

MARKET CONDUCT EXAMINATION

of the

COLONIAL PENN INSURANCE COMPANY

located in

VALLEY FORGE, PENNSYLVANIA

as of

October 16, 1998

BY EXAMINERS

of the

STATE OF NEW JERSEY

DEPARTMENT OF BANKING AND INSURANCE

DIVISION OF ENFORCEMENT AND CONSUMER PROTECTION

MARKET CONDUCT EXAMINATION SECTION

REPORT ADOPTED:

JANUARY 3, 2003

COLONIAL PENN INSURANCE COMPANY

MARKET CONDUCT EXAMINATION REPORT

Table of Contents

	<u>Page #</u>
I. INTRODUCTION.....	1
II. COMPLAINTS.....	4
III. CLAIMS.....	6
IV. POLICY TERMINATIONS.....	13
V. UNDERWRITING, RATING & POLICYHOLDER SERVICE.....	19
VI. LICENSING and SALES.....	25
VII. RECOMMENDATIONS.....	29
APPENDIX A - Complaint Handling Errors.....	37
APPENDIX B – Claim Errors.....	39
APPENDIX C - Policy Termination Errors.....	42
APPENDIX D – Rating and Underwriting Errors.....	44
VERIFICATION PAGE.....	Last Page

I. INTRODUCTION

This is a report of the Market Conduct activities of the Colonial Penn Insurance Company (hereinafter referred to as Colonial Penn or the Company). In this report, examiners of the New Jersey Department of Banking and Insurance (NJDBI) present their findings, conclusions and recommendations as a result of their market conduct examination.

A. SCOPE OF EXAMINATION

The purpose of this examination was to evaluate Colonial Penn's compliance with the FAIR ACT and the regulations and statutes that pertain to private passenger automobile and homeowner insurance. Areas of review included complaints, auto claims, rating, underwriting and terminations, sales and marketing. This examination covered the company's New Jersey private passenger automobile insurance and homeowner business activities during the period June 1, 1997 to the present (October 16, 1998). Between July 20, 1998 and October 16, 1998 the examiners completed their field work at the company's Valley Forge, Pennsylvania office. The Market Conduct Examiners included Clifton J. Day, Examiner-in-Charge, Esther Turner-Demby, Dean Turner, Rosalyn Benitez, Bob Guice and Robert L. Clark, Jr. The examiners randomly selected files and records from computer listings and documents provided by the company. The random selection process is in accordance with the NAIC Market Conduct Handbook.

B. ERROR RATIOS

Error ratios are the percentage of policies that the examiners found to be handled in error. Each file either mishandled or not handled in accordance with applicable state statutes or regulations is an error. Even though a file may contain multiple errors, the examiners counted the file only once in calculating the 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 Company corrected an error as a result of a consumer complaint or due to the examiners' findings, the error is included in the error ratio. If the Company corrects an error independent of a complaint or NJDBI intervention, the error is not included in the error ratios.

Most of the statutes and/or regulations cited in this report define unfair practices or practices in general as specific acts that an insurer commits so frequently that it constitutes an improper general business practice. Whenever the examiners found that the errors cited constitute an improper general business practice, they have stated this in the report that follows.

The examiners sometimes find improper general business practices of an insurer that may be technical in nature or which did not have an impact on a consumer. Even though such a practice 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 do have an impact on the consumer, each of the files in error will be counted in the error ratio. The examiners indicate in the report that follows whenever they did not count any particular files in the error ratio.

The examiners submitted written inquiries to Company representatives on the errors cited in this report. This provided Colonial Penn the opportunity to respond to the examiners' findings and to provide exception to the statutory and/or regulatory errors or mishandling of files reported herein. In response to these inquiries, Colonial Penn agreed with some of the errors cited in this report. On those errors with which the Company 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 Company's explanatory responses. In others, the errors remained as cited in the examiners' inquiries.

For the most part, this is a report by exception. For the purpose of the computer analyses conducted, the examiners define an exception as a file or record in a database that does not meet specified criteria set forth in the above referenced computer queries. The file or record has not been reviewed in depth by an examiner.

C. COMPANY PROFILE

In April 1966, Colonial Penn Group, Inc ("CPG") acquired the capital stock of American Maturity Insurance Company, a South Carolina chartered multiple-line property and casualty insurance company. In October 1967, CPG acquired the capital stock of Boston Indemnity Insurance Company, a Massachusetts chartered company. In December 1967, the two companies merged and the Massachusetts company survived. By action of the stockholders on April 2, 1969, the name of the company was changed to Colonial Penn Insurance Company.

On August 16, 1991, Colonial Penn Insurance Company ("CPI") became a member of the Leucadia National Corporation. On November 4, 1997, 100% of the issued and outstanding stock of CPI, the parent of Bay Colony Insurance Company, Colonial Penn Franklin Insurance Company, Colonial Penn Madison Insurance Company and Bayside Casualty Insurance Company, was sold to General Electric Capital Corporation ("GE Capital"). This acquisition was approved by the Pennsylvania Insurance Department. GE Capital contributed all of the issued and outstanding stock of Colonial Penn Insurance Company to its affiliate, GE Financial Assurance Holdings, Inc. GE Capital is ultimately owned by General Electric Company.

CPI is a direct writer of insurance with an overall staff of approximately 1,300 employees. The sales representatives are salaried employees of Colonial Penn. In 1997, Colonial Penn wrote \$66,237,443 in New Jersey auto premium, and \$1,790,279 in homeowner insurance premium.

II. COMPLAINTS

A. INTRODUCTION

During the period of June 1, 1997 through May 31, 1998, Colonial Penn complaint records indicate that consumers filed 79 complaints with the New Jersey Department of Banking and Insurance (DOBI) and 26 complaints directly against the Company, for a total of 105 reported complaints. The examiners also found an additional 39 unrecorded complaints for a combined total of 144 complaints during the review period. The scope of this review included complaints on private passenger automobile and homeowner insurance. The examiners evaluated the Company's complaint handling procedures and checked for compliance with applicable insurance laws and regulations including N.J.S.A. 17:23-1 (prompt response to complainants), N.J.A.C. 11:2-17.6(d) and (e) and N.J.S.A. 17:29B-4 (complaints handling procedures). The following chart summarizes the examiners' findings.

B. COMPLAINT HANDLING ERROR RATIOS

<u>Types</u>	<u>Reviewed</u>	<u>Error</u>	<u>Ratio</u>
Auto/Homeowner Claims	6	0	0%
Auto/Homeowner Terminations	24	0	0%
Auto Underwriting/Rating	20	10	50%
Totals	50	10	20%

C. COMPLAINT HANDLING ERRORS

1. Failure to Log Department of Banking and Insurance Complaints (39 Exceptions-System-Wide Review)

N.J.S.A. 17:29B-4(10) requires an insurer to maintain a complete record of all complaints received by the company. To check for compliance with this requirement, the examiners compared DBI complaint records with the complaint register maintained by Colonial Penn. The examiners found that Colonial Penn failed to record a total of 39 DBI complaints in its complaint register. Based on these numbers, Colonial Penn's did record 33% of the actual number of DBI complaints that it received. Failure to record these 39 complaints is contrary to N.J.S.A. 17:29B-4(10). Colonial Penn disagreed with these errors in response to the examiners' inquiries. The Company indicated that it could not match to its complaint system the information that the examiners provided to the Company in support of these errors. In all cases, however, and in order for the Company to identify these complaints, the examiners provided either the Colonial Penn claim number and/or policy number, as well as the DOBI complaint number and the Colonial Penn close-out date of the complaint. The examiners did not count these errors in the error ratio.

SEE APPENDIX A.1 FOR COMPLAINTS IN ERROR

2. Failure to Record Accurate Complaint Receipt/Response Dates on Log (5 Errors-Random Sample)

N.J.S.A. 17:29B-4(10) requires an insurer to maintain a complete and accurate record of all complaints that it receives. Contrary to this requirement, the examiners found five complaints in which Colonial Penn failed to record the correct receipt or response date in the complaint log. The examiners discovered these errors by identifying discrepancies between the log receipt and log closeout dates with the document receipt date and document closeout dates contained in the actual complaint file. Failure to record the correct dates results in an incomplete complaint log, which is contrary to N.J.S.A. 17:29B-4(10). In response to an inquiry, Colonial Penn disagreed with the examiners' findings by providing an updated complaint log that contained the missing information. However, correction of the initial log after an examiner's written inquiry does not negate the initial error.

SEE APPENDIX A.2 FOR COMPLAINTS IN ERROR

3. Failure to Enter Complaint Resolution Date on Complaint Log and Failure to Indicate Time taken to Resolve the Complaint (5 Errors-Random Sample)

N.J.S.A. 17:29B-4(10) requires an insurer to maintain a complete and accurate record of all complaints that it receives. Contrary to this requirement, the examiners found five complaints in which Colonial Penn failed to record the complaint resolution date on the complaint log. As a result of this error, the complaint log does not indicate the time taken to resolve the complaint, as further required by N.J.S.A. 17:29B-4(10). In response to an inquiry, Colonial Penn disagreed with the examiners' findings by providing an updated complaint log that contained the missing information. However, correction of the initial log after an examiner's written inquiry does not negate the initial error.

SEE APPENDIX A.3 FOR COMPLAINTS IN ERROR

III. CLAIMS

A. INTRODUCTION

This review covers claims submitted under private passenger automobile insurance only. New Jersey claims closed during the period of June 1, 1997 to May 31,

1998 were subject to review. During the review period, Colonial Penn closed 7,451 claims, of which 613 were total losses. In reviewing each claim, the examiners checked for compliance with all applicable statutes and regulations that govern the handling of claims. The examiners placed particular emphasis on N.J.S.A. 17:29B-4 and N.J.A.C. 11:2-17 (Unfair Claims Settlement Practices), N.J.A.C. 11:3-10 (Automobile Physical Damage Claims) and N.J.S.A. 39:6A-5b (Personal Injury Protection Benefits).

B. ERROR RATIOS

The chart below itemizes the total number of claims reviewed by the examiners, as well as error ratios broken down by line of coverage. Excluding improper general business practices, the total loss error ratio is reduced from 100% to 0%, the PIP error ratio is 44% when excluding improper general business practice errors, and the overall error ratio is 25% when all general business practices are excluded from the error ratio.

