

**MARKET CONDUCT EXAMINATION REPORT**

**OF**

**PRIVILEGE UNDERWRITERS RECIPROCAL  
EXCHANGE**

**AS OF**

**December 31, 2019**

**COMMONWEALTH OF VIRGINIA  
STATE CORPORATION COMMISSION  
BUREAU OF INSURANCE**

**Property and Casualty Division  
Market Conduct Section**

# COMMONWEALTH OF VIRGINIA



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## **STATE CORPORATION COMMISSION**

### **BUREAU OF INSURANCE**

I, Gloria Warriner, Senior Insurance Market Examiner of the Bureau of Insurance, do hereby certify that the annexed copy of the Market Conduct Examination Report of Privilege Underwriters Reciprocal Exchange as of December 31, 2019, conducted at the State Corporation Commission's office in Richmond, Virginia is a true copy of the original Report on file with the Bureau and also includes a true copy of the company's response to the findings set forth therein, and a true copy of the Bureau's review letters and the State Corporation Commission's Order in Case Number INS-2021-00111 finalizing this Report.

IN WITNESS WHEREOF, I have  
hereunto set my hand and affixed  
the official seal of this the Bureau  
at the City of Richmond, Virginia,  
this 16<sup>th</sup> day of November 2021.

Examiner in Charge

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## **EXECUTIVE SUMMARY**

The examination included a detailed review of Privilege Underwriters Insurance Reciprocal Exchange's homeowner and renters' lines of business in Virginia for the period beginning January 1, 2019 and ending December 31, 2019. This review included rating and underwriting, policy terminations, claims handling, forms, policy issuance, statutory notices, agent/agency licensing, complaint-handling, and information security practices.

This company is new to the Virginia insurance market, and this is the first Market Conduct Examination the Bureau of Insurance (Bureau) has performed on this company.

The examination revealed only 85 violations. The bulk of these were the 40 violations in the rating and underwriting area. The examiners found ten violations in the terminations area and 18 violations in the area of claims, which resulted in only one general business practice (GBP). There were no violations in the forms or complaint handling areas.

There were four violations in the area of notices, 12 violations in policy issuance, and one violation in licensing and appointments.

The Corrective Action Plan (CAP) for rating and underwriting requested the company use the rules and rates on file with the Bureau and file all rates and supplementary rating information with the Bureau prior to use. The terminations CAP required that the company only terminate policies for the reasons permitted by the statute, provide the Notice of Information Collection and Disclosure Practices, provide a written Adverse Underwriting Decision (AUD) notice, and send properly calculated refunds to insureds.

In addition, the claims CAP requested the company include a correct statement of coverage under which payments are made with all claim payments made to insureds. The policy issuance CAP requested the company to provide the Flood Exclusion and Earthquake Exclusion notices to insureds. The CAP for notices requested the company correct or develop the following notices: long form Information Collection and Disclosure Practices, short form Information Collection and Disclosure Practices, Insurance Credit Score Disclosure, and Earthquake Exclusion. The agent licensing and appointments CAP requested the company appoint agents within 30 days.

Finally, the CAP requested that restitution of \$2,489.11 be made to two Virginia consumers.



## INTRODUCTION

Pursuant to the authority of § 38.2-1317 of the Code of Virginia, a comprehensive examination has been made of the homeowner and renters' lines of business written by Privilege Underwriters Reciprocal Exchange at the office of the State Corporation Commission, Bureau of Insurance, in Richmond, Virginia.

The examination commenced June 15, 2020 and concluded September 15, 2020. Brandon S. Ayers, William T. Felvey, NuDasha P. Fludd, Ju'Coby D. Hendrick, Dan R. Koch, Latitia L. Orange, Melody S. Morrisette, and Gloria V. Warriner, examiners of the Bureau of Insurance, participated in the work of the examination. The examination was called in the Market Action Tracking System on January 7, 2020 and was assigned the Action Number of VA-VA177-10. The examination was conducted in accordance with the guidelines contained in the National Association of Insurance Commissioners (NAIC) Market Regulation Handbook.

## COMPANY PROFILE\*

Formed in January 2007, Privilege Underwriters Reciprocal Exchange (PURE) is a member owned Florida-domiciled reciprocal insurer. It serves the personal property and casualty insurance needs of affluent individuals and families by offering homeowners, personal auto, fine art and jewelry, umbrella liability, and personal watercraft insurance. PURE was licensed in the Commonwealth of Virginia in 2012 and PURE currently serves more than 90,000 members as of December 2019, in 49 states and the District of Columbia.

PURE Risk Management, LLC ("PRM") is the attorney-in-fact for PURE. On February 7, 2020, Privilege Underwriters Inc., the sole owner of PRM, was acquired by the Tokio Marine Group. PURE remained member owned.

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\* Source: Privilege Underwriters Reciprocal Exchange.

The table below indicates when the company was licensed in Virginia and the lines of insurance that the company was licensed to write in Virginia during the examination period. All lines of insurance were authorized on the date that the company was licensed in Virginia except as noted in the table.

<b>GROUP CODE: 4664</b>	<b>PRIVILEGE UNDERWRITERS RECIPROCAL EXCHANGE</b>
NAIC Company Number	12873
LICENSED IN VIRGINIA	12/05/2012
LINES OF INSURANCE	
Accident and Sickness	
Aircraft Liability	
Aircraft Physical Damage	
Animal	
Automobile Liability	X
Automobile Physical Damage	X
Boiler and Machinery	
Burglary and Theft	
Commercial Multi-Peril	
Credit	
Farmowners Multi-Peril	
Fidelity	
Fire	
General Liability	X
Glass	
Homeowners Multi-Peril	X
Inland Marine	X
Miscellaneous Property	11/02/2017
Ocean Marine	X
Surety	
Water Damage	X
Workers' Compensation	04/26/2016

The table below shows the company's premium volume and approximate market share of business written in Virginia during 2019 for the line of insurance included in this examination.\* This business was developed through independent agents.

<b>COMPANY AND LINE</b>	<b>PREMIUM VOLUME</b>	<b>MARKET SHARE</b>
<b>Privilege Underwriter Reciprocal Exchange</b>		
Homeowner Multiple Peril	\$6,246,158	.26%

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\* Source: The 2019 Annual Statement on file with the Bureau of Insurance and the Virginia Bureau of Insurance Statistical Report.

## SCOPE OF THE EXAMINATION

The examination included a detailed review of the company's homeowner and renters' lines of business written in Virginia for the period beginning January 1, 2019 and ending December 31, 2019. This review included rating, underwriting, policy terminations, claims handling, forms, policy issuance<sup>1</sup>, statutory notices, agent/agency licensing, complaint-handling, and information security practices. The purpose of this examination was to determine compliance with Virginia insurance statutes and regulations and to determine that the company's operations were consistent with public interest.

This Report is divided into three sections, Part One – The Examiners' Observations, Part Two – Corrective Action Plan, and Part Three – Recommendations. Part One outlines all of the violations of Virginia insurance laws that were cited during the examination. In addition, the examiners cited instances where the company failed to adhere to the provisions of the policies issued in Virginia. The Other Law Violations portion of Part One notes violations of other related laws that apply to insurers.

In Part Two, the Corrective Action Plan identifies the violations that are subject to a monetary penalty.

In Part Three, the examiners list Recommendations regarding the company's practices that require some action by the company.

The examiners may not have discovered every unacceptable or non-compliant activity in which the company engaged. The failure to identify, comment on, or criticize specific company practices does not constitute an acceptance of the practices by the Bureau.

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<sup>1</sup> Policies reviewed under this category reflected the company's current practices and, therefore, fell outside of the exam period.

**STATISTICAL SUMMARY**

The files selected for the review of the rating and underwriting, terminations, and claims handling processes were chosen by random sampling of the various populations provided by the company. The relationship between population and sample is shown on the following page.

In other areas of the examination, the sampling methodology is different. The examiners have explained the methodology for those areas in corresponding sections of the Report.

The details of the errors will be explained in Part One of this Report. General business practices may or may not be reflected by the number of errors shown in the summary.

**Population  
Sample Requested**

AREA	12873	FILES REVIEWED	FILES NOT FOUND	FILES WITH ERRORS	ERROR RATIO
<b>Homeowner</b>					
New Business	<u>364</u> 30	30	0	13	43%
Renewal Business	<u>1620</u> 50	50	0	23	46%
Co-Initiated Cancellations	<u>1</u> 1	1	0	1	100%
All Other Cancellations <sup>1</sup>	<u>118</u> 32	21	0	0	0%
Nonrenewals	<u>4</u> 2	2	0	0	0%
Rejected Apps	<u>66</u> 7	7	0	4	57%
Renters <sup>2</sup>	<u>17</u> 6	4	0	3	75%
<b>Claims</b>					
Property	<u>133</u> 40	40	0	13	33%

Footnote <sup>1</sup> - Two nonpayment cancellations were expired policies and not reviewed. Four insured requested cancellations were duplicates, two insured requested cancellations were expired policies, and another three insured requested cancellations were cancel rewrites and were not reviewed.

Footnote <sup>2</sup> - One renters policy was a duplicate and another was expired. These were not reviewed.

## **PART ONE – THE EXAMINERS’ OBSERVATIONS**

This section of the Report contains all of the observations that the examiners provided to the company. These include all instances where the company violated Virginia insurance statutes and regulations. In addition, the examiners noted any instances where the company violated any other Virginia laws applicable to insurers.

### **RATING AND UNDERWRITING REVIEW**

#### **Homeowner New Business Policies**

The examiners reviewed 30 new business policy files. During this review, the examiners found no overcharges and undercharges totaling \$2,411.

- (1) The examiners found one violation of § 38.2-1906 A of the Code of Virginia. The company failed to file all rates and supplementary rating information with the Bureau prior to use.
- (2) The examiners found 13 violations of § 38.2-1906 D of the Code of Virginia. The company failed to use the rules and/or rates on file with the Bureau.
  - a. In one instance, the company failed to use the correct discounts and/or surcharges.
  - b. In two instances, the company failed to use the correct base and/or final rates.
  - c. In one instance, the company failed to use the correct deductible factors.
  - d. In nine instances, the company failed to use the correct occupancy class.

**Homeowner Renewal Business Policies**

The examiners reviewed 50 renewal business policy files. During this review, the examiners found overcharges totaling \$21 and undercharges totaling \$3,755. The net amount that should be refunded to insureds is \$21 plus six percent (6%) simple interest.

- (1) The examiners found one violation of § 38.2-1906 A of the Code of Virginia. The company failed to file all rates and supplementary rating information with the Bureau prior to use.
- (2) The examiners found 25 violations of § 38.2-1906 D of the Code of Virginia. The company failed to use the rules and/or rates on file with the Bureau.
  - a. In two instances, the company failed to use the correct discounts and/or surcharges.
  - b. In 13 instances, the company failed to use the correct occupancy class.
  - c. In ten instances, the company applied a rate cap factor that was not on file with the Bureau.

**Termination Review**

The Bureau requested cancellation files in several categories due to the difference in the way these categories are treated by Virginia insurance statutes, regulations, and policy provisions. The breakdown of these categories is described below.

**Company-Initiated Cancellations – Homeowner Policies****NOTICE MAILED BEFORE THE 90<sup>TH</sup> DAY OF COVERAGE**

The company did not initiate any homeowner cancellations before the 90<sup>th</sup> day of coverage during the examination period.



NOTICE MAILED AFTER THE 89<sup>TH</sup> DAY OF COVERAGE

The examiners reviewed one homeowner cancellation that was initiated by the company where the company mailed the notice on or after the 90<sup>th</sup> day of coverage in the initial policy period or at any time during the term of a subsequent renewal policy. During this review, the examiners found overcharges totaling \$2,327.22 and no undercharges. The net amount that should be refunded to insureds is \$2,327.22 plus six percent (6%) simple interest.

- (1) The examiners found one violation of § 38.2-1906 D of the Code of Virginia. The company failed to use the rules and/or rates on file with the Bureau. The company failed to return the unearned premium to the insured after cancellation.
- (2) The examiners found one violation of § 38.2-2114 A of the Code of Virginia. The company cancelled a policy insuring an owner-occupied dwelling after the 89<sup>th</sup> day of coverage for a reason not permitted by the statute.

**All Other Cancellations – Homeowner Policies**NONPAYMENT OF PREMIUM

The company did not initiate any homeowner cancellations for nonpayment of the policy premium during the examination period.

REQUESTED BY THE INSURED

The examiners reviewed 21 homeowner cancellations that were initiated by the insured where the cancellation was to be effective during the policy term. During this review, the examiners found no overcharges and no undercharges.

The examiners found no violations in this area.

**Company-Initiated Non-renewals – Homeowner Policies**

The examiners reviewed two homeowner non-renewals that were initiated by the company. During the review, the examiners found no overcharges and no undercharges.

The examiners found no violations in this area.

**Rejected Applications – Homeowner Policies**

The examiners reviewed seven homeowner insurance applications for which the company declined to issue a policy.

The examiners found four violations of § 38.2-610 A of the Code of Virginia. The company failed to provide the applicant with written notice of an AUD.

**Renters Policies**

The examiners reviewed four termination notices of policies that do not insure owner-occupied dwellings. During this review, the examiners found no overcharges and no undercharges.

- (1) The examiners found one violation of § 38.2-604 A of the Code of Virginia. The company failed to provide the Notice of Information Collection and Disclosure Practices as required by the statute.
- (2) The examiners found one violation of § 38.2-610 A of the Code of Virginia. The company failed to provide the applicant with written notice of an AUD.
- (3) The examiners found two occurrences where the company failed to comply with the provisions of the insurance policy. The company failed to retain evidence of the insured's request for cancellation.

**CLAIMS REVIEW****Homeowner Claims**

The examiners reviewed 40 homeowner claims for the period of January 1, 2019 through December 31, 2019. The findings below appear to be contrary to the standards set forth by Virginia insurance statutes and regulations. During this review, the examiners found no overpayments and no underpayments.

