violations 75 Pa. C.S. §1725

Every motor vehicle insurance policy shall contain a notice as to whether the policy covers collision damage to rental vehicles, and any limitations on such coverage. The notice shall be written in clear, plain language and shall be printed on the first page of the policy in boldface capital letters. The Company failed to provide the required notice. It is noted that the May 2011 First Acceptance Insurance Company, Inc. Report of Market Conduct Examination also found that the Company violated 75 Pa. C.S. §1725.

562 Violations 75 Pa. C.S. §1791.1(a)

Requires that at the time of application for original coverage and every renewal thereafter, an insurer must provide to an insured an itemized invoice listing the minimum motor vehicle insurance coverage levels mandated by the

Commonwealth and the premium charge for the insured to purchase the minimum mandated coverages. The invoice must contain the following notice in print of no less than ten-point type: “The laws of the Commonwealth of Pennsylvania, as enacted by the General Assembly, only require you to purchase liability and first-party medical benefit coverages. Any additional coverage or coverages in excess of the limits required by law are provided only at your request as enhancements to basic coverages.” The insurer shall provide the itemized invoice to the insured in conjunction with the declaration of coverage limits and premiums for the insured’s existing coverages. The Company failed to provide the required itemized invoice at renewal. It is noted that the May 2011 First Acceptance Insurance Company, Inc. Report of Market Conduct Examination also found that the Company violated 75 Pa. C.S. §1791.1(a).

562 Violations 75 Pa. C.S. §1791.1(c)

Requires an insurer to provide an insured a notice stating that discounts are available for drivers who meet the requirements of Sections 1799, 1799.1 and 1799.2. The Company failed to provide the required notice of premium discounts at renewal. It is noted that the May 2011 First Acceptance Insurance Company, Inc. Report of Market Conduct Examination also found that the Company violated 75 Pa. C.S. §1791.1(c).

562 Violations 75 Pa. C.S. §1793(b)

Requires the insurer to provide to the insured a copy of their surcharge disclosure plan. The insurer providing the

surcharge disclosure plan shall detail the provisions of the plan and the plan shall be delivered to each insured by the insurer at least once annually. Additionally, the surcharge information plan shall be given to each prospective insured at the time application is made for motor vehicle insurance coverage. The Company failed to provide the surcharge disclosure plan with the estimated amount of increase at renewal. It is noted that the May 2011 First Acceptance Insurance Company, Inc. Report of Market Conduct Examination also found that the Company violated 75 Pa. C.S. §1793(b).

11 Violations 75 Pa. C.S. §1799.3(d)

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

Violation 40 P.S. §1184

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

no insurer shall make or issue a contract or policy except in accordance with filings or rates, which are in effect at the time of issue. The Company failed to rate policies in accordance with their filed and approved rating plan regarding the application of transfer discounts without having the proper documentation to qualify for the discount which resulted in undercharges. The Company was unable to provide the Department with the number of policyholders affected or the amount of undercharges involved. It is noted that the May 2011 First Acceptance Insurance Company, Inc Report of Market Conduct Examination also found that the Company violated 40 P.S. §1184 for not having the proper documentation to qualify for transfer discounts.

Violation *40 P.S. §1184*

Requires every insurer to file with the Insurance Commissioner every manual of classifications, rules and rates, every rating plan and every modification of any rating plan, which it proposes to use in the Commonwealth. Also, no insurer shall make or issue a contract or policy except in accordance with filings or rates, which are in effect at the time of issue. The Company failed to rate the policies in accordance with their filed and approved rating plan regarding the application of homeowner discounts without having the proper documentation to qualify for the discount. The Company was unable to provide the Department with the number of policyholders affected or the amount of undercharges involved. It is noted that the May 2011 First Acceptance Insurance Company, Inc Report of Market

Conduct Examination also found that the Company violated 40 P.S. §1184 for not having the proper documentation to qualify for homeowner discounts.

23 Violations 40 P.S. §1184

Requires every insurer to file with the Insurance Commissioner every manual of classifications, rules and rates, every rating plan and every modification of any rating plan, which it proposes to use in the Commonwealth. Also, no insurer shall make or issue a contract or policy except in accordance with filings or rates, which are in effect at the time of issue. The Company failed to rate policies in accordance with their filed and approved rating plan regarding the application of Defensive Drive Course discounts without having the proper documentation to qualify for the discount. The 23 violations noted resulted in undercharges of \$615. It is noted that the May 2011 First Acceptance Insurance Company, Inc Report of Market Conduct Examination also found that the Company violated 40 P.S. §1184 for not having the proper documentation to qualify for Defensive Drive Course discounts. The Company elected not to make corrections to the affected policies as was recommended in the Report.

