



**COMMONWEALTH OF PENNSYLVANIA
INSURANCE DEPARTMENT**

MARKET CONDUCT
EXAMINATION REPORT

OF

**INFINITY INSURANCE COMPANY
INDIANAPOLIS, IN**

As of: October 23, 2013
Issued: December 10, 2013

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

VERIFICATION

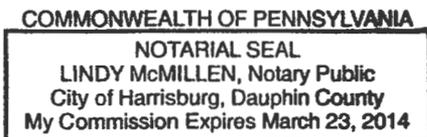
Having been duly sworn, I hereby verify that the statements made in the within document are true and correct to the best of my knowledge, information and belief. I understand that false statements made herein are subject to the penalties of 18 Pa. C.S. §4903 (relating to false swearing).

June A. Coleman
June A. Coleman, MCM, Examiner-In-Charge

Sworn to and Subscribed Before me

This 22nd Day of October, 2013

Lindy McMullen
Notary Public



INFINITY INSURANCE COMPANY

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BEFORE THE INSURANCE COMMISSIONER
OF THE
COMMONWEALTH OF PENNSYLVANIA

ORDER

AND NOW, this 27th day of April, 2011, 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 Ronald A. Gallagher, Deputy Insurance Commissioner, to consider and review all documents relating to the market conduct examination of any company and person who is the subject of a market conduct examination and to have all powers set forth in said statute including the power to enter an Order based on the review of said documents. This designation of authority shall continue in effect until otherwise terminated by a later Order of the Insurance Commissioner.




Michael F. Consedine
Insurance Commissioner

BEFORE THE INSURANCE COMMISSIONER
OF THE
COMMONWEALTH OF PENNSYLVANIA

IN RE: : VIOLATIONS:
: :
INFINITY INSURANCE : Sections 903(a) and 904(b) of the
COMPANY : Insurance Department Act, Act of May 17,
3700 Colonnade Parkway : 1921, P.L. 789, No. 285 (40 P.S. §§323.3
Birmingham, AL 35243 : and 323.4)
: :
: Sections 2001, 2002(c)(3), 2003, 2004,
: 2006, 2006(1), 2006(2), 2006(3), 2006(4)
: 2006(5), 2006(6), and 2006(7) of Act 68
: of 1998 (40 P.S. §§2001, 2002, 2003,
: 2004 and 2006)
: :
: Sections 4 and 5(a)(2) of the Unfair
: Insurance Practices Act, Act of July 22,
: 1974, P.L. 589, No. 205 (40 P.S. §§1171.4
: and 1171.5
: :
: Act 1990-6, Title 75 Pennsylvania
: Consolidated Statutes, Sections 1702,
: 1711(a) and (b), 1712, 1715, 1731,
: 1731(a), 1734, 1738(c)(d)(1) and (2), and
: 1792(a) (Title 75 Pa. C.S. 1702, 1711,
: 1712, 1715, 1731, 1734, 1738 and 1792)
: :
Respondent. : Docket No. MC13-10-014

CONSENT ORDER

AND NOW, this 10th day of December, 2013, this Order is hereby
issued by the Insurance Department of the Commonwealth of Pennsylvania pursuant to
the statutes cited above and in disposition of the matter captioned above.

1. Respondent hereby admits and acknowledges that it has received proper notice of its rights to a formal administrative hearing pursuant to the Administrative Agency Law, 2 Pa.C.S. § 101, et seq., or other applicable law.

2. Respondent hereby waives all rights to a formal administrative hearing in this matter, and agrees that this Consent Order shall have the full force and effect of an order duly entered in accordance with the adjudicatory procedures set forth in the Administrative Agency Law, supra, or other applicable law.

FINDINGS OF FACT

3. The Insurance Department finds true and correct each of the following Findings of Fact:

(a) Respondent is Infinity Insurance Company and maintains its address at 3700 Colonnade Parkway, Birmingham, AL 35243.

(b) A market conduct examination of Respondent was conducted by the Insurance Department covering the experience period from January 1, 2011 through December 31, 2011.

(c) On October 23, 2013, the Insurance Department issued a Market Conduct Examination Report to Respondent.

- (d) A response to the Examination Report was provided by Respondent on November 22, 2013.