- (1) The examiners found one violation of 14 VAC 5-400-60 B. The company failed to notify the insured, in writing, every 45 days of the reason for the company's delay in completing the investigation of the claim.
- (2) The examiners found one violation of 14 VAC 5-400-70 A. The company failed to deny a claim or part of a claim in writing and/or failed to keep a copy of the written denial in the claim file.
- (3) The examiners found two violations of § 38.2-510 A 3 of the Code of Virginia. The company failed to adopt and implement reasonable standards for the prompt investigation of claims arising under insurance policies.
- (4) The examiners found 14 violations of § 38.2-510 A 10 of the Code of Virginia. The company made a claim payment to the insured or the insured's beneficiary that was not accompanied by a statement setting forth the correct coverage under which payment was made.

These findings occurred with such frequency as to indicate a general business practice.

**FORMS REVIEW**

The examiners reviewed the company's policy forms and endorsements used during the examination period and those that are currently used for the lines of business examined. From this review, the examiners verified the company's compliance with Virginia insurance statutes and regulations.

To obtain copies of the policy forms and endorsements used during the examination period for the lines of business listed below, the Bureau requested copies from the company. In addition, the Bureau requested copies of new and renewal business policy mailings that the company was processing at the time of the Examination Data Call. The details of these policies are set forth in the Policy Issuance Process Review section of the Report. The examiners then reviewed the forms used on these policies to verify the company's current practices.

**Homeowner Policy Forms****POLICY FORMS USED DURING THE EXAMINATION PERIOD**

The company provided copies of 28 forms that were used during the examination period to provide coverage on policies insuring risks located in Virginia.

The examiners found no violations in this area.

**POLICY FORMS CURRENTLY USED**

The examiners found no additional forms to review.

**POLICY ISSUANCE PROCESS REVIEW**

To obtain sample policies to review the company's policy issuance process for the lines of business examined, the examiners requested new and renewal business policy mailings that were sent to the insured after the company received the Examination Data Call. The company was instructed to provide duplicates of the entire packet that was provided to the insured. The details of these policies are set forth below.

For this review, the examiners verified that the company listed and enclosed all of the applicable policy forms shown on the declarations page. In addition, the examiners verified that all required notices were enclosed with each policy. Finally, the examiners verified that the coverages on the new business policies were the same as those requested on the applications for those policies.

**Homeowner Policies**

The company provided eight new business policies sent on the following dates: January 10 and 25, 2020, February 1 and 4, 2020, March 7, 10, and 28, 2020. In addition, the company provided eight renewal business policies sent on the following dates: January 7, 14, 24, 27, and 30, 2020 and February 16 and 26, 2020.

**NEW BUSINESS POLICIES**

- (1) The examiners found one violation of § 38.2-325 A of the Code of Virginia. The company failed to provide evidence of an agreement with the insured that policy forms and endorsements could be delivered electronically.
- (2) The examiners found three violations of § 38.2-2129 of the Code of Virginia. The company failed to provide the notice advising the insured that the policy did not include coverage for loss due to earthquake.

RENEWAL BUSINESS POLICIES

- (1) The examiners found five violations of § 38.2-2125 of the Code of Virginia. The company failed to provide the notice advising the insured that the policy did not include coverage for loss due to flood.
- (2) The examiners found three violations of § 38.2-2129 of the Code of Virginia. The company failed to provide the notice advising the insured that the policy did not include coverage for loss due to earthquake.

STATUTORY NOTICES REVIEW

The examiners reviewed the company's statutory notices used during the examination period and those that are currently used for all of the lines of business examined. From this review, the examiners verified the company's compliance with Virginia insurance statutes and regulations.

To obtain copies of the statutory notices used during the examination period for the lines of business listed below, the Bureau requested copies from the company. For those currently used, the Bureau used the same new and renewal business policy mailings that were previously described in the Policy Issuance Process section of the Report.

The examiners verified that the notices used by the company on all applications, on all policies, and those special notices used for property policies issued on risks located in Virginia complied with the Code of Virginia. The examiners also reviewed documents that were created by the company but were not required by the Code of Virginia. These documents are addressed in the Other Notices category below.

**General Statutory Notices**

- (1) The examiners found one violation of § 38.2-604 B of the Code of Virginia. The company's long form Notice of Information Collection and Disclosure Practices did

not include all of the information required by this statute.

- (2) The examiners found one violation of § 38.2-604 C of the Code of Virginia. The company failed to have available for use the short form Notice of Information Collection and Disclosure Practices.

### **Statutory Property Notices**

- (1) The examiners found one violation of § 38.2-2126 A 1 of the Code of Virginia. The company's Insurance Credit Score Disclosure notice did not include all of the information required by the statute.
- (2) The examiners found one violation of § 38.2-2129 of the Code of Virginia. The company failed to have available for use the Earthquake Exclusion notice.

### **Other Notices**

The company provided copies of seven other notices that were used during the examination period.

The examiners found no violations in this area.

### **LICENSING AND APPOINTMENT REVIEW**

A review was made of the homeowner and renters' new business policies to verify the agent of record. In addition, the agent or agency to which the company paid commission for these new business policies was checked to verify that the entity held a valid Virginia license and was appointed by the company.

### **Agent**

The examiners found one violation of § 38.2-1833 of the Code of Virginia. The company failed to appoint an agent within 30 days of the date of application.

**Agency**

The examiners found no violations in this area.

**COMPLAINT-HANDLING PROCESS REVIEW**

A review was made of the company's complaint-handling procedures and record of complaints to verify compliance with § 38.2-511 of the Code of Virginia.

The examiners found no violations in this area.

**PRIVACY AND INFORMATION SECURITY PROCEDURES REVIEW**

The Bureau requested a copy of the company's information security program that protects the privacy of policyholder information in accordance with § 38.2-613.2 of the Code of Virginia.

The company provided its written information security program.



## **PART TWO – CORRECTIVE ACTION PLAN (CAP)**

Business practices and the error tolerance guidelines are determined in accordance with the guidelines contained in the NAIC Market Regulation Handbook. A seven percent (7%) error criterion was applied to violations of the unfair claims handling statutes and regulations. Any error ratio above this threshold for claims indicates a general business practice. In some instances, such as filing requirements, forms, notices, and agent/agency licensing, the Bureau applies a zero-tolerance standard. This section identifies the violations that were found to be business practices of Virginia insurance statutes and regulations.

### **General**

Privilege Underwriters Reciprocal Exchange shall:

Provide a CAP with its response to the Report.

### **Rating and Underwriting Review**

Privilege Underwriters Reciprocal Exchange shall:

- (1) Correct the errors that caused the overcharges and undercharges and send refunds to the insureds or credit the insureds' accounts the amount of the overcharge as of the date the error first occurred.
- (2) Include six percent (6%) simple interest in the amount refunded and/or credited to the insureds' accounts.
- (3) Complete and submit to the Bureau the attached file titled "Rating Overcharges Cited during the Examination." By returning the completed file to the Bureau, the company acknowledges that it has refunded or credited the overcharges listed in the file.

- (4) File all rates and supplementary rating information with the Bureau.
- (5) Use the rules and rates on file with the Bureau. Particular attention should be given to the use of filed discounts, surcharges, deductible factors, occupancy class, rate cap factors, and base and/or final rates.

### **Termination Review**

Privilege Underwriters Reciprocal Exchange shall:

- (1) Correct the errors that caused the overcharges and send refunds to the insureds or credit the insureds' accounts the amount of the overcharge as of the date the error first occurred.
- (2) Include six percent (6%) simple interest in the amount refunded and/or credited to the insureds' accounts.
- (3) Complete and submit to the Bureau the enclosed file titled "Termination Overcharges Cited during the Examination." By returning the completed file to the Bureau, the company acknowledges that it has refunded or credited the overcharges listed in the file.
- (4) Provide the applicant the Notice of Information Collection and Disclosure Practices as required by the statute for rejected applications.
- (5) Provide the insured with a written AUD notice.
- (6) Send the refund to the insured after cancellation.
- (7) Cancel an owner-occupied dwelling policy after the 89<sup>th</sup> day of coverage only for reasons permitted by the statute.

### **Claims Review**

Privilege Underwriters Reciprocal Exchange shall:

Include a correct statement of coverage under which payments are made with all claim payments made to insureds.

### **Policy Issuance Process Review**

Privilege Underwriters Reciprocal Exchange shall:

- (1) Provide the Flood Exclusion notice as required by the Code of Virginia.
- (2) Provide the Earthquake Exclusion notice as required by the Code of Virginia.

### **Statutory Notices Review**

Privilege Underwriters Reciprocal Exchange shall:

- (1) Amend the long form Notice of Information Collection and Disclosure Practices to comply with § 38.2-604 B of the Code of Virginia.
- (2) Develop a short form Notice of Information Collection and Disclosure Practices to comply with § 38.2-604 C of the Code of Virginia.
- (3) Amend the property Insurance Credit Score Disclosure notice to comply with § 38.2-2126 A 1 of the Code of Virginia.
- (4) Develop an Earthquake Exclusion notice to comply with § 38.2-2129 of the Code of Virginia.

### **Licensing and Appointment Review**

Privilege Underwriters Reciprocal Exchange shall:

Appoint agents within 30 days of the application.

### **PART THREE – RECOMMENDATIONS**

The examiners also found violations that did not appear to rise to the level of business practices by the company. The company should carefully scrutinize these errors and correct the causes before these errors become business practices.

#### **RECOMMENDATIONS**

We recommend that the company take the following actions:

##### **Rating**

- Update its rating manual to specify claim surcharges of prior losses will be limited to the policyholder's losses that occurred at the insured location.

##### **Termination**

- Obtain written agreement from the insured if the company is going to apply the remaining balance to another one of the insured's policies.
- Obtain written requests of cancellation from insureds in accordance with the policy provisions or amend the policy form to accept verbal requests from insureds for cancellation.

##### **Claims**

- Notify the insured, in writing, every 45 days of the reason for the company's delay in completing the investigation of the claim.
- Make all claim denials in writing and keep a copy in the claim file.
- Adopt and implement reasonable standards for prompt investigation.

##### **Statutory Notices**

- Correct the spelling errors on notice PURE-038-GEN (03/2014).

#### **SUMMARY OF PREVIOUS EXAMINATION FINDINGS**

This is the first time that the Bureau has examined this company.

**ACKNOWLEDGEMENT**

The courteous cooperation extended by the officers and employees of the company during the course of the examination is gratefully acknowledged.

Sincerely,

A handwritten signature in black ink, appearing to read "Gloria Warriner", written in a cursive style.

Gloria Warriner  
Senior Insurance Market Examiner

# COMMONWEALTH OF VIRGINIA



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November 30, 2020

## VIA E-MAIL DELIVERY

Rob Brestowski  
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[rbrestowski@pureinsurance.com](mailto:rbrestowski@pureinsurance.com)

RE: Market Conduct Examination  
Privilege Underwriters Reciprocal Exchange, NAIC #12873  
Examination Period: January 1, 2019 through December 31, 2019

Dear Mr. Brestowski:

The Bureau of Insurance (Bureau) has conducted a market conduct examination of Privilege Underwriters Reciprocal Exchange for the period of January 1, 2019 through December 31, 2019. The preliminary examination report (Report) has been drafted for the company's review.

Attached with this letter is a copy of the Report and copies of review sheets that have been added, withdrawn, or revised since September 15, 2020. Also attached are several technical reports that will provide you with the specific file references for the violations listed in the Report.

Since there were violations of Virginia insurance laws on the part of the company, I would urge you to closely review the Report. Please provide a written response. The company does not need to respond to any particular item with which they agree. If the company disagrees with an item or wishes to further comment on an item, please do so in Part One of the Report. Please be aware that the examiners are unable to remove an item from the Report or modify a violation unless the company provides written documentation to support their position. When the company responds, please do not include any personal identifiable or privileged information (names, policy numbers, claim numbers, addresses, etc.). The company should use exhibits or appendices to reference such information. In addition, please use the same format (headings and numbering) as found in the Report. If not, the response will be returned to the company to be put in the correct order. By adhering to this practice, it will be much easier to track the responses against the Report.

Secondly, the company must provide a corrective action plan that addresses all of the issues identified in the examination, again using the same headings and numberings as are used in the Report.

Thirdly, if the company has comments they wish to make regarding Part Three of the Report, please use the same headings and numbering for the comments. In particular, if the examiners identified issues that were numerous but did not rise to the level of a business practice, the company should outline the actions they are taking to prevent those issues from becoming a business practice.

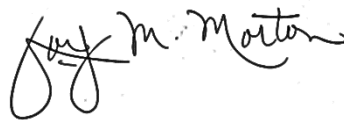
Finally, we have attached an Excel file that the company must complete and return to the Bureau with their response. This file lists the review items for which the examiners identified overcharges (rating and terminations) and underpayments (claims).

The company's response and the spreadsheet mentioned above must be returned to the Bureau by January 11, 2021.

After the Bureau has received and reviewed the company's response, we will make any justified revisions to the Report. The Bureau will then be in a position to determine the appropriate disposition of the market conduct examination.

We look forward to your reply by January 11, 2021.

Sincerely,

A handwritten signature in black ink that reads "Joy M. Morton". The signature is written in a cursive style with a large, stylized initial "J" and "M".

Joy Morton, AMCM, APIR  
Chief Insurance Market Examiner  
Property & Casualty Division  
(804) 371-9540  
(804) 396-8380 –(CELL)  
[joy.morton@scc.virginia.gov](mailto:joy.morton@scc.virginia.gov)

JMM/pgh  
Attachments

January 18, 2021

Andrea Baytop, AMCM  
Manager, P&C Market Conduct Section  
State Corporation Commission  
Virginia Bureau of Insurance Division  
P.O. Box 1157  
Richmond, Virginia 23218

Sent via Email

RE: Market Conduct Examination  
Privilege Underwriters Reciprocal Exchange ("PURE") (NAIC: # 12873)

Dear Ms. Baytop,

Please find enclosed along with this letter a copy of PURE's response to the Preliminary Market Conduct Examination Report (the "Report").

We would like to thank the Bureau for giving us the opportunity to respond to the matters contained in the Report and to provide further evidence in support of our positions. PURE takes the allegations and concerns raised by the Bureau seriously and has initiated internal projects to make sure the matters outlined in the Report are adequately addressed. As a next step, we would like to request an informal conference on the Report, as noted in the Coordinators Handbook. If acceptable, please let us know a date and time for the conference.

We are thankful for all the time the Bureau has spent working with us on this Examination, and we welcome the opportunity to continue to work with the Bureau to resolve the matters addressed in the Report.

