

REPORT

Of the

MARKET CONDUCT EXAMINATION

Of the

HANOVER INSURANCE COMPANY

Located in

PISCATAWAY NEW JERSEY

As of

AUGUST 4, 2000

by EXAMINERS

Of the

STATE of NEW JERSEY

DEPARTMENT of BANKING and INSURANCE

DIVISION of ENFORCEMENT and CONSUMER PROTECTION

MARKET CONDUCT UNIT

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I. INTRODUCTION

This is a report of the Market Conduct activities of the Hanover Insurance Company (hereinafter referred to as Hanover or the Company). 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 market conduct examination.

A. SCOPE AND PURPOSE OF THE EXAMINATION

The purpose of this examination was to evaluate Hanover Insurance Company's compliance with the FAIR ACT, the Auto Insurance Cost Reduction Act (AICRA- P.L. 1998, c.21 and c.22) and the regulations and statutes that pertain to private passenger automobile insurance. In addition, this was a re-examination to evaluate Hanover's continued compliance with the findings of the NJDOBI Market Conduct Exam, adopted June 29, 1995. Areas of review included complaints, auto claims, rating and underwriting, terminations, and licensing. This examination covered the company's New Jersey private passenger automobile insurance business activities during the period April 1, 1999 until the present (August 4, 2000). Between June 19, 2000 and August 04, 2000 the examiners completed their field work at the company's Piscataway, New Jersey office. On various dates thereafter, the examiners completed additional review work and the writing of the report. The Market Conduct Examiners included Esther Turner-Demby, Examiner-in-Charge, Monica Koch, Richard Segin, and Anthony Cecere. 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 files reviewed which an insurer handles in error. A file will also be 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, which 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.

Whenever the examiners find that the Company commits a type of error with sufficient frequency, they will cite the errors as an improper general business practice. If an error constitutes an improper general business practice, the examiners 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 Hanover 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, Hanover 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 of its 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.

C. COMPANY PROFILE

The Company was incorporated under the laws of New Hampshire on October 5, 1972, with the temporary title The Hanover Insurance Company, Inc., to act as a vehicle for the transfer of the corporate domicile of the Hanover Insurance Company, New York, New York, effective January 1, 1973. The predecessor Company was incorporated and commenced business in New York on April 15, 1852. The Company originally operated under the title The Hanover Fire Insurance Company until January 1, 1958, when the word "Fire" was deleted. Administrative offices were moved from New York, New York to Worcester, Massachusetts in November 1969.

Delaware holding company, was formed during 1992 and pursuant to a plan of reorganization acquired 100% of the outstanding common stock of the Hanover Insurance Company. Hanover shareholders received in exchange for each share of Hanover common stock, one share of the common stock of Allmerica Property & Casualty Companies, Inc.

In 1999, Allmerica began an important corporate initiative to make the organization even more efficient by generating substantial expense savings. In its property and casualty business, the Company implemented a new long-term strategic plan to grow faster than the industry, increase profitability and improve its competitive position.

II. Complaints

A. INTRODUCTION

During the period of April 1, 1999 through March 31, 2000, Hanover's complaint register indicates that consumers filed a total of 52 complaints: 49 with the New Jersey Department of Banking and Insurance and three complaints with the Company. The examiners reviewed the total population of 52 complaints included on the Company register within the review period. In reviewing the complaints, the examiners checked for compliance with several statutes and regulations with emphasis on N.J.S.A. 17:23-1 (promptly responding to complainants), N.J.A.C. 11:2-17.6(d) and (e) and N.J.S.A.17:29B-4 (complaint handling procedures), all of which relate to NAIC standards of Chapter VI - Conducting Property and Casualty Insurance Examinations of the Market Conduct Examination Handbook. The chart below summarizes the examiners' findings.

B. COMPLAINT ERROR RATIOS

| <u>Complaint Category</u> | <u>Files Reviewed</u> | <u>Files in Error</u> | <u>Error Ratio</u> |
|---------------------------|-----------------------|-----------------------|--------------------|
| Underwriting | 19 | 3 | 16% |
| Claims | 25 | 5 | 20% |
| Policyholder Service | <u>8</u> | <u>1</u> | 12% |
| Total | 52 | 9 | 17% |

C. COMPLAINT HANDLING/RECORDING ERRORS

1. Failure to Maintain a Complete Complaint Record – (Improper General Business Practice)

Pursuant to N.J.S.A.17:29B-4(10), insurers are required to maintain complete records of all the complaints it receives. The complaint records are to include the total number of complaints, their classification by line of insurance, the nature and disposition of each complaint and the time it took to process each complaint. Standard One in the complaint handling section of the NAIC Market Conduct Examiners Handbook states "all complaints are recorded in the required format on the company complaint register." Contrary to the aforementioned statute, Hanover's complaint register failed to include the disposition of each complaint and the classification by line of insurance.

The 1995 market conduct examination revealed one of the same deficiencies stated above, the disposition of each complaint. As a result, the examiners recommended that the Company make the necessary system changes to incorporate the categories prescribed under N.J.S.A. 17:29B-4(10). The Company advised that it had taken steps to correct its system to include a disposition field. In light of our current findings, the complaint register is still deficient and not in compliance. This is contrary to the above statute and to the information that Hanover provided to the Department to demonstrate compliance with the 1995 Market Conduct Report.

In response to an inquiry, Hanover stated that it is in the process of changing systems and it recognizes that the database in use for the current exam does not allow for the information in a suitable format required by the statute.

2. Failure to Record DOBI and Direct Consumer Complaints – (4 Errors)

N.J.S.A. 17:29B-4(10) requires insurers to maintain a complete record of all consumer complaints received by the Company. Standard One of the complaint handling section of the NAIC Market Conduct Examiners Handbook states, “all complaints are recorded in the required format on the company complaint register.” The examiners compared the DOBI complaint records with the complaint records maintained by Hanover to check for compliance with this requirement. The examiners found that Hanover failed to record four complaints, three DOBI complaints and one direct consumer complaint on its complaint register. In response to an inquiry the Company disagreed with two DOBI complaints, 99-23671 and 99-22695 as not being recorded. Hanover stated that these were group policies and that the complaint letters were maintained in the Atlanta office. The Company stated that it did not have a record on DOBI complaint 99-27336 and the direct consumer complaint 10-255981. The statute requires insureds to maintain a complete record of all complaints filed which includes complaints from group policyholders as well as non group policies. The examiners did not count these errors in the error ratio chart.

3. Failure to Record Accurate Complaint Receipt and /or Response Dates – (11 Errors)

Pursuant to N.J.S.A. 17:29B-4(10), insurers are required to maintain a complete and accurate record of all consumer complaints that it receives. Contrary to this requirement, the examiners found nine complaints in which Hanover failed to record the correct log receipt date in the complaint log and two in which there was no entry in the log response date column. The examiners discovered these errors by identifying discrepancies between the

document receipt date and the log receipt date. Failure to record the correct dates results in an incomplete complaint log, which is contrary to N.J.S.A. 17:29B-4(10). The Company agreed with these findings. The examiners did not count these errors in the error ratio chart.

SEE APPENDIX A-1 FOR FILES IN ERROR

4. Failure To Respond Promptly to DOBI Complaints –(7 Errors)

N.J.S.A. 17:23-1 requires insurers to respond promptly in writing to all inquiries from the Commissioner including those relating to complaints. Standard Four of the complaint handling section of the NAIC Market Conduct Examiners Handbook states that “the time frame within which the company responds to complaints is in accordance with the applicable statutes, rules and regulations.” In addition, N.J.A.C. 11:2-17.6(d) requires insurers to provide complete and accurate responses within 15 working days to claim-related inquiries from the NJDOBI.

The examiners found that on four claim complaints and three non-claim complaints, Hanover responded in more than 15 working days, or were not prompt contrary to the statute and regulation cited above. The Company agreed with these findings.

SEE APPENDIX A-2 FOR FILE ERRORS

5. Failure to Respond Promptly to Direct Complaints – (2 Errors)

N.J.A.C. 11:2-17.6(e) requires that a response be provided to a claim-related communication received directly from an insured within 10 working days. Although this regulation applies when the subject matter is a claim, it also establishes a workable guideline for responding to non-claim related inquiries from insureds.

The examiners found that one claim-related complaint response and one non-claim complaint response exceeded 10 working days. The Company agreed with these findings.

SEE APPENDIX A-3 FOR FILE ERRORS

D. CURRENT FINDINGS VS. FINDINGS OF 1995 EXAM

During the 1995 examination, the market conduct examiners cited Hanover for deficiencies in the complaint register, specifically, failure to

reflect the disposition and total number of complaints, as not being in compliance with the requirements of the statute. The current market conduct re-examination revealed one of the same deficiencies, failure to reflect the disposition on the log.

Hanover also advised the examiners during the 1995 examination that it had taken steps to correct its system and agreed to alter its disposition column and to include more detail. However, the current complaint register remains deficient and is not in compliance with the statute. In addition, the examiners discovered a new deficiency - the register does not list complaints by classification of insurance, which was not a deficiency in 1995. Only one unrecorded direct complaint was found during the 1995 examination. The examiners found three unrecorded DOBI complaints and one unrecorded direct complaint during the current examination. During the previous examination, the examiners did not find evidence that the Company had any problems with delayed responses to the Department or to direct complaints. Hanover is currently being cited for delayed responses to the Department and delayed responses to direct complaints.

Based on the 53 randomly reviewed files, the total error ratio for the previous exam was 2%. The examiners' current review generated a 17% error ratio from a total population of 52 registered complaints.

III. CLAIMS REVIEW

A. INTRODUCTION

This review covers New Jersey claims submitted under private passenger automobile insurance. Any New Jersey claim closed during the period April 1, 1999 to March 31, 2000 was subject to review. Hanover closed 5,724 collision claims, 4110 comprehensive claims, 5,731 property damage claims, 3,042 PIP claims, and 813 total loss claims. These figures represent claims closed with and without payment. In reviewing each claim, the examiners checked for compliance with all applicable statutes and regulations that govern the handling of claims and NAIC standards related to claim handling. The examiners conducted specific reviews placing particular emphasis on N.J.S.A. 17:29B-4 and N.J.A.C. 11:2-17 (Unfair Claims and Settlement Practices), N.J.A.C. 11:3-10 (Automobile Physical Damage Claims) N.J.S.A. 39:6A-5b (No-Fault Claims), N.J.A.C. 11:16-2.4(a)2 (National Insurance Crime Bureau Reporting Requirements), N.J.A.C. 11:3-4 (Personal Injury Protection Benefits; Medical Protocols; Diagnostic Tests), and NAIC standards of Chapter VI - Conducting Property and Casualty Insurance Examinations. In addition, Hanover provided its entire claim database to the examiners for review.