- (e) The Market Conduct Examination of Respondent revealed violations of the following:
 - (i) Section 903(a) of the Insurance Department Act 40 Purdons Statutes, Section 323.3(a), which requires every company subject to examination keep all records and documents relating to its business in such manner as may be required in order that the Department may verify whether the company has complied with the laws of this Commonwealth;

 - (ii) Section 904(b) of the Insurance Department Act (40 P.S. § 323.4), which requires every company or person from whom information is sought must provide to the examiners timely, convenient and free access to all books, records, accounts, papers, documents and any or all computer or other recordings relating to the property, assets, business and affairs of the company being examined;

 - (iii) Section 2001 of Act 68 of 1998 (40 P.S. §991.2003), which defines “renewal” or “to renew” as to issue and deliver at the end of an insurance policy period a policy which supersedes a policy previously issued and delivered by the same

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

- (iv) Section 2002(c)(3) of Act 68 of 1998 (40 P.S. §991.2002), which requires that an insurer supply the insured with a written statement of the reason for cancellation;
- (v) Section 2003 of Act 68 of 1998 (40 P.S. § 991.2003), which states that an insurer may not cancel or refuse to write or renew a policy of automobile insurance on the basis of discrimination;
- (vi) 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;

- (vii) Section 2006 of Act 68 of 1998 (40 P.S. § 991.2006), which requires that nonrenewal by an insurer of a policy of automobile insurance shall not be effective unless the insurer delivers or mails to the insured a written notice of the cancellation;
- (viii) Section 2006(1) of Act 68 of 1998 (40 P.S. § 991.2006), which requires that a nonrenewal notice be in a form acceptable to the Insurance Commissioner;
- (ix) Section 2006(2) of Act 68 of 1998 (40 P.S. § 991.2006), which prohibits a cancellation or refusal to renew from being effective unless the insurer delivers or mails a written notice of the cancellation or refusal to renew, which will include the date, not less than 60 days after the date of mailing or delivery, on which the cancellation or refusal to renew shall become effective. When the policy is being cancelled or not renewed for reasons set forth in Sections 2004(1) and (2), however, the effective date may be 15 days from the date of mailing or delivery;
- (x) Section 2006(3) of Act 68 of 1998 (40 P.S. § 991.2006), which requires an insurer to deliver or mail to the named insured a cancellation notice and state the specific reason or reasons of the insurer for cancellation;

- (xi) Section 2006(4) of Act 68 (40 P.S. §991.2006(4)), which requires that a cancellation notice advise the insured of his right to request in writing that the Insurance Commissioner review the action of the insurer;
- (xii) Section 2006(5) of Act 68 of 1998 (40 P.S. § 991.2006), which requires that either in the cancellation notice or in an accompanying statement, the insured be advised of his possible eligibility for insurance through the automobile assigned risk plan;
- (xiii) Section 2006(6) of Act 68 of 1998 (40 P.S. § 991.2006), which requires that a cancellation notice advise the insured that he must obtain compulsory automobile insurance coverage if he operates or registers a motor vehicle in this Commonwealth and that the insurer is notifying the Department of Transportation that the insurance is being cancelled and the insured must notify the Department of Transportation that he has replaced said coverage;
- (xiv) Section 2006(7) of Act 68 of 1998 (40 P.S. § 991.2006), which requires that a cancellation notice clearly state that when coverage is to be terminated due to nonresponse to a citation imposed under 75 Pa.C.S. § 1533, or nonpayment of a fine or penalty imposed under that section, coverage shall not terminate if the insured provides the insurer with proof that the insured

has responded to all citations and paid all fines and penalties and that he has done so on or before the termination date of the policy;

