

**REPORT OF  
MARKET CONDUCT EXAMINATION  
OF**

**COUNTRYWAY INSURANCE COMPANY**  
DeWitt, New York

**AS OF  
February 7, 2005**

**COMMONWEALTH OF PENNSYLVANIA**

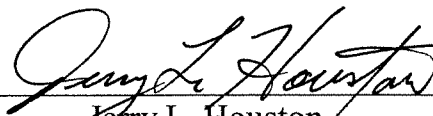


**INSURANCE DEPARTMENT  
MARKET CONDUCT DIVISION**

**Issued: March 23, 2005**

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).

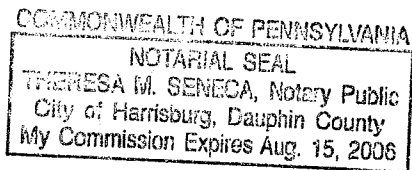
  
\_\_\_\_\_  
Jerry L. Houston

Sworn to and Subscribed Before me

This 30 Day of *November*, 2004



\_\_\_\_\_  
Notary Public



# Countryway Insurance Company

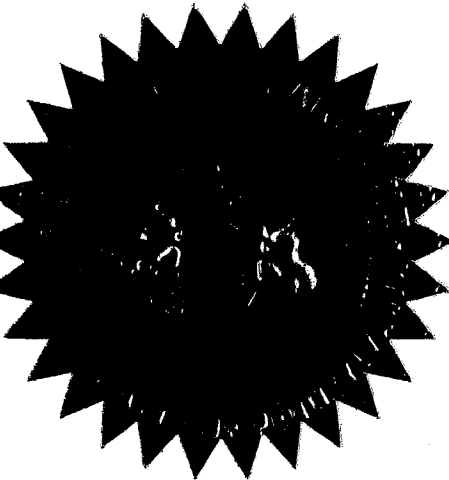
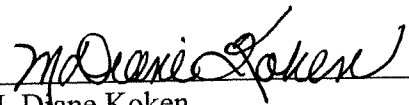
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BEFORE THE INSURANCE COMMISSIONER  
OF THE  
COMMONWEALTH OF PENNSYLVANIA

ORDER

AND NOW, this 29 day of April, 2002, 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 Randolph L. Rohrbaugh, 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.

  
  
\_\_\_\_\_  
M. Diane Koken  
Insurance Commissioner

BEFORE THE INSURANCE COMMISSIONER  
OF THE  
COMMONWEALTH OF PENNSYLVANIA

IN RE:	:	VIOLATIONS:
	:	
COUNTRYWAY INSURANCE	:	Section 671-A of Act 147 of 2002
COMPANY	:	(40 P.S. § 310.71)
5794 Widewaters Parkway	:	
DeWitt, NY 13214	:	Section 605 of the Insurance
	:	Department Act, Act of May 17, 1921,
	:	P.L. 682, No. 284 (40 P.S. § 235)
	:	
	:	Sections 4(a) and 4(h) of the Act of
	:	June 11, 1947, P.L. 538, No. 246
	:	(40 P.S. §§ 1184)
	:	
	:	Act 1990-6, Sections 1705(a)(1) & (4),
	:	1711(b), 1716, 1791.1(a) and (b),
	:	1793(b), 1799.3(a) and (d) (Title 75,
	:	Pa.C.S. §§ 1705, 1711, 1791, 1793
	:	and 1799)
	:	
	:	Sections 1, 3(a)(2), 3(a)(3) and 3(a)(5)
	:	of the Act of July 3, 1986, P.L. 396,
	:	No. 86 (40 P.S. §§ 3401, 3403 and
	:	3405)
	:	
	:	Sections 5(a)(9) and 5(a)(9)(iii) of the
	:	Unfair Insurance Practices Act, Act of
	:	July 22, 1974, P.L. 589, No. 205 (40
	:	P.S. §§ 1171.5)
	:	
	:	Sections 2003(d), 2004 and 2006(2)
	:	of Act 68 of 1998 (40 P.S.
	:	§§991.2003, 991.2004 and 991.2006)
	:	
	:	Title 31, Pennsylvania Code, Sections
	:	69.52(b), 146.6 and 146.7(a)(1)
	:	
	:	Title 75, Pennsylvania Consolidated
	:	Statutes, Section 1822

Respondent. : Pennsylvania Assigned Risk Plan,  
: Section 12A(1) and (2)  
:  
:  
: Docket No. MC05-02-011

CONSENT ORDER

AND NOW, this 23<sup>rd</sup> day of March, 2005, this Order is hereby issued by the Deputy Insurance Commissioner 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 Deputy Insurance Commissioner finds true and correct each of the following Findings of Fact:

- (a) Respondent is Countryway Insurance Company, and maintains its business address at 5794 Widewaters Parkway, DeWitt, New York 13214.
- (b) A market conduct examination of Respondent was conducted by the Insurance Department covering the period from January 1, 2003 through December 31, 2003.
- (c) On February 7, 2005, the Insurance Department issued a Market Conduct Examination Report to Respondent.
- (d) A response to the Examination Report was provided by Respondent on March 9, 2005.
- (e) The Examination Report notes violations of the following:
  - (i) Section 671-A of Act 147 of 2002 prohibits producers from transacting business within this Commonwealth without written appointment as required by the Act (40 P.S. § 310.71).
  - (ii) Section 605 of The Insurance Department Act prohibits agents from transacting business within this Commonwealth without written appointment as required by the Act (40 P.S. § 235).

- (iii) Sections 4(a) and 4(h) of the Casualty and Surety Rate Regulatory Act, No. 246 (40 P.S. § 1184), which requires every insurer to file with the Insurance Commissioner every manual of classifications, rules and rates, every rating plan and every modification of any rating plan which it proposes to use in this Commonwealth and prohibits an insurer from making or issuing a contract or policy with rates other than those approved;
- (iv) Sections 1705(a)(1) & (4) of Act 1990-6, Title 75, Pa.C.S. § 1705, which requires every insurer, prior to the issuance of a private passenger motor vehicle liability insurance policy to provide each applicant an opportunity to elect a tort option. A policy may not be issued unless the applicant has been provided an opportunity to elect a tort option;
- (v) Section 1711(b) of Act 1990-6, Title 75, Pa. C.S. § 1711, which requires all insurers subject to this chapter to make available for purchase a motor vehicle insurance policy which contains only the minimum requirements of financial responsibility and medical benefits;
- (vi) Section 1716 of Act 1990-6, Title 75, Pa. C.S. § 1716, which requires 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;

(vii) Section 1791.1(a) of Act 1990-6, Title 75, Pa.C.S. § 1791, which requires that at the time of application for original coverage and every renewal thereafter, an insurer must provide to an insured an itemized invoice listing the minimum motor vehicle insurance coverage levels mandated by the commonwealth and the premium charge for the insured to purchase the minimum mandated coverages. The invoice must contain the following notice in print of no less than ten-point type: “The laws of the Commonwealth of Pennsylvania, as enacted by the General Assembly, only require you to purchase liability and first-party medical benefit coverages. Any additional coverage or coverages in excess of the limits required by law are provided only at your request as enhancements to basic coverages.” The insurer shall provide the itemized invoice to the insured in conjunction with the declaration of coverage limits and premiums for the insured’s existing coverages;

- (viii) Section 1791.1(b) of Act 1990-6, Title 75, Pa.C.S. § 1791, which requires an insurer to provide an insured with a notice of the availability of two alternatives of full tort insurance and limited tort insurance;
- (ix) Section 1793(b) of Act 1990-6, Title 75, Pa. C.S. § 1793, which requires the insurer to provide to the insured a surcharge disclosure plan. The insurer providing the surcharge disclosure plan shall detail the provisions of the plan and shall deliver the plan to each insured at least once annually. Additionally, the surcharge information plan shall be given to each prospective insured at the time application is made for motor vehicle insurance coverage;
- (x) Section 1799.3(a) of Act 1990-6, Title 75, Pa.C.S. § 1799, which prohibits insurers from applying a surcharge, rate penalty or driver record point assignment where, during the preceding three year period, the aggregate cost to the insurer for any person injured or property damaged is determined to be less than \$950 in excess of any self insured retention or deductible applicable to the named insured;
- (xi) Section 1799.3(d) of Act 1990-6, Title 75, Pa.C.S. § 1799, which requires insurers who make a determination to impose a surcharge, rate penalty or driver record point assignment, to inform the named insured of the determination and specify the manner in which the surcharge, rate penalty

or driver record point assignment was made and clearly identify the amount of the surcharge or rate penalty on the premium notice for as long as the surcharge or rate penalty is in effect;