Sincerely,



**Robert Brestowski**  
Deputy General Counsel  
Tel: 914.506.4504  
Email: rbrestowski@pureinsurance.com





## **PART ONE – THE EXAMINERS’ OBSERVATIONS**

### **RATING AND UNDERWRITING REVIEW**

#### **Homeowner New Business Policies**

The examiners reviewed 30 new business policy files. During this review, the examiners found no overcharges and undercharges totaling \$2,942.

- (1) The examiners found one violation of § 38.2-1318 C of the Code of Virginia. The company failed to provide convenient access to files, documents, and records relating to the examination.

**Company Response - § 38.2-1318 C.** We respectfully disagree with this violation and request that it be removed from the Report. The company was asked to provide access to the underwriting quote and policy management system known as PURE Online, as well as the PURE claims system. Full access was granted for policy and document review. Each examiner was given a unique login which provided them 24 hour a day access to the system. Additionally, Skype training calls were requested by the Bureau and held with the company, where information sessions were given explaining where to find all necessary applications, documents, underwriting notes, rating screens, etc. This was done with the understanding that the examiners would be accessing this information themselves as their time and review permitted. If the Bureau contacted us and advised us that there were any issues, we would have immediately provided the requested assistance/training.

In regards to RHO030, the application was submitted directly into PURE Online by the broker. Licensed brokers are permitted to directly request a quote in the PURE Online system and submit the quote to an underwriter electronically in lieu of a paper application. Upon request to bind and issue a policy, a member application is requested to verify household information. A copy of this member’s application was provided for this account. The examiner states that they were unable to locate the application. The initial submission was inputted directly by the member’s broker in PURE Online. Subsequently, a binding application was received. This was sent and received via an electronic signature package and uploaded to PURE Online via a direct link on August 1, 2018. We believe that we satisfied the examiner’s request for access and information, and this specific file does have a member application correctly uploaded and linked in the underwriting system.

We are happy to provide any other information that was not found in PURE Online. The application is attached herewith (PDF titled "R&UNBHO-1834313072 Member Application").

- (2) The examiners found one violation of § 38.2-1906 A of the Code of Virginia. The company failed to file all rates and supplementary rating information with the Bureau prior to use.

**Company Response - § 38.2-1906 A.** Thank you for pointing out this issue. Please see the corrective action in Part Two – Corrective Action Plan (CAP), Rating and Underwriting Review response #5.

- (3) The examiners found 15 violations of § 38.2-1906 D of the Code of Virginia. The company failed to use the rules and/or rates on file with the Bureau.

- a. In one instance, the company failed to use the correct discounts and/or surcharge.

**Company Response - § 38.2-1906 D.** Thank you for pointing out this issue. Please see the corrective action in Part Two – Corrective Action Plan (CAP), Rating and Underwriting Review response #5.

- b. In two instances, the company failed to use the correct tier eligibility criteria.

**Company Response - § 38.2-1906 D.** We respectfully disagree with this violation and request that it be removed from the Report. We do not surcharge for claims that occur at a different location. Please see the current approved rule below. While the rule does not specifically limit the application of tier points to the location being rated, it also does not specifically state that tier points will incorporate prior losses from other insured locations. Thus, we applied the rule correctly. Our interpretation is consistently applied to all members in a non-discriminatory manner and does not result in unfavorable treatment to any member.

**Rule 102.4: Prior Losses**

- A. Homeowners, Condominium, Cooperative, and Tenants
1. Determine the applicable tier points based on the number and type of prior losses.  
Chargeable losses are defined as follows:
    - a. Non-catastrophe as defined by ISO
    - b. Indemnity only amount paid or reserved is greater than \$2,500
    - c. Within 60 months prior the new business or renewal effective date
  2. Multiple Losses
    - a. For locations with multiple losses the points for Multiple Losses will be added to the otherwise applicable tier points one time only
- B. Refer to rate 102.4 for tier point assignments.

- c. In two instances, the company failed to use the correct base and/or final rates.

**Company Response - § 38.2-1906 D.** Thank you for pointing out this issue. Please see the corrective action in Part Two – Corrective Action Plan (CAP), Rating and Underwriting Review response #5.

d. In one instance, the company failed to use the correct deductible factors.

**Company Response - § 38.2-1906 D.** Thank you for pointing out this issue. Please see the corrective action in Part Two – Corrective Action Plan (CAP), Rating and Underwriting Review response #5.

e. In nine instances, the company failed to use the correct occupancy class.

**Company Response - § 38.2-1906 D.** Thank you for pointing out this issue. Please see the corrective action in Part Two – Corrective Action Plan (CAP), Rating and Underwriting Review response #5.

### **Homeowner Renewal Business Policies**

The examiners reviewed 50 renewal business policy files. During this review, the examiners found overcharges totaling \$313 and undercharges totaling \$3,843. The net amount that should be refunded to insureds is \$313 plus six percent (6%) simple interest.

(1) The examiners found one violation of § 38.2-1906 A of the Code of Virginia. The company failed to file all rates and supplementary rating information with the Bureau prior to use.

**Company Response - § 38.2-1906 A.** Thank you for pointing out this issue. Please see the corrective action in Part Two – Corrective Action Plan (CAP).

(2) The examiners found 28 violations of § 38.2-1906 D of the Code of Virginia. The company failed to use the rules and/or rates on file with the Bureau.

a. In two instances, the company failed to use the correct discounts and/or surcharge.

**Company Response - § 38.2-1906 D.** Thank you for pointing out this issue. Please see the corrective action in Part Two – Corrective Action Plan (CAP).

b. In 14 instances, the company failed to use the correct occupancy class.

**Company Response - § 38.2-1906 D.** Thank you for pointing out this issue. Please see the corrective action in Part Two – Corrective Action Plan (CAP), Rating and Underwriting Review response #5.

c. In two instances, the company failed to correctly interpolate the premium for the risk.

**Company Response - § 38.2-1906 D.** We respectfully disagree with this violation and request that it be removed from the Report. To clarify, the two findings pertain to one location. For this issue, the examiner used the renewal term replacement cost rather than the current term replacement cost. This in turn causes two errors: one for the replacement cost ILF factor, and the other for the all-other-peril deductible factor, both of which require interpolation.

We have provided screen shots below to help illustrate the correct calculation of the premium – the first screenshot shows the current period replacement cost and the second screenshot shows the renewal replacement cost. Effective dates of both terms are highlighted as well for reference.

When using the current term replacement cost (\$3,167,367), the system premium is correct. Therefore, we respectfully disagree with this violation and request it be removed from the Report.

Please update all mandatory fields and use the prev/next buttons or the

**policy information**

Term  
12 Months

Effective Date  
05/23/2019

Expiration Date  
05/23/2020

Named Insured Type  
Individual

Does the Member have a PURE Private Fleet Auto Insurance policy?  
 Does the Member have a PURE Jewelry & Art policy?  
 Does the Member have a PURE Personal Excess policy with a limit of \$5 M

PURE Marketing Group Discount selected is:  
N/A

Are you, or is a member of your household a Media Personality, Profession  
 No  Yes

[Virginia Underwriting Strategy](#)

**named insured**

Named Insured	Prefix

**risk addresses**

Address Line 1  
Address Line 2

Residence Type  
Homeowner

Replacement Cost  
3,167,367

- Homeowners Policy
- Mclean VA
- Application
- Policy/Bill Delivery

Please update all mandatory fields and use the prev/next buttons next buttons

**policy information**

Term  
12 Months

Effective Date  
05/23/2020

Expiration Date  
05/23/2021

Named Insured Type  
Individual

Does the Member have a PURE Private Fleet Auto Insurance policy?

Does the Member have a PURE Jewelry & Art policy?

Does the Member have a PURE Personal Excess policy with a limit of \$1,000,000?

PURE Marketing Group Discount selected is:  
N/A

Are you, or is a member of your household a Media Personality, Professional, or Public Figure?  
 No  Yes

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**named insured**

Named Insured	Prefix
[Redacted]	[Dropdown]
[Redacted]	[Dropdown]

**risk address**

Address Line 1	Address Line 2	is Line 2
[Redacted]	[Redacted]	[Redacted]

Residence Type  
Homeowner

Replacement Cost  
3,341,572

Replacement Cost  
572

d. In ten instances, the company applied a rate cap factor that was not on file with the Bureau.

**Company Response - § 38.2-1906 D.** We respectfully disagree with this violation and request that it be removed from the Report. For the March 2019 renewal, effective date filing (SERFF filing # 131658093), the rate cap factor was included in the approved filing submission. An image of the filing memo from the March 2019 rate change is provided below, with the rate capping proposal highlighted for reference. This was submitted on September 28, 2018, under file-and-use. This was approved on January 24, 2019. We believe this complies with the applicable rate filing laws in the Commonwealth of Virginia.

During our August 25, 2020 meeting, the Bureau advised of its position that any rate capping factors should be filed as part of the company pricing rule manual. Although we believe our current practice complies with relevant law, based upon this discussion, any planned rate capping structure will be included in future filed rating manuals.

**Privilege Underwriters Reciprocal Exchange  
Virginia High Value Homeowners Program Filing  
Memorandum**

Privilege Underwriters Reciprocal Exchange (PURE) is a Florida-domiciled reciprocal insurer focused on the high net worth personal lines market. We have been writing in Virginia since 2013.

For this filing, we are requesting a new business effective date of January 26th, 2019 and renewal business effective date of March 27th, 2019, which is 60 days thereafter. Our last rate filing had an overall premium impact of +9.9% and was effective for renewal business on January 31, 2018, and thus no policyholder will be impacted by multiple revisions at renewal. The applicable filing rule is 'file & use after 30 days', but due to our various revisions, and potential time for department questions, our proposed effective date is well after such 30 days.

The purpose of this filing is to address positive rate indications, maintain desired renewal retention, and enable continued profitable growth. The net impact of the proposed changes is 12.9%. Our in-force book as of 07/31/18 consists of 1,666 locations and \$4.8m written premium, for a \$2.9k premium average.

We have conducted extensive studies across many variables and combinations therein, and have acted upon such in many of our larger premium-volume states. These studies have identified the best and worst performing segments of our book under the current rating structure. We believe this is quite necessary now in Virginia, which will in part address our positive rate indication, and more importantly reduce given subsidies and provide a more equitable rate structure as well as overall rate magnitude. Of note, since our inception in Virginia we have only conducted basic rate changes and thus more involved structural changes are deemed quite necessary. We realize this creates a more disruptive change, but are prepared to manage closely.

As well, we are proposing to cap individual location rate increases to +20% for the first renewal term, which would include any exposure related changes, like that of coverage inflation, age of home, claim activity, and any other endorsements. Of note, we are not proposing any caps on decreases, as we believe any such decreases are deserved immediately, and thus renewals will be priced the same as new business, given same profile.

- (3) The examiners found one violation of § 38.2-2126 A of the Code of Virginia. The company failed to provide the Credit Score Disclosure notice at the time of application.

**Company Response - § 38.2-2126 A.** We respectfully disagree with this violation and request that it be removed from the Report. PURE Online, our underwriting system, contains a mandatory question that brokers are required to confirm that they have provided a "Use of Consumer Reports Notice" to the applicant in order to proceed with the quote. Additionally, the full policy package for review sheet R&URBHO80611444 was mailed to the consumer and contains the Consumer Disclosure Notice located on page 38.

- (4) The examiners found one violation of § 38.2-2126 B of the Code of Virginia. The company failed to update the insured's credit information at least once in a three year period.



**Company Response - § 38.2-2126 B.** We respectfully disagree with this violation and request that it be removed from the Report. The policy in question was originally written with an effective date of January 17, 2017. Per the screenshot below, the original insurance score was ordered on December 28, 2016. The insurance score was ordered again on November 18, 2019, for the January 17, 2020 renewal term. Thus, we complied with the 3-year rule for credit re-ordering.

Home CLUE reports order history 1 - 1 of 1		
Member - Address	Order Date	Received Date
[REDACTED]	11/28/2016 01:40PM	11/28/2016 01:40PM

Insurance Score 1 - 1 of 1		
Member	Insurance Score Model	Order Date
[REDACTED]	Attract One - CW	11/18/2019 02:12:23 am

**Termination Review**

The Bureau requested cancellation files in several categories due to the difference in the way these categories are treated by Virginia insurance statutes, regulations, and policy provisions. The breakdown of these categories is described below.

**Company-Initiated Cancellations – Homeowner Policies**

NOTICE MAILED AFTER THE 89<sup>TH</sup> DAY OF COVERAGE

The examiners reviewed one homeowner cancellation that was initiated by the company where the company mailed the notice on or after the 90<sup>th</sup> day of coverage in the initial policy period or at any time during the term of a subsequent renewal policy. During this review, the examiners found overcharges totaling \$2,327.22 and no undercharges. The net amount that should be refunded to insureds is \$2,327.22 plus six percent (6%) simple interest.

- (1) The examiners found one violation of § 38.2-1906 D of the Code of Virginia. The company failed to use the rules and/or rates on file with the Bureau. The company failed to calculate the earned premium correctly.

**Company Response - § 38.2-1906 D.** We respectfully disagree with this violation and request that it be removed from the Report. Our calculations do not round but instead calculate exactly. In the review sheet below, for the examiner calculation, the selected rounding is to three decimal places (.208). This selection results in a slight difference from PURE's calculation, which unrounded is (.207650273). It is our position that not rounding yields the most accurate prorated premium for the member.

<b>Exam Description:</b>	2020 PURE MC Exam (12073)	<b>Original Date:</b>	5/7/2020 2:41:01 PM
<b>Company Name:</b>	Privilege Underwriters Reciprocal Exchange	<b>Last Review Date:</b>	5/7/2020 2:41:11 PM
		<b>Print Date:</b>	5/7/2020
<b>Section:</b>	Terminations		
<b>Area:</b>	Renters Terminations		
<b>Line of Business:</b>	Renters		
<b>PolNo:</b>	[REDACTED]		
<b>BOI Reference Number:</b>	TTN003	<b>Instance:</b>	34
<b>Cite:</b>	§ 38.2-1906 D The company failed to use the rules and/or rates on file with the Bureau of Insurance by not correctly calculating the earned premium when cancelling this policy.		
<b>Observation:</b>	The company undercharged the insured as illustrated below: Policy Period 4/5/19 to 4/5/20 Cancellation effective date 6/20/19 Earned premium is .208 (earned factor) x \$2567 (premium) = \$533.94 Insured paid \$165.30 \$533.94 (earned premium) - \$165.30 (insured paid) = \$368.64 (what the insured should have been billed). The billing screen indicate that it only reflects payments for the last 12 months. Therefore, the billing screens only reflect one \$165.30 for the homeowner. However, the 7/19 bill indicates that the remaining balance for the HO policy \$2199.59, 8/19 bill reflects a remaining balance of \$165.30 and the 3/20 bill reflects a \$0 remaining balance for the HO policy. Therefore, it is unclear as to how much the insured paid and when the payment was made.		