- (xv) Section 4 of Act 205 (40 P.S. § 1171.4), which prohibits any person to engage in this state in any trade practice which is defined or determined to be an unfair method of competition or an unfair or deceptive act or practice in the business of insurance pursuant to this act;
- (xvi) Section 5(a)(2) of Act 205 (40 P.S. § 1171.5), which prohibits making, issuing, publishing or circulating in any manner an advertisement, announcement or statement containing any representation or statement with respect to the business of insurance or with respect to any person in the conduct of his insurance business which is untrue, deceptive or misleading;
- (xvii) Sections 1702, 1711(a) and (b), 1712, 1715, 1731, 1734 and 1792(a) of Act 1990-6, Title 75, Pa. C.S., §§1702, 1711, 1712, 1715, 1731, 1734 and 1792, which all insurers subject to this chapter shall make available for purchase a motor vehicle policy which contains only the minimum requirements of financial responsibility and medical benefits as provided for in this chapter. An insurer shall also make available for purchase first party benefits; higher limits of uninsured, underinsured and bodily injury liability coverages; uninsured motorist and underinsured motorist coverages are offered therein or supplemental thereto in amounts as provided in section 1734; and an insurer

may request in writing the issuance of coverages under section 1731 (relating to availability, scope and amount of coverage) in amounts equal to or less than the limits of liability for bodily injury;

- (xviii) Sections 1731(a) and 1738(c)(d)(1) and (2) of Act 1990-6, Title 75, Pa. C.S., §§1731 and 1738, which requires uninsured motorist and underinsured motorist coverages be offered in amounts as provided in section 1734. The named insured shall be informed that he may exercise the waiver of stacked limits for uninsured and underinsured motorist coverage by signing written rejection forms;

CONCLUSIONS OF LAW

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

- (a) Respondent is subject to the jurisdiction of the Pennsylvania Insurance Department.
- (b) Respondent's violations of Sections 2001, 2002(c)(3), 2003, 2004, 2006, 2006(1), 2006(2), 2006(3), 2006(4), 2006(5), 2006(6), and 2006(7) of Act 68 of 1998 are punishable by the following, under Section 2013 of the Act (40 P.S. §991.2013): Any individual or insurer who violates any of the provisions of

this article may be sentenced to pay a fine not to exceed five thousand dollars (\$5,000.00).

(c) Respondent's violations of Sections 4, and 5(a)(2) of the Unfair Insurance Practices Act, No. 205 (40 P.S. §§ 1171.4 and 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.

(d) 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).

ORDER

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

- (a) Respondent shall cease and desist from engaging in the activities described herein in the Findings of Fact and Conclusions of Law.
- (b) Respondent shall pay Fifty-Five Thousand Dollars (\$55,000.00) in settlement of all violations contained in the Report.
- (c) Payment of this matter shall be made by check payable to the Pennsylvania Insurance Department. Payment should be directed to Cherie L. Leese, Administrative Officer, 1311 Strawberry Square, Harrisburg, Pennsylvania 17120. Payment must be made no later than thirty (30) days after the date of this Order.
- (d) Respondent shall file an affidavit stating under oath that it will provide each of its directors, at the next scheduled directors meeting, a copy of the adopted Report and related Orders. Such affidavit shall be submitted within thirty (30) days of the date of this Order.

(e) Respondent shall comply with all recommendations contained in the attached Report.

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

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

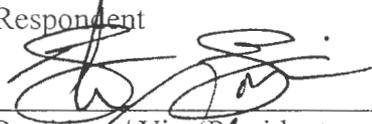
8. In any such enforcement proceeding, Respondent may contest whether a breach of the provisions of this Order has occurred but may not contest the Findings of Fact and Conclusions of Law contained herein.

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

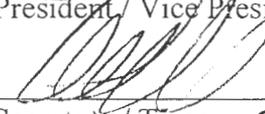
10. This Order constitutes the entire agreement of the parties with respect to the matters referred to herein, and it may not be amended or modified except by an amended order signed by all the parties hereto.

11. This Order shall be final upon execution by the Insurance Department. Only the Insurance Commissioner or a duly authorized delegee is authorized to bind the Insurance Department with respect to the settlement of the alleged violations of law contained herein, and this Consent Order is not effective until executed by the Insurance Commissioner or a duly authorized delegee.

BY: INFINITY INSURANCE COMPANY,
Respondent



President / Vice President



Secretary / Treasurer



RONALD A. GALLAGHER, JR.
Deputy Insurance Commissioner
Commonwealth of Pennsylvania

I. INTRODUCTION

The market conduct examination was conducted at the office of Infinity Insurance Company located in Birmingham, Alabama, from June 3, 2013 through June 27, 2013. The underwriting section of the examination was initially conducted in the office of the Pennsylvania Insurance Department. Subsequent review and follow-up was conducted at an off-site location.