(xii) Section 1 of Act 86 (40 P.S. § 3401), which requires a policy of insurance covering property or casualty risks in this Commonwealth shall provide for not less than 30 days advance notice to the named insured of an increase in renewal premium;

(xiii) Section 3(a)(2) of Act 86 (40 P.S. § 3403), which requires that a nonrenewal notice be forwarded directly to the named insured or insureds at least 60 days in advance of the effective date of the termination;

(xiv) Section 3(a)(3) of Act 86 (40 P.S. § 3403), which requires that a cancellation notice shall provide at least 60 days advance notice of the effective date of cancellation, whichever is less;

(xv) Section 3(a)(5) of Act 86 (40 P.S. § 3403), which requires a nonrenewal notice to provide the specific reason for termination and identify the condition, factor or loss experience which caused the nonrenewal. The notice shall provide sufficient information or data for the insured to correct the deficiency;

(xvi) Section 5(a)(9) of Act 205 (40 P.S. §1171.5), which defines an unfair act or practice as: (9) cancelling any policy of insurance covering owner-occupied private residential properties or personal property of individuals that has been in force for 60 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 whether such premium is payable directly to the company or its agent or indirectly under any premium finance plan or extension of credit; or for any other reasons approved by the Commissioner pursuant to rules and regulations promulgated by the Commissioner. No cancellation or refusal to renew by any person shall be effective unless a written notice of the cancellation or refusal to renew is received by the insured whether at the address shown in the policy or at a forwarding address;

(xvii) Section 5(a)(9)(iii) of the Unfair Insurance Practices Act, No. 205 (40 P.S. § 1171.5), which requires that a cancellation notice shall state the specific reason or reasons of the insurer for cancellation;

- (xviii) Section 2003(d) of Act 68 of 1998 (40 P.S. § 991.2003), which requires that a nonrenewal notice advise the insured of his right to request in writing that the Insurance Commissioner review the action of the insurer;
  
- (xix) Section 2004 of Act 68 of 1998 (40 P.S. § 991.2004), which requires that no insurer shall cancel a policy of automobile insurance except for nonpayment of premium, suspension or revocation of the named insured's driver license or motor vehicle registration or a determination that the insured has concealed a material fact or has made a material allegation contrary to fact or has made a misrepresentation of material fact and that such concealment, allegation or misrepresentation was material to the acceptance of the risk by the insurer;
  
- (xx) Section 2006(2) of Act 68 of 1998 (40 P.S. § 991.2006), which requires an insurer to deliver or mail to the named insured a nonrenewal notice and state the specific reason or reasons of the insurer for cancellation;
  
- (xxi) Title 31, Pennsylvania Code, Section 69.52(b), which 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;

- (xxii) Title 31, Pennsylvania Code, Section 146.6, requires that 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;
- (xxiii) Title 31, Pennsylvania Code, Section 146.7(a)(1), which requires within 15 working days after receipt by the insurer of properly executed proofs of loss, the first-party claimant shall be advised of the acceptance or denial of the claim by the insurer. No insurer shall deny a claim on the grounds of a specific policy provision, condition or exclusion unless reference to such provision, condition or exclusion is included in the denial. The denial must be given to the claimant in writing and the claim file of the insurer shall contain a copy of the denial;
- (xxiv) Title 75, Pennsylvania Consolidated Statutes, Section 1822, which requires not later than May 1, 1990, all applications for insurance, renewals and claim forms shall contain a statement that clearly states, in substance, the following:  
Any person who knowingly and with intent to injure or defraud any insurer files an application or claim containing any false, incomplete or misleading information shall, upon conviction, be subject to imprisonment for up to seven years and payment of a fine of up to \$15,000.00; and

- (xxv) Pennsylvania Assigned Risk Plan, Section 12A (1) and (2), which provides that eligible risks shall be mailed a take-out notice. Risks are eligible for take-out provided they have been licensed to operate an automobile for at least two years and have not been involved in accidents or convictions for which points are required to be assessed in accordance with the rules of the Plan.

#### CONCLUSIONS OF LAW

4. In accord with the above Findings of Fact and applicable provisions of law, the Deputy Insurance Commissioner makes the following Conclusions of Law:

- (a) Respondent is subject to the jurisdiction of the Pennsylvania Insurance Department.
- (b) Respondent's violations of Section 671-A of Act 147 of 2002 are punishable by the following, under Section 691-A of Act 147 of 2002 (40 P.S. § 310.91):
  - (i) suspension, revocation or refusal to issue the certificate of qualification or license;
  - (ii) imposition of a civil penalty not to exceed five thousand dollars (\$5,000.00) for every violation of the Act;

- (iii) an order to cease and desist; and
- (iv) any other conditions as the Commissioner deems appropriate.

(c) Respondent's violation of Section 605 of The Insurance Department Act (40 P.S. § 235) is punishable by the following, under Section 639 of the Insurance Department Act (40 P.S. § 279):

- (i) suspension, revocation or refusal to issue the certificate of qualification or license;
- (ii) imposition of a civil penalty not to exceed five thousand dollars (\$5,000.00) for every violation of the Act.
- (iii) issue an order to cease and desist.
- (iv) impose such other conditions as the department may deem appropriate.

(d) Respondent's violations of Sections 4(a) and (h) of the Casualty and Surety Rate Regulatory Act, No. 246 (40 P.S. § 1184) are punishable under Section 16 of the Casualty and Surety Rate Regulatory Act:

- (i) imposition of a civil penalty not to exceed \$50 for each violation or not more than \$500 for each such wilful 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.
  
- (e) Respondent's violations of Sections 1, 3(a)(2), 3(a)(3) and 3(a)(5) of Act 86 (40 P.S. §§ 3401 and 3403), are punishable under Section 8 (40 P.S. § 3408) of this act by one or more of the following causes of action:
  - (i) Order that the insurer cease and desist from the violation.
  - (ii) Impose a fine or not more than \$5,000 for each violation.
  
- (f) Respondent's violations of Sections 5(a)(9) and 5(a)(9)(iii) of the Unfair Insurance Practices Act, No. 205 (40 P.S. §§ 1171.5) 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.
  
- (g) In addition to any penalties imposed by the Commissioner for Respondent's violations of the Unfair Insurance Practices Act (40 P.S. §§ 1171.1 – 1171.5), the Commissioner may, under Sections 10 and 11 of the Unfair

Insurance Practices Act (40 P.S. §§ 1171.10, 1171.11) file an action in which the Commonwealth Court may impose the following civil penalties:

(i) for each method of competition, act or practice which the company knew or should have known was in violation of the law, a penalty of not more than five thousand dollars (\$5,000.00);

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

(h) Respondent's violations of Sections 2003, 2004 and 2006 of Act 68 of 1998 are punishable by the following, under Section 2013 of the Act (40 P.S. § 991.2013): Any individual or insurer who violates any of the provisions of this article may be sentenced to pay a fine not to exceed five thousand dollars (\$5,000.00).

(i) Respondent's violations of Title 31, Pennsylvania Code, Sections 146.6 and 146.7 are punishable under Sections 9, 10 and 11 of the Unfair Insurance Practices Act (40 P.S. §§ 1171.9, 1171.10 and 1171.11), as stated above.

ORDER

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

- (a) Respondent shall cease and desist from engaging in the activities described herein in the Findings of Fact and Conclusions of Law.
- (b) Respondent shall 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.
- (c) Respondent shall comply with all recommendations contained in the attached Report.
- (d) Respondent shall pay Thirty-Five Thousand Dollars (\$35,000.00) to the Commonwealth of Pennsylvania in settlement of all violations contained in the Report.
- (e) Payment of this matter shall be made by check payable to the Commonwealth of Pennsylvania. Payment should be directed to Sharon L. Harbert,

Administrative Assistant, Bureau of Enforcement, 1227 Strawberry Square,  
Harrisburg, Pennsylvania 17120. Payment must be made no later than thirty  
(30) days after the date of this Order.

6. In the event the Deputy Insurance Commissioner 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 Deputy Insurance Commissioner 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 Deputy Insurance Commissioner 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 Deputy Commissioner finds that there has been a breach of any of the provisions of this Order, the Deputy Commissioner 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.