<u>REVIEW CATEGORY</u>	<u>REVIEW SAMPLE</u>	<u>FILES IN ERROR</u>	<u>ERROR RATIO</u>
COLLISION	20	1	5%
COMPREHENSIVE	22	5	23%
PROPERTY DAMAGE	12	3	25%
PIP	26	26	100%
RANDOM TOTALS	80	35	44%
RANDOM ERROR RATIO w/o PRACTICES	80	20	25%
TOTAL LOSSES	20	20	100%
TOTAL LOSSES w/o PRACTICES	20		0%

C. EXAMINERS' FINDINGS AND IMPROPER PRACTICES

1. Failure to Provide Notice of Rights to Recourse at the Time of Settlement on Total Losses (20 Errors – Improper General Business Practice)

N.J.A.C. 11:3-10.4(c) requires insurers to provide a first or third party claimant with a written notice of the right to recourse at the time a total loss settlement draft is issued, and to retain a copy of the notice in the claim file. Contrary to this requirement, the examiners found that Colonial Penn, which uses Certified Collateral Corporation (CCC) as its source to evaluate total losses, did not provide this notice on any of the 20 total losses reviewed by the examiners. The Company disagreed with this error, and indicated that the settlement represents an agreement which, on its face, would not warrant a right of recourse. However, N.J.A.C. 11:3-10.4(c) makes no exceptions and requires the notice at the time of every settlement. The examiners cited this error as an improper general business practice that occurred on all 613 total losses that were closed during the review period.

PLEASE SEE APPENDIX B.1 FOR FILES IN ERROR

2. Incomplete and Inaccurate Information in PIP Explanation of Benefits Form-(14 Errors - Improper General Business Practice)

N.J.A.C. 11:3-37.10(a) requires an insurer to “...develop and utilize an explanation of benefits form to be provided with the payment of benefits for expenses incurred for treatment of injuries which clearly identifies and explains...the actual benefits paid and any deductible or co-payment applied.” Contrary to this regulation, the Company utilized an explanation of benefits (EOB) form throughout the examination period which did not contain an explanation of actual benefits paid; amounts reduced due to deductibles and co-payments were also not indicated on the EOB. Moreover, in several EOB’s Colonial Penn stated that the company applied no deductible or co-payment even though this was not true. In addition, all of the EOB’s cited indicate an incorrect amount paid; the amount that was indicated as being paid was before the company reduced the pay-out after application of the deductible or co-payment. The examiners found the incomplete and inaccurate EOB errors on 14 of the 26 PIP files reviewed (54% of all PIP claims examined, based on their review of one medical bill per claim file). In response to examiners’ inquiries, Colonial Penn disagreed with these findings and stated that the required information was handwritten on the EOB. The examiners found no such handwritten information on the EOB’s in the files cited. Colonial Penn stated that it began using a revised form effective November 1, 1997 when it started utilizing a new vendor for PIP claims received after October 31, 1997. Due to Colonial Penn’s admitted use of an improper form and the high percentage of errors found, the examiners cited its failure to include accurate and complete information on the EOB’s as an improper general business practice.

PLEASE SEE APPENDIX B.2 FOR THE FILES IN ERROR

3. Failure to Send PIP Explanation of Benefits (EOB) with Payment (26 Errors – Improper General Business Practice)

N.J.A.C. 11:3-37.10(a) requires an insurer to send the explanation of benefits form (EOB) with the payment of benefits. The examiners found both in their review of files and in their mail review (described later in this section of the report) that the company sends its benefits check in a separate envelope on the business day after it

sends the EOB. In response to an inquiry, the company stated that the EOB is sent the same day the information necessary to produce the check is entered onto the system to request the check. The company also stated that the check is printed and mailed the following day; this is contrary to the cited regulation and constitutes a current improper general business practice.

PLEASE SEE APPENDIX B.3 FOR THE FILES IN ERROR

4. Failure to Pay PIP Interest on Delayed PIP Payments (6 Errors)

N.J.A.C. 39:6A-5h requires insurers to pay interest on any overdue PIP benefits. Of the 26 PIP claims reviewed, the examiners found a total of six delayed settlements where interest was owed but not paid. Even though the statute permits insurers to extend the time frame for paying the claim by 45 days, Colonial Penn did not issue the notice to the claimant/provider advising of additional time needed to investigate the claim. Failure to pay interest where required is contrary to N.J.S.A. 39:6A-5h. In response to an inquiry, Colonial Penn agreed with four errors and disagreed with two. The Company further advised the examiners that Colonial Penn has established an automated PIP interest database program that identified all PIP claims that are open for a period greater than 60 days. The database program then automatically triggers the file to generate an interest payment based on the total number of days delayed beyond 60, where the claim handler has not requested a 45 day extension. The examiners reviewed and queried this database and found that Colonial Penn paid \$18,944 in interest on 1,007 delayed claims--or five percent of the total population of 19,288 claims.

PLEASE SEE APPENDIX B.4 FOR CLAIMS IN ERROR

5. Failure To Pay PIP Claims Within 60 Days (9 Errors)

N.J.S.A. 39:6A-5g and N.J.A.C 11:2-17.7(b) state that the maximum payment period for the payment of PIP claims shall be 60 days from the notice of claim, unless the insurer notifies the claimant in writing of the need for additional time to investigate, for a period not to exceed 45 days. The examiners reviewed 26 PIP claims, and found that Colonial Penn failed to settle nine within the maximum 60 day time frame. The Company also did not notify the claimant of additional time needed to investigate the claim. Delays beyond 60 days ranged from a low of 10 days to a high of 173 days.

PLEASE SEE APPENDIX B.5 FOR CLAIMS IN ERROR

6. Failure to Provide a PIP Application within 10 Days from Receipt of Claim (4 Errors).

N.J.A.C. 11:2-17.6(c) states that, within 10 working days from receipt of a claim, an insurer shall provide first party claimants with all forms necessary to make a claim. Contrary to this requirement, the examiners found three claims in which Colonial Penn provided the PIP application in excess of 10 working days. The examiners also found one claim in which the Company failed altogether to provide this form.

PLEASE SEE APPENDIX B.6 FOR CLAIMS IN ERROR

7. Miscellaneous Handling Errors

a. N.J.S.A. 39:6A-4.3 requires the application of correct deductibles and co-payments on PIP payments. Colonial Penn failed to comply with these requirements on two claims. On PIP claim number N970068295, Colonial Penn failed to apply both the \$250 deductible and the mandatory 20% co-payment, resulting in a claim overpayment. On PIP claim number N960121520, Colonial Penn failed to apply the insured's \$250 deductible, resulting in a claim overpayment. Failure to apply the required co-payments and deductibles is contrary to N.J.S.A. 39:6A-4.3.

b. N.J.S.A. 17:33A-9, requires any person who believes that a violation of the fraud act has been or is being made to immediately after discovery of the alleged violation of this act send to the New Jersey Fraud Division the information requested on a form prescribed by the Commissioner. On collision file N970106481, Colonial Penn failed to notify the Insurance Fraud Division that this was a fraudulent claim. The Company agreed with this error in response to the examiners' inquiry.

c. N.J.A.C. 11:2-17.10(a)7 requires insurers to notify all first party claimants of the terms, conditions and availability of rental benefits. This notification must be made at the time of the insurer's acknowledgement of the claim, or sooner if inquiry is made prior to claim acknowledgement. Contrary to these requirements, the examiners found two claims in which Colonial Penn provided this notification subsequent to the acknowledgement of the claim. On comprehensive claim numbers N970087940 N970078180 Colonial Penn delayed in notifying the insured of rental coverage until eight and three calendar days respectively beyond the required notification period. The examiners note that Colonial Penn did ultimately pay rental benefits on these two claims.

d. N.J.A.C. 11:2-17.8(a) states that, whenever an insurer denies a claim based on provisions stated in a policy, the insurer must provide first and third party claimants with a statement of the facts that make that language operative to the claim denial. On property damage claim number E980031314, Colonial Penn's denial letter merely stated that "Our investigation reveals that you were responsible for the accident. We must deny any claims for damages." Although this reason indicates that the claim was denied under the liability portion of the policy, it does not indicate the facts of the accident (example: claimant turned left into the insured's path) which make the third party claimant liable and therefore responsible for the loss.

e. N.J.A.C. 11:2-17.7(c) and (f) states that insurers have a maximum of 45 days from notice of loss to settle a property damage claim. If the claim cannot be settled within this period, the insurer must send the claimant a written notice stating why additional time is needed to settle the claim. On property damage claim number E980006352, Colonial Penn received notice of loss on January 22, 1998, and ultimately settled the claim 110 days later, on May 12, 1998. Since settlement occurred 60 days beyond the maximum 45 day period, Colonial Penn was required to, but did not, send a delay notice as specified by the above regulation. The Company agreed with this error in response to the examiners' inquiries.

f. N.J.A.C. 11:3-10.10 & N.J.A.C. 11:2-17.12 requires a company to maintain a complete first party claim file in order to permit the Commissioner's representatives to reconstruct the insurer's activities relative to claim settlement. In addition, N.J.A.C. 11:3-10.3(f) requires a company to maintain copies of estimates for repairs in the claim file. Colonial Penn failed to maintain any documentation at all in comprehensive claim number N970057781 and comprehensive claim number N980020070. The examiners were provided with empty claim files. In response to an inquiry, the Company advised that it could not reconstruct these files for the examiners' review. Failure to maintain documentation pertinent to claims settlement is contrary to the above stated regulations.

g. On comprehensive claim number N980020614, the company mailed claim forms to the insured's correct address, but mailed a premium notice to an invalid address. Since the insured never received the bill for the premium, Colonial Penn cancelled the policy for non-payment of premium. Thereafter, the company denied the claim due to no coverage. Upon receiving a call from the insured, Colonial Penn reinstated the policy and paid the claim.

h. On property damage claim number N970127054, the insured notified the company that he rear-ended a third-party claimant. Rather than pursue this as a third party claim when liability was reasonably clear, Colonial Penn handled this claim as respondent to the third party carrier's subrogation claim.

D. General Findings

1. Independent Medical Examinations (No Errors)

N.J.S.A. 39:6A-13d requires injured persons to submit to an independent medical examination ("IME") at the request of the company when their medical or mental condition is material to the claim. The statute also requires the company to arrange the IME in the claimant's municipality. If there is no qualified physician

within the municipality, then the IME must be conducted in an area of closest proximity to the claimant's residence. The examiners found no instance in which Colonial Penn failed to comply with these requirements.