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

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

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

written summaries provided on the violations found.

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

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

Constance L. Arnold, MCM
Market Conduct Division Chief

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

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

II. SCOPE OF EXAMINATION

The Market Conduct Examination was conducted on Infinity Insurance Company, hereinafter referred to as “Company,” at its office located in Birmingham, Alabama. 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, 2011 to December 31, 2011, 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 rescissions.
2. Forms
3. Data Integrity

III. COMPANY HISTORY AND LICENSING

The Company was formed as Dixie Insurance Company under the laws of Florida on August 28, 1978 and acted as the vehicle for the transfer of domicile of Dixie Auto Insurance Company from Birmingham, Alabama to Tampa, Florida, effective September 30, 1978. The Company adopted its current name August 1, 1992 and on November 14, 1997 was re-domesticated from Florida to Indiana. Infinity Property and Casualty Corporation (IPCC) owns all Company stock. IPCC is a holding company which, through its direct and indirect insurance company subsidiaries, is engaged primarily in the private passenger automobile insurance business. IPCC is traded on the NASDAQ, symbol IPCC.

LICENSING

Infinity Insurance Company's Certificate of Authority to write business in the Commonwealth was last issued on April 1, 2013. The Company is licensed in all states except: Kansas, New Hampshire, New Jersey, Vermont and Wyoming. The Company's 2012 annual statement reflects Direct Written Premium for all lines of business in the Commonwealth of Pennsylvania as \$21,375,292. Premium volume related to the areas of this review were: Private Passenger Automobile Direct Written Premium was reported as Private Passenger Auto No-Fault (personal injury protection) \$3,890,999; Other Private Passenger Auto Liability \$10,354,468 and Private Passenger Auto Physical Damage \$7,129,825.

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 rule guides and memos were furnished for private passenger automobile. The purpose of this review was to identify any inconsistencies which could be considered discriminatory, specifically prohibited by statute or regulation, or unusual in nature.

The following findings were made:

1 Violation Act 68, Section 2003 [40 P.S. §991.2003]

States that an insurer may not cancel or refuse to renew a policy of automobile insurance on the basis of discrimination. The violation noted was the result of a rule in the guides stating that vehicles used to commute to the city of or a suburb of Newark, New York, Baltimore, or Washington D.C. are unacceptable.

1 Violation Title 75, Pa. C.S. §1702

Title 75, Pa. C.S. §1711(a)&(b)

Title 75, Pa. C.S. §1712

Title 75, Pa. C.S. §1715

Title 75, Pa. C.S. §1731

Title 75, Pa. C.S. §1734

Title 75, Pa. C.S. §1792(a)

All insurers subject to this chapter shall make available for purchase a motor vehicle insurance policy which contains only the minimum requirements of financial responsibility and medical benefits as

provided for in this chapter. An insurer shall also make available for purchase first party benefits; higher limits of uninsured, underinsured and bodily injury liability coverages; uninsured motorist and underinsured motorist coverages are offered therein or supplemental thereto in amounts as provided in section 1734; and an insurer may request in writing the issuance of coverages under section 1731 (relating to availability, scope and amount of coverage) in amounts equal to or less than the limits of liability for bodily injury. The violation noted was the result of the Company failing to permit the insured the option to choose limits on policy.

1 Violation Title 75, Pa. C.S. §1731(a)

Title 75, Pa. C.S. §1738(c)(d)(1)&(2)

Requires uninsured motorist and underinsured motorist coverages be offered in amounts as provided in section 1734. The named insured shall be informed that he may exercise the waiver of stacked limits for uninsured and underinsured motorist coverage by signing written rejection forms. The violation noted was the result of the Company failing to permit insured the option to choose stacked limits of underinsured and uninsured motorist coverage.

1 Violation Title 75, Pa. C.S. §1711(a)&(b)

All insurers subject to this chapter shall make available for purchase a motor vehicle insurance policy which contains only the minimum requirements of financial responsibility and medical benefits as provided for in this chapter. The violation noted was the result of the Company failing to offer Pennsylvania limits and options for commuting out of state vehicles.