B. CLAIMS ERROR RATIOS

The examiners calculated the error ratios by applying the procedures outlined in the introduction of this report. The chart that follows itemizes the population of each category of review, the total number of claims reviewed in each category, and the error ratios broken down by line of coverage. This is followed by the database exception ratios, in which the examiners reviewed Hanover's entire population of 9,924 paid claims and 5,799 denied claims. The examiners applied queries to determine the number of paid claims and denied claims that exceeded the regulatory settlement periods.

| <u>Claims</u> | <u>Files Reviewed</u> | <u>Files in Error</u> | <u>Error Ratio</u> |
|-------------------|-----------------------|-----------------------|--------------------|
| PIP | 14 | 1 | 7% |
| PIP Select Review | 20 | 0 | 0% |
| Property Damage | 11 | 3 | 27% |
| Comprehensive | 10 | 1 | 10% |
| Collision | 20 | 10 | 50% |
| Total Losses | <u>25</u> | <u>21</u> | 84% |
| *Random Totals | 100 | 36 | 36% |

*Excluding the improper general business practice, the error ratio is 16%.

| | | | |
|-------------|----|---|----|
| Mail Review | 14 | 0 | 0% |
|-------------|----|---|----|

DATABASE EXCEPTION RATIOS

Claims (Excluding Pip - Dates Not Usable) Paid Beyond Regulatory Time Frames

| <u>Type of Coverage</u> | <u>No. of Claims</u> | <u>Percentage Exceptions</u> |
|-------------------------|----------------------|------------------------------|
| Collision | 3,471 | 35% |
| Comprehensive | 3,256 | 33% |
| Property Damage | 77 | 0.8% |

Denied Claims Handled Beyond Regulatory Time Frames

| | | |
|-----------------|-------|-----|
| Collision | 1,915 | 33% |
| Comprehensive | 775 | 13% |
| Property Damage | 1,947 | 34% |
| PIP | 1,162 | 20% |

C. EXAMINERS' FINDINGS

1. Failure to Include Fraud Warning Statement on Claim Forms – (7 Errors)

N.J.S.A. 17:33A-6 and N.J.A.C. 11:16-1.2 both require an insurer to place a fraud warning statement on all of its claim forms. The statement is to read, "Any person who knowingly files a statement of claim containing any false or misleading information is subject to criminal and civil penalties." In reviewing seven claim files, the examiners found that, Hanover failed to place this statement on the "Statement of Claimant form" and the "Witness Report form", contrary to the above mentioned statute and regulation. In response to an inquiry, the Company agreed.

PLEASE SEE APPENDIX B-1 FOR LIST OF CLAIM FILES IN ERROR

2. Failure to Include "Date of Receipt of Notice of Loss" on Delay Letters (5 Errors - Improper General Business Practice)

N.J.A.C. 11:3-10.5(c) requires that, "Any letter of explanation, rejection or acceptance of any element of a claim shall contain in the upper right hand corner the date of receipt of notice of loss by the insurer and be identified as such." Contrary to this requirement, the examiners found that on five files, Hanover did not provide the date the loss notice was received. In response to an inquiry, Hanover agreed that this statement was not on these notices. Hanover's actions are contrary to the above-mentioned regulation and constitute an improper general business practice, whenever the Company used this letter to delay claims.

PLEASE SEE APPENDIX B-2 FOR LIST OF CLAIM FILES

3. Failure to Retain Copies of Inspection Report and Photographs in Total Loss Claim Files (19 Errors - Improper General Business Practice)

N.J.A.C. 11:3-36.6(j)2 requires that, "The inspection report and photographs shall be used by the insurer to document previous damage, prior condition, options and mileage ... whenever the automobile is a total loss ..." In addition, N.J.A.C. 11:3-36.6(k) states that, "A copy of the inspection report and photographs shall be utilized, and made part of the insurer's claim file, in the settlement of all total loss claims." Of the 25 files reviewed, the examiners found that a total of 19 files did not contain a copy of the inspection report and photographs, contrary to the regulation. In response to an inquiry, the Company agreed with these findings and stated that "A procedure will be implemented immediately to ensure compliance when an inspection report is required." Due to the error frequency, this constitutes an improper general business practice on total loss claims.

PLEASE SEE APPENDIX B-3 FOR LIST OF CLAIM FILES

4. Failure to Retain copy of Inspection Report and Photographs when new damage exceeds \$3,000.00 - (4 Errors)

N.J.A.C. 11:2-17.12(b) requires that detailed documentation and/or evidence shall be maintained in each claim file. In addition, N.J.A.C. 11:3-36.6(j)3 requires that, "The inspection report and photographs shall be used by the insurer to document previous damage, prior conditions, options and

mileage of automobiles on physical damage claims whenever the new damage (claim) exceeds \$3,000.00.” On the four files listed in the Appendix, the examiners found that Hanover failed to include documentation in the file to comply with these regulations. In response to an inquiry, the Company agreed with the examiners’ findings.

PLEASE SEE APPENDIX B-4 FOR LIST OF CLAIM FILES

5. Miscellaneous Handling Errors

- a. 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, on two third party total losses, Hanover did not provide this notice on claim numbers 10-251268 and 10-251558.
- b. N.J.A.C. 11:3-10.3(f) requires that all estimates, including revisions and adjustments, prepared by any repair facility, estimator or appraiser must be included in each claim file. On claim number 10-251626, the examiners found no evidence of an estimate in the claim file, contrary to the regulation.
- c. N.J.A.C. 11:2-17.11(a) requires insurers to mail to the third party liability claimant written notice upon payment of \$5,000.00 or more in settlement, at the same time payment is made to the third party claimant’s attorney or other representative. On claim number 10-250425, the examiners found that, a settlement payment of \$10,000.00 was made to the claimant’s attorney; however, they found no evidence that the required notice was sent to the claimant, contrary to this regulation.
- d. On claim number 10-245702, the NADA and CCC Actual Cash Value amounts were added incorrectly. The correct result should have been \$11,494.85 versus \$11,464.85. In addition, this error caused the applicable sales tax amount to be computed incorrectly. The insured was underpaid in the amount of \$31.80.
- e. N.J.A.C. 11:2-17.5(d) requires that no insurer shall request a claimant to sign a release that extends beyond the subject matter that gave rise to the claim payment. On claim number 10-247923, Hanover required a third party claimant to execute an all-inclusive, bodily injury and property damage release (Release of All Claims form) when settling only the bodily injury aspect of the claim. The Company agreed to change the wording of the release to be specific to the claim the dollar amount on the release is intended to settle.

f. N.J.A.C. 11:2-17.10(a)8 requires insurers to notify third party claimants of the availability and terms of automobile rental and substitute transportation costs. On claim 10-240165, Hanover failed to provide rental notification on this third party claim, contrary to this regulation. In this instance, the date of loss was May 4, 1999, however, contact was not made with the claimant until May 19, 1999, 15 days after the loss.

g. N.J.S.A. 39:6A-5g states that PIP benefits shall be overdue if not paid within 60 days from notice of claim. The statute allows insurers to notify claimants in writing of the need for additional time, not to exceed 45 days, to investigate the claim. On PIP file 10-231206, Hanover received a medical bill on July 16, 1999 that was not paid until October 27, 1999 or 103 days later. Since this bill was not paid within the 60 day period and the company did not request a 45 day extension, Hanover handled the claim contrary to N.J.S.A. 39:6A-5g. The examiners noted that Hanover did pay the required interest.

D. OTHER FINDINGS

1. Failure to Include Fraud Warning Statement on Claim Forms - (21 Forms in Error - Improper General Business Practice)

N.J.S.A. 17:33A-6 and N.J.A.C. 11:16-1.2 both require an insurer to place a fraud warning statement on all of its claim forms. The statement is to read, "Any person who knowingly files a statement of claim containing any false or misleading information is subject to criminal and civil penalties." The examiners reviewed Hanover's claim form binders that are used at its Piscataway and Syracuse branch offices. The examiners found that, Hanover failed to place this statement on 13 claim forms from its Piscataway office (12 of which were cited in the 1995 market conduct report), and eight from its Syracuse office. All of these forms from the two offices were used to process New Jersey claims.

In response to an inquiry, Hanover agreed that, the claim forms did not include the fraud warning. With respect to the claim forms in the Syracuse office, the Company stated that, "All claim *forms* will be reviewed to be certain that the required fraud warning is detailed on each one pursuant to N.J.S.A. 17:33A-6 and N.J.A.C. 11:16-1.2."

The Company's failure to include the fraud warning on all claim forms, was also cited by the examiners in the 1995 report where the examiners noted the same deficiencies. Consequently, a recommendation was issued to address and correct this matter. In response to this recommendation, Hanover provided the Department with a copy of a memo from the Claims Manager with directives to all claims employees to implement the respective statutes and regulations. The examiners determined that the Company failed to implement and comply with the statute and regulation stated above and the

directive issued as a result of the 1995 examination. In response to the examiners' inquiry, Hanover stated that to ensure this does not happen again, a number of changes have been made to comply with the applicable statute and regulation. Since these forms are used on many claims, these errors constitute an improper general business practice whenever the Company uses these forms.

PLEASE SEE APPENDIX B-5 FOR LIST OF CLAIM FORMS

2. Medical Protocols, Pre-Certification/Decision Point - Select Review (No Errors)

As part of the Auto Insurance Cost Reduction Act (AICRA, P.L. 1998, chapters 21 and 22), the Department of Banking and Insurance established medical protocols defined at N.J.A.C. 11:3-4 et seq. Effective March 22, 1999, these protocols are used in the evaluation of "medically necessary" treatment and diagnostic testing. In all cases, the medical treatment or diagnostic test must be consistent with clinically supported symptoms, diagnosis or indication of eligibility of the injured person for reimbursement of eligible charges by automobile insurers on policies containing PIP benefits.

In accordance with N.J.A.C. 11:3-4.7(a), "Insurers shall file for approval policy forms that provide a plan for the timely review of treatment of identified injuries at decision points and for the approval of the administration of the diagnostic tests in N.J.A.C. 11:3-4.5(b)." Insurers may also file for approval, a "Pre-Certification Plan" that provides for pre-certification of certain medical procedures, treatments, diagnostic tests, non-medical services and durable medical equipment. Although no decision point review or pre-certification requirements apply within the first 10 days of the accident or to emergency care, all tests and treatments performed during this 10 day period must be "medically necessary" to be reimbursed.

Hanover received approval from the Department in November, 1999 for implementation of its Decision Point Review Plan/Pre-Certification Plan.

The examiners conducted a select review 20 paid PIP files from a population of 1,820 eligible PIP claim files that were subject to the regulations that govern Medical Protocols and Diagnostic Testing. The purpose of the review was to determine the company's compliance with its filed Medical Protocol program and to verify the Company's use of its outside vendors in New Jersey. Hanover currently uses three services for IME's in New Jersey: United Review Services, National Healthcare and Allegiance Health Services. Over the last seven years, Hanover has also used the services of Comprehensive Claims, Quality Review Services, and Daybreak Consulting. The examiners found no errors in the 20 PIP files.

E. MAIL REVIEW

The examiners conducted their mail review on various dates between July 24, 2000 and August 4, 2000. At the request of the examiners, Hanover's Syracuse claims office provided copies of claim checks for its mail review. The examiners checked 14 outgoing physical damage claim payments to ensure that the total loss evaluation and the partial loss damage estimates were included with the claim payments. In addition, the examiners checked to ensure that the Company advised the insured in writing of the right to recourse. The examiners did not find any errors during this review.