2. Subrogation on Partial and Total Losses (No Errors)

From databases provided by the Company, the examiners extracted and reviewed the entire population of 680 first party physical damage claims for which Colonial Penn pursued and collected a subrogation or arbitration settlement from the party responsible for the accident. The examiners matched the company's subrogation disbursement codes from the on-line claim processing system with all 680 subrogation claims and found that Colonial Penn returned the insured's deductible without error, on all 680 claims. In addition, the examiners found in their file review that the Company pursued subrogation, when recovery was probable, as required by N.J.A.C. 11:3-10.7.

3. Prior Condition and Prior Damage Deductions on Total Losses (No Errors)

N.J.A.C. 11:3-10.3(j) requires deductions for previous damage or prior condition of the vehicle to be measurable, discernible, itemized and specific as to the dollar amount and be included in the claim file. The examiners found that Colonial Penn fully documented all prior condition and prior damage on the estimate contained in the claim file. However, in no instance did the Company actually apply the deduction to the total loss evaluation. In response to an inquiry, Colonial Penn indicated that, as a general business practice, it does not deduct for prior condition or prior damage either on first or third party claims.

4. Mail Review

On October 14, 1998, the examiners checked 25 outgoing physical damage claim payments to ensure that the total loss evaluation and partial loss damage estimates were included with the claim payment. The examiners found no errors in this review. On the same date, the examiners reviewed an additional 25 claims solely to determine if Colonial Penn included a summary of the benefit calculation with the claim payment. These 25 were comprised of 19 PIP claims, 4 collision claims, 1 property damage claim and a comprehensive claim. The examiners found no errors on the physical and property damage claims. However, the examiners found that, contrary to N.J.A.C. 11:3-37.10(a) which requires specific informational disclosures, Colonial Penn failed to include the required information on the deductible in its revised explanation of benefit form on 18 of the 18 PIP medical claim payouts reviewed. In addition, the examiners confirmed on all 18 payouts that the benefit check was mailed in a separate envelope on the day after the company sent the EOB. These findings confirmed the errors that the examiners described earlier in this section of the report.

PLEASE SEE APPENDIX B.7 FOR MAIL REVIEW BILLS IN ERROR

IV. POLICY TERMINATIONS

A. INTRODUCTION

During the period June 1, 1997 to May 31, 1998, Colonial Penn nonrenewed 493 automobile policies, cancelled 812 and declined 6,902 new business applications. During the same period, Colonial Penn nonrenewed 110 homeowner policies, canceled 99 and declined 504 new business applications. The examiners checked for compliance with applicable statutes and regulations such as N.J.A.C. 11:3-8 (nonrenewal of automobile policies), N.J.S.A. 17:29C-6 through 12 (automobile insurance terminations, proof of mailing and notice retention), N.J.S.A. 17:33B-15 and 16 (“Take All Comers” and declination of automobile insurance), N.J.A.C. 11:3-34 (eligible persons), N.J.A.C. 11:3-2 (PAIP) and N.J.A.C. 11:1-20 (homeowner terminations).

B. ERROR RATIOS

The examiners reviewed 124 randomly selected automobile terminations and found 66 files in error for a random error ratio of 53%. On homeowners, the examiners randomly selected and reviewed 109 terminations and found 75 errors, for an error ratio of 69%. The following chart itemizes the review sample, number of errors and error ratios by type of termination. Excluding improper general business practices, the homeowners and auto termination error ratios are 0%.

<u>REVIEW TYPES</u>	<u>NUMBER FILES REVIEWED</u>	<u>FILES IN ERROR</u>	<u>ERROR RATIO</u>
Auto Nonrenewals	74	43	58%
Auto Cancellations	50	23	46%
Homeowners Nonrenewals	44	44	100%
Homeowners Cancellation	31	31	100%
Homeowners Declined Quotes	25	0	0%
Homeowners Rejected Apps	9	0	0%
Random Total	233	141	61%

C. EXAMINER’S FINDINGS AND IMPROPER PRACTICES

1. Invalid Auto Nonrenewal Notices

a. Failure to State the Factual Basis for 2% and 2 for 1 Nonrenewals (35 Errors - Improper General Business Practice)

N.J.A.C. 11:3-8.3(f)1 states that no notice of nonrenewal shall be valid unless it includes the designated provision(s) under which action is being taken and the correct facts which bring the insured under the provision(s), including dates and any other facts necessary for identification of the incidents. In addition, N.J.S.A. 17:29C-7.1 (amended June 30, 1997) specifies that an insurer may not 2% or 2 for 1 nonrenew a policy unless an insured operator, within the five year period immediately preceding renewal, has been involved in any two of the following: at-fault accident, moving violation resulting in at least four eligibility points, or failed to maintain automobile liability insurance. The examiners reviewed a total of 35 randomly selected 2% and 2 for 1 nonrenewals and found on all 35 that the reason on the notice merely stated “Two Percent Territorial Nonrenewal.” Each nonrenewal was issued after June 30, 1997. Contrary to N.J.A.C. 11:3-8.3(f)1, this language fails to identify the dates, facts and incidents (those criteria outlined in N.J.S.A. 17:29C-7.1) that the Company relied upon to select these policies for nonrenewal.

In response to an inquiry, Colonial Penn disagreed with these errors and indicated that the notice requirements stated in N.J.A.C. 11:3-8.3 are ambiguous, and that disclosure of dates, events and sources is not required on 2% and 2 for 1 nonrenewals. The Company relies solely on N.J.A.C. 11:3-8.3(f)1iii and 11:3-8.3(f)1iv, which require the insurer to merely identify the termination as either a 2% or 2 for 1 nonrenewal. However, insurers must also comply with the specific disclosure requirements stated in N.J.A.C. 11:3-8.3(f)1. Since specific criteria specified in N.J.S.A. 17:29C-7.1 must be met in order to qualify for a 2% or 2 for 1 nonrenewal, these criteria must be identified on the notice of nonrenewal. The examiners cited this error as an improper general business practice because it occurred on all 2% and 2 for 1 nonrenewals issued after June 30, 1997.

SEE APPENDIX C.1 FOR LIST OF NONRENEWALS IN ERROR

b. Failure to Promptly Comply with Commissioner’s Bulletin 97-07 (4 Errors)

On July 8, 1997, the Commissioner issued Bulletin No.:97-07 in response to revised selection criteria for 2% and 2:1 nonrenewals as amended under N.J.S.A. 17:29C-7.1. In addition to highlighting revised selection criteria, the Bulletin specified that “Insurers should immediately cease issuing notices of nonrenewal that do not satisfy the Act’s criteria, and should promptly rescind any notices of nonrenewal issued on or after June 30, 1997 that do not meet these standards” (emphasis added). To check for compliance with this Bulletin, the examiners reviewed all 24 2% and 2 for 1 nonrenewal notices that the Company identified as having been issued between June 30, 1997 and July 8, 1997. Of these, the examiners found a total of 4 policies that did not qualify for a 2% or 2 for 1 nonrenewal under N.J.S.A. 17:29C-7.1 that were not promptly rescinded, contrary to this Bulletin.

Colonial Penn took 28 days to rescind the nonrenewals on four files, which does not meet the promptness requirement of the Bulletin.

PLEASE SEE APPENDIX C.2 FOR NONRENEWALS IN ERROR

c. Incomplete and Misleading Information on Notices of Nonrenewal on Two Percent Terminations (6 Errors-Improper General Business Practice)

Pursuant to N.J.A.C. 11:3-8-3(f)1, insurers are required to include on the notice of termination the dates and any other facts necessary to identify the incidents used to nonrenew a policy. In addition, N.J.A.C. 11:3-8.3(f)1iii states that if action is being taken under N.J.A.C. 11:3-8.5(a)1 the notice must specify that such action is being taken in accordance with N.J.A.C. 11:3-8.5(a)1. The examiners found six policies that Colonial Penn nonrenewed pursuant to the two percent rule stated in N.J.A.C. 11:3-8.5. Notably, all six insureds accrued nine or more eligibility points. Contrary to N.J.A.C. 11:3-8.3(f)1, however, Colonial Penn's notice of nonrenewal stated merely that the policies were being nonrenewed due to "volume management strategy." Failure to indicate on the notice the facts upon which the nine points accrued and that the nonrenewal is being taken under the 2% rule is contrary to N.J.A.C. 11:3-8.3(f)1 & (f)1iii

In addition to the above, the examiners found several misleading and factually incorrect statements on the nonrenewal notice. For example, the notice states that the nonrenewal of the automobile policy is "...not based on your driving record or any other single factor which would make you ineligible for insurance in the voluntary market." This language is incorrect because Colonial Penn selected these six nonrenewals as a result of motor vehicle convictions and at-fault accidents (driving record) that resulted in assessment of nine or more eligibility points that does in fact make the insured an ineligible person.

In response to the examiners' inquiries, Colonial Penn agreed with the examiners' findings relative to the Company's statement that the decision to nonrenew was based on the insured's driving record, but did not agree that the notice was misleading for all other reasons indicate above. The Company offered a revised form letter on March 11, 1998 to support its disagreement. However, the language cited on the revised form was merely reworded with no material change in content.

PLEASE SEE APPENDIX C.3 FOR NONRENEWALS IN ERROR

2. Failure to Advise Ineligible Voluntary Insureds of Possible Eligibility in the Residual Markets (6 Errors-Improper General Business Practice)

N.J.S.A. 17:29C-11 requires insurers to advise ineligible voluntary insureds of their possible eligibility in the residual markets. Colonial Penn failed to provide this advisement on six policies. The language in the Company's standard form letter incorrectly advises ineligible persons that they are eligible in the voluntary market, which is in direct contradiction with the statute cited above. The examiners cited these errors as general business practices because they occurred on standard form letters that effected all policies that Colonial Penn terminated.