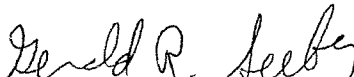
8. In any such enforcement proceeding, Respondent may contest whether a breach of the provisions of this Order has occurred but may not contest the Findings of Fact and Conclusions of Law contained herein.

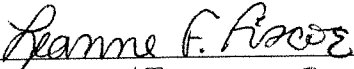
9. Respondent hereby expressly waives any relevant statute of limitations and application of the doctrine of laches for purposes of any enforcement of this Order.

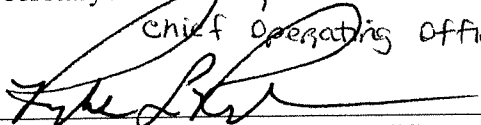
10. This Order constitutes the entire agreement of the parties with respect to the matters referred to herein, and it may not be amended or modified except by an amended order signed by all the parties hereto.

11. This Order shall be final upon execution by the Deputy Insurance Commissioner. Only the Insurance Commissioner or a duly authorized Deputy Insurance Commissioner 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 Deputy Insurance Commissioner.

BY: COUNTRYWAY INSURANCE  
COMPANY, Respondent

  
\_\_\_\_\_  
President / Vice President / CEO  
Executive

  
\_\_\_\_\_  
Secretary / Treasurer, Senior Vice President &  
Chief Operating Officer

  
\_\_\_\_\_  
RANDOLPH L. ROHRBAUGH  
Deputy Insurance Commissioner  
Commonwealth of Pennsylvania

## I. INTRODUCTION

The market conduct examination was conducted at Countryway Insurance Company, at their offices located in DeWitt, New York, from August 9, 2004, through August 27, 2004. Subsequent review and follow-up was conducted in the office of the Pennsylvania Insurance Department.

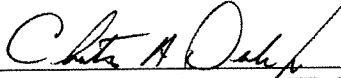
Pennsylvania Market Conduct Examination Reports generally note only those items to which the Department, after review, takes exception. However, the Examination Report may include management recommendations addressing areas of concern noted by the Department, but for which no statutory violation was 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.

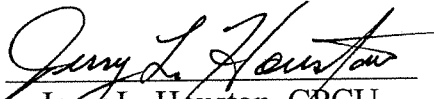
In certain areas of review listed in this Report, the examiners will refer to "error ratio." This error ratio is calculated by dividing the number of policies with violations by the total number of policies reviewed. For example, if 100 policies are reviewed and it is determined that there are 20 violations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

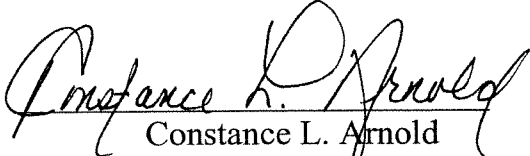
Throughout the course of the examination, Company officials were provided with status memoranda, which referenced specific policy numbers with citation to each section of law violated. Additional information was requested to clarify apparent violations. An exit conference was conducted with Company personnel 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 undersigned participated in this examination and in preparation of this Report.

  
\_\_\_\_\_  
Chester A. Derk, Jr., AIE, HIA  
Market Conduct Division Chief

  
\_\_\_\_\_  
Jerry L. Houston, CPCU  
Market Conduct Examiner

  
\_\_\_\_\_  
Constance L. Arnold  
Market Conduct Examiner

## II. SCOPE OF EXAMINATION

The Market Conduct Examination was conducted on Countryway Insurance Company, hereinafter referred to as “Company,” at their offices located in DeWitt, New York. The examination was conducted pursuant to Sections 903 and 904 (40 P.S. §§323.3 and 323.4) of the Insurance Department Act and covered the experience period of January 1, 2003 through December 31, 2003, 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 Lines 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. Commercial Lines Property
  - Underwriting – Appropriate and timely notices of nonrenewal, midterm cancellations, 60-day cancellations, declinations and renewals.
  
4. Claims
  
5. Forms



6. Advertising

7. Consumer Complaints

8. Licensing

### III. COMPANY HISTORY AND LICENSING

Countryway Insurance Company was incorporated under the laws of New York June 11, 1954 as the Grange League Federation Insurance Company and began business January 1, 1955. The Grange League Federation Insurance Company changed its name to Agway Insurance Company January 3, 1966. The current name was adopted on August 22, 2002, upon acquisition of Agway Insurance Company by United Farm Family Mutual Insurance Company, which is part of Indiana Farm Bureau, Inc., Indianapolis, Indiana. The Company first received its authority to write business in the Commonwealth on June 28, 1955.

#### LICENSING

Countryway Insurance Company's Certificate of Authority to write business in the Commonwealth was last issued on April 1, 2004. As of December 31, 2003, the Company was licensed in 17 states as follows: Connecticut, Delaware, Indiana, Kentucky, Maine, Maryland, Massachusetts, Missouri, New Hampshire, New Jersey, New York, Ohio, Pennsylvania, Rhode Island, Tennessee, Vermont and Virginia. The Company's 2003 annual statement reflects Direct Written Premium for all lines of business in the Commonwealth of Pennsylvania as \$8,324,140. Premium volume related to the areas of this review were: Homeowners' Multiple Peril \$896,554; Fire \$19,130; Allied Lines \$22,976; Farmowners \$3,676,678; Commercial Multi Peril \$17,248; Private Passenger Automobile Liability no-fault \$305,050; Other Private passenger auto liability \$1,248,719; Private Passenger Auto Physical Damage \$1,192,329; Commercial auto no-fault \$50,477; Other commercial auto liability \$558,689 and Commercial auto physical damage \$142,375.

#### **IV. UNDERWRITING PRACTICES AND PROCEDURES**

As part of the examination, the Company was requested to supply manuals, underwriting guides, bulletins, directives or other forms of underwriting procedure communications for each line of business being reviewed. Underwriting guides were furnished for homeowners, dwelling fire, private passenger automobile, farmowners, businessowners, umbrella; personal and commercial. 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 Title 75, Pa. C.S., Section 1711(b)* Requires all insurers subject to this chapter to make available for purchase a motor vehicle insurance policy which contains only the minimum requirements of financial responsibility and medical benefits. The private passenger automobile underwriting guide prohibits the writing of liability coverage only on a vehicle unless full coverage, which includes comprehensive and collision, is on the policy. This restriction is contrary to this requirement.

## **V. UNDERWRITING**

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

#### **1. 60-Day Cancellations**

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

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

The universe of 34 private passenger automobile policies identified by the Company as cancelled in the first 60 days of new business was selected for review. All 34 files selected were received and reviewed. No violations were noted.

#### **2. Midterm Cancellations**

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

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

The universe of 7 private passenger automobile policies identified by the Company as midterm cancellations was selected for review. All 7 files selected were received and reviewed. The 3 violations noted were based on 3 files, resulting in an error ratio of 43%.

The following findings were made:

*3 Violations Act 68, Section 2004 [40 P.S. §991.2004]*

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

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 that must be met regarding the form and conditions of the cancellation notice.

The universe of 15 private passenger automobile files identified as nonrenewals by the Company was selected for review. All 15 files selected were received and reviewed. The 2 violations noted were based on 2 files, resulting in an error ratio of 13%.

The following findings were made:

*1 Violation Act 68, Section 2006(2) [40 P.S. §991.2006(2)]*

Requires an insurer to deliver or mail to the named insured a nonrenewal notice and state the specific reason or reasons of the insurer for cancellation. The violation noted resulted in a termination notice that failed to provide the required 60 days notice of nonrenewal.

*1 Violation Act 68, Section 2003(d) [40 P.S. §991.2003(d)]*

Requires that a nonrenewal notice advise the insured of his right to request in writing that the Insurance Commissioner review the action of the insurer. The violation noted resulted from a nonrenewal notice which provided a reason other than that permitted under the Act.

#### 4. Declinations

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

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

The Company did not report any declinations or refusals to write. No violations were noted.

5. Report of Cancellations, Nonrenewals and Refusals to write

The purpose of the review is to determine compliance with the provisions of Title 31, Pa Code, Section 61.13 regarding records and reports to the Insurance Department of cancellations, nonrenewals and refusals to write.

The Company was requested to provide copies of reports to the Insurance Department of Private Passenger Automobile policies which had been cancelled, nonrenewed or refused to be written within the experience period. Copies of the two required reports were provided. No violations were noted.

