Market Conduct Examination

PHILIP LEHMAN COMPANY, LTD

BUTLER, NEW JERSEY

STATE OF NEW JERSEY
DEPARTMENT OF BANKING AND INSURANCE
Division of Consumer Protection Services

Market Conduct Examination Section

Report Adopted: February 8, 2008

MARKET CONDUCT EXAMINATION

of the

PHILIP LEHMAN COMPANY, LTD

Located in

BUTLER, NEW JERSEY

as of

May 11, 2007

BY EXAMINERS

of the

STATE OF NEW JERSEY
DEPARTMENT OF BANKING AND INSURANCE

DIVISION OF CONSUMER PROTECTION SERVICES
MARKET CONDUCT EXAMINATION SECTION

REPORT FILED: FEBRUARY 8, 2008

Table of Contents

I. INTRODUCTION

A. SCOPE OF EXAMINATION

This is a report of the Market Conduct activities of The Philip Lehman Company, Ltd. (hereinafter referred to as The Philip Lehman Company, Ltd., the Company or the Agency). In this report, examiners of the New Jersey Department of Banking and Insurance (NJDOBI) present their findings, conclusions and recommendations as a result of their examination. The Market Conduct Examiners were Clifton J. Day, Examiner-in-Charge, Robert Greenfield and Robert Guice.

The scope of the examination included premium and operating account deposits and withdrawals, as well as policy premium refunds generated from endorsements, changes in exposure and policy termination. The review period for the examination was January 1, 1999 to December 31, 2003 for data calls, and January 1, 1999 to the present for the Agency's internal policies and procedures. The examiners conducted their fieldwork at the Company's office in Butler, New Jersey between May 22, 2006 and May 26, 2006. Between June 1, 2006 and September 30, 2006, and February 1, 2007 and May 11, 2007, the examiners reviewed several thousand pages of financial transactions that occurred between January 1, 1999 and December 31, 2003. The examiners conducted this review from the Department's Trenton, N.J office.

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 National Association of Insurance Commissioner's (NAIC) Market Conduct Handbook. In addition, the examiners used the NAIC Handbook, Chapter VIII – Conducting the Property and Casualty Examination, as a guide to examine the Company and write this report.

B. ERROR RATIOS

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

Whenever the examiners find that a 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 a company 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 applicable 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 the Company an 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, The Philip Lehman Company, Ltd., 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 Philip Lehman Company, Ltd., was formed as a general insurance agency in 1926, and was incorporated as the Philip Lehman Company, in 1965. The Company produces personal and commercial lines business for various insurance companies authorized to conduct business in New Jersey and other states.

II. COMPLAINTS REVIEW

A. SCOPE OF REVIEW

Pursuant to the examination call letter, the examiners requested the Agency to provide its complaint log for the examiners' review. In response, the Agency advised that it has never maintained such a log. Accordingly, the examiners were unable to review a selection of complaint files. The examiners' conclusions and findings are outlined below.

B. EXAMINERS' FINDINGS

1. Failure to Maintain Complaint Handling Procedures – Improper General Business Practice

N.J.S.A. 17:29B-4(10) requires a producer to maintain complaint handling procedures, including a complete record of all direct and DOBI consumer complaints that it has received. These records shall indicate the total number of complaints, their classification by line of insurance, the nature and disposition of each complaint and the time taken to process each complaint. In response to the examiners' inquiries regarding this requirement, The Philip Lehman Company, Ltd., advised that it has never created or maintained a complaint handling or record keeping system. The Agency confirmed this error and agreed to develop a complaint log and complaint tracking methodology.

III. FUND MANAGEMENT AND FIDUCIARY OBLIGATIONS

A. SCOPE OF REVIEW

N.J.A.C. 11:17C-1 et seq. outlines a producer's specific fiduciary obligations with respect to the management of funds held in its care and on behalf of its clients. Such obligations include compliance with financial commingling prohibitions specified under **N.J.A.C. 11:17C-2.1(a)** and **(b)**, prompt premium and refund remittance requirements outlined in **N.J.A.C. 11:17C-2.2(a)** and **(b)**, establishment and proper maintenance of a premium trust account (**N.J.A.C. 11:17C-2.3(a)** through **(i)**), minimum recordkeeping requirements (**N.J.A.C. 11:17C-2.5(a)-(h)**) and record maintenance (**N.J.A.C. 11:17C-2.6(a)-(c)**).

In order to test for compliance with the above-stated requirements, the examiners conducted specific manual and electronic reviews of the Company's trust and operating account financial records, internal financial ledgers and bank statements for the period 1999 through 2003. The examiners also conducted a time study on randomly selected policies (see section III.C.1 below) that generated premium refunds to the insured due either to premium audits resulting in overpayments or refunds due to policy cancellation. The examiners' findings are presented below in the sections that follow.

B. ERROR RATIOS – REFUND TIME STUDY

The examiners calculated error ratios for the random file refund time study by applying the procedure outlined in the introduction section of this report. The following chart lists all randomly selected premium refund policy file transactions reviewed, transactions in error and transaction error ratio.

Random File Refund Time Study Error Ratio

Transactions Reviewed	Transactions in Error	Transactions Error Ratio
37	30	81%

C. EXAMINERS' FINDINGS

1. Failure to Remit Premium Refunds within Five Business Days – Improper General Business Practice ($49,473 Premium Impact)

Pursuant to **<u>N.J.A.C</u>. 11:17C-2.2(b)**, all premiums due the insured shall be paid to the insured or credited to the insured's account within five business days after receipt by the insurance producer. In the event that the return premium is to be credited to the insured's account, **<u>N.J.A.C</u>. 11:17C-2.2(b)1** requires the credit to be shown and applied to the next billing statement sent to the insured.

The examiners randomly selected and reviewed 26 policies from a population of 268 New Jersey polices that were listed by the Company as being in force during the review period. The examiners reviewed 37 randomly selected transactions that occurred on these 26 polices and found 30 separate transaction errors, for a transaction error ratio of 81%.

Contrary to **<u>N.J.A.C</u>. 11:17C-2.2(b)**, the examiners found 30 transactions in which the Company failed to remit premium refunds to the insured within the required five working day period. The Company disagreed with these errors, stating that it remittance methodology is based on the Account Current system as mandated by the insurers under which the Company is contracted. The Company further stated that this methodology requires remittances only on specified days of each month, up to potentially 45 days from the date that premium is known to be owed to the insurer or the insured. Consequently, the Company stated that it cannot be held responsible for adherence to the 5 business day rule specified above. The examiners disagree. Any such agreements between the Company and its respective insurers do not supersede applicable law. Therefore, utilization of the 5 business day rule mandated by **<u>N.J.A.C</u>. 11:17C-2.2(b)** is appropriate on these transactions. Irrespective of the Company's assertions of a 45-day maximum refund period, the examiners found the Company's average refund delay to be 106 working days. Therefore, the Philip Lehman Company, Ltd., is also in violation of its significantly more liberal insurer contracts. The examiners note that the total dollar impact of delayed refunds on these 30 transactions was $49,473. The examiners cited this error as an improper general business practice.

