

STATE OF NEW JERSEY  
DEPARTMENT OF BANKING AND INSURANCE

IN THE MATTER OF:

Proceedings by the Commissioner of	)	
Banking and Insurance, State of New Jersey,	)	CONSENT
with respect to Merrimack Mutual Fire Insurance	)	ORDER
Company, NAIC No. 19798; Cambridge Mutual	)	
Fire Insurance Company, NAIC No. 19771; and	)	
Bay State Insurance Company, NAIC No. 19763	)	

TO: Andover Insurance Companies  
95 Old River Road  
Andover, MA 01810-1078

This matter, having been opened by the Commissioner of Banking and Insurance ("Commissioner"), of the Department of Banking and Insurance ("Department"), State of New Jersey, upon information that Merrimack Mutual Fire Insurance Company, Cambridge Mutual Fire Insurance Company and Bay State Insurance Company ("Andover Group"), licensed under the laws of the State of New Jersey and admitted to transact property and casualty insurance in New Jersey pursuant to N.J.S.A. 17:17-1 et. seq., may have violated provisions of New Jersey insurance law; and

WHEREAS the Department filed a Market Conduct Examination Report ("Report") containing the results of the examination of homeowner insurance claims, underwriting, rating and termination practices of the Andover Group during the period April 1, 2014 to May 31, 2015, performed pursuant to N.J.S.A. 17:23-20 et seq., and

WHEREAS the market conduct examination revealed certain instances where the Andover Group's practices did not accord fully with various provisions of New Jersey insurance statutes or regulations. These instances, as fully set forth in the Report, are incorporated herein by reference; and

IT FURTHER APPEARING that, as a result of the Department's examination, the Andover Group has taken or will take corrective measures pursuant to the recommendations contained in the Report to address the instances of nonconformance set forth in the Report, and

IT FURTHER APPEARING that this matter can be resolved upon the consent of the parties to these proceedings without resort to a formal hearing.

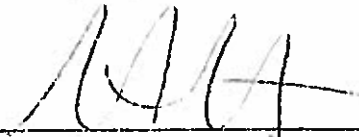
NOW, THEREFORE, IT IS on the 2nd day of April, 2016

ORDERED AND AGREED that the attached Market Conduct Examination Report of the Andover Group will be adopted and filed as an official record of the Department; and

IT IS FURTHER ORDERED AND AGREED that the Andover Group will continue to monitor claims, underwriting, rating and termination practices in order to identify instances of nonconformance with New Jersey insurance statutes and regulations and the recommendations contained in the Report; and

IT IS FURTHER ORDERED AND AGREED that the Andover Group shall comply with New Jersey insurance statutes and regulations and the recommendations contained in the attached Report; and:

IT IS FURTHER ORDERED AND AGREED that pursuant to N.J.S.A. 17:23-24 d (1), within thirty days of the adoption of this Report, the Andover Group shall file an affidavit with the Department's Market Conduct Unit, stating under oath that its directors have received a copy of the adopted Report.

  
Peter L. Hartt  
Director of Insurance

Consented to as to form, content and entry  
The Andover Group

By: [Signature] (Suzanne E. Lawrence, Vice President)

