



**COMMONWEALTH OF PENNSYLVANIA  
INSURANCE DEPARTMENT**

**MARKET CONDUCT  
EXAMINATION REPORT**

**OF**

**USAA GENERAL INDEMNITY  
COMPANY**  
San Antonio, TX

**As of: June 21, 2016  
Issued: August 22, 2016**

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

VERIFICATION

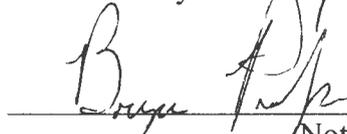
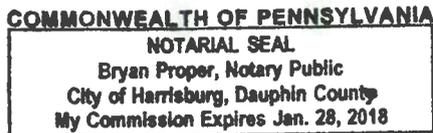
Having been duly sworn, I hereby verify that the statements made in the within document are true and correct to the best of my knowledge, information and belief. I understand that false statements made herein are subject to the penalties of 18 Pa. C.S. §4903 (relating to false swearing).



Karen A. Veronikis, Examiner-in-Charge

Sworn to and Subscribed Before me

This 16 Day of May, 2016

  
Notary Public

USAA GENERAL INDEMNITY COMPANY

TABLE OF CONTENTS

Order

I.	Introduction .....	1
II.	Scope of Examination .....	3
III.	Company History/Licensing .....	5
IV.	Underwriting Practices and Procedures .....	6
V.	Underwriting	
	A. Private Passenger Automobile .....	8
	B. Personal Property .....	16
VI.	Rating	
	A. Private Passenger Automobile .....	26
	B. Personal Property .....	36
VII.	Claims	
	A. Automobile Property Damage Claims .....	48
	B. Automobile Comprehensive Claims .....	49
	C. Automobile Collision Claims .....	50
	D. Automobile Total Loss Claims .....	50
	E. Automobile First Party Medical Claims .....	51
	F. Automobile First Party Medical Claims Referred to a PRO. . .	53
	G. Homeowners Claims .....	53
	H. Tenant Homeowners Claims .....	53

I. Dwelling Fire Owner Occupied Claims . . . . .	54
VIII. Forms . . . . .	55
IX. Advertising . . . . .	57
X. Complaints . . . . .	59
XI. Producer Licensing . . . . .	61
XII. Data Integrity . . . . .	62
XIII. MCAS Reporting . . . . .	65
A. Private Passenger Automobile . . . . .	65
B. Personal Property . . . . .	68
XIV. Recommendations . . . . .	72
XV. Company Response . . . . .	77

BEFORE THE INSURANCE COMMISSIONER  
OF THE  
COMMONWEALTH OF PENNSYLVANIA

**ORDER**

AND NOW, this 13<sup>th</sup> day of November, 2015, 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.

  
  
Teresa D. Miller  
Insurance Commissioner

BEFORE THE INSURANCE COMMISSIONER  
OF THE  
COMMONWEALTH OF PENNSYLVANIA

IN RE: : VIOLATIONS:  
: :  
USAA GENERAL INDEMNITY : 40 P.S. §323.4(b)  
COMPANY : :  
9800 Fredericksburg Road : 40 P.S. §§991.2001, 991.2003(a)(8)&(10)  
San Antonio, TX 78288 : 991.2006 and 991.2008(b)  
: :  
: 40 P.S. §§1171.3, 1171.5(a)(4)  
: 1171.5(a)(7)(ii), 1171.5(a)(9)  
: 1171.5(a)(9)(iv) and 1171.5(a)(11)  
: :  
: 40 P.S. §1184(a)&(h)  
: :  
: 18 Pa. Code §4117(k)(1)  
: :  
: 31 Pa. Code §§51.32(b), 51.61, 59.6(6)  
: 59.9(b), 62.3(d)(e)(i), 62.3(e)(7), 69.52(b)  
: 146.5(d) and 146.6  
: :  
: 75 Pa. C.S. §§1705(a)(1)&(4), 1716  
: 1791.1(b), 1793(b), 1793(c) and 1799.3(f)  
: :  
: :  
Respondent. : Docket No. MC16-07-018

CONSENT ORDER

AND NOW, this 22<sup>nd</sup> day of August, 2016, 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 USAA General Indemnity Company, and maintains its address at 9800 Fredericksburg Road, San Antonio, TX 78288.
  
- (b) A market conduct examination of Respondent was conducted by the Insurance Department covering the experience period from January 1, 2013 through December 31, 2013.

- (c) On June 21, 2016, the Insurance Department issued a Market Conduct Examination Report to Respondent.
- (d) A response to the Examination Report was provided by Respondent on July 22, 2016.
- (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. §991.2001 defines “renewal” or “to renew” as to issue and deliver at the end of an insurance policy period a policy which supersedes a policy previously issued and delivered by the same insurer and which provides types and limits of coverage at least equal to those contained in the policy being superseded, or to issue and deliver a certificate or notice extending the term of a policy beyond its policy period or term with types and limits of coverage at least equal to those contained in the policy being extended: Provided,

however, that any policy with a policy period or term of less than 12 months or any period with no fixed expiration date shall for the purpose of this article be considered as if written for successive policy periods or terms of 12 months;

- (iii) 40 P.S. §991.2003(a)(8)&(10) states that an insurer may not cancel or refuse to write or renew a policy of automobile insurance for the following reasons: marital status and lawful occupation (including military service);
- (iv) 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;
- (v) 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;
- (vi) 40 P.S. §1171.3 states that a “renewal” or “to renew” is to issue and deliver at the end of an insurance policy period a policy which supersedes a policy previously issued and delivered by the same insurer or affiliated insurance and

which provides types and limits of coverage at least equal to those contained in the policy being superseded, or to issue and deliver a certificate or notice extending the term of the policy beyond its policy period or term with types and limits of coverage at least equal to those contained in the policy being extended: Provided, however, That any policy with a policy period or term of less than twelve (12) months or any period with no fixed expiration date shall for the purpose of this article be considered as written for successive policy periods or terms of twelve (12) months;

- (vii) 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;
  
- (viii) 40 P.S. §1171.5(a)(7)(ii) "Unfair methods of competition" and "unfair or deceptive acts or practices" in the business of insurance means: ... Making or permitting any unfair discrimination between individuals of the same class and of essentially the same hazard in the amount of premium, policy, fees or rates charged for any policy or contract of insurance or in the benefits payable thereunder, or in any of the terms or conditions of such contract, or in any manner whatever;

- (ix) 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;
- (x) 40 P.S. §1171.5(a)(9)(iv), requires that a cancellation notice shall advise the insured of his right to request, in writing, within ten days of the receipt of the notice of cancellation or intention not to renew that the Insurance Commissioner review the action of the insurer;
- (xi) 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;
- (xii) 40 P.S. §1184(a)&(h), requires every insurer to file with the Insurance Commissioner every manual of classifications, rules and rates, every rating plan and every modification of any rating plan which it proposes to use in this

Commonwealth and prohibits an insurer from making or issuing a contract or policy with rates other than those approved;

- (xiii) 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;
  
- (xiv) 31 Pa. Code §51.32(b), states the source of any statistics used in an advertisement shall be identified in the advertisement, if the failure to so identify would have the capacity or tendency to mislead purchasers or prospective purchasers;
  
- (xv) 31 Pa. Code §51.61, states an advertisement for automobile liability or physical damage insurance coverage shall not invite a prospective insured to apply for a quotation of premium rate which the company would charge for such insurance unless if it is the company's intent and actual practice to refuse to render a quote to certain individuals or classes of individuals for any reason, the advertisement shall clearly and conspicuously disclose in prominent type, "WE RESERVE THE RIGHT TO REFUSE TO QUOTE ANY INDIVIDUAL A PREMIUM RATE FOR THE INSURANCE ADVERTISED HEREIN,"

and on the application for such quotation immediately in bold type or contrasting color state, “Do you understand that the company reserves the right to refuse to give you a quotation for automobile insurance; Yes \_\_\_ No \_\_\_?”;

- (xvi) 31 Pa. Code §59.6(6), states that if the reason for cancellation is a substantial change or increase in hazard, the insurer shall specify the changes or increased hazards it relied on for its actions. If the reason is the failure to pay a premium, the insurer shall specify the amount due, and the date when it was due;
- (xvii) 31 Pa. Code §59.9(b), requires an insurer give at least 30 days notice of termination and give that notice no later than the 60<sup>th</sup> day;
- (xviii) 31 Pa. Code §62.3(d)(e)(i), states the appraised value of the loss shall be the replacement value of the motor vehicle if the cost of repairing a motor vehicle exceeds its appraised value less salvage value, or the motor vehicle cannot be repaired to its predamaged condition. No other deductions may be taken for salvage and then only if the owner elects to retain the vehicle;
- (xix) 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;

- (xx) 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;
- (xxi) 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;
- (xxii) 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;
- (xxiii) 75 Pa. C.S. §1705(a)(1)&(4), requires every insurer, prior to the issuance of a private passenger motor vehicle liability insurance policy to provide each applicant 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 a standardized form as adopted by the Commissioner;

(xxiv) 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;

(xxv) 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;

(xxvi) 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;

(xxvii) 75 Pa .C.S. §1793(c), states when an insurer cancels a motor vehicle insurance policy within the first 60 days of new business, the insurer shall within 30 days of canceling the policy return to the insured all premiums paid under the policy less any proration for the period the policy was in effect. Premiums are overdue if not paid to the insured within 30 days after canceling the policy. Overdue return premiums shall bear interest at the rate of 12% per annum from the date the return premium became due;

(xxviii) 75 Pa. C.S. §1799.3(f), states if requested by the applicant, an agent for an insurer shall submit an application for automobile insurance to the insurer or provide the applicant written notice of the reasons for refusal to write on a form supplied by the insurer and approved by the Commissioner.

