



**COMMONWEALTH OF PENNSYLVANIA
INSURANCE DEPARTMENT**

**MARKET CONDUCT
EXAMINATION REPORT**

OF

**Franklin Insurance Company
Harrisburg, PA**

**As of: January 17, 2019
Issued: February 28, 2019**

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

VERIFICATION

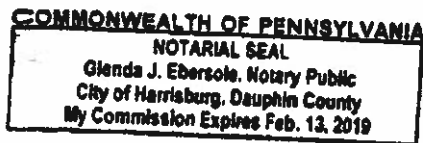
Having been duly sworn, I hereby verify that the statements made in the within document are true and correct to the best of my knowledge, information and belief. I understand that false statements made herein are subject to the penalties of 18 Pa. C.S. §4903 (relating to false swearing).

Paul E. Towne III
(Examiner Name), Examiner-in-Charge

Sworn to and Subscribed Before me

This 14th Day of January, 2019

Glenda J. Ebersole
Notary Public



FRANKLIN INSURANCE COMPANY
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BEFORE THE INSURANCE COMMISSIONER
OF THE
COMMONWEALTH OF PENNSYLVANIA

ORDER

AND NOW, this 28th day of March, 2018, 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 Christopher R. Monahan, 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.





Jessica K. Altman
Insurance Commissioner

BEFORE THE INSURANCE COMMISSIONER
OF THE
COMMONWEALTH OF PENNSYLVANIA

IN RE: : VIOLATIONS:
: :
FRANKLIN INSURANCE COMPANY : 40 P.S. §323.4(b)
118 Second Avenue, S.E. : :
Cedar Rapids, IA 52401 : 40 P.S. §636.1
: :
: 40 P.S. §§991.2003(a)(8), 991.2003(a)(10)
: 991.2003(a)(11), 991.2003(a)(12)
: 991.2003(a)(13)(ii), 991.2003(a)(13)(ix)
: 991.2004, 991.2006, 991.2006(1)
: 991.2006(2), 991.2006(5), 991.2006(6)
: 991.2006(7) and 991.2008(b)
: :
: 40 P.S. §§1171.4, 1171.5(a)(4)
: 1171.5(a)(7)(iii), 1171.5(a)(9)
: 1171.5(a)(9)(i), 1171.5(a)(9)(ii)
: 1171.5(a)(9)(iii), 1171.5(a)(9)(v)
: and 1171.5(a)(11)
: :
: 18 Pa. Code §4117(k)(1)
: :
: 31 Pa. Code §§62.3, 62.3(e)(7)
: 69.52(b), 146.5(d), 146.6 and 146.7(a)(1)
: :
: 75 Pa. C.S. §§1161(a)&(b) and 1716
: :
: :
: :
: :
Respondent. : Docket No. MC19-01-011

CONSENT ORDER

AND NOW, this 28th day of February 2019, 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 Franklin Insurance Company, and maintains its address at 118 Second Avenue, S.E., Cedar Rapids, IA 52401.
- (b) A market conduct examination of Respondent was conducted by the Insurance Department covering the experience period from January 1, 2017 through

December 31, 2017.

- (c) On January 17, 2019, the Insurance Department issued a Market Conduct Examination Report to Respondent.
- (d) A response to the Examination Report was provided by Respondent on February 12, 2019.
- (e) The Market Conduct Examination of Respondent revealed violations of the following:
 - (i) 40 P.S. §323.4(b), requires every company or person from whom information is sought, its officers, directors and agents must provide to the examiners timely, convenient and free access at all reasonable hours at its offices to all books, records, accounts, papers, documents and any or all computer or other recordings relating to the property, assets, business and affairs of the company being examined;
 - (ii) 40 P.S. §636.1, requires that basic property insurance shall be continued 180 days after the death of the named insured on the policy or until the sale of the property, whichever event occurs first provided that the premiums for the coverage are paid;

- (iii) 40 P.S. §991.2003(a)(8), states an insurer may not cancel or refuse to write or renew a policy of automobile insurance for marital status;
- (iv) 40 P.S. §991.2003(a)(10), states an insurer may not cancel or refuse to write or renew a policy of automobile insurance due to lawful occupation (including military service);
- (v) 40 P.S. §991.2003(a)(11), states an insurer may not cancel or refuse to renew a policy of automobile insurance on the basis of the refusal of another insurer to write a policy or the cancellation or refusal to renew an existing policy by another insurer;
- (vi) 40 P.S. §991.2003(a)(12), states an insurer may not cancel or refuse to renew a policy of automobile insurance for: illness or permanent or temporary disability where the insured can medically document that such illness or disability will not impair his ability to operate a motor vehicle;
- (vii) 40 P.S. §991.2003(a)(13)(ii), states an insurer may not cancel or refuse to renew a policy of automobile insurance for an accident which occurred under the following circumstances: The applicant, owner or other resident operator is reimbursed by or on behalf of a person who is responsible for the accident or has judgment against such person.

- (viii) 40 P.S. §991.2003(a)(13)(ix), states an insurer may not cancel or refuse to write or renew a policy of automobile insurance for accidents which occurred more than thirty-six (36) months prior to the later of the inception of the insurance policy or the upcoming anniversary date of the policy;
- (ix) 40 P.S. §991.2004, states 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;
- (x) 40 P.S. §991.2006, requires that cancellation by an insurer of a policy of automobile insurance shall not be effective unless the insurer delivers or mails to the insured a written notice of the cancellation;
- (xi) 40 P.S. §991.2006(1), requires that a cancellation notice or refusal to renew be in a form acceptable to the Insurance Commissioner;
- (xii) 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;

- (xiii) 40 P.S. §991.2006(5), requires that either in the cancellation notice, refusal to renew or in an accompanying statement, the insured be advised of his possible eligibility for insurance through the automobile assigned risk plan;
- (xiv) 40 P.S. §991.2006(6), requires that a cancellation notice or refusal to renew 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;
- (xv) 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;

- (xvi) 40 P.S. §991.2008(b), requires any applicant for a policy who is refused such policy by an insurer shall be given a written notice of refusal to write by the insurer. Such notice shall state the specific reason or reasons of the insurer for refusal to write a policy for the applicant. Within 30 days of the receipt of such reasons, the applicant may request in writing to the Commissioner that he review the action of the insurer in refusing to write a policy for the applicant;

- (xvii) 40 P.S. §1171.4, prohibits any person to engage in this state in any trade practice which is defined or determined to be an unfair method of competition or an unfair or deceptive act or practice in the business of insurance pursuant to this act;

- (xviii) 40 P.S. §1171.5(a)(4), prohibits unfair methods of competition and unfair or deceptive acts or practices by entering into any agreement to commit, or by any concerted action committing, any act or boycott, coercion or intimidation resulting in or tending to result in unreasonable restraint of, or monopoly in, the business of insurance;

