

**REPORT OF
MARKET CONDUCT EXAMINATION
OF**

ZURICH AMERICAN INSURANCE COMPANY

New York, New York

**AS OF
January 12, 2005**

COMMONWEALTH OF PENNSYLVANIA

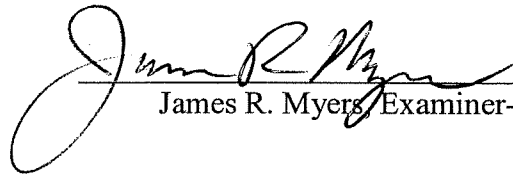


**INSURANCE DEPARTMENT
MARKET CONDUCT DIVISION**

Issued: February 28, 2005

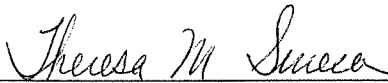
VERIFICATION

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).


James R. Myers, Examiner-in-Charge

Sworn to and Subscribed Before me

This *23* Day of *November*, 2004



Notary Public

COMMONWEALTH OF PENNSYLVANIA

NOTARIAL SEAL
THERESA M. SENECA, Notary Public
City of Harrisburg, Dauphin County
My Commission Expires Aug. 15, 2006

ZURICH AMERICAN INSURANCE COMPANY

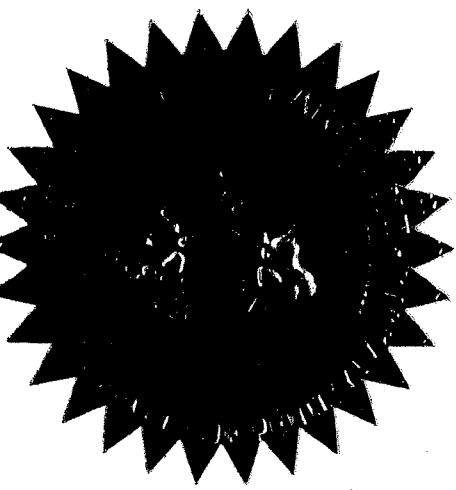
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BEFORE THE INSURANCE COMMISSIONER
OF THE
COMMONWEALTH OF PENNSYLVANIA

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
M. Diane Koken
Insurance Commissioner

BEFORE THE INSURANCE COMMISSIONER
OF THE
COMMONWEALTH OF PENNSYLVANIA

IN RE:	:	VIOLATIONS:
	:	
	:	
ZURICH AMERICAN INSURANCE	:	Section 671-A of Act 147 of 2002
COMPANY	:	(40 P.S. § 310.71)
1400 American Lane	:	
Schaumburg, IL 60196	:	Sections 1, 3(a)(1), 3(a)(2), 3(a)(3),
	:	3(a)(5), 3(a)(6) and 4(b) of the Act of
	:	July 3, 1986, P.L. 396, No. 86 (40 P.S.
	:	§§ 3401, 3403 and 3404)
	:	
	:	Section 5(a)(4) of the Unfair Insurance
	:	Practices Act, Act of July 22, 1974,
	:	P.L. 589, No. 205 (40 P.S. §§ 1171.5)
	:	
	:	Section 653 of the Insurance Company
	:	Law, Act of May 17, 1921, P.L. 682,
	:	No. 284 (40 P.S. § 813)
	:	
	:	Title 31, Pennsylvania Code, Section
	:	113.88
	:	
Respondent.	:	Docket No. MC05-01-029

CONSENT ORDER

AND NOW, this 28th day of February, 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 Zurich American Insurance Company, and maintains its address at 1400 American Lane, Schaumburg, Illinois 60196.
- (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 January 21, 2005, the Insurance Department issued a Market Conduct Examination Report to Respondent.

- (d) A response to the Examination Report was provided by Respondent on February 9, 2005.