PLEASE SEE APPENDIX C.3 FOR NONRENEWALS IN ERROR

3. Failure to Properly Notify Insured of Incomplete Application on Automobile Insurance (23 Random Errors-Improper General Business Practice)

Pursuant to N.J.A.C. 11:3-44.3(c) insurers are required to advise prospective insureds who apply directly to the Company of any application deficiencies within five business days from receipt of an incomplete application. This notice must advise eligible applicants that coverage will be provided if the deficiencies are corrected within 15 working days. Similarly, this notification shall also advise the applicant that failure to correct the deficiency will result either in a cancellation or declination of insurance. Contrary to N.J.A.C. 11:3-44.3(c), the examiners found 23 policies in which the insured provided Colonial Penn with an incomplete application. On 21 of these policies, Colonial Penn could not document the required request for complete information; the Company merely cancelled the policy. On the remaining two, the Company delayed in issuing the required five working day notice by 12 working days on one, and 22 working days on the other.. Colonial Penn disagreed with these errors in response to the examiners' inquiries. The Company stated that if "...the insured does not provide complete information after it is requested, the policy is cancelled within the first 60 days as permitted in N.J.S.A. 17:29C-7(B).... ." Although this response addresses Company procedure in the event that it does request missing information, it does not address the error cited--failure to actually request the missing information within five working days and to provide documentation of this request when the file failed to reflect that it was ever sent. The examiners cited this error as a general business practice. It should be noted that 22 of the 23 policies remained in force as a result of the insured providing the required information.

PLEASE SEE APPENDIX C.4 FOR NONRENEWALS IN ERROR

4. Failure to Include Complaint Rights Notice on Homeowners Terminations (75 Errors - Improper General Business Practice)

According to N.J.A.C. 11:1-20.2(h) the company is required to include a statement advising the insured of the right to file a written complaint to the New Jersey Department of Banking and Insurance whenever an insurer cancels or nonrenews a homeowners policy. The company failed to provide this statement on all 75 homeowner termination notices (31 cancellations and 44 nonrenewals). In response to an inquiry, Colonial Penn disagreed with these errors on the premise that N.J.A.C. 11:1-20.2(1)

applies exclusively to commercial insurance policies. Although this was once true, this regulation was revised effective January 17, 1995 to include both commercial and homeowners insurance policies. Colonial Penn's disagreement was based on a superseded version of this regulation. The examiners cited this error as an improper general business practice that occurred on all homeowners cancellation and nonrenewals.

SEE APPENDIX C.5 FOR NONRENEWALS IN ERROR

5. Failure to Comply with Commissioners Order No.:A97-106 Regarding Submission of Amended Homeowners Underwriting Guidelines, and Failure to Properly Indicate Effective Date of Amended Guidelines

Insurance Commissioner's Order No.:A97-106 required all property and casualty companies licensed in New Jersey to transact homeowners insurance to provide complete copies of their underwriting guidelines for new and renewal homeowners insurance business. The Order also specified that any amendments or modifications made to these underwriting guidelines must be provided to the Department 30 days prior to the implementation of such amendments or modifications. Colonial Penn did provide the Department with a copy of its homeowners underwriting guidelines. However, the examiners found that Colonial Penn did not notify the Department of a series of supplemental guidelines that specify unacceptable loss history. These supplemental guidelines constitute amendments and modification to the initial underwriting guidelines; therefore, the supplemental guidelines fall within the notification requirements specified in Order No.:A97-106. The examiners cited Colonial Penn for failure to comply with this Order by virtue of its failure to provide these supplemental guidelines to the Department.

In addition, the examiners found that the supplemental guideline of unacceptable losses did not indicate the effective date as required by N.J.A.C. 11:1-20.4(f). Colonial Penn is therefore not in compliance with this regulation. Colonial Penn disagreed with these errors, and indicated that these supplemental guidelines are informal selection criteria and not underwriting guidelines. However informally Colonial Penn defines these guidelines, they are nevertheless used by underwriters to select and reject new and renewal business. Therefore, they constitute modifications and amendments to the guidelines filed with the Department.

6. Miscellaneous Error - (1 Error)

N.J.A.C. 11:1-20.2(g) states that no nonrenewal and 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. On

policy 613442193 the company failed to specify the detailed reason on the Homeowners Cancellation and Nonrenewal Notice. The company canceled this homeowner's policy for "unacceptable occupancy." This reason is non-specific and fails to identify those factors that make the risk unacceptable. Colonial Penn agreed with the examiners' findings.

D. MAIL REVIEW

On September 24, 1998, the examiners conducted a mail review of 10 first 60 day cancellations, 7 midterm cancellations, 10 nonrenewals for cause and 11 two percent nonrenewals. The examiners also requested to review homeowner cancellation and nonrenewal notices, however, the Company did not terminate any homeowners policies during our homeowner's mail review of September 24, 25, 28, and October 1, 1998. The examiners checked for compliance with information practice requirements (N.J.S.A. 17:23A-1, et seq.), proof of mailing requirements (N.J.S.A. 17:29C-10), applicable minimum notice requirements on terminations (N.J.S.A. 17:29C-7 and 8, N.J.A.C. 11:3-8.3(f) and minimum standards for appeal rights notification (N.J.A.C. 11:3-33, et seq.). The examiners found no errors in this review.

E. SUMMARY

The examiners found a total of five improper general business practices, including: failure to state the factual basis on 2 percent and two-for-one nonrenewal notices; incomplete and misleading information on 2 percent and two-for-one nonrenewal notices; failure to advise ineligible persons of possible eligibility in the residual market; failure to notify insureds of incomplete applications; and, failure to include the required complaint rights notification on homeowners terminations. See recommendations section for corrective measures. Lastly, the examiners reviewed Colonial Penn's quote procedures on new automobile business and found that the Company responded to consumer rate requests within five working days.

V. UNDERWRITING, RATING AND POLICYHOLDER SERVICE

A. INTRODUCTION

The examiners reviewed randomly selected policy files from Colonial Penn's computer databases of 33,911 private passenger automobile policies (total of 118,669 vehicles) and 6,801 homeowners policies in force as of May 31, 1998. The examiners checked for compliance with all applicable laws and regulations, including: N.J.S.A. 17:29A-6, 15 and 38 (filed and approved rating methodologies); N.J.A.C. 11:3-39.4 (anti-theft discounts); N.J.S.A. 17:29A-46 (uniform application of underwriting guidelines); N.J.A.C. 11:3-39.6 (safety features discount); N.J.A.C. 11:3-15 (coverage selection forms); N.J.A.C. 11:3-36 (physical damage inspection requirements); N.J.A.C. 11:3-35; and, N.J.A.C. 11:1-20 (automobile and homeowner's insurance underwriting rules), N.J.S.A. 39:6A-4.1 and N.J.A.C. 11:3-21 (PIP rate discounts). The examiners reviewed the entire population of vehicles to determine proper application of passive restraint, senior citizen, multi-car and 50% PIP discounts on private passenger automobile insurance.

B. ERROR RATIOS

The examiners calculated error ratios for each random sample by applying the procedure outlined in the introduction of this report. Random error ratios are itemized separately for each of the review samples as indicated in the chart that follows. This is followed by the database exception ratios, in which the examiners reviewed Colonial Penn's entire population of policies and/or vehicles for compliance with various statutory rating requirements.

RANDOM ERROR RATIOS

<u>REVIEW TYPE</u>	<u>FILES REVIEWED</u>	<u>FILES IN ERROR</u>	<u>ERROR RATIO</u>
Auto Underwriting	50	28	56%
Auto Passive Restraints	50	0	0%
Homeowner Underwriting	25	25	100%
Random Total	125	53	42%

DATABASE EXCEPTION RATIOS

<u>REVIEW</u>	<u>ELIGIBLE VEHS/POLICIES</u>	<u>VEHICLE/ POLICY</u>	<u>EXCEPTION</u>	<u>PROJECTED OVERCHARGE+</u>
---------------	-------------------------------	------------------------	------------------	------------------------------

<u>TYPE</u>	<u>REVIEWED</u>	<u>EXCEPTIONS</u>	<u>RATIO</u>	<u>UNDERCHARGE-</u>
Senior Citizen Discount	15,853	2,535	16%	\$ 75,162+
Auto Passive Restraints	79,943	704	1%	\$ 11,264+
Work Comp & Empl Liab	6,801	6,801	100%	\$ 6,801-
50% PIP Discount	2,300	759	33%	\$101,268+
Total Premium Dollar Errors	104,897	10,799	10%	\$194,495

C. EXAMINERS' FINDINGS AND IMPROPER PRACTICES

1. Failure to Provide Passive Restraint Discount (704 Database Exceptions)

According to the personal automobile rating manual filed with and approved by the Commissioner pursuant to N.J.S.A. 17:29A-6 and 15, Colonial Penn must provide a personal injury protection premium discount whenever the vehicle is equipped with a passive restraint device. These devices include air bags and automatic seat belts. In addition to a random sample review of 50 underwriting files which yielded no errors, the examiners conducted a database review of all 118,669 vehicles in force during the review period. Of this total, the examiners found 79,943 vehicles that qualified for this discount. The examiners also found that Colonial Penn did not provide this discount on 704 of these vehicles. Colonial Penn therefore overcharged the consumer on these 704 vehicles that were equipped with a passive restraint device. Failure to provide this discount is contrary to N.J.S.A. 17:29A-6 and 15 and the Company's filed and approved rate manual. Applying an average discount of \$16 per vehicle for the current and immediately preceding policy periods, the examiners estimated the total overcharge for this one year period to be \$11,264. In response to the examiners' inquiries, Colonial Penn neither agreed nor disagreed that these exceptions were errors. To confirm these errors, the examiners selected declarations pages from 26 eligible vehicles of the 704 exceptions; they found that 22 of the 26 (85%) were errors; Colonial Penn rated the vehicles without the discount during the period June 1, 1997-May 31, 1998.

2. Failure to Provide 50% PIP Discount on One Driver/Two Car Households (1 Random Error, 759 Database Exceptions - Improper General Business Practice)

Pursuant to N.J.S.A. 39:6A-4.1 and N.J.A.C. 11:3-21.2(a), in any instance where a named insured is the only licensed driver in the household, and is the only designated operator of two or more automobiles in the household, the insurer is required to charge the full basic PIP rate on one automobile, while providing a discount of at least 50% on each additional automobile. Contrary to this requirement, the examiners found one randomly selected policy 951758663 in which Colonial Penn provided only 5% of the required 50% PIP discount on the second vehicle in the household. The Company confirmed this error.