- (xix) 40 P.S. §1171.5(a)(7)(iii), defines and prohibits unfair methods of competition as making or permitting any unfair discrimination between individuals of the same class and essentially the same hazard with regard to underwriting standards and practices or eligibility requirements by reason of race, religion,

nationality or ethnic group, age, sex, family size, occupation, place of residence or marital status;

- (xx) 40 P.S. §1171.5(a)(9) Prohibits canceling any policy of insurance covering owner-occupied private residential properties or personal property of individuals that has been in force for sixty days or more or refusing to renew any such policy unless the policy was obtained through material misrepresentation, fraudulent statements, omissions or concealment of fact material to the acceptance of the risk or to the hazard assumed by the company; or there has been a substantial change or increase in hazard in the risk assumed by the company subsequent to the date the policy was issued; or there is a substantial increase in hazards insured against by reason of willful or negligent acts or omissions by the insured; or the insured has failed to pay any premium when due or for any other reasons approved by the Commissioner;
- (xxi) 40 P.S. §1171.5(a)(9)(i), requires that a cancellation notice be approved as to form by the Insurance Commissioner prior to use.
- (xxii) 40 P.S. §1171.5(a)(9)(ii), prohibits any cancellation or refusal to renew to become effective in a period of less than thirty days from the date of delivery or mailing;

- (xxiii) 40 P.S. §1171.5(a)(9)(iii), requires that a cancellation notice shall state the specific reason or reasons of the insurer for cancellation or refusal to renew;
- (xxiv) 40 P.S. §1171.5(a)(9)(v), requires that a cancellation notice shall advise the insured of his possible eligibility for insurance under The PA Fair Plan Act;
- (xxv) 40 P.S. §1171.5(a)(11), requires a company to maintain a complete record of all the complaints it has received during the preceding four years;
- (xxvi) 18 Pa. C.S. §4117(k)(1), states any person who knowingly and with intent to defraud any insurance company or other person files an application for insurance or statement of claim containing any materially false information or conceals for the purpose of misleading, information concerning any fact material thereto, commits a fraudulent insurance act, which is a crime and subjects such person to criminal and civil penalties;
- (xxvii) 31 Pa. Code §62.3, requires that an appraisal shall meet all applicable standards per statute;
- (xxviii) 31 Pa. Code §62.3(e)(7), states that 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;

- (xxix) 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;
- (xxx) 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;
- (xxxi) 31 Pa. Code §146.6, states that if an investigation cannot be completed within thirty (30) days, and every forty-five (45) days thereafter, the insurer shall provide the claimant with a reasonable written explanation for the delay and state when a decision on the claim may be expected;
- (xxxii) 31 Pa. Code §146.7(a)(1), requires within 15 working days after receipt by the insurer of properly executed proofs of loss, the first-party claimant shall be advised of the acceptance or denial of the claim by the insurer;
- (xxxiii) 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. 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 with an application for a certificate of salvage upon a form furnished and prescribed by the department;

- (xxxiv) 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;

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. §636.1 are punishable by the following, under 40 P.S. §625-10: Upon determination by hearing that this act has been violated, the commissioner may issue a cease and desist order, suspend, revoke or refuse to renew the license, or impose a civil penalty of not more than \$5,000 per violation.
- (c) Violations of 40 P.S. §§991.2003(a)(8), 991.2003(a)(10), 991.2003(a)(11), 991.2003(a)(12), 991.2003(a)(13)(ii), 991.2003(a)(13)(ix), 991.2004, 991.2006, 991.2006(1), 992.2006(2), 991.2006(5), 991.2006(6), 991.2006(7) and 991.2008(b) (relating to motor vehicles) of 40 P.S. are punishable by the following, under Section 991.2013: Any individual or insurer who violates any of the provisions of this article may be sentenced to pay a fine not to exceed five thousand dollars (\$5,000).
- (d) Respondent's violations of 40 P.S. §§1171.4; 1171.5(a)(4), 1171.5(a)(7)(iii), 1171.5(a)(9), 1171.5(a)(9)(i), 1171.5(a)(9)(ii), 1171.5(a)(9)(iii)

1171.5(a)(9)(v) and 1171.5(a)(11) are punishable by the following, under Section 9 of the Unfair Insurance Practices Act (40 P.S. §1171.9):

- (i) cease and desist from engaging in the prohibited activity;
- (ii) suspension or revocation of the license(s) of Respondent.

(e) In addition to any penalties imposed by the Commissioner for Respondent's violations of 40 P.S. §§1171.1 – 1171.5, the Commissioner may, under (40 P.S. §§1171.10, 1171.11) file an action in which the Commonwealth Court may impose the following civil penalties:

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

(f) Respondent's violations of 31 Pa. Code §§146.5(d), 146.6 and 146.7(a)(1) are punishable under Sections 1 through 5 and Section 9 of the Unfair Insurance Practices Act (40 P.S. §§1171.1 – 1171.5 and 1171.9):

- (i) cease and desist from engaging in the prohibited activity;
- (ii) suspension or revocation of the license(s) of Respondent.

- (g) In addition to any penalties imposed by the Commissioner for Respondent's violations of 40 P.S. §§1171.1 – 1171.5, the Commissioner may, under (40 P.S. §§1171.10, 1171.11) file an action in which the Commonwealth Court may impose the following civil penalties:
- (i) for each method of competition, act or practice which the company knew or should have known was in violation of the law, a penalty of not more than five thousand dollars (\$5,000.00);
 - (ii) for each method of competition, act or practice which the company did not know nor reasonably should have known was in violation of the law, a penalty of not more than one thousand dollars (\$1,000.00).

ORDER

5. In accord with the above Findings of Fact and Conclusions of Law, the Insurance Department orders and Respondent consents to the following:


- (a) Respondent shall cease and desist from engaging in the activities described herein in the Findings of Fact and Conclusions of Law.
- (b) Respondent shall pay Forty Thousand Dollars (\$40,000.00) in settlement of all violations contained in the Report.

- (c) Payment of this matter shall be made to the Commonwealth of Pennsylvania. Payment should be directed to April Phelps, Insurance Department, Bureau of Market Actions, 1227 Strawberry Square, Harrisburg, Pennsylvania 17120. Payment must be made no later than thirty (30) days after the date of this Order.
- (d) Respondent shall file an affidavit stating under oath that it will provide each of its directors, at the next scheduled directors meeting, a copy of the adopted Report and related Orders. Such affidavit shall be submitted within thirty (30) days of the date of this Order.
- (e) Respondent shall comply with all recommendations contained in the attached Report.