1,363 Violations 40 P.S. §1184

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

no insurer shall make or issue a contract or policy except in accordance with filings or rates, which are in effect at the time of issue. The Company failed to rate the policies in accordance with their filed and approved rating plan regarding the application of discounts for passive restraints and airbags without verifying the proper designation that is associated with the vehicle insured. The 1,363 violations noted resulted in a minimum of \$34,736.02 in overcharges. It is the responsibility of the Company to ensure the accuracy of the information.

571 Violations 40 P.S. §1184

Requires every insurer to file with the Insurance Commissioner every manual of classifications, rules and rates, every rating plan and every modification of any rating plan, which it proposes to use in the Commonwealth. Also, no insurer shall make or issue a contract or policy except in accordance with filings or rates, which are in effect at the time of issue. The Company failed to rate the 571 files noted in accordance with their filed and approved rating plan regarding the application of surcharges for speeding and minor violations resulting in a minimum of \$31,369.59 in overcharges. It is the responsibility of the Company to ensure the accuracy of the information.

13 Violations 40 P.S. §1184

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

plan, which it proposes to use in the Commonwealth. Also, no insurer shall make or issue a contract or policy except in accordance with filings or rates, which are in effect at the time of issue. The Company failed to rate policies in accordance with their filed and approved rating plan by improperly applying model year factors. The 13 violations noted resulted in overcharges of \$3,984.78.

24 Violations 40 P.S. §1184

Requires every insurer to file with the Insurance Commissioner every manual of classifications, rules and rates, every rating plan and every modification of any rating plan, which it proposes to use in the Commonwealth. Also, no insurer shall make or issue a contract or policy except in accordance with filings or rates, which are in effect at the time of issue. The Company failed to rate the 24 files noted regarding the application of rating factors for model years 2011 and 2012 that were not filed and approved.

2 Violations 40 P.S. §1184

Requires every insurer to file with the Insurance Commissioner every manual of classifications, rules and rates, every rating plan and every modification of any rating plan, which it proposes to use in the Commonwealth. Also, no insurer shall make or issue a contract or policy except in accordance with filings or rates, which are in effect at the time of issue. The Company applied territory factors based on zip codes that were not filed and approved for the 2 files noted.

VII. CLAIMS

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

The Claims review consisted of the following areas of review:

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

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

A. Automobile Property Damage Claims

From the universe of 1,033 private passenger automobile property damage claims reported during the experience period, 50 files were selected for review. All 50 files were received and reviewed. The violation noted resulted in an error ratio of 2%.

The following finding was 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.

B. Automobile Comprehensive Claims

From the universe of 118 private passenger automobile comprehensive claims reported during the experience period, 25 files were selected for review. All 25 files were received and reviewed. No violations were noted.

C. Automobile Collision Claims

From the universe of 342 private passenger automobile collision claims reported during the experience period, 25 files were selected for review. All 25 files were received and reviewed. No violations were noted.

D. Automobile Total Loss Claims

From the universe of 235 private passenger automobile total loss claims reported during the experience period, 25 files were selected for review. All 25 files were received and reviewed. The four (4) violations noted were based on three (3) files resulting in an error ratio of 12%.

The following findings were made:

1 Violation 31 Pa. Code §62.3(e)(7)

The appraiser is responsible for ensuring that a copy of the total loss evaluation report is 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 file noted reflected the Company did not provide a copy of the total loss evaluation to the insured within five (5) working days.

3 Violations 75 Pa. C.S. §1161(a)&(b)

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

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

title to a vehicle is assigned upon payment to the insured or claimant of the replacement value of a vehicle shall be regarded as a transferee under this subsection. The 3 files noted did not reflect a salvage title was obtained prior to payment of claim.

E. Automobile First Party Medical Claims

From the universe of 139 private passenger automobile first party medical claims reported during the experience period, 50 files were selected for review. All 50 files were received and reviewed. The 11 violations noted were based on seven (7) files, resulting in an error ratio of 14%.

The following findings were made:

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. It is noted that the May 2011 First Acceptance Insurance Company, Inc Report of Market Conduct Examination also found that the Company violated 31 Pa. Code §69.52(b).