#### 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) Violations of 40 P.S. §§991.2001, 991.2003(a)(8)&(10), 991.2006 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).
- (c) Respondent's violations of 40 P.S. §§1171.3, 1171.5(a)(4), 1171.5(a)(7)(ii), 1171.5(a)(9), 1171.5(a)(9)(iv) 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.
- (d) 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).

- (e) Violations of Section 4 of the Casualty and Surety Rate Regulatory Act, No. 246 (40 P.S. §1184(a)&(h)) are punishable under Section 16 of the Act:
  - (i) imposition of a civil penalty not to exceed \$50 for each violation or not more than \$500 for each such willful violation;
  - (ii) suspension of the license of any insurer which fails to comply with an Order of the Commissioner within the time limited by such Order, or any extension thereof which the Commissioner may grant.
  
- (f) Respondent's violations of 31 Pa. Code §§146.5(d) and 146.6 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) Should Respondent fail to exercise sufficient due diligence to ensure compliance with 40 P.S. §323.4 in regard to data integrity, Respondent shall be subject to a \$10,000 penalty per violation, as well as any other sanctions or remedies as provided for by law.
- (c) Respondent shall pay One Hundred Thousand Dollars (\$100,000) to the Pennsylvania Insurance Department of which Seventy Five Thousand Dollars (\$75,000) is in settlement of all violations identified during the examination, and Twenty Five Thousand Dollars (\$25,000) is for reimbursement to the Department for costs and expenditure of resources associated with the exam.

- (d) 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.
- (e) Respondent shall file an affidavit stating under oath that it will provide each of its directors, at the next scheduled directors meeting, a copy of the adopted Report and related Orders. Such affidavit shall be submitted within thirty (30) days of the date of this Order.
- (f) Respondent shall comply with all recommendations contained in the attached Report.

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

7. Alternatively, in the event the Insurance Department finds that there has been a breach of any of the provisions of this Order, the Department may declare this Order to be null and void and, thereupon, reopen the entire matter for appropriate action pursuant to the Administrative Agency Law, supra, or other relevant provision of law.

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

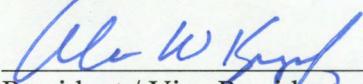
9. Respondent hereby expressly waives any relevant statute of limitations and application of the doctrine of laches for purposes of any enforcement of this Order.

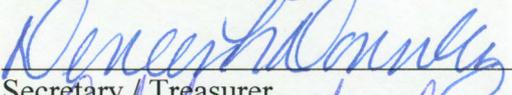
10. This Order constitutes the entire agreement of the parties with respect to the matters referred to herein, and it may not be amended or modified except by an amended order signed by all the parties hereto.

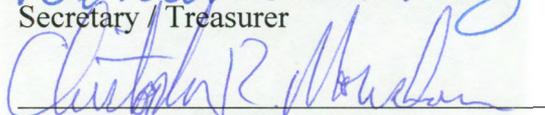
11. This Order shall be final upon execution by the Insurance Department. Only the Insurance Commissioner or a duly authorized delegee is authorized to bind the Insurance Department with respect to the settlement of the alleged violations of law contained

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

BY: USAA GENERAL INDEMNITY 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 USAA General Indemnity Company, hereinafter referred to as “Company,” located in San Antonio, Texas from January 5, 2015, through January 16, 2015. 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.

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

Kelly Krakowski  
Market Conduct Examiner  
Pennsylvania Insurance Department

Karen Veronikis  
Market Conduct Examiner  
Pennsylvania Insurance Department

Joshua Taylor  
Market Conduct Examiner Trainee  
Pennsylvania Insurance Department

Lindsi Breach  
Market Conduct Examiner Trainee  
Pennsylvania Insurance Department

Sean Betta  
Market Conduct Examiner  
AIG Services

## **II. SCOPE OF EXAMINATION**

The Market Conduct Examination was conducted on USAA General Indemnity Company, at its office located in San Antonio, Texas. 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, 2013, through December 31, 2013, 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. Advertising

6. Complaints

7. Producer Licensing

8. Data Integrity

9. MCAS Reporting

- Private Passenger Automobile
- Personal Property

### **III. COMPANY HISTORY**

The Company was incorporated under the laws of Texas on June 23, 1972 and started business on August 2 of that year. The company is a wholly owned subsidiary of USAA.

### **LICENSING**

USAA General Indemnity Company's Certificate of Authority to write business in the Commonwealth was last issued on April 1, 2014. The Company is licensed in all 50 states, District of Columbia, U.S. Virgin Islands, and Puerto Rico. The Company's 2013 annual statement reflects Direct Written Premium for all lines of business in the Commonwealth of Pennsylvania as \$29,955,564. Premium volume related to the areas of this review were: Fire \$336,036; Homeowners Multiple Peril \$8,439,061; Inland Marine \$286,993; Private Passenger Automobile Direct Written Premium was reported as Other Private Passenger Auto Liability \$9,295,145, Private Passenger Auto No-Fault (personal injury protection) \$1,176,371 and Private Passenger Auto Physical Damage \$8,228,355.

#### 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. Manuals and underwriting rule guides were furnished for private passenger automobile, homeowner, dwelling fire, and tenant-homeowner policies. 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. §991.2001*

States that a “renewal” or “to renew” is to issue and deliver at the end of an insurance policy period a policy which supersedes a policy previously issued and delivered by the same insurer or affiliated insurance and which provides types and limits of coverage at least equal to those contained in the policy being superseded, or to issue and deliver a certificate or notice extending the term of the policy beyond its policy period or term with types and limits of coverage at least equal to those contained in the policy being extended:

Provided, however, That any policy with a policy period or term of less than twelve (12) months or any period with no fixed expiration date shall for the purpose of this article be considered as written for successive policy periods or terms of twelve (12) months. The Company’s Auto Underwriting Guidelines indicate that it is their practice to modify or eliminate Physical Damage coverage from an automobile policy in lieu of cancellation or nonrenewal.

*3 Violations 40 P.S. §1171.3*

States that a “renewal” or “to renew” is to issue and deliver at the end of an insurance policy period a policy which supersedes a policy previously issued and delivered by the same insurer or affiliated insurance and which provides types and limits of coverage at least equal to those contained in the policy being superseded, or to issue and deliver a certificate or notice extending the term of the policy beyond its policy period or term with types and limits of coverage at least equal to those contained in the policy being extended:

Provided, however, That any policy with a policy period or term of less than twelve (12) months or any period with no fixed expiration date shall for the purpose of this article be considered as written for successive policy periods or terms of twelve (12) months. The USAA Group Homeowners Insurance Underwriting Guidelines, USAA Group Renters Protection Policy Underwriting Guidelines, and USAA Group Rental Property Insurance Underwriting Guidelines indicate that it is their practice to reduce coverage on a policy midterm.

*2 Violations 40 P.S. §1171.5(a)(4)*

States that “Unfair methods of competition” and “unfair or deceptive acts or practices in the business of insurance means entering into any agreement to commit, or by any concerted action committing, any act of boycott, coercion or intimidation resulting in or tending to result in unreasonable restraint of, or monopoly in, the business of insurance. The USAA Group Renters Protection Policy Underwriting Guidelines and Valuable Personal Property Insurance Underwriting Guidelines contain language indicating that it is in their practice to require supporting business.

## V. UNDERWRITING

### A. Private Passenger Automobile

#### 1. 60-Day Cancellations

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

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

From the universe of 435 private passenger automobile policies that were cancelled within the first 60 days of new business, 25 files were selected for review. All 25 files requested were received and reviewed. The nine (9) violations noted were based on eight (8) files, resulting in an error ratio of 32%.

The following findings were made:

#### *1 Violation 75 Pa. C.S. §1793(c)*

When an insurer cancels a motor vehicle insurance policy within the first 60-days of new business, the insurer shall within 30 days of canceling the policy return to the insured all premiums paid under the policy less any proration for the

period the policy was in effect. Premiums are overdue if not paid to the insured within 30 days after canceling the policy. Overdue return premiums shall bear interest at the rate of 12% per annum from the date the return premium became due. The Company failed to return unearned premium within 30 days of canceling the policy for the one (1) violation noted. The refund amount for this policyholder was \$.77.