1 Violation Act 205, Section 4 [40 P.S. §1171. 4]

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

Unfair Methods of Competition and Unfair or Deceptive Acts or Practices Prohibited. Prohibits any trade practice which is defined or determined to be an unfair method of competition or unfair or deceptive act or practice in the business of insurance. The violation noted was the result of a rule in the guides stating that Pennsylvania law requires a cancellation notice be sent along with the renewal offer on all six month policies to alert the insureds that their coverage will soon end if payment is not made prior to the effective date of the renewal.

V. UNDERWRITING

A. Private Passenger Automobile

1. 60-Day Cancellations

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

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

From the universe of 2,603 private passenger automobile policies that were cancelled within the first 60 days of new business, 100 files were selected for review. All 100 files requested were received and reviewed. Of the 100 files reviewed, three (3) files were identified as midterm cancellations, one (1) file was identified as a rescission and 96 files were identified as 60-day cancellations. The 13 violations noted were based on 13 files, resulting in an error ratio of 13%.

The following findings were made:

6 Violations Act 68, Section 2002(c)(3) [40 P.S. §991.2002(c)(3)]

Adjudications: Tampa v. State Farm (P91-06-01, 1991)

Gorba v. Allstate (P92-02-92, 1993)

Requires that an insurer supply the insured with a written

statement of the reason for cancellation. The six files noted were policies cancelled within the first 60 days of new business inception date and did not contain evidence of the required 15 days' notice.

6 Violations Act 68, Section 2002(c)(3) [40 P.S. §991.2002(c)(3)]

Requires that an insurer supply the insured with a written statement of the reason for cancellation. The six files noted were policies cancelled within the first 60 days of new business inception date and did not contain a cancellation notice.

1 Violation Insurance Department Act, Section 903(a) [40 P.S. §323.3]

Requires every company subject to examination to keep all books, records, accounts, papers, documents and any or all computer or other recordings relating to its business in such manner and for such time as may be required in order that the Department may readily verify whether the Company has complied with the laws of this Commonwealth. The file noted did not contain the rescission letter.

2. Mid-term Cancellations

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

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

regarding the form and conditions of the cancellation notice.

From the universe of 11,768 private passenger automobile policies which were cancelled midterm during the experience period, 300 files were selected for review. All 300 files requested were received and reviewed. Of the 300 files reviewed, 53 files were identified as 60-day cancellations, 1 file was identified as a non-renewal and 246 files were identified as midterm cancellations. The Company provided the number of violations which exceeds the universe. Therefore, an error ratio could not be determined.

The following findings were made:

7 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 seven files noted were cancelled for other than permitted reasons.

4 Violations Act 68, Section 2006 [40 P.S. §991.2006]

Requires that cancellation by an insurer of a policy of automobile insurance shall not be effective unless the insurer delivers or mails to the insured a written notice of the

cancellation. The four files noted did not contain any evidence that a cancellation notice was sent to the insured.

16 Violations Act 68, Section 2006(2) [40 P.S. §991.2006(2)]

Requires an insurer to deliver or mail to the named insured a cancellation notice and state the date, not less than sixty (60) days after the date of the mailing or delivery, on which cancellation shall become effective. When the policy is being cancelled for the nonpayment of premium, the effective date may be fifteen (15) days from the date of mailing or delivery. The 16 files noted resulted in cancellation notices that did not provide the required number of days' notice from the date of mailing.

6 Violations Act 68, Section 2006(3) [40 P.S. §991.2006(3)]

Requires an insurer to deliver or mail to the named insured a cancellation notice and state the specific reason or reasons of the insurer for the cancellation. The six files noted resulted in cancellation notices being issued without a specific reason for the cancellation.

1 Violation Act 68, Section 2004 [40 P.S. §991.2004]

Act 68, Section 2006(3) [40 P.S. §991.2006(3)]

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 file noted resulted in the Company cancelling the policy without a specific or permitted reason.

16,191 Violations Act 68, Section 2004 [40 P.S. §991.2004]

Act 68, Section 2001 [40 P.S. §991.2001]

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

Requires that no insurer shall cancel a policy of automobile insurance except for nonpayment of premium, suspension or revocation of the named insured's driver license or motor vehicle registration or a determination that the insured has concealed a material fact or has made a material allegation contrary to fact or has made a misrepresentation of material fact and that such concealment, allegation or misrepresentation was material to the acceptance of the risk by the insurer. The Company provided the number of policies affected. The 16,191 files noted resulted in the Company sending a nonpayment cancellation notice when premium was not yet due.