- (e) The Examination Report notes violations of the following:
 - (i) Section 671-A of Act 147 of 2002 prohibits insurance producers from transacting business within this Commonwealth without written appointment as required by the Act (40 P.S. § 310.71);

 - (ii) 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;

 - (iii) Section 3(a)(1) of Act 86 (40 P.S. § 3402), which states canceling in midterm a policy of insurance covering commercial property and casualty risks is prohibited for any reason other than those enumerated under this section;

 - (vi) 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 termination;

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

- (vi) Section 3(a)(5) of Act 86 (40 P.S. § 3403), which requires that a nonrenewal notice shall state the specific reasons for nonrenewal identifying 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;

- (vii) Section 3(a)(6) of Act 86 (40 P.S. § 3403), which requires notices of mid-term cancellation and nonrenewal to meet the following requirements: A mid-term cancellation or nonrenewal notice shall state that, at the insured's request, the insurer shall provide loss information to the insured for at least three years or the period of time during which the insurer has provided coverage to the insured, whichever is less;

- (viii) Section 4(b) of Act 86 (40 P.S. § 3404), which requires a cancellation that is initiated by the insured, the insurer must return the unearned premium to the insured not later than 30 days after the effective date of termination where commercial property or casualty risks or cancelled midterm by the insurer;

- (ix) Section 5(a)(4) of Act 205 (40 P.S. § 1171.5), which prohibits entering into any agreement to commit, or by a concerted action committing, any act of boycott, coercion or intimidation resulting in or tending to result in unreasonable restraint of or monopoly in the business of insurance;
- (x) Section 653 of the Insurance Company Law, Act 284 (40 P.S. § 813), which prohibits mid-term cancellation with exceptions for nonpayment of premium, or by request of the insured; and
- (xi) Title 31, Pennsylvania Code, Section 113.88, which requires the reason given for cancellation shall 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 cancellation.

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 violations of Sections 1, 3 and 4 of Act 86 (40 P.S. §§ 3401, 3403 and 3404), 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.

(d) Respondent's violations of Section 5(a)(4) 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.
- (e) In addition to any penalties imposed by the Commissioner for 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).
- (f) Violation of Section 653 of The Insurance Company Law (40 P.S. §813) is punishable by the following, under Section 655 of The Insurance Company Law (40 P.S. § 815), which states the Commissioner shall have the power to suspend or revoke the license of any insurance company which violates any of the provisions of subdivision (d) of this article.

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 Twenty-Five Thousand Dollars (\$25,000.00) 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.

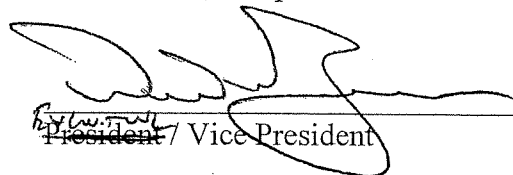
8. In any such enforcement proceeding, Respondent may contest whether a breach of the provisions of this Order has occurred but may not contest the Findings of Fact and Conclusions of Law contained herein.

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 by the Insurance Department.


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.

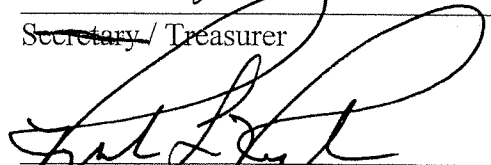
BY: ZURICH AMERICAN INSURANCE
COMPANY, Respondent



~~President~~ / Vice President



Secretary / Treasurer



RANDOLPH L. ROHRBAUGH
Deputy Insurance Commissioner
Commonwealth of Pennsylvania

I. INTRODUCTION

The market conduct examination was conducted at Zurich American Insurance Company's offices located in Mechanicsburg, Pennsylvania, from August 30, 2004, to September 17, 2004. Subsequent review and follow-up was conducted in the office of the Pennsylvania Insurance Department.

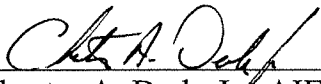
Pennsylvania Market Conduct Examination Reports generally note only those items to which the Department, after review, takes exception. However, the Examination Report may include management recommendations addressing areas of concern noted by the Department, but for which no statutory violation was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

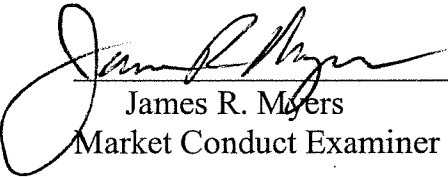
Throughout the course of the examination, Company officials were provided with status memoranda, which referenced specific policy numbers with citation to each section of law violated. Additional information was requested to clarify apparent violations. An exit conference was conducted with Company personnel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

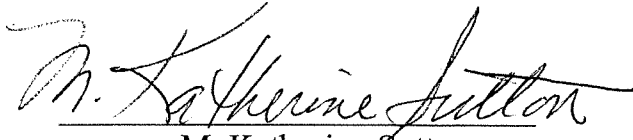
The undersigned participated in this examination and in preparation of this Report.