Please acknowledge that you have been advised of this violation by signing and returning this document to the examiner listed below *within 3 working days*. Please include any comments with supporting documentation to justify the company's position on this matter.

*Acknowledged by:* \_\_\_\_\_ *Date:* \_\_\_\_\_

**Company Comments:**  
Pure uses the following calculation to calculate the prorated refund for a cancelled policy.  $(1 - (\text{policy expiration date} - \text{transaction effective date}) / (\text{policy expiration date} - \text{policy effective date})) * (\text{premium prior transaction})$ .  
If a policy is cancelled while the account is still active, the credit from the cancelled policy will be applied to the rest of the account in the next billing statement.

(2) The examiners found one violation of § 38.2-2114 A of the Code of Virginia. The company cancelled a policy insuring an owner-occupied dwelling after the 89<sup>h</sup> day of coverage for a reason not permitted by the statute.

**Company Response - § 38.2-2114 A.** Thank you for pointing out this issue. Please see the corrective action in Part Two – Corrective Action Plan (CAP), Termination Review response #8.



## **All Other Cancellations – Homeowner Policies**

### REQUESTED BY THE INSURED

In addition, the examiners reviewed 21 homeowner cancellations that were initiated by the insured where the cancellation was to be effective during the policy term. During this review, the examiners found overcharges totaling \$863.01 and no undercharges. The net amount that should be refunded to insureds is \$863.01 plus six percent (6%) simple interest.

- (1) The examiners found one violation of § 38.2-1906 D of the Code of Virginia. The company failed to use the rules and/or rates on file with the Bureau. The company failed to calculate the earned premium correctly.

**Company Response - § 38.2-1906 D.** We respectfully disagree with this violation and request that it be removed from the Report. Our calculation of return premium was \$861.78 due to an exact calculation (see rounding example screenshot above in response to Company-Initiated Cancellations – Homeowner Policies (1)).

- (2) The examiners found four violations of § 38.2-2114 E of the Code of Virginia. The company failed to obtain a written request from the insured to cancel a policy insuring an owner-occupied dwelling.

**Company Response - § 38.2-2114 E.** We respectfully disagree with this violation and request that it be removed from the Report. With respect to this particular broker, our practice is to accept requests for cancellations by the member's broker after verifying the broker has a stringent verbal client authentication process in place. Then, the broker, acting on behalf of the insured, sends notice to us in writing per the provision of the insurance policy. We note that Virginia does not have a law that requires a written request from the insured to cancel a policy.

## **Rejected Applications – Homeowner Policies**

The examiners reviewed seven homeowner insurance applications for which the company declined to issue a policy.

- (1) The examiners found seven violations of § 38.2-604 A of the Code of Virginia. The company failed to provide the Notice of Information Collection and Disclosure Practices as required by the statute.

**Company Response - § 38.2-604 A.** We respectfully disagree with this violation and request that it be removed from the Report. Virginia Insurance Code section 38.2-604, which mandates providing notices of information practices, expressly permits such notices to be provided by either the carrier or the broker. In particular, the section states in relevant part as follows (emphasis added):

A. An insurance institution or agent shall provide a notice of insurance Information practices to all applicants or policyholders in connection with insurance transactions....

\* \* \*

C. Instead of the notice prescribed in subsection B of this section, the insurance institution or agent may provide an abbreviated notice in writing or, if the applicant or policyholder agrees, in electronic format....

D. The obligations imposed by this section upon an insurance institution or agent may be satisfied by **another** insurance institution or agent authorized to act on its behalf.

Our policy management system is configured that the quote process cannot continue unless the Notice of Information Collection and Disclosure Practices has been provided to the applicant. In order to advance the quote, the individual would have to communicate the disclosure and then acknowledge doing so. We rely on the representation of the broker that this action is being taken.

- (2) The examiners found four violations of § 38.2-610 A of the Code of Virginia. The company failed to provide the applicant with written notice of an Adverse Underwriting Decision (AUD).

**Company Response - § 38.2-610 A.** We respectfully disagree with this violation and request that it be removed from the Report. The underwriter provides a notice of Adverse Underwriting Decision (“AUD”) to the broker, as the applicant’s representative, immediately following a declination for underwriting reasons that do not involve the use of the applicant’s insurance score. If insurance score is used as part of the decision to decline, the underwriter provides the notice of AUD to the broker and prospect. However, we understand the concern of the examiners and

will change our practice to provide a notice of AUD to both the broker and applicant following all declinations.

### **Renters Policies**

The examiners reviewed four renter cancellations for the exam period. During this review, the examiners found overcharges totaling \$622.44 and no undercharges. The net amount that should be refunded to insureds is \$622.44 plus six percent (6%) simple interest.

- (1) The examiners found one violation of § 38.2-604 A of the Code of Virginia. The company failed to provide the Notice of Information Collection and Disclosure Practices as required by the statute.

**Company Response - § 38.2-604 A.** Please see the corrective action in Part Two – Corrective Action Plan (CAP).

- (2) The examiners found one violation of § 38.2-610 A of the Code of Virginia. The company failed to provide the applicant with written notice of an AUD.

**Company Response - § 38.2-610 A.** We respectfully disagree with this violation and request that it be removed from the Report. The underwriter provides a notice of Adverse Underwriting Decision (“AUD”) to the broker, as the applicants representative, immediately following a declination for underwriting reasons that do not involve the use of the applicant’s insurance score. If insurance score is used as part of the decision to decline, the underwriter provides the notice of AUD to the broker and prospect. However, we understand the concern of the examiners and will change our practice to provide a notice of AUD to both the broker and applicant following all declinations.

- (3) The examiners found one violation of § 38.2-1906 D of the Code of Virginia. The company failed to use the rules and/or rates on file with the Bureau. The company failed to calculate the return premium correctly.

**Company Response - § 38.2-1906 D.** We respectfully disagree with this violation and request that it be removed from the Report. Our calculation of return premium was \$622.44 due to an exact calculation (see rounding example screenshot above in response to Company-Initiated Cancellations – Homeowner Policies (1)).

- (4) The examiners found three occurrences where the company failed to comply with the provisions of the insurance policy. The company failed to retain evidence of the insured's request for cancellation.

**Company Response** - We respectfully disagree with this violation and request that it be removed from the Report. With respect to this particular broker, our practice is to accept requests for cancellations by the member's broker after verifying the broker has a stringent verbal client authentication process in place. Then, the broker, acting on behalf of the insured, sends notice to us in writing per the provision of the insurance policy. We note that Virginia does not have a law that requires a written request from the insured to cancel a policy.

## **CLAIMS REVIEW**

### **Homeowner Claims**

The examiners reviewed 40 homeowner claims for the period of January 1, 2019 through December 31, 2019. The findings below appear to be contrary to the standards set forth by Virginia insurance statutes and regulations. During this review, the examiners found no overpayments and no underpayments.

- (1) The examiners found one violation of 14 VAC 5-400-60 B. The company failed to notify the insured, in writing, every 45 days of the reason for the company's delay in completing the investigation of the claim.

**Company Response - 14 VAC 5-400-60 B.** Thank you for pointing out this issue. Please see the response in Part Three – Recommendations.

- (2) The examiners found one violation of 14 VAC 5-400-70 A. The company failed to deny a claim or part of a claim in writing and/or failed to keep a copy of the written denial in the claim file.

**Company Response - 14 VAC 5-400-70 A.** Thank you for pointing out this issue. Please see the response in Part Three – Recommendations.

- (3) The examiners found two violations of § 38.2-510 A 3 of the Code of Virginia. The company failed to adopt and implement reasonable standards for the prompt investigation of claims arising under insurance policies.

**Company Response - § 38.2-510 A 3.** Thank you for pointing out this issue. Please see the response in Part Three – Recommendations.

- (3) The examiners found 14 violations of § 38.2-510 A 10 of the Code of Virginia. The company made a claim payment to the insured or the insured's beneficiary that was not accompanied by a statement setting forth the correct coverage under which payment was made.

These findings occurred with such frequency as to indicate a general business practice.

**Company Response - § 38.2-510 A 10.** Please see the corrective action in Part Two – Corrective Action Plan (CAP).

## **POLICY ISSUANCE PROCESS REVIEW**

### **NEW BUSINESS POLICIES**

- (1) The examiners found one violation of § 38.2-325 A of the Code of Virginia. The company failed to provide evidence of an agreement with the insured that policy forms and endorsements could be delivered electronically.

**Company Response - § 38.2-325 A.** Our current business practice is to obtain consent from the member (evidence of an agreement with the insured/member) for electronic delivery of all forms and endorsements. The violation was due to the user's failure in obtaining and uploading the form to the underwriting file. We will reinforce with our underwriting and IT departments that policy documents must be mailed unless this form is received and saved in our systems.

- (2) The examiners found six violations of § 38.2-2129 of the Code of Virginia. The company failed to provide the notice advising the insured that the policy does not include coverage for loss due to earthquake.

**Company Response - § 38.2-2129.** We respectfully disagree with three of the six violations and request that they be removed from the Report. Two of the policies are condominium policies and one is a renters policy, which coverage for earthquake is provided under the base policy. Accordingly, a notice is not needed as the insured already has the coverage. We acknowledge that the remaining three policies are for dwellings and the notice should have been provided. Please see the Corrective Action Plan in Part Two – Corrective Action Plan (CAP). This notice was created and implemented in April 2020.

#### RENEWAL BUSINESS POLICIES

- (1) The examiners found five violations of § 38.2-2125 of the Code of Virginia. The company failed to provide the notice advising the insured that the policy does not include coverage for loss due to flood.

**Company Response - § 38.2-2125.** Thank you for pointing out this issue. Please see the corrective action in Part Two – Corrective Action Plan (CAP).

- (2) The examiners found six violations of § 38.2-2129 of the Code of Virginia. The company failed to provide the notice advising the insured that the policy does not include coverage for loss due to earthquake.

**Company Response - § 38.2-2129.** We respectfully disagree with three violations and request that they be removed from the Report. Two of the policies are condominium policies and one is a renters policy, with coverage for earthquake provided under the base policy. Accordingly, a notice is not needed as the insured already has the coverage. We acknowledge that the remaining three policies are for dwellings and the notice should have been provided. Please see the Corrective Action Plan in Part Two – Corrective Action Plan (CAP). This notice was created and implemented in April 2020.

#### STATUTORY NOTICES REVIEW

##### **General Statutory Notices**

- (1) The examiners found one violation of § 38.2-604 B of the Code of Virginia. The company's Notice of Information Collection and Disclosure Practices did not include all of the information required by this statute.

**Company Response - § 38.2-604 B.** Thank you for pointing out this issue. Please see the corrective action in Part Two – Corrective Action Plan (CAP).

- (2) The examiners found one violation of § 38.2-604 C of the Code of Virginia. The company failed to have available for use the Notice of Information Collection and Disclosure Practices short form.

**Company Response - § 38.2-604 C.** We respectfully disagree with this violation and request that it be removed from the Report. As noted previously in the Report, PURE Online, our underwriting system, contains a mandatory question that brokers are required to confirm that they have provided a use of consumer reports notice to the applicant in order to proceed with the quote.

### **Statutory Property Notices**

- (1) The examiners found one violation of § 38.2-2126 A of the Code of Virginia. The company's Credit Adverse Action notice did not include all of the information required by the statute.

**Company Response - § 38.2-2126 A.** Thank you for pointing out this issue. Please see the corrective action in Part Two – Corrective Action Plan (CAP).

- (2) The examiners found one violation of § 38.2-2129 of the Code of Virginia. The company failed to have available for use the Earthquake Exclusion notice.

**Company Response - § 38.2-2129.** Thank you for pointing out this issue. Please see the corrective action in Part Two – Corrective Action Plan (CAP).

### **LICENSING AND APPOINTMENT REVIEW**

#### **Agent**

The examiners found four violations of § 38.2-1833 of the Code of Virginia. The company failed to appoint an agent within 30 days of the date of application.

#### **Company Response**

**1) § 38.2-1833.** We respectfully disagree with the finding on LAPAG1589569611 and LAPAG130046630 and request that they be removed from the Report. Per § 38.2-1833 of the Code of Virginia, an agent must be appointed within 30 days of application. For the policies cited,

an agent was properly appointed within the appropriate time range. USAA Insurance Agency, Inc. is the broker and USAA Insurance Agency, Inc. has been appointed with PURE since August 12, 2013. The producer for this policy was originally Mark G. He held an active appointment with PURE in Virginia from June 3, 2017 until, upon his retirement, his VA license was made inactive on June 3, 2019. Prior to the retirement of Mark G in June of 2019, in the months of April and May of 2019, all Virginia business previously assigned to Mark G was transferred to Gary B, VA license number available upon request. On June 3, 2019 the Virginia Corporation Commission – Bureau of Insurance inactivated the Virginia license of Mark G at his request. Gary B was appointed with PURE on April 14, 2019.

As a result, although there was a change in producers, there has always been a producer on this policy that held both an active and valid license and appointment in the Commonwealth of Virginia. Please see screenshots, which are provided in the attached PDF document titled “Licensing and Appointment Review Response License Information - CONFIDENTIAL PII.”