Colonial Penn's independent rate filing specifies that PIP premium is included with liability premium, the combination of which is defined as the policy's casualty premium package. PIP accounts for 17.8% of the casualty package in terms of premium. The base PIP premium is calculated by multiplying the casualty premium by a factor of .178. The 50% PIP discount is then calculated by applying a decrease factor of .089, which constitutes 50% of the 17.8% PIP portion of the casualty premium. In response to an inquiry, Colonial Penn indicated that its rating manual was revised in 1994 to reflect revisions in driver age and mileage class factors. The Company further indicated that, "...when these factors were revised it appears that in some cases the 8.9% differential was not maintained...The actual differentials between the vehicles were anywhere from -1.0% to -8.0." This corresponds to a discount range of between 6% and 45% ($1.0\%/17.8\% = 6\%$; $8.0\%/17.8\% = 45\%$). From a database review of the company's in force policies, Colonial Penn identified 759 out of 2,300 qualifying policies (33%) for which this incorrect discount range was applied to the PIP premium. The examiners estimated the total premium overcharge to be \$101,268 for the five year period 1994 to 1998.

2. Failure to Provide Senior Citizen Discount (6 Random Errors, 2523 Database Exceptions – Improper General Business Practice)

Effective March 1, 1984, and in accordance with N.J.S.A. 17:29A-38, all insurers are required to reduce by at least 5% the rates of all principal operators 65 years of age or older. Contrary to this requirement, the examiners found six randomly selected policies in which the insured qualified for but did not receive this discount. In response to an inquiry, Colonial Penn disagreed with this error and stated that N.J.S.A. 17:29A-38 required this discount only on a one-time basis for calendar year 1984, and that it has been providing this discount since then. Colonial Penn's response included its 1983 revised rate filing, which specified six factor differentials for drivers aged 65 to 69. However, only two of the six differentials (3,000 or fewer annual mileage and 3,001 to 6,000 annual mileage) include the mandated 5% rate reduction. The four remaining differentials (annual mileage in excess of 6,000 miles) either retained the non-discounted rate or actually increased the non-discounted rate by 22%. These factors are still in use as of the review period. Based on the examiners' review and the company's responses, Colonial Penn has provided the required 5% senior citizen discount only on those drivers whose use class is fewer than 3,000 miles annually from 1984 through the present. Pursuant to N.J.S.A. 17:29A-38, this discount applied to all drivers 65 years of age or older, regardless of vehicle use. The examiners cited this error as an improper general business practice.

PLEASE SEE APPENDIX D.1 FOR POLICIES IN ERROR

In addition to the random review of 50 files that yielded six errors, the examiners conducted a database review of all 118,669 vehicles in force during the review period, and found 15,853 vehicles that qualified for the senior citizen discount. Of these, the examiners found 2,535 policies where the use class reflected annual mileage in excess of 6,000 miles. The examiners further found that the senior citizen discount designator

maintained by Colonial Penn's rating system failed to indicate that the required discount was provided. The examiners estimated the total premium overcharge for the current review period to be \$75,162.

4. Failure to Charge Correct Homeowners Workers Compensation and Employers Liability Premium (25 Errors – Improper General Business Practice)

Pursuant to N.J.S.A. 17:26A-6 and 15, insurers are required to charge only those rates that are filed with and approved by the Commissioner. Colonial Penn's filed and approved rate methodology for homeowners insurance includes a two dollar premium for workers compensation coverage and employers liability premium on the standard homeowners policy. Contrary to this filing, the examiners found that Colonial Penn charges only one dollar of the required two dollar premium for this coverage. In response to an inquiry, Colonial Penn agreed with the examiners' findings and indicated that its computerized rating system will be updated to include the correct charge as of October 8, 1998 for new business, and December 8, 1998 for renewals. The company could not provide the effective date of this error. Notably, this error occurred on all 6,801 homeowners policies that were in force during the review period.

PLEASE SEE APPENDIX D.2 FOR POLICIES IN ERROR

5. Failure to Inspect Vehicle and/or Retain Vehicle Photos and Documentation of Inspection Waiver (22 Random Errors - Improper General Business Practice)

N.J.A.C. 11:3-36.3(a) requires insurers to conduct a physical damage inspection of a covered vehicle whenever physical damage coverage is requested by the insured. N.J.A.C. 11:3-36.4 allows insurers to waive a mandatory vehicle inspection if certain criteria are met, so long as the insurer maintains a record of the waiver in the underwriting file. N.J.A.C. 11:3-36.6(h) requires insurers to retain photographs of the vehicle taken at the time of inspection.

Contrary to N.J.A.C. 11:3-36.3(a), the examiners found nine policies in which Colonial Penn failed to inspect the insured vehicle. In response to an inquiry, Colonial Penn neither agreed nor disagreed with these errors, but indicated that the inspection reports were not available and could not be produced. In the absence of these reports and any other information to the contrary, the examiners found no indication that Colonial Penn inspected the insured vehicle as required. In addition, and contrary to N.J.A.C. 11:3-36.6(h), the examiners found eight policies in which Colonial Penn failed to retain photographs of the inspected vehicle. In response to an inquiry, Colonial Penn neither agreed nor disagreed with these errors, but indicated that the photographs were not available and could not be produced. In the absence of these photographs and any other information to the contrary, the examiners found no indication that Colonial Penn obtained photographs of the insured vehicle as required. Lastly, and contrary to

N.J.A.C. 11:3-36.4(c), the examiners found five policies in which Colonial Penn failed to maintain a record of an inspection waiver. On all five policies, the vehicle was a new, current model year vehicle. However, Colonial Penn also failed to retain the new car window sticker as required by N.J.A.C. 11:3-36.4(a)2.

PLEASE SEE APPENDIX D.3 FOR POLICIES IN ERROR

6. Failure to Provide Coverage Specified on Coverage Selection Form (2 Errors)

If, upon renewal, an insured submits to the insurer a completed coverage selection form that changes the coverages and/or limits from the prior period, N.J.A.C. 11:3-15.9(c)2 specifies that the insurer shall effect such changes as of the effective date of the renewal policy. Contrary to this requirement, Colonial Penn failed to effect coverage changes on two randomly selected automobile policies. On policy number 836071280, the insured's coverage selection form specified a \$500 PIP deductible. Contrary to N.J.A.C. 11:3-15.9(c)2, Colonial Penn retained the \$250 PIP deductible that was in effect during the prior period. On policy number 834088657, the insured requested liability limits of 250/500/75. Contrary to the limits specified on the coverage selection form, Colonial Penn applied limits of 100/300/50. The company agreed with the examiners findings on both policies.

D. MAIL REVIEW

On September 24, 1998, the examiners conducted a mail review of 10 PAIP renewals, 10 voluntary auto quotes and 10 voluntary new business packages, for a total of 30 reviews. The examiners checked for compliance with information practice requirements (N.J.S.A. 17:23A, et seq), proper issuance of automobile insurance identification cards (N.J.A.C. 11:3-6, et seq), issuance of renewals within specified time frames (N.J.A.C. 11:3-8.3) and issuance and content of coverage selection forms and buyer's guides (N.J.A.C. 11:3-15.4 and 6). The examiners found no errors in this review. Colonial Penn provided all required notices and met all applicable time frames governing renewal of automobile policies.

E. SUMMARY

The examiners found a total of four improper general business practices out of a total of five separate types of rating and underwriting errors. Two of the four practices involved rating errors, including failure to provide the required 50% PIP discount (resulting in a projected overcharge of \$101,268) and failure to provide the required senior citizen discount (resulting in a projected overcharge of \$75,162). The examiners also cited as an improper general business practice Colonial Penn's failure to inspect vehicles and failure to retain photographs and/or record of inspection waiver. The examiners cited Colonial Penn for failure to provide passive restraint discounts on 704 vehicles, which resulted in an overall overcharge of \$11,264. Including failure to charge the correct workman's comp premium on 6,801 homeowners policies, the

examiners found rating errors of at least \$194,495. See recommendations for corrective measures.

VI. LICENSING, SALES AND ADVERTISING

A. LICENSING OF SALES STAFF

Colonial Penn is a direct writer for private passenger automobile and homeowner insurance. The Company does not utilize independent agents and does not maintain agency contracts. All new business is produced by salaried employees, all of whom were properly licensed and appointed. Colonial Penn did not terminate any of these employees during the review period.

B. SALES AND ADVERTISING

In response to an inquiry, Colonial Penn advised the examiners that all advertising and marketing of private passenger automobile and homeowners business is conducted through mail solicitation, an internet web page and advertisements in Yellow/White pages. The examiners reviewed each of these three forms of advertising and report the following findings.

1. Inaccurate Private Passenger Automobile Insurance Advertisements via Web Page

According to N.J.S.A. 17:29B-4(2), insurers are prohibited from “Making, publishing, disseminating, circulating, or placing before the public...in the form of a notice, circular, pamphlet, letter...or in any other way, an advertisement, announcement or statement containing any assertion...which is untrue, deceptive or misleading.” The examiners reviewed Colonial Penn’s internet web page and mail solicitation advertisement materials that are sent to prospective customers.

On brochure form number BD-0031-898, form letter LD-0080-998 and internet address <http://www.cpdirect.com/save/index.htm>, Colonial Penn identifies a 15% retirement discount for which the applicant will qualify so long as two criteria are met: 1) the insured is age 55 or older; and 2) the insured is retired. However, Colonial Penn’s rate manual specifies that the retirement discount is applicable when the insured satisfies a third criteria; the insured vehicle must be classified as pleasure use with 3,000 or fewer miles driven annually. This third criterion is not mentioned in the above solicitation materials, leading the applicant to believe erroneously that a retirement discount will be provided if the insured is retired and at least 55 years of age. Colonial Penn’s rating manual (as well as the rating review appearing in Section V above) confirms that all three criteria must be met in order for this discount to be applied. Erroneously advising prospective insureds that only two of these criteria must be met is untrue and therefore misleading because all three criteria must be met before the discount is given. Brochure form number BD-0031-898, form letter LD-0080-998 and internet address <http://www.cpdirect.com/save/index.htm> is therefore contrary to N.J.S.A. 17:29B-4(2), which prohibits untrue and misleading advertising.

Colonial Penn disagreed with these errors, indicating that the company does not use advertising materials to establish eligibility for discounts, and that pamphlets are used to "...call attention to some discounts available...to someone 55 and over and retired...". Regardless of the company's intent merely to describe "some" aspects of available discounts, prospective applicants are not aware that advertising may be incomplete or incorrect. The applicant therefore reasonably assumes it to be complete and further relies on this information to decide whether to pursue a contract with the Company. All such advertisement information must therefore be accurate and complete.