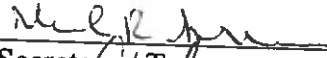
6. In the event the Insurance Department finds that there has been a breach of any of the provisions of this Order, based upon the Findings of Fact and Conclusions of Law contained herein may pursue any and all legal remedies available, including but not limited to the following: The Insurance Department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

7. Alternatively, in the event the Insurance Department finds that there has been a breach of any of the provisions of this Order, the Department may declare this Order to be null and void and, thereupon, reopen the entire matter for appropriate action pursuant to the Administrative Agency Law, supra, or other relevant provision of law.
8. In any such enforcement proceeding, Respondent may contest whether a breach of the provisions of this Order has occurred but may not contest the Findings of Fact and Conclusions of Law contained herein.
9. Respondent hereby expressly waives any relevant statute of limitations and application of the doctrine of laches for purposes of any enforcement of this Order.
10. This Order constitutes the entire agreement of the parties with respect to the matters referred to herein, and it may not be amended or modified except by an amended order signed by all the parties hereto.
11. This Order shall be final upon execution by the Insurance Department. Only the Insurance Commissioner or a duly authorized delegee is authorized to bind the Insurance Department with respect to the settlement of the alleged violations of law contained herein, and this Consent Order is not effective until executed by the Insurance Commissioner or a duly authorized delegee.

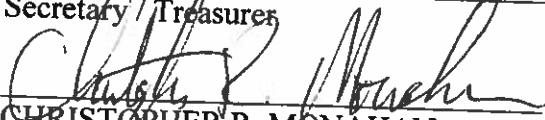
BY: FRANKLIN INSURANCE COMPANY
Respondent



President / Vice President



Secretary / Treasurer



CHRISTOPHER R. MONAHAN
Deputy Insurance Commissioner
Commonwealth of Pennsylvania

I. INTRODUCTION

The Market Conduct Examination was conducted at the office of Franklin Insurance Company, hereinafter referred to as "Company", located in Cedar Rapids, Iowa, from July 30, 2018, through August 10, 2018. Subsequent review and follow-up was conducted in the office of the Pennsylvania Insurance Department.

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

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

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

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

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

**Kelly Krakowski, MCM
Market Conduct Division Chief
Pennsylvania Insurance Department**

**Paul Towsen
Market Conduct Examiner
Pennsylvania Insurance Department**

**Nanette Soliday
Market Conduct Examiner
Pennsylvania Insurance Department**

II. SCOPE OF EXAMINATION

The Market Conduct Examination was conducted on Franklin Insurance Company, at their office located in Cedar Rapids, Iowa. The examination was conducted pursuant to Sections 903 and 904 (40 P.S. §§323.3 and 323.4) of the Insurance Department Act of 1921 and covered the experience period of January 1, 2017, through December 31, 2017, unless otherwise noted. The purpose of the examination was to determine the Company's compliance with Pennsylvania insurance laws and regulations.

The examination focused on Company operations in the following areas:

1. **Private Passenger Automobile**
 - Underwriting – Appropriate and timely notices of nonrenewal, midterm cancellations, 60-day cancellations and declinations.
 - Rating – Proper use of all classification and rating plans and procedures.
2. **Personal Property**
 - Underwriting – Appropriate and timely notices of nonrenewal, midterm cancellations, 60-day cancellations and declinations.
 - Rating – Proper use of all classification and rating plans and procedures.
3. **Claims**
4. **Forms**
5. **Complaints**
6. **Data Integrity**

III. COMPANY HISTORY

Franklin Insurance Company was incorporated in the Commonwealth of Pennsylvania on May 16, 1997 and commenced business on December 2, 1997. The Company is a member of the United Fire Group of companies, which acquired the Company as part of the acquisition of Mercer Insurance Group, Inc. on March 28, 2011. All shares of the Company are 100% owned by Mercer Insurance Company, a wholly owned subsidiary of Mercer Insurance Group, Inc. a wholly owned subsidiary of United Fire & Casualty Company, a wholly owned subsidiary of the publicly traded United Fire Group, Inc.

LICENSING

Franklin Insurance Company's Certificate of Authority to write business in the Commonwealth was last issued on April 1, 2018. The Company is licensed in Pennsylvania. The Company's 2017 annual statement reflects Direct Written Premium for all lines of business in the Commonwealth of Pennsylvania as \$4,123,137. Premium volume related to the areas of this review were: Fire \$40,784; Homeowners Multiple Peril \$1,705,545; Private Passenger Automobile Direct Written Premium was reported as Private Passenger Auto No-Fault (Personal Injury Protection) \$247,527; Other Private Passenger Auto Liability \$709,894; and Private Passenger Auto Physical Damage \$1,282,237.

IV. UNDERWRITING PRACTICES AND PROCEDURES

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

The following findings were made:

1 Violation 40 P.S. §1171.4

Unfair methods of competition and unfair or deceptive acts or practices prohibited. No person shall engage in this state in any trade practice which is defined or determined to be an unfair method of competition or an unfair or deceptive act or practice in the business of insurance pursuant to this act. The Company cannot require all vehicles within the household to be written by the Company.

2 Violations 40 P.S. §1171.5(a)(4)

States that "Unfair Methods of Competition" and "Unfair or Deceptive Act or Practices" prohibits unfairly discriminating by means of entering into any agreement to commit, or by any concerted action committing, any act or boycott, coercion or intimidation resulting in or tending to result in unreasonable restraint of, or monopoly in, the business of insurance. The Company's dwelling fire guidelines require supporting business and the

homeowner guidelines require supporting business to write a seasonal/secondary dwelling.

9 Violations 40 P.S. §1171.5(a)(7)(iii)

Unfair Methods of Competition and Unfair or Deceptive Acts or Practices Defined. “Unfair Methods of Competition” and “Unfair or Deceptive Practices” in the business of insurance means: Unfairly discriminating by means of: Making or permitting any unfair discrimination between individuals of the same class and essentially the same hazard with regard to underwriting standards and practices or eligibility requirements by reason of race, religion, nationality or ethnic group, age, sex, family size, occupation, place of residence or marital status. The terms “underwriting standards and practices” or “eligibility rules” do not include the promulgation of rates if made or promulgated in accordance with the appropriate rate regulatory act of this Commonwealth and regulations promulgated by the Commissioner pursuant to such act. The Company’s automobile underwriting guidelines indicated age was used as criteria to discriminate in 9 different instances.

2 Violations 40 P.S. §991.2003(a)(8)

Discrimination prohibited. An insurer may not cancel or refuse to write or renew a policy of automobile insurance for any of the following reasons: Marital status. The Company’s automobile underwriting guidelines indicated marital status was used as criteria to discriminate in 2 different instances.

4 Violations 40 P.S. §991.2003(a)(10)

An insurer may not cancel or refuse to write or renew a policy of automobile insurance due to lawful occupation (including military service). The Company's automobile underwriting guidelines indicated occupation was used as criteria to discriminate in 4 different instances.