**B. Private Passenger Automobile – Assigned Risk**

1. The Company reported no policies cancelled or nonrenewed during the experience period. No violations were noted.

**C. Personal Lines 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.

No 60-Day cancellations were reported by the Company. No violations were noted.

## 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.

No Midterm cancellations were reported by the Company. No violations were noted.

## 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 13 personal lines property policies, which were nonrenewed during the experience period, all 13 files were selected for review. The property files consisted of Homeowners, and tenant homeowners policies. All 13 files selected were received and reviewed. The 10 violations noted were based on 10 files, resulting in an error ratio of 77%.

The following findings were made:

*9 Violations Act 205, Section 5(a)(9) [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 violations were the result of improper reason given on the nonrenewal notice. Agent no longer represents the Company is not a permitted reason under the Act.

*1 Violation Act 205, Section 5(a)(9)(iii) [40 P.S. §1171.5(a)(9)(iii)]*

Requires nonrenewal notices to provide a specific reason or reasons when refusing to renew a policy. The reason provided was not specific and did not conform to this provision of the Act.

4. Declinations

A declination is any application that is received and the Company declines to write the coverage.

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)], discriminatory reasons.

The Company reported no policies were declined or refused to be written. No violations were noted.

**D. Commercial Lines**

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 86, Section 7 (40 P.S. §3407), which requires an insurer, who cancels a policy that is in effect less than 60 days, to provide 30 days notice of termination no later than the 60<sup>th</sup> day unless the policy provides for a longer period of notification.

From the universe of 3 commercial lines policies, which were cancelled within the first 60 days, 3 files were selected for review. The files consisted of commercial automobile policies. All 3 files selected were received and reviewed. No violations were noted.

## 2. Midterm Cancellations

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

The purpose of the review was to determine compliance with Act 86, Section 2 (40 P.S. §3402), which prohibits cancellation except for specified reasons and Section 3 (40 P.S. §3403), which establishes the requirements, which must be met regarding the form and condition of the cancellation notice.

From the universe of 14 commercial lines policies, which were cancelled during the experience period, 14 files were selected for review. The files consisted of farmowners policies. All 14 files selected were received and reviewed. The 1 violation noted was based on 1 file, resulting in an error ratio of 7%.

The following findings were made:

### *1 Violation Act 86, Section 3(a)(3) [40 P.S. §3403(a)(3)]*

Requires that a cancellation notice shall provide at least 60 days advance notice of the effective date of cancellation. whichever is less. The violation was the result of a failure to provide the required number of days notice.

### 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 review was conducted to determine compliance with Act 86, Section 3 (40 P.S. §3403), which establishes the requirements that must be met regarding the form and condition of the nonrenewal notice.

From the universe of 33 commercial lines files identified as nonrenewals by the Company, and consisting of farmowners and commercial automobile policies, 33 files were selected for review. All 33 files selected were received and reviewed. The 7 violations were based on 7 files, resulting in an error ratio of 21%.

The following findings were made:

*6 Violations Act 86, Section 3(a)(2) [40 P.S. §3403(a)(2)]*

Requires that a nonrenewal notice be forwarded directly to the named insured or insureds at least 60 days in advance of the effective date of the termination. The violations noted resulted from nonrenewal notices that failed to provide the required 60 days notice.

*1 Violation Act 86, Section 3(a)(5) [40 P.S. §3403(a)(5)]*

Requires a nonrenewal notice to provide the specific reason for termination and identify the condition, factor or loss experience which caused the nonrenewal. The notice shall provide sufficient information or data for the insured to correct the deficiency.

AND

*Title 31, Pa. Code, §113.88*

Requires the reason given for nonrenewal to be clear and complete. It shall be stated so that a person of average intelligence and education can understand it. Phrases such as “losses” or “underwriting reasons” are not sufficiently specific reasons for nonrenewal. The violation noted failed to be specific, describing the reason for nonrenewal as a failure to provide underwriting information.

4. Renewals

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

The purpose of the review was to measure compliance with Act 86, Section 1 (40 P.S. §3401), which requires 30 days advance notice of an increase in renewal premium.

From the universe of 1,703 commercial lines policies consisting of tenant occupied dwelling fire, commercial fire, farmowners, and commercial automobile policies, which were renewed during the experience period, 163 files were selected for review. All 163 files selected were received and reviewed. The 26 violations noted were based on 26 files, resulting in an error ratio of 16%.

The following findings were made:

*26 Violations Act 86, Section 1 [40 P.S. §3401]*

Requires a policy of insurance covering commercial property or casualty risks to provide not less than 30 days' advance notice to the named insured of an increase in renewal premium.

5. Declinations

A declination is any application that is received and the Company declines to write the coverage.

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

The Company reported no declinations or refusals to write. 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.

#### Private Passenger Automobile – New Business Without Surcharges

From the universe of 688 private passenger automobile policies identified as new business without surcharges by the Company, 50 files were selected for review. All 50 files were received and reviewed. The 2,066 violations were based on the universe of 688 files, resulting in an error ratio of 100%.

The following findings were made:

#### *688 Violations Title 75, Pa. C.S. §1791.1(a)*

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

shall provide the itemized invoice to the insured in conjunction with the declaration of coverage limits and premiums for the insured's existing coverages. The violations involve the universe of files which failed to meet this requirement at the time of application.

*688 Violations Title 75, Pa. C.S §1791.1(b)*

Requires the insurer to provide an insured, at the time of application, notice of the availability of two alternatives of full tort insurance and limited tort insurance. The Company did not provide the notice of tort options to the insured at the time of application. The violations involve the universe of files which failed to meet this requirement at the time of application.

*688 Violations Title 75, Pa. C.S. §1793(b)*

Requires the insurer to provide to the insured a surcharge disclosure plan. The insurer providing the surcharge disclosure plan shall detail the provisions of the plan and provide to each insured at least once annually. Additionally, the surcharge information plan shall be given to each prospective insured at the time application is made for motor vehicle insurance coverage. The violations involve the universe of files and were the result of the Company not providing the insured with a copy of a surcharge disclosure plan at the time of application.



*1 Violation Title 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 an opportunity to elect a tort option. A policy may not be issued unless the applicant has been provided an opportunity to elect a tort option. The violation noted was the result of a policy issued with limited tort and no evidence of a signed limited tort selection form in file.

*1 Violation Act 246, The Casualty and Surety Rate Regulatory Act, Section 4(h) [40 P.S. §1184]*

Requires every insurer to file with the Insurance Commissioner every manual of classifications, rules and rates, every rating plan and every modification of any rating plan, which it proposes to use in the Commonwealth. Also, no insurer shall make or issue a contract or policy except in accordance with filings or rates, which are in effect at the time of issue. The violation was the result of a policy being surcharged for an accident at midterm, when the proper time for surcharging the policy was the annual anniversary date.

Private Passenger Automobile – New Business With Surcharges

From the universe of 30 private passenger automobile policies identified by the Company as new business with surcharges, 30 files were selected for review. All 30 files selected were received and reviewed. The 120 violations noted were based on the universe of 30 files, resulting in an error ratio of 100%.

The following findings were made:

*30 Violations Title 75, Pa. C.S. §1791.1(a)*

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

*30 Violations Title 75, Pa. C.S. §1793(b)*

Requires the insurer to provide to the insured a surcharge disclosure plan. The insurer providing the surcharge disclosure plan shall detail the provisions of the plan and provide to each insured at least once annually. Additionally, the surcharge information plan shall be given to each

prospective insured at the time application is made for motor vehicle insurance coverage. The violations involve the universe of files and were the result of the Company not providing the insured with a copy of a surcharge disclosure plan at the time of application.

*30 Violations Title 75, Pa. C.S. §1799.3(d)*

Requires insurers who make a determination to impose a surcharge, rate penalty or driver record point assignment, to inform the insured of the determination and specify the manner in which the surcharge, rate penalty or driver record point assignment was made and clearly identify the amount of the surcharge or rate penalty on the premium notice for as long as the surcharge or rate penalty is in effect. The violations involve the universe of files, and were for files that failed to provide the specific amount of surcharge.

*30 Violations Title 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. The Company did not provide the notice of tort options to the insured at the time of application.

## 2. Renewals

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

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

### Private Passenger Automobile – Renewals Without Surcharges

From the universe of 1,917 private passenger automobile policies renewed during the experience period, 50 files were selected for review. All 50 files selected were received and reviewed. The 1,917 violations noted were based on the universe of 1,917 files, resulting in an error ratio of 100%.