*2 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 two (2) violations noted were the result of the Company not providing a specific reason for cancellation.

*6 Violations 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 six (6) violations resulted in the failure to provide a cancellation notice within the file.

The following concern was noted:

**CONCERN:** The Company is using the Pennsylvania Insurance Department's Philadelphia Regional Office contact information on notices. The Philadelphia Office is closed. The Company should use only the following address and telephone number for all complaints, appeals, notices of cancellation or refusal to renew requirements:

Pennsylvania Insurance Department  
Bureau of Consumer Services  
1209 Strawberry Square  
Harrisburg, PA 17120  
Toll Free Consumer Line: 1-877-881-6388  
Fax: (717) 787-8585

## 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 2,299 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. The nine (9)

violations noted were based on nine (9) files, resulting in an error ratio of 18%.

The following findings were made:

*6 Violations 40 P.S. §991.2006*

*40 P.S. §323.4(b)*

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. In addition, 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 six (6) violations resulted from the Company's failure to provide a cancellation notice within the file.

*3 Violations 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 three (3) violations resulted in the failure to provide a cancellation notice, policy release form, or notes in the file to indicate that the insured requested cancellation.

The following concern was noted:

**CONCERN:** The Company is using the Pennsylvania Insurance Department's Philadelphia Regional Office contact information on notices. The Philadelphia Office is closed. The Company should use only the following address and telephone number for all complaints, appeals, notices of cancellation or refusal to renew requirements:

Pennsylvania Insurance Department  
Bureau of Consumer Services  
1209 Strawberry Square  
Harrisburg, PA 17120  
Toll Free Consumer Line: 1-877-881-6388  
Fax: (717) 787-8585

### 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 33 private passenger automobile policies which were nonrenewed during the experience period, all 33 files were selected for review. All 33 files requested were received and reviewed. The one (1) violation noted was based on one (1) file, resulting in an error ratio of 3%.

The following finding was made:

*1 Violation 40 P.S. §991.2006*

*40 P.S. §323.4(b)*

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. In addition, 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 one (1) violation resulted from the Company's failure to provide a cancellation notice within the file.

The following concerns were noted:

**CONCERN:** The Company is using the Pennsylvania Insurance Department's Philadelphia Regional Office contact information on notices. The Philadelphia Office is closed. The Company should use only the following address and telephone number for all complaints, appeals, notices of cancellation or refusal to renew requirements:

Pennsylvania Insurance Department  
Bureau of Consumer Services  
1209 Strawberry Square  
Harrisburg, PA 17120  
Toll Free Consumer Line: 1-877-881-6388

Fax: (717) 787-8585

**CONCERN:** The Company is mailing nonrenewal notices with variable text that is unclear to the reader. The company should make sure all text is aligned properly for readability by the insured.

4. Declinations

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

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

From the universe of 11 declinations for private passenger auto insurance, all 11 files were selected for review. All 11 files requested were received and reviewed. The 20 violations noted were based on 11 files, resulting in an error ratio of 100%.

The following findings were made:

*3 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 three (3) violations noted were the result of the Company not providing a written notice of refusal to write to the applicants who were denied coverage.

*1 Violation 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 one (1) violation noted was the result of the Company not providing a specific reason for the refusal to write a policy.

*8 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 eight (8) violations noted were the result of the Company not providing proper right of review information on the written notice.

*8 Violations 75 Pa. C.S. §1799.3(f)*

If requested by the applicant, an agent for an insurer shall submit an application for automobile insurance to the insurer or provide the applicant written notice of the reasons for refusal to write on a form supplied by the insurer and approved by the Commissioner. The Company failed to provide a refusal to write to the applicant on a form approved by the Commissioner for the eight (8) violations 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.

From the universe of 776 property policies which were cancelled within the first 60 days of new business, 60 files were selected for review. The property files consisted of homeowners, tenant homeowners, and inland marine. All 60 files were received and reviewed. Of the 60 files reviewed, 31 files were identified as 60-day cancellations and 29 were identified as flat cancellations. The five (5) violations noted were based on five (5) files, resulting in an error ratio of 8%.

The following findings were made:

*1 Violation 31 Pa. Code §59.9(b)*

An insurer which cancels a homeowners policy that has been in force for less than 60 days must give the insured 30 days notice of cancellation, must send the notice prior to the 60<sup>th</sup> day and must advise the insured of the possible availability of coverage under the Pennsylvania FAIR Plan. The one (1) file noted resulted in the Company not providing the required 30 days' notice of cancellation.

*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 use a valid cancellation notice for the two (2) violations noted. The Company was using a single notice of cancellation to cancel

two separate policies that are not a package policy for non-payment of premium.

*2 Violations 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 two (2) violations resulted from the Company's failure to provide a cancellation notice, policy release form, or notes in the file to indicate that the insured requested cancellation.

The following concern was noted:

**CONCERN:** The Company is using the Pennsylvania Insurance Department's Philadelphia Regional Office contact information on notices. The Philadelphia Office is closed. The Company should use only the following address and telephone number for all complaints, appeals, notices of cancellation or refusal to renew requirements:

Pennsylvania Insurance Department  
Bureau of Consumer Services  
1209 Strawberry Square  
Harrisburg, PA 17120  
Toll Free Consumer Line: 1-877-881-6388  
Fax: (717) 787-8585

## 2. Midterm Cancellations

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

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

From the universe of 1,999 property policies which were cancelled midterm during the experience period, 150 files were selected for review. The property files consisted of homeowners and tenant homeowners. All 150 files were received and reviewed. Of the 150 files reviewed, 109 files were identified as midterm cancellations, 20 files were identified as 60-day cancellations, 18 were identified as nonrenewals, and three (3) were identified as flat cancellations. The 67 violations noted were based on 27 files, resulting in an error ratio of 18%.

The following findings were made:

### *3 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 cancellation notice to the insured for the 3 violations noted.

*20 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 use a valid cancellation notice for the 20 violations noted. The Company was using a single notice of cancellation to cancel two separate policies that are not a package policy for non-payment of premium.

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

Requires that a cancellation notice shall advise the insured of his right to request, in writing, within ten days of the receipt of the notice of cancellation or intention not to renew that the Insurance Commissioner review the action of the insurer. The 23 violations noted resulted from the Company failing to advise the insured of his right to request a review by the Insurance Commissioner within ten days of the receipt of the notice of cancellation specifically for the Property policy identified on the notice.

*20 Violations 31 Pa. Code §59.6(6)*

States that if the reason for cancellation is a substantial change or increase in hazard, the insurer shall specify the changes or increased hazards it relied on for its actions. If the reason is the failure to pay a premium, the insurer shall specify the amount due, and the date when it was due. The 20 violations noted resulted from the Company's failure to identify the amount and date of premium due, specifically for the Property policy, where the reason is non-payment of premium.

*1 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 1 violation resulted from the Company's

failure to provide a cancellation notice, policy release form, or notes in the file to indicate that the insured requested cancellation.

The following concern was noted:

**CONCERN:** The Company is using the Pennsylvania Insurance Department's Philadelphia Regional Office contact information on notices. The Philadelphia Office is closed. The Company should use only the following address and telephone number for all complaints, appeals, notices of cancellation or refusal to renew requirements:

Pennsylvania Insurance Department  
Bureau of Consumer Services  
1209 Strawberry Square  
Harrisburg, PA 17120  
Toll Free Consumer Line: 1-877-881-6388  
Fax: (717) 787-8585

### 3. Nonrenewals

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

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

From the universe of 189 property policies which were nonrenewed during the experience period, 50 files were selected for review. The property files consisted of homeowners and tenant homeowners. All 50 files were received and reviewed. The 33 violations noted were based on 33 files, resulting in an error ratio of 66%.

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. No cancellation or refusal to renew by any person shall be effective unless a written notice of cancellation or refusal to renew is received by the insured. The Company failed to provide a nonrenewal notice for the one (1) violation noted.

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

Requires that a cancellation notice shall advise the insured of his right to request, in writing, within ten days of the receipt of the notice of cancellation or intention not to renew that the Insurance Commissioner review the action of the insurer. The four (4) violations noted resulted from the Company failing to advise the insured of his right to request a review by the Insurance Commissioner within ten days of the receipt of the notice of cancellation.

*28 Violations 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 28 violations resulted from the Company's failure to provide a cancellation notice, policy release form, or notes in the file to indicate that the insured requested cancellation.

The following concerns were noted:

**CONCERN:** The Company is using the Pennsylvania Insurance Department's Philadelphia Regional Office contact information on notices. The Philadelphia Office is closed. The Company should use only the following address and telephone number for all complaints, appeals, notices of cancellation or refusal to renew requirements:

Pennsylvania Insurance Department  
Bureau of Consumer Services  
1209 Strawberry Square  
Harrisburg, PA 17120  
Toll Free Consumer Line: 1-877-881-6388  
Fax: (717) 787-8585

**CONCERN:** The Company is mailing nonrenewal notices with variable text that is unclear to the reader. The company should make sure all text is aligned properly for readability by the insured.