1 Violation 40 P.S. §991.2003(a)(11)

Discrimination Prohibited – (a) An insurer may not cancel or refuse to write or renew a policy of automobile insurance for the following reason: The refusal of another insurer to write a policy or the cancellation or refusal to renew an existing policy by another insurer. The Company's automobile underwriting guidelines indicated that insureds previously canceled, nonrenewed or rejected for cause are unacceptable and cannot be bound.

1 Violation 40 P.S. §991.2003(a)(12)

Discrimination Prohibited – (a) An insurer may not cancel or refuse to write or renew a policy of automobile insurance for the following reason: Illness or permanent or temporary disability where the insured can medically document that such illness or disability will not impair his ability to operate a motor vehicle. The Company cannot refuse to write an insurance policy based on a medical condition.

1 Violation 40 P.S. §991.2003(a)(13)(ii)

Discrimination Prohibited – An insurer may not cancel or refuse to write or renew a policy of automobile insurance for any of the following reasons: Any accident that occurred under the following

circumstances: the applicant, owner or other resident operator is reimbursed by or on behalf of a person who is responsible for the accident or has judgment against such person. The Company cannot discriminate using not at-fault accidents.

3 Violations 40 P.S. §991.2003(a)(13)(ix)

Discrimination Prohibited – An insurer may not cancel or refuse to write or renew a policy of automobile insurance for any of the following reason: Accidents which occurred more than thirty-six (36) months prior to the later of the inception of the insurance policy or the upcoming anniversary date of the policy. The Company cannot refuse to write an insurance policy based on accidents using a five year period.

V. UNDERWRITING

A. Private Passenger Automobile

1. 60-Day Cancellations

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

The primary purpose of the review was to determine compliance with Act 68, Section 2003 (40 P.S. §991.2003), which establishes conditions under which action by the insurer is prohibited. These files were also reviewed for compliance with Act 68, Section 2002(b)(3) (40 P.S. §991.2002(b)(3)), which requires an insurer who cancels a policy of automobile insurance in the first 60 days, to supply the insured with a written statement of the reason for cancellation.

The universe of 14 private passenger automobile policies cancelled within the first 60 days of new business was selected for review. All 14 files requested were received and reviewed. Of the 14 files reviewed, 2 files were identified as midterm cancellations. The 2 violations noted were based on 2 files, resulting in an error ratio of 14%.

The following findings were made:

2 Violations 40 P.S. §991.2006

Requires that an insurer supply the insured with a written statement of the reason for cancellation. The Company failed to provide a cancellation notice to the insured for the 2 files noted.

2. Mid-term Cancellations

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

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

From the universe of 459 private passenger automobile policies which were cancelled midterm, 75 files were selected for review. All 75 files requested were received and reviewed. The 47 violations noted were based on 20 files, resulting in an error ratio of 27%.

The following findings were made:

4 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 4 files noted were cancelled for other than permitted reasons.

9 Violations 40 P.S. §991.2006

Requires that cancellation by an insurer of a policy of automobile insurance shall not be effective unless the insurer delivers or mails to the insured a written notice of the cancellation. The 9 files noted did not contain any evidence that a cancellation notice was sent to the insured.

7 Violations 40 P.S. §991.2006(1)

Requires that a cancellation notice be in a form acceptable to the Insurance Commissioner. The 7 files noted did not contain a cancellation notice in a form acceptable to the Insurance Commissioner.

6 Violations 40 P.S. §991.2006(2)

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 Company failed to provide 15 days mailing notice prior to the cancellation effective date for the 6 files noted.

7 Violations 40 P.S. §991.2006(5)

Requires that either in the cancellation notice or in an accompanying statement, the insured be advised of this possible eligibility for insurance through the automobile assigned risk plan. The Company failed to provide the

Assigned Risk information on the cancellation notice, to include address and/or telephone number for the 7 files noted.

7 Violations 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. The Company failed to provide a statement that the insured must obtain compulsory automobile insurance coverage on the cancellation notice for the 7 files noted.

7 Violations 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 (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 Company failed to provide a statement on the cancellation notice relating to suspension of operating privilege for failure to respond to a citation for the 7 files noted.

The following concerns were noted:

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

CONCERN: The Company is not retaining the original Notice of Cancellation that is mailed to the insured. While the Company did generate a copy of the Notice of Cancellation showing it has the same information as the producer and Company copies, the Company should retain the customer copy in the same document storage system where the producer and Company copies are stored.

3. Nonrenewals

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

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

From the universe of 358 private passenger automobile policies nonrenewed during the experience period, 75 files were selected for review. All 75 files requested were received and reviewed. Of the 75 files reviewed, two files were noted as midterm cancellations. No violations were noted.

The following concerns were noted:

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

CONCERN: The Company is not retaining the original Notice of Cancellation that is mailed to the insured. While the Company did generate a copy of the Notice of Cancellation showing it has the same information as the producer and Company copies, the Company should retain the customer copy in the same document storage system where the producer and Company copies are stored.

4. Declinations

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

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

The universe of 10 declinations for private passenger automobile insurance was selected for review. All 10 files requested were received and reviewed. It was noted that four of the files were not declinations. The 6 violations noted were based on 6 files, resulting in an error ratio of 60%.

The following findings were made:

6 Violations 40 P.S. §991.2008(b)

Any applicant for a policy who is refused such policy by an insurer shall be given a written notice of refusal to write by the insurer. Such notice shall state the specific reason or reasons of the insurer for refusal to write a policy for the applicant. Within 30 days of the receipt of such reasons, the applicant may request in writing to the Insurance Commissioner that he review the action of the insurer in refusing to write a policy for the applicant. The Company failed to provide a written notice of refusal to write for the 6 files noted.

B. Personal Property

1. 60-Day Cancellations

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

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

The universe of 8 property policies cancelled within the first 60 days of new business was selected for review. The property files consisted of homeowners and tenant homeowners. All 8 files requested were received and reviewed. No violations were noted.

The following concern was noted:

CONCERN: The Company is not retaining the original Notice of Cancellation that is mailed to the insured. While the Company did generate a copy of the Notice of Cancellation showing it has the same information as the producer and Company copies, the Company should retain the customer copy in the same document storage system where the producer and Company copies are stored.

2. Mid-term Cancellations

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

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

From the universe of 190 property policies which were cancelled midterm during the experience period, 75 files were selected for review. The property files consisted of homeowners, tenant homeowners and owner occupied dwelling fire. All 75 files were received and reviewed. Of the 75 files reviewed, one file was identified as a nonrenewal. The 44 violations noted were based on 22 files, resulting in an error ratio of 29%.

The following findings were made:

1 Violation 40 P.S. §636.1

Requires that basic property insurance shall be continued one hundred and eighty days after the death of the named insured on the policy or until the sale of the property, whichever event occurs first provided that the premiums for the coverage are paid. The Company failed to provide coverage 180 days after the death of the named insured for the file noted.