The following findings were made:

#### *1,917 Violations Title 75, Pa. C.S. §1791.1(a)*

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

vehicle insurance coverage levels mandated by the Commonwealth and the premium charge for the insured to purchase the minimum mandated coverages. The invoice must contain the following notice in print of no less than ten-point type: “The laws of the Commonwealth of Pennsylvania, as enacted by the General Assembly, only require you to purchase liability and first-party medical benefit coverages. Any additional coverage or coverages in excess of the limits required by law are provided only at your request as enhancements to basic coverages.” The insurer shall provide the itemized invoice to the insured in conjunction with the declaration of coverage limits and premiums for the insured’s existing coverages. The violations involve the universe of files which failed to meet this requirement at the time of renewal.

#### Private Passenger Automobile – Renewals With Surcharges

From the universe of 124 private passenger automobile policies reported as renewed with surcharges, 50 files were selected for review. The 50 files selected were received and reviewed. The 249 violations noted were based on the universe of 124 files, resulting in an error ratio of 100%.

The following findings were made:

#### *124 Violations Title 75, Pa. C.S. §1791.1(a)*

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

Commonwealth and the premium charge for the insured to purchase the minimum mandated coverages. The invoice must contain the following notice in print of no less than ten-point type: "The laws of the Commonwealth of Pennsylvania, as enacted by the General Assembly, only require you to purchase liability and first-party medical benefit coverages. Any additional coverage or coverages in excess of the limits required by law are provided only at your request as enhancements to basic coverages." The insurer shall provide the itemized invoice to the insured in conjunction with the declaration of coverage limits and premiums for the insured's existing coverages. The violations involve the universe of files which failed to meet this requirement at the time of renewal.

*124 Violations Title 75, Pa. C.S. §1799.3(d)*

Requires insurers who make a determination to impose a surcharge, rate penalty or driver record point assignment, to inform the insured of the determination and specify the manner in which the surcharge, rate penalty or driver record point assignment was made and clearly identify the amount of the surcharge or rate penalty on the premium notice for as long as the surcharge or rate penalty is in effect. The violations noted were for files that failed to disclose the amount of surcharge.

*1 Violation Title 75, Pa. C.S. §1799.3(a)*

Prohibits insurers from applying a surcharge, rate penalty or driver record point assignment where, during the preceding three-year period, the aggregate cost to the insurer for any person injured or property damaged is determined to be less than \$950 in excess of any self insured retention or deductible applicable to the named insured. The violation was the result of a surcharge applied for property damage claim which was less than the \$950 threshold.

**B. Private Passenger Automobile – Assigned Risk**

Countryway Insurance Company reports its premium writings for private passenger automobile to the Pennsylvania Assigned Risk Plan. As a result, the Company receives all assignments from the Pennsylvania Assigned Risk Plan.

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

Plan, compliance with all provisions of Act 6 of 1990, as well as Title 75, Pa. C.S. Sections 1741, 1742, 1743 and 1744 [40 P.S. §1741, 1742, 1743 and 1744], which establishes the Assigned Risk Plan and requires insurers to abide by the rules of the Plan.

Assigned Risk Private Passenger Automobile – New Business – Clean

The Company reported no new business in this category. No violations were noted.

Assigned Risk Private Passenger Automobile – New Business – Other than Clean

The universe of 1 assigned risk private passenger automobile policy identified as new business other than clean was selected for review. The file selected was received and reviewed. No violations were noted.

2. Renewal Business

Assigned Risk Private Passenger Automobile – Renewal – Clean

The universe of 10 private passenger automobile Assigned Risk policies reported as renewals other than clean was selected for review. All 10 files selected were received and reviewed. No violations were noted.

Assigned Risk Private Passenger Automobile – Renewal – Other than Clean

The universe of 5 assigned risk private passenger automobile policies identified as renewals with other than clean rates was selected for review. All 5 files selected were received and reviewed. The 2 violations noted were based on 1 file, resulting in an error ratio of 20%.

The following findings were made:



*1 Violation Pennsylvania Assigned Risk Plan, Section 12A (1) and (2)*

Provides that eligible risks shall be mailed a take-out notice. Risks are eligible for take-out provided they have been licensed to operate an automobile for at least two years and have not been involved in accidents or convictions for which points are required to be assessed in accordance with the rules of the Plan. This violation was the result of an insured who was eligible for take-out, but the Company failed to make the appropriate offer.

*1 Violation Act 246, The Casualty and Surety Rate Regulation Act, Section 4(h) [40 P.S. §1184]*

Beginning ninety (90) days after the effective date of this Act, no insurer shall make or issue a contract or policy except in accordance with filings or rates which are in effect for said insurer as provided in this Act or in accordance with subsections (f) or (g) of this section. The violation resulted as the Company used rates other than clean when the insured should have been rated with clean rates.

**C. Personal Lines Property - Homeowners**

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.

From the universe of 438 homeowner policies written as new business without surcharges during the experience period, 50 files were selected for review. All 50 files selected were received and reviewed. No violations were noted.

## 2. Renewal

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.

From the universe of 2,120 homeowner policies renewed without surcharges during the experience period, 50 files were selected for review. All 50 files selected were received and reviewed. No violations were noted.

## **D. Personal Lines Property - Dwelling Fire**

### **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.

From the universe of 6 owner occupied dwelling fire policies written as new business during the experience period, 6 files were selected for review. All 6 files selected were received and reviewed. No violations were 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 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.

From the universe of 25 owner occupied dwelling fire policies renewed during the experience period, 25 files were selected for review. All 25 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. No violations were noted.

The Claims review consisted of the following areas of review:

- A. Automobile Property Damage Claims
- B. Automobile Comprehensive Claims
- C. Automobile Collision Claims
- D. Automobile Total Loss Claims
- E. Automobile First Party Benefits Claims
- F. Automobile First Party Benefits Claims referred to a Peer Review Organization (PRO)
- G. Assigned Risk Property Damage Liability Claims
- H. Personal Property Claims – Homeowners and Dwelling Fire

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

### **A. Automobile Property Damage Liability Claims**

From the universe of 175 private passenger automobile property damage liability claims reported during the experience period, 50 claim files were

selected for review. All 50 files selected were received and reviewed. The 1 violation noted was based on 1 file, resulting in an error ratio of 2%.

The following finding was made:

*1 Violation Title 31, Pa. Code, Section 146.6*

Every insurer shall complete investigation of a claim within 30 days after notification of claim, unless such investigation cannot reasonably be completed within such time. If the investigation cannot be completed within 30 days, and every 45 days thereafter, the insurer shall provide the claimant with a reasonable written explanation for the delay and state when a decision on the claim may be expected. The violation was due to a failure to provide a 30 day status letter as required.

**B. Automobile Comprehensive Claims**

From the universe of 217 private passenger automobile comprehensive claims reported during the experience period, 75 claim files were selected for review. All 75 files requested were received and reviewed. The 2 violations noted were based on 1 file, resulting in an error ratio of 1%.

The following findings were made:

*1 Violation Title 31, Pa. Code, Section 146.6*

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

a reasonable written explanation for the delay and state when a decision on the claim may be expected. The violation noted was failure to provide a 30 day status letter as required.

*1 Violation Title 31, Pa. Code, Section 146.7(a)(1)*

Within 15 working days after receipt by the insurer or properly executed proofs of loss, the first-party claimant shall be advised of the acceptance or denial of the claim by the insurer. The denial must be given to the claimant in writing. The violation noted resulted from failure to accept or deny the claim within 15 working days after proof of loss was received.

**C. Automobile Collision Claims**

From the universe of 205 private passenger automobile collision claims reported during the experience period, 75 claim files were selected for review. All 75 files requested were received and reviewed. No violations were noted.

**D. Automobile Total Loss Claims**

From the universe of 73 private passenger automobile total loss claims reported during the experience period, 59 claim files were selected for review. All 59 files requested were received and reviewed. No violations were noted.

**E. Automobile First Party Benefits Claims**

From the universe of 48 private passenger automobile first part benefits claims reported during the experience period, 48 files were selected for

review. All 48 files selected were received and reviewed. The 2 violations noted were based on 1 file, resulting in an error ratio of 2%.

The following findings were made:

*1 Violation Title 31, Pa. Code, Section 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. The violation noted was the result of provider bill not paid within 30 days.

*1 Violation Title 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 noted violation was the result of the Company not paying a first party medical bill within 30 days.