**2)** We respectfully disagree with the finding on LAPAG-1987930124 and request that it be removed from the Report. Per § 38.2-1833 of the Code of Virginia, an agent must be appointed within 30 days of application. For the policy cited, an agent was properly appointed within the appropriate time range. Regarding this policy, USAA Insurance Agency, Inc. is the broker and USAA Insurance Agency, Inc. has been appointed with PURE since August 12, 2013. The producer for this policy was originally Mark G. He held an active appointment with PURE in Virginia from June 3, 2017 until, upon his retirement, his VA license was made inactive on June 3, 2019. Prior to the retirement of Mark G in June of 2019, in the months of April and May of 2019, all Virginia business previously assigned to Mark G was transferred to Gary B. On June 3, 2019 the Bureau of Insurance inactivated the Virginia license of Mark G at his request. Gary B was appointed with PURE on April 4, 2019.

As a result, although there was a change in producers, there has always been a producer on this policy that held an active and valid license and appointment in the Commonwealth of Virginia. At no time has Andres S ever functioned as the licensed agent of record. Instead, Andres S has consistently served as a servicer for the policy and was never listed or functioned as a licensed producer on the policy. Please see screenshots, which are provided in the attached PDF document titled “Licensing and Appointment Review Response License Information - CONFIDENTIAL PII.”

**3)** We respectfully disagree with the finding on LAPAG1589816145. Per § 38.2-1833 of the Code of Virginia, an agent must be appointed within 30 days of application. For the policy cited an agent was properly appointed within the appropriate time range. In this instance, the application in question was submitted on September 24, 2019. Ben H, the agent for the policy, was appointed with PURE on September 24, 2019 and was previously licensed on July 5, 2019 (VA license number available upon request). On February 2, 2020, his VA appointment with PURE was terminated as a result of leaving his agency, Stephens Insurance. LLC, after accepting a position with Davis & Haynes Insurance, Inc.



Once he was added as principal for his new agency, Davis & Haynes, on April 27, 2020, his appointment with PURE was reinstated, and the agency was appointed as well. Thus, Ben H was properly appointed at the time of application and during the tenure of the policy in question. Please see screenshots, which are provided in the attached PDF document titled "Licensing and Appointment Review Response License Information - CONFIDENTIAL PII."

## **PART TWO – CORRECTIVE ACTION PLAN (CAP)**

Business practices and the error tolerance guidelines are determined in accordance with the guidelines contained in the NAIC Market Regulation Handbook. A seven percent (7%) error criterion was applied to violations of the unfair claims handling statutes and regulations. Any error ratio above this threshold for claims indicates a general business practice. In some instances, such as filing requirements, forms, notices, and agent/agency licensing, the Bureau applies a zero-tolerance standard. This section identifies the violations that were found to be business practices of Virginia insurance statutes and regulations.

### **General**

Privilege Underwriters Reciprocal Exchange shall:

- (1) Provide a CAP with their response to the Report.

### **Rating and Underwriting Review**

Privilege Underwriters Reciprocal Exchange shall:

- (1) Correct the errors that caused the overcharges and undercharges and send refunds to the insureds or credit the insureds' accounts the amount of the overcharge as of the date the error first occurred.

**Company Response** - Please see the attached Excel file titled "PURE Restitution VA MCE Refunds." Our intent is to refund any premium overcharges of \$1.00 or more (including interest) upon confirmation of this approach.

- (2) Include six percent (6%) simple interest in the amount refunded and/or credited to the insureds' accounts.

**Company Response** - Please see the attached Excel file titled "PURE Restitution VA MCE Refunds."

- (3) Complete and submit to the Bureau the attached file titled "Rating Overcharges Cited during the Examination." By returning the completed file to the Bureau, the company acknowledges that it has refunded or credited the overcharges listed in the file.

**Company Response** - Upon completion of refunds, PURE will submit a completed "Rating Overcharges Cited during the Examination" file.

- (4) Provide convenient access to the files, documents, and records relating to the examination.

**Company Response** - We acknowledge the Bureau's request and will continue to provide access to the files, documents, and records relating to the examination.

- (5) File all rates and supplementary rating information with the Bureau.

**Company Response** - We acknowledge the Bureau's request and will continue to follow this practice. Please see the Corrective Action Plan Detail below. Corrections have been submitted under SERFF filing number PRIV-32562056, approved by the VA BOI on November 5, 2020.

- (6) Use the rules and rates on file with the Bureau. Particular attention should be given to the use of filed discounts, surcharges, tier eligibility, deductible factors, occupancy class, interpolation, rate cap factors, and base and/or final rates.

**Company Response** - We acknowledge and will continue to follow this practice. Please see the Corrective Action Plan Detail below.

- (7) Provide the Credit Score Disclosure notice as required by § 38.2-2126 A of the Code of Virginia.

**Company Response** - A copy of the long form disclosure is sent to the member with the policy documents before the effective date of the first term of the policy. Please see the attached PDF document "Consumer Disclosure Notice."

(8) Update insureds' credit information at least once every three years as required by § 38.2-2126 B of the Code of Virginia.

**Company Response** - We will ensure re-pull for insurance scores occur as required by the cited statute.

### **DETAILS OF THE CORRECTIVE ACTION PLAN**

PURE takes the concerns raised by the Bureau seriously and has implemented the following changes to ensure that the violations outlined in the Report have been adequately addressed.

**Back-Up Generator Credit:** Our intent was to include a step for a back-up generator credit. Accordingly, we corrected the table in the rate manual, which can be found under SERFF filing number PRIV-132562056 and will be effective January 30, 2021.

We have been rating with the backup generator step. Because this was an error in the rating manual only, none of our members were over-charged, so we believe no further correction is needed.

Image of corrected rate page is below:

**Rate 113: Wind Protection**

**A. Homeowners**

**1. Rate 113: Wind Protection Credit Sub-algorithm**

Step #	Step Name	Operation	Round
	Base	1	0
113.1	Masonry Construction	+	3
113.2	Fire Resistive Construction	+	3
113.3	<b>Backup Generator Credit</b>	<b>+</b>	<b>3</b>
113.4	Wind Mitigation	+	3
<b>Result</b>	<b>Wind Protection Credit</b>	<b>=</b>	<b>3</b>

**Hurricane Deductible Factors:** We corrected the table in the rate manual, which can be found under SERFF filing number PRIV-132562056 and will be effective January 30, 2021.

Where the error occurred, we identified overcharged policies and intend to refund any overcharges that exceed \$1.00 or more (including interest). Please see the file titled "PURE Restitution VA MCE Refunds."

Please see an image of corrected rate page below:

**Rate 114: Hurricane Deductible Factor**

**A. Homeowners**

Coverage Limit	AOP Deductible Applies								
	\$500	\$1k	\$2.5k	\$5k	\$10k	\$25k	\$50k	\$100k	\$250k
\$0	2.05 <del>46</del>	1.78 <del>77</del>	1.54 <del>08</del>	1.30 <del>0</del>	1.20 <del>0</del>	0.90 <del>0</del>	0.70 <del>0</del>	0.65 <del>0</del>	0.50 <del>0</del>
\$1,000,000	2.15 <del>4</del>	1.88 <del>5</del>	1.62 <del>15</del>	1.40 <del>0</del>	1.30 <del>0</del>	0.98 <del>0</del>	0.80 <del>0</del>	0.70 <del>0</del>	0.55 <del>0</del>
\$2,000,000	2.22 <del>29</del>	2.10 <del>0</del>	1.83 <del>1</del>	1.62 <del>15</del>	1.40 <del>0</del>	1.15 <del>0</del>	0.95 <del>0</del>	0.80 <del>0</del>	0.60 <del>0</del>
\$3,000,000	2.26 <del>2</del>	2.19 <del>86</del>	1.94 <del>38</del>	1.78 <del>77</del>	1.48 <del>0</del>	1.22 <del>0</del>	1.08 <del>0</del>	0.88 <del>0</del>	0.65 <del>0</del>
\$4,000,000	2.32 <del>15</del>	2.24 <del>08</del>	2.00 <del>0</del>	1.84 <del>0</del>	1.56 <del>0</del>	1.30 <del>0</del>	1.15 <del>0</del>	0.95 <del>0</del>	0.70 <del>0</del>
\$5,000,000	2.35 <del>48</del>	2.22 <del>29</del>	2.03 <del>0</del>	1.90 <del>0</del>	1.62 <del>0</del>	1.40 <del>0</del>	1.30 <del>0</del>	1.00 <del>0</del>	0.80 <del>0</del>
\$10,000,000	2.37 <del>69</del>	2.26 <del>2</del>	2.05 <del>0</del>	2.00 <del>0</del>	1.68 <del>0</del>	1.45 <del>0</del>	1.40 <del>0</del>	1.30 <del>0</del>	0.95 <del>0</del>
\$100,000,000	2.40 <del>0</del>	2.28 <del>0</del>	2.07 <del>0</del>	2.02 <del>0</del>	1.70 <del>0</del>	1.48 <del>0</del>	1.37 <del>0</del>	1.28 <del>0</del>	1.10 <del>0</del>

Coverage Limit	Optional % Hurricane Deductible					
	0.5%	1.0%	2.0%	3.0%	5.0%	10.0%
\$0	1.40 <del>0</del>	1.30 <del>0</del>	1.00 <del>0</del>	0.90 <del>0</del>	0.80 <del>0</del>	0.70 <del>0</del>
\$1,000,000	1.40 <del>0</del>	1.30 <del>0</del>	1.00 <del>0</del>	0.90 <del>0</del>	0.80 <del>0</del>	0.70 <del>0</del>
\$2,000,000	1.40 <del>0</del>	1.30 <del>0</del>	1.00 <del>0</del>	0.90 <del>0</del>	0.80 <del>0</del>	0.70 <del>0</del>
\$3,000,000	1.40 <del>0</del>	1.30 <del>0</del>	1.00 <del>0</del>	0.90 <del>0</del>	0.80 <del>0</del>	0.70 <del>0</del>
\$4,000,000	1.40 <del>0</del>	1.30 <del>0</del>	1.00 <del>0</del>	0.90 <del>0</del>	0.80 <del>0</del>	0.70 <del>0</del>
\$5,000,000	1.40 <del>0</del>	1.30 <del>0</del>	1.00 <del>0</del>	0.90 <del>0</del>	0.80 <del>0</del>	0.70 <del>0</del>
\$10,000,000	1.40 <del>0</del>	1.30 <del>0</del>	1.00 <del>0</del>	0.90 <del>0</del>	0.80 <del>0</del>	0.70 <del>0</del>
\$100,000,000	1.40 <del>0</del>	1.30 <del>0</del>	1.00 <del>0</del>	0.90 <del>0</del>	0.80 <del>0</del>	0.70 <del>0</del>

**Primary Home Credit:** It is our intent to apply the primary home credit if the primary home is insured by PURE – even if the home is insured by PURE on a policy outside of the Commonwealth of Virginia. We corrected the table in the rate manual and the corresponding rule in the rule manual, which can be found under SERFF filing number PRIV –132562056 and will be effective January 30, 2021.

Please note that there is no overcharge impact, and, as such, no corrective action is needed.

Please see an image of the corrected rule below (page 7 in the submitted marked up rule manual – specifically the A1):

**Rule 120.1: Primary Home Companion Credit**

- A. Homeowners, Condominium, Cooperative, and Tenants
  - 1. Applicable to seasonal or secondary home if the primary residence is insured by PURE or affiliates.
  - 2. This credit will not apply to Condominium, Cooperative, and Tenant locations that are "Seasonal with Full Time Live-in Care Taker".
  - 3. This credit will not reduce Rented to Others or Vacancy Surcharges.
- B. Refer to rate pages for the applicable factors.

**Loss of Use and Age of Renovation Factors:** These were clerical errors to our discounts and surcharges in our manuals (relating to Loss of Use for Condos and Age of Renovation factors). Accordingly, we corrected the table in the rate manual, which can be found under SERFF filing number PRIV-132562056 and will be effective January 30, 2021.

Where the error occurred, we identified overcharged policies and intend to refund any overcharges that exceed \$1.00 or more (including interest). Please see the file titled "PURE Restitution VA MCE Refunds."

Please see images of the corrected rate pages below:

**Rate 107.3: Loss of Use Coverage Adjustment**

- A. Homeowners, Condominium, Cooperative, and Tenants

<b>Loss Of Use Coverage</b>	<b>Premium Adjustment</b>
For Loss of Use Coverage equal to 10% of Dwelling Coverage (Homeowners) / 10% of Contents Coverage (Condominium, Cooperative, and Tenants)	-0.030
For Loss of Use Coverage equal to 20% of Dwelling Coverage (Homeowners) / <del>10</del> 20% of Contents Coverage (Condominium, Cooperative, and Tenants)	-0.015

**Rate 109: Age of Renovation**

**A. Homeowners**

Years Since Oldest Renovation	Premium Adjustment
0	-0.17
1	-0.17
2	-0.15
3	-0.12
4	-0.09
5	-0.06
6	-0.03
7	-0.00
8	0.00
9	0.00
10	0.00
11	0.00
12	0.00
13	<del>0.00</del> 0.01
14	0.01
15	<del>0.01</del> 0.02
16	0.02
17	<del>0.02</del> 0.03
18	0.03
19	<del>0.03</del> 0.04
20	0.04
21	0.04
22	0.04
23	0.04
24	0.04
25	0.04
26	0.04
27	0.04
28	0.04
29+	0.04

**Termination Review**

Privilege Underwriters Reciprocal Exchange shall:

- (1) Correct the errors that caused the overcharges and send refunds to the insureds or credit the insureds' accounts the amount of the overcharge as of the date the error first occurred.

**Company Response** - The premiums in the Terminations tab of the PURE Restitution spreadsheet were returned as follows:

- TTN005 was cancelled and re-written to another policy at which point the remaining balance was applied to the new policy.
- THO001 premium was paid by the mortgagee company, which received the remaining balance upon cancellation.
- THO005 had a single payment received, which upon cancellation, the remaining balance was applied to another consolidated policy.

(2) Include six percent (6%) simple interest in the amount refunded and/or credited to the insureds' accounts.

**Company Response** - Not applicable, as premiums have been returned.

(3) Complete and submit to the Bureau the enclosed file titled "Termination Overcharges Cited during the Examination." By returning the completed file to the Bureau, the company acknowledges that they have refunded or credited the overcharges listed in the file.

**Company Response** - Not applicable as we respectfully disagree with this violation and request that it be removed from the Report.

(4) Provide the applicant the Notice of Insurance Information Collection and Disclosure Practices as required by the statute for rejected applications.

**Company Response** - We agree and will change our practice to provide Notice of Information Collection and Disclosure Practices to applicant and broker upon receiving the quote submission.