Please See Appendix A.1 for Transactions in Error

2. <u>Failure to Advise Insureds of Recurring Credit Balances and Failure to Advise Insureds of the Right to Receive Payment of Credit Balances upon Demand (Improper General Business practices)</u>

The examiners reviewed for compliance with **<u>N.J.A.C</u>. 11:17C-2.2(b)1**, which requires a company to provide insureds with a monthly notice of pending premium credit balances, as well as **<u>N.J.A.C</u>. 11:17C-2.2(b)2**, which requires a company to provide insureds with a monthly notice of the right to payment of credit balances upon demand. Based on documentation provided for review, the examiners confirmed that the Company did provide copies of at least one notice (designated as an Invoice) to the insured regarding a pending credit balance. The notices provided for review reflect the first point at which the credit was earned and the first point at which the notice was issued. However, where resolution of the credit balance exceeded 30 calendar days from its inception, the Company did not provide further evidence that it issued this notice on a monthly basis through the point at which the credit balance was offset either by a future debit or an actual cash refund to the insured. Furthermore, since such documentation is required in the Company's normal course of business pursuant to **N.J.A.C. 11:17C-2.5(a)** and **(h)** and **N.J.A.C. 11:2-17C-2.6(a)** and **(b)**, but nevertheless unavailable upon several examiner requests, the Company's assertion of compliance was unpersuasive. In the absence of any documentation to the contrary, the examiners determined that the Company did not issue any subsequent credit balance notices beyond the first notification as required. This error occurred on all 37 transactions from the random sample, yielding an error ratio of 100%. The examiners cited this error as an improper general business practice.

The examiners also found that, even where the Company did provide the insured with an initial notice of a pending credit balance, the Invoice failed to contain the language regarding the insured's right to payment upon demand as specified in **N.J.A.C. 11:17C-2.2(b)2**. The examiners cited this error as an improper general business practice.

3. Unlawful Commingling of Funds in Fiduciary Account – Improper General Business Practice ($3,443,841 in Commingled Funds)

Pursuant to **N.J.A.C. 11:17C-2.1(b)**, all premium funds must be segregated and not in any manner commingled with any other funds of the insurance producer. Contrary to this prohibition, the Agency deposited funds from a bank consulting business into its insurance premium trust account. Contrary to this requirement, and based on records provided to the examiners, the Agency commingled in its insurance trust account a total of $2,419,194 in banking/consulting funds for the period March 1999 through December 2003. Furthermore, in response to the examiners' inquiries, the Company advised that it commingled an additional $1,024,647 in bank consulting fees for the period January 2004 through 2005. The total amount commingled from 1999 to 2006 was $3,443,841. The Company advised that it ceased this practice in 2006.

4. Failure to Maintain Fiduciary Obligations when Utilizing Trust Account - Improper General Business Practice ($3,954,894 in Unlawful Withdrawals)

Pursuant to **N.J.A.C. 11:17C-2.1**, all premium funds shall be held by an insurance producer in a fiduciary capacity. Upon review of the Company's monthly bank statements, internal ledgers and other financial records from 1999 through 2003, the examiners determined that The Philip Lehman Company, Ltd., is not in compliance with this requirement. In addition, **N.J.A.C. 11:17C-2.3 et seq**. outlines specific criteria that must be met whenever a producer deposits, withdraws, transfers or otherwise uses funds from a designated trust account. Upon review of the Company's monthly bank statements, internal ledgers and other financial records from 1999 through 2003, the examiners determined that the Company is also not in compliance with this requirement. These violations are outlined below.

The examiners reviewed the Company's internal premium trust account and operating account financial records for the period 1999 through 2003. While reviewing these financial records, the examiners noticed several premium trust account transaction codes which identified transfer remittances from the premium trust account to the operating account (the latter being a general use account for business expense overhead, employee salary, other incidental expenses). In response to an inquiry regarding a specific, recurring code, the Company stated that these transfers were producer commissions that were withdrawn from the trust account and deposited into the operating account pursuant to **N.J.A.C. 11:17C-2.3(g)5**. Upon further review, the examiners noticed and inquired as to why these transfers were mostly whole dollar amounts, rounded to the nearest thousandth. This inquiry included a randomly selected list of 30 out of 679 trust account transfers to the operating account that occurred between January 1999 and December 2003. These 30 transactions represented a total of $630,369.41 in trust account fund transfers. The purpose of this inquiry was twofold: 1) to provide the Agency an opportunity to explain the probability of whole dollar rounding to the nearest thousandth on hundreds of policies; and 2) to permit the Agency to demonstrate compliance with its commission calculation methodology and **N.J.A.C. 11:17C-2.5(e)**, which states in part that:

> "If the (trust account) disbursement is a commission payment to the insurance producer, … the disbursement shall be supported by a written record of the following: 1. the name of the insured; 2. the name of the insurer; 3. the policy number; and 4. the net commission…"

In response, the Company's accountant provided a summary financial spreadsheet that contained monthly lists of commission income for the period 1999 to 2003. The examiners noted that the mandatory documentation required by **N.J.A.C. 11:17C-2.5(e)** above was not included in this spreadsheet. Notably, all monthly commission income was listed in an aggregated manner; e.g., monthly totals without any reference to the named insured, the insurer, the policy number or the net commission on a policy level. In an attempt to reconcile these monthly policy commissions back to individual policies, the examiners reviewed all available monthly trust account and operating account bank statements, as well as all internal check registers, account payable registers, cash receipt journals and cash reports for the period 1999 to 2003. After completing this review, the examiners found no evidence of compliance with **N.J.A.C. 11:17C-2.5(e)**. In no instance did the Company provide the examiners with information sufficient to audit aggregated commissions back to an individual policy or insurer that could be verified with actual bank account statements. Simply stated, the aggregated values that appeared on the accountant's spreadsheet do not reconcile with the commission transfers withdrawn from the Company’s premium account register and bank statements.