4. Declinations

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

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

From the universe of 39 homeowner declinations, 22 files were selected for review. All 22 files requested were received and reviewed. No violations were noted.

## VI. RATING

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

#### 1. New Business

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

The primary purpose of the review was to measure compliance with The Casualty and Surety Rate Regulatory Act, Section 4(a) and (h) (40 P.S. §1184(a), (h)), which requires every insurer to file with the Insurance Commissioner every manual of classifications, rules and rates, every rating plan and every modification of any rating plan, which it proposes to use in the Commonwealth. Also, no insurer shall make or issue a contract or policy except in accordance with filings or rates, which are in effect at the time. Files were also reviewed to determine compliance with all provisions of the Motor Vehicle Financial Responsibility Law (75 Pa. C.S. §§1701 – 1799.7) and Act 68, Section 2005(c) (40 P.S. §991.2005(c)), which requires insurers to provide to insureds a detailed statement of the components of a premium and shall specifically show the amount of surcharge or other additional amount that is charged as a result of a claim having been made under a policy of insurance, or as a result of any other factors.

The Company uses an automated system to process and issue personal automobile policies. In order to verify the automated system, several policies were manually rated to ensure the computer had been programmed correctly. Once the computer programming had been verified, only the input data needed to be verified. By reviewing base premiums, territory

assignments, rating symbols, classifications and surcharge disclosures, the examiners were able to determine compliance with the Company's filed and approved rating plans.

Private Passenger Automobile Rating – New Business without Surcharges

From the universe of 7,759 personal automobile policies identified as new business without surcharges by the Company, 25 files were selected for review. All 25 policy files requested were received and reviewed. The 28,848 violations noted were based on the universe of 7,759 files, resulting in an error ratio of 100%.

The following findings were made:

*8 Violations 75 Pa. C.S. §1705(a)(1)&(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 Company did not provide the signed limited tort option selection for the eight (8) violations noted.

*7,759 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 described in section 1705(c) and (d). The Company did provide the notice of tort options to the insured at the time of application; however, the wording on the notice was not verbatim.

*7,759 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 include the number of years that a surcharge will be in effect within the surcharge disclosure plan provided to the insured.

*6,661 Violations 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 Company failed to retain phone sales recordings which demonstrate and contain application and disclosure information. Compliance could not be determined for the violations noted.

*6,661 Violations 40 P.S. §323.4(b)*

*40 P.S. §1184(a)&(h)*

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. In addition, every insurer shall 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. The Company failed to maintain record of first policy issuance for the violations noted.

The following concern was noted:

**CONCERN:** The Company provides notice at renewal regarding collision damage to rental vehicles and any limitations on such coverage. However, the Department requires that this be printed on the first page of the renewal policy, the declaration page.

Private Passenger Automobile Rating – New Business with Surcharges

From the universe of 1,534 personal automobile policies identified as new business with surcharges by the Company, 25 files were selected for review. All 25 policy files requested were received and reviewed. The 5,601 violations noted were based on the universe of 1,534 files, resulting in an error ratio of 100%.

The following findings were made:

*1 Violation 75 Pa. C.S. §1705(a)(1)&(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 Company did not provide the signed limited tort option selection for the one (1) violation noted.

*1,534 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 described in section 1705(c) and (d). The Company did provide the notice of tort options to the insured at the time of application; however, the wording on the notice was not verbatim.

*1,534 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 include the number of years that a surcharge will be in effect within the surcharge disclosure plan provided to the insured.

*1,266 Violations 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 Company failed to retain phone sales recordings which demonstrate and contain application and disclosure information. Compliance could not be determined for the violations noted.

*1,266 Violations 40 P.S. §323.4(b)*

*40 P.S. §1184(a)&(h)*

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. In addition, every insurer shall 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. The Company failed to maintain record of first policy issuance for the violations noted.

The following concern was noted:

**CONCERN:** The Company provides notice at renewal regarding collision damage to rental vehicles and any limitations on such coverage. However, the Department requires that this be printed on the first page of the renewal policy, the declaration page.

## 2. Renewals

A renewal is considered to be any policy, which was previously written by the Company and renewed on the normal twelve-month anniversary date. The purpose of the review was to measure compliance with The Casualty and Surety Rate Regulatory Act, Section 4(a) and (h) (40 P.S. §1184(a), (h)), which requires every insurer to file with the Insurance Commissioner every manual of classifications, rules and rates, every rating plan and every modification of any rating plan, which it proposes to use in the Commonwealth. Also, no insurer shall make or issue a contract or policy except in accordance with filings or rates, which are in effect at the time. Files were also reviewed to determine compliance with Act 68 of 1998, Section 2005(c) (40 P.S. §991.2005(c)), which requires insurers to provide to insureds a detailed statement of the components of a premium and shall specifically show the amount of surcharge or other additional amount that is charged as a result of a claim having been made under a policy of insurance, or as a result of any other factors.

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

### Private Passenger Automobile – Renewals without Surcharges

From the universe of 5,756 personal automobile policies identified as renewals without surcharges, 25 files were selected for review. All 25

policy files requested were received and reviewed. The 17,273 violations noted were based on the universe of 5,756 files, resulting in an error ratio of 100%.

The following findings were made:

*5,756 Violations 40 P.S. §1171.5(a)(7)(ii)*

States that “Unfair methods of competition” and “unfair or deceptive acts or practices in the business of insurance means making or permitting any unfair discrimination between individuals of the same class and of essentially the same hazard in the amount of premium, policy, fees, or rates charged for any policy or contract of insurance. The Company failed to apply a consistent standard for rating renewal policies, specifically regarding the Company’s inconsistent use of Motor Vehicle Reports across renewal populations.

*4 Violations 40 P.S. §1184(a)&(h)*

Requires every insurer to file with the Insurance Commissioner every manual of classifications, rules and rates, every rating plan and every modification of any rating plan, which it proposes to use in the Commonwealth. Also, no insurer shall make or issue a contract or policy except in accordance with filings or rates, which are in effect at the time of issue. The Company failed to apply the proper territory resulting in undercharges of \$33.38 and overcharges of \$23.78.

*5,756 Violation 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 described in section 1705(c) and (d). The Company did provide the notice of tort options to the insured at the time of application; however, the wording on the notice was not verbatim.

*5,756 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 include the number of years that a surcharge will be in effect within the surcharge disclosure plan provided to the insured.

The following concern was noted:

**CONCERN:** The Company provides notice at renewal regarding collision damage to rental vehicles and any limitations on such coverage. However, the Department requires that this be printed on the first page of the renewal policy, the declaration page.

Private Passenger Automobile – Renewals with Surcharges

From the universe of 748 private passenger automobile policies identified as renewals with surcharges, 25 files were selected for review. All 25 policy files requested were received and reviewed. The 2,244 violations noted were based on the universe of 748 files, resulting in an error ratio of 100%.

The following findings were made:

*748 Violations 40 P.S. §1171.5(a)(7)(ii)*

States that “Unfair methods of competition” and “unfair or deceptive acts or practices in the business of insurance means making or permitting any unfair discrimination between individuals of the same class and of essentially the same hazard in the amount of premium, policy, fees, or rates charged for any policy or contract of insurance. The Company failed to apply a consistent standard for rating renewal policies, specifically the Company’s inconsistent use of a Motor Vehicle Reports across renewal populations.

*748 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 described in section 1705(c) and (d). The Company did provide the notice of tort options to the insured at the time of application; however, the wording on the notice was not verbatim.

*748 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 include the number of years that a surcharge will be in effect within the surcharge disclosure plan provided to the insured.

The following concern was noted:

**CONCERN:** The Company provides notice at renewal regarding collision damage to rental vehicles and any limitations on such coverage. However, the Department requires that this be printed on the first page of the renewal policy, the declaration page.

## **B. Personal Property**

### 1. New Business

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

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

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

Homeowner Rating - New Business Without Surcharges

From the universe of 3,510 homeowner policies written as new business without surcharges during the experience period, 25 files were selected for review. All 25 files selected were received and reviewed. The 6,696 violations noted were based on 3,348 files, resulting in an error ratio of 100%.

The following findings were made:

*3,348 Violations 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 Company failed to retain phone sales recordings which demonstrate and contain application and disclosure information. Compliance could not be determined for the violations noted.

*3,348 Violations 40 P.S. §323.4(b)*

*40 P.S. §1184(a)&(h)*

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. In addition, every insurer shall 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. The Company failed to maintain record of first policy issuance for the violations noted.

The following concern was noted:

**CONCERN:** Homeowner policies are subject to a surcharge for losses. Therefore, it is a concern that no surcharge disclosure plan is provided to these policyholders. The disclosure plan should state what surcharge percentage applies for paid losses as provided in the Company's rate filing and how long the surcharge will last. Notification of the surcharge disclosure requirement was provided to all companies in an Important Notice dated 9/18/1998.