2. Yellow Page and White Page Advertising

Colonial Penn advised the examiners that it solicits private passenger automobile and homeowners business in the New Jersey Bell Yellow and White pages. The examiners reviewed 33 New Jersey Bell telephone books that represent a cross-section of the entire state and found no such advertisements for Colonial Penn Insurance Company during the review period. The examiners also reviewed the April, May, June and July, 1998 editions of Business Insurance, and the September, 1998 edition of National Underwriter P&C and found no private passenger automobile insurance advertisements by Colonial Penn.

3. Distribution of In Force Business Automobile Insurance by Surcharge Points and Homeowners Insurance by Zip Code

From among the two confirmed marketing methodologies, Colonial Penn uses direct mail solicitation to actively target desired business, while apparently using its internet web page as a marketing tool to respond to coverage requests from the general population of New Jersey residents. The examiners conducted database reviews of Colonial Penn's entire population of in force vehicles and homeowners exposures in order to ascertain the degree to which these marketing methodologies either do or do not result in selective and possibly exclusionary marketing practices. The results are as follows.

a. Private Passenger Automobile Insurance

From a database provided by the Company, the examiners sorted Colonial Penn's entire in force population of 118,669 vehicles by the number of surcharge points for each driver assigned to each policy. The examiners applied three filtering criteria to collapse the eligibility point range of all drivers into three categories: 1) those drivers who had zero eligibility points (perfect driving record, eligible person); 2) those who had between one and eight eligibility points (imperfect driving record, eligible person); and 3) those who had nine or more eligibility points (imperfect driving record, not an eligible person). The following chart itemizes these distributions for both new and renewal business:

Private Passenger Auto Surcharge Point Distributions

New Business			Renewal Business			Combined New and Renewal		
<u>Surcharge Points</u>	<u>Total Number</u>	<u>Percent of Total</u>	<u>Surcharge Points</u>	<u>Total Number</u>	<u>Percent of Total</u>	<u>Surcharge Points</u>	<u>Total Number</u>	<u>Percent of Total</u>
0 Points	43,149	81%	0	55,183	84%	0	98,332	83%
1-8 Points	8,659	16%	1-8	9,532	15%	1-8	18,191	15%
9+ Points	1,154	3%	9+	992	1%	9+	2,146	2%
Total	52,962			65,707			118,669	

As indicated in the above table both new and renewal business reveals similar distributions based on the three surcharge categories. The company wrote and renewed the vast majority of its business (83%) on individuals who had no surcharge points. The above percentage distributions indicate that Colonial Penn writes mostly zero point operators.

b. Homeowners Insurance

From a database provided by the Company, the examiners sorted Colonial Penn's entire in-force population of 6,801 homeowner policies by zip code to determine the total number of policies written in coastal and non-coastal areas. The examiners queried this data to produce separate listings of all new and renewal policies written in coastal and non-coastal zip code areas. Coastal areas are defined by zip code in N.J.A.C. 11:2-41. The following chart itemizes these distributions:

	<u>New Bus.</u>	<u>Percent of total</u>	<u>Renewal Business</u>	<u>Percent of Total</u>	<u>Combined New and Renewal</u>	<u>Overall Distribution New and Renewal</u>
Coastal	46	8%	1608	26%	1654	24%
Non-Coastal	560	92%	4587	74%	5147	76%
Totals	606	100%	6195	100%	6801	100%

As the above chart indicates, Colonial Penn wrote 560 new policies in non-coastal areas. This represents 92% of all new business written during the review period. However, Colonial Penn wrote only 46 new policies in coastal areas. This represents 8% of all new business written during the review period. During the same period, Colonial Penn's in-force revealed a total of 4,587 non-coastal policies in effect during the review period. Non-coastal policies represent 74% of the Company's entire

renewal population. Colonial Penn's coastal in-force is 1,608. This represents 26% of Colonial Penn's in-force population.

VII. RECOMMENDATIONS

Colonial Penn Insurance Company should inform all responsible personnel and third party entities that handle the files and records cited as errors in this report of the examiners' recommendations and remedial measures, which follow in the report sections indicated. It is also recommended that the Company establish procedures to monitor compliance with these measures. Whenever the examiners cited a single error, the report includes a "reminder" recommendation. If a single error is found, more errors may have occurred. The examiners acknowledge that the Company has agreed with and had already complied with, either in whole or in part, some of the recommendations during the examination. For the purpose of obtaining proof of compliance and for the Company to provide its personnel with a document they can use for future reference, the examiners have listed all recommendations below.

GENERAL INSTRUCTIONS

For all items requested for the Commissioner and copies of all written instructions, procedures, policies, recommended forms, offers of coverage, premium refunds and additional claim payments, copies of each accompanying letter described below, computer runs, etc., should be sent to the Commissioner, c/o Clifton J. Day, Manager of Market Conduct Examinations, 20 West State Street, PO Box 329, Trenton, NJ 08625, within thirty (30) days of the date of the adopted report.

On all policies to be reopened with an offer of coverage or additional payment as recommended, the letter should be sent to the insured with an accompanying cover letter containing the following first paragraph (variable language is included in parentheses):

Additional Claim Payment

"During a recent review of your claim by market conduct examiners of the New Jersey Department of Insurance, they found that we underpaid your Total Loss claim in the amount of (amount). Enclosed is our check to correct this error."

Offer of Coverage

"During a recent review of our policy files by market conduct examiners of the New Jersey Department of Banking and Insurance, they found that we should not have nonrenewed your (automobile/homeowner) insurance. We are now offering you a new policy to correct our error."

Premium Refund/Adjustment

“During a recent review of our policy files by market conduct examiners of the New Jersey Department of Banking and Insurance, they found that we failed to discount your (personal injury protection premium due to being eligible for a passive restraint discount), (personal injury protection premium by 50% on the second car in your household), (policy premium due to your status as a senior citizen). Enclosed in our (payment/credit) in the amount of (insert amount) to correct our error. We have rerated your policy to provide you with this discount on all eligible vehicles.”

COMPLAINTS

1. Colonial Penn must issue written instructions to all appropriate personnel that in order to comply with N.J.S.A. 17:29B-4(10).
 - a. an insurer must maintain a complete record of complaints received directly from consumers, as well as those complaints received through the New Jersey Department of Banking and Insurance. A summary of the content of this reminder should be provided to the Commissioner for review.
 - b. accurate complaint receipt and response dates must be entered into the Company’s complaint log in order to ensure its completeness, accuracy and the total time taken to resolve the complaint.

CLAIMS

2. The Company must issue written instructions to the appropriate personnel stating that:
 - a. pursuant to N.J.A.C. 11:3-10.4(c), insurers are required to provide first and third party claimants with a written notice of the right to recourse at the time a total loss settlement draft or payment is issued, and to retain a copy of the notice in the claim file.
 - b. the PIP explanation of benefit form must contain a full description of the claim benefit calculation, including the amount of any co-pay and deductible applied (already complied).
 - c. the PIP explanation of benefit must be sent in it’s entirety with the claim payment.
 - d. pursuant to N.J.S.A. 39:6A-5g and N.J.A.C. 11:2-17.7(b), insurers are

- required to settle personal injury claims within 60 calendar days from receipt of a written notice of a covered loss and the amount of same; provided, however, that an insurer may secure a 45 day extension so long as this extension is made within this 60 day period.
- e. pursuant to N.J.S.A. 39:6A-5h, insurers are required to pay interest on overdue PIP benefits, where claim payment is issued during a period in excess of the required time frames.
3. Colonial Penn must reopen and review the six PIP claims which the examiners cited for failure to pay interest in Section IIC3 of this report. The company should calculate and pay the interest for the period of delay as required by N.J.S.A. 39:6A-5h. See general instructions for the language to be included in the cover letter sent with each interest payment.
4. The Company should remind all claims personnel of the requirement list below. A summary of the content of each of the following reminders should be provided to the Commissioner:
- a. The Company must issue written instructions to all claims personnel that N.J.A.C. 11:2-17.6(c) requires insurers to provide first party claimants with all forms necessary to make a claim within 10 working days from notice of claim. This includes PIP applications and attending physician reports.
 - b. The Company should remind all claims personnel that N.J.S.A. 39:6A-4.3 requires an insurer to apply the correct deductible and co-payments on PIP benefits.
 - c. The Company should remind all claims personnel that N.J.S.A. 17:33A-9 requires insurers to notify the New Jersey Fraud Division of the belief that a violation of the fraud act has occurred or is being made. The company should send the required notice on claim no: 970106481.
 - d. The Company should remind all claims personnel that N.J.A.C. 11:2-17.10(a)7 requires insurers to notify all first party claimants of the terms, conditions and availability of rental benefits at the time the insurer acknowledges the claim, or sooner, if inquiry is made prior to acknowledgement.
 - e. The Company should remind all claims personnel that N.J.A.C. 11:2-17.8(a) states that, whenever an insurer denies a claim based on provisions stated in an insurance policy, the insurer must provide first and third party claimants with a statement of the facts that make that language operative to the claim denial. This requires a statement of the

- facts that make a liability claim applicable to the liability portion of the policy.
- f. The Company should remind all claims personnel that N.J.A.C. 11:2-17.7(f) states that, if a claim cannot be settled within the maximum period allowed by regulation, the insurer must send the claimant a written notice stating why additional time is needed to settle the claim.
 - g. The Company should remind all claims personnel that N.J.A.C. 11:2-7.12 & N.J.A.C. 11:3-10.10 requires a company to maintain a complete first party claim file in order to permit the Commissioner's representatives to reconstruct the insurer's activities relative to the insurer's settlement of the claim.