The examiners submitted another follow up inquiry advising the Company of this finding. In response, the Company directed the examiners to copies of cancelled trust account bank checks and advised that these documents would permit reconciliation of commission disbursements. Upon a second and third review, the examiners confirmed that all trust account checks and associated bank statements merely restated the aggregated values that appeared in the bank statements and internal disbursement registers. Reference to insured, insurer, policy number and net, unaggregated commission did not appear on these checks or the bank records. Further in response to a subsequent inquiry regarding this violation, The Philip Lehman Company, Ltd., advised that it was unable to provide any additional information to document proper commission calculation and commission withdrawals from the trust account. Thus, in the absence of necessary documentation, all 30 randomly selected commission disbursements in the amount of $630,369.41 remain irreconcilable and unsupported. Failure to retain the minimum supporting documentation necessary to audit these records is further contrary to **N.J.A.C. 11:17C-2.5(e)**. Moreover, the Company was unable to validate these disbursements as lawful within the context of **N.J.A.C. 11:17C-2.3(g)5**, and is further indicative of the Company’s failure to maintain the trust account in a fiduciary manner. All 30 transactions in error appear in the following chart.

Premium Account Commission Disbursements-Random Sample

Register Year	Register Month	Payee Entity	Check Number	Dollars Paid
1999	January	Philip Lehman Co	5536	$56,000.00
1999	March	Funds Transfer PLC*	5762	$26,500.00
1999	June	Philip Lehman Co	5973	$30,000.00
1999	July	Philip Lehman Co**	6102	$30,000.00
1999	October	Philip Lehman Co	6303	$35,000.00
1999	December	Philip Lehman Co	6510	$10,000.00
2000	January	Philip Lehman Co**	6546	$ 3,369.41
2000	March	Philip Lehman Co**	6810	$20,000.00
2000	April	Philip Lehman Co	6895	$ 5,000.00
2000	August	Philip Lehman Co	7313	$31,000.00
2000	September	Philip Lehman Co	7405	$15,000.00
2000	December	Philip Lehman Co	7768	$ 6,500.00
2001	January	Philip Lehman Co	7848	$10,000.00
2001	April	Philip Lehman Co	8162	$21,000.00
2001	May	Philip Lehman Co	8248	$20,000.00
2001	July	Philip Lehman Co	8579	$42,000.00
2001	October	Philip Lehman Co	8720	$20,000.00
2001	November	Philip Lehman Co	8921	$25,000.00
2002	February	PLC*	9133	$15,000.00
2002	March	PLC*	9417	$40,000.00
2002	April	PLC*	9551	$ 3,500.00
2002	July	Philip Lehman Co	9843	$15,000.00
2002	August	PLC*	9979	$10,000.00
2002	October	PLC*	10249	$40,000.00

2003	September	Philip Lehman Co**	12375	$10,000.00
2003	October	Philip Lehman Co	12564	$10,500.00
2003	November	Philip Lehman Co	12681	$14,000.00
2003	April	Philip Lehman Co	11365	$18,000.00
2003	May	Philip Lehman Co	11594	$18,000.00
2003	January	PLC*	10601	$30,000.00
			Total	$630,369.41

* PLC is account ledger abbreviation for Philip Lehman Company
** Payee listed was named family individual employed by Company

In order to determine the extent of this error during the review period, the examiners attempted to reconcile monthly and annually aggregated commission disbursements listed on the accountant's summary commission spreadsheet with premium account disbursements identified in the trust account bank records and account registers. As an example, for calendar year 1999, the accountant's summary spreadsheet listed a total of $871,723.43 in commission earnings. However, the trust account ledger for this same period itemizes a total of $1,587,400 in commission transfers to the operating account, or $715,677 more than it actually earned based on records maintained by the Company's accountant. The examiners performed this same review for years 2000 through 2003 and found similar results.

The following chart itemizes trust account commission withdrawal errors for the period 1999 to 2003. The Accountant Commission Statements column lists commission earnings as reported by the Company's accountant. The Trust Account Commission Ledgers column lists commission withdrawals identified in the trust account. The Commission Withdrawal Difference ($) and Commission Withdrawal Difference (%) columns identify trust account withdrawals/remittances that exceeded commission earnings by dollar amount and percentage as reported by the Company's accountant.

Year of Review	Accountant Commission Statements	Trust Account Commission Ledgers	Commission Withdrawal Difference ($)	Commission Withdrawal Difference(%)
1999	$ 871,723	$1,587,400	+$ 715,677	+45%
2000	$1,042,977	$1,628,500	+$ 585,523	+36%
2001	$ 992,419	$1,928,297	+$ 936,081	+49%
2002	$1,120,844	$1,894,344	+$ 773,500	+41%
2003	$1,193,737	$2,137,850	+$ 944,113	+44%
Totals	$5,221,700	$9,176,594	+$3,954,894	+43%

As the above chart indicates, the Company remitted as commission a total of $9,176,594 from its trust account to its operating account during the period 1999 to 2003. However, documentation provided by the Company's accountant indicates that The Philip Lehman Company Ltd., earned only $5,221,700 in commissions for this same period. This represents overcompensation at a rate of 43%, at an amount of $3,954,894.

The Company's response to yet additional inquiries did not provide any documentation that could unaggregate these values at a policy, insurer, insured or bank statement level. In later inquiry responses the Company admitted that it does not maintain such documentation. Accordingly, and within the context of **N.J.A.C. 11:17C-2.3(g)5**, the Agency could not demonstrate that it lawfully disbursed $3,954,894 from its trust account. Moreover, this disparity results in an imbalance between deposits and withdrawals, which constitutes a violation of **N.J.A.C. 11:17C-2.3(i)**. These findings, as well as the Company's failure to maintain necessary documentation, are further supported in items 5 and 6 below.

5. Failure to Prepare and Maintain a Monthly Reconciliation of Trust Account Transactions and Failure to Assure Parity Between Deposits and Withdrawals (Improper General Business Practice)

N.J.A.C. 11:17C-2.5(g) requires a company to prepare and maintain a monthly reconciliation of the trust account. In response to an inquiry, the Company advised that it has never prepared monthly reconciliations. Therefore, the examiners conclude that the Company was never in a position to assure compliance with **N.J.A.C. 11:17C-2.3(i)**, which mandates that the trust account balance shall at all times be at least equal to the amount deposited less lawful withdrawals. The findings outlined in item 4 above illustrates that the Company exceeded lawful withdrawals by $3,954,894 for the period 1999 to 2003. The examiners cited this error as an improper general business practice.