F. SUMMARY AND COMPARISON TO PRIOR EXAMINATION

The examiners checked for compliance with the prior recommendations as specified in the 1995 Market Conduct Report. In the 1995 report, the claim error ratio was 57%, excluding improper general business practices. The examiners found a 36% error ratio on claims during the current examination, which indicates Hanover's performance in the handling of claims has improved. In the 1995 Market Conduct Report, the examiners found four improper general business practices: failure to provide written copy of total loss evaluations, deficient PIP EOB format, failure to issue PIP EOB once PIP claim exceeds \$5000.00 and failure to include fraud warning statement on claim forms. The current examination revealed three improper general business practices: Failure to include "Date of Receipt of Notice of Loss" on delay letters and Failure to retain copies of Inspection Report and Photographs in total loss claim file. In addition, the last examination revealed the following errors: failure to offer first and third party rental benefits, failure to respond to claimants, failure to confirm claim denial in writing, failure to carry over options in total loss calculations, failure to pay correct sales tax on total loss valuation, failure to include all options, failure to use correct base value on total loss claim, delayed PIP payment and failure to pay interest, and failure to conduct reasonable investigation of claims. Although the Company agreed at that time to comply with these requirements in response to the report and its recommendations, the examiners have determined during the current exam, Hanover is still lacking in compliance in the following areas: failure to include the fraud warning statement on claim forms, delayed PIP payment, and failure to offer third party rental. Excluding these three deficiencies, the examiners found no evidence that Hanover continues to repeat the same errors as listed in the 1995 report.

IV. POLICY TERMINATIONS

A. INTRODUCTION

During the review period of April 1, 1999 to May 31, 2000, Hanover cancelled 2,213 policies beyond the first 60 days and declined 5,476 new business applications within the first 60 days. In the same period, the Company nonrenewed 351 policies. As a result, the examiners reviewed nonrenewals, declinations and cancellations. In the section that follows, the examiners list the errors found by type. The examiners checked for compliance with applicable statutes, regulations and NAIC standards related to terminations including, N.J.A.C.11:3-8 (nonrenewal of automobile policies) N.J.S.A. 17:33B-15 and 16 ("Take All Comers" laws), N.J.A.C. 11: 3-34 (eligible persons), N.J.A.C. 11:3-44 (rules for effecting auto insurance coverage) N.J.S.A. 17:29C-7 through 10 (automobile insurance cancellations) and, all of which relate to NAIC standards of Chapter VI - Conducting Property and Casualty Insurance Examinations of the Market Conduct Examination Handbook.

B. TERMINATION 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 the error ratio by type of termination.

| | <u>Files Reviewed</u> | <u>Files in Error</u> | <u>Error Ratio</u> |
|--|-----------------------|-----------------------|--------------------|
| Nonrenewals | 49 | 26 | 53% |
| Declinations | 53 | 12 | 23% |
| Cancellations | <u>15</u> | <u>6</u> | 40% |
| Random Totals | 117 | 44 | 38% * |
| *Excluding the improper general business practices, the overall random error ratio is 4% | | | |
| Mail Review | 26 | 0 | 0 |

C. EXAMINERS' FINDINGS

1. Failure to Use Correct Provision on Nonrenewal Notices – (20 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) of this subchapter under which action is being taken. Contrary to this regulation, on 20 2% nonrenewals mailed after August 16, 1999, which is the date when the regulation was revised, the notices stated N.J.A.C. 11:3-8.5(a)1, instead of N.J.A.C. 11:3-8.5(a)2. The Company agreed with the examiner's findings and stated that it will change from 1 to 2 as noted above.

SEE APPENDIX C-1 FOR LIST OF POLICIES IN ERROR

2. Improper Declination Due to Prior Non-Payment of Premium – (8 Errors)

N.J.S.A. 17:33B-15b and N.J.A.C. 11:3-40.3(a) require a company to insure or renew all eligible persons as defined under N.J.A.C. 11:3-34, who meet its underwriting rules. N.J.A.C. 11:3-34.4(a)6 states that, "An 'eligible person' ... does not include any person: Whose automobile insurance policy has been cancelled for nonpayment of premiums or financed premium with a lapse of coverage of at least 30 days, within the immediately preceding two-year period, unless the premium due on a policy for which application has been made is paid in full before issuance or renewal of the policy." However, the Company's underwriting guidelines, rule 1e, states that, "Any person whose automobile insurance policy has been cancelled for non-payment of premium, with a lapse in coverage of 30 days or more, within the two year period immediately preceding the effective date of coverage is ineligible. Eligible operators with a lapse of under 30 days are ineligible, unless 100% of the first year's premium is collected at the time of application."

Contrary to the above stated regulation, Hanover's underwriting guideline, rule 1e, automatically deems operators with a lapse of under 30 days ineligible. However, Hanover may not decline someone who had a lapse in coverage of less than 30 days. Furthermore, this guideline fails to take into consideration that an ineligible operator with a lapse of more than 30 days, has the option of paying the full premium due before the issuance of the policy.

The examiners' review indicated that the Company applied the above stated underwriting guideline, rule 1e, on eight declination files and deemed applicants with lapses of under or at least 30 days ineligible. In response to

the examiner's inquiry, the Company responded that it had reviewed the policies and found the terminations to be in compliance with Rule 1e and with the guideline, which was filed with the NJDOBI. Although Hanover uses this filed guideline, it is not in compliance with the above stated regulations and the "Take All Comers" laws. The examiners cite this guideline in Section VC1 of this report. However, the examiners did not include these files in the error ratio, because these declinations were in accordance with the company's filed guidelines.

SEE APPENDIX C-2 FOR LIST OF POLICIES IN ERROR

3. Failure to Log 2% Nonrenewals in the Nonrenewal Register – (9 Errors)

N.J.A.C. 11:3-8.8(a) requires that the Insurance Companies maintain records of nonrenewals for not less than five years. These records shall include the number of nonrenewals in each territory. However, this review indicated that Hanover failed to include nine 2% nonrenewals in its register, contrary to this regulation

SEE APPENDIX C-3 FOR LIST OF POLICIES IN ERROR

D. MISCELLANEOUS ERRORS

1. Failure to Send Nonrenewal Notice between 60 and 90 Days – (2 Errors)

N.J.A.C. 11:3-8.3(f) states that no notice of nonrenewal shall be valid unless it is mailed or delivered to the insured no less than 60 and no more than 90 days prior to the expiration date of an automobile insurance policy. This regulation is relative to the standard number 17 of the NAIC Handbook, Termination Practices which states that examiners should verify that cancellation/non-renewal notices comply with policy provisions and state laws, including the amount of advance notice provided to the insured. Contrary to the aforementioned regulation Hanover failed to send the notice of nonrenewal within the required time frames on two policies.

SEE APPENDIX C-4 FOR LIST OF POLICIES IN ERROR

b. Improper Nonrenewal and Improper Declination of two Eligible Persons in the Household – (2 Errors)

N.J.S.A. 17:33B-15(b), N.J.A.C. 11:3-8.4(b)3 and 11:3-40.3(a) state that no insurer shall refuse to insure, refuse to renew or limit coverage to an eligible person who meets its underwriting rules as filed with and approved by the commissioner. N.J.A.C. 11:3-8.4(a) states that an insurer may issue a notice of nonrenewal to any person who is not an eligible person as defined in N.J.A.C. 11:3-34. This statute and regulations are relative to the standard number 16 in the Underwriting and Rating section of the NAIC market conduct handbook. This standard states that “Cancellation/non-renewal notices comply with policy provisions and state laws and company guidelines.” Contrary to the above statute and regulations, Hanover improperly nonrenewed one policy and declined another policy because there were ineligible drivers in the households with multiple vehicles. The company failed to renew and insure the remaining eligible person in the household.

SEE APPENDIX C-5 FOR LIST OF POLICIES IN ERROR

2. Failure to Provide 20 Day Notice on a Mid Term Cancellation (1 Error)

N.J.S.A. 17:29C-8 states that no notice of cancellation of a policy shall be effective unless mailed or delivered by the insurer to the named insured at least 20 days prior to the effective date of cancellation. Contrary to statute, on policy number ANY5839398, Hanover only gave 16 days notice to the insured.

Notice Date
08/19/99

Termination Date
09/04/99

E. MAIL REVIEW

On July 24, 2000, the examiners conducted a mail review of three first 60 days cancellations, 13 midterm cancellations, four nonrenewals for cause and six two percent nonrenewals. The examiners checked for compliance with information practice requirements (N.J.S.A. 17:23A-1, et seq.), proof of mailing requirements on terminations (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 N.J.A.C. 11:3-8.4) and minimum standards for appeal rights notification (N.J.A.C. 11:3-33, et seq). The examiners did not find any errors during this review.

F. GENERAL FINDINGS

1. Failure to Include Required Notice to Employees on Group Policies When a Policy is Either Cancelled or Nonrenewed (19 Errors – Improper General Business Practice)

N.J.A.C. 11:2-12.12(d) states that, any notice of cancellation or nonrenewal of any policy of an employee or member insured under a mass marketing plan shall be accompanied by a notice to the employee or member affording the employee or member and the employer a reasonable opportunity to consult with the insurer and to present facts in opposition to the cancellation or the nonrenewal. The examiners review 19 group policies and found that, contrary to the above stated regulation, 11 declination notices, five cancellation notices and three nonrenewal notices were not accompanied by the required notice to the employee or member insured. In response to an inquiry, Hanover stated that, for policies issued under a mass merchandising plan, its system does not generate an additional notice as set forth in the regulation. Since this error occurred on a system-wide basis, this constitutes an improper general business practice

SEE APPENDIX C-6 FOR LIST OF POLICIES IN ERROR

2. Return of Unearned Premiums (No Errors)

N.J.S.A. 17:29C-4.1 states that, whenever an insurance policy is canceled, the insurer shall return to the insured, within 60 days, on a short rate basis the amount of gross unearned premiums paid; except for a policy for auto insurance, which amount of gross unearned premium shall be determined on a pro rate basis. In the event that the insurer fails to return the gross unearned premiums to the insured within the 60 days, the insurer shall, as a penalty, in addition to the gross unearned premium, return to the insured an additional amount equal to 5% of the gross unearned premium. This premium must be computed on a monthly basis for each month on which the refund was due. The examiners' review of ten cancellations files indicated that Hanover made the appropriate and timely premium refunds and therefore all files examined were handled in accordance with the above stated statute.

G. COMPARISON WITH 1995 REPORT AND SUMMARY

The examiners checked for compliance with the recommendations as specified in the 1995 report. On the current examination, the examiners found an overall random termination error ratio of 38%, as opposed to a prior random overall error ratio of 53%. Hanover repeated only one previously

cited error. During the prior exam, the examiners cited the Company for failure to issue a timely nonrenewal notice. This same error appeared in the current exam on two files.

This examination also revealed three improper general business practices. One involved the use of an improper underwriting guideline to decline eight applications. The second one dealt with the incorrect usage of the regulation on 20 nonrenewal termination notices reviewed. The last practice entailed the Company's failure to include a notice to employees when a group policy is either cancelled or nonrenewed.

The last examination revealed improper handling of all 64 reviewed declinations resulting in 100% error ratio. However, this current review resulted in a 23% error ratio on all the 53 declinations files reviewed.