Homeowner Rating - New Business With Surcharges

From the universe of 623 homeowner policies written as new business with surcharges during the experience period, 10 files were selected for review. All 10 files selected were received and reviewed. The 1048 violations noted were based on 524 files, resulting in an error ratio of 100%.

The following findings were made:

*524 Violations 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 Company failed to retain phone sales recordings which demonstrate and contain application and disclosure information. Compliance could not be determined for the violations noted.

*524 Violations 40 P.S. §323.4(b)*

*40 P.S. §1184(a)&(h)*

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. In addition, every insurer shall 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. The Company failed to maintain record of first policy issuance for the violations noted.

The following concern was noted:

**CONCERN:** Homeowner policies are subject to a surcharge for losses. Therefore, it is a concern that no surcharge disclosure plan is provided to these policyholders. The disclosure plan should state what surcharge

percentage applies for paid losses as provided in the Company's rate filing and how long the surcharge will last. Notification of the surcharge disclosure requirement was provided to all companies in an Important Notice dated 9/18/1998.

Tenant Homeowner Rating - New Business Without Surcharges

From the universe of 1,960 tenant homeowner policies written as new business without surcharges during the experience period, 10 files were selected for review. All 10 files selected were received and reviewed. The 3,102 violations noted were based on 1,551 files, resulting in an error ratio of 100%.

The following findings were made:

*1,551 Violations 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 Company failed to retain phone sales recordings which demonstrate and contain application and disclosure information. Compliance could not be determined for the violations noted.

*1,551 Violations 40 P.S. §323.4(b)*

*40 P.S. §1184(a)&(h)*

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. In addition, every insurer shall 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. The Company failed to maintain record of first policy issuance for the violations noted.

The following concern was noted:

**CONCERN:** Tenant homeowner policies are subject to a surcharge for losses. Therefore, it is a concern that no surcharge disclosure plan is provided to these policyholders. The disclosure plan should state what surcharge percentage applies for paid losses as provided in the Company's rate filing and how long the surcharge will last. Notification of the surcharge disclosure requirement was provided to all companies in an Important Notice dated 9/18/1998.

Tenant Homeowner Rating - New Business With Surcharges

From the universe of 20 tenant homeowner policies written as new business with surcharges during the experience period, 10 files were selected for review. All 10 files selected were received and reviewed. The 32 violations noted were based on 16 files, resulting in an error ratio of 100%.

The following findings were made:

*16 Violations 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 Company failed to retain phone sales recordings which demonstrate and contain application and disclosure information. Compliance could not be determined for the violations noted.

*16 Violations 40 P.S. §323.4(b)*

*40 P.S. §1184(a)&(h)*

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. In addition, every insurer shall 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. The Company failed to maintain record of first policy issuance for the violations noted.

The following concern was noted:

**CONCERN:** Tenant homeowner policies are subject to a surcharge for losses. Therefore, it is a concern that no surcharge disclosure plan is

provided to these policyholders. The disclosure plan should state what surcharge percentage applies for paid losses as provided in the Company's rate filing and how long the surcharge will last. Notification of the surcharge disclosure requirement was provided to all companies in an Important Notice dated 9/18/1998.

Dwelling Fire Owner Occupied Rating - New Business

From the universe of 10 dwelling fire owner occupied policies written as new business during the experience period, 5 files were selected for review. All 5 files selected were received and reviewed. The 20 violations noted were based on 10 files, resulting in an error ratio of 100%.

The following findings were made:

*10 Violations 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 Company failed to retain phone sales recordings which demonstrate and contain application and disclosure information. Compliance could not be determined for the violations noted.

*10 Violations 40 P.S. §323.4(b)*

*40 P.S. §1184(a)&(h)*

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. In addition, every insurer shall 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. The Company failed to maintain record of first policy issuance for the violations noted.

## 2. Renewals

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

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

### Homeowner Rating – Renewals Without Surcharges

From the universe of 3,461 homeowner policies renewed without surcharges during the experience period, 25 files were selected for review. All 25 files were received and reviewed.

The following concern was noted:

**CONCERN:** Homeowner policies are subject to a surcharge for losses. Therefore, it is a concern that no surcharge disclosure plan is provided to these policyholders. The disclosure plan should state what surcharge percentage applies for paid losses as provided in the Company's rate filing and how long the surcharge will last. Notification of the surcharge disclosure requirement was provided to all companies in an Important Notice dated 9/18/1998.

Homeowner Rating – Renewals With Surcharges

From the universe of 188 homeowner policies renewed with surcharges during the experience period, 25 files were selected for review. All 25 files were received and reviewed. The one (1) violation noted was based on one (1) file, resulting in an error ratio of 4%.

The following finding was made:

*1 Violation 40 P.S. §1184(a)&(h)*

Requires every insurer to file with the Insurance Commissioner every manual of classifications, rules and rates, every rating plan and every modification of any rating plan, which it proposes to use in the Commonwealth. Also, no insurer shall make or issue a contract or policy except in accordance with filings or rates, which are in effect at the time of issue. The Company failed to apply the filed and approved rates for the violation noted which resulted in an undercharge of \$.02.

The following concern was noted:

**CONCERN:** Homeowner policies are subject to a surcharge for losses. Therefore, it is a concern that no surcharge disclosure plan is provided to these policyholders. The disclosure plan should state what surcharge percentage applies for paid losses as provided in the Company's rate filing and how long the surcharge will last. Notification of the surcharge disclosure requirement was provided to all companies in an Important Notice dated 9/18/1998.

Tenant Homeowner Rating – Renewals Without Surcharges

From the universe of 2,955 tenant homeowner policies renewed without surcharges during the experience period, 25 files were selected for review. All 25 files were received and reviewed.

The following concern was noted:

**CONCERN:** Tenant homeowner policies are subject to a surcharge for losses. Therefore, it is a concern that no surcharge disclosure plan is provided to these policyholders. The disclosure plan should state what surcharge percentage applies for paid losses as provided in the Company's rate filing and how long the surcharge will last. Notification of the surcharge disclosure requirement was provided to all companies in an Important Notice dated 9/18/1998.

Tenant Homeowner Rating – Renewals With Surcharges

From the universe of 156 tenant homeowner policies renewed with surcharges during the experience period, 10 files were selected for review. All 10 files were received and reviewed. The one (1) violation noted was

based on one (1) file, resulting in an error ratio of 10%.

The following finding was made:

*1 Violation 40 P.S. §1184(a)&(h)*

Requires every insurer to file with the Insurance Commissioner every manual of classifications, rules and rates, every rating plan and every modification of any rating plan, which it proposes to use in the Commonwealth. Also, no insurer shall make or issue a contract or policy except in accordance with filings or rates, which are in effect at the time of issue. The Company failed to apply the filed and approved rates for the violation noted which resulted in an undercharge of \$.01.

The following concern was noted:

**CONCERN:** Tenant homeowner policies are subject to a surcharge for losses. Therefore, it is a concern that no surcharge disclosure plan is provided to these policyholders. The disclosure plan should state what surcharge percentage applies for paid losses as provided in the Company's rate filing and how long the surcharge will last. Notification of the surcharge disclosure requirement was provided to all companies in an Important Notice dated 9/18/1998.

Dwelling Fire Owner Occupied Rating - Renewals

From the universe of 5 dwelling fire owner occupied policies renewed during the experience period, 5 files were selected for review. All 5 files selected were received and reviewed. No violations were noted.

## VII. CLAIMS

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

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 Benefits Claims
- F. Automobile First Party Benefits Claims Referred to a PRO
- G. Homeowners Claims
- H. Tenant Homeowners Claims
- I. Dwelling Fire Owner Occupied 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 931 private passenger automobile property damage claims reported during the experience period, 50 files were selected for review. All 50 files selected were received and reviewed. Of the 50 files, 49 files were identified as property damage claims, one (1) file was

identified as a first party medical benefit claim. The two (2) violations noted were based on two (2) files, resulting in an error ratio of 4%.

The following findings were made:

*2 Violations 31 Pa. Code §146.6*

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

The following concern was noted:

**CONCERN:** The Company was using 75 Pa. C.S. §1822 on claims forms. The Company should use 18 Pa. C.S. §4117(k)(1) with verbatim wording on all claims forms.

**B. Automobile Comprehensive Claims**

From the universe of 3,048 private passenger automobile comprehensive claims reported during the experience period, 25 files were selected for review. All 25 files selected were received and reviewed. Of the 25 files, 24 files were identified as comprehensive claims and one (1) file was identified as a property damage claim. No violations were noted.

### **C. Automobile Collision Claims**

From the universe of 1,286 private passenger automobile collision claims reported during the experience period, 25 files were selected for review. All 25 files selected were received and reviewed. No violations were noted.

### **D. Automobile Total Loss Claims**

From the universe of 318 private passenger automobile total loss claims reported during the experience period, 50 files were selected for review. All 50 files selected were received and reviewed. The four (4) violations noted were based on four (4) files, resulting in an error ratio of 8%.