(5) Provide the insured with a written AUD notice.

**Company Response** - PURE will change our practice to provide a notice of AUD to both the broker and applicant following a declination.

(6) Calculate return premium according to the filed rules and policy provisions.

**Company Response** - We acknowledge and will continue to follow this practice.

(7) Cancel an owner-occupied dwelling policy after the 89<sup>th</sup> day of coverage only for reasons permitted by the statute.



**Company Response** - We will require all cancellations after 89<sup>th</sup> of coverage be reviewed with management and also conduct training to the underwriting staff specific to acceptable valid mid-term cancel reasons.

(8) Obtain written notice when the insured requests cancellation of the policy.

**Company Response** - As noted above, we respectfully disagree with the finding. In each instance, we received a written request from the member's broker of the member's request to cancel the policy. As the broker is acting on behalf of the agent, we believe we have complied with our policy language and applicable law.

## **Claims Review**

Privilege Underwriters Reciprocal Exchange shall:

Include a correct statement of coverage under which payments are made with all claim payments made to insureds.

**Company Response** - We have taken immediate action to resolve this issue by sending the following memo in email form to all adjusters handling Virginia claims:

- Correspondence must be sent to the member when paying them directly, outlining the specific coverage(s) under which they are being paid. (When issuing a payment for 1st party coverage. Ex. Comprehensive, Collision, MP/PIP reimbursement).

Note: The deductible amount should be clarified in the correspondence if applicable.

- Correspondence must be sent to the member when paying another party on behalf of the member, outlining the specific coverage(s) under which they are being paid. (When issuing a payment for 1st party coverage. Ex. Enterprise, body shop, medical provide, Lienholder, etc.).
- Closing letter should notify of aggregate amount paid for specific coverage under member's policy.

We are also working to automate our check processing system to specifically reference the correct coverage under which payment is being made. The system enhancement would include information regarding the applicable coverage payment directly on the check. We anticipate this system upgrade will be completed in 2021. We plan to send quarterly reminders to the staff until the appropriate system enhancements are completed.



## **Policy Issuance Process Review**

Privilege Underwriters Reciprocal Exchange shall:

- (1) Provide the Flood Exclusion notice as required by the Code of Virginia.

**Company Response** - We have updated our attachment rules and the flood notice flood will attach at new business and on each renewal.

- (2) Provide the Earthquake Exclusion notice as required by the Code of Virginia.

**Company Response** - We will provide the Earthquake Exclusion notice as required by the Code of Virginia.

## **Statutory Notices Review**

Privilege Underwriters Reciprocal Exchange shall:

- (1) Amend the long form Notice of Information Collection and Disclosure Practices to comply with § 38.2-604 B of the Code of Virginia.

**Company Response** - Since the exam, we have revised our Notice of Information Collection and Disclosure Practices to comply cited statute. This revised disclosure was implemented in June 2020.

- (2) Develop a short form Notice of Information Collection and Disclosure Practices to comply with § 38.2-604 C of the Code of Virginia.

**Company Response** - We agree and will provide this form at time of quote.

- (3) Amend the property Credit Adverse Action notice to comply with § 38.2-2126 A of the Code of Virginia.

**Company Response** - We agree and will revise, file, and implement the notice to comply with the Code of Virginia.

- (4) Develop an Earthquake Exclusion notice to comply with § 38.2-2129 of the Code of Virginia.

**Company Response** - A notice regarding earthquake was implemented effective April 2020.

## **Licensing and Appointment Review**

Privilege Underwriters Reciprocal Exchange shall:

Accept business only from agents who have been appointed by the company to conduct business in the Commonwealth of Virginia.

**Company Response** - We acknowledge and will continue to follow this practice.

## **PART THREE – RECOMMENDATIONS**

The examiners also found violations that did not appear to rise to the level of business practices by the company. The company should carefully scrutinize these errors and correct the causes before these errors become business practices.

### **RECOMMENDATIONS**

We recommend that the company take the following actions:

#### **Termination**

- Obtain written agreement from the insured if the company is going to apply the remaining balance to another one of the insured's policies.

**Company Response** - We respectfully request that this recommendation be removed from the Report. Prior to binding, PURE provides two options for policy billing: (1) an account billed policy or (2) an individually billed policy.

The account billed policy option provides the member with a clear statement of billing activity for all associated policies. This option is a part of the superior service we aim to provide for our members and is particularly helpful at PURE, a high net worth personal lines carrier offering numerous policies (high value homeowners insurance, private fleet automobile insurance, personal excess liability coverage, watercraft insurance, and other products tailored to the high net worth market space) where many members purchase more than one policy. Under our account-billed option, when a policy is cancelled, any unearned premium to be returned is applied to other balances due, if any, under other policies billed as part of that same account, which helps prevent inadvertent cancellations for nonpayment. If the account is paid in full, the outstanding balance is returned to the member.

When a policy is cancelled and the policyholder has elected for the policy to be individually billed, the return of unearned premium, if any, is returned to the member in the same manner in which original payment was made, no matter if other policies for that member have a balance. The selection of an account billed policy or an individually billed policy may be changed at any time. We note that we have received positive feedback from both our members and broker partners regarding our billing options.

## Claims

- Notify the insured, in writing, every 45 days of the reason for the company's delay in completing the investigation of the claim

**Company Response** - The adjusters are required to send written correspondence at least every 45 days advising of the delay; however, this is a manual process. The specific claim referenced with violations involved a letter that was sent late. We have spoken to the adjuster responsible for that claim and reminded them of the requirement. In light of this finding, we also plan on training on this topic during our next training with all adjusters handling claims in Virginia. Thus, we view this issue as having been addressed. We further note that we are exploring technology that will help us ensure that we do not miss any 45-day requirement in the future.

- Make all claim denials in writing and keep a copy in the claim file.

**Company Response** - PURE's Best Practices provides guidance with regards to advising member's on full and partial disclaimers. Adjusters should obtain management approval on all disclaimers. The details around the disclaimer should be reviewed with the broker first and then with the member ahead of mailing. The claim file should be documented to support that a discussion regarding the basis for declination was held with the member. The letters should be sent to the member and broker and a copy maintained in the file. The issues identified here were regarding partial disclaimers. The coverage position was discussed, but a letter confirming the same and acknowledging there was coverage for the ensuing damage was not sent. We have spoken to the adjuster responsible for that claim and reminded them of this requirement. In light of this finding, we also plan on training on this topic during our next training with all adjusters handling claims in Virginia. Thus, we view this issue as having been addressed.

- Adopt and implement reasonable standards for prompt investigation

**Company Response** - PURE's Best Practices provides guidance with regards to prompt investigations. Adjusters should make contact with the member the same business day a claim is submitted. Field inspections should occur within 48 hours of contact or at the first opportunity the member is available. Adjusters should accompany experts on all field inspections when possible. A claim summary should be provided within 48 hours of the inspection identifying the scope of damage and appropriate photos verifying the same. An appropriate estimate should be written

and reviewed with the member to identify areas of discrepancy. An appropriate follow up plan to address differences should be established in order to bring the claim to conclusion. We have spoken to the adjusters responsible for the claims subject to this violation and reminded them of these requirements. In light of this finding, we also plan on training on this topic during our next training with all adjusters handling claims in Virginia. Thus, we view this issue as having been addressed.

### **Statutory Notices**

- Correct the spelling errors on notice PURE-038-GEN (03/2014).

**Company Response** - This notice was replaced by PURE-DSC-GEN-006 in April 2020. All typos have been corrected.

# COMMONWEALTH OF VIRGINIA

SCOTT A. WHITE  
COMMISSIONER OF INSURANCE  
STATE CORPORATION COMMISSIO  
BUREAU OF INSURANCE



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April 9, 2021

## VIA E-MAIL DELIVERY

Rob Brestowski  
Associate General Counsel  
Privilege Underwriters Reciprocal Exchange  
44 South Broadway, Suite 301  
White Plains, NY 10601  
[rbrestowski@pureinsurance.com](mailto:rbrestowski@pureinsurance.com)

RE: Market Conduct Examination  
Privilege Underwriters Reciprocal Exchange, NAIC #12873  
Examination Period: January 1, 2019 through December 31, 2019

Dear Mr. Brestowski:

The Bureau of Insurance (Bureau) has reviewed your January 18, 2021 response to the Preliminary Market Conduct Report (Report) of Privilege Underwriters Reciprocal Exchange (Company). The Bureau has also considered the additional documentation provided on March 15 and March 26, 2021. The Bureau's response only addresses the Company's disagreements or items that have changed in the Report. This response follows the format of the Report.

## PART ONE – EXAMINERS' OBSERVATIONS

### Homeowner New Business Rating and Underwriting Review

- (1) The violation for RHO030 remains in the Report. The Company provided a copy of the membership application with review sheet R&UNBHO-1834313072. However, the examiner requested a copy of the policy application used to bind coverage. The examiner no longer has access to the Company's system. For reconsideration, the Company must provide a copy of the electronic signature package that includes the policy application.

- (3b) The violations for RHO022 and RHO025 remain in the Report. The Company's filed manual failed to indicate the Prior Losses rule only considered claims at the policy's insured location and did not include the policyholder's claims at previously insured locations. Please note homeowner rules are not approved in Virginia. The Company should update its filed manual with the Bureau to include the necessary verbiage.

### **Homeowner Renewal Business Rating and Underwriting Review**

- (2c) After further review, the violations for RHO057 have been withdrawn from the Report. The Company provided screen shots showing the current replacement cost. The Report has been renumbered to reflect this change.
- (2d) These violations remain in the Report. The Company did not file a rate cap that complied with § 38.2-1906 F of the Code of Virginia or 14 VAC 5-345-10 et al. There are multiple requirements that insurers must meet for a rate cap filing to be acknowledged in Virginia. The Company should contact the Rates and Forms Section of the Bureau and file the necessary rules and rates if a rate cap is implemented again.
- (3) After further review, the violation for RHO036 has been withdrawn from the Report. The Company provided a copy of the Credit Adverse Action notice sent to the insured. The Credit Score Disclosure notice did not apply to this renewal policy. The Report has been renumbered to reflect this change.
- (4) The violation for RHO065 remains in the Report. The Company needs to provide additional information for reconsideration of this violation. The information provided in the Company's response cannot be tied to the insured or their policy. The Company should provide its supporting documentation in an Attachment or Exhibit with information identifying the policy in question.

### **Cancellation Notice Mailed After the 89<sup>th</sup> Day of Coverage-Homeowner Policies**

- (1) After further review, the violation for THO001 has been withdrawn from the Report. This violation has been rewritten to review sheet TermOvr90HO1614882396 for failing to send the refund to the insured after cancellation. In addition, the Company references TTN003 which is not affiliated with this file. Furthermore, the Company should not include review sheets in its response as they contain private and privileged information.
- (2) The Bureau acknowledges the Company's response. However, the Company incorrectly referred to Part Two – Corrective Action Plan (CAP) item 8 in lieu of item 7.

### **Cancellations Requested by the Insured-Homeowner Policies**

- (1) The violation for THO005 remains in the Report. This violation is not regarding the refund calculation, but rather how the refund was disbursed. For reconsideration, the Company must provide evidence that the properly calculated refund was credited to the insured's other policies in the account.
- (2) The violation for THO006 remains in the Report. The Company did not include the voice recording of the phone call from the insured requesting their policy be cancelled by the broker. For reconsideration, the Company must provide voice recordings indicating the insured requested cancellation of their policy by the broker.

The violation for THO021 remains in the Report. The Company provided the voice recording where the insured requested the policy to be cancelled as of midnight. However, the voice recording was not date stamped and the insured did not specify the cancellation date. For reconsideration, please provide a screen print reflecting the date and time of the incoming call.

After further review, the violations for THO015 and THO036 have been withdrawn from the Report. The Company provided the voice recordings as evidence of each insured's request for cancellation.

After listening to the voice recordings, the Bureau is concerned that the Company did not properly inform insureds how refunds are handled for account-billed policies in writing. For policies THO015 and THO021, the insureds could not receive a direct refund for the cancelled policy because the other policies in the account were not fully paid. The insureds were not aware that the account billing prevented them from receiving the refunds. The Company should ensure it is in compliance with § 38.2-310 of the Code of Virginia and notify insureds in writing how refunds are handled differently for the account and individual billing options.

### **Rejected Applications-Homeowner Policies**

- (1) These violations remain in the Report. The Company has responded that the policy management system is configured that the quote process cannot continue unless the notice was provided to the applicant. The Company further stated that in order to advance the quote, the broker would have to communicate the disclosure and acknowledge that it had been provided. For reconsideration, the Company must provide the documentation that was received as evidence that the broker provided the notice to the applicant.
- (2) These violations remain in the Report. During the audit period the Company failed to provide an Adverse Underwriting Decision (AUD) notice to applicants on all declinations. The Bureau acknowledges that the Company will amend its procedure to provide an AUD to the applicant on all declinations. Therefore, the Company must provide the anticipated implementation date. The Company should note that declinations due to insurance credit information would also require notification pursuant to § 38.2-2126 A 2 of the Code of Virginia.

### **Renters Cancellations**

- (2) The violation for TTN001 remains in the Report. During the audit period the Company failed to provide an AUD notice to applicants on all declinations. The Bureau acknowledges that the Company will amend its procedure to provide an AUD to the applicant on all declinations. Therefore, the Company must provide the anticipated implementation date.
- (3) The violation for TTN005 remains in the Report. The Company's response indicates that the policy was cancelled and rewritten and the \$622.44 was applied to the new policy. For reconsideration, the Company must provide the insured's written agreement to this practice and evidence that the insured's account was credited for the refund.
- (4) These violations remain in the Report. The Company's response indicates that its practice with this particular broker is to accept requests for cancellations by the member's broker after verifying that the broker has a stringent verbal client authentication process in place. For reconsideration, the Company must provide voice recordings indicating the insured requested cancellation of their policy by the broker.

### **Homeowner Policies Policy Issuance New Business**

- (2) After further review, the violations for MHO001, MHO006, and MHO007 have been withdrawn from the Report. The Company illustrated that the High Value Homeowners policies, PHVH-998-VA (01/2013) and PHHVH-PCF-VA-001 (08/2016), do not exclude Contents coverage for condominium or renters policies. The earth movement exclusion limits its applicability to the Dwelling and Other Structures coverages.