POLICY TERMINATIONS

- 5. In order to comply with N.J.A.C. 11:3-8.3(f)1, Colonial Penn must cease its practice of not stating on the termination notice the factual basis upon which two percent and two-for-one nonrenewals are selected. The Company must provide a written summary of this requirement to all applicable personnel. Colonial Penn should reopen all policies nonrenewed during the review period including all 35 policies listed in Appendix C.1. in order to offer coverage due to invalid nonrenewal notices. The Company should provide the Commissioner with a written report that summarizes the results of each offer.
- 6. In order to ensure compliance with Commissioner's Bulletin 97-07, Colonial Penn should research its records to ensure that it rescinded all 2% and 2:1 nonrenewal notices that were issued on or after June 30, 1998 up to and including the present, that were not issued in accordance with N.J.S.A. 17:29C-7.1. Colonial Penn should offer coverage on all six policies listed in Appendix C.2.
- 7. In order to comply with N.J.A.C. 11:3-8.3(f)1 & (f)1iii, Colonial Penn must provide written instruction to all applicable personnel stating that insurers are required to include dates and facts necessary to identify the incidents on 2% and 2:1 nonrenewals. The Company should also cease use of its nonrenewal cover letter that provides erroneous and misleading information identified in section IV.C.1.c. The revised cover letter should be provided to the Commissioner prior to use.
- 8. In order to comply with N.J.S.A. 17:29C-11, Colonial Penn must provide written instruction to all applicable personnel stating that insurers must advise ineligible voluntary insureds of possible eligibility in a residual market plan.

9. Colonial Penn must cease its practice of automatically cancelling automobile policies when the insured provides an incomplete application. In addition, the Company must provide written instructions to all applicable personnel stating that, pursuant to N.J.A.C. 11:3-44.3(c)a through c, insurers are required to advise applicants of application deficiencies within five business days receipt of an incomplete application. This advisement must indicate that coverage will be provided or continued if the deficiency is corrected within 15 days, and that failure to do so within this time frame may result in cancellation of coverage. A copy of these instructions should be provided to the Commissioner for review.
10. In order to comply with N.J.A.C. 11:1-20.2(h), Colonial Penn must redesign its homeowners nonrenewal and cancellation notices to ensure that the insured is notified of the right to file a complaint with the New Jersey Department of Banking and Insurance. The revised notice should be provided to the Commissioner for review. Colonial Penn must send written instructions to appropriate personnel in order to implement use of the form.
11. In order to comply with Order No.:A97-106, Colonial Penn must submit its supplemental homeowners underwriting guidelines to the Commissioner. In addition, and in order to comply with N.J.A.C. 11:2-20.4(f), Colonial Penn must specify the date that these guidelines became effective.
12. Colonial Penn should remind appropriate personnel that N.J.A.C. 11:1-20.2(g) requires insurers to state the standard or reason and the factual basis upon which homeowners termination notices are based. Colonial Penn should reopen file number 613442193 and offer coverage to the insured.

RATING AND UNDERWRITING

13. Colonial Penn must review and revise its rating procedures and its computer rating system to ensure that the passive restraint discount is applied on all eligible vehicles as required by N.J.S.A. 17:29A-6 and 15. The company must begin immediately providing the discount on all eligible vehicles. The source of the 704 exceptions cited herein should be identified and corrected. Colonial Penn must inform the Commissioner of the action taken in order to correct these errors.
14. Colonial Penn should review the 704 vehicles cited as exceptions (previously provided under inquiry number 215 on November 23, 1998) for failure provide passive restraint discounts and must issue the appropriate refund or credit, retroactive to the inception date of coverage on every eligible vehicle. For verification purposes, Colonial Penn must submit to the Commissioner a computer list of each insured to whom the Company issued

- either a credit or refund. This list must include the named insured, all policy periods in error beginning with the first period in which the error occurred, the amount credited/refunded, the total number of insureds for which the credit/refund was sent and the total amount credited/refunded.
15. In order to comply with N.J.S.A. 39:6A-4.1 and N.J.A.C. 11:3-21.2(a), Colonial Penn must research its automated rating system to identify and correct the source of the programming error that resulted in incorrect application of the 50% PIP discount. Colonial Penn must document to the Commissioner of the action taken in order to correct these errors. The company must begin immediately providing the discount to all eligible insureds.
 16. Colonial Penn must review the 759 policies cited as exceptions and identified by the Company for failure to provide the 50% PIP discount, and must issue the appropriate refund or credit, retroactive to the inception date of this error. For verification purposes, Colonial Penn must submit to the Commissioner a computer list of each insured to whom the Company issued either a credit or refund. This list must include the named insured, all policy periods in error beginning with the first period in which the error occurred, the amount credited/refunded, the total number of insureds for which the credit/refund was sent and the total amount credited/refunded.
 17. In order to comply with N.J.S.A. 17:29A-38, Colonial Penn must cease its practice of not providing the senior citizen discount to those insureds whose use class indicates annual mileage in excess of 3,000 miles. Colonial Penn must issue written instructions to all appropriate personnel stating that this discount applies to all insureds 65 years of age or older, regardless of use class or any other risk characteristics or factors.
 18. Colonial Penn must re-file its private passenger automobile rating methodology with the New Jersey Department of Banking and Insurance in order to comply with the senior citizen discount requirements stated in N.J.S.A. 17:29A-38. Specifically, the new filing must include a 5% rate reduction for all insureds age 65 years of age or older and for all use classifications, regardless of the number of annual miles driven.
 19. Colonial Penn must review the 2535 policies which insure senior citizens and policies written on seniors since 5/31/98, to identify those who qualify for the senior citizen discount. This is in addition to the six files cited in this report. The Company must then calculate and issue the appropriate refund or credit, retroactive to the inception date of this error. For verification purposes, Colonial Penn must submit to the Commissioner a computer list of each insured to whom the Company issued either a credit or refund. This list must include the named insured, all policy periods in error beginning with the first period in which the error occurred, the amount

credited/refunded, the total number of insureds for which the credit/refund was sent and the total amount credited/refunded.

20. Colonial Penn must begin to charge the required two-dollar workers compensation and employers liability premium on homeowners insurance. The Company must provide written instruction of the required premium to all applicable rating, underwriting and systems personnel
21. In order to comply with vehicle inspection requirements, Colonial Penn must provide written instructions to all applicable personnel stating that N.J.A.C. 11:3-36.3(a) requires insurers to conduct a physical damage inspection of a covered vehicle whenever physical damage coverage is requested by the insured. These instructions should also specify that N.J.A.C. 11:3-36.4 allows insurers to waive a mandatory vehicle inspection if certain criteria are met, so long as the insurer maintains a record of the waiver in the underwriting file. The criteria listed in N.J.A.C. 11:3-36, et seq, should be addressed in these instructions. Lastly, instructions should specify that N.J.A.C. 11:3-36.6(h) requires insurers to maintain photographs of the vehicle taken at the time of inspection.
22. Colonial Penn should remind all applicable personnel that, in order to comply with N.J.A.C. 11:3-15.9, an insurer is required to effect changes on a coverage selection form as of the effective date of the policy period for which the change is requested, and that the correct change must be applied to the policy.

LICENSING, SALES AND ADVERTISING

23. The Company must immediately cease its practice of distributing misleading product advertisements via mail solicitation and the internet on private passenger automobile insurance. In order to comply with N.J.S.A. 17:29B-4(2), Colonial Penn must discontinue use of advertising pamphlet number BD-0031-898, form letter LD-0080-988 and internet address www.cpdirect.com/save.index.htm, all of which contain misleading information regarding the retirement discount on private passenger automobile insurance. The Company must also search its records to identify any other advertising materials that misrepresent the retirement discount and discontinue their use. The results of this search must be submitted to the Commissioner.
24. Colonial Penn should review its procedures for writing drivers who have between 1 and 8 eligibility points to increase the number of such drivers it insures.

APPENDIX A

COMPLAINT HANDLING ERRORS

1. Failure to Log DOBI Complaints

<u>Sequential Count</u>	<u>DBI Number</u>	<u>Policy Number</u>	<u>Claim Number</u>	<u>Colonial Penn Close-Out Date</u>
1	97-04395	089946160	N950124750	11/19/97
2	97-96286	189038812	N960136471	4/25/97
3	97-03087	199606051	N960059344	9/30/97
4	97-05985	681028230	Not Available	1/9/98
5	97-95989	72261422	N960102614	4/15/97
6	97-95599	831007567	Not Available	4/8/97
7	97-96110	832692808	Not Available	4/22/97
8	97-00323	833403966	N960115082	8/4/97
9	97-97615	834114224	Not Available	4/11/97
10	97-96655	835517616	Not Available	5/5/97
11	97-95398	836406966	Not Available	5/27/97
12	97-06566	837148499	N970089918	1/8/98
13	97-03723	837585767	N97095187	3/13/98
14	97-04665	837931754	Not Available	11/25/97
15	97-02185	92162565-W03	Not Available	9/19/97
16	97-96878	AR069449991	N950072555	5/15/97
17	97-99262	AR069703693	N950007109	7/14/97
18	97-97985	AR069935462	N950135000	6/9/97
19	97-04232	AR189135541	N960151178	11/12/97
20	97-94196	AR189181950	Not Available	3/28/97
21	97-97083	AR189784671	Not Available	5/13/97
22	97-00084	AR189854920	N960159021	8/27/97
23	98-07868	AR199390510	Not Available	2/17/98
24	97-94028	BY070211922	E960095421	5/14/97
25	97-04040	Not Available	N970031634	10/31/97
26	97-04866	Not Available	N970086315	12/4/97
27	97-94651	Not Available	N960142977	5/7/97
28	97-94716	Not Available	E970010645	3/20/97
29	97-94948	Not Available	N950117621	3/27/97
30	97-96214	Not Available	N960109279	4/29/97
31	97-97411	Not Available	N960095219	5/23/97

<u>Sequential Count</u>	<u>DOBI Number</u>	<u>Policy Number</u>	<u>Claim Number</u>	<u>Colonial Penn Close-Out Date</u>
32	97-97517	Not Available	N960101251	5/21/97
33	97-97888	Not Available	N960130073	8/12/97
34	97-98038	Not Available	N960039548	6/6/97
35	97-98643	Not Available	N970024247	6/26/97
36	97-99519	Not Available	N960001516	9/16/97
37	97-99699	Not Available	N950059664	7/18/97
38	98-07753	Not Available	N960112211	2/6/98
39	98-11066	Not Available	N970138064	5/18/98

2. Failure to Record Accurate Complaint Receipt/Response Date on Log

<u>Policy/Claim Number</u>	<u>Log*Response/ **Receipt Date</u>	<u>Document*Response **Receipt Date</u>	<u>Days in Error</u>	<u>Direct or DOBI</u>
B.D.	*9/25/97	*10/2/97	7	DIR
837418119	*5/12/98	*5/19/98	7	DOBI
835670198	*12/18/97	*12/16/97	2	DOBI
836704631	**1/5/98	**12/29/97	7	DOBI
838229280	**4/28/98	**4/24/98	4	DOBI