Date: 3/16/2016

**MARKET CONDUCT RE-EXAMINATION  
(Exam Tracking Number NJ090-M21)**

**of the**

**ANDOVER GROUP OF COMPANIES  
GROUP NUMBER 22**

**including**

**BAY STATE INSURANCE COMPANY  
NAIC COMPANY NUMBER 19763**

**CAMBRIDGE MUTUAL FIRE INSURANCE COMPANY  
NAIC COMPANY NUMBER 19771**

**MERRIMACK MUTUAL FIRE INSURANCE COMPANY  
NAIC COMPANY NUMBER 19798**

**Home Office and Examination Office at  
95 Old River Road, Andover, MA 01810**

**as of**

**October 23, 2015**

**BY EXAMINERS**

**of the**

**STATE OF NEW JERSEY**

**DEPARTMENT OF BANKING AND INSURANCE**

**OFFICE OF CONSUMER PROTECTION SERVICES**

**MARKET CONDUCT EXAMINATIONS and ANTI-FRAUD  
COMPLIANCE SECTIONS**

**REPORT ADOPTED: April 12, 2016**

# TABLE OF CONTENTS

I. INTRODUCTION .....	1
A. SCOPE OF EXAMINATION .....	1
B. ERROR RATIOS.....	1
C. COMPANY PROFILE.....	2
D. EXECUTIVE SUMMARY.....	2
II. CLAIMS REVIEW.....	4
A. INTRODUCTION .....	4
B. ERROR RATIOS.....	4
C. EXAMINERS' FINDINGS .....	4
III. UNDERWRITING AND RATING REVIEW .....	6
A. INTRODUCTION .....	6
B. ERROR RATIOS.....	6
C. EXAMINERS' FINDINGS .....	6
IV. TERMINATION REVIEW.....	7
A. INTRODUCTION .....	7
B. ERROR RATIOS.....	7
C. EXAMINERS' FINDINGS .....	7
V. RECOMMENDATIONS	
GENERAL INSTRUCTIONS.....	9
A. CLAIMS .....	9
B. Underwriting and rating.....	10
C. TERMINATIONS.....	10
APPENDIX A – CLAIM ERRORS .....	11
APPENDIX B – UNDERWRITING AND RATING ERRORS.....	12
APPENDIX C - TERMINATION ERRORS.....	13
VII. VERIFICATION PAGE .....	14



**State of New Jersey**

DEPARTMENT OF BANKING AND INSURANCE  
CONSUMER PROTECTION SERVICES  
PO BOX 329  
TRENTON, NJ 08625-0329

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*Lt. Governor*

TEL (609) 292-5316  
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PETER L. HARTT  
*Director*

April 12, 2016

Honorable Richard J. Badolato  
Acting Commissioner of Insurance  
State of New Jersey  
Department of Banking and Insurance  
20 West State Street  
P.O. Box 329  
Trenton, N.J. 08625

Dear Acting Commissioner Badolato,

Pursuant to the authority provided in N.J.S.A. 17:23-20 through 17:23-26, 17:29B-5 and N.J.S.A. 17: 33A-15b, and in accordance with your instructions, a market conduct examination of the business practices and affairs was conducted on:

The Andover Group of Companies (Group Number 22)

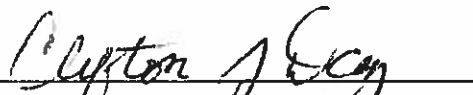
including

Bay State Insurance Company (NAIC Company Number 19763)

Cambridge Mutual Fire Insurance Company (NAIC Company Number 19771)

Merrimack Mutual Fire Insurance Company (NAIC Company Number 19798)

hereinafter referred to as "The Company." The field work for this examination was conducted at the Company's Andover, MA office, with additional review conducted in our Trenton, N.J. office. The following report is respectfully submitted on behalf of the examination team. Through a deliberative process, I certify the accuracy of the findings presented herein.

  
Clifton J. Day, MPA, CPM, CSM  
Chief of Market Regulation and Consumer  
Protection Services

## **I. INTRODUCTION**

This is a report of the Market Conduct activities of the Andover Companies which consist of Merrimack Mutual Fire Insurance Company, Cambridge Mutual Fire Insurance Company, and Bay State Insurance Company (hereinafter referred to as the "Andover Group" or the "Companies"). In this report, examiners of the New Jersey Department of Banking and Insurance ("NJDOBI") present their findings, conclusions and recommendations as a result of their examination.

### **A. SCOPE OF EXAMINATION**

The scope of the examination included homeowner insurance sold by the Companies in New Jersey. The examiners evaluated the Companies' compliance with statutes and regulations pertaining to homeowner and dwelling fire claims, rating, underwriting, terminations and advertising. The review period for the examination was April 1, 2014 to May 31, 2015.