2 Violations 31 Pa. Code §146.5(d)

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

the necessary claim forms, instructions and reasonable assistance relative to first party medical claims to the claimant within ten working days for the 2 files noted.

4 Violations 75 Pa. C.S. §1716

Payment of Benefits. Benefits are overdue if not paid within 30 days after the insurer receives reasonable proof of the amount of benefits. If reasonable proof is not supplied as to all benefits, the portion supported by reasonable proof is overdue if not paid within 30 days after the proof is received by the insurer. Overdue benefits shall bear interest at the rate of 12% per annum from the date the benefits become due. In the event the insurer is found to have acted in an unreasonable manner in refusing to pay the benefits when due, the insurer shall pay, in addition to the benefits owed and the interest thereon, a reasonable attorney fee based upon actual time expended. The Company did not pay interest on 4 claims that were not paid within 30 days.

1 Violation 75 Pa. C.S. §1798(a)

No attorney's fee for representing a claimant in connection with a claim for first party benefits or a claim for catastrophic loss benefits under Subchapter F shall be calculated, determined or paid on a contingent fee basis, nor shall any attorney's fees be deducted from the benefits enumerated in this subsection which are otherwise due such claimant. The Company deducted attorney's fees from first party benefits.

F. Automobile First Party Medical Claims Referred to a PRO

Although the Company did not report any automobile first party medical claims referred to a peer review organization, the Company was asked to provide copies of all written contracts it has in place with a peer review organization. The Company advised they did not maintain a contract with a Peer Review Organization.

The following finding was made:

1 Violation 31 Pa. Code, Section 69.53(a)

A Peer Review Organization shall contract, in writing, jointly or separately with an insurer for the provision of peer review services as authorized by Act 1990-6 and this chapter.

AND

75 Pa. C.S. §1797(b)(1)

Peer review plan for challenges to reasonableness and necessity of treatment. Peer review plan. Insurers shall contract jointly or separately with any peer review organization established for the purpose of evaluating treatment, health care services, products or accommodations provided to any injured person. Such evaluation shall be for the purpose of confirming that such treatment, products, services or accommodations conform to the professional standards of performance and are medically necessary. An insurer's challenge must be made to a PRO within 90 days of the insurer's receipt of the provider's bill for treatment or services or may be made at any time for continuing treatment or services. The Company failed to maintain a contract with a Peer Review Organization.

VIII. FORMS

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

The following finding was made:

139 Violations 75 Pa. C.S. §1822

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

AND

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. The Company did not provide the fraud warning on the Application for Benefits form.

IX. 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 also identified 12 consumer complaints received during the experience period and provided all consumer complaint logs requested. The universe of 12 complaints was selected for review. All 12 files requested were received and reviewed.

The purpose of the review was to determine compliance with the Unfair Insurance Practices Act, No. 205 (40 P.S. §1171). Section 5(a)(11) of the Act requires a Company to maintain a complete record of all complaints received during the preceding four years. This record shall indicate the total number of complaints, their classification by line of insurance, the nature of each complaint, the disposition of these complaints and the time it took to process each complaint. The individual complaint files were reviewed for the relevancy to applicable statutes and to verify compliance with 31 PA. Code, Section 146.5(b)(c).

The following findings were made:

2 Violations 31 Pa. Code §146.4

An insurer or agent may not fail to fully disclose to first-party claimants pertinent benefits, coverages or other provisions of an insurance policy or insurance contract under which a claim is presented or when the benefits, coverages or other provisions are pertinent to a claim.

AND

40 P.S. §1171.5(a)(10)(vi)

Any of the following acts if committed or performed with such frequency as to indicate a business practice shall constitute unfair claim settlement or compromise practices: Not attempting in good faith to effectuate prompt, fair and equitable settlements of claims in which the company's liability under the policy has become reasonably clear.

AND

75 Pa. C.S. §1713

A person who suffers injury arising out of the maintenance or use of a motor vehicle shall recover first party benefits against applicable insurance coverage in the following order of priority: (1) For a named insured, the policy on which he is the named insured. (2) For an insured, the policy covering the insured. (3) For the occupants of an insured motor vehicle, the policy on that motor vehicle. (4) For a person who is not the occupant of a motor vehicle, the policy on any motor vehicle involved in the accident. The Company denied payment of a pedestrian's medical claim when liability was established for the 2 files noted.