### **Homeowner Policies Policy Issuance Renewal Business**

- (2) After further review, the violations for MHO012, MHO013, and MHO014 have been withdrawn from the Report. The Company illustrated that the High Value Homeowners policies, PHVH-998-VA (01/2013) and PHHVH-PCF-VA-001 (08/2016), do not exclude Contents coverage for condominium or renters policies. The earth movement exclusion limits its applicability to Dwelling and Other Structures coverages.

### **General Statutory Notices**

- (2) The violation for NGS005 remains in the Report. If the brokers complete the application with the insured over the phone, then the short form notice would be required. It is not practical that the broker would recite the long form notice over the phone. For reconsideration, please provide the notice the brokers are providing at the time of the quote.



### **Agent Licensing and Appointment Review**

The violations for AG001 and AG003 remain in the Report. The Bureau acknowledges that an appointed agent was associated with these policies. However, the statute requires any person who directly or indirectly received commissions must be appointed by the insurer within 30 days. For reconsideration, the Company should provide evidence that the agent, Mark G., originally placed this business with the Company and that Gary B. did not receive commissions for that business before March 5, 2019. System screen shots will suffice.

After further review, the violation for AG028 has been withdrawn from the Report. The agent was appointed with the Company prior to the policy effective date.

Please note review sheets LAPAG1589569611 (AG031) and LAPAG130046630 (AG049) were previously withdrawn and were not part of the Report.

## **PART TWO – CORRECTIVE ACTION PLAN**

### **Rating and Underwriting**

- (3) The restitution for RHO069 has been removed from the Restitution spreadsheet.
- (7) This item has been removed from the Report after withdrawing the violation for RHO036 in Part One.

### **Termination**

- (1-3) These items were addressed in Part One of the Report. The Company should provide the requested documentation for reconsideration or make the outstanding payments reflected in the revised Restitution spreadsheet.
- (6) This corrective action has been revised in the Report.
- (8) The Company should amend its filed rules or forms to provide specific conditions when a written request from the insured is not required by the Company.

## **PART THREE – RECOMMENDATIONS**

### **Termination**

- This recommendation remains in the Report. The Company's response indicates that if the insured elects the account billed policy, it is the Company's practice to apply the refund to the account balance. However, this practice is only acceptable if the insured agrees to have their refund applied to their account balance in lieu of receiving a refund.

We have made the changes noted above to the Market Conduct Examination Report. Attached with this letter is a revised version of the Report, technical reports, Restitution spreadsheet and any review sheets withdrawn, added or altered as a result of this review. The Company's response to this letter is due in the Bureau's office by May 7, 2021.

Once we have received and reviewed the Company's responses to these items, we will be in a position to make a settlement offer. We look forward to your response by May 7, 2021.

Sincerely,

A handwritten signature in cursive script that reads "Andrea Baytop".

Manager, Market Conduct Section  
Property & Casualty Division  
Cell: (804) 592-0245  
Office: (804) 371-9547  
[andrea.baytop@scc.virginia.gov](mailto:andrea.baytop@scc.virginia.gov)

ADB/pgh  
Attachments

**From:** [Robert Brestowski](#)  
**To:** [Andrea Baytop](#)  
**Cc:** [Gloria Warriner](#); [Kirk Raslowsky](#)  
**Subject:** RE: VA BOI-PURE Revised Report 4/09/2021  
**Date:** Thursday, May 13, 2021 9:53:00 AM

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Good Morning Andrea –

We just uploaded our response and supporting exhibits into the PURE External/VA Examination Report/PURE Response folder in Box.com. Please let us know if you have trouble opening any of the files. We're happy to discuss if you have questions or need additional information.

Thank you,  
Rob

---

**From:** Andrea Baytop <Andrea.Baytop@scc.virginia.gov>  
**Sent:** Friday, April 9, 2021 2:30 PM  
**To:** Robert Brestowski <RBrestowski@pureinsurance.com>; Kirk Raslowsky <KRaslowsky@pureinsurance.com>  
**Cc:** Gloria Warriner <Gloria.Warriner@scc.virginia.gov>  
**Subject:** VA BOI-PURE Revised Report 4/09/2021

**[EXTERNAL MESSAGE]**

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Good Afternoon,

I have uploaded the Revised Market Conduct Examination Report of Privilege Underwriters Reciprocal Exchange to Box.com. The Bureau's Letter, Revised Report and corresponding materials are in the PURE External/VA Examination Report/Revised Report 4.09.21 folder in Box.com.

The company should upload its response into the PURE External/VA Examination Report/PURE Response to Report folder in Box.com.

The deadline for the company's response is May 7, 2021. Please do not hesitate to contact me if the company needs additional time to respond.

As I've indicated in earlier communications, the company may request an interim Conference call to discuss specific matters concerning the Report, in addition to submitting its written response.

Thank you,

**Andrea Baytop, AMCM**  
Manager  
P&C Market Conduct Section  
Virginia Bureau of Insurance  
804.592.0245  
[andrea.baytop@scc.virginia.gov](mailto:andrea.baytop@scc.virginia.gov)



## PART ONE – EXAMINERS’ OBSERVATIONS

### Homeowner New Business Rating and Underwriting Review

- (1) The violation for RHO030 remains in the Report. The Company provided a copy of the membership application with review sheet R&UNBHO-1834313072. However, the examiner requested a copy of the policy application used to bind coverage. The examiner no longer has access to the Company’s system. For reconsideration, the Company must provide a copy of the electronic signature package that includes the policy application.

Company Response: We respectfully request that this violation be removed from the Report. Attached please find the e-signature package sent to the Member, which includes the Member Application, Subscribers Agreement and the e-Delivery Agreement. These documents were used to bind all coverages. See exhibits titled *RHO0030\_Application for Membership*, *RHO0030\_EDelivery* and *RHO0030\_Subscribers Agreement*.

- (3b) The violations for RHO022 and RHO025 remain in the Report. The Company’s filed manual failed to indicate the Prior Losses rule only considered claims at the policy’s insured location and did not include the policyholder’s claims at previously insured locations. Please note homeowner rules are not approved in Virginia. The Company should update its filed manual with the Bureau to include the necessary verbiage.

Company Response: We respectfully request that this violation either be removed from the Report or moved to Section Three - Recommendations without a finding. While we agree that the manual does not explicitly state that only prior losses at the location being rated will be considered when calculating the premium for that location, we believe our reading and application is correct and certainly that any ambiguity works in favor of the consumer.

We further note that the Bureau’s interpretation of the rating rule would cause confusion where multiple homes listed on a policy suffered losses. Specifically, as previously stated, the Multiple Losses portion of the rule states: “For locations with multiple losses the points for Multiple Losses will be added to the otherwise applicable tier points one time only.” Under the Bureau’s reading, if one home is listed on a policy and multiple homes suffered a loss, we would be required to surcharge all homes after the first loss. This would render this provision superfluous.

To the extent the Bureau believes there is ambiguity, we are happy to update the rating rule to explicitly state that only prior losses at the insured location are included. However, we respectfully request that the disagreement over the interpretation should not result in a finding.

## Homeowner Renewal Business Rating and Underwriting Review

- (2c) After further review, the violations for RHO057 have been withdrawn from the Report. The Company provided screen shots showing the current replacement cost. The Report has been renumbered to reflect this change.

Company Response: Thank you.

- (2d) These violations remain in the Report. The Company did not file a rate cap that complied with § 38.2-1906 F of the Code of Virginia or 14 VAC 5-345-10 et al. There are multiple requirements that insurers must meet for a rate cap filing to be acknowledged in Virginia. The Company should contact the Rates and Forms Section of the Bureau and file the necessary rules and rates if a rate cap is implemented again.

Company Response: We agree this was an error.

- (3) After further review, the violation for RHO036 has been withdrawn from the Report. The Company provided a copy of the Credit Adverse Action notice sent to the insured. The Credit Score Disclosure notice did not apply to this renewal policy. The Report has been renumbered to reflect this change.

Company Response: Thank you.

- (4) The violation for RHO065 remains in the Report. The Company needs to provide additional information for reconsideration of this violation. The information provided in the Company's response cannot be tied to the insured or their policy. The Company should provide its supporting documentation in an Attachment or Exhibit with information identifying the policy in question.

Company Response: We respectfully request that this violation be removed from the Report. We apologize for the confusion. The screenshot provided was redacted in an effort to protect personally identifiable information. Attached to this response please find the original redacted screenshot (previously provided) as well as the unredacted version. See *RHO065*. We believe this information should satisfy the Bureau's concerns.

## Cancellation Notice Mailed After the 89<sup>th</sup> Day of Coverage-Homeowner Policies

- (1) After further review, the violation for THO001 has been withdrawn from the Report. This violation has been rewritten to review sheet TermOvr90HO1614882396 for failing to send the refund to the insured after cancellation. In addition, the Company references TTN003 which is not affiliated with this file. Furthermore, the Company should not include review sheets in its response as they contain private and privileged information.

Company Response: We respectfully request that this violation be removed from the Report. Mortgagee billing is selected upon binding the policy or selected when adding an endorsement thereafter. In this case, the policy changed to mortgagee billed on May 28, 2019, effective June 26, 2019, by the broker. Attached is a screenshot of the broker request directly in our systems that was ultimately processed by our underwriting staff. See *TermOvr90HO1614882396 Screenshots*. Once mortgagee billing is selected, invoices are sent to the mortgagee payor. Attached please find a sample invoice for this policy. See *TermOvr90HO1614882396 Invoice*. While the notice of cancellation was sent to the Member, upon cancellation, we provided the payor the refund.

- (2) The Bureau acknowledges the Company's response. However, the Company incorrectly referred to Part Two – Corrective Action Plan (CAP) item 8 in lieu of item 7.

Company Response: We apologize if this error caused any confusion.

### **Cancellations Requested by the Insured-Homeowner Policies**

- (1) The violation for THO005 remains in the Report. This violation is not regarding the refund calculation, but rather how the refund was disbursed. For reconsideration, the Company must provide evidence that the properly calculated refund was credited to the insured's other policies in the account.

Company Response: We respectfully request that this violation be removed from the Report. Attached please find two screenshots from our billing screens. See *THO005*. The first screenshot is from the policy activity screen that shows the cancellation of the policy. The second screenshot provides evidence of how the credit was applied, in this case how it was credited to the other policies on the account. In our best effort to walk the Bureau through these screenshots, we have provided commentary to help highlight what the relevant portions evidence. We believe this should satisfy the Bureau's concerns with the disbursement of the refund.

- (2) The violation for THO006 remains in the Report. The Company did not include the voice recording of the phone call from the insured requesting their policy be cancelled by the broker. For reconsideration, the Company must provide voice recordings indicating the insured requested cancellation of their policy by the broker.

Company Response: We respectfully request that this violation be removed from the Report. Attached please find a copy of the voice recording, call stamp and email from the broker requesting cancellation. See *THO006 Call Recording, THO006 Call Stamp and THO006 Email from broker*. On July 22, 2019 at 8:08:20 a.m., the Member advised the broker that he sold the home on July 12, 2019.

The violation for THO021 remains in the Report. The Company provided the voice recording where the insured requested the policy to be cancelled as of midnight. However, the voice recording was not date stamped and the insured did not specify the cancellation date. For reconsideration, please provide a screen print reflecting the date and time of the incoming call.

Company Response: We respectfully request that this violation be removed from the Report. Attached please find the call stamp and the email from the broker requesting cancellation. See *THO021 Call Stamp and THO021 Email Chain*.

After further review, the violations for THO015 and THO036 have been withdrawn from the Report. The Company provided the voice recordings as evidence of each insured's request for cancellation.

Company Response: Thank you.

After listening to the voice recordings, the Bureau is concerned that the Company did not properly inform insureds how refunds are handled for account-billed policies in writing. For policies THO015 and THO021, the insureds could not receive a direct refund for the cancelled policy because the other policies in the account were not fully paid. The insureds were not aware that the account billing prevented them from receiving the refunds. The Company

should ensure it is in compliance with § 38.2-310 of the Code of Virginia and notify insureds in writing how refunds are handled differently for the account and individual billing options.

Company Response: As per our discussion with the Bureau, this is not a finding but rather a recommendation. We do understand the Bureau's concerns and will provide a notice further advising the Members of how the refunds will be handled for account and individual billing options.

We note that our current practices do comply with § 38.2-310 of the Code of Virginia, which provides, in pertinent part:

A. All fees, charges, premiums or other consideration charged for the insurance or for the procurement of insurance shall be stated in the policy except in the case of fidelity, surety, title, and group insurance, and except for consulting services as provided in Article 4 (§ 38.2-1837 et seq.) of Chapter 18 of this title. Except as provided in this subsection, no person shall charge or receive any fee, compensation, or consideration for insurance or for the procurement of insurance that is not included in the premium or stated in the policy.

B. Service charges for installment payments of insurance premiums do not need to be stated in the policy if the charges are provided to the insured in writing.

This section does not prohibit our account billing practices.

### **Rejected Applications-Homeowner Policies**

- (1) These violations remain in the Report. The Company has responded that the policy management system is configured that the quote process cannot continue unless the notice was provided to the applicant. The Company further stated that in order to advance the quote, the broker would have to communicate the disclosure and acknowledge that it had been provided. For reconsideration, the Company must provide the documentation that was received as evidence that the broker provided the notice to the applicant.

Company Response: We respectfully request that this violation be removed from the Report. Attached please find screen shots of our policy administration system showing that it is not possible for a broker to proceed with a quote without indicating that the Notice of Information Collection and Disclosure Practices has been disclosed to the applicant. See *Rejected Applications - Disclosure of Consumer Reporting in Quote Flow*. If a broker attempts to advance through the quote flow without clicking "yes" to affirmatively confirm that notice has been disclosed, a red warning bar appears at the top of the screen and the broker will be unable to move forward or enter additional information. If a second quote is added, the broker must once again affirmatively confirm the use of consumer reports has been disclosed by clicking "yes". § 38.2-604 of the Code of Virginia expressly permits that "the notice of insurance information practices may be given orally at the time of application." Thus, by clicking yes, the broker is expressly stating that they have provided the notice verbally or in writing to the applicant.