2 Violations 40 P.S. §1171.5(a)(9)

Prohibits canceling any policy of insurance covering owner-occupied private residential properties or personal property of individuals that has been in force for sixty days or more or refusing to renew any such policy unless the policy was obtained through material misrepresentation, fraudulent statements, omissions or concealment of fact material to the acceptance of the risk or to the hazard assumed by the company; or there has been a substantial change or increase in hazard in the risk assumed by the company subsequent to the date the policy was issued; or there is a substantial increase in hazards insured against by reason of willful or negligent acts or omissions by the insured; or the insured has failed to pay any premium when due or for any other reasons approved by the Commissioner. The Company failed to provide a valid reason for cancellation for the 2 files noted.

20 Violations 40 P.S. §1171.5(a)(9)(i)

Requires that a cancellation notice be approved as to form by the Insurance Commissioner prior to use. The Company

failed to provide a cancellation notice that was approved by the Insurance Commissioner for the 20 files noted.

1 Violation 40 P.S. §1171.5(a)(9)(iii)

Requires that a cancellation notice shall state the specific reason or reasons of the insurer for cancellation. The Company failed to provide a specific reason for cancellation for the file noted.

20 Violations 40 P.S. §1171.5(a)(9)(v)

Requires that a cancellation notice shall advise the insured of his possible eligibility for insurance under the act of July 31, 1968 (P.L. 738, No. 233), known as "The PA Fair Plan Act". The Company failed to provide the Fair Plan contact information on the cancellation notice, to include the address and/or telephone number for the 20 files noted.

The following concerns were noted:

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

CONCERN: The Company is not retaining the original Notice of Cancellation that is mailed to the insured. While the Company did generate a copy of the Notice of Cancellation showing it has the same information as the producer and Company copies, the Company should retain the customer

copy in the same document storage system where the producer and Company copies are stored.

3. Nonrenewals

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

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

From the universe of 506 property policies which were nonrenewed during the experience period, 75 files were selected for review. The property files consisted of homeowners, tenant homeowners and owner occupied dwelling fire. All 75 files were received and reviewed. Of the 75 files reviewed, four files were noted as midterm cancellations. No violations were noted.

The following concern was noted:

CONCERN: The Company is not retaining the original Notice of Cancellation that is mailed to the insured. While the Company did generate a copy of the Notice of Cancellation showing it has the same information as the producer and Company copies, the Company should retain the customer copy in the same document storage system where the producer and Company copies are stored.

4. Declinations

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

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

The universe of one property declination was selected for review. The file requested was received and reviewed. The violation resulted in an error ratio of 100%.

The following finding was made:

1 Violation 40 P.S. §1171.5(a)(4)

Prohibits unfair methods of competition and unfair or deceptive acts or practices by entering into any agreement to commit, or by any concerted action committing, any act or boycott, coercion or intimidation resulting in or tending to result in unreasonable restraint of, or monopoly in the business of insurance. The Company required supporting business to write a policy.

VI. CLAIMS

The Company was requested to provide copies of all established written claim handling procedures utilized during the experience period. Written claim handling procedures were received and reviewed for any inconsistencies, which could be considered discriminatory, specifically prohibited by statute or regulation, or unusual in nature.

The Claims review consisted of the following areas of review:

- A. Automobile Property Damage Claims
- B. Automobile Comprehensive Claims
- C. Automobile Collision Claims
- D. Automobile Total Loss Claims
- E. Automobile First Party Medical Claims
- F. Homeowner Claims
- H. Tenant Homeowner Claims
- I. Dwelling Fire Claims

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

A. Automobile Property Damage Claims

From the universe of 115 private passenger automobile property damage liability claims reported during the experience period, 75 files were selected for review. All 75 files selected were received and reviewed. Of the 75 files reviewed, three files were identified as total loss claims.

The 33 violations noted were based on 29 files, resulting in an error ratio of 39%.

The following findings were made:

13 Violations 31 Pa. Code §62.3

An appraisal shall meet all applicable standards per statute. The Company failed to provide an appraisal that meets all applicable standards per statute for the 13 claim files noted.

18 Violations 31 Pa. Code §146.6

Every insurer shall complete investigation of a claim within 30 days after notification of the claim, unless such investigation cannot be reasonably be completed within 30 days, and every 45 days thereafter, the insurer shall provide the claimant with a reasonable written explanation for the delay and state when a decision on the claim may be expected. The Company did not provide timely status letters for the 18 claim files noted.

1 Violation 31 Pa. Code §146.7(a)(1)

Acceptance or denial of a claim shall comply with the following: Within 15 working days after receipt by the insurer of properly executed proofs of loss, the first-party claimant shall be advised of the acceptance or denial of the claim by the insurer. An insurer may not deny a claim on the grounds of a specific policy provision, condition or exclusion unless reference to the provision, condition or exclusion is included in the denial. The denial shall be given to the

claimant in writing and the claim file of the insurer shall contain a copy of the denial. The Company failed to issue a denial letter to the claimant within 15 working days for the claim file noted.

1 Violation 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 claim file noted did not reflect a Pennsylvania certificate of title was obtained.

The following concern was noted:

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

B. Automobile Comprehensive Claims

From the universe of 117 private passenger automobile comprehensive claims reported during the experience period, 40 files were selected for review. All 40 files selected were received and reviewed. Of the 40 files reviewed, one file was identified as a total loss claim. The 12 violations noted were based on 12 files, resulting in an error ratio of 30%.

The following findings were made:

10 Violations 31 Pa. Code §62.3

An appraisal shall meet all applicable standards per statute. The Company failed to provide an appraisal that meets all applicable standards per statute for the 10 claim files noted.

1 Violation 31 Pa. Code §146.6

Every insurer shall complete investigation of a claim within 30 days after notification of the claim, unless such investigation cannot be reasonably be completed within 30 days, and every 45 days thereafter, the insurer shall provide the claimant with a reasonable written explanation for the delay and state when a decision on the claim may be

expected. The Company did not provide timely status letters for the claim file noted.

1 Violation 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 claim file noted did not reflect a Pennsylvania certificate of salvage was obtained.

C. Automobile Collision Claims

From the universe of 132 private passenger automobile collision claims reported during the experience period, 50 files were selected for review.

All 50 files selected were received and reviewed. Of the 50 files reviewed, three files were identified as total loss claims. The 35 violations noted were based on 28 files, resulting in an error ratio of 56%.

The following findings were made:

24 Violations 31 Pa. Code §62.3

An appraisal shall meet all applicable standards per statute. The Company failed to provide an appraisal that meets all applicable standards for the 24 claim files noted.