CONCERN: Complaint logs for 2008, 2009, 2010 and 2011 were provided and reviewed for compliance. All four (4) complaint logs noted did not indicate the classification by line of business. The Company must indicate the classification by line of business for each log going forward. Even though the Company is a mono-line private passenger automobile insurer, the law does not exclude the Company from this requirement.

The synopsis of the complaint files reflects that all 12 complaints were 100% claims related in nature.

X. LICENSING

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

The following findings were made:

2 Violations 40 P.S. §310.41a

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

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

Alexander Putterman
David Boehm

1 Violation 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 producer was found to be writing policies but was not found in Insurance Department records as having an appointment. The Company failed to file a notice of appointment and submit appointment fees to the Department.

Leonard B Morgan III

XI. 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, Section 904(b) [40 P.S. §904(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.

Midterm Cancellations

Situation: As the examiners reviewed the midterm cancellation files of the underwriting section of the exam, it was noted that not all the 50 files selected for review were midterm cancellation files. The Company did not use the reinstatement date of those policies reinstated with a lapse of coverage.

Finding: Of the 50 mid-term cancellation files reviewed, four (4) files were identified as 60-day cancellations and 46 were identified as mid-terms.

Non-renewals

Situation: As the examiners reviewed the nonrenewal files of the underwriting section of the exam, it was noted that not all the 35 files selected for review were nonrenewal files. The Company did not use the annual anniversary date of those policies that were nonrenewed.

Finding: Of the 35 files reviewed, 22 were identified as non-renewals and 13 were identified as mid-term cancellations.

Total Loss Claims

Situation: As the examiners reviewed the selection of total loss claim files, it was noted that claims were first party benefit claims rather than total loss claims.

Finding: The Company was asked to provide a new listing of total loss claims. It provided a new universe of 235 total loss claims instead of the previous universe of 139 claims. A new selection of total loss claims was made and received.

General Violation: 40 P.S. §323.4

Requires every company or person from whom information is sought must provide to the examiners timely, convenient and free access 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 resulted in the failure to exercise sufficient due diligence to ensure compliance with Insurance Department Act.

XII. RECOMMENDATIONS

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

In compiling this report and during the course of the examination, the Department specifically requested documentation as to certain violations. On multiple occasions, the Department was promised that documentation but it was never received. In one final effort to obtain the information, the Department directly contacted the Company, and was told that the documentation could not be provided as there had been a systematic failure within the Company.

1. The Company must review and revise internal control procedures to ensure compliance with nonrenewal and cancellation notice requirements of 40 P.S. §§991.2001, 991.2004, and 991.2006, so that the violations noted in the Report do not occur in the future.
2. 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.
3. 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. The forms must be retained with the underwriting file and signed and dated by the first named insured. This is to ensure that violations noted

under 75 Pa. C.S. §1738(d)(1) & (2) and 75 Pa. C.S. §1738(e) do not occur in the future.

4. The Company must review 75 Pa. C.S. §1791.1(a) violations to ensure that the itemized invoice is given to the insured at renewal as noted in the Report.
5. The Company must review 75 Pa. C.S. §1791.1(b) violations to ensure that the notice of tort options is given to the insured at the time of application as noted in the Report.
6. The Company must review 75 Pa. C.S. §1793(b) to ensure that violations regarding the requirement to provide the insured with a surcharge disclosure plan at renewal, as noted in the Report, do not occur in the future.
7. When a surcharge is imposed on a private passenger automobile policy, the Company must identify the amount of surcharge and give notice to the insured. This procedure must be implemented within 30 days of the Report issue date. This is to ensure that violations noted under 75 Pa. C.S. §1799.3(d) do not occur in the future.
8. The Company must review 75 Pa. C.S. §1725 to ensure that a notice as to whether the policy covers collision damage to rental vehicles, and any limitations on such coverage shall be printed on the first page of the policy in boldface capital letters.