6. Failure to Maintain Financial Documentation Necessary to Validate Disbursements and Financial Transactions in General (Improper General Business Practice)

According to **N.J.A.C. 11:17C-2.5(f)**, all entries for premium receipts and disbursements shall be supported and referenced by evidential matter in order to assure that the entry may be traced for purposes of verification. Pursuant to **N.J.A.C. 11:17C-2.5(b)**, such evidential matter includes a register of all monies received, deposited, disbursed or withdrawn in connection with an insurance transaction, including transfers and disbursements from a trust account. Minimum information to be maintained in these registers includes:

1. The date monies are received, deposited, disbursed or withdrawn;
2. The amount of money received, deposited, disbursed or withdrawn;
3. An itemized record of the allocation of the funds;
4. The name of the insured, insurance producer, insurer or other account to or from whom monies are distributed or received pursuant to **N.J.A.C. 11:17C-2.4(b)**;
5. The policy number or binder number;
6. The receipt number or binder number;
7. The method of payment.

In order to test for compliance with the above requirements, specifically as they relate to commission withdrawals from and deposits to the trust account, the examiners requested the Company to provide all financial books and records that document the activity of all premium transactions from 1999 to 2003. The examiners requested the Company's trust and operating account check register and monthly bank accounts, accounts payable registers, cash receipt journals, cash reports and any other materials that would document the transactions required by **N.J.A.C. 11:17C-2.5(f)** and **N.J.A.C. 11:17C-2.5(b)** as outlined above.

Contrary to these regulations, the Company was unable to provide a complete set of records for the documents requested. The extent of this error is illustrated in Appendix A.2 of this report. This Appendix is an overall inventory that summarizes all financial documents that were and were not provided. As noted, the Company did provide copies of all monthly premium and operating account bank statements. However, these statements included aggregated disbursements and withdrawals that could not be reconciled to any policy or any insurer. Several of the requested documents were not provided, including the Company's internal trust account check register for the entirety of 1999, 2002 and 2003, and the operating account payable registers for 1999 and 2002. Similar errors are reported for cash receipt journals. Thus, the examiners were unable to: 1) track check register check numbers with bank statement check numbers (for the purpose of developing a viable audit trail that would permit unaggregating whole dollar disbursements outlined above); and 2) track and match trust account withdrawals and transfers to deposits in the operating account. Similar difficulties occurred with cash receipt journals that were not provided for the period 1999 and 2000.

Where financial records were provided, detail sufficient to establish an audit trail (policy number, premium, insured, insurer, commission calculation – see **N.J.A.C. 11:17C-2.5(e)**) was non-existent. As such, the Company's failure to provide reliable and complete financial information obstructed the examiners' ability to verify the accuracy of the Company's financial transactions. The Company's failure to retain and/or provide complete financial information as required is further indicative of the Company's failure to demonstrate compliance with lawful disbursement requirements outlined in **N.J.A.C. 11:17C-2.3(g)** and its ability to document and justify such disbursements within the context of **N.J.A.C. 11:17C-2.5 et seq**.

Please See Appendix A.2 for Transactions in Error

7. Failure to Provide Department with Complete Set of Paper or Electronic Records (Improper General Business Practice)

Pursuant to **N.J.A.C. 11:17C-2.6(c)2**, the Company is permitted to electronically maintain all books and records required by **N.J.A.C. 11:17C-1 et seq.** "… if, upon the request of the Department, the electronically kept records can be reproduced in hardcopy…" Items 4 and 5 above illustrate the Company's inability to provide hardcopy of pertinent, electronic accounts payable registers for 1999 and 2002 and cash receipt journals for 1999 and 2000, as well as transaction detail sufficient to permit commission derivation at the insured, insurer and policy level. In addition, the Agency admitted that its entire series of electronic databases were incapable of generating a list or other record of terminated policies for purposes of demonstrating compliance with document retention requirements outlined in **N.J.A.C. 11:17C-2.5(h)** and **N.J.A.C. 11:17C-2.6(a)**. These regulations require producers to maintain all required books and records for a period of five years after termination of coverage. Failure to identify terminated policies circumvented the examiners' ability to test for compliance with such document retention requirements.

It should be noted that, as a result of claimed data volatility issues (data destruction, record deletion, endorsing policies) the examiners did not conduct a complete audit of the Company's electronic records. Where the examiners were actually able to review some systems records, the examiners were nonetheless unable to adequately and independently audit systems records due to the exclusive nature of the Company's business software that was programmed in a modified version of Basic in the 1970's by the principal producer. Notably, this programming language was outdated to the extent that conversion to a modern and stable software platform could not be accomplished without significant expense to the State, and without a high probability of conversion error. These conditions permitted the Company to control the information that was provided to the examiners. This is inconsistent with **N.J.A.C. 11:17C-2.6(a)** through **(c)**, **N.J.S.A. 17:23-23b** and **N.J.A.C. 11:17C-2.6(b)**, all of which require an examinee to provide complete and unfettered access to company records. This improper general business practice obstructed this examination.

8. Failure to Establish and Implement Electronic Data Recovery Procedures (Improper General Business Practice)

Pursuant to **N.J.A.C. 11:17C-2.6(c)1-2**, the Company is permitted to electronically maintain all books and records required by **N.J.A.C. 11:17C *et seq.*** provided that "… electronic back ups are produced daily and, at least every 30 days, the records maintained electronically are reproduced and stored off-site." The examiners cited the Agency for failure to comply with this requirement.

In response, the Company advised that data backups are made daily and transported to the principal producer's home with the same frequency. However, upon further request, the Company did not provide any evidence or documentation of such back ups, back up logs or journals. Additionally, the Company did not respond to the examiners' request for a demonstration of the backup process. Therefore, in the absence of any documentation to the contrary, the Company failed to demonstrate compliance with this requirement. The examiners cited this error as an improper general business practice.

IV. FAILURE TO FACILITATE EXAMINATION

On April 24, 2006 the Department issued an examination call letter to The Philip Lehman Company, Ltd. This letter contained Exhibit A, which included a summary list of documentation that the Agency was directed to provide to the examiners. Specifically, item 8 of Exhibit A directed the Company to provide a policy termination register to the examiners upon their arrival on May 22, 2006. On April 25, 2006 the Agency advised that it does not maintain such a register, and that information on terminations is available only in paper files.

On May 22, 2006, the examination team inquired as to the capability of the Company's electronic record-keeping system to generate a summary report or list of terminated polices. In response, the Company reiterated that this information is not retained in the Agency's electronic records, and that this information is available only in paper files. Also at this time, the Company reiterated its concerns that the examiners could destroy data by merely accessing its computerized file system. Upon continued review, the exam team noticed that the system did in fact include accounting fields (premiums due for billing purposes) that were blank and that could be indicative of policies that were previously in force and currently in termination status. The Agency continued its protest regarding data volatility and system data deletion simply by accessing an electronic record. Accordingly, the examination team continued its attempt to ascertain policy status from the hard copy files pulled for review; however, all such files were in force.