1 Violation 31 Pa. Code §62.3(e)(7)

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

6 Violations 31 Pa. Code §146.6

Every insurer shall complete investigation of a claim within 30 days after notification of the claim, unless such investigation cannot be reasonably be completed within 30 days, and every 45 days thereafter, the insurer shall provide the claimant with a reasonable written explanation for the

delay and state when a decision on the claim may be expected. The Company did not provide timely status letters for the 6 claim files noted.

2 Violations 31 Pa. Code §146.7(a)(1)

Within 15 working days after receipt by the insurer of properly executed proofs of loss, the first-party claimant shall be advised of the acceptance or denial of the claim by the insurer. The Company failed to provide acceptance or denial of the claim within 15 working days for one file and failed to deny the claim in writing for the remaining file.

2 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 Company failed to provide the Pennsylvania certificate of salvage for the 2 claim files noted.

The following concern was noted:

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

D. Automobile Total Loss Claims

From the universe of 40 private passenger automobile total loss claims reported during the experience period, 30 files were selected for review. All 30 files selected were received and reviewed. Of the 30 files reviewed, one file was identified as a comprehensive claim. The 22 violations noted were based on 16 files, resulting in an error ratio of 53%.

The following findings were made:

11 Violations 31 Pa. Code §62.3

An appraisal shall meet all applicable standards per statute. The Company failed to provide an appraisal that meets all applicable standards for the 11 claim files noted.

3 Violations 31 Pa. Code §62.3(e)(7)

The appraiser is responsible for ensuring that a copy of the total loss evaluation report be sent within 5 working days to the consumer by the appraiser after the appraisal is completed. If a settlement offer is extended before the consumer receives the total loss evaluation report, the consumer shall be advised of the total loss evaluation report's contents and of the consumer's right to be sent a copy within 5 days after its completion. The Company did not provide a copy of the total loss evaluation to the consumer within 5 working days for the 3 claim files noted.

1 Violation 31 Pa. Code §146.7(a)(1)

Within 15 working days after receipt by the insurer of properly executed proofs of loss, the first-party claimant shall be advised of the acceptance or denial of the claim by the insurer. The Company failed to provide acceptance or denial of the claim.

2 Violations 31 Pa. Code §146.6

Every insurer shall complete investigation of a claim within 30 days after notification of the claim, unless such investigation cannot be reasonably be completed within 30 days, and every 45 days thereafter, the insurer shall provide the claimant with a reasonable written explanation for the delay and state when a decision on the claim may be expected. The Company did not provide timely status letters for the 2 claim files noted.

5 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 Company failed to provide the Pennsylvania certificate of salvage for the 5 claim files noted.

E. Automobile First Party Medical Claims

The universe of 33 private passenger automobile first party medical claims reported during the experience period was selected for review. All 33 files selected were received and reviewed. The 19 violations noted were based on 9 files, resulting in an error ratio of 27%.

The following findings were made:

9 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 the medical bills within 30 days for the 9 claim files noted.

1 Violation 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 to the claimant within ten working days for the claim file noted.

9 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 9 claims that were not paid within 30 days.

The following concern was noted:

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

F. Homeowner Claims

From the universe of 182 homeowner claims reported during the experience period, 75 files were selected for review. All 75 files were received and reviewed. The 37 violations noted were based on 29 files, resulting in an error ratio of 39%.

The following findings were made:

29 Violations 31 Pa. Code §146.6

Every insurer shall complete investigation of a claim within 30 days after notification of the claim, unless such investigation cannot be reasonably be completed within 30 days, and every 45 days thereafter, the insurer shall provide the claimant with a reasonable written explanation for the delay and state when a decision on the claim may be expected. The Company did not provide timely status letters for the 29 claim files noted.

8 Violations 31 Pa. Code §146.7(a)(1)

Acceptance or denial of a claim shall comply with the following: Within 15 working days after receipt by the insurer of properly executed proofs of loss, the first-party claimant shall be advised of the acceptance or denial of the claim by the insurer. An insurer may not deny a claim on the grounds of a specific policy provision, condition or exclusion unless reference to the provision, condition or exclusion is included in the denial. The denial shall be given to the claimant in writing and the claim file of the insurer shall contain a copy of the denial. The Company failed to accept or deny the claim within 15 days for the 8 claim files noted.

The following concern was noted:

CONCERN: In some of the files reviewed, the Company closes a claim file with no payment and is not providing the policyholder/claimant with written notice indicating its action. The Company should provide policyholders/claimants with written notice when a claim file is being closed with no payment.

G. Tenant Homeowner Claims

The universe of two tenant homeowner claims reported during the experience period was selected for review. The 2 violations noted were based on 1 file, resulting in an error ratio of 50%.

The following findings were made:

1 Violation 31 Pa. Code §146.6

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

1 Violation 31 Pa. Code §146.7(a)(1)

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

H. Dwelling Fire Claims

The universe of 1 dwelling fire claim reported during the experience period was selected for review. The file was received and reviewed. No violations were noted.

VII. FORMS

Throughout the course of the examination, all underwriting files were reviewed to identify the policy forms used in order to verify compliance with the Insurance Company Law, Section 354 (40 P.S. §477b), Approval of Policies, Contracts, etc., Prohibiting the Use Thereof Unless Approved. During the experience period of the examination, Section 354 provided that it shall be unlawful for any insurance company to issue, sell, or dispose of any policy contract or certificate covering fire, marine, title and all forms of casualty insurance or use applications, riders, or endorsements in connection therewith, until the forms have been submitted to and formally approved by the Insurance Commissioner. All underwriting and claim files were also reviewed to verify compliance with 75 Pa. C.S. §1822, which requires all insurers to provide an insurance fraud notice on all applications for insurance, all claims forms and all renewals of coverage and 18 Pa. C.S. §4117(k)(1), which requires all insurers to provide an insurance fraud notice on all applications for insurance and all claim forms.

The following findings were made:

7 Violations 18 Pa. C.S. §4117(k)(1)

All applications for insurance and all claim forms shall contain or have attached thereto the following notice: Any person who knowingly and with intent to defraud any insurance company or other person files an application for insurance or statement of claim containing any materially false information or conceals for the purpose of misleading, information concerning any fact material thereto commits a fraudulent insurance act, which is a crime and subjects such person to criminal and civil penalties. The Company failed to provide the required fraud warning notice on 7 claim forms.

VIII. CONSUMER COMPLAINTS

The Company was requested to identify all consumer complaints received during the experience period and provide copies of their consumer complaint logs for the preceding four years. The Company identified 5 consumer complaints received during the experience period and provided all consumer complaint logs requested. The universe of 5 complaint files was selected for review. All 5 files requested were received and reviewed.

The purpose of the review was to determine compliance with the Unfair Insurance Practices Act, (40 P.S. §§1171.1 – 1171.5). Section 5(a)(11) of the Act (40 P.S. §1171.5(a)(11)), requires a company to maintain a complete record of all complaints received during the preceding four years. This record shall indicate the total number of complaints, their classification by line of insurance, the nature of each complaint, the disposition of these complaints and the time it took to process each complaint. The individual complaint files were reviewed for the relevancy to applicable statutes and to verify compliance with 31 Pa. Code §146.5(b)(c).