## **F. Automobile First Party Benefits Claims referred to a Peer Review**

### **Organization (PRO)**

The Company reported no first party medical claims as having been referred to a peer review organization. A peer review contract was provided for review. No violations were noted.

## **G. Assigned Risk – Property Damage Liability Claims**

The universe of 3 Assigned Risk private passenger automobile property damage liability claims reported by the Company for the experience period was selected for review. No violations were noted.

## **H. Personal Property Claims – Homeowners and Dwelling Fire**

### Homeowners Claims

From the universe of 168 homeowners claims reported during the experience period, 75 files were selected for review. All 75 files selected were received and reviewed. The 4 violations noted were based on 4 files, resulting in an error ratio of 5%.

The following findings were made:

#### *4 Violations Title 31, Pa. Code, Section 146.6*

Requires every insurer to 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 violations noted were for failure to include the 30-day status letter in the file.

### Dwelling Fire Claims

The universe of 9 dwelling fire claims reported during the experience period were selected for review. All 9 files selected were 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 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 Act 165 of 1994 [18 Pa. C.S. §4117(k)(1)] and Act 6 of 1990 [75 Pa. C.S. §1822] which requires all insurers to provide an insurance fraud notice on all applications for insurance, all claims forms and all renewals of coverage.

The following findings were made:

*2,042 Violations Title 75, Pa. C.S., Section 1822*

Not later than May 1, 1990, all applications for insurance, renewals and claim forms shall contain a statement that clearly states in substance the following:

Any person who knowingly and with intent to injure or defraud any insurer files an application or claim containing any false, incomplete or misleading information shall, upon conviction, be subject to imprisonment for up to seven years and payment of a fine of up to \$15,000.

The noted violations were for failure to provide a fraud warning statement on private passenger automobile renewals

which involved the universe of files, and also for failure to include the fraud warning statement on the automobile theft affidavit claim form.

## **IX. ADVERTISING**

The Company was requested to provide copies of all advertising, sales material and internet advertisements in use during the experience period.

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 Company provided two yellow pages advertisements, and two agency advertisement brochures which were reviewed along with the Company's internet site. No violations were noted.

## 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 13 consumer complaints received during the experience period and provided all consumer complaint logs requested. All 13 complaints reported, were selected and reviewed.

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

The following findings were made:

- 1 Violation Act 205, Section 5(a)(9)(iii) [40 P.S. §1171.5(a)(9)(iii)]*  
Requires that a cancellation notice shall state the specific reason or reasons of the insurer for cancellation. The violation was due to a cancellation notice being issued that did not provide a specific reason for the cancellation.

The following synopsis reflects the nature of the 13 consumer complaints received:

	<u>Number of Complaints</u>	<u>Nature of Complaints</u>	<u>Percentage</u>
•	7	Cancellation/Nonrenewal	54%
•	6	Claims Related	46%
	<hr/>		<hr/>
	13		100%

## XI. LICENSING

In order to determine compliance by the Company and its agency force with the licensing requirements applicable to Section 605 (40 P.S. §235) and Section 623 (40 P.S. §253) of the Insurance Department Act and Insurance Department Act, No. 147, Section 671-A (40 P.S., §310.71), the Company was requested to furnish a list of all active agents during the experience period and a listing of all agents terminated during the experience period. Underwriting files, applications, agency contracts and commission statements were also checked to verify proper licensing and appointment.

The following findings were made:

*3 Violations Insurance Department Act, Section 605 (40 P.S. §235)*

*Appointment.*

- (a) No agent shall do business on behalf of any entity without a written appointment from that entity.
- (b) All appointments shall be obtained by procedures established by the Insurance Department's regulations.
- (c) Insurance entities authorized by law to transact business in this Commonwealth shall, from time to time as determined by the Insurance Department, certify to the Insurance Department the names of all agents appointed by them.
- (d) Each appointment fee, both new and renewal shall be paid in full by the entity appointing the agent.



The Insurance Department records did not indicate an appointment for the following agencies:

Estate Assurance, Inc.

Kronenwetter Insurance Agency, Inc.

Monn, Tony R. dba Elite Insurance & Financial Services

*1 Violation The Insurance Department Act, No. 147, Section 671-A (40 P.S. §310.71)*

(a) Representative of the insurer. – An insurance producer shall not act on behalf of or as a representative of the insurer unless the insurance producer is appointed by the insurer. An insurance producer not acting as a representative of an insurer is not required to be appointed.

The Insurance Department records did not indicate an appointment for the following agency:

Kilmer Insurance Agency, Inc.

## *XII. RECOMMENDATIONS*

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

1. The Company must revise underwriting procedures and guidelines to ensure future compliance with Title 75, Pa. C.S., Section 1711(b) which was referenced in the Underwriting Practices and Procedures section of the Report.
2. The Company must review and implement necessary changes to address violations noted in the Underwriting section of the report for private passenger automobile. Violations for midterm and nonrenewal terminations referencing Act 68, Section 2004, Act 68, Section 2003(d), and Act 68, Section 2006(2) should not occur in the future.
3. In reference to the Personal Lines Property section of the report, the Company must review Act 205, Section 5 (a)(9), and Section 5 (a)(9)(iii) and implement procedures so that homeowners nonrenewals in the future are processed in accordance with the Act.
4. The Commercial Lines section of the report regarding midterm and nonrenewals reference violations for Act 86, Section 3(a)(3), Section 3(a)(2), and Section 3(a)(5). The cited references should be reviewed with appropriate staff to see these type violations do not occur in the future.

5. The Company must review Act 86, Section 1, regarding notice of an increase in renewal premium. This cite is referenced in the Commercial Lines renewal section of the report. Procedures should be implemented to prevent these type violations in the future.
6. The Rating Section for private passenger automobile new and renewal business references Title 75, Pa. C.S. §1791.1(a), Title 75, Pa. C.S. §1791.1(b), Title 75, Pa. C.S. §1793(b), and Title 75, Pa. C.S. §1799.3(d). These cited references must be reviewed and procedures implemented to see that new and renewal business is properly processed in the future.
7. Private passenger automobile rating section for new business without surcharges, and Assigned Risk renewal other than clean, each cite one violation of Act 246, Section 4(h), and renewals with surcharges cite Title 75, Pa. C.S. §1799.3(a). The Company must rate these policies properly and provide evidence of proper refunds to these insureds.
8. The Company should review Title 31, Pa. Code, Section 146.6 with its claim staff to ensure that proper status letters are sent to claimants. These citations are referenced in the report under Automobile Property Damage Liability Claims, Automobile Comprehensive Claims, and Homeowners Claims.
9. The Company must review Title 31, Pa. Code, Section 69.52(b) with claim staff to ensure payment of medical bills within proper time in the future, and show evidence that interest has been paid on the claim cited under the first party benefits claims section, Title 75, Pa. C.S. Section 1716.

10. The Company must implement procedures to see proper fraud warning notices are utilized in the future. The Forms section of the report references Title 75, Pa. C.S., Section 1822.

11. The Company must review and implement procedures to ensure producers are properly appointed as required under Insurance Department Act, No. 147, Section 671-A .

**XIII. COMPANY RESPONSE**



INSURANCE COMPANY, PO BOX 4851, SYRACUSE, NY 13221-4851

March 7, 2005

Mr. Chester A. Derk, Jr., AIE, HIA  
Market Conduct Division Chief  
Commonwealth of Pennsylvania  
Insurance Department  
Bureau of Enforcement  
1321 Strawberry Square  
Harrisburg, Pennsylvania 17120

**RE: Market Conduct Examination of Countryway Insurance Company  
Examination Period January 1, 2003 through December 31, 2003  
Examination Warrant Number: 04-M19-003**

Dear Mr. Derk:

Countryway Insurance Company appreciates the opportunity to provide the following response to the Pennsylvania Insurance Department's Report of Examination dated February 7, 2005 covering the period January 1, 2003 through December 31, 2003. The Company has completed action on each of the Recommendations listed in the Report of Examination as follows:

**Underwriting Practices & Procedures**

**Report of Examination, Page 6 and Page 45:**

1 Violation: Title 75, Pa. C.S., Section 1711(b). Minimum Policy – Requires all insurers subject to this chapter to make available for purchase a motor vehicle insurance policy which contains only the minimum requirements of financial responsibility and medical benefits. The private passenger automobile underwriting guide prohibits the writing of liability coverage only on a vehicle unless full coverage, which includes comprehensive and collision, is on the policy. This restriction is contrary to this requirement.