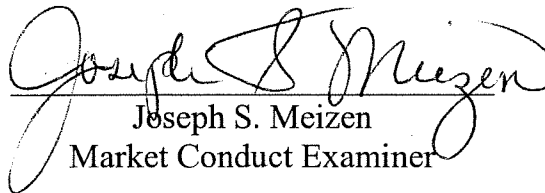
Chester A. Derk, Jr., AIE, HIA
Market Conduct Division Chief



James R. Myers
Market Conduct Examiner



M. Katherine Sutton
Market Conduct Examiner



Joseph S. Meizen
Market Conduct Examiner

II. SCOPE OF EXAMINATION

The Market Conduct Examination was conducted on Zurich American Insurance Company, hereinafter referred to as “Company,” at their offices located in Mechanicsburg, Pennsylvania. 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. Commercial Automobile
 - Underwriting – Appropriate and timely notices of nonrenewals, midterm cancellations, 60-day cancellations, declinations, renewals and rescissions.

2. Commercial Property
 - Underwriting – Appropriate and timely notices of nonrenewals, midterm cancellations, 60-day cancellations, declinations, renewals and rescissions.

3. General Liability
 - Underwriting – Appropriate and time notices of nonrenewals, midterm cancellations, 60-day cancellations, declinations, renewals and rescissions.

4. Workers’ Compensation
 - Underwriting – Appropriate and timely notices of nonrenewals and midterm cancellations.

5. Medical Malpractice

- Underwriting – Appropriate and timely notice of nonrenewals

6. Forms

7. Complaints

8. Licensing

III. COMPANY HISTORY

Zurich Insurance Company, incorporated in Zurich, Switzerland in 1872, entered the United States as Zurich General Accident and Liability Insurance Company in 1912. In 1955, the Company was called Zurich Insurance Company, U. S. Branch. On June 3, 1998, Zurich American Insurance Company was formed as a New York corporation with the intention that it would become the successor to Zurich Insurance Company, U. S. Branch, including assuming all of Zurich Insurance Company, U. S. Branch's contractual obligations and assets and liabilities. The domestication became effective on December 31, 1998, whereupon Zurich American Insurance Company commenced its operations as a New York domiciled insurer, licensed as a foreign insurer in each of the remaining 49 states.

Headquartered in Schaumburg, Illinois since 1980, Zurich American Insurance Company is part of Zurich North America – Corporate. All of the members of Zurich North America – Corporate are owned or controlled by Zurich Financial Services of Zurich, Switzerland. Zurich American Insurance Company is licensed in all 50 states plus District of Columbia and Puerto Rico. The underwriting focus of Zurich American Insurance Company is property and casualty insurance of commercial risks.

IV. LICENSING

Zurich American Insurance Company's Certificate of Authority to write business in the Commonwealth was last issued on April 1, 2004. The Company is licensed in all 50 states, District of Columbia and Puerto Rico. The Company's 2003 annual statement reflects Direct Written Premium for all lines of business in the Commonwealth of Pennsylvania as \$157,996,660. Premiums volume related to the areas of this review were: Fire and Allied Lines \$7,030,282; Commercial Multiple Peril \$7,205,794; Inland Marine \$5,060,297; Medical Malpractice \$125,859; Workers' Compensation \$49,572,698; Other Liability \$82,939,020; Other Commercial Auto Liability \$24,837,639 and Commercial Auto Physical Damage \$5,444,335.

V. UNDERWRITING PRACTICES AND PROCEDURES

As part of the examination, the Company was requested to supply underwriting guides, bulletins, directives or other forms of underwriting procedure communications for each line of business being reviewed. Underwriting guides were furnished for all commercial lines. The purpose of this review was to identify any inconsistencies which could be considered discriminatory, specifically prohibited by statute or regulation, or unusual in nature. No violations were noted.

VI. UNDERWRITING

A. Commercial Automobile

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.

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 60th day unless the policy provides for a longer period of notification.

The universe of 2 commercial automobile policies identified as being cancelled in the first 60 days of new business by the Company during the experience period was selected for review. Both files requested 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.

The universe of 23 commercial automobile policies cancelled midterm during the experience period was selected for review. All 23 files requested was received and reviewed. The 3 violations noted were based on 1 file, resulting in an error ratio of 4%

The following findings were made:

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

Requires a written notice of cancellation in the manner prescribed in this section must be forwarded directly to the named insured or insureds at least 60 days in advance of the effective date of termination. The violation noted did not evidence the cancellation notice was forwarded to the insured at least 60 days in advance.