The following findings were made:

1 Violation 40 P.S. §1171.5(a)(9)

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

subsequent to the date the policy was issued; or there is a substantial increase in hazards insured against by reason of willful or negligent acts or omissions by the insured; or the insured has failed to pay any premium when due or for any other reasons approved by the Commissioner. The Company failed to provide a valid reason for cancellation.

4 Violations 40 P.S. §1171.5(a)(11)

Failure of any person to maintain a complete record of all the complaints which it has 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. For purposes of this paragraph, "complaint" means any written communication primarily expressing a grievance. The Company failed to maintain a complete complaint log for 2014 – 2017. The logs did not indicate the time it took to process each complaint, the number of total complaints, classification by line of insurance and did not maintain a listing of internal complaints.

The following concern was noted:

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

The following synopsis reflects the nature of the 5 complaints that were received.

3	Cancellation/Nonrenewal	60%
2	Claims Related	40%
<hr/> 5		<hr/> 100%

IX. DATA INTEGRITY

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

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

Automobile Declinations

Situation: The Company was asked to provide a list of all refusals to write, whether declined by the Company or by its agents, during the experience period. As the examiners reviewed the declination files of the underwriting section of the exam, it was noted that not all files selected for review were automobile declinations.

Finding: Of the 10 automobile declinations files reviewed, 4 applications were not declined by the Company.

Automobile 60 Day Cancellations

Situation: As the examiners reviewed the automobile 60 day cancellation files, it was noted that not all files selected for review were automobile 60 day cancellation files.

Finding: Of the 14 automobile 60 day cancellation files reviewed, two files were identified as automobile midterm cancellations.

Automobile Nonrenewals

Situation: As the examiners reviewed the automobile nonrenewal files of the automobile underwriting section of the exam, it was noted that not all files selected for review were automobile nonrenewals.

Finding: Of the 75 nonrenewal files received, two files were identified as automobile midterm cancellations.

Homeowner Midterm Cancellations

Situation: As the examiners reviewed the homeowner midterm cancellation files of the property underwriting section of the exam, it was noted that not all files selected for review were homeowner midterm cancellation files.

Finding: Of the 75 homeowner midterm cancellation files reviewed, one file was identified as a homeowner nonrenewal.

Homeowner Nonrenewals

Situation: As the examiners reviewed the homeowner nonrenewal files of the property underwriting sections of the exam, it was noted that not all files selected for review were homeowner nonrenewals.

Finding: Of the 75 homeowner nonrenewal files reviewed, 4 files were identified as homeowner cancellations.

Automobile Comprehensive Claims

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

Finding: Of the 40 automobile comprehensive claim files reviewed, one file was identified as a total loss claim.

Automobile Collision Claims

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

Finding: Of the 50 automobile collision claim files reviewed, three files were identified as total loss claims.

Automobile Property Damage Claims

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

Finding: Of the 75 automobile property damage claim files reviewed, three files were identified as total loss claims.

Automobile Total Loss Claims

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

Finding: Of the 30 automobile total loss claim files reviewed, one file was identified as a comprehensive claims.

The following finding was made:

General Violation 40 P.S. §323.4(b)

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 was the result of a failure to exercise sufficient due diligence to ensure compliance with Insurance Department Act of 1921.

XV. RECOMMENDATIONS

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

1. The Company must reinforce its internal data controls to ensure that all records and documents are maintained in accordance with 40 P.S. §323.4(b), so that violations noted in the Report do not occur in the future.
2. 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 status letters, providing necessary claim forms and acceptance and denials, as noted in the Report, do not occur in the future.
3. Company must review 31 Pa. Code §62.3 with its claim staff to ensure all appraisal requirements are met so the violations noted in the Report do not occur in the future.
4. The Company must review 18 Pa. C.S. §4117(k)(1) to ensure that violations regarding the requirement of a fraud warning on all claim forms, as noted in the Report, do not occur in the future.
5. The Company must review 31 Pa. Code §69.52(b) with its claim staff to ensure that first party medical bills are paid within 30 days.

6. The Company must review 75 Pa. C.S. §1716 with its claim staff to ensure interest is paid on claims not paid within 30 days.
7. The Company must review 31 Pa. Code §62.3(e)(7) with its claim staff to ensure that the consumer receives the total loss evaluation report within 5 working days after the appraisal is completed.
8. The Company must review 75 Pa. C.S. §1161(a)&(b) with its claim staff to ensure that Pennsylvania salvage certificates are obtained and are retained with the claim file.
9. The Company must review 40 P.S. §1171.5(a)(9) to ensure that violations regarding the requirements for cancellation notices, as noted in the Report, do not occur in the future.
10. The Company must review 40 P.S. §1171.5(a)(11) to ensure that a complete complaint log is maintained.
11. The Company must review and revise internal control procedures to ensure compliance with nonrenewal and cancellation notice requirements of 40 P.S. §§991.2004 and 991.2006, so that the violations noted in the Report do not occur in the future.
12. The Company must review and revise internal procedures to ensure compliance with notice requirements of 40 P.S. §991.2008, so that the violations regarding refusals to write as noted in the Report do not occur in the future.

13. The Company must review 40 P.S. §636.1 regarding the cancellation of property insurance after the death of the named insured to ensure that basic property coverage is maintained at least 180 days.
14. The Company must review 40 P.S. §1171.5(a)(4) to ensure that the violations relative to supporting coverage, as noted in the Report, do not occur in the future.
15. The Company must revise and reissue their underwriting guidelines for use in Pennsylvania to ensure that the guidelines do not exclude applicants from being eligible to obtain insurance for reasons established in 40 P.S. §991.2003.
16. The Company must review 40 P.S. §1171.5(a)(7)(iii) to ensure that violations regarding refusal to write based on age, as noted in the Report, do not occur in the future.
17. The Company must review 40 P.S. §1171.4 to ensure that violations requiring all vehicles in the household to be written by the Company, as noted in the Report, do not occur in the future.

XVI. COMPANY RESPONSE



United Fire & Casualty Company
 United Fire & Indemnity Company
 United Fire Lloyds
 UFG Specialty Insurance Company
 Addison Insurance Company
 Financial Pacific Insurance Company
 Franklin Insurance Company
 Lafayette Insurance Company
 Mercer Insurance Company
 Mercer Insurance Company
 of New Jersey, Inc

VIA UPS OVERNIGHT DELIVERY

2/12/19

Commonwealth of Pennsylvania Insurance Dep't
 c/o Ms. Constance Arnold, Director
 Bureau of Market Actions
 1321 Strawberry Square
 Harrisburg, PA 17120

RE: Market Conduct Examination for Franklin Insurance Company
Examination Warrant Number: 18-M36012
COMPANY RESPONSE TO EXAMINATION REPORT

Dear Ms. Arnold:

Enclosed is Franklin Insurance Company's Action Plan in response to the Examination Report.