**Recommendation #1:** The Company must revise underwriting procedures and guidelines to ensure future compliance with Title 75, Pa. C.S., Section 1711(b).

**Countryway Response:** The Company agrees with the finding noted by the Pennsylvania Insurance Department regarding Title 75, Pa. C.S., Section 1711(b). Countryway was in the process of correcting this item prior to commencement of the Pennsylvania examination and implemented revised underwriting guidelines in February 2004 that comply with Title 75, Pa. C.S., Section 1711(b).

**Underwriting – Private Passenger Automobile**

**Report of Examination, Pages 8 – 9 and Page 45:**

3 Violations: Act 68, Section 2004 [40 P.S. §991.2004] – Requires that no insurer shall cancel a policy of automobile insurance except for nonpayment of premium, suspension or revocation of the named insured's driver license or motor vehicle registration or a determination that the insured has concealed a material fact or has made a material allegation contrary to fact or has made a misrepresentation of material fact and that such concealment, allegation or misrepresentation was material to the acceptance of the risk by the insurer. The violations noted were for canceling a policy of automobile insurance for other than permitted reasons.

1 Violation: Act 68, Section 2006(2) [40 P.S. §991.2006(2)] – Requires an insurer to deliver or mail to the named insured a nonrenewal notice and state the specific reason or reasons

of the insurer for cancellation. The violation noted resulted in a termination notice that failed to provide the required 60 days notice of nonrenewal.

1 Violation: Act 68, Section 2003(d) [40 P.S. §991.2003(d)] – Requires that a nonrenewal notice advise the insured of his right to request in writing that the Insurance Commissioner review the action of the insurer. The violation noted resulted from a nonrenewal notice which provided a reason other than that permitted by the Act.

**Recommendation #2:** The Company must review and implement necessary changes to address violations noted for private passenger automobile. Violations of midterm and nonrenewal terminations referencing Act 68, Section 2004, Act 68, Section 2003(d), and Act 68, Section 2006(2) should not occur in the future.

**Countryway Response:** The Company agrees with the findings noted by the Pennsylvania Insurance Department and has conducted additional underwriter training in this area and implemented additional compliance review procedures to ensure processing in accordance with the Act.

### **Underwriting - Personal Lines Property**

#### **Report of Examination, Pages 12 - 13 and Page 45:**

9 Violations: Act 205, Section 5(a)(9) [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 violations were the result of improper reason given on the nonrenewal notice. Agent no longer represents the Company is not a permitted reason under the Act.

1 Violation: Act 205, Section 5(a)(9)(iii) [40 P.S., §1171.5(a)(9)(iii)]. Requires nonrenewal notices to provide a specific reason or reasons when refusing to renew a policy. The reason provided was not specific and did not conform to this provision of the Act.

**Recommendation #3:** The Company must review Act 205, Section 5 (a)(9) and Section 5(a)(9)(iii) and implement procedures so that homeowners nonrenewals in the future are processed in accordance with the Act.

**Countryway Response:** The Company agrees with the findings noted by the Pennsylvania Insurance Department and has conducted additional underwriter training in this area and implemented additional compliance review procedures to ensure processing in accordance with the Act.

### **Underwriting – Commercial Lines**

#### **Report of Examination, Pages 14 - 16 and Page 45:**

1 Violation: Act 86, Section 3(a)(3) [40 P.S., §3403(a)(3)]. Requires that a cancellation notice shall provide at least 60 days advance notice of the effective date of cancellation. The violation was the result of a failure to provide the required number of days notice.

6 Violations: Act 86, Section 3(a)(2) [40 P.S., §3403(a)(2)]. Requires that a nonrenewal notice be forwarded directly to the named insured or insureds at least 60 days in advance of the effective date of the termination. The violations noted resulted from nonrenewal notices that failed to provide the required 60 days notice.

1 Violation: Act 86, Section 3(a)(5) [40 P.S., §3403(a)(5)]. Requires a nonrenewal notice to provide the specific reason for termination and identify the condition, factor or loss experience which caused the nonrenewal. The notice shall provide sufficient information or data for the insured to correct the deficiency AND Title 31, Pa. Code, §113.88 Requires the reason given for nonrenewal to be clear and complete. It shall be stated so that a person of average intelligence and education can understand it. Phrases such as "losses" or "underwriting reasons" are not sufficiently specific reasons for nonrenewal. The violation noted failed to be specific, describing the reason for nonrenewal as a failure to provide underwriting information.

**Recommendation #4:** Regarding mid-term and nonrenewals, the Company should review cited references Act 86, Section 3(a)(3), Section 3(a)(2), and Section 3(a)(5) with appropriate staff to see these type violations do not occur in the future.

**Countryway Response:** The Company agrees with the findings noted by the Pennsylvania Insurance Department and has conducted additional underwriter training in this area and implemented additional compliance review procedures to ensure processing in accordance with the Act.

#### **Underwriting – Commercial Lines**

##### **Report of Examination, Page 17 and Page 46:**

26 Violations: Act 86, Section 1 [40 P.S., §3401]. Requires a policy of insurance covering commercial property or casualty risks to provide not less than 30 days' advance notice to the named insured of increase in renewal premium.

**Recommendation #5:** The Company must review Act 86, Section 1, regarding notice of an increase in renewal premium. Procedures should be implemented to prevent these type violations in the future.

**Countryway Response:** The Company agrees with the findings noted by the Pennsylvania Insurance Department and has implemented a procedure to provide notice of an increase in renewal premium in accordance with the Act.

#### **Rating – Private Passenger Automobile**

##### **Report of Examination, Pages 18 – 19, 21 - 25 and Page 46:**

688 Violations New Business Without Surcharges; 30 Violations New Business With Surcharges; 1,917 Violations Renewal Business Without Surcharges; 124 Violations Renewal Business With Surcharges: Title 75, Pa.C.S. §1791.1(a). Requires that at the time of application for original coverage and every renewal thereafter, an insurer must provide to an insured an itemized invoice listing the minimum motor vehicle insurance coverage levels mandated by the Commonwealth and the premium charge for the insured to purchase the minimum mandated coverages. The invoice must contain the following notice in print of no less than ten-point type: "The laws of the Commonwealth of Pennsylvania, as enacted by the General Assembly, only require you to purchase liability and first-party medical benefit coverages. Any additional coverage or coverages in excess of the limits required by law are provided only at your request as enhancements to basic coverages." The insurer shall provide the itemized invoice to the insured in conjunction with the declaration of coverage limits and premiums for the insured's existing coverages. The violations involve the universe of files which failed to meet this requirement at the time of application or at renewal.

688 Violations New Business Without Surcharges; 30 Violations New Business With Surcharges: Title 75, Pa. C.S. §1791.1(b). Requires the insured, at the time of application, notice of the availability of two alternatives of full tort insurance and limited tort insurance. The Company did not provide the notice of tort options to the insured at the time of application. The violations involve the universe of files which failed to meet this requirement at the time of application.



688 Violations New Business Without Surcharges; 30 Violations New Business With Surcharges; Title 75, Pa. C.S. §1793(b). Requires the insurer to provide to the insured a surcharge disclosure plan. The insurer providing the surcharge disclosure plan shall detail the provisions of the plan and provide to each insured at least once annually. Additionally, the surcharge information plan shall be given to each prospective insured at the time application is made for motor vehicle insurance coverage. The violations involve the universe of files and were the result of the Company not providing the insured with a copy of a surcharge disclosure plan at the time of application.

30 Violations New Business With Surcharges; 124 Violations Renewal Business With Surcharges: Title 75, Pa. C.S. §1799.3(d). Requires insurers who make a determination to impose a surcharge, rate penalty or driver record point assignment, to inform the insured of the determination and specify the manner in which the surcharge, rate penalty or driver record point assignment was made and clearly identify the amount of the surcharge or rate penalty on the premium notice for as long as the surcharge or rate penalty is in effect. The violations involve the universe of files, and were for files that failed to provide the specific amount of surcharge.

**Recommendation #6:** The cited references Title 75, Pa. C.S. §1791.1(a), Title 75, Pa.C.S. §1791.1(b), Title 75, Pa.C.S. §1793(b), and Title 75, Pa.C.S. §1799.3(d) must be reviewed and procedures implemented to see that new and renewal business is properly processed in the future.