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

Requires a midterm cancellation notice shall state the specific reason for the cancellation. The reasons shall identify the condition, factor or loss experience which caused the midterm cancellation. The notice shall provide sufficient information or data for the insured to correct the deficiency. The violation noted was for failure to provide a specific reason for cancellation.

1 Violation Act 86, Section 3(a)(6) [40 P.S. §3403(a)(6)]

Requires a midterm cancellation notice shall state at the insured's request, the insurer shall provide loss information to the insured for at least three years or the period of time during which the insurer has provided coverage to the insured, whichever is less. The violation noted was for failure to provide an offer of loss information.

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 69 commercial automobile policies identified as nonrenewals by the Company during the experience period 25 files were selected for review. All 25 files requested were received and reviewed. The 4 violations noted were based on 2 files, resulting in an error ratio of 8%.

The following findings were made:

2 Violations Act 86, Section 3(a)(5) [40 P.S. §3403(a)(5)]

Requires a nonrenewal notice shall state the specific reason for the cancellation. The reasons shall 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, Section 113.88

The reason for nonrenewal or cancellation shall 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 cancellation. The violations noted were for failure to provide a specific reason for nonrenewal.

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

Requires a nonrenewal shall state at the insured’s request, the insurer shall provide loss information to the insured for at least three years or the period of time during which the insurer has provided coverage to the insured, whichever is less. The violations noted were for failure to provide offer of loss 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 523 commercial automobile policies, which were renewed during the experience period, 25 files were selected for review. All 25 files requested were received and reviewed. No violations for noted.

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, Section 5 [40 P.S. §1171.5], which defined unfair methods of competition and unfair or deceptive acts or practices.

The Company did not report any declinations during the experience period.

B. Commercial 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 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 60th day unless the policy provides for a longer period of notification.

The Company did not report any commercial property 60-day cancellations during the experience period.

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.

The universe of 22 commercial property policies which were cancelled midterm during the experience period was selected for review. The 22 files requested were received and reviewed. The 2 violations noted were based on 2 files, resulting in an error ratio of 9%.

The following findings were made:

1 Violation Act 86, Section 3(a)(6) [40 P.S. §3403(a)(6)]

Requires a midterm cancellation shall state at the insured's request, the insurer shall provide loss information to the insured for at least three years or the period of time during which the insurer has provided coverage to the insured, whichever is less. The violation noted was for failure to provide an offer of loss information.

1 Violation Act 86, Section 4(b) [40 P.S. §3404(b)]

Requires a cancellation that is initiated by the insured, the insurer must return the unearned premium to the insured not later than 30 days after the effective date of termination

where commercial property or casualty risks or cancelled midterm by the insurer. The violation noted was for failure to return the unearned premium to the insured within 30 days.

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.

The universe of 70 commercial property policies identified as being nonrenewed by the Company during the experience period was selected for review. The commercial files consisted of commercial inland marine, commercial fire, commercial packages and tenant occupied dwelling fire policies. All 70 files requested were received and reviewed. The 27 violations noted were based on 23 files, resulting in an error ratio of 33%.

The following findings were made:

14 Violations Act 86, Section 3(a)(1) [40 P.S. §3403(a)(1)]

Requires a midterm cancellation or nonrenewal notice shall be forwarded by registered mail or first class mail or delivered by the insured company directly to the named insured or insureds. The violations noted did not evidence a notice of nonrenewal was sent or delivered to the named insured or insureds.

1 Violation Act 86, Section 3(a)(2) [40 P.S. §3403.3(a)(2)]

Requires a written notice of nonrenewal in the manner prescribed in this section must be forwarded directly to the named insured or insureds at least 60 days in advance of the effective date of termination. The violation noted was for failure to provide notice of nonrenewal at least 60 days in advance to the named insured or insureds.

8 Violations Act 86, Section 3(a)(5) [40 P.S. §3403(a)(5)]

Requires a refusal to renew notice shall state the specific reason for the cancellation. The reasons shall identify the condition, factor or loss experience which caused the midterm cancellation. The notice shall provide sufficient information or data for the insured to correct the deficiency.

AND

Title 31, Pa. Code, Section 113.88

The reason for nonrenewal or cancellation shall 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 cancellation. The violations noted were for failure to provide a specific reason for cancellation.