The examination team unsuccessfully continued its efforts to develop a population of terminated files through May 25, 2006. On this date, the examiners once again notified the Company of system fields that could be utilized to identify terminated policies. The examiners then provided the Company with an inquiry that addressed the need for the Agency to develop or research means to provide printouts of any electronically available information that would identify terminated policies. Discussion on this subject ensued, and the Agency advised again that this information could not be used to identify terminated policies. Only after the examiners provided systems screen printouts that identified accounting fields did the Company finally admit that its electronic record does indeed capture accounting information that could identify policy status (in-force or not). The examiners advised the Company to carefully review inquiry 26 and to respond as accurately as possible, with a response period of 3-weeks and a due date of June 16, 2006.

On June 14, 2006, the agency responded electronically and without any attachments, and later on June 19, 2006 in hard copy, that its electronic system "…does maintain records for cancelled and terminated policies where a return premium was due, but it does not have the capability of printing out 1 list with all cancelled and terminated policies…" The examiners note that the Agency's June 14, 2006 electronic response makes no attempt to provide any of the available information that would serve as a starting point to identify terminations.

In an attempt to bring this matter to a conclusion, the examiners contacted the insurers under whom the Agency was contracted and developed an initial list of 65 terminated policies for review. The examiners submitted this list to the Agency on July 19, 2006. This list consisted of the insured's policy number. On the same date, the Company notified the examiners that it could not search its book of business by policy number, and that it could only do so by the name of the insured. Having provided this information on July 19, 2006, the Company then stated that it could not identify terminated policies without the examiners first identifying the State in which the policy was written. The Company further claimed that it could not identify terminations without further clarification of common industry terms that the examiners in fact included and defined in writing in the inquiry that was the subject of this policy request. In response, the examiners directed the Company to conduct this research and report back with a complete response. Ultimately, the Company did in fact have all information necessary to identify these policies and reported so in a later response.

The examiners conclude that the Company's request for this additional clarification and information was clearly and knowingly unnecessary. This served to delay this examination and caused unnecessary expense to the State and the insurers that were requested to assist in this examination.

The examiners note the following violations incident to the above:

1. <u>Failure to Facilitate Examination by Causing Unnecessary State Expenditures and Delays in Responding to Examiner Inquiries – 65 Policies in Error - (Improper General Business Practice</u>)

The Department initiated this examination pursuant to **<u>N.J.S.A</u>. 17:23-20** through **26**, **<u>N.J.S.A</u>. 17:29B-5**, **<u>N.J.A.C</u>. 11:17B <u>et seq</u>**. and **<u>N.J.A.C</u>. 11:17C-1 <u>et seq</u>.** In addition, **<u>N.J.S.A</u>. 17:23-23b** and **<u>N.J.A.C</u>. 11:17C-2.6(b)** require The Philip Lehman Company, Ltd., to facilitate this examination by providing access to all records and all requested information relative to the insurance business activities of this Agency. Lastly, **<u>N.J.S.A</u>. 17:23-1** requires a prompt response to all examiner inquiries. Accordingly, and in violation of these requirements as outlined above, The Philip Lehman Company, Ltd., failed to facilitate this examination on 65 terminated policy files. Information requested relative to these files pended unnecessarily for 96 days measured from April 24, 2006 to July 19, 2006.

2. <u>Failure to Maintain Required Books and Records for Five Year Period Subsequent to Policy Termination (Improper General Business Practice</u>)

N.J.A.C. 11:17C-2.6(a) requires producers to maintain all required books and records for a period of five years after termination of coverage. The Company’s inability to identify the total number of policy terminations for the immediately preceding five-year period is inconsistent with this regulation because it established that the Company did not in fact retain or otherwise have the ability to research these transactions. The examiners cited this error as an improper general business practice. This improper general business practice obstructed this examination.

V. RECOMMENDATIONS

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

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

A. GENERAL INSTRUCTIONS

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

On all policies to be reopened due to a refund or credit, a letter should be sent to the insured with language containing the following first paragraph:

> "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 issue a refund that is owed to you. Enclosed is our (payment/credit including interest) in the amount of (insert amount) to correct our error.

B. FUND MANAGEMENT, FIDUCIARY OBLIGATIONS AND RECORD RETENTION

1. The Company must begin to log all complaints that it receives. This log must include all information outlined in **N.J.S.A. 17:29B-4(10)**. The Philip Lehman Company, Ltd., should issue written instructions to all appropriate personnel stating that a complaint is defined as any written communication that primarily expresses a grievance. A copy of the proposed log that includes any complaint entries recorded from May 22, 2006 to the present should be provided to the Commissioner for review.

2. The Philip Lehman Company, Ltd., must cease its practice of retaining policy credits and refunds beyond the five working day period specified in **<u>N.J.A.C</u>. 11:17C-2.2(b)**.

3. The Company must review all delayed refund remittances identified in Appendix A.1 for the purpose of issuing interest to the insured. The interest payment should be calculated based on the actual credit amount listed and the total period of delay as identified in Appendix A.1.

4. The Philip Lehman Company, Ltd., must review all transactions listed in Appendix A.1 where refund is designated as "Still Pending." The Company must issue the specified refund to the insured, plus interest in accordance with item 3 above.

5. In order to comply with **<u>N.J.A.C</u>. 11:17C-2.2(b)1** and **<u>N.J.A.C</u>. 11:17C-2.2(b)2**, the Company must issue monthly notices of pending premium credits along with a statement advising the insured of the right to payment upon demand. A copy of this notice should be provide to the Commissioner for review.

6. The Company must cease its practice of commingling non-insurance funds in the designated insurance premium trust account. In order to assure compliance on a forward-going basis, the Agency must demonstrate that all commingled funds have been withdrawn from the premium trust account. Documentation in support of these withdrawals must be provided to the Commissioner, and should include, but not be limited to, copies of any checks, statements or other hard copy documents that identify withdrawal and transfer of commingled funds to a non-trust account. All such documentation should itemize commingled withdrawals in the amount of $3,443,841.

7. The Company must cease its practice of aggregating trust account commission withdrawals in a manner that impedes regulatory oversight as permitted under **<u>N.J.A.C</u>. 11:17C-2.6 <u>et seq</u>**., **<u>N.J.S.A</u>. 17:23-20** through **26**, **<u>N.J.S.A</u>. 17:29B-5**, **<u>N.J.A.C</u>. 11:17B <u>et seq</u>**., **<u>N.J.A.C</u>. 11:17C-1 <u>et seq</u>.** and **<u>N.J.S.A</u>. 17:23-23b** as outlined in Section IV above.