V. RATING, UNDERWRITING & POLICYHOLDERS SERVICES

A. INTRODUCTION

The examiners reviewed randomly selected policy files from Hanover's database runs of 94,017 private passenger automobile policies written or renewed between April 01, 1999 to March 31, 2000. The examiners checked for compliance with all applicable statutes and regulations including: N.J.S.A. 17:29A-6, 15, and 38 (filed and approved rating methodologies, including the requirement for the passive restraint, senior citizen, and multi-car discounts); N.J.A.C. 11:3-39.6 (safety feature discounts); N.J.S.A. 17:29A-46 (uniform application of underwriting guidelines); N.J.A.C. 11:3-36 (physical damage inspection requirements); N.J.S.A. 17:29A-6 & 15 (passive restraint discounts); N.J.A.C. 11:3-15 (coverage selection forms); N.J.A.C. 11:3-35; (automobile insurance underwriting rules); N.J.S.A. 39:6A-4.1, and N.J.A.C. 11:3-21 (Pip rate discounts); N.J.A.C. 11:3-14.5 (health insurance primary discount option), and N.J.A.C. 11:3-19A (tier rating plans and underwriting rules) and the implementation of the Auto Insurance Cost Reduction Act (AICRA), P.L. 1998, Chapters 21 and 22, all of which relate to NAIC Standards of Chapter VI - Conducting Property and Casualty Insurance Examinations of the Market Conduct Examination Handbook. The examiners reviewed the entire database population of the company's private passenger vehicles to determine proper application of the passive restraint, senior citizen, multi-car, and 50% PIP discounts on private passenger automobile insurance.

B. ERROR/EXCEPTION RATIOS

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

| <u>Type of Review</u> | <u>Files Reviewed</u> | <u>Files in Error</u> | <u>Error Ratio</u> |
|-----------------------|-----------------------|-----------------------|--------------------|
| Underwriting | 66 | 45 | 68% * |
| Manual Rating Review | 14 | 0 | 0% |

*Error ratio without the improper business practices is 17%

Mail Review

| | | | |
|--------------|----|----|------|
| New Business | 10 | 0 | 0% |
| Renewals | 15 | 15 | 100% |

Database Review: Model Year 1998-2000

| <u>Type of Review</u> | <u>Records Reviewed</u> | <u>Exceptions</u> | <u>Error Ratio</u> |
|-----------------------|-------------------------|-------------------|--------------------|
| Passive Restraint | 18,919 | 71 | 0.38% |

C. EXAMINERS FINDINGS

1. Failure to Provide Passive Restraint Discounts on Model Year 1998-2000 – (71 Database Exceptions)

In accordance with N.J.S.A. 17:29A-6 & 15 and the company's filed and approved rating manual, Hanover is required to provide a discount of 20% or 30% to the Personal Injury Protection premiums for vehicles equipped with passive restraints devices. These include automatic seat belts and air bags. In a review of the company database for model year 1998-2000, the examiners found that the company failed to provide the required discount on 71 vehicles. This is contrary to the aforementioned statute which is relative to Standard One of the underwriting and rating section of the NAIC M.C.E. Handbook which reads that, "the rates charged for the policy coverage are in accordance with filed rates (if applicable) or the company rating plan." In response to the examiners' inquiry, the Company agreed with these errors and stated that an improper indicator possibly caused the error.

PLEASE SEE APPENDIX D-1 FOR ERRORS IN FILE

2. Failure to Retain Physical Damage Inspection Photographs (20 Errors) and Failure to Retain Physical Damage Inspection Reports - (10 Errors) -Improper General Business Practices

N.J.S.A. 17:33B-37 and N.J.A.C 11:3-36.3(a) 1 and 2 require the insurer to inspect and photograph vehicles whenever physical damage coverage is requested. In addition, N.J.A.C.11:3-36.6(h) states that after the inspection is completed, the report and photographs shall be retained in the insurer's file on the insured for five years. Of the 66 policies reviewed, 20 required physical damage inspection. Hanover failed to retain photographs in all 20 files and inspection reports in 10 of these files, on vehicles requiring a physical damage inspection. In response to an inquiry, the Company stated that the photographs are retained by the firms that perform the inspection and are retrievable on request. Since N.J.A.C. 11:3-36(h) requires that the photographs and inspection reports to be retained in the insurer's file, rather than in the firm's file, Hanover is not in compliance. Based on the frequency of errors and the company's admitted practices in this regard, Hanover's failure to comply with the statute and regulations constitutes an improper business practice with regard to policies in which inspections and photographs were required.

PLEASE SEE APPENDIX D-2

3. Failure to Document Waiver of Inspection – (13 Errors)

N.J.A.C. 11:3-36.3(a) requires insurers to conduct a physical damage inspection of a covered automobile whenever physical damage is requested by the insured. N.J.A.C. 11:3-36.4 allows insurers to waive mandatory inspection when certain criteria are met, so long as the insurer maintains a record of the waiver in the underwriting file. Contrary to N.J.A.C. 11:3-36.4(c), Hanover failed to document waiver of physical damage inspection in the insured's file. In response to the examiner's inquiry, the Company stated that its waiver policy is consistent with New Jersey regulations. However, documentation of a waiver (i.e. new car invoice-bill of sale, or a lease agreement) must be included in the underwriting file to comply with the aforementioned regulation.

PLEASE SEE APPENDIX D-4 FOR FILES IN ERROR

4. Failure to Retain Certificate of Mailing on Suspension Notice – (4 Errors)

In accordance with N.J.A.C. 11:3-36.7(b)2 insurers are required to obtain a certificate of mailing or other evidence of mailing of the Notice of Suspension to the insured and retain the certificate and copy of the Notice of Suspension in the insurer's file on the insured. Contrary to this regulation, Hanover failed to retain copies of the Certificate of Mailing on four physical damage suspensions. In response to the examiner's inquiry, the Company stated that certificates of mailing are kept centrally in Worcester, and are filed in a way that are difficult to retrieve. The absence of this evidence of mailing does not comply with the regulation.

PLEASE SEE APPENDIX D-5 FOR FILES IN ERROR

5. Failure to Provide Coverage Selection Form to Applicant- (4 Errors)

N.J.A.C. 11:3-15.4(a) and N.J.S.A. 39:6A-23a requires that no new auto insurance policy shall be issued unless accompanied by a Coverage Selection Form. Contrary to the aforementioned statute and regulation, the Coverage Selection Form was not included in four new business files.

PLEASE SEE APPENDIX D-6 FOR FILES IN ERROR

6. Failure to Make Full and Fair Disclosure to Insureds with Group Policies – (21 Errors- Improper General Business Practice)

N.J.A.C. 11:2-12.10 states in part that every insurer selling insurance pursuant to a mass marketing plan shall, prior to sale, make full and fair disclosure to prospective employees and member insureds of all features of such plan. Said disclosure shall be provided in writing and a copy filed with the Department. Standard Two in the underwriting and rating section of the NAIC Market Conduct Handbook states that the examiners should verify that, "Disclosures to insureds concerning rates and coverage are accurate and timely." Contrary to the regulation, on 21 group policies reviewed, the examiners did not find any evidence that a disclosure was sent. Further, the examiners found no record of a filed copy with the Department. In response to an inquiry, the Company stated that, "A separate disclosure notice is not sent, however, the solicitation materials provided by the Company to prospective applicants describe the features of the program." In addition, Hanover admitted that it has not filed a notice with the Department. In the

absence of documentation showing proof that a disclosure was provided and the company's failure to file its disclosure notice with the Department, does not comply with the regulation.

PLEASE SEE APPENDIX D-8 FOR FILE ERRORS

7. Miscellaneous Errors

- a. N.J.A.C.11:3-14.5(a) & (b) provide the insured with the option to choose health care insurance coverage on the Coverage Selection Form as primary coverage for PIP Medical expense benefits. Once the health insurance carrier is identified, a 25% discount shall apply. Standard One of the underwriting and rating section of the NAIC Market Conduct Handbook states that the examiners should verify that, "The rates charged for the policy coverage are in accordance with filed rates (if applicable) or the company rating plan." Contrary to the regulations, on policy no. ANY 5899024 the insured elected their health insurer as primary, however, Hanover failed to give the required discount. In response to an inquiry, the Company stated that the coverage reduction and discount were not provided due to a keying error. The Company corrected the error by endorsing the policy back to the original effective date. This was verified by supporting documentation from the Company reflecting the proper discount.
- b. N.J.A.C. 11:3-36.7(b)1&2 states that, whenever physical damage coverage is suspended, a Notice of Suspension of physical damage coverage shall be mailed to the insured and the Company should retain a copy of the notice in the insurer's file on the insured. On policy nos. ANG 6012236 and ANG 6083366, the suspension notice was not in the file, contrary to the regulation.
- c. According to N.J.A.C.11:3-36.6(l), appendices A through D provide minimum standards for physical damage inspection forms. Insurers may alter the format of these documents as long as the required minimum information requirements are met. The examiners reviewed policy no. ANY 5608182 and noted that, Appendix D "Notice of Suspension of Physical Damage Coverage" failed to include the agent's name and telephone number. Although the Appendix D, as a form met the requirements prescribed under the regulation, the Company failed to complete the form with the required information.
- d. N.J.A.C. 11:3-36.5 states that upon an insured's request for coverage for automobile physical damage insurance, the insurer may defer the mandatory inspection for seven calendar days following the effective date of coverage. On policy no. ANY 5612718 the Company mailed the insured a "Notice of Insurance Inspection", Appendix B, but failed to inform the insured of the date by which the inspection should be completed.

Additionally, Hanover did not include the name and address of the insured and the policy number.

D. OTHER FINDINGS

1. Improper Underwriting Guidelines

Hanover's approved underwriting guidelines state "Any person whose automobile insurance policy has been cancelled for non-payment of premium, with a lapse in coverage of 30 days or more, within the two year period immediately preceding the effective date of coverage is ineligible. Eligible operators with a lapse of under 30 days are ineligible, unless 100% of the first year's premium is collected at the time of application." Based on this guideline the Company declines eligible persons which is inconsistent with N.J.S.A. 17:33B-15b and N.J.A.C. 11:3-40.3(a).

N.J.A.C. 11:3-34.4(a)6 states that, "Any person whose automobile insurance policy has been cancelled for nonpayment of premium with a lapse of coverage of at least 30 days, within the immediately preceding two-year period is not an eligible person unless the premium due on a policy for which application has been made is paid in full before issuance or renewal of the policy." Based on this regulation, Hanover's underwriting guidelines should not state that individuals with lapses of less than 30 days are ineligible and should allow an operator with a lapse of more than 30 days the option of paying the full premium due before the issuance of the policy.

In response to the inquiry regarding this guideline, the Company disagreed with the examiner's findings. Hanover stated Rule 1e was filed with the NJDOBI. However, the approved guidelines that permitted these terminations were nevertheless inconsistent with the requirement that all eligible persons must be insured. In the Termination section of this report, the examiners describe eight policies that the company terminated based on these improper underwriting guidelines.

2. Sample Rate Calculations

The Hanover underwriting staff provided the examiners with itemized manual rate calculations for 14 files. The calculations included, discounts for passive restraint, good student, anti-theft devices, primary health insurance, and one-driver/two-car households where applicable. The examiners determined that all premiums and discounts provided were calculated correctly .

3. Auto Insurance Cost Reduction Act of 1998(AICRA) P.L.1998.c.21 and c.22

On May 19, 1998, the New Jersey State Legislature enacted the Auto Insurance Cost Reduction Act, referred to as AICRA and Senate Bill 3. The Act provides for a reduction in auto insurance rates by reducing fraud and cost-containing medically necessary treatment. The examiners reviewed the Company's filings with the Department including its rating and procedure manual to make certain that its current rating plans include an AICRA factor for the mandatory auto rate reduction of 15%. Based on this review and the 66 files examined, the examiners found that Hanover gave the 15% discount.