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

Requires a refusal to renew shall state at the insured’s request, the insurer shall provide loss information to the insured for at least three years or the period of time during

which the insurer has provided coverage to the insured, whichever is less. The violations noted were for failure to provide an offer of loss 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 254 commercial property policies, which were renewed during the experience period, 110 files were selected for review. The commercial property policies consisted of commercial package, commercial fire, tenant occupied dwelling fire and commercial inland marine. All 110 files requested were received and reviewed. The 7 violations noted were the result of 7 files, resulting in an error ratio of 6%.

The following findings were made:

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

Requires a policy of insurance covering property and casualty risks in the Commonwealth shall provide for not less than 30 days advance notice to the named insured of an increase in premium. The violations noted are for failure to notify the insured at least 30 days in advance of an increase in premium.

C. General Liability

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 60th day unless the policy provides for a longer period of notification.

The universe of 1 general liability policy identified as being cancelled in the first 60 days of new business by the Company during the experience period was selected for review. The file requested was 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 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.

The universe of 15 general liability policies identified as being cancelled midterm by the Company during the experience period was selected for

review. The 15 files requested 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 86, Section 3(a)(1) [40 P.S. §3403(a)(1)]

Requires a midterm cancellation or nonrenewal notice shall be forwarded by registered mail or first class mail or delivered by the insured company directly to the named insured or insureds. The violation noted did not evidence a notice of cancellation was sent or delivered to the named insured or insureds.

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

Requires a notice of cancellation shall state the specific reason for the cancellation. The reasons shall identify the condition, factor or loss experience which caused the midterm cancellation. The notice shall provide sufficient information or data for the insured to correct the deficiency.

AND

Title 31, Pa. Code, Section 113.88

The reason for nonrenewal or cancellation shall 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 cancellation. The violation noted was for failure to provide a specific reason for cancellation.

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 65 general liability policies identified as being nonrenewed by the Company during the experience period 25 files were selected for review. All 25 files requested were received and reviewed. The 3 violations noted were based on 2 files, resulting in an error ratio of 8%.

The following findings were made:

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

Requires a midterm cancellation or nonrenewal notice shall be forwarded by registered mail or first class mail or delivered by the insured company directly to the named insured or insureds. The violation noted did not evidence a notice of nonrenewal was sent or delivered to the named insured or insureds.

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

Requires a nonrenewal notice shall state the specific reason for the cancellation. The reasons shall identify the condition, factor or loss experience which caused the midterm cancellation. The notice shall provide sufficient information

or data for the insured to correct the deficiency.

AND

Title 31, Pa. Code, Section 113.88

The reason for nonrenewal or cancellation shall 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 cancellation. The violation noted was for failure to provide a specific reason for cancellation.

1 Violation Act 86, Section 3(a)(6) [40 P.S. §3403(a)(6)]

Requires a refusal to renew shall state at the insured’s request, the insurer shall provide loss information to the insured for at least three years or the period of time during which the insurer has provided coverage to the insured, whichever is less. The violation noted was for failure to provide an offer of loss 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 394 general liability policies which were renewed during the experience period 25 files were selected for review. All 25 files requested were received and reviewed. The 4 violations noted were the result of 3 files, resulting in an error ratio of 12%.

The following findings were made:

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

Requires a policy of insurance covering property and casualty risks in the Commonwealth shall provide for not less than 30 days advance notice to the named insured of an increase in premium. The violations noted were for failure to notify the insured at least 30 days in advance of an increase in premium.

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

Requires a refusal to renew notice shall state that specific reason for the cancellation. The reasons shall identify the condition, factor or loss experience which caused the midterm cancellation. The notice shall provide sufficient information or data for the insured to correct the deficiency.

AND

Title 31, Pa. Code, Section 113.88

The reason for nonrenewal or cancellation shall 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 cancellation. The violation noted was

for a file containing a nonrenewal notice that failed to provide a specific reason for cancellation.

D. Workers Compensation

1. Midterm Cancellations

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

The purpose of the review was to determine compliance with Insurance Company Law, Section 653 (40 P.S. §813), which prohibits midterm cancellation with exceptions for nonpayment of premium or by request of the insured.

The universe of 34 workers' compensation policies which were cancelled midterm by the Company during the experience period was selected for review. All 34 files requested were received and reviewed. The violation noted results in an error ratio of 3%.