8. The Philip Lehman Company, Ltd., must establish written procedures to assure that all trust account withdrawals are lawful within the context of **<u>N.J.A.C</u>. 11:17C-2.3(g)5**. Such procedures shall include an independently verifiable accounting and record keeping system that documents all commission remittances and withdrawals as provided for in **<u>N.J.A.C</u>. 11:17C-2.5(e)5, <u>N.J.A.C</u>. 11:17C-2.5(b)5 and <u>N.J.A.C</u>. 11:17C-2.5(f)** as outlined in this report and the New Jersey Administrative Code. These procedures must be provided to the Commissioner for review prior to implementation.

9. In order to comply with **N.J.A.C. 11:17C-2.5(g)**, the Company must prepare and maintain a monthly reconciliation of the trust account. The Philip Lehman Company, Ltd., must provide the Commissioner with a written description of the methodology that it intends to utilize when creating reconciliation reports. This methodology must, pursuant to **N.J.A.C. 11:17C-2.3(i)** and **N.J.A.C. 11:17C-2.5(c)**, include an independently verifiable description of the Company's response and action to resolve disparity between deposits and lawful withdrawals. A proposed reconciliation report template should be provided to the Commissioner for review.

10. The Company must, pursuant to **N.J.A.C. 11:17C-2.6(a),** establish procedures to assure that all paper documents and electronic records are retained for no fewer than five years after the termination of coverage. The content and specifics of all such documentation is outlined in detail in **N.J.A.C. 11:17C-2.1** through **N.J.A.C. 11:17C-2.6**. After reviewing these requirements, and within the time frame outlined in Section V.A above, The Philip Lehman Company must provide the Commissioner with a detailed description of the methodology it intends to employ to achieve compliance with these regulations.

11. The Philip Lehman Company, Ltd., should abandon the use of its current computer software and electronic record keeping system for the reasons outlined in Sections III.7-8 and Section IV above. Specific emphasis should be placed on correction of data volatility and retention limitations, as well as lack of transparency which undermines regulatory oversight. Any such electronic record keeping methodology must comply with **N.J.A.C. 11:17C-2.1** through **N.J.A.C. 11:17C-2.6, N.J.S.A. 17:23-20** through **26**, **N.J.S.A. 17:29B-5**, **N.J.A.C. 11:17B et seq**., **N.J.A.C. 11:17C-1 et seq., N.J.S.A. 17:23-23b** and **N.J.S.A. 17:23-1.** The Company should provide the Commissioner with a proposal for updating its current electronic systems. This proposal should contain contingencies in the event of data or systems failure.

12. In order to comply with **N.J.A.C. 11:17C-2.6(c)1-2**, the Company must establish procedures to assure that electronic back ups are produced daily. Such procedures must also provide that, at least every 30 days, the records maintained electronically are reproduced and stored off site. A written description of this process should be provided to the Commissioner.

13. The Philip Lehman Company, Ltd., must issue written instructions to all pertinent personnel stating that an examinee is required to facilitate an examination in the manner prescribed in **N.J.A.C. 11:17C-2.1** through **N.J.A.C. 11:17C-2.6, N.J.S.A. 17:23-20** through **26**, **N.J.S.A. 17:29B-5**, **N.J.A.C. 11:17B et seq**., **N.J.A.C. 11:17C-1 et seq., N.J.S.A. 17:23-23b** and **N.J.S.A. 17:23-1**. The

Company is expected to comply with these requirements in this and any subsequent Department inquiry, including Enforcement staff.

C. QUARTERLY COMPLIANCE REPORTS

14. On a quarterly basis, The Philip Lehman Company, Ltd., should provide the Commissioner with copies of its monthly reconciliation reports for at least one 12-month cycle beginning January 1, 2008, based on the following schedule:

    First Reporting Quarter - January 1, 2008 to March 31, 2008 and due April 15, 2008.
    Second Reporting Quarter – April 1, 2008 to June 30, 2008 and due July 15, 2008.
    Third Reporting Quarter - July 1, 2008 to September 30, 2008 and due October 15, 2008.
    Fourth Reporting Quarter - October 1, 2008 to December 31, 2008 and due January 15, 2009

    Each monthly reconciliation report must be completed in the manner described in recommendation 9 above.

15. On a quarterly basis, The Philip Lehman Company, Ltd., should provide the Commissioner with an unaggregated trust account commission withdrawal report for at least one 12-month cycle beginning January 1, 2007, based on the following schedule:

    First Reporting Quarter - January 1, 2008 to March 31, 2008 and due April 15, 2008.
    Second Reporting Quarter – April 1, 2008 to June 30, 2008 and due July 15, 2008.
    Third Reporting Quarter - July 1, 2008 to September 30, 2008 and due October 15, 2008.
    Fourth Reporting Quarter - October 1, 2008 to December 31, 2008 and due January 15, 2009

    This report must demonstrate that the Company is compliant with **N.J.A.C. 11:17C-2.5(b), (e), (f)** and **N.J.A.C. 11:17C-2.4(b)** as outlined in this report.

16. On a quarterly basis, The Philip Lehman Company, Ltd., should provide the Commissioner with documentation that it has complied with the electronic record backup requirements stated in **N.J.A.C. 11:17C-2.6(c)3** for at least one 12-month cycle beginning January 1, 2007, based on the following schedule:

    First Reporting Quarter - January 1, 2008 to March 31, 2008 and due April 15, 2008.
    Second Reporting Quarter – April 1, 2008 to June 30, 2008 and due July 15, 2008.
    Third Reporting Quarter - July 1, 2008 to September 30, 2008 and due October 15, 2008.

Fourth Reporting Quarter - October 1, 2008 to December 31, 2008 and due January 15, 2009

17. On a quarterly basis, The Philip Lehman Company, Ltd., should provide the Commissioner with copies of all termination notices issued to policyholders for at least one 12-month cycle beginning January 1, 2007, based on the following schedule:

    First Reporting Quarter - January 1, 2008 to March 31, 2008 and due April 15, 2008.
    Second Reporting Quarter – April 1, 2008 to June 30, 2008 and due July 15, 2008.
    Third Reporting Quarter - July 1, 2008 to September 30, 2008 and due October 15, 2008.
    Fourth Reporting Quarter - October 1, 2008 to December 31, 2008 and due January 15, 2009