9. The Company must review 75 Pa. C.S. §1734 to ensure that the insured signs a request for lower limits of liability for uninsured and underinsured motorist coverage and a copy kept in files as noted in the Report.
10. The Company must review 75 Pa. C.S. §1791.1(c) to ensure that violations regarding the requirement to provide notice to insureds stating that discounts are available for drivers, as noted in the Report, do not occur in the future.
11. The Company must review 40 P.S. §1184 and take appropriate measures to ensure the rating violations listed in the report do not occur in the future.
12. The premium overcharges noted in this report must be refunded to the insureds and proof of such refunds must be provided to the Insurance Department within 30 days of the report issue date.
13. The Company must review practices and procedures that do not comply with the prompt investigation and payment of claim requirements of 40 P.S. §1171.5(a)(10)(vi) so that the violations noted in the Report do not occur in the future.
14. 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 disclosing benefits and status letters as noted in the Report do not occur in the future.
15. The Company must review 31 Pa. Code, §69.52(b) with its claim staff to ensure that first party medical bills are paid within 30 days.

16. The Company must review the first party medical claims, which have not been paid within 30 days. Those claims that have not been paid within 30 days shall bear interest at the rate of 12% per annum from the date the benefits become due as required by 75 Pa. C.S. §1716. The interest amount must be paid to the claimant and proof of such payment must be provided to the Insurance Department within 30 days of the Report issue date.
17. The Company must review 31 Pa. Code, §62.3(e)(7) with its claims staff to ensure that the consumer receives the total loss evaluation report within 5 working days after the appraisal is completed.
18. The Company must review 75 Pa. C.S. §1161(a)&(b) with its claims staff to ensure that Pennsylvania salvage certificates are obtained and are retained with the claim file.
19. The Company must review 31 Pa. Code §69.53(a) and 75 Pa. C.S. §1797(b)(1) with its claim staff to ensure that a written contract is in place with an approved peer review organization established for the purpose of evaluating treatment, health care services, products or accommodations provided to any injured person. Such evaluation shall be for the purpose of confirming that such treatment, products, services or accommodations conform to the professional standards of performance and are medically necessary.
20. The Company must review 75 Pa. C.S. §1798(a) with its claims staff to ensure that attorney's fees are not deducted from a claimant's benefits.
21. The Company must reinforce its internal data controls to ensure that all records and documents are maintained in accordance with 40 P.S. §323.4, so that violations noted in the Report do not occur in the future.

22. The Company must ensure all producers are properly licensed and appointed, as required by 40 P.S. §310.41a and 40 P.S. §310.71, prior to accepting any business from any producer.
23. The Company must review 18, Pa. C.S. §4117(k)(1) to ensure that violations regarding the requirement of a fraud warning, as noted in the Report, do not occur in the future.

XIII. COMPANY RESPONSE



VIA FEDEX AND ELECTRONIC MAIL

November 21, 2014

Ms. Constance Arnold
Property and Casualty Division Chief
Pennsylvania Insurance Department
1227 Strawberry Square
Harrisburg, Pennsylvania 17120

Re: Examination Warrant Number: 13-M08-033

Dear Ms. Arnold:

First Acceptance Insurance Company (the "Company") is in receipt of your letter dated November 6, 2014, and the accompanying Market Conduct Examination Report (the "Report") issued by the Pennsylvania Insurance Department (the "Department"). Please accept this letter as the Company's response to the Report.

Our enclosed response addresses all of the recommendations contained in the Report. We believe we have taken the necessary measures to correct all of the items the Department's examiners identified. We do acknowledge that we were unable to meet the Department's requests for data in a couple of areas. We assure you that that was not due to a lack of effort on our part, but due to an inability after the fact to retrieve certain data from the experience period. As we have previously communicated to you, the Company has made a great effort to enhance its compliance program, including a thorough review of all applicable internal processes. The Company has also strengthened its staffing in several areas to not only improve overall operations, but also to enhance our focus on regulatory compliance.

We are very pleased to continue to have the opportunity to serve the unique non-standard automobile insurance sector within the Pennsylvania market. The Company strives to offer a competitive product that is fully compliant with the statutes and regulations of the Commonwealth of Pennsylvania. We do not take lightly our obligations to our customers and to the Department as a participant in the Pennsylvania automobile insurance market. We appreciate your courtesy throughout the examination process and look forward to continuing to work with the Department in the future.

Please do not hesitate to contact me if you have any questions or concerns regarding the Company's response.

Respectfully Submitted,

A handwritten signature in black ink that reads "Mark P. Reineke".

Mark P. Reineke
Vice President, Legal Affairs

RESPONSE OF FIRST ACCEPTANCE INSURANCE COMPANY, INC.

TO EXAM REPORT SECTION XII. RECOMMENDATIONS

1. The Company must review and revise internal control procedures to ensure compliance with nonrenewal and cancellation notice requirements of 40 P.S. §§ 991.2001, 991.2004, and 991.2006, so that the violations noted in the Report do not occur in the future.