The following findings were made:

#### *2 Violations 31 Pa. Code §146.6*

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

#### *1 Violation 31 Pa. Code §62.3(d)(e)(i)*

The appraised value of the loss shall be the replacement value of the motor vehicle if the cost of repairing a motor vehicle exceeds its appraised value less salvage value, or the motor vehicle cannot be repaired to its predamaged condition. No

other deductions may be taken for salvage and then only if the owner elects to retain the vehicle. The Company forced claimant to retain total loss vehicle for the one (1) claim 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 insured.

The following concern was noted:

**CONCERN:** The Company was using 75 Pa. C.S. §1822 on claims forms. The Company should use 18 Pa. C.S. §4117(k)(1) with verbatim wording on all claims forms.

**E. Automobile First Party Benefits Claims**

From the universe of 304 private passenger automobile first party medical claims reported during the experience period, 25 claim files were selected for review. All 25 files requested were received and reviewed. The 9 violations noted were based on 3 files, resulting in an error ratio of 12%.

The following findings were made:

*3 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 three (3) violations noted resulted because the medical bills were not paid within 30 days.

*3 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 to the claimant within ten working days for the three (3) violations noted.

*3 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 three (3) claims that were not paid within 30 days, resulting in restitution of \$22.81.

The following concern was noted:

**CONCERN:** The Company was using 75 Pa. C.S. §1822 on claims forms. The Company should use 18 Pa. C.S. §4117(k)(1) with verbatim wording on all claims forms.

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

From the universe of 3 automobile first party medical claims that were referred to a peer review organization by the Company, 3 files were selected for review. All 3 files were received and reviewed. The Company was also asked to provide a copy of all peer review contracts in place during the experience period. The contracts were received and reviewed. Of the three (3) files reviewed, one (1) file was not a Pennsylvania policy. No violations were noted.

**G. Homeowners Claims**

From the universe of 562 homeowners claims reported during the experience period, 25 claim files were selected for review. All 25 files requested were received and reviewed. No violations were noted.

**H. Tenant Homeowners Claims**

From the universe of 182 tenant homeowners claims during the experience period, 15 claim files were selected for review. All 15 files requested were received and reviewed. No violations were noted.

## **I. Dwelling Fire Owner Occupied Claims**

From the universe of one (1) dwelling fire owner occupied claim reported during the experience period, one (1) claim file was selected for review. The one (1) file requested was received and reviewed. No violations were noted.

### VIII. FORMS

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

The following findings were made:

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

All applications for insurance and all claims 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 language on two (2) claim forms.

*1 Violation 75 Pa. C.S. §1799.3(f)*

If requested by the applicant, an agent for an insurer shall submit an application for automobile insurance to the insurer or provide the applicant written notice of the reasons for refusal to write on a form supplied by the insurer and approved by the Commissioner. The Company failed to provide a refusal to write to the applicant on a form approved by the Commissioner.

The following concerns were noted:

**CONCERN:** The Company was using 75 Pa. C.S. 1822 on claim form #66592-0213 PA-7101, Power of Attorney. The Company should be use 18 Pa. C.S. §4117(k)(1) with verbatim wording on all claim forms.

**CONCERN:** The Company was using 75 Pa. C.S. 1822 on claim form #RAP008-0213 PA-7101, Release For Property Damage. The Company should be use 18 Pa. C.S. §4117(k)(1) with verbatim wording on all claim forms.

**CONCERN:** The Company was using 75 Pa. C.S. 1822 at the time of auto application. The Company should be use 18 Pa. C.S. §4117(k)(1) with verbatim wording at the time of auto application.

**CONCERN:** The Company was using 75 Pa. C.S. 1822 on claim form #MA062-095, Application of Benefits. The Company should be use 18 Pa. C.S. §4117(k)(1) with verbatim wording on all claim forms.

## **IX. ADVERTISING**

The Company was requested to provide copies of all advertising, sales material and internet advertisements in use during the experience period. The Company provided 346 pieces of advertising which included brochures, direct mailers, postcards, emails, and outbound call scripts. Of the 346 pieces of advertising, 50 pieces were reviewed. The Company website was also reviewed.

The purpose of this review was to determine compliance with Act 205, Section 5 (40 P.S. §1171.5), which defines unfair methods of competition and unfair or deceptive acts or practices in the business of insurance, as well as Title 31, Pennsylvania Code, Section 51.2(c) and Section 51.61.

The following findings were made:

*37 Violations 40 P.S. §991.2003(a)(8)*

*40 P.S. §991.2003(a)(10)*

States that an insurer may not cancel or refuse to write or renew a policy of automobile insurance for the following reasons: marital status and lawful occupation (including military service). As noted in the advertisement files and on the Company's website, the Company is refusing to write or renew a policy or cancelling a policy due to a change in marital status, rank, or military status.

*25 Violations 31 Pa. Code §51.61*

An advertisement for automobile liability or physical damage insurance coverage shall not invite a prospective insured to apply for a quotation of premium rate which the company would charge for such insurance unless if it is the company's intent and actual practice

to refuse to render a quote to certain individuals or classes of individuals for any reason, the advertisement shall clearly and conspicuously disclose in prominent type, “WE RESERVE THE RIGHT TO REFUSE TO QUOTE ANY INDIVIDUAL A PREMIUM RATE FOR THE INSURANCE ADVERTISED HEREIN,” and on the application for such quotation immediately in bold type or contrasting color state, “Do you understand that the company reserves the right to refuse to give you a quotation for automobile insurance; Yes \_\_ No \_\_?”. For the 25 violations noted, the Company offered to quote a premium rate, but did not disclose that it is the Company’s intent and actual practice to refuse to render a quote to those individuals that are not eligible for membership.

*2 Violations 31 Pa. Code §51.32(b)*

The source of any statistics used in an advertisement shall be identified in the advertisement, if the failure to so identify would have the capacity or tendency to mislead purchasers or prospective purchasers. One (1) advertising file and the Company’s website each failed to provide a statistical source within the advertisement.

## X. CONSUMER COMPLAINTS

The Company was requested to identify all consumer complaints received during the experience period and provide copies of their consumer complaint logs for the preceding four years. The Company identified 24 consumer complaints received during the experience period and provided all consumer complaint logs requested. From the universe of 24 complaint files, all 24 files were selected for review. All 24 files 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:

### *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 the complaint, the disposition of these complaints and the time it took to process each complaint. For the four (4) violations noted, the Company failed to provide complete complaint registers. The records did not contain the total number of complaints.

*6 Violations 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 six (6) violations resulted from the Company's failure to maintain a complete complaint file.

The following concerns were noted:

**CONCERN:** In one (1) of the 24 complaint files reviewed, the Company received an injury or a complaint from the Pennsylvania Insurance Department and did not respond to the Department within 15 working days. The Company should respond to a complaint inquiry within 15 working days from receiving a notice from the Department.

**CONCERN:** The four (4) complaint registers provided by the Company for the years 2009 through 2012 were combined. The Company should provide four (4) separate complaint registers for each of the years specified.

The following synopsis reflects the nature of the 24 complaints that were reviewed.

11	Cancellation/Nonrenewal	46%
0	Declinations/Rescissions	0%
10	Claims Related	42%
1	Agency Conduct	4%
2	Miscellaneous	8%
<hr/> 24		<hr/> 100%

## **XI. PRODUCER LICENSING**

In order to determine compliance by the Company and its agency force with the licensing requirements applicable to Section 641.1-A(a) and Section 671-A of the Insurance Department Act No. of 1921, (40 P.S. §§310.41(a)a, 310.71), the Company was requested to furnish a list of all active producers during the experience period and a listing of all producers terminated during the experience period. The Company does not print producer names on policy documents; therefore the Department could not review each producer for compliance. The Department corresponded with the Company regarding the producer licensing and appointment process. Detailed information was provided by the Company regarding the credentialing of its Member Service Representatives and call routing system. No violations were noted.

## **XII. DATA INTEGRITY**

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

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

### **Midterm Cancellations**

**Situation:** As the examiners reviewed the midterm cancellation files of the property underwriting section of the exam, it was noted that not all the 150 files selected for review were midterm cancellation files.

**Finding:** Of the 150 property midterm cancellation files reviewed, 111 were identified as midterm cancellations, 20 were identified as 60-day cancellations, 18 were identified as nonrenewals, and three (3) were identified as flat cancellations.

### **60-Day Cancellations**

**Situation:** As the examiners reviewed the 60-day cancellation files of the property underwriting section of the exam, it was noted that not all the 60 files selected for review were 60-day cancellation files.

Finding: Of the 60 property 60-day cancellation files reviewed, 31 were identified as 60-day cancellations and 29 were identified as flat cancellations.

### **Rating – Homeowner Renewal Without Surcharges**

Situation: As the examiners reviewed the homeowner renewal without surcharges files of the rating section, it was noted that not all 25 files selected for review were renewal without surcharges files. The Company was asked to provide a list of all renewal policies, with inception dates during the experience period for homeowner renewal without surcharges.