The following concern was noted:

CONCERN: The Company sends cancellation notices for such reasons as an unacceptable risk. The notice also includes a statement within the reason for cancellation section: "REINSTATEMENT AT DISCRETION OF THE COMPANY. ALL PAYMENTS MUST BE CURRENT TO BE CONSIDERED FOR REINSTATEMENT." The Company notes state that

the following: "DO NOT REINSTATE POLICY". The Company should not include on the cancellation notice that reinstatement at discretion of Company when the Company has decided based on the reason for cancellation that it will not reinstate the policy.

3. Nonrenewals

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

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

From the universe of 272 private passenger automobile policies which were non-renewed during the experience period, 150 files were selected for review. All 150 files requested were received and reviewed. The 22 violations noted were based on 22 files, resulting in an error ratio of 15%.

The following findings were made:

7 Violations Act 68, Section 2006(3) [40 P.S. §991.2006(3)]

Requires an insurer to deliver or mail to the named insured a non-renewal notice and state the specific reason or reasons of the insurer for the refusal to renew. The seven files noted resulted in non-renewal notices being issued without a specific reason for the refusal to renew.

15 Violations 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 date, not less than sixty (60) days after the date of the mailing or delivery, on which the non-renewal shall become effective. When the policy is being cancelled for the nonpayment of premium, the effective date may be fifteen (15) days from the date of mailing or delivery. The 15 files contained non-renewal notices that did not provide the required notice of days from the date of mailing.

4. Rescissions

A rescission is any policy, which was void *ab initio*.

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 review also determined compliance with the rescission requirements established by the Supreme Court of Pennsylvania in *Erie Insurance Exchange v. Lake*.

From the universe of 150 private passenger automobile files identified by the Company as rescissions, 35 files were selected for review. All 35 files selected were received and reviewed. The violation resulted in an error ratio of 3%.

The following finding was made:

1 Violation Act 68, Section 2004 [40 P.S. §991.2004]

Adjudication: Erie Insurance Exchange/Lake et al.

(671 A.2d 681, 1996)

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 file noted resulted in a policy in effect more than 60 days and was improperly rescinded.

VI. 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 files were also reviewed to verify compliance with Act 165 of 1994 [18, Pa. C.S. §4117(k)(1)] and Title 75, Pa. C.S. §1822 which require 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:

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

Requires that a cancellation notice be in a form acceptable to the Insurance Commissioner. The final notice of cancellation form CMNCCK04 was not in a form acceptable to the Insurance Commissioner.

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 cancellation notice and state the date, not less than sixty (60) days after the date of the mailing or delivery, on which cancellation shall become effective. When the policy is being cancelled for

nonpayment of premium, the effective date may be fifteen (15) days from the date of mailing or delivery. The final notice of cancellation form CMNCCCK04 did not provide the required number of days' notice from the date of mailing.

1 Violation Act 68, Section 2006(3) [40 P.S. §991.2006(3)]

Requires an insurer to deliver or mail to the named insured a cancellation notice and state the specific reason or reasons of the insurer for cancellation. The final notice of cancellation form CMNCCCK04 was issued without a specific reason for cancellation.

1 Violation Act 68, Section 2006(4) [40 P.S. §991.2006(4)]

Requires that a cancellation notice advise the insured of his right to request in writing that the Insurance Commissioner review the action of the insurer. The final notice of cancellation form CMNCCCK04 did not advise the insured of his right to request in writing a review by the Insurance Commissioner.

1 Violation Act 68, Section 2006(5) [40 P.S. §991.2006(5)]

Requires that either in the cancellation notice or in an accompanying statement, the insured be advised of this possible eligibility for insurance through the automobile assigned risk plan. The final notice of cancellation form CMNCCCK04 did not advise the insured of his or her eligibility for insurance through the assigned risk plan.