COMPANY RESPONSE: The Company has reviewed its internal control processes and is modifying procedures to assure that non-renewal of a policy occurs only at the one (1) year anniversary of the policy with appropriate notice as required by Pennsylvania statutes. Additionally, the Company has reviewed and is revising procedures to assure that Cancellation Notices are issued only for valid reasons and timely sent to customers on a form acceptable to the Commissioner with all necessary notices and disclosures included as required by Pennsylvania statutes.

2. 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) to not occur in the future.

COMPANY RESPONSE: The Company is modifying its underwriting practices to ensure that each applicant is provided with both a Notice of Available Tort options in accordance with 75 Pa. C.S. § 1791(1) as well as the specified form to make the election of tort options in accordance with 75 Pa. C.S. § 1705(a)(4). Such forms will be maintained in the policy underwriting file.

3. 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. The forms must be retained with the underwriting file and signed and dated by the first named insured. This is to ensure that violations noted under Pa. C.S. § 1738(d)(1) & (2) and 75 Pa. C.S. §1738(e) do not occur in the future.

COMPANY RESPONSE: The Company has reviewed the isolated violation(s) identified in the Report as well as the statutory requirements noted with the underwriting staff to assure that such notice is provided to all customers and that written rejection forms are signed and dated by the first named insured and maintained in the policy underwriting file.

4. The Company must review 75 Pa. C.S. § 1791.1(a) violations to ensure that the itemized invoice is given to the insured at renewal as noted in the Report.

COMPANY RESPONSE: The Company has reviewed the statutory requirements and is adding an itemized invoice in accordance with the statute to be given to insureds at renewal.

5. The Company must review 75 Pa. C.S. § 1791.1(b) violations to ensure that the notice of tort options is given to the insured at the time of application as noted in the Report.

COMPANY RESPONSE: The Company is modifying its underwriting practices to ensure that each applicant is provided with both a Notice of Available Tort options in accordance with 75 Pa. C.S. § 1791(1) as well as the specified form to make the election of tort options in accordance with 75 Pa. C.S. § 1705(a)(4). Such forms will be maintained in the policy underwriting file.

6. The Company must review 75 Pa. C.S. § 1793(b) to ensure that violations regarding the requirement to provide the insured with a surcharge disclosure plan at renewal, as noted in the Report, do not occur in the future.

COMPANY RESPONSE: The Company has reviewed the statutory requirements and is adding the surcharge disclosure plan in accordance with the statute to be given to the insured at renewal.

7. When a surcharge is imposed on a private passenger automobile policy, the Company must identify the amount of surcharge and give notice to the insured. The procedure must be implemented within 30 days of the Report issue date. This is to ensure that violations noted under Pa. C.S. § 1799.3(d) do not occur in the future.

COMPANY RESPONSE: The Company will modify and implement, within the required time period, its underwriting procedures to specifically identify the amount of surcharge, if any, assessed and to provide notice to the customer at time of purchase and on all premium invoices as required by statute.

8. The Company must review 75 Pa. C.S. § 1725 to ensure that a notice as to whether the policy covers collision damage to rental vehicles, and any limitations on such coverages shall be printed on the first page of the policy in boldface capital letters.

COMPANY RESPONSE: The Company has reviewed the statutory requirements and will ensure that the notice as to whether the policy covers collision damage to rental vehicles, and any limitation on such coverage is included in boldface capital letters on all policy declarations pages.

9. The Company must review 75 Pa. C.S. § 1734 to ensure that the insured signs a request for lower limits of liability for uninsured and underinsured motorist coverage and a copy kept in files as noted in the Report.

COMPANY RESPONSE: The Company has reviewed the isolated violation(s) identified in the Report, as well as the statutory requirements with the underwriting

staff to assure that the insured signs a request for lower limits of liability for uninsured and underinsured motorist coverage when requested and that such written election forms are maintained in the policy underwriting file.

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

COMPANY RESPONSE: The Company has reviewed the statutory requirements and is adding a notice regarding available discounts as required by statute.

11. The Company must review 40 P.S. § 1184 and take appropriate measures to ensure the rating violations listed in the report do not occur in the future.