Finding: Of the 25 homeowner renewal without surcharges files reviewed, one (1) file was surcharged for a claim during the experience period.

### **Comprehensive Claims**

Situation: As the examiners reviewed the comprehensive claims files of the exam, it was noted that not all the 25 files selected for review were comprehensive claims.

Finding: Of the 25 comprehensive claims received, 24 were identified as comprehensive claims and one (1) file was identified as a property damage claim.

### **Property Damage Claims**

Situation: As the examiners reviewed the property damage claims files of the exam, it was noted that not all the 50 files selected for review were property damage claims.

Finding: Of the 50 property damage claims files received, 49 were identified as property damage claims, one (1) was identified as a first party benefit claim.

**First Party Benefits Referred to a PRO**

Situation: As the examiners reviewed the first party benefits referred to a PRO claims files of the exam, it was noted that not all three (3) files selected for review were first party benefits referred to a PRO claims.

Finding: Of the three (3) first party benefits referred to a PRO claims files received, two (2) were identified as first party benefits referred to a PRO claims and one (1) was identified as not being a Pennsylvania policy.

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 resulted in the failure to exercise sufficient due diligence to ensure compliance with Insurance Department Act of 1921.

### XIII. MCAS REPORTING

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

In Pennsylvania, insurers are required annually to submit a Market Conduct Annual Statement (MCAS) to the National Association of Insurance Commissioners (NAIC). The review of MCAS data was conducted pursuant to the authority granted by Section 903 and 904 (40 P.S. §§323.3 and 323.4) of the Insurance Department Act and covered the Market Conduct Annual Statement (MCAS) reporting for 2013.

The examination team reviewed the Company's 2013 MCAS Submissions. All companies that submit an MCAS filing must attest to the completeness and accuracy of their submission. The attestation is required once per filing period and applies to all submissions for a specific company code. No submissions will be accepted until an attestation is completed for the company. Below are the sections that were reviewed.

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

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

The review consisted of three phases, as noted below.

### **Phase 1**

The Company was asked to provide the claims and policy data listings that support the 2013 MCAS filing. Each list contained the claim and policy numbers for each category. The 2013 data submitted was validated to ensure the information was accurate and consistent with the information provided to the NAIC.

The following findings were made:

#### *3 Violations 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 Company failed to provide 2013 data that was consistent with the information

provided to the NAIC for one (1) claim category and two (2) underwriting categories.

## **Phase 2**

The Company was asked to provide a record of all claims and policy data listings which supported the 2013 MCAS filings. From each universe list of 2013 data, a random sample of five (5) claims or policy files was requested, received and reviewed. The files were reviewed to ensure compliance with the Commonwealth of Pennsylvania's Statutes and Regulations.

The following findings were made:

### *15 Violations 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 Company failed to provide accurate data for two (2) claim categories and five (5) underwriting categories.

## **Phase 3**

A review was performed on various policies and claims provided in the Market Conduct portion of the exam to ensure the MCAS data was inclusive of all the policies applicable to each line item. The files were reviewed to ensure compliance with the Commonwealth of Pennsylvania's Statutes and Regulations.

The following findings were made:

*2 Violations 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 Company failed to provide accurate data for one (1) claim category and one (1) underwriting category.

**B. Personal Property**

In Pennsylvania, insurers are required annually to submit a Market Conduct Annual Statement (MCAS) to the National Association of Insurance Commissioners (NAIC). The review of MCAS data was conducted pursuant to the authority granted by Section 903 and 904 (40 P.S. §§323.3 and 323.4) of the Insurance Department Act and covered the Market Conduct Annual Statement (MCAS) reporting for 2013.

The examination team reviewed the Company's 2013 MCAS Submissions. All companies that submit an MCAS filing must attest to the completeness and accuracy of their submission. The attestation is required once per filing period and applies to all submissions for a specific company code. No submissions will be accepted until an attestation is completed for the company. Below are the sections that were reviewed.

A.	Number of dwellings which have policies in-force at the end of the period.
B.	Number of policies in-force at the end of the period.
C.	Number of new business policies written during the period.
D.	Dollar amount of direct written premium during the period.

E.	Number of Company-initiated nonrenewals during the period.
F.	Number of cancellations for non-pay, nonsufficient funds or insured's request.
G.	Number of Company-Initiated cancellations that occur in the first 59 days after effective date, excluding rewrites to a related Company.
H.	Number of Company-Initiated cancellations that occur 60 or more days after effective date, excluding rewrites to a related Company.
I.	Number of Complaints received directly from the consumer.
J.	Number of Claims open at the beginning of the Period
K.	Number of Claims opened during the period.
L.	Number of Claims closed during the period, with payment.
M.	Number of Claims closed during the period, without payment.
N.	Number of Claims remaining open at the end of the period.
O.	Number of Claims closed with payment within 0-60 days.
P.	Number of Claims closed with payment >60 days.
Q.	Number of Suits open at beginning of the period.
R.	Number of Suits opened during the period.
S.	Number of Suits closed during the period.
T.	Number of Suits open at end of period.

The review consisted of three phases, as noted below.

### **Phase 1**

The Company was asked to provide the claims and policy data listings that support the 2013 MCAS filing. Each list contained the claim and policy numbers for each category. The 2013 data submitted was validated to ensure the information was accurate and consistent with the information provided to the NAIC.

The following findings were made:

*2 Violations 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 Company failed to provide 2013 data that was consistent with the information provided to the NAIC for one (1) claim category and one (1) underwriting category.

**Phase 2**

The Company was asked to provide a record of all claims and policy data listings which supported the 2013 MCAS filings. From each universe list of 2013 data, a random sample of five (5) claims or policy files was requested, received and reviewed. The files were reviewed to ensure compliance with the Commonwealth of Pennsylvania's Statutes and Regulations.

The following findings were made:

*6 Violations 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 Company failed to provide accurate data for one (1) claim category and three (3) underwriting categories.

### **Phase 3**

A review was performed on various policies and claims provided in the Market Conduct portion of the exam to ensure the MCAS data was inclusive of all the policies applicable to each line item. The files were reviewed to ensure compliance with the Commonwealth of Pennsylvania's Statutes and Regulations.

The following findings were made:

#### *17 Violations 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 Company failed to provide accurate data for two (2) claim categories, five (5) underwriting categories, and two (2) rating categories.

#### **XIV. RECOMMENDATIONS**

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

1. The Company must review and revise internal control procedures to ensure compliance with nonrenewal and cancellation notice requirements of 40 P.S. §§991.2001, 991.2003, 991.2006 and 991.2008, so that the violations noted in the Report do not occur in the future.
2. The Company must review 40 P.S. §1171.3 to ensure that the violations relative to the reduction of coverages, as noted in the Report, do not occur in the future.
3. The Company must review 40 P.S. §1171.5(a)(4) to ensure that the violation relative to supporting coverage noted in the Report does not occur in the future.
4. The Company must review the return of premiums of cancelled policies, which have not been paid within 30 days. Unearned premium which has 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. §1793(c). The unearned premium and interest amount must be paid to the insured and proof of such payment must be provided to the Insurance Department within 30 days of the Report issue date.
5. The Company must review 75 Pa. C.S. §1799.3(f) to ensure that a notice of refusal to write is provided to the applicant on a form approved by the

Commissioner, so that the violations noted in the Report do not occur in the future.

6. The Company must review 75 Pa. C.S. §1791.1(b) to ensure that the notice of tort options provided to the insured at the time of application, and at every renewal, is written verbatim.
7. The Company must review 75 Pa. C.S. §1793(b) to ensure that the surcharge disclosure plan provided to the insured at the time of application and at every renewal, includes the number of years that the surcharge will be in effect.
8. The Company must review 40 P.S. §1171.5(a)(9) to ensure that violations regarding the requirements for nonrenewal and cancellation notices, as noted in the Report, do not occur in the future.
9. The Company must review the requirements for advising the insured of their right to request a review by the Commissioner within the specified time frame requirements under 40 P.S. §1171.5(a)(9)(iv).
10. The Company must review 31 Pa. Code §59.6(6) to ensure that violations regarding cancellation or refusal to renew due to failure to pay a premium, as noted in the Report, do not occur in the future.
11. The Company must review 31 Pa. Code §59.9(b) to ensure that violations regarding the requirements for cancellation notices, as noted in the Report, do not occur in the future.

12. 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)(1)&(4) do not occur in the future.
13. 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. The premium overcharges noted in this report must be refunded to the insured and proof of such refunds must be provided to the Insurance Department within 30 days of the report issue date.
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 providing acknowledgements, claim acceptance or denials and status letters as noted in the Report do not occur in the future.
15. The Company must review 40 P.S. §1171.5(a)(11) to ensure that the violations relative to complaint records noted in the Report does not occur in the future.
16. The Company must review 40 P.S. §1171.5(a)(7)(ii) and take appropriate measures to ensure that unfair discrimination, relating to the use of a predictive model when rating renewal policies, does not occur in the future.
17. The Company must reinforce its internal data controls to ensure that all phone sale recordings containing application and disclosure information are

maintained in accordance with 40 P.S. §323.4, so that violations noted in the Report do not occur in the future.