1 Violation Act 68, Section 2006(6) [40 P.S. §991.2006(6)]

Requires that a cancellation notice advise the insured that he must obtain compulsory automobile insurance coverage if he operates or registers a motor vehicle in this Commonwealth and that the insurer

is notifying the Department of Transportation that the insurance is being cancelled and the insured must notify the Department of Transportation that he has replaced said coverage. The final notice of cancellation form CMNCCCK04t did not advise the insured of the required information.

1 Violation Act 68, Section 2006(7) [40 P.S. §991.2006(7)]

Requires that a cancellation notice clearly state that when coverage is to be terminated due to nonresponse to a citation imposed under 75 Pa. C.S. §1533 (relating to suspension of operating privilege for failure to respond to a citation) or nonpayment of a fine or penalty imposed under that section, coverage shall not terminate if the insured provides the insurer with proof that the insured has responded to all citations and paid all fines and penalties and that he has done so on or before the termination date of the policy. The final notice of cancellation form CMNCCCK04 did not advise the insured of the required information.

The following concern was noted:

CONCERN: The Company charged such fees as new business processing fee, installment fees, cancellation fees, late fees, insufficient funds fee and rewrite fees. The Company disclosed the fees to the insured throughout the life of the policy. The Company should list all filed and approved fees that can be charged to the insured in the policy forms such as the declaration page.

VII. DATA INTEGRITY

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

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

Rescissions

Situation: As the examiner was reviewing the rescission files during the on-site portion of the exam, it was noted that in 2 rescission files, the Company sent claim denial letters to claimants. The examiner reviewed the 2 claim files associated with the rescission files. It was noted that the claim coverage feature(s) for the 2 denials were not open in the claims system for the 2 files.

Outcome: An insurer needs to open the claim feature when it is denying coverage for the claim feature. The practice of not opening the feature in the claims system will affect the integrity of MCAS data.

Midterm Cancellations

Situation: As the examiners reviewed the midterm cancellation files of the underwriting section of the exam, it was noted that not all the 300 files selected for review were midterm cancellation files.

Outcome: Of the 300 midterm cancellation files reviewed, 53 files were identified as 60-day cancellations, 1 file was identified as a non-renewal and 246 files were identified as midterm cancellations.

60-Day Cancellations

Situation: As the examiners reviewed the 60-day cancellation files of the underwriting section of the exam, it was noted that not all the 100 files selected for review were 60-day cancellation files.

Outcome: Of the 100 60-day cancellation files reviewed, three (3) files were identified as midterm cancellations, one (1) file was identified as a rescission and 96 files were identified as 60-day cancellations.

The following finding was made:

General Violation: Insurance Department Act, Section 904(b) [40 P.S. §323.4]

Requires every company or person from whom information is sought must provide to the examiners timely, convenient and free access to all books, records, accounts, papers, documents and any or all computer or other recordings relating to the property, assets, business and affairs of the company being examined. The violation resulted in the failure to exercise sufficient due diligence to ensure compliance with Insurance Department Act.

VIII. RECOMMENDATIONS

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

1. The Company must review and revise internal control procedures to ensure compliance with refusal to write practices, cancellation and nonrenewal notice requirements of Act 68, Sections 2001, 2002, 2004 and 2006 [40 P.S. §§991.2001, 2002, 2004 and 2006], so that the violations noted in the Report do not occur in the future.
2. The Company must review and remove any underwriting guide rules, practices and procedures to ensure compliance with non-discriminatory requirements of Act 68, Section 2003 [40 P.S. §991.2003], so that the violation noted in the Report does not occur in the future.
3. The Company must reinforce its internal data controls to ensure that all records and documents are maintained in accordance with Insurance Department Act, Section 903(a) and 904(b) [40 P.S. §§323.3 and 323.4], so that violations noted in the Report do not occur in the future.
4. The Company must review and remove any underwriting guide rules, practices and procedures that do not comply with the availability of benefits, limits and options requirements of Title 75, Pa. C.S. §§1702, 1711(a)&(b), 1712, 1715, 1731, 1734, 1738 (c)&(d)(1)&(2), and 1792(a), so that the violation noted in the Report does not occur in the future.

5. The Company must review Act 205, Section 4 [40 P.S. §1171.4] and Act 205 5(a)(2) [40 P.S. §1171.5(a)(2)] to ensure that the violations relative to cancellation notices and renewal offers noted in the Report do not occur in the future.