The examiners conducted their fieldwork at the Andover Group's office in Andover, Massachusetts, between August 9, 2015 and September 25, 2015. On various dates following the fieldwork, the examiners completed additional review work and report writing in Trenton, N.J. The Market Conduct Examiners were Examiner-in-Charge Robert Greenfield, William Sonntag and Richard Segin.

The examiners randomly selected files and records from computer listings and documents provided by the Companies. The random selection process is in accordance with the National Association of Insurance Commissioner's ("NAIC") Market Regulation Handbook. The examiners used the NAIC Market Regulation Handbook, Chapters Sixteen (General Examination Standards) and Seventeen (Conducting the Property and Casualty Examination) as a guide to examine the Companies and write this report.

### **B. ERROR RATIOS**

Error ratios are the percentage of files reviewed which an insurer handles in error. A file is counted as an error when it is mishandled or the insured is treated unfairly, even if no statute or regulation is applicable. If a file contains multiple errors, the examiners will count the file only once in calculating error ratios. However, any file that contains more than one error will be cited more than once in the report. In the event that the insurer corrects an error as a result of a consumer complaint or due to the examiners' findings, the error will be included in the error ratio. If the insurer corrects an error independent of a complaint or NJDOBI intervention, the error is not included in the error ratios.

There may be errors cited in this report that define practices as specific acts that an insurer commits so frequently that it constitutes an improper general business practice. Whenever the examiners find that the errors cited constitute an improper general business practice, they have stated this in the report.

The examiners sometimes find improper general business practices or insurer errors that may be technical in nature or which did not have an impact on a consumer. Even though such errors or practices would not be in compliance with law, the examiners do not count each of these files as an error in determining error ratios. Whenever such business practices or errors do have an impact on the consumer, all such files in error will be counted in the error ratio. The examiners indicate in the report whenever they did not count particular files in the error ratio.

The examiners submitted written inquiries to Andover Group representatives on the errors cited in this report. These inquiries provided the Andover Group the opportunity to respond to the examiners' findings and to provide exceptions to the statutory and/or regulatory errors or mishandling of files reported herein. In response to these inquiries, the Andover Group agreed with some of the errors cited in this report. On those errors with which the Companies disagreed, the examiners evaluated the individual merits of each response and gave due consideration to all comments. In some instances, the examiners did not cite the files due to the Companies' explanatory responses. In others, the errors remained as cited in the examiners' inquiries. For the most part, this is a report by exception.

### **C. COMPANY PROFILE**

The Andover Group's Pool is comprised of three affiliated casualty companies: Merrimack Mutual Fire Insurance Company (founded in 1828), Cambridge Mutual Fire Insurance Company (founded in 1833), and Bay State Insurance Company (founded in 1955). All three companies specialize in providing homeowners, commercial multiple peril and fire coverage. Besides New Jersey, the group writes in New York, Connecticut, Rhode Island, Massachusetts, New Hampshire, Maine, and Illinois. Merrimack Mutual became licensed in New Jersey on July 16, 1920, Cambridge Mutual on May 22, 1925 and Bay State on September 29, 1955. Business is generated through approximately 1,053 independent agents.

### **D. EXECUTIVE SUMMARY**

This re-examination included a review of the Companies' claims, underwriting and termination practices. The examiners reviewed the Companies' complaint log and a total of 100 claims files, 100 underwriting files and 172 terminated policies. The examiners found errors in untimely settlement delays, a rating and underwriting error and an improper nonrenewal

due to failure to follow underwriting guidelines. Overall, the claims review error ratio was 4%, while the underwriting and rating error ratio was 1%. Finally, the terminations review error ratio was 0.6%.