4. Tier Rating Plan of 1998

The examiners reviewed 66 underwriting files to determine if Hanover placed each driver on a policy in the appropriate tier in accordance with its filed and approved rate tier plan. This review is consistent with the aforementioned Standard One of the underwriting and rating section of the NAIC M.C.E. Handbook. In reviewing the Company's filed and approved underwriting manual, the examiners noted it utilizes seven tier levels, Tier 1 its lowest in premium through Tier 7 its highest, in which it places drivers based on age, driving experience, motor vehicle points, claim frequency, vehicle value and level of coverage desired. In no instance did the examiners find any errors in the tier assignments.

5. 50% Discount on PIP Premiums on One Driver/Multiple Car Policies

The examiners reviewed auto underwriting files and verified that the Company correctly applied the required 50% discount on PIP premiums for the second and subsequent automobiles in all eligible households insuring one driver with multiple cars, pursuant to N.J.S.A. 39:6A-4.1 and N.J.A.C.11:3-21.2.

6. Incorrect Rates Resulting From Use of Mailing Address Rather than Garage Location

Pursuant to Bulletin No.00-02, the examiners reviewed 66 underwriting files and verified that the Company correctly used the garage location rather than the insured's mailing address. The Company's mainframe system allows for differences between mailing address and garage address. When a garage location for a vehicle differs from its policyholder's mailing address, the

vehicle is rated with the rates of the territory of its garaging location. The examiners found no discrepancies.

E. MAIL REVIEW

On July 24, 2000, the examiners conducted a mail review at Hanover's Worcester, MA location. In addition, the company supplied copies of renewal packages that were generated on August 2, 2000. In total, the examiners reviewed 15 renewal and 10 new business packages. The examiners checked mail packages to verify the timeliness of issuance and mailing and the inclusion of all required notices and documentation and found the following errors:

1. Failure to State the Effect of Non-Payment of Premium by its Due Date - (12 Errors-Improper General Business Practice)

N.J.A.C. 11:3-8.3(b) states in part that a renewal notice shall clearly state the effect of non-payment of premium by its due date. Contrary to the regulation, the examiners found that of the 15 renewal packages reviewed, 12 renewal notices failed to state the effect of non-payment of premium by its due date, constituting an improper general business. Three of the 15 packages were Electronic Funding Transfer (EFT) policies whereby policyholders do not receive a bill and the premium is electronically deducted from their authorized checking account; the regulation does not apply in such instances. In response to an inquiry, Hanover stated that "It is our Company practice to issue a 'notice of intent to cancel' to its policy holders eight days after the due date for direct bill policies and EFT, and 15 days after the due date for account bill policies. The intent to cancel notice provides information or verbiage which notifies our policy holders of the effective date of cancellation if the minimum premium due is not paid by the date due on the intent to cancel notice." However, the regulation requires the language to be stated on the renewal billing notice, not the cancellation notice. Based on Hanover's response and the examiner's findings that the company did not include the statement on any of its billing notices, this error occurred as an improper general business practice.

PLEASE SEE APPENDIX D-8 FOR MAIL REVIEW PACKAGES IN ERROR

2. Failure to Issue Renewal Billing Notice in a Timely Manner - (4 Errors)

N.J.A.C. 11:3-8.3(b) states in part that a renewal notice shall be given not more than 45 days nor less than 30 days prior to the expiration of the policy. The examiners found that in four renewal billing notices that it mailed, Hanover provided less than 30 days notice. In response to an inquiry, Hanover stated that, "Direct bill policies are programmed systematically to renew where the due date shall be the issue date plus 20 days or policy

effective date, which ever is greater.” The Company also stated that, “We have submitted a systems maintenance request to renew our NJ bills in accordance with N.J.A.C. 11:3-8.3(b); notice shall be given not more than 45 days nor less than 30 days prior to the expiration of the existing policy or due date of the premium whichever is later.” It appears that the company would allow additional days beyond the renewal date for the insured to pay the premium, whenever the billing date was less than 20 days prior to the renewal date. On eight of the renewals not cited as errors, the billing date was more than 30 days from the renewal. The three remaining renewals not cited were electronic fund transfers in which no bill was sent to the insured.

PLEASE SEE APPENDIX D-9 FOR MAIL REVIEW PACKAGES IN ERROR

3. Failure to Include Coverage Selection Forms - (14 Errors)

N.J.A.C. 11:3-15.1(a) and N.J.A.C. 11:3-15.4(a)1 require the Company to send an appropriate Coverage Selection Form with the notice of renewal. Contrary to these regulations, the Company failed to include a coverage selection form in 14 renewal packages.

PLEASE SEE APPENDIX D-10 FOR MAIL REVIEW PACKAGES IN ERROR

F. COMPARISON TO PRIOR EXAMINATION

The examiners cited Hanover in the 1995 examination report for six underwriting files in error. The random review of 58 files generated an error ratio of 10%. On 51 Passive Restraint files reviewed for the 1995 report, the examiners found four files in error for an error ratio of 8%. There were no improper general business practices found during the previous examination.

During the present review, there were 66 underwriting files reviewed of which 40 were in error, generating a 61% error ratio. Without the one improper general business practices, the error ratio would be 42%. The database review for Passive Restraint Discounts totaled 71 errors/exceptions from a population of 18,919 vehicles. The exception ratio during the current examination review period for Passive Restraint Discounts is .38%.

G. SUMMARY

During this review, the examiners found four improper general business practices: failure to retain physical damage inspection photographs, failure to retain physical damage inspection reports, failure to make full and fair disclosure to the insured with group policies, failure to state the effect of non-payment of renewal premium by its due date. Other errors included: failure to provide passive restraint discounts; failure to document waiver of inspection

and failure to retain copy of certificate of mailing for physical damage suspension notice.

VI. LICENSING AND TERMINATED AGENTS; GENERAL FINDINGS

A. LICENSING OF AGENTS

At the time of the market conduct examination, Hanover maintained an active agency force of 77 agents. The examiners cross-checked all active agents within the review period to the master licensing records of the New Jersey Department of Insurance to determine if all producers are properly licensed. The examiners found no errors or discrepancies.

B. PAYMENT OF REDUCED COMMISSIONS ON POLICIES WITH YOUTHFUL DRIVERS AND SURCHARGES

N.J.S.A. 17:33B-18b states that an insurer shall not penalize an agent by paying less than normal commissions because of the expected experience of the agent's business. In the prior examination, the examiners found that on some tier schedules, Hanover paid a commission rate of 15% on standard business and 10% on policies with violations, accidents and youthful drivers from January 1, 1992 to April 1, 1994, contrary to the statute. The company revised its schedule of commissions to reflect equal commission rate effective April 1994. The examiners found that Hanover does not pay different commissions for each Rating Tier and found no evidence of any inconsistencies.

C. PAYMENT OF COMMISSION ON INEXPERIENCE OPERATOR CLASSIFICATION

N.J.S.A. 17:29A-40 states that no producer commission shall be paid on the additional premium (or surcharges) generated by an inexperienced operator classification. In the 1995 examination, Hanover admitted that it pays commission on the additional premium resulting from inexperienced driver surcharge points. Since the Company has implemented a Tier Rating Plan which does not include surcharges, Hanover is now in compliance with the statute.

D. TERMINATED AGENTS REVIEW

Hanover terminated four agents from April 1, 1999 through March 31, 2000. The examiners reviewed the agency files including the proper notification and timeliness requirements of N.J.S.A. 17:22-6.14a and N.J.S.A. 17:22A-15b. The examiners found the following errors on three files for an error ratio of 75%.

1. Failure To Notify DOBI Within 15 Days After the Date of Agency Termination – (2 Errors)

N.J.S.A 17:22A-15b requires insurers to provide the Commissioner with written notice of an agency termination within 15 days after the effective date of termination. This conforms to Standard three of the NAIC Market Conduct Handbook in the producer licensing section which states that the examiners should verify that, “Termination of producers complies with statutes and regulations regarding notification to the producer and notification to the state if applicable.” On the Dowell Insurance Associates agency, Hanover failed to provide the Department with a written notice of termination as required under N.J.S.A 17:22A-15b. In addition, on the Anthony and Company, Inc. agency file, Hanover filed notice with the Department 13 days before the actual date of the agent’s termination, contrary to the above statute.

PLEASE SEE APPENDIX E-1 FOR FILE IN ERRORS

2. Failure To Provide Commissioner with 90 Day Notice of Agency Termination – (2 Errors)

N.J.S.A. 17:22-6.14a requires insurers to provide the Commissioner of Insurance, in writing, with at least 90 days advance notice of the insurer’s intent to terminate the agent’s contract. The examiners reviewed the William H. Connolly agency file and noted that the effective date of termination is the same date as the notice date. The Company failed to provide the Department with at least a 90 day advance notice as required by statute. In addition, Hanover failed to indicate the termination date on the “notice of intent to cancel” to the Dowell Insurance Agency that it provided to the Commissioner. Due to the absence of the date on the notice, the examiners were not able to determine whether the Company actually sent the forms as required by N.J.S.A 17:22-6.14a. The Department producer records show that the Dowell Agency is still active. Therefore, the Company’s actions are contrary to the above statute.

PLEASE SEE APPENDIX E-2 FOR FILES IN ERROR

E. COMPARISON WITH THE 1995 REPORT

In the 1995 Market Conduct Report, on 13 agencies, Hanover failed to notify the Department within 15 days after date of termination of Agency Contract, as required by N.J.S.A.17:22A-15b. In addition, there were six errors on four agency files. On four agency files, the Company failed to provide the Department with at least 90 days advance notice of agency

termination and on two files the Company failed to notify the agents with at least 90 days of agency termination. This is contrary to N.J.S.A 17:22-6.14a.

During the current examination, the examiners found the same deficiencies. On two agency files, the company failed to notify the Department of agency termination within 15 days of termination. In addition, on two agency files, the company failed to provide the Department with at least 90 days advance notice of agency termination.

F. GENERAL FINDINGS

1. Failure To Respond Promptly To Examiners' Inquiries – (16 Errors)

N.J.S.A. 17:23-1 requires insurers to respond promptly in writing to all inquiries from the Department of Banking and Insurance. The examiners wrote a total of 121 inquiries during the examination. Contrary to N.J.S.A. 17:23-1, Hanover failed to respond to 16 of the 121 inquiries promptly; these 16 responses exceeded 10 working days. Delay ranged from seven to 96 working days. The Company agreed with the examiner's inquiry and stated the Company's late response were due to major recent changes in their organizational structure and the need to obtain information from numerous company locations. The locations included Piscataway, NJ, various agency offices, Atlantic, Ga, Syracuse NY, and Worcester, Ma.

PLEASE SEE APPENDIX F FOR FILES IN ERROR

2. Failure To Provide Records To Examiners In A Timely Manner

N.J.S.A. 17:23-23(b) requires insurers to provide to the examiners, timely and convenient access to all books, records, accounts, papers, documents and any or all computer or other recording relating to business and affairs of the company being examined. The officers, directors, employees and agents of the company or person shall facilitate and aid in the examination. Contrary to N.J.S.A. 17:23-23(b), Hanover failed to provide the examiners with claim databases in a timely manner. Exhibit A of the Call Letter, dated May 10, 2000, requested spreadsheets and that it be provided on Disks, CD-ROM or E-Mail, in Microsoft Access or Excel. Throughout the examination, the examiners repeatedly requested the companies claim database. After numerous conversations and conference calls, the claim databases were provided on January 12, 2001, January 29, 2001 and February 15, 2001, eight to nine months after the initial requests. Further, on August 31, 2001, the examiners requested additional databases for auto in-force policies, during our review period. The Company did not provide this

information until December 21, 2000, 75 working days after the initial request.