**Countryway Comment:** With regard to Title 75, Pa. C.S. 1791.1(b) on Page 22 of the Examination Report, we believe this violation should refer to the "at the time of application" rather than "at renewal".

**Countryway Response:** The Company agrees with the findings noted by the Pennsylvania Insurance Department Regarding Title 75, Pa. C.S. §1791.1(a), Title 75, Pa.C.S. §1791.1(b), Title 75, Pa.C.S. §1793(b), and Title 75, Pa.C.S. §1799.3(d).

With regard to the comments involving new business, Countryway utilizes independent agents to distribute its products; we issued a notification reminding all agents of their obligations under our agent agreement to comply with all applicable insurance laws and regulations, and, specifically, their obligation to comply with these sections of Title 75. In addition, to assist agents in their compliance efforts, we added the Minimum Limits Form, the Tort Options Form and the Surcharge Disclosure Statement to our Web-site for agents.

With regard to Title 75, Pa. C.S. §1791.1(a) dealing with an itemized invoice listing the minimum motor vehicle coverage levels and the premium charge for those coverages, the Company had initiated programming changes to address this issue prior to the commencement of the Pennsylvania Market Conduct Examination. The necessary changes were completed and moved into the production computer environment on October 5, 2004.

With regard to Title 75, Pa. C.S. §1799.3(d), which addresses surcharge disclosures, the Company had initiated programming changes to enhance the disclosure of this information prior to commencement of the Pennsylvania Market Conduct Examination. The programming change to eliminate display of expired surcharge information was implemented in the production computer environment on September 16, 2004 and the change to display current surcharge information in full compliance with the requirements of Title 75, Pa. C.S. §1799.3(d) was implemented in the production computer environment on October 5, 2004.

**Rating – Private Passenger Automobile**

**Report of Examination, Pages 20, 28, 26 and Page 46:**

1 Violation New Business Without Surcharges; Act 246, The Casualty and Surety Rate Regulatory Act, Section 4(h) [40 P.S. §1184]. Requires every insurer to file with the Insurance Commissioner every manual of classifications, rules and rates, every rating plan and every modification of any rating plan, which it proposes to use in the Commonwealth. Also, no insurer shall make or issue a contract or policy except in accordance with filings or rates, which are in effect at the time of issue. The violation was the result of a policy being surcharged for an accident at midterm, when the proper time for surcharging the policy was the annual anniversary date.

1 Violation Assigned Risk Private Passenger Automobile- Renewal- Other than Clean; Act 246 The Casualty and Surety Rate Regulatory Act, Section 4(h) [40 P.S. §1184]. Beginning ninety (90) days after the effective date of this Act, no insurer shall make or issue a contract or policy except in accordance with filings or rates which are in effect for said insurer as provided in this Act or in accordance with subsections (f) or (g) of this section. The violation resulted as the Company used rates other than clean when the insured should have been rated with clean rates.

1 Violation Renewal with Surcharges: Title 75, Pa.C.S. §1799.3(a). Prohibits insurers from applying a surcharge, rate penalty or driver record point assignment where, during the preceding three-year period, the aggregate cost to the insurer for any person injured or property damaged is determined to be less than \$950 in excess of any self insured retention or deductible applicable to the named insured. The violation was the result of a surcharge applied for property damage claims which was less than the \$950 threshold.

**Recommendation #7:** The Company must rate these policies properly and provide evidence of proper refunds to these insureds.

**Countryway Response:** The Company agrees with these isolated findings and has provided evidence of the necessary corrections under separate cover.

**Claims**

**Report of Examination, Pages 33, 36 and Page 46:**

1 Violation Automobile Property Damage Liability Claims; 1 Violation Automobile Comprehensive Claims; 4 Violations Personal Property Homeowners Claims; Title 31, Pa.Code, Section 146.6 Every insurer shall complete investigation of a claim within 30 days after notification of claim, unless such investigation cannot reasonably be completed within such time. If the investigation cannot be completed within 30 days, and every 45 days thereafter, the insurer shall provide the claimant with a reasonable written explanation for the delay and state when a decision on the claim may be expected. The violations were due to a failure to provide a 30-day status letter as required.

**Recommendation #8:** The Company should review Title 31, Pa. Code, Section 146.6 with its claims staff to ensure that proper status letters are sent to claimants.

**Countryway Response:** The Company agrees with these isolated findings and has provided its Claims staff with additional training on this topic.

**Claims**

**Report of Examination, Page 35 and Page 46:**

1 Violation Title 31, Pa. Code, Section Section 69.52(b) and 1 Violation Title 75, Pa. C.S. §1716. Title 31 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. The violation noted was the result of provider bill not paid within 30 days. Title 75 regarding Payment of Benefits, indicates 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 noted violation was the result of the Company not paying a first party medical bill within 30 days.

**Recommendation #9:** The Company must review Title 31, Pa. Code, Section 69.52(b) with claims staff to ensure payment of medical bills within proper time in the future, and show evidence that interest has been paid on the claim cited under the first party benefits claims section, Title 75.Pa.C.S. Section 1716.

**Countryway Response:** The Company agrees with this isolated finding which related to one payment on the same claim and has issued the interest payment in the amount of \$0.28 on August 24, 2004. Evidence of payment has been provided under separate cover. The Company has reinforced the requirements of Title 31, Pa. Code, Section 69.52(b) and Title 75, Pa. C.S. §1716 with its claims staff.

## **Forms**

### **Report of Examination, Page 38 and Page 47:**

2,042 Violations Title 75, Pa.C.S., Section 1822 Not later than May 1, 1990, all applications for insurance, renewal and claim forms shall contain a statement that clearly states in substance the following: Any person who knowingly and with intent to injure or defraud any insurer files an application or claim containing any false, incomplete or misleading information shall, upon conviction, be subject to imprisonment for up to seven years and payment of a fine of up to \$15,000. The noted violations were for failure to provide a fraud warning statement on private passenger automobile renewals which involved the universe of files, and also for failure to include the fraud warning statement on the automobile theft affidavit claim form.

**Recommendation #10:** The Company must implement procedures to see proper fraud warning notices are utilized in the future.

**Countryway Response:** The Company agrees with the findings noted regarding Title 75, Pa. C.S., Section 1822 and had begun to address this item for renewal policies prior to commencement of the Pennsylvania Market Conduct Examination; in August 2004, the Company began issuing the fraud statements on renewal policies. The automobile theft affidavit form was corrected and a copy provided to the Department under separate cover in September 2004.

## **Licensing**

### **Report of Examination, Pages 43 and 44 and Page 47:**

3 Violations Insurance Department Act, Section 605 [40 P.S. §235] Appointment. (a) No agent shall do business on behalf of any entity without a written appointment from that entity; (b) All appointments shall be obtained by procedures established by the Insurance Department's regulations; (c) Insurance entities authorized by law to transact business in this Commonwealth shall, from time to time as determined by the Insurance Department, certify to the Insurance Department that names of all agents appointed by them; (d) Each appointment fee, both new and renewal shall be paid in full by the entity appointing the agent.

1 Violation The Insurance Department Act, No. 147, Section 671-A [40 P.S. §310.71] (a) Representative of insurer.- An insurance producer shall not act on behalf of or as a representative of the insurer unless the insurance producer is appointed by the insurer. An insurance producer not acting as a representative of an insurer is not required to be appointed.

**Recommendation #11:** The Company must review and implement procedures to ensure producers are properly appointed as required under Insurance Department Act, No. 147, Section 671-A.

**Countryway Response:** The Company agrees with the findings noted regarding Insurance Department Act, Section 605 [40 P.S. §235] and The Insurance Department Act, No. 147, Section 671-A [40 P.S. §310.71]. The Company's September 2004 Monthly Appointment Activity Report addressed the four agencies listed in the Report of Examination. To prevent similar items from occurring in the future, the Pennsylvania appointment process was reviewed with the person in charge of this area and certain requirements were clarified.

Countryway wishes to extend its appreciation for the thorough knowledge and understanding demonstrated by the examiners throughout the course of the Examination process. If you require any additional information or have any questions on the Company's response, please contact me directly at (315) 634-5265.

Very truly yours,



Leanne F. Fiscoe  
Senior Vice President, Chief Operating Officer & Treasurer

cc: J. Jerry Canada  
Lynn B. Jongleux  
Gerald R. Seeber  
James P. Rink  
Michael C. Phillips  
Leo A. Navarra