## II. CLAIMS REVIEW

### A. INTRODUCTION

This review covers paid and denied homeowner claims. During the review period of April 1, 2014 to March 31, 2015, the Companies closed a total of 2,569 claims as follows: 1,790 paid and 779 denied. The examiners randomly selected and reviewed 50 paid and 50 denied claims.

In reviewing each claim, the examiners checked for compliance with all applicable statutes and regulations that govern timeliness requirements in settling first party claims. The examiners conducted specific reviews, placing particular emphasis on N.J.S.A. 17:29B-4(9) and N.J.A.C. 11:2-17 et seq. (Unfair Claims Settlement Practices). These requirements relate to NAIC Market Conduct standards outlined in Chapters 16 and 17 of the Market Regulation Handbook.

### B. ERROR RATIOS

The examiners calculated the following error ratios by applying the procedure outlined in the introduction of this report. Error ratios are itemized separately based on the review samples as indicated in the following chart.

<u>Type of Claim</u>	<u>Files Reviewed</u>	<u>Files in Error</u>	<u>Error Ratio</u>
Paid	50	1	2%
Denied	<u>50</u>	<u>3</u>	6%
<b>Total</b>	100	4	4%

### C. EXAMINERS' FINDINGS

#### 1. Failure to Settle Claims Timely and Failure to Issue Delay Letters – 4 Files in Error

N.J.A.C. 11:2-17.7(c)1 mandates that insurers settle first party property/liability claims in a maximum of 30 days from the insurer's receipt of properly executed proofs of loss. N.J.A.C. 11:2-17.7(e) states that, if an insurer is unable to settle a claim within this 30 day period, the insurer must send the claimant a written notice of delay by the end of the payment period. N.J.A.C. 11:2-17.7(e) also states that the delay notice must include the reason for the settlement delay, the insurer's address and a toll free telephone number that the claimant can call for claim status. Lastly, N.J.A.C. 11:2-17.7(e) requires additional delay notices every 45 days thereafter until all elements of the claim are either honored or rejected.

Contrary to these regulations, the Andover Group failed to settle one paid claim and three denied claims within the maximum 30-day period. The average delay among all claims was 31 calendar days. The Companies also failed on all four claims to send a delay notice as required. The Companies agreed with the examiners' findings.

While the examiners cited this error as an improper general business practice in a prior examination report that was adopted on January 8, 2013, the current examination revealed only 4 errors as outlined above.

**See Appendix A-1 for a List of Files in Error**

2. **Failure to Pay Agreed Settlement Timely - 1 File in Error**

N.J.A.C. 11:2-17.7(f) requires insurers to pay claims within 10 working days from the date of an agreed settlement. On claim number 5505056, the insured agreed with the terms of the settlement on June 20, 2014. However, the Andover Group did not pay the claim until July 14, 2014, five working days beyond the required time frame. The Companies agreed with the examiners' finding.

**See Appendix A-2 for File in Error**

### III. UNDERWRITING AND RATING REVIEW

#### A. INTRODUCTION

The examiners reviewed randomly selected homeowner policies that were in force during the review period April 1, 2014 to March 31, 2015. The Companies reported 56,506 homeowner and dwelling fire policies, of which 4,048 were new business policies and 52,458 were renewal policies. The examiners checked for compliance with all applicable New Jersey statutes and regulations including N.J.S.A. 17:29A-6 and 15 (filed and approved rating methodologies), N.J.S.A. 17:23A-4 (notice of information practices) and N.J.S.A. 17:29A-4(d) (rate reductions for structures equipped with operative smoke detection devices).

#### B. ERROR RATIOS

The examiners calculated error ratios for each random sample by applying the procedure outlined in the introduction of this report. Separate error ratios are determined for each review sample as indicated in the chart that follows.