IX. COMPANY RESPONSE



November 21, 2013

Via UPS Overnight Delivery

Ms. Constance Arnold
Property & Casualty Division Chief
Pennsylvania Insurance Department
1321 Strawberry Square
Harrisburg, PA 17120

Re: Examination Warrant Number: 12-M29-028
Infinity Insurance Company, NAIC 22268

Dear Ms. Arnold,

Please allow this letter to serve as Infinity Insurance Company's ("Company") response to the Report of Examination transmitted from your office on October 23, 2013.

We respectfully submit this document in response to the Department's Recommendations as found in Section VIII of the Report of Examination. We request this document be included as Section IX as the Company Response.

1. The Company must review and revise internal control procedures to ensure compliance with refusal to write practices, cancellation and nonrenewal notice requirements of Act 68, Sections 2001, 2002, 2004, 2006 and 2008 [40 P.S. §§ 991.2001, 2002, 2004, 2006 and 2008], so that the violations noted in the Report do not occur in the future.

The Company accepts this recommendation and agrees to revise its refusal to write practices and cancellation and non-renewal notice requirements to ensure compliance with Act 68, Sections 2001, 2002, 2004, 2006 and 2008 [40 P.S. §§ 991.2001, 2002, 2004, 2006 and 2008].

2. The Company must review and remove any underwriting guide rules, practices and procedures to ensure compliance with non-discriminatory requirements of Act 68, Section 2003 [40 P.S. § 991.2003], so that the violation noted in the Report does not occur in the future.

The Company accepts this recommendation and agrees to remove any underwriting rules from the applicable rule guides, practices and procedures to ensure compliance with the non-discriminatory requirements of Act 68, Section 2003 [40 P.S. § 991.2003].

3. The Company must reinforce its internal data controls to ensure that all records and documents are maintained in accordance with Insurance Department Act, Section 903 (a) and 904 (b) [40 P.S. §§ 323.3 and 323.4], so that violations noted in the Report do not occur in the future.

The Company accepts this recommendation and agrees to take measures to reinforce internal data controls to ensure that all records and documents are maintained in accordance with Insurance Department Act, Section 903 (a) and 904 (b) [40 P.S. §§ 323.3 and 323.4].

4. The Company must review and remove any underwriting guide rules, practices and procedures that do not comply with the availability of benefits, limits and options requirements of Title 75, Pa. C.S. §§ 1702, 1711 (a) & (b); 1712, 1715, 1731, 1734, 1738 (c) & (d)(1) & (2) and 1792 (a), so that the violations noted in the Report do not occur in the future.

The Company accepts this recommendation and agrees to remove any underwriting rules from the applicable rule guides, practices and procedures to ensure compliance with the requirements of Title 75, Pa. C.S. §§ 1702, 1711 (a) & (b), 1712, 1715, 1731, 1734, 1738 (c) & (d)(1) & (2) and 1792 (a) for availability of benefits, limits and options.

5. The Company must review Act 205, Section 4 [40 P.S. § 1171.4] and Act 205, 5 (a)(2) [40 P.S. § 1171.5 (a)(2)] to ensure that the violations relative to cancellation notices and renewal offers noted in the Report do not occur in the future.

The Company accepts this recommendation and agrees to revise as necessary its practices pertaining to cancellation notices and renewal offers to ensure compliance with the requirements of Act 205, Section 4 [40 P.S. § 1171.4] and Act 205, 5 (a)(2) [40 P.S. § 1171.5 (a)(2)].

The Company respectfully submits that it has taken appropriate actions and steps to address, correct and/or minimize the recurrence of the issues noted in the Report, and respectfully requests your favorable consideration of such action.

We thank you for the opportunity to participate in this process and submit these responses to the Report. Please accept our thanks to the Department and the Examiners for the guidance, courtesy and cooperation through the process of this Exam.

If there are questions or further information is required, please feel free to contact Frances Hayes, our Exam Coordinator, via telephone at 205-803-8732 or via email at frances.hayes@ipacc.com.

Sincerely,

A handwritten signature in black ink, appearing to read "Mitchell Silverman", with a long horizontal flourish extending to the right.

Mitchell Silverman, Esq.
Assistant Vice President - Corporate Compliance
Infinity Insurance Companies