VII. RECOMMENDATIONS

Hanover 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 has 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 included all recommendations below.

A. 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 Eugene F. Gery, Administrator of Market Conduct Examinations, 20 West State Street, Room 140, 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):

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). Enclosed is our (payment/credit) in the amount of (insert amount) to correct our error. We have ratered your policy to provide you with this discount on all eligible vehicle(s).”

UNDERPAID CLAIMS

“During a recent review of your claim by Market Conduct examiners of the New Jersey Department of Banking and Insurance, they found that we underpaid your claim in the amount of (indicate amount). Enclosed is our check to correct this error.”

B. COMPLIANCE MATTERS

1. For all recommendations listed in the Market Conduct Report where we request that the Company issue written instructions, the Company should provide the number of employees and the titles of the personnel to whom it issued these instructions.
2. The Company should also advise us whether it has a designated compliance unit or persons whose sole responsibility is monitoring and assuring that the Company is complying with New Jersey statutes and regulations. If the Company does not have such a unit, then we strongly suggest that the Company create a compliance unit to address compliance issues on a continuing basis in light of the findings and recommendations stated in this report.

C. COMPLAINTS

3. In order to comply with N.J.S.A.17:29B-4(10), Hanover must issue written instructions to all appropriate personnel to revise the complaint register to include the disposition column and the classification by line of insurance.
4. Hanover must make necessary system changes and issue written instructions to all personnel to implement these changes, with its newly developed complaint register to conform with N.J.S.A.17:29B-4(10). A copy of the newly developed register should be provided to the Commissioner to verify compliance with this recommendation.
5. In order to comply with N.J.S.A. 17-29B-4(10), Hanover must issue written instructions to all appropriate personnel stating that all complaints received by the company either through the Department or directly from

the complainant must be logged into its complaint register in accordance with N.J.S.A. 17:29B-4(10). The four DOBI complaints and the one direct complaint cited as not being included in the Complaint Log are to be correctly entered at this time, and a copy of the page(s) showing the entries is to be provided to the Commissioner to verify compliance with this recommendation.

6. The Company must issue written instructions to all appropriate personnel that in order to comply with N.J.S.A. 17:29B-4(10), the actual receipt and response dates must be correctly recorded in the complaint register. The log must reflect accurate dates, which are essential to determine the total number of days to resolve each complaint.
7. Hanover must issue written instructions to all appropriate personnel that N.J.S.A. 17:23-1 and N.J.A.C. 11:2-17.6(d), require insurers to respond promptly in writing to all inquiries from the Department within 15 days, whether the subject matter is a claim or non-claim related inquiry.
8. The Company must issue written instructions to all appropriate personnel that N.J.A.C. 11:2-17.6(e), requires a response within 10 working days to direct complaints on claim related matters, and that direct complaints on non-claim related matters should also be responded to promptly, whether the subject matter is a claim or non-claim related inquiry.

D. CLAIMS

9. Hanover must issue written instructions to all appropriate claims personnel that the fraud warning statement must be included on all claim forms cited in this report as required by N.J.S.A. 17:33A-6 and N.J.A.C. 11:16-1.2. In addition, each form cited by the examiners must be reprinted with the required warning and a copy of the revised form must be provided to the Commissioner prior to use.
10. In order to comply with N.J.A.C. 11:3-10.5 (c), Hanover must issue written instructions to all appropriate claims personnel advising them of the requirement that any letter of explanation, rejection or acceptance must include the date of receipt of notice of loss in the upper right hand corner.
11. Hanover must issue written instructions to all appropriate claims personnel that N.J.A.C. 11:3-36.6(j)2 requires insurers to use and maintain copies of inspection reports and photographs whenever automobiles are a total loss.
12. Pursuant to N.J.A.C. 11:3-36.6(j)3, the company must issue written instructions to all appropriate claims personnel that the inspection report and photographs should be used by the insurer when the new damage claim exceeds \$3,000.00 on physical damage partial loss claims.

13. The Company must remind all appropriate claims personnel that pursuant to N.J.A.C. 11:3-10.4(c), insurers must inform first party claimants in writing of the right to recourse at the time the settlement draft is issued and retain a copy of the notice in the claim file.
14. The Company must remind all claims personnel that all estimates must be included in each claim file as required by N.J.A.C. 11:3-10.3(f).
15. The Company should remind all claims personnel of the requirements in N.J.A.C. 11:2-17.11(a), that when payment of \$5000 or more is made, the insurer must mail notice to the claimant when payment is made to the third party attorney.
16. Hanover must reopen claim file 10-245702 and issue a refund for the underpayment that it made to the claimant.
17. The Company must remind all claims personnel when computing total loss settlement figures, it should double-check for accuracy.
18. The Company must remind all claims personnel that N.J.A.C. 11:2-17.5(d), prohibits an insurer from requesting a claimant to sign a release that extends beyond the subject matter that gave rise to the claim payment.
19. The Company must remind all claims personnel that in order to comply with N.J.A.C. 11:2-17.10(a)8, the company must notify third party claimants of the availability and terms of automobile rental benefits.
20. Pursuant to N.J.S.A. 39:6A-5b and N.J.A.C. 11:2-17.7(b), the company must remind all claims personnel that PIP must be settled within 60 calendar days, unless a written 45 day extension is secured.
21. The Company must issue written instructions to appropriate claims personnel located in its Piscataway and Syracuse offices, to update and centralize its claim form binders to ensure that all the claims forms in error include the fraud warning statement as required by N.J.S.A. 17:33A-6 and N.J.A.C. 11:16-1.

E. TERMINATIONS

22. In order to comply with N.J.A.C. 11:3-8.3(f)1, Hanover must issue written instructions to all appropriate personnel instructing them on the usage of the correct provision concerning the 2% nonrenewal termination notices and nonrenewals for cause. These notices must include the correct and updated provision as it relates to the nonrenewal of the policy.
23. Hanover must issue written instructions to all appropriate personnel setting forth the requirements of N.J.A.C. 11:3-34.4(a)6 and N.J.A.C. 11:3-34, et

seq., which give the definition of eligible person and the Company's requirement to insure all eligible persons. Underwriting Rule 1e should be revised in order to reflect the requirements under N.J.A.C. 11:3-34.4(a)6.

24. The Company must issue written instructions reminding all appropriate personnel that all 2% nonrenewals must be included in its register as required by N.J.A.C. 11:3-8.8(a).
25. Pursuant to N.J.A.C. 11:3-8.3(f) the Company must remind all appropriate personnel that nonrenewal notices must be mailed no less than 60 days and no more than 90 prior to the effective date of termination.
26. The Company must remind appropriate personnel that, in order to comply with N.J.S.A. 17:33B-15(b), N.J.A.C. 11:3-8.4(b)3 and 11:3-40.3(a), no insurer shall refuse to insure, refuse to renew or limit coverage to an eligible person who meets its underwriting rules as filed with and approved by the commissioner. Additionally, Hanover must instruct the appropriate personnel that an eligible insured may not be nonrenewed or denied auto insurance coverage because a member of the household is not an eligible person. Private passenger automobile insurance coverage should be offered to each eligible person as defined by N.J.A.C. 11:3-34 when the household also includes an ineligible driver and multiple vehicles.
27. Pursuant to N.J.S.A. 17:29C-8, the Company must remind appropriate personnel to mail cancellation notices, (other than cancellations for nonpayment of premium), at least 20 days prior to the effective date of cancellation.
28. In order to comply with N.J.A.C. 11:2-12.12(d), Hanover must issue written instructions to all appropriate personnel stating that, any cancellation or nonrenewal of a policy covering an employee or member insured under a mass marketing plan shall be accompanied by the notice affording the employee or member and the employer a reasonable opportunity to consult with the insurer and to present facts in opposition to the cancellation or the nonrenewal.
29. Hanover must reopen and offer coverage to the policyholders cited in this report for whom it improperly declined coverage and/or nonrenewed for the reasons indicated in this report. The Company should provide the Commissioner with a written report that summarizes the results of each offer.

F. RATING, UNDERWRITING & POLICYHOLDER SERVICES

30. Hanover must issue written instructions to appropriate personnel that vehicles with passive restraint systems must receive the correct passive restraint discount pursuant N.J.S.A. 17:29A-6 & 15. The appropriate personnel must review and revise its rating and underwriting procedures and its VIN edit system to ensure the capture of all vehicles that are eligible for the discount.
31. The company must correct the 71 vehicles that were incorrectly coded without the passive restraint discount and issue the appropriate refund or credit, retroactive to the inception date of coverage on each vehicle. The company must provide the Commissioner with a list of the policy numbers, the named insureds, and all policy periods in error retroactive to the first period in which the error occurred and the amount of credit/refund issued.
32. In order to comply with N.J.A.C 11:3-36.6(h) Hanover must issue written instructions to all appropriate personnel stating that inspection photographs for physical damage coverage must be retained in the insurer's file on the insured for 5 years.
33. Pursuant to N.J.A.C. 11:3-36.6(h), the company must issue written instructions to all appropriate personnel that after the physical damage inspection is completed, the inspection report must be retained in the insurer's file on the insured for five years.
34. In order to comply with N.J.A.C 11:3-36.4(c), Hanover must issue written instructions to all appropriate personnel that it must document a waiver of physical damage inspection in the underwriting file.
35. Hanover must issue written instructions to all appropriate personnel setting forth the requirements of N.J.A.C 11:3-36.7(b)2 to retain certificate of mailings and a copy of the Notice of Suspension in the insurer's file.
36. In order to comply with N.J.A.C 11:3-15.1(a), Hanover must issue written instructions to all appropriate personnel that evidence of a completed Coverage Selection Form must be provided in new business file.
37. Hanover must issue written instructions to all appropriate personnel setting forth the requirements of N.J.A.C. 11:2-12.10 that under the mass marketing plan, every insurer selling insurance must make full and fair disclosure to its prospective insureds of all features of the plan.
38. The company must remind appropriate personnel that, in order to comply with N.J.A.C 11:3-14.5(a)& (b), the proper coverage reduction and discounts must be provided whenever an insured elects the option to choose their own health carrier as primary. Hanover should reopen policy

number ANY 5899024 and provide the discount from the inception of health carrier primary coverage to present. The company should send to the Commissioner documentation that the discount was provided.