<u>Review Category</u>	<u>Files Reviewed</u>	<u>Files in Error</u>	<u>Error Ratio</u>
New Business	50	1	2%
Renewals	<u>50</u>	<u>0</u>	0
Total	100	1	1%

#### C. EXAMINERS' FINDINGS

##### 1. Failure to Apply Correct Protection Device Credit – 1 File in Error

N.J.S.A. 17:29A-6 and 15 requires an insurer to file its rating system with the Department and to observe those rates. Contrary to this statute on policy HP 3084666, however, the examiners found that the Andover Group provided a 10 percent central alarm discount (\$88.00) when the file documented only a standard two percent discount (\$18). In response to an inquiry, the Andover Group agreed that the file did not document the 10 percent discount. The Companies further advised that the underwriting department would contact the insured to confirm the appropriate discount in advance of a December 15, 2015 renewal.

The examiners cited a similar, singular protective device discount error in a prior examination report that was adopted on January 8, 2013.

See Appendix B-2 for This File in Error

## IV. TERMINATION REVIEW

### A. INTRODUCTION

During the review period of April 1, 2014 to March 31, 2015, the Andover Group reported that it terminated 682 policies for cause. Of these, the Companies cancelled 179 policies within 60 days, mid-term cancelled 363 policies and non-renewed 140 policies. The examiners checked for compliance with applicable statutes and regulations including N.J.A.C. 11:1-20.2 (non-renewal and cancellation notice requirements), N.J.A.C. 11:1-20.3 (policy provisions relating to cancellation or nonrenewal) and N.J.A.C. 11:1-20.4 (cancellation and non-renewal underwriting guidelines).

### B. ERROR RATIOS

The examiners calculated error ratios for the termination review by applying the procedure outlined in the introduction of this report. The following chart itemizes the review sample, the number of errors and error ratios by type of termination.

<u>Type of Review</u>	<u>Files Reviewed</u>	<u>Files in Error</u>	<u>Error Ratio</u>
Nonrenewals	50	1	2%
Mid-Term Cancellations	50	0	0%
60-Day Cancellations	<u>72</u>	<u>0</u>	<u>0%</u>
<b>Totals</b>	<b>172</b>	<b>1</b>	<b>&lt;1%</b>

### C. EXAMINERS' FINDINGS

#### 1. Failure to State on Nonrenewal Notice the Underwriting Standard Upon which Termination is Based - 1 File in Error

N.J.A.C. 11:1-20.2(g) requires a valid nonrenewal notice to contain the standard or reason for the termination and to specify in detail the factual basis relied upon by the insurer in its decision to terminate coverage.

On policy number HP1044626, the Andover Group issued a nonrenewal notice stating that: "Renewal coverage is no longer permitted; replacement value exceeds \$850,000." Contrary to N.J.A.C. 11:1-20.2(g), the notice did not specify the actual underwriting standard, i.e., a maximum replacement threshold of \$650,000 for this product. In response to an inquiry, the Companies acknowledged that, "... the Underwriter could have also included the dwelling's current replacement cost."

While the examiners cited this error as an improper general business practice in a prior examination report that was adopted on January 8, 2013, the current examination revealed only 1 error as outlined above.

**See Appendix C-1 for This File in Error**

## V. RECOMMENDATIONS

Andover should inform all responsible personnel and third party entities who handle the files and records cited as errors in this report of the examiners' recommendations and remedial measures that follow in the report sections indicated. The examiners also recommend that the Companies establish procedures to monitor compliance with these measures.

Throughout this report, the examiners cite and/or discuss all errors found. If the report cites a single error, the examiners often include a "reminder" recommendation because if a single error is found, additional errors may have occurred.

Non-compliant activity was identified in this report which may extend to other jurisdictions. The Companies are directed to take immediate corrective action to demonstrate its ability and intention to conduct business according to New Jersey law and regulations. When applicable, corrective action for other jurisdictions should be addressed.

The examiners acknowledge that during the examination Andover agreed and already complied with, either in whole or in part, some of the recommendations. For the purpose of obtaining proof of compliance and for the Companies to provide its personnel with a document they can use for future reference, the examiners have listed all recommendations below.