The following finding was made:

1 Violation Insurance Company Law, Section 653 [40 P.S. §813]

Except for nonpayment of premium, no policy of insurance issued or renewed against liability under the Act of June 2, 1915 {P.L.736, No. 338}, known as the Pennsylvania Workers' Compensation Act, may be cancelled or terminated by an insurer during the term of the policy. The violation noted was for an invalid reason for cancellation.

2. Nonrenewals

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

The 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.

The universe of 58 workers' compensation policies identified as being nonrenewed by the Company during the experience period was selected for review. All 58 files requested were received and reviewed. The 20 violations noted were based on 15 files, resulting in an error ratio of 26%.

The following findings were made:

4 Violations Act 86, Section 3(a)(1) [40 P.S. §3403(a)(1)]

Requires a midterm cancellation or nonrenewal notice shall be forwarded by registered mail or first class mail or delivered by the insured company directly to the named insured or insureds. The violations noted did not evidence a notice of nonrenewal was sent or delivered to the named insured or insureds.

2 Violations Act 86, Section 3(a)(2) [40 P.S. §3403.3(a)(2)]

Requires a written notice of nonrenewal in the manner prescribed in this section must be forwarded directly to the named insured or insureds at least 60 days in advance of the effective date of termination. The violations noted were for

failure to provide notice of nonrenewal at least 60 days in advance to the named insured or insureds.

8 Violations Act 86, Section 3(a)(5) [40 P.S. §3403(a)(5)]

Requires a refusal to renew notice shall state that specific reason for the cancellation. The reasons shall identify the condition, factor or loss experience which caused the midterm cancellation. The notice shall provide sufficient information or data for the insured to correct the deficiency.

AND

Title 31, Pa. Code, Section 113.88

The reason for nonrenewal or cancellation shall 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 cancellation. The violations noted were for failure to provide a specific reason for cancellation.

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

Requires a nonrenewal notice shall state at the insured’s request, the insurer shall provide loss information to the insured for at least three years or the period of time during which the insurer has provided coverage to the insured, whichever is less. The violations noted were for failure to provide an offer of loss information.

2 Violations Act 205, Section 5(a)(4) [40 P.S. §1171.5(a)(4)]

Unfair Methods of Competition and Unfair or Deceptive Acts or Practices Defined. Entering into any agreement to commit, or by any concerted action committing, any act of boycott, coercion or intimidation resulting in or tending to result in unreasonable restraint of, or monopoly in, the business of insurance. The violations noted were for requiring supporting business as a reason for nonrenewal.

E. Medical Malpractice

1. Nonrenewals

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

The 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.

The universe of 9 medical malpractice policies, which were nonrenewed during the experience period, was selected for review. All 9 files selected were received and reviewed. No violations were noted.

VII. FORMS

Throughout the course of the examination, all underwriting files were reviewed to identify the policy forms used in order to verify compliance with 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. No violations were noted.

VIII. CONSUMER COMPLAINTS

The Company was requested to identify all consumer complaints received during the experience period and provide copies of their consumer complaint logs for the preceding four years. The Company identified 9 consumer complaints received during the experience period and provided all consumer complaint logs requested. All 9 files 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. No violations were noted.

The following synopsis reflects the nature of the 9 complaints that were reviewed.

• 5	Claims	56%
• 4	Underwriting	44%
—		—
9		100%

IX. PRODUCER 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 effective June 4, 2003, Section 641.1(a) [40 P.S. §310.41(a) and Section 671-A [40 P.S. §310.71] of the Insurance Department Act No 147, the Company was requested to furnish a list of all active agents during the experience period and a listing of all agents terminated during the experience period. Underwriting files were checked to verify proper licensing and appointment.

The following finding was made:

*1 Violation Insurance Department Act, No. 147, Section 671-A (40 P.S. §310.71)
Effective 06/04/2003*

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

(b) Representative of the consumer – An insurance producer acting on behalf of or representing an insurance consumer shall execute a written agreement with the insurance consumer prior to representing or acting on their behalf that:

(1) Delineate the services to be provided; and

(2) Provide full and complete disclosure of the fee to be paid to the insurance producer by the insurance consumer.

(c) Notification to Department – An insurer that appoints an insurance producer shall file with the Department a notice of

appointment. The notice shall state for which companies within the insurer's holding company system or group the appointment is made.