39. Hanover must remind appropriate personnel that, in order to comply with N.J.A.C. 11:3-36.7(b)1&2, it must retain a copy of Notice of Suspension of physical damage coverage in the insurer's file.
40. In order to comply with N.J.A.C. 11:3-36.6(1), the company must remind all appropriate personnel that when completing Appendix D, it must include the agent's name and telephone number.
41. Hanover must issue written instructions to all appropriate personnel setting forth the requirements of N.J.A.C. 11:3-34.4(a)6 and N.J.A.C. 11:3-34, et seq. Its Underwriting Rule 1e should be revised in order to reflect the requirements under N.J.A.C. 11:3-34.4(a)6 and filed with the Commissioner in the usual manner.
42. Hanover must remind appropriate personnel that, in order to comply with N.J.A.C. 11:3-36.6(1) & N.J.A.C. 11:3-36.5, the Agent must complete Appendix B and include the date by which the inspection should be completed as well as the name, address and policy number of the insured.
43. In order to comply with N.J.A.C. 11:3-8.3(b) the company must issue written instructions to all appropriate personnel that the renewal notice must clearly state the effect of not paying the premium by the due date. A copy of a new notice form, that is revised to include the required statement, should be sent to the Commissioner prior to use.
44. Pursuant to N.J.A.C. 11:3-8.3(b), the company must issue written instructions to all appropriate personnel that renewal premium billing notices must be given not more than 45 days or less than 30 days prior to the expiration of the existing policy or due date of the premium, whichever is later. System changes to effectuate these changes and to correct prior deficiencies should be implemented and provided to the Commissioner.
45. In order to comply with N.J.A.C. 11:3-15.1(a) and N.J.A.C. 11:3-15.4(a), the company must issue written instructions to all appropriate personnel including its producers that the required Coverage Selection Form must be provided to the insured and be included with all renewal packages.

G. LICENSING AND TERMINATED AGENTS

46. In order to comply with N.J.S.A. 17:22-15b, Hanover must remind all appropriate personnel, that when an agent's contract is terminated, a written notice of cancellation to the Commissioner within 15 days after the date of termination of the agency contract is required to be sent.

47. In order to comply with N.J.S.A. 17:22-15b, Hanover must provide the Commissioner, c/o the Licensing section, with a copy of notice of termination on the Dowell Insurance Associates agency, and the Anthony and Company, Inc. agency. Copies should be sent to the Market Conduct Unit.
48. The Company must issue written instructions to all appropriate personnel, that whenever an agent is terminated, a written notice of intent to terminate the agency contract must be sent to both the agent and the Commissioner at least 90 days prior to the termination date to comply with N.J.S.A. 17:22-6.14a.
49. The Company must issue written instructions to all appropriate personnel that they must respond promptly to all correspondence from the NJDOBI, including inquiries from examiners, as required by N.J.S.A. 17:23-1.
50. The Company must issue written instructions to all appropriate personnel that they must provide the examiners timely and convenient access to all computer or other records relating to business and affairs of the company being examined, as required by N.J.S.A. 17:23-23(b)

VIII. APPENDICES

APPENDIX A – COMPLAINT HANDLING

1. Failure to Record Accurate Complaint Receipt and/or Response Dates (11 Errors)

| <u>Policy Number</u> | <u>Document Receipt Date</u> | <u>Log Receipt Date</u> | <u>Days in Error</u> |
|----------------------|------------------------------|-------------------------|----------------------|
| ANY5090382 | 9-01-99 | 9-07-99 | 6 |
| ANY4759649 | 8-13-99 | 8-31-00 | 18 |
| ANY3838465 | 11-23-99 | 11-29-99 | 6 |
| ANY4560833 | 12-17-99 | 12-23-99 | 6 |
| ANY5281313 | 12-29-99 | 1-06-00 | 9 |
| *5445559 | 9-07-99 | 9-08-99 | 1 |
| ANY5529656 | 9-10-99 | 9-23-99 | 13 |
| ANY4918647 | 12-16-99 | 12-23-99 | 7 |
| ANY3804594 | 1-11-00 | 1-14-00 | 3 |

* No prefix given

| <u>Policy Number</u> | <u>Log Receipt Date</u> | <u>Log Response Date</u> |
|----------------------|-------------------------|--------------------------|
| ANY5973440* | 03-01-00 | No entry on log |
| ANY5973440* | 03-28-00 | No entry on log |

*Two separate complaints on the same file.

APPENDIX A (continued)

2. Failure to Respond Promptly to NJDOBI Complaints (7 Errors)

| <u>Complaint Number</u> | <u>Document Receipt</u> | <u>Document Response</u> | <u>Working Days Over 15</u> |
|-------------------------|-------------------------|--------------------------|-----------------------------|
| 99-21509 | 05-04-99 | 06-09-99 | 10 |
| 99-24760* | 09-13-99 | 10-12-99 | 5 |
| 00-29589 | 02-29-00 | 03-28-00 | 5 |
| 99-22468 | 06-15-99 | 07-12-99 | 3 |
| 99-22195* | 06-02-99 | 07-08-99 | 10 |
| 99-25342* | 10-15-99 | 11-15-99 | 4 |
| 00-29663 | 03-01-00 | 04-20-00 | 21 |

*Non-Claim Complaint

3. Failure To Respond To Direct Complaints (2 Errors)

| <u>Complaint ID Number</u> | <u>Document Receipt</u> | <u>Document Response</u> | <u>Working Days Over 10</u> |
|----------------------------|-------------------------|--------------------------|-----------------------------|
| ANY3375685* | 04-20-99 | 05-17-99 | 9 |
| ANY5973440 | 03-22-00 | 04-21-00 | 3 |

*Non-Claim Complaint

APPENDIX B - CLAIM ERRORS

1. Failure to include fraud warning statement on claim forms (7 Files in Error)

| <u>Claim Number</u> | <u>Name of Form</u> |
|---------------------|--------------------------------------|
| 10-272691 | Statement of Claimant |
| 10-251439 | Statement of Claimant/Witness Report |
| 10-250483 | Statement of Claimant |
| 10-248430 | Statement of Claimant |
| 10-250691 | Statement of Claimant |
| 10-245702 | Witness Report |
| 10-247574 | Statement of Claimant |

2. Failure to Include “Date of Receipt of Notice of Loss” on Delay Letters (5 Errors – Improper General Business Practice)

Claim Number

10-250955
10-251439
10-246123
10-253984
10-253902

APPENDIX B (continued)

3. Failure to Retain Copies of Inspection Report and Photographs in Total Loss Claim Files (19 Errors – Improper General Business Practice)

| <u>Claim Number</u> | <u>Claim Category</u> | <u>Claim Number</u> | <u>Claim Category</u> |
|---------------------|-----------------------|---------------------|-----------------------|
| 10-244068 | Collision | 10-273425 | Collision |
| 10-250691 | Collision | 10-270452 | Collision |
| 10-245702 | Collision | 10-240992 | Collision |
| 10-267497 | Collision | 10-256970 | Comprehensive |
| 10-247923 | Collision | 10-242234 | Collision |
| 10-247920 | Collision | 10-238183 | Collision |
| 10-261196 | Collision | 10-256249 | Collision |
| 10-251958 | Collision | 10-253902 | Collision |
| 10-253072 | Comprehensive | 10-243173 | Collision |
| 10-251325 | Collision | | |

4. Failure to include inspection reports and photographs when new damage Exceeds \$3000 - (4 Errors)

Claim Number

10-263870
10-260840
10-259556
10-252503

APPENDIX B (continued)

5. Failure to include fraud warning statement on claim forms - (21 Forms in Error - Improper General Business Practice)

Name Of Form – Piscataway Claim Forms

Release of all Claims*
Parents Release and Indemnity Agreement*
Release and Trust Agreement*
Affidavit of Vehicle Theft & Vandalism
Sworn Statement in Proof Of Loss (Automobile)*
Vandalism Affidavit
Release for Property Damage*
Affidavit of No Insurance*
NJ Affidavit
Essential Service Benefits With Cover
Attending Physician's Report*
NJ PIP: Wage & Salary Verification*
IME Request to Doctor

Name of Form – Syracuse Claim Forms

Affidavit as to Forged Document
Affidavit
Attending Physician's Report
Sworn Statement in Proof of Loss (Automobile)
Statement of Claimant
Witness Report
Driver Affidavit
Release of all Claims

(*) These forms were cited in the 1995 market conduct report.

APPENDIX C – POLICY TERMINATIONS

1. Failure to Use Correct Provision on the Nonrenewal Notices – 20 Errors (Improper General Business Practice)

2% Nonrenewals from the Termination Review

| <u>Policy Number</u> | <u>Mailing Date</u> | <u>Policy Number</u> | <u>Mailing Date</u> | <u>Policy Number</u> | <u>Mailing Date</u> |
|----------------------|---------------------|----------------------|---------------------|----------------------|---------------------|
| ANY5879988 | 11/22/1999 | ANY4524173 | 10/26/1999 | ANY4826607 | 10/12/1999 |
| ANY5257395 | 09/20/1999 | ANY4606783 | 08/24/1999 | ANY5009314 | 09/15/1999 |
| ANY5288545 | 01/20/2000 | ANY4817566 | 09/09/1999 | ANY5038889 | 10/25/1999 |
| ANY4604467 | 09/15/1999 | ANG5218310 | 12/14/1999 | ANY5553721 | 12/27/1999 |
| ANY4574069 | 12/16/1999 | ANG5539489 | 12/03/1999 | ANY5519359 | 10/22/1999 |
| ANY4835890 | 11/12/1999 | ANY4875218 | 01/10/2000 | ANY5331256 | 12/28/1999 |
| ANY4840485 | 11/01/1999 | ANY5305147 | 11/30/1999 | | |

2. Improper Declination due to non-payment of premium for more or less than 30 days – (8 Errors Improper General Business Practice)

Policy Number

| | |
|------------|------------|
| ANG4609287 | ANY4610099 |
| ANG4609751 | ANY4610373 |
| ANG5609469 | ANY5615643 |
| ANY4610097 | ANY5616873 |

3. Failure to Log 2% Nonrenewals in the Nonrenewal Register – (9 Errors)

| <u>Policy Number</u> | <u>Territory</u> |
|----------------------|------------------|
| ANG5539489 | 13 |
| ANY4574069 | 31 |
| ANY4604467 | 10 |
| ANY4606783 | 14 |
| ANY5331256 | 40 |
| ANY5456191 | 01 |
| ANY5519359 | 40 |
| ANY5553721 | 03 |
| ANY5879988 | 27 |

APPENDIX C (cont'd)

4. Failure to Send Nonrenewal Notice between 60 and 90 Days – (2 Errors)

| <u>Policy Number</u> | <u>Mailing Date</u> | <u>Termination Date</u> | <u>Days Given</u> |
|----------------------|---------------------|-------------------------|-------------------|
| ANY4910931 | 3/16/99 | 5/14/99 | 59 |
| ANY5592301 | 2/02/00 | 5/08/00 | 96 |

5. Failure to Offer Renewal and Insure Eligible Persons in the Household - (2 Errors)

Policy Number

ANY3631250
ANY5609201

6. Failure to Include Required Notice to Employees on Group Policies When a Policy is Cancelled or Nonrenewed (19 Errors – Improper General Business)

| <u>Policy Number</u> | <u>Policy Number</u> | <u>Policy Number</u> | <u>Policy Number</u> |
|----------------------|----------------------|----------------------|----------------------|
| *ANG5610865 | *ANG4587143 | *ANG6099485 | *ANG6090947 |
| *ANG5822724 | *ANG5615643 | *ANG4610745 | *ANG5925353 |
| *ANG5616104 | *ANG5878451 | **ANG5218310 | *ANG4599763 |
| *ANG5908001 | *ANG5911375 | **ANG5539489 | *ANG5606537 |
| *ANG5914443 | *ANG6097399 | **ANG5804589 | |
| **Nonrenewals | *Cancellations | | |