APPENDIX A – FUND MANAGEMENT AND FIDUCIARY OBLIGATIONS

1. Failure to Remit Refunds within Five Business Days

Policy Number	PLC Acct Number	Invoice Number	Return Premium	Statement Date	Received $ from Company	Premium Refund Date	Working Days to Issue Refund	Working Days to Issue Refund in Error
763-00-6-34-001	93012269	107617	$6,070.00	5/17/2002	5/22/2002	8/7/2002	52	47
763-00-6-34-001	93012269	100699	$394.00	3/22/2001	3/23/2001	7/17/2001	80	75
170552-201	19972999	X	X	X	X	X	Still Pending	Still Pending
7164-46-23	93092195	103332	$1,124.00	8/22/2001	9/5/2001	2/14/2002	112	107
WC 012840	10007260	115849	$1,310.00	10/13/2003	10/14/2003	10/24/2004	261	256
WC 012840	10007260	116633	$3,755.00	10/13/2003	12/10/2003	11/4/2004	237	232
WC 012840	10007260	120349	$1,103.00	9/7/2004	9/10/2004	10/1/2004	16	11
35307060	10002699	107900	$4,255.00	6/4/2002	6/7/2002	10/21/2002	95	90
35307060	10002699	101449	$8,496.00	5/9/2001	5/14/2001	6/18/2001	25	20
35307060	10002699	101718	$725.87	5/22/2001	5/30/2001	1/22/2002	165	160
74-334348	93011121	1126280	$5,065.00	10/28/2003	11/11/2003	12/10/2003	19	14
GLP 9104459	93010217	124100	$33.00	11/28/2005	11/30/2005	12/13/2005	9	4
WC 004225 05	93009187	107509	$2,481.16	5/9/2002	5/17/2002	6/12/2002	17	12
WC 004225 05	93009187	108104	$773.00	6/12/2002	6/22/2002	1/21/2004	405	400
ZHY 5381543	93005077	84624	$334.00	1/26/1998	2/4/1998	3/13/1998	27	22
ZHY 5381543	93005077	95591	$1,253.00	3/6/2000	3/28/2000	9/1/2000	110	105
00-74-325191	93001195	95693	$250.00	4/3/2000	4/5/2000	6/16/2000	52	47
WC 015292	10003291	109537	$1,199.00	3/20/2002	9/20/2002	XX	Still Pending	Still Pending
MPA 9A 08 00	91061992	88486	$1,319.00	10/2/1998	10/12/1998	12/10/1998	42	37
MPA 9A 08 00	91061992	92852	$567.00	9/3/1999	9/8/1999	10/6/1999	20	15
WC 4A 63 99	10000217	95285	$343.00	3/28/2000	3/20/2000	XX	Still Pending	Still Pending
WC 4A 63 99	10000217	95619	$339.00	3/28/2000	3/29/2000	XX	Still Pending	Still Pending
WC 4A 63 99	10000217		$170.25	XXX	XXX	4/3/2000	Still Pending	Still Pending
BO 4A 63 99	10000217	95387	$293.00	3/28/2000	3/10/2000	XX	Still Pending	Still Pending
WC 011007	10021800	106831	$81.00	3/29/2002	4/1/2002	5/29/2003	296	291
BA 7E0283	10021800	109305	$206.00	7/1/2002	9/4/2002	5/29/2003	187	182
MPA 7E0283	10021800	109307	$4,326.00	6/25/2002	9/4/2002	5/29/2003	187	182
WC 011007	10021800	109539	$125.36	7/23/2002	9/20/2002	5/29/2003	174	169
3527 92 32 EZG	93003164	94396	$1,647.00	12/6/1999	1/4/2000	4/3/2000	64	59
CB6A5380	30001289	121085	$1,435.00	Unknown	1/10/2005	2/1/2005	16	11

X = Information not provided by Agency. Unknown if disbursement issued to insured.

XX = Refund still pending. Account History reveals no disbursement to insured.

XXX = Information not provided. Timeliness of refund unknown.
All files are cited pursuant to NJAC 11:17C-2.2(b) as outlined in the body of this report.
All files where information was not provided are further cited under NJAC 11:17C-2.5(a) and (h) and NJAC 11:17C-2.6(a) and (b).

2. Failure to Maintain Financial Documentation Necessary to Validate Disbursements and Financial Transactions in General

a. Premium, Operating and Accounts Payable Internal Ledgers

Year	Month	Call Letter Request for Register **Trust Acct**	Inquiry 19 Follow Up Request **Trust Acct**	Call Letter Request for Register **Operating Acct**	Inquiry 19 Follow Up Request **Operating Acct**	Call Letter Request for Acct Payable Register **A/P Register**	Inquiry 19 Follow Up Request for Acct Payable Register **A/P Register**
1999	January	Not Provided	Not Provided	Not Provided	Not Provided	Not Provided	Not Provided
	February	Not Provided	Not Provided	Not Provided	Not Provided	Not Provided	Not Provided
	March	Not Provided	Not Provided	Not Provided	Not Provided	Not Provided	Not Provided
	April	Not Provided	Not Provided	Not Provided	Not Provided	Not Provided	Not Provided
	May	Not Provided	Not Provided	Not Provided	Not Provided	Not Provided	Not Provided
	June	Not Provided	Not Provided	Not Provided	Not Provided	Not Provided	Not Provided
	July	Not Provided	Not Provided	Not Provided	Not Provided	Not Provided	Not Provided
	August	Not Provided	Not Provided	Not Provided	Not Provided	Not Provided	Not Provided
	September	Not Provided	Not Provided	Not Provided	Not Provided	Not Provided	Not Provided
	October	Not Provided	Not Provided	Not Provided	Not Provided	Not Provided	Not Provided
	November	Not Provided	Not Provided	Not Provided	Not Provided	Not Provided	Not Provided
	December	Not Provided	Not Provided	Not Provided	Not Provided	Not Provided	Not Provided
2000	January	Provided	Provided Again	Provided	Provided Again	Provided	Provided Again
	February	Provided	Provided Again	Provided	Provided Again	Provided	Provided Again
	March	Provided	Provided Again	Provided	Provided Again	Provided	Provided Again
	April	Provided	Provided Again	Provided	Provided Again	Provided	Provided Again
	May	Provided	Provided Again	Provided	Provided Again	Provided	Provided Again
	June	Provided	Provided Again	Provided	Provided Again	Provided	Provided Again
	July	Provided	Provided Again	Provided	Provided Again	Provided	Provided Again
	August	Provided	Provided Again	Provided	Provided Again	Provided	Provided Again
	September	Provided	Provided Again	Provided	Provided Again	Provided	Provided Again
	October	Provided	Provided Again	Provided	Provided Again	Provided	Provided Again
	November	Provided	Provided Again	Provided	Provided Again	Provided	Provided Again
	December	Provided	Provided Again	Provided	Provided Again	Provided	Provided Again
2001	January	Provided	Provided Again	Provided	Provided Again	Provided	Provided Again
	February	Provided	Provided Again	Provided	Provided Again	Provided	Provided Again
	March	Provided	Provided Again	Provided	Provided Again	Provided	Provided Again
	April	Provided	Provided Again	Provided	Provided Again	Provided	Provided Again
	May	Provided	Provided Again	Provided	Provided Again	Provided	Provided Again
	June	Provided	Provided Again	Provided	Provided Again	Provided	Provided Again
	July	Provided	Provided Again	Provided	Provided Again	Provided	Provided Again
	August	Provided	Provided Again	Provided	Provided Again	Provided	Provided Again
	September	Provided	Provided Again	Provided	Provided Again	Provided	Provided Again
	October	Provided	Provided Again	Provided	Provided Again	Provided	Provided Again
	November	Provided	Provided Again	Provided	Provided Again	Provided	Provided Again
	December	Provided	Provided Again	Provided	Provided Again	Provided	Provided Again
2002	January	Not Provided	Not Provided	Not Provided	Not Provided	Not Provided	Provided
	February	Not Provided	Not Provided	Not Provided	Not Provided	Not Provided	Provided
	March	Not Provided	Not Provided	Not Provided	Not Provided	Not Provided	Provided
	April	Not Provided	Not Provided	Not Provided	Not Provided	Not Provided	Provided
	May	Not Provided	Not Provided	Not Provided	Not Provided	Not Provided	Provided
	June	Not Provided	Not Provided	Not Provided	Not Provided	Not Provided	Provided
	July	Not Provided	Not Provided	Not Provided	Not Provided	Not Provided	Provided