Please let me know if you have questions.

Thank you.

Very truly yours,

FRANKLIN INSURANCE COMPANY

Allen Sorensen

Allen Sorensen, CPCU, INS, MBA
 VP & Corporate Underwriting Manager

AS/bas

Franklin Insurance Company

Company Action Plan

February 12, 2019

	Recommendation	Company Action Plan
1	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(b), so that violations noted in the Report do not occur in the future.	The Company is developing a plan to address the Department's data integrity findings. We are in the process of implementing new procedures in both Claims and Personal Lines to ensure data accuracy, pursuant to 40 P.S. § 323.4(b).
2	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 status letters, providing necessary claim forms and acceptance and denials, as noted in the Report, do not occur in the future.	The Company has conducted, and will continue to conduct, regular training and monitoring to ensure compliance with 31 Pa. Code, Chapter 146, Unfair Claims Settlement Practices.
3	Company must review 31 Pa. Code 62.3 with its claim staff to ensure all appraisal requirements are met so the violations noted in the Report do not occur in the future.	The Company will implement appraisal requirements outlined in 31 Pa. Code 62.3 to ensure future compliance.
4	The Company must review 18 Pa. C.S. 4117(k)(1) to ensure that violations regarding the requirement of a fraud warning on all claim forms, as noted in the Report, do not occur in the future.	The Company is undergoing an inventory of its claim forms to ensure the appropriate fraud warning exists on all claim forms pursuant to 18 Pa. C.S. 4117(k)(1).
5	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.	The Company has conducted, and will continue to conduct, regular training and monitoring to ensure compliance with 31 Pa. Code, Chapter 69.52(b), paying first party medical bills within 30 days and with 75 Pa. C.S. 1716, paying any interest on first party medical bills not paid within 30 days.
6	The Company must review 75 Pa. C.S. 1716 with its claims staff to ensure interest is paid on claims not paid within 30 days.	The Company has conducted, and will continue to conduct, regular training and monitoring to ensure compliance with 31 Pa. Code, Chapter 69.52(b), paying first party medical bills within 30 days and with 75 Pa. C.S. 1716, paying any interest on first party medical bills not paid within 30 days.
7	The Company must review 31 Pa. Code 62.3 (e)(7) with its claim staff to ensure that the consumer receives the total loss evaluation report within 5 working days after the appraisal is completed.	Automation and a dedicated total loss claims team is in development to address compliance of handling total loss claims under 31 Pa. Code 62.3 (e)(7).

8	The Company must review 75 Pa. C.S. 1161 (a) & (b) with its claim staff to ensure that Pennsylvania salvage certificates are obtained and are retained with the claim file.	Automation and a dedicated total loss claims team is in development to address compliance of handling total loss claims under 75 Pa. C.S. 1161 (a) & (b).
9	The Company must review 40 P.S. 1171.5 (a)(9) to ensure that violations regarding the requirements for cancellation notices, as noted in the Report, do not occur in the future.	The Company has conducted internal training with underwriters involved with the state of Pennsylvania to ensure the state statutes are followed regarding acceptable cancellation notice procedures going forward.
10	The Company must review 40 P.S. 1171.5(a)(11) to ensure that a complete complaint log is maintained.	The Company is in the process of developing a more comprehensive centralized registry that will comply in all respects to 40 P.S. 1171.5(a)(11).
11	The Company must review and revise internal controls procedures to ensure compliance with nonrenewal and cancellation notice requirements of 40 P.S. 991.2004 and 991.2006, so that the violations noted in the Report do not occur in the future.	The Company has conducted internal training with underwriters involved with the state of Pennsylvania to ensure the state statute is followed regarding acceptable underwriting reasons for cancellation or non-renewal. The Company will continue internal file audits to ensure accuracy.
12	The Company must review and revise internal procedures to ensure compliance with notice requirements of 40 P.S. 991.2008, so that the violations regarding refusals to write as noted in the Report do not occur in the future.	The Company has conducted internal training with underwriters involved with the state of Pennsylvania to ensure the proper process for rejecting an application is compliant with the state statute with respect to required notification to the applicant or obtaining a signed request for cancellation/application rejection from the applicant. The Company will continue its ongoing efforts to ensure this change has been properly effected and consistently applied.
13	The Company must review 40 P.S. 636.1 regarding the cancellation of property insurance after the death of the named insured to ensure that the basic property coverage is maintained at least 180 days.	The Company has conducted internal training with underwriters involved with the state of Pennsylvania to ensure adherence to the cancellation statute regarding the 180 days of basic property coverage after the death of a named insured, and we will continue to monitor to ensure our new procedures are implemented correctly and consistently applied.
14	The Company must review 40 P.S. 1171.5(a)(4) to ensure that the violations relative to supporting coverage, as noted in the Report, do not occur in the future.	The Company is changing our guidelines regarding seasonal dwellings requiring primary home coverage to be written. The Company will now offer coverage to these dwellings in our Dwelling Fire program. The Company has conducted internal training with underwriters involved with the state of Pennsylvania regarding this change to guidelines, and we will ensure implementation and continuing adherence to this change.

15	<p>The Company must revise and reissue their underwriting guidelines for use in Pennsylvania to ensure that the guidelines do not exclude applicants from being eligible to obtain insurance for reasons established in 40 P.S. 991.2003.</p>	<p>The Company is currently modifying our guidelines to ensure that they do not exclude applicants from being eligible to obtain insurance for reasons established in 40 P.S. 991.2003. All relevant underwriters have been trained in the new guidelines, and we will work to ensure the new guidelines are consistently implemented, applied and followed through internal audit controls.</p>
16	<p>The Company must review 40 P.S. 1171.5(a)(7)(iii) to ensure that violations regarding refusal to write based on age, as noted in the Report, do not occur in the future.</p>	<p>The Company is currently modifying our guidelines to ensure that the Company does not refuse to write based on age pursuant to 40 P.S. 1171.5(a)(7)(iii). All relevant underwriters have been trained in the new guidelines, and we will work to ensure the new guidelines are consistently implemented, applied and followed through internal audit controls.</p>
17	<p>The Company must review 40 P.S. 1171.4 to ensure that the violations requiring all vehicles in the household to be written by the Company, as noted in the Report, do not occur in the future.</p>	<p>The Company is currently modifying our guidelines to ensure that the Company is adhering to 40 P.S. 1171.4 and removing the requirement that the violations requiring all vehicles in the household be written by the Company. All relevant underwriters have been trained in the new guidelines, and we will continue our efforts to monitor and ensure that the new guidelines are being applied correctly and consistently.</p>