### GENERAL INSTRUCTIONS

All items requested for the Commissioner and copies of all written instructions, procedures, recommended forms, etc., should be sent to the Commissioner, c/o Clifton J. Day, Chief of Market Regulation, Mary Roebling Building, 20 West State Street, PO Box 329, Trenton, N.J. 08625, within thirty (30) days of the date of the adopted report.

#### A. CLAIMS

1. In order to comply with N.J.A.C. 11:2-17.7(c)1 and N.J.A.C. 11:2-17.7(e), the Companies must issue written instructions to all appropriate personnel stating that, unless clear justification exists, insurers are required to settle all first party claims within 30 days from receipt of proof of loss, unless a delay notice is sent at the expiration of the 30-day settlement period and every 45 days thereafter until all elements of the claim have been honored.
2. In order to comply with N.J.A.C. 11:2-17.7(f) the Andover Group must issue written instructions to pay claims within 10 working days from the date of an agreed settlement.

## **B. UNDERWRITING AND RATING**

3. Pursuant to N.J.S.A. 17:29A-6 and **15** the Companies must issue a written reminder to all appropriate personnel to apply only the correct, documented protective device discount in order to properly follow the field and approved rating system, and to observe those rates.

## **C. TERMINATIONS**

4. The Companies must issue written instructions to all appropriate personnel stating that:
  - a. Pursuant to N.J.A.C. 11:1-20.2(g), "No nonrenewal or cancellation shall be valid unless the notice contains the standard or reason upon which the termination is premised and specifies in detail the factual basis upon which the insurer relies." These written instructions should state that termination notices must fully disclose correct facts and standards relied upon when terminating coverage, such as current dwelling replacement cost when termination is based on actual replacement cost that exceeds the maximum limit available;
  - b. Pursuant to N.J.S.A. 17:29A-6 and **15**, the Companies should follow the rating system filed with the Department, and to observe those rates according to established underwriting guidelines, specifically, those that require documentation that support a 10% central alarm premium credit.

## APPENDIX A – Claim Errors

### 1. Failure to Settle Claims Timely and Failure to Issue Delay Letters – 4 Files in Error

<u>Policy Number</u>	<u>Settlement Type</u>	<u>Date Received</u>	<u>Date Paid or Denied</u>	<u>Days &gt;30</u>
HP 2473173	Denied	12/1/2014	1/7/2015	7
HP 5505056	Paid	9/26/2014	12/29/2014	64
FP 2626762	Denied	4/10/2014	6/23/2014	44
HP 3024581	Denied	2/3/2015	3/13/2015	8

### 2. Failure to Pay Agreed Settlement Timely - 1 File in Error

<u>Policy Number</u>	<u>Date of Agreed Settlement</u>	<u>Date Paid</u>	<u>Working Days to Pay</u>
HP 5505056	6/20/2014	7/14/2014	15



## **APPENDIX B – Underwriting and Rating Errors**

### **1. Failure to Apply Correct Protection Device Credit – 1 File in Error**

**Policy Number:**

HP 3084666

## APPENDIX C - Termination Errors

### 1. Failure to State on Nonrenewal Notice the Underwriting Standard Upon which Termination is Based - 1 File in Error

Policy Number:

HP 1044626

## VII. VERIFICATION PAGE

I, Bob Greenfield, Examiner in Charge of the Market Conduct Examination of The Andover Group conducted by examiners of the New Jersey Department of Banking and Insurance. This verification is based on my personal knowledge as acquired in my official capacity.

The findings, conclusions and recommendations contained in the foregoing report represent, to the best of my knowledge, a full and true statement of the Market Conduct examination of The Andover Group as of October 23, 2105.

I certify that the foregoing statements are true. I am aware that if any of the foregoing statements made by me is willfully false, I am subject to punishment.

January 4, 2016  
Date

Bob Greenfield  
Bob Greenfield, EIC  
Market Conduct Examinations and Anti-  
Fraud Compliance