(d) Termination of appointment – Once appointed, an insurance producer shall remain appointed by an insurer until such time as the insurer terminates the appointment in writing to the insurance producer or until the insurance producer's license is suspended, revoked or otherwise terminated.

(e) Appointment fee – An appointment fee of \$12.50 will be billed annually to the insurer for each producer appointed by the insurer during the preceding calendar year regardless of the length of time the producer held the appointment with the insurer. The appointment fee may be modified by regulation.

(f) Reporting – An insurer shall, upon request, certify to the Department the names of all licensees appointed by the insurer. The following producer was found to be writing policies but was not found in Insurance Department records of having an appointment. The Company failed to file a notice of appointment and submit appointment fees to the Department.

DeWitt Stern Group. Inc

X. 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 ensure all producers are properly licensed and appointed, as required by Section 641.1(a) and Section 671-A [40 P.S. §310.41a and 40 P.S. §310.71] of the Insurance Department Act No. 147, prior to accepting any business from any producer
2. The Company must review Act 86, Section 1 [40 P.S. §3401] to ensure that violations regarding notification to the insured of an increase in premium as noted in the report do not occur in the future.
3. The Company must review Act 86, Section 3(a)(1) [40 P.S. §3403(a)(1)] to ensure that violations regarding the sending of cancellation and nonrenewal notices to the insured as noted in the report do not occur in the future.
4. The Company must review Act 86, Section 3(a)(2)(3) [40 P.S. §3403(a)(2)(3)] to ensure that violations regarding 60 days notice of termination as noted in the report do not occur in the future.
5. The Company must review Act 86, Section 3(a)(5) [40 P.S. §3403(a)(5)] and Title 31, Pa. Code, Section 113.88 to ensure that violations regarding the failure to provide a specific reason for cancellation or nonrenewal as noted in the report do not occur in the future.

6. The Company must review Act 86, Section 3(a)(6) [40 P.S. §3403(a)(6)] to ensure that violations regarding the failure to provide offer of loss information as noted in the report do not occur in the future.

7. The Company must review Insurance Company Law, Section 653 [40 P.S. §813] to ensure that violations regarding permissible reasons for cancellation of worker's compensation policies as noted in the report do not occur in the future.

8. The Company must review Act 205, Section 5(a)(4) [[40 P.S. §1171.5(a)(4)] to ensure that violations regarding using supporting business as a reason for nonrenewal as noted in the report do not occur in the future.

XI. COMPANY RESPONSE



ZURICH

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

Your reference Market Conduct Report of Examination
Zurich American Insurance Company
Examination Warrant Number: 04-M22-009

Our reference

Date February 7, 2005

Dear Mr. Derk,

This is in response to your letter dated January 12, 2005 enclosing the Report of Examination of Zurich American Insurance Company.

Zurich American Insurance Company does not at this time wish to assert any exceptions to the findings in the Report.

Zurich is taking action to address the eight recommendations in Section X of the Report.

With respect to the licensing and appointment of producers, while only one violation was noted, Zurich has taken steps to reinforce with all Business Units the requirement that all agents and agencies be appropriately licensed and appointed before doing business.

With respect to the issues raised about conditional renewal, nonrenewal, and cancellation, while the overall error percentage is relatively low at about 13%, Zurich agrees with the Department that corrective measures are needed.

To address this, in line with the Department's Recommendations, Zurich has taken actions within each of its Business Units to address and reduce the potential for inappropriate notices. Each Business Unit has re-emphasized its underwriting and processing Best Practice publications providing processing guidelines.

The Business Units have, as well, conducted training to reaffirm that cancellation, nonrenewal, and conditional renewal notices must be sent sufficiently in advance, stating specific, permitted reasons, with an appropriate offer of claim information and proof of mailing.

The performance of this goal will be verified by internal reviews on a regular basis.

David Williams
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It is Zurich's intent to provide appropriate notice to each insured of any conditional renewal, nonrenewal, or cancellation in compliance with Pennsylvania law and regulation.

Also, to improve Zurich's overall handling of cancellation, non-renewal, and conditional renewal notices, an enterprise wide Task Force has been established to formulate improved methods for successful management of the processes. This Task Force is expected to provide direction within the next few months.

I personally and corporately want to take this opportunity to thank Mr. Myers and his associates for their professionalism and efficiency in conducting the review of Zurich American Insurance Company's policies.

Yours truly,


David Williams

Zurich in North America

cc: Mr. Richard Hennig – Corporate Law – Zurich American Insurance Company