B.D. = Insured's initials. Policy number unavailable

3. Failure to Record Complaint Resolution Date in Complaint Log and Failure to Document Time Taken to Resolve the Complaint

<u>Policy Number</u>	<u>Log Receipt Date</u>	<u>Log Response Date</u>	<u>Direct/ DOI</u>
920748210	6/5/97	Omitted	DIR
836013611	8/5/97	Omitted	DIR
835920887	8/21/97	Omitted	DOBI
761974351	8/22/97	Omitted	DOBI
553528551	3/26/98	Omitted	DOBI

APPENDIX B – CLAIM ERRORS

1. Failure to Advise Insured of Right of Recourse on Total Loss Claims

<u>CLAIM NUMBER</u>	<u>CLAIM NUMBER</u>	<u>CLAIM NUMBER</u>	<u>CLAIM NUMBER</u>
N970021289	N970016398	N970015382	N970122010
N980008631	N970137033	N970107509	N970120611
N970066934	N970127755	N970130161	N970130268
N980012743	N970119671	N970012448	N970124187
N970147551	N980003892	N970047905	C970084193

2. Incomplete and Inaccurate Information in PIP Explanation of Benefits Form

<u>CLAIM NUMBER</u>	<u>CLAIM NUMBER</u>	<u>CLAIM NUMBER</u>	<u>CLAIM NUMBER</u>
N960010728	N960162871	N970031103	N970082859
N960071620	N970003207	N970036202	N970084762
N970122885	N970010807	N970065555	
N960119690	N970030719	N970677502	

3. Failure to Send PIP Explanation of Benefits (EOB) with Payment

<u>CLAIM NUMBER</u>	<u>CLAIM NUMBER</u>	<u>CLAIM NUMBER</u>	<u>CLAIM NUMBER</u>
N960010728	N960162871	N970031103	N970082859
N960071620	N970003207	N970036202	N970084762
N970122885	N970010807	N970065555	N970125728
N960119690	N970030719	N970677502	E970094792
N970042890	N960003942	N950058692	N970068295
N970037616	N970085793	N960100352	N960121520
N970011048	N960134907		

4. Failure to Pay PIP Interest on Delayed PIP Claims

<u>CLAIM NUMBER</u>	<u>DATE INTEREST RECEIVED</u>	<u>PAID</u>	<u>DATE BEYOND 60</u>	<u>DAYS PAID</u>
N960121520	10/17/96	4/8/97	113	\$0.00
N960010728	2/19/98	5/5/98	15	\$0.04*
N960100352	10/7/96	2/5/97	61	\$0.00
N960162871	4/11/97	8/19/97	70	\$0.00
N970003207	3/10/97	6/2/97	24	\$0.00
N970010807	2/25/97	10/15/97	172	\$0.00

*Company issued interest in response to the examiners' inquiry

5. Failure to Pay PIP Claims within 60 Days

<u>CLAIM NUMBER</u>	<u>DATE CLAIM RECEIVED</u>	<u>DATE CLAIM SETTLED</u>	<u>DAYS BEYOND 60</u>
N970037616	5/12/97	7/21/97	10
N970077502	11/7/97	1/20/98	14
N960010728	2/19/98	5/5/98	15
N970003207	3/10/97	6/2/97	24
N960100352	10/7/96	2/5/97	61
N960162871	4/11/97	8/19/97	70
N960121520	10/17/96	4/8/97	113
N970010807	2/25/97	10/15/97	172
N960003942	10/27/97	6/17/98	173

6. Failure to Provide PIP Application within 10 Working Days

<u>CLAIM NUMBER</u>	<u>DATE OF NOTICE</u>	<u>DATE PIP APP SENT</u>	<u>WORKING DAYS BEYOND 10</u>
N950058692	6/22/95	10/24/95	76
N960121520	10/17/96	11/9/96	6
N960162871	12/30/96	2/19/97	26
N960010728	1/19/96	Not Sent	N/A

7. Mail Review PIP Explanation of Benefits Errors

<u>CLAIM NUMBER</u>	<u>AMOUNT PAID</u>	<u>CLAIM NUMBER</u>	<u>AMOUNT PAID</u>	<u>CLAIM NUMBER</u>	<u>AMOUNT PAID</u>
980043568	\$ 56.00	980016293	\$156.00	980073386	\$ 15.00
Same*	\$116.20	Same*	\$322.00	Same*	\$315.00
Same*	\$336.00	Same*	\$834.00	Same*	\$126.80
Same*	\$495.25	Same*	\$106.56	Same*	\$ 79.20
Same*	\$539.00	Same*	\$ 81.60	980040828	\$239.00
Same*	\$490.00			980071286	\$376.00
Same*	\$337.00				

*Note: Same = same claim number but different medical bill.

APPENDIX C

POLICY TERMINATION ERRORS

1. Failure to State Factual Basis on 2% and 2:1 Nonrenewal Notices

<u>POLICY NUMBER</u>	<u>POLICY NUMBER</u>	<u>POLICY NUMBER</u>	<u>POLICY NUMBER</u>
837467985	837234841	837558751	837718821
837737885	837808006	837818150	837968721
838137521	838743188	838290248	838217427
825975942	826725389	834854074	834652421
834588030	834474654	834078112	836226518
836785860	835670198	832632040	837418119
836756681	838229280	836704631	838129943
833726897	835124967	834582341	831443057
837167671	836780680	834511967	

2. Failure to Promptly Comply with Commissioner’s Bulletin 97-07

<u>POLICY NUMBER</u>	<u>DATE OF BULLETIN</u>	<u>DATE NONRENEWAL RESCINDED</u>	<u>NO. OF DAYS TO RESCIND</u>
835216900	7/8/97	8/5/97	28
926525069	7/8/97	8/5/97	28
835011895	7/8/97	8/5/97	28
835045757	7/8/97	8/5/97	28

3. Incomplete and misleading Information on Notices of Nonrenewal on Two Percent Terminations and Failure to Advise Ineligible Voluntary Insureds of Possible Eligibility in Residual Markets

<u>POLICY NUMBER</u>	<u>POLICY NUMBER</u>	<u>POLICY NUMBER</u>
836756681	836226518	836704631
835670198	832632040	832631957

4. Failure to Notify Insured of Incomplete Application on Automobile Insurance

<u>POLICY</u>	<u>POLICY</u>	<u>POLICY</u>	<u>POLICY</u>	<u>POLICY</u>
---------------	---------------	---------------	---------------	---------------

<u>NUMBER</u>	<u>NUMBER</u>	<u>NUMBER</u>	<u>NUMBER</u>	<u>NUMBER</u>
837951534	838031633	838044166	838047866	838684955
838239650	838248993	838309402	838660061	838399517
838391184	838453651	838483607	838211798	553184053**
838993176	838721699	838703941	838553737	
838364667	836613996	837074011	554203850*	

*Policy effective 2/15/98, request for additional info not sent until 3/10/98, 12 days late.

**Policy effective 4/1/98, request for additional info not sent until 5/6/98, 22 days late.

5. Failure to Include Complaint Rights Notice on Homeowners Terminations

CANCELLATIONS = 31

NONRENEWALS = 44

<u>POLICY NUMBER</u>	<u>POLICY NUMBER</u>	<u>POLICY NUMBER</u>	<u>POLICY NUMBER</u>	<u>POLICY NUMBER</u>	<u>POLICY NUMBER</u>	<u>POLICY NUMBER</u>	<u>POLICY NUMBER</u>
613368643	613343748	613421072	613369275	613291187	612452535	627991831	
657778512							
613285691	613326053	613451631	613345236	620156201	612325126	610579597	
633524188							
613471770	671050408	681859701	694583322	613265046	612896204	693470729	
633568924							
613442576	657202122	613442193	691859378	613051941	612834731	671605957	
612343531							
613424179	632616119	613431388	671576906	613032475	612381557	671403726	
633454503							
698533230	621884881	613419345	661275029	613203245	612964285	671321444	
628747446							
613331146	694403995	613395756	633503601	620195223	657833017	671277364	
621670693							
613410844	613373051	613372284		612865686	630346815	633468903	
621148539							
				633473796	630332482	657252452	621620319
				612853343	630249054	620357169	621148539
				612582390	630156331	657802804	671267849

APPENDIX D – RATING AND UNDERWRITING ERRORS

1. Failure to Provide Senior Citizen Discount

<u>POLICY NUMBER</u>	<u>INSURED AGE</u>	<u>CLASS CODE</u>	<u>POLICY NUMBER</u>	<u>INSURED AGE</u>	<u>CLASS CODE</u>
741195348	80	27180211156	812410695	80	40180281079
831551071	78	13178281028	836030354	72	14172581194
812000683	74	14174381053	907853888	75	27175281067

2. Failure to Charge Correct Workers Compensation Premium on Homeowners

<u>Policy Number</u>	<u>Policy Number</u>	<u>Policy Number</u>	<u>Policy Number</u>	<u>Policy Number</u>
69991601	69176894	65753477	62863142	61315800
69885694	68105877	65736617	62541278	61305052
69735753	67134455	65111346	62115199	61295710
69624186	67103859	63341113	61330294	61281238
69438864	65791709	63040211	61322934	61246131

3. Failure to Comply with Vehicle Inspection Requirements

<u>RUNNING TOTALS</u>	<u>FAILURE TO INSPECT</u>	<u>FAILURE TO PHOTOGRAPH VEH</u>	<u>FAILURE TO DOCUMENT INSPECTION WAIVER</u>
1	833766058	554336175	838894941
2	832888338	552793641	836058151
3	834117797	833966847	831568135
4	838958010	552480775	837460051
5	834088657	554783155	837547797
6	836693540	833680331	
7	838165559	836593707	
8	836030354	837467781	
9	907853888		

VERIFICATION PAGE

I, Clifton J. Day, am examiner-in-charge of the Market Conduct Examination of the Colonial Penn Insurance Company 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 Colonial Penn Insurance Company as of October 16, 1998.

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

Date:

Clifton J. Day
Examiner-In-Charge,
New Jersey Department
of Banking and Insurance