	August	Not Provided	Not Provided	Not Provided	Not Provided	Not Provided	Provided
	September	Not Provided	Not Provided	Not Provided	Not Provided	Not Provided	Provided
	October	Not Provided	Not Provided	Not Provided	Not Provided	Not Provided	Provided
	November	Not Provided	Not Provided	Not Provided	Not Provided	Not Provided	Provided
	December	Not Provided	Not Provided	Not Provided	Not Provided	Not Provided	Provided
2003	January	Not Provided	Not Provided	Not Provided	Not Provided	Provided	Provided Again
	February	Not Provided	Not Provided	Not Provided	Not Provided	Provided	Provided Again
	March	Not Provided	Not Provided	Not Provided	Not Provided	Provided	Provided Again
	April	Not Provided	Not Provided	Not Provided	Not Provided	Provided	Provided Again
	May	Not Provided	Not Provided	Not Provided	Not Provided	Provided	Provided Again
	June	Not Provided	Not Provided	Not Provided	Not Provided	Provided	Provided Again
	July	Not Provided	Not Provided	Not Provided	Not Provided	Provided	Provided Again
	August	Not Provided	Not Provided	Not Provided	Not Provided	Provided	Provided Again
	September	Not Provided	Not Provided	Not Provided	Not Provided	Provided	Provided Again
	October	Not Provided	Not Provided	Not Provided	Not Provided	Provided	Provided Again
	November	Not Provided	Not Provided	Not Provided	Not Provided	Provided	Provided Again
	December	Not Provided	Not Provided	Not Provided	Not Provided	Provided	Provided Again

b. Cash Receipt Journals

Year	Month	Call Letter Request for Cash Receipt Journal	Inquiry 19 Follow Up Request for Cash Receipt Journal
1999	January	Not Provided	Not Provided
	February	Not Provided	Not Provided
	March	Not Provided	Not Provided
	April	Not Provided	Not Provided
	May	Not Provided	Not Provided
	June	Not Provided	Not Provided
	July	Not Provided	Not Provided
	August	Not Provided	Not Provided
	September	Not Provided	Not Provided
	October	Not Provided	Not Provided
	November	Not Provided	Not Provided
	December	Not Provided	Not Provided
2000	January	Not Provided	Not Provided
	February	Not Provided	Not Provided
	March	Not Provided	Not Provided
	April	Not Provided	Not Provided
	May	Not Provided	Not Provided
	June	Not Provided	Not Provided
	July	Not Provided	Not Provided
	August	Not Provided	Not Provided
	September	Not Provided	Not Provided
	October	Not Provided	Not Provided
	November	Not Provided	Not Provided
	December	Not Provided	Not Provided
2001	January	Not Provided	Provided
	February	Not Provided	Provided
	March	Not Provided	Provided
	April	Partial	Provided
	May	Not Provided	Provided
	June	Not Provided	Provided
	July	Not Provided	Provided
	August	Not Provided	Provided
	September	Not Provided	Provided
	October	Not Provided	Provided
	November	Not Provided	Provided
	December	Not Provided	Provided
2002	January	Provided	Provided Again
	February	Provided	Provided Again
	March	Provided	Provided Again
	April	Provided	Provided Again
	May	Provided	Provided Again

	June	Provided	Provided Again
	July	Provided	Provided Again
	August	Provided	Provided Again
	September	Provided	Provided Again
	October	Provided	Provided Again
	November	Provided	Provided Again
	December	Provided	Provided again
2003	January	Provided	Provided Again
	February	Provided	Provided Again
	March	Provided	Provided Again
	April	Provided	Provided Again
	May	Provided	Provided Again
	June	Provided	Provided Again
	July	Provided	Provided Again
	August	Provided	Provided Again
	September	Provided	Provided Again
	October	Provided	Provided Again
	November	Provided	Provided Again
	December	Provided	Provided Again

b. Cash Reports

1999	January	Not Provided
	February	Not Provided
	March	Not Provided
	April	Not Provided
	May	Not Provided
	June	Not Provided
	July	Not Provided
	August	Not Provided
	September	Not Provided
	October	Not Provided
	November	Not Provided
	December	Not Provided
2000	January	Not Provided
	February	Not Provided
	March	Not Provided
	April	Not Provided
	May	Not Provided
	June	Not Provided
	July	Not Provided
	August	Not Provided
	September	Not Provided
	October	Not Provided
	November	Not Provided
	December	Not Provided

VERIFICATION PAGE

I, Clifton J. Day, am the Examiner-in-Charge of the Market Conduct Examination of The Philip Lehman Company, Ltd conducted by examiners of the New Jersey Department of Banking and Insurance. This verification is based on my personal knowledge as acquired in my official capacity.

The findings, conclusions and recommendations contained in the foregoing report represent, to the best of my knowledge, a full and true statement of the Market Conduct examination of The Philip Lehman Company, Ltd as of May 11, 2007.

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

Date	Clifton J. Day, MPA, CPM Manager 1 and Examiner-In-Charge, Market Conduct Examinations and Anti-Fraud Compliance Unit, New Jersey Department of Banking and Insurance