18. The Company must reinforce its internal data controls to ensure that a record of first policy issuance is maintained in accordance with 40 P.S. §§323.4 and 1184(a)&(h), so that violations noted in the Report do not occur in the future.
19. 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.
20. 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.
21. 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.
22. The Company must review Title 18, Pa. C.S. §4117(k)(1) to ensure that violations regarding the requirement of a fraud warning on all applications and claim forms, as noted in the Report, do not occur in the future.
23. The Company must review 31 Pa. Code §§51.32(b) and 51.61 to ensure that violations relative to statistical sources and refusing to render a quote

to individuals based on eligibility requirements without proper disclosure in advertising, as noted in the Report, do not occur in the future.

24. 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.

**XV. COMPANY RESPONSE**

9800 Fredericksburg Road  
San Antonio, Texas 78288



Kelly Krakowski  
Chief, Property & Casualty Division  
Pennsylvania Department of Insurance  
1321 Strawberry Square  
Harrisburg, Pennsylvania 17120

July 22, 2016

Reference: USAA General Indemnity Company NAIC 18600

Dear Ms. Krakowski,

USAA General Indemnity Company appreciates the opportunity to review and respond to the Pennsylvania Insurance Department's Examination report dated June 21, 2016. As discussed further below, the Company has taken immediate action or is in the process of finalizing action plans resulting from the Department's recommendations. We appreciate the Department's assistance with the Company's ongoing work to achieve better compliance results and to address any Department concerns. We trust that the Department recognizes our commitment to compliance and consumer protection.

Please find below our responses to the Department's Recommendations:

- I. The Company must review and revise internal control procedures to ensure compliance with nonrenewal and cancellation notice requirements of 40 P.S. §§991.2001, 991.2003, 991.2006 and 991.2008, so that the violations noted in the Report do not occur in the future.

**Company Response:**

The Company has reviewed the applicable statutes and made modifications to the related processes to further ensure ongoing compliance.

2. The Company must review 40 P.S. §1171.3 to ensure that the violations relative to the reduction of coverages, as noted in the Report, do not occur in the future.

**Company Response:**

The Company has reviewed the statute and has made the necessary changes to its underwriting guidelines to further ensure ongoing compliance.

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

**Company Response:**

The Company has reviewed the statute and has made the necessary changes to its underwriting guidelines to further ensure ongoing compliance.

4. The Company must review the return of premiums of cancelled policies, which have not been paid within 30 days. Unearned premium which has 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. §1793(c). The unearned premium and interest amount must be paid to the insured and proof of such payment must be provided to the Insurance Department within 30 days of the Report issue date.

**Company Response:**

The Company is aware of the return of premium requirements as set forth in 75 Pa.C.S §1793(c). For any cancelled policies identified, the Company has provided the Department with proof of the payments with applicable interest.

5. The Company must review 75 Pa. C.S. §1799.3(£) to ensure that a notice of refusal to write is provided to the applicant on a form approved by the Commissioner, so that the violations noted in the Report do not occur in the future.

**Company Response:**

The Company has reviewed the applicable statute and will make necessary changes to the applicable form, subject to the Department's approval.

6. The Company must review 75 Pa. C.S. § 1791.l(b) to ensure that the notice of tort options provided to the insured at the time of application, and at every renewal, is written verbatim.

**Company Response:**

The Company has reviewed the applicable statute and is in the process of updating the notice of tort options form so that the content is written verbatim.

7. The Company must review 75 Pa. C.S. § 1793(b) to ensure that the surcharge disclosure plan provided to the insured at the time of application and at every renewal, includes the number of years that the surcharge will be in effect.

**Company Response:**

The Company has reviewed the applicable statute and is in the process of updating the form to include the number of years that the surcharge will be in effect.

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

**Company Response:**

The Company has reviewed the applicable statute and has developed system solutions to address the Department's concern. The solutions have been communicated to the Department. As reported, an interim solution was implemented on June 27, 2016 and the Company will continue to provide updates to the Department until the final solution is fully implemented.

9. The Company must review the requirements for advising the insured of their right to request a review by the Commissioner within the specified time frame requirements under 40 P.S. § 1171.5(a)(9)(iv).

**Company Response:**

The Company has reviewed the applicable statute and has developed system solutions to address the Department's concern. The solutions have been communicated to the Department. As reported, an interim solution was implemented on June 27, 2016 and

the Company will continue to provide updates to the Department until the final solution is fully implemented.

10. The Company must review 31 Pa. Code §59.6(6) to ensure that violations regarding cancellation or refusal to renew due to failure to pay a premium, as noted in the Report, do not occur in the future.

**Company Response:**

The Company has reviewed the applicable statute and has developed system solutions to address the Department's concern. The solutions have been communicated to the Department. As reported, an interim solution was implemented on June 27, 2016 and the Company will continue to provide updates to the Department until the final solution is fully implemented.

11. The Company must review 31 Pa. Code §59.9(b) to ensure that violations regarding the requirements for cancellation notices, as noted in the Report, do not occur in the future.

**Company Response:**

The Company has reviewed the applicable regulation, and will continue to ensure compliance.

12. 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)(1)&(4) do not occur in the future.

**Company Response:**

The Company has reviewed the applicable statute, and will assure proof of tort selections is properly retained.

13. 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. The premium overcharges noted in this report must be refunded to the insured 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 reviewed the applicable statute, and a filing was submitted to the Department that addresses the concerns noted and approved with an effective date of October 15, 2015. In addition, the Company provided proof of refund during the examination.

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 providing acknowledgements, claim acceptance or denials and status letters as noted in the Report do not occur in the future.

**Company Response:**

The Company has reviewed the applicable regulation. The Company is committed to ensuring practices and procedures adhere to all laws and regulations. The Company will continue to monitor, and where appropriate, revise internal controls to further ensure compliance.

15. The Company must review 40 P.S. §1171.5(a)(11) to ensure that the violations relative to complaint records noted in the Report does not occur in the future.

**Company Response:**

The Company has reviewed the applicable statute. Controls have been enhanced to improve the complaint management process. Specifically, the Company has modernized the data management tool to further improve accuracy and record management.

16. The Company must review 40 P.S. §1171.5(a)(7)(ii) and take appropriate measures to ensure that unfair discrimination, relating to the use of a predictive model when rating renewal policies, does not occur in the future.

**Company Response:**

The Company has reviewed the applicable statute, and will ensure compliance.

17. The Company must reinforce its internal data controls to ensure that all phone sale recordings containing application and disclosure information 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:**

Violations noted in the report surrounding the Company's recordkeeping practices should not be misconstrued as problems with procedures, violations of law or any other consumer issue. The Company is committed to ensuring practices and procedures adhere to all laws and regulations. In an effort to address the Department's ongoing concerns, the Company is working with the Department to implement additional record retention procedures. The Company will continue to provide update to the Department until the process is implemented

18. The Company so that violations noted in the Report do not occur in the future must reinforce its internal data controls to ensure that a record of first policy issuance is maintained in accordance with 40 P.S. §323.4 and §1184(a)&(h),

**Company Response:**

Violations noted in the report surrounding the Company's recordkeeping practices should not be misconstrued as problems with procedures, violations of law or any other consumer issue. The Company is committed to ensuring practices and procedures adhere to all laws and regulations. In an effort to address the Department's ongoing concerns, the Company is working with the Department to implement additional record retention procedures. The Company will continue to provide update to the Department until the process is implemented

19. 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.

**Company Response:**

The Company has reviewed the applicable regulation with appropriate claim staff.

20. 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 the applicable regulation with appropriate claim staff.

21. 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 evaluated and paid the appropriate interest for the claims noted by the Department. Supports of these payments were provided to the Department during the exam.

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

**Company Response:**

The Company has reviewed the applicable regulation and is making the necessary system changes as required to comply with the requirement regarding the fraud warning. The auto application changes have been approved by the Department.

23. The Company must review 31 Pa. Code §§51.32(b) and 51.61 to ensure that violations relative to statistical sources and refusing to render a quote to individuals based on eligibility requirements without proper disclosure in advertising, as noted in the Report, do not occur in the future.

**Company Response:**

The Company has reviewed the applicable regulations. The advertisements that were reviewed that led to cited violation are no longer in use.

24. 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 the applicable statute. The Companies intent was to submit data as requested. We have reviewed our processes around the collection of data and made changes that will ensure greater accuracy for future requests. This includes enhanced review of data prior to release and improved communication to ensure full understanding of the request.

We look forward to your response and welcome any additional dialogue that will assist in the resolution of this matter. Thank you for the courtesies and professionalism extended during this examination.

Sincerely,



Daniel Dilley, AIC, AMCM  
AVP – Insurance Compliance  
USAA