COMPANY RESPONSE: The Company has reviewed the discount verification practices for new and renewal business. New processes are being implemented to ensure compliance with the statute, including implementation of an automated system verification matching industry standards and enhanced manual verification for discount entitlement(s) that cannot be auto-verified. The Company has also reviewed the rating factors filing and programming rules at new business and renewal to ensure compliance with applicable statutes.

12. The premium overcharges noted in this report must be refunded to the insureds and proof of such refunds must be provided to the Insurance Department within 30 days of the report issue date.

COMPANY RESPONSE: The Company has issued all refunds identified in the Report and will provide separately proof of the issuance of those refunds.

13. The Company must review practices and procedures that do not comply with the proper investigation and payment of claim requirements of 40 P.S. § 1171.5(a)(10)(vi) so that the violations noted in the Report do not occur in the future.

COMPANY RESPONSE: The Company has reviewed 40 P.S. § 1171.5(a)(10)(vi), the isolated violations identified in the Report, as well as the Unfair Claims Settlement Practices Act with all adjusters handling Pennsylvania claims to reinforce the requirements of the law and assure that proper investigation is completed and prompt payment is made as required.

14. 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 disclosing benefits and status letters as noted in the Report do not occur in the future.

COMPANY RESPONSE: The Company has reviewed the isolated violations identified in the Report as well as the Unfair Claims Settlement Practices Act with all adjusters handling Pennsylvania claims to reinforce the requirements of the law and assure compliance with regard to disclosing available benefits and providing required status letters.

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

COMPANY RESPONSE: The Company has reviewed 31 Pa. Code, § 69.52(b) with all adjusters handling first party benefit claims in Pennsylvania to reinforce the requirement that first party medical bills are to be paid within thirty (30) days of receiving sufficient documentation to process the bill. The Company will periodically review the timeliness of these payments to ensure ongoing compliance.

16. The Company must review the first party medical claims, which have not been paid within 30 days. Those claims that have not been paid within 30 days shall bear interest at the rate of 12% per annum from the date the benefits become due as required by 75 Pa. C.S. § 1716. The interest amount must be paid to the claimant and proof of such payment must be provided to the Insurance Department within 30 days of the Report Issue date.

COMPANY RESPONSE: The Company has reviewed the isolated first party claims identified to include interest that were paid past thirty (30) days. The Company issued the interest payments owed. Copies of those checks will be provided under separate cover.

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

COMPANY RESPONSE: The Company has reviewed 31 Pa. Code, § 62.3(e)(7) with our claim staff to reinforce the requirement that consumers receive total loss evaluation reports within 5 working days after the appraisal is completed.

18. The Company must review 75 Pa. C.S. § 1161(a) & (b) with its claims staff to ensure that Pennsylvania salvage certificates are obtained and are retained with the file.

COMPANY RESPONSE: The Company has reviewed 75 Pa. C.S. § 1161(a) & (b) with our claim staff to reinforce the requirement that Pennsylvania salvage certificates must be obtained and retained in the file.

19. The Company must review 31 Pa. Code § 69.53(a) and 75 Pa. C.S. § 1797(b)(1) with its claims staff to ensure that a written contract is in place with an approved peer review organization established for the purpose of evaluating treatment, health care services, products or accommodations provided to any injured person. Such evaluation shall be for the purpose of confirming that such treatment, products, services or accommodations conform to the professional standards of performance and are medically necessary.

COMPANY RESPONSE: The Company has entered into a contract with a peer review organization. The effective date of the contract was August 11, 2014.

20. The Company must review 75 Pa. C.S. § 1798(a) with its claims staff to ensure that attorney's fees are not deducted from a claimant's benefits.

COMPANY RESPONSE: The Company has reviewed the isolated violation identified in the Report as well as the requirements of 75 Pa. C.S. § 1798(a) with its claim staff to ensure understanding of the requirements of the statute.

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

COMPANY RESPONSE: The Company has reviewed its internal data controls and discussed with all necessary departments the importance of data integrity in responding to requests of state examiners as required by statute.

22. The Company must ensure all producers are properly licensed and appointed, as required by 40 P.S. § 310.41a and 40 P.S. § 310.71, prior to accepting any business from any producer.

COMPANY RESPONSE: The Company has reviewed our appointment procedures. All producers are properly licensed and appointed. We will continue to monitor these activities on an ongoing basis to ensure compliance in the future.

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

COMPANY RESPONSE: The Company has modified the relevant documents to assure that the required fraud warning is included as required by statute.