APPENDIX D – RATING & UNDERWRITING

1. Failure to Provide Passive Restraint Discount on Model Year
1998/2000 (71 Database Exceptions)

| <u>Policy Number</u> | <u>Vehicle</u> | <u>Policy Number</u> | <u>Vehicle</u> |
|----------------------|--------------------|----------------------|------------------|
| ANY4562996 | 2000 Hond Odyssey | ANY3643844 | 2000 Dod Ram150 |
| ANY3670879 | 2000 Che Pickup | ANY3857859 | 1998 Volks Passa |
| ANY4059525 | 2000 Hyun Elantra | ANY4371701 | 1998 GMC Sierra |
| ANY4401122 | 2000 Toy Tundra | ANG4561107 | 2000 Chev S-10 |
| ANY4556154 | 2000 Ford F-150 | ANY2776181 | 1998 GMC Sierra |
| ANY4563842 | 1998 Ford Windstar | ANY4581335 | 2000 GMC Sierra |
| ANY4611637 | 1999 Jeep Wrangler | ANY4746238 | 2000Niss Altima |
| ANY4752558 | 1998 Chev C3500 | ANY4826172 | 1998 GMC Sierr |
| ANY4485656 | 2000 ChevK1500 S | ANY0646920 | 1999 Toy Tacom |
| ANG4595458 | 1999 Saturn SL1 | ANG4611661 | 1998 Chev C350 |
| ANG5606973 | 2000 Volks Jetta | ANG5859151 | 1999 Chev C250 |
| ANG5916159 | 1999 Chev S-10 | ANG5934541 | 1999 Ford Explr |
| ANY3508622 | 2000 Volvos70ASR | ANG6060028 | 2000 MIT Mtero |
| ANY2959906 | 2000 Ford Ranger | ANY0648324 | 1998 Volv St |
| ANY0687131 | 2000 Dod Ram Van | ANY0884909 | 1998 Ch K2500 |
| ANY2014465 | 2000 Niss Maxima | ANY2403785 | 2000 Ford F150 |
| ANY2657758 | 1998 Plym Voyager | ANY4994143 | 1999 Ford F150 |
| ANG5963793 | 1999 Ford F250 SU | ANY5828359 | 2000 BMW 32 |
| ANY4849089 | 2000 Dod Ram 250 | ANY5605227 | 2000 Ford W St |
| ANY5605584 | 1998 Volvo | ANY5612730 | 1998 Merz E3 |
| ANY5750212 | 2000 Plym Voyager | ANY5756953 | 1998 Dod Ra150 |
| ANY5525773 | 1999 Chev K1500S | ANY5779433 | 1998 Lincoln |
| ANY5523902 | 2000 Dod Dakota | ANY5829489 | 2000 Ford F15 |
| ANY5854049 | 1999 GMC Sierra | ANY5873301 | 2000 Hyun Acc |
| ANY5888994 | 1998 Chev S-10 | ANY5899072 | 2000 Chv C250 |
| ANY5915698 | 2000 Niss Maxima | ANY5917408 | 2000 VW Jetta |
| ANY5768032 | 1999 BMW | ANY5299648 | 2000 Ferrari |
| ANY5918443 | 1998 Hummer | ANY4996513 | 2000Jeep Grand |
| ANY5001812 | 2000 Volks Golf | ANY5108740 | 2000 Honda Civ |
| ANY5216693 | 1999 Ford F 150 | ANY5222358 | 1999 Jeep Wrag |
| ANY5545101 | 1998 Chev K2500 | ANY5296995 | 2000 Che C350 |
| ANY4862697 | 1998 Lexus 300ES | ANY5343430 | 2000 GMC Sier |
| ANY5408897 | 2000Dod Ram 150 | ANY5413280 | 2000 BMW Z3 |
| ANY5416045 | 1998 GMC Sierra | ANY5427025 | 2000 Ford Rang |
| ANY5523572 | 2000 Mazd B250 | NY5511824 | 2000 Dod Viper |
| ANY5296703 | 2000 Ford Ranger | | |

APPENDIX D (cont'd)

2. Failure to Retain Physical Damage Inspection Photographs – (20 Errors – Improper General Business Practice)

| <u>Policy Number</u> | <u>Policy Number</u> | <u>Policy Number</u> | <u>Policy Number</u> |
|----------------------|----------------------|----------------------|----------------------|
| ANG4611848 | ANY4565564 | ANY4611353 | ANY4713244 |
| ANG4612376 | ANG5930533 | ANY5611289 | ANG5899024 |
| ANG6083366 | ANG5614606 | ANG4610830 | ANY4377061 |
| ANY5222109 | ANG6055430 | ANY5575635 | ANG5610864 |
| ANY5604781 | ANY5608454 | ANY4380446 | ANY5612718 |

3. Failure to Retain Physical Damage Inspection Reports – (10 Errors)

| <u>Policy Number</u> | <u>Policy Number</u> | <u>Policy Number</u> | <u>Policy Number</u> |
|----------------------|----------------------|----------------------|----------------------|
| ANY5575635 | ANY4380446 | ANG6055430 | ANY 4713244 |
| ANG5610864 | ANY5612718 | ANG4612376 | ANG4610830 |
| ANY5608454 | ANY5604781 | | |

4. Failure To Document Waiver of Inspection – (13 Errors)

| <u>Policy Number</u> | <u>Policy Number</u> | <u>Policy Number</u> | <u>Policy Number</u> |
|----------------------|----------------------|----------------------|----------------------|
| ANY4961877 | ANY3871768 | ANY4901250 | ANY5616682 |
| ANY5900161 | ANG5617978 | ANY4595706 | ANG4594255 |
| ANY5800035 | ANG5960999 | ANY4109716 | ANG4611848 |
| ANY5605234 | | | |

5. Failure to Retain Certificate Of Mailing on Suspension Notice – (4 Errors)

| <u>Policy Number</u> | <u>Policy Number</u> |
|----------------------|----------------------|
| ANY5608182 | ANY4627561 |
| ANG6083366 | ANG 6012236 |

6. Failure to Provide Inured with Coverage Selection form – (4 Errors)

| <u>Policy Number</u> | <u>Policy Number</u> |
|----------------------|----------------------|
| ANY5608182 | ANY4627561 |
| ANG6012236 | ANG6083366 |

APPENDIX D (cont'd)

7. Failure to Make Full and Fair Disclosure to Insureds With Group Policies – (21 Errors – Improper General Business Practice)

| <u>Policy Number</u> | <u>Policy Number</u> | <u>Policy Number</u> | <u>Policy Number</u> |
|----------------------|----------------------|----------------------|----------------------|
| ANG4594255 | ANG4611140 | ANG4611848 | ANG5603341 |
| ANG5614606 | ANG5616371 | ANG5617978 | ANG5618898 |
| ANG5942935 | ANG5960999 | ANG5993866 | ANG5998170 |
| ANG6051951 | ANG5609047 | ANG4610830 | ANG4612376 |
| ANG5610867 | ANG6055430 | ANG6012236 | ANG5930533 |
| ANG6083366 | | | |

8. Failure to State the Effect of Non-Payment by its Due Date – (12 Mail Review Errors - Improper General Practice)

| <u>Policy Number</u> | <u>Policy Number</u> | <u>Policy Number</u> | <u>Policy Number</u> |
|----------------------|----------------------|----------------------|----------------------|
| ANY5892939 | ANY5985359 | ANY5981802 | ANY4584398 |
| ANY4938208 | ANY5078183 | ANY5199534 | ANY5550418 |
| ANY5448940 | ANY3969406 | ANY3990389 | ANY3488622 |

9. Failure to Give 30 Days Notice at Renewal – (4 Mail Review Errors)

| <u>Policy Number</u> | <u>Bill Date</u> | <u>Due Date</u> | <u>Days Given</u> | <u>Policy Period</u> |
|----------------------|------------------|-----------------|-------------------|----------------------|
| ANY5892939 | 7/17/00 | 08/13/00 | 27 | 8/13/00 to 02/13/01 |
| ANY5985359 | 7/17/00 | 8/06/00* | 20 | 8/04/00 to 08/04/01 |
| ANY5981802 | 7/17/00 | 8/15/00 | 29 | 8/15/00 to 08/15/01 |
| ANY4584398 | 8/01/00 | 8/21/00 | 21 | 8/1/00 to 02/01/01 |

*The renewal premium due date shows it is due two days after the policy period.

10. Failure to Include Coverage Selection Form In Renewal Package –(14 Mail Review Errors)

| <u>Policy Number</u> | <u>Policy Number</u> | <u>Policy Number</u> |
|----------------------|----------------------|----------------------|
| ANY4938208 | ANY5078183 | ANY5199534 |
| ANY5550418 | ANY5448940 | ANY3969406 |
| ANY3990389 | ANY3488622 | ANY5981802 |
| ANY5508184 | ANY5799633 | ANY5892939 |
| ANY5985359 | ANY4600361 | |

APPENDIX E – Licensing and Terminated agents

1. Failure To Notify DOBI Within 15 Days After Date of Termination of Agency Contract - (2 Errors)

| <u>Agency</u> | <u>Termination Date</u> | <u>Date Notice Improperly Issued</u> |
|----------------------------------|-------------------------|--------------------------------------|
| Dowell Insurance Associates, Inc | 8-01-99 | No Notice In File |
| Anthony & Company, Inc | 4-01-00 | 3-20-00 |

2. Failure to Provide Commissioner with at Least 90 Days Advance Notice of Agency Termination – (2 Errors)

| <u>Agency</u> | <u>Notice Date</u> | <u>Termination Date</u> | <u>Days Notice</u> |
|--------------------|--------------------|-------------------------|---------------------|
| Dowell Ins | No date listed | No date listed | Unable to determine |
| William H.Connolly | 12-10-99 | 12-10-99 | 0 |

APPENDIX F – FAILURE TO RESPOND PROMPTLY TO EXAMINER’S
INQUIRES

1. Failure to Respond Promptly to Examiners Inquiries – (16 Errors)

| <u>Inquiry number</u> | <u>Issue date</u> | <u>Response date</u> | <u>Working days over ten</u> |
|-----------------------|-------------------|----------------------|----------------------------------|
| 42 | 7/13/00 | 9/26/00 | 42 |
| 50 | 7/20/00 | 9/26/00 | 37 |
| 65 | 8/02/00 | 12/09/00 | 96 |
| 66 | 8/02/00 | 10/13/00** | 41 |
| 67 | 8/03/00 | 8/28/00 | 7 |
| 71 | 8/22/00 | 9/19/00 | 9 |
| 76 | 8/08/00 | 9/25/00 | 23 |
| 91 | 8/18/00 | 10/11/00 | 27 |
| 92 | 8/21/00 | 9/27/00 | 16 |
| 94 | 8/24/00 | 1/16/00 | 49 |
| 100 | 8/31/00 | 12/21/00 | 75 |
| 101 | 9/01/00 | 10/12/00 | 18 |
| 103 | 9/07/00 | 10/13/00** | 16 |
| 108 | 10/11/00 | 11/10/00 | 12 |
| 113 | 11/17/00 | 12/20/00 | 23 |
| 121 | 1/25/01 | 2/23/01 | 9 |

** Date Examiners received response (no date on Company response)

IX. VERIFICATION PAGE

1. I, Esther Turner-Demby, am the Examiner-in-Charge of the Market Conduct Examination of the Hanover 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.

2. 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 re-examination of Hanover Insurance Company as of August 4, 2000.

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

Date:

Esther Turner-Demby
Examiner-in-Charge,
New Jersey Department of
Banking and Insurance