- (2) These violations remain in the Report. During the audit period the Company failed to provide an Adverse Underwriting Decision (AUD) notice to applicants on all declinations. The Bureau acknowledges that the Company will amend its procedure to provide an AUD to the applicant on all declinations. Therefore, the Company must provide the anticipated implementation date. The Company should note that declinations due to insurance credit information would also require notification pursuant to § 38.2-2126 A 2 of the Code of Virginia.

Company Response: We respectfully request that this violation either be removed from the Report or moved to Section Three - Recommendations without a finding. As noted in our January 18, 2021 response, the Adverse Underwriting Decision (“AUD”) is immediately provided to the broker, as the applicant’s representative, following a declination for underwriting reasons. The Supreme Court of Virginia has held that a broker is the agent for the insured:

Initially, we note that this Court has drawn a distinction between an insurance agent, who acts as the agent of the insurer, and an insurance broker, who ordinarily is employed by the person seeking insurance. See *Pacific Fire Ins. Co. v. Bowers*, 163 Va. 349, 354, 175 S.E. 763, 765 (1934). Although a broker is an agent for the insured, he also may be, at the same time, an agent for the insurer for certain purposes. *Id.*

*Harris v. K & K Ins. Agency, Inc.*, 249 Va. 157 (Va. 1995).

While we believe our current practice conforms with Virginia law, in light of the Bureau’s concerns, we have agreed to amend our practice to provide a notice of AUD to both the broker and applicant following all declinations. As per our discussion, we are targeting a fourth quarter 2021 anticipated implementation date. Until then, we will request the brokers provide confirmation that the AUD was provided to the applicant.

With respect to the declinations due to insurance credit information, our current process is in full compliance with § 38.2-2126 A 2 of the Code of Virginia, including but not limited sending notice to the applicant directly as well as the broker.

## **Renters Cancellations**

- (2) The violation for TTN001 remains in the Report. During the audit period the Company failed to provide an AUD notice to applicants on all declinations. The Bureau acknowledges that the Company will amend its procedure to provide an AUD to the applicant on all declinations. Therefore, the Company must provide the anticipated implementation date.

Company Response: We respectfully request that this violation either be removed from the Report or moved to Section Three - Recommendations without a finding. As noted in our January 18, 2021 response, the Adverse Underwriting Decision (“AUD”) is immediately provided to the broker, as the applicant’s representative, following a declination for underwriting reasons. The Supreme Court of Virginia has clearly held that a broker is the agent for the insured:

Initially, we note that this Court has drawn a distinction between an insurance agent, who acts as the agent of the insurer, and an insurance broker, who ordinarily is employed by the person seeking insurance. See *Pacific Fire Ins. Co. v. Bowers*, 163 Va. 349, 354, 175 S.E. 763, 765 (1934). Although a broker is an agent for the insured, he also may be, at the same time, an agent for the insurer for certain purposes. *Id.*

*Harris v. K & K Ins. Agency, Inc.*, 249 Va. 157 (Va. 1995).

While we believe our current practice conforms with Virginia law, in light of the Bureau’s concerns, we have agreed to amend our practice to provide a notice of AUD to both the broker and applicant following all declinations. As per our discussion, we are targeting a fourth quarter 2021 anticipated implementation



date. Until then, we will request the brokers provide confirmation that the AUD was provided to the applicant.

(3) The violation for TTN005 remains in the Report. The Company's response indicates that the policy was cancelled and rewritten and the \$622.44 was applied to the new policy. For reconsideration, the Company must provide the insured's written agreement to this practice and evidence that the insured's account was credited for the refund.

Company Response: We respectfully request that this violation be removed from the Report. Attached please find the request from the Member's broker. See TTN005 Email. Evidence that the account was credited can be found in TTN005 Billing.

(4) These violations remain in the Report. The Company's response indicates that its practice with this particular broker is to accept requests for cancellations by the member's broker after verifying that the broker has a stringent verbal client authentication process in place. For reconsideration, the Company must provide voice recordings indicating the insured requested cancellation of their policy by the broker.

Company Response: We respectfully disagree with this violation and request that it be removed from the Report. As noted in our prior response, Virginia does not have a law that requires a written request from the insured to cancel a policy. Notwithstanding, we were advised by the broker that: TTN002 was not recorded as a manager had handled the call; and they were unable to locate the recording for TTN003. With respect to TTN005, please see the attachments titled TTN005 Email.

### **Homeowner Policies Policy Issuance New Business**

(2) After further review, the violations for MHO001, MHO006, and MHO007 have been withdrawn from the Report. The Company illustrated that the High Value Homeowners policies, PHVH-998-VA (01/2013) and PHHVH-PCF-VA-001 (08/2016), do not exclude Contents coverage for condominium or renters policies. The earth movement exclusion limits its applicability to the Dwelling and Other Structures coverages.

Company Response: Thank you.

### **Homeowner Policies Policy Issuance Renewal Business**

(2) After further review, the violations for MHO012, MHO013, and MHO014 have been withdrawn from the Report. The Company illustrated that the High Value Homeowners policies, PHVH-998-VA (01/2013) and PHHVH-PCF-VA-001 (08/2016), do not exclude Contents coverage for condominium or renters policies. The earth movement exclusion limits its applicability to Dwelling and Other Structures coverages.

Company Response: Thank you.

### **General Statutory Notices**

(2) The violation for NGS005 remains in the Report. If the brokers complete the application with the insured over the phone, then the short form notice would be required. It is not practical that the broker would recite the long form notice over the phone. For reconsideration, please provide the notice the brokers are providing at the time of the quote.

Company Response: We respectfully request that this violation either be removed from the Report or moved to Section Three - Recommendations without a finding. As noted in our January 18, 2021 response, PURE Online, our underwriting system, contains a mandatory question that brokers are required to affirmatively confirm that they have provided a use of consumer reports notice to the applicant by clicking "yes" in order to proceed with the quote. § 38.2-604 of the Code of Virginia specifically permits insurance institutions or agents to provide a long form notice or abbreviated notice orally or in writing at the time of application, provided that, if a policy is issued, such notice is given in writing or, if the applicant agrees, in electronic format, no later than at the time of delivery of the insurance policy. Thus, we believe our long form notice and process complies with Virginia law.

Notwithstanding, and without waiver of any kind, we agree to provide a short form notice to address the Bureau's concerns. However, the Bureau has not cited any specific instance where the notice was not provided. As such, we request the violation be removed or moved to the Recommendation section without a finding.

### **Agent Licensing and Appointment Review**

The violations for AG001 and AG003 remain in the Report. The Bureau acknowledges that an appointed agent was associated with these policies. However, the statute requires any person who directly or indirectly received commissions must be appointed by the insurer within 30 days. For reconsideration, the Company should provide evidence that the agent, Mark G., originally placed this business with the Company and that Gary B. did not receive commissions for that business before March 5, 2019. System screen shots will suffice.

Company Response: We respectfully request that this violation be removed from the Report. PURE pays commissions to brokers as an entity; not to individual producers employed by the brokerage. PURE pays commissions on premiums collected and remits payments to the broker entity via check or ACH. The broker entity in question is paid by ACH. The total commission amount is calculated as follows: we calculate the premium paid on each policy, produce statements listing Policyholder and Policy Info, and remit that statement to the broker and post that statement to our policy administration system. We then issue payments to a single bank account on file via our accounting system. We have attached a screenshot of commission payments made to this broker entity from November 2018 through March 2019. See AG001 and AG003 Screenshot. Further, attached please find a letter from the broker titled PURE Market Conduct Letter 05.06.21 wherein the broker confirmed Gary B. did not receive commission for the relevant policies.

After further review, the violation for AG028 has been withdrawn from the Report. The agent was appointed with the Company prior to the policy effective date.

Please note review sheets LAPAG1589569611 (AG031) and LAPAG130046630 (AG049) were previously withdrawn and were not part of the Report.

Company Response: Thank you.

## **PART TWO – CORRECTIVE ACTION PLAN**

### **Rating and Underwriting**

- (3) The restitution for RHO069 has been removed from the Restitution spreadsheet.

- (7) This item has been removed from the Report after withdrawing the violation for RHO036 in Part One.

### **Termination**

- (1-3) These items were addressed in Part One of the Report. The Company should provide the requested documentation for reconsideration or make the outstanding payments reflected in the revised Restitution spreadsheet.
- (6) This corrective action has been revised in the Report.
- (8) The Company should amend its filed rules or forms to provide specific conditions when a written request from the insured is not required by the Company.

## **PART THREE – RECOMMENDATIONS**

### **Termination**

- This recommendation remains in the Report. The Company's response indicates that if the insured elects the account billed policy, it is the Company's practice to apply the refund to the account balance. However, this practice is only acceptable if the insured agrees to have their refund applied to their account balance in lieu of receiving a refund.

Company Response: As noted previously in our response, while we maintain that our current practice complies with all laws, we do understand the Bureau's concerns and are willing to provide a notice advising the Members of how the refunds will be handled for account and individual billing options.

# COMMONWEALTH OF VIRGINIA

SCOTT A. WHITE  
COMMISSIONER OF INSURANCE  
STATE CORPORATION COMMISSIO  
BUREAU OF INSURANCE



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July 2, 2021

## VIA E-MAIL DELIVERY

Rob Brestowski  
Associate General Counsel  
Privilege Underwriters Reciprocal Exchange  
44 South Broadway, Suite 301  
White Plains, NY 10601  
[rbrestowski@pureinsurance.com](mailto:rbrestowski@pureinsurance.com)

RE: Market Conduct Examination  
Privilege Underwriters Reciprocal Exchange, NAIC #12873  
Examination Period: January 1, 2019 through December 31, 2019

Dear Mr. Brestowski:

The Bureau of Insurance (Bureau) has reviewed your May 13, 2021 response to the Market Conduct Report (Report) of Privilege Underwriters Reciprocal Exchange (Company). The Bureau's response only addresses the Company's disagreements or items that have changed in the Report. This response follows the format of the Report.

## PART ONE – EXAMINERS' OBSERVATIONS

### Homeowner New Business Rating and Underwriting Review

- (1) The violation for RHO030 remains in the Report. The Company provided a copy of the membership application, subscribers agreement, and the e-delivery agreement. These documents do not include the limits, policy period, deductibles, or coverages requested by the named insured. For reconsideration, the Company must provide a copy of the High Value Homeowner Premium Indication document. This document was included in the documentation provided for other policies reviewed during the examination.

- (3b) After further review, the violations for RHO022 and RHO025 have been withdrawn from the Report. A recommendation has been written for the Company to update the Tier Rule in the Rating Manual; the rule should indicate that the Company only uses prior losses that have occurred at the insured location.

#### **Homeowner Renewal Business Rating and Underwriting Review**

- (3) After further review, the violation for RHO065 has been withdrawn from the Report. The Company provided a copy of the screen print showing the date the insurance score was pulled for the named insured. The Report has been renumbered to reflect this change.

#### **Cancellation Notice Mailed After the 89<sup>th</sup> Day of Coverage-Homeowner Policies**

- (1) The violation for THO001 remains in the Report. The Company stated that the refund was sent to the mortgagee as the policy had been endorsed to mortgagee billing. However, the policy is a written contract between the Company and the insured. Therefore, the Company must submit any refunds to the insured.

#### **Cancellations Requested by the Insured-Homeowner Policies**

- (1) After further review, the violation for THO005 has been withdrawn from the Report. The Company provided evidence that the insured's refund was applied to their other policies. The Report has been renumbered to reflect this change.
- (2) After further review, the violations for THO006 and THO021 have been withdrawn from the Report. The Company provided the insured's request for cancellation via a voice-recorded call. The Report has been renumbered to reflect this change.

#### **Rejected Applications-Homeowner Policies**

- (1) After further review, these violations have been withdrawn from the Report. The Company provided evidence that its system will not advance without the user indicating that the notice had been disclosed to the applicant. The Report has been renumbered to reflect this change.
- (2) These violations remain in the Report. The Company must provide the Adverse Underwriting Decision (AUD) notice to the applicant for all declinations. The Bureau acknowledges that the Company anticipates implementing the AUD changes in the fourth quarter of 2021.

### **Renters Cancellations**

- (2) The violation for TTN001 remains in the Report. The Company must provide the AUD notice to the insured for all declinations. The Bureau acknowledges that the Company anticipates implementing the AUD changes in the fourth quarter of 2021.
- (3) After further review, the violation for TTN005 has been withdrawn from the Report. The Company provided evidence that the insured's refund was applied to their other policies. The Report has been renumbered to reflect this change.
- (4) The violations for TTN002 and TTN003 remain in the Report. The Company stated in its response that there is no Virginia law that requires a written request for insured requested terminations. However, Section IV P of the contract issued on these policies required written request on mid-term insured requested cancellations, therefore, the Company was not in compliance with its policy provisions. The Bureau acknowledges that the Company was unable to provide voice recorded calls for TTN002 and TTN003.

The violation for TTN005 remains in the Report. The Company's response referred to an attached document for the TTN005 e-mail, however, the only information provided for TTN005 was the billing documentation that applied to the violation in Item (3) above.

### **General Statutory Notices**

- (1) The violation for NGS005 remains in the Report. The Company should review § 38.2-604 A 1 b of the Code of Virginia. The Company's contention that providing the long form notice at the time the policy is issued is incorrect. When the Company is collecting information from sources other than the insured or public records, the Company must provide the Notice of Information Collection and Disclosure Practices at the time the collection is initiated. For further consideration, please provide the script the brokers are reading to the applicant at the time of the quote.

### **Agent**

The violations for AG001 and AG003 remain in the Report. For reconsideration of these two violations, the Company should provide evidence that the agent, Mark G. (license number 870845), originally placed this business with the Company; a system screen shot will suffice.

## PART TWO – CORRECTIVE ACTION PLAN

### Rating and Underwriting Review

- (3) The Company should make the requested restitution and return the completed Revised Restitution Spreadsheet with its response.

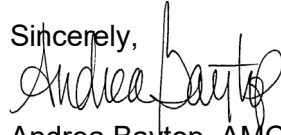
### Terminations Review

- (3) The Company should make the requested restitution and return the completed Revised Restitution Spreadsheet with its response.

We have made the changes noted above to the Revised Market Conduct Examination Report. Attached with this letter is a revised version of the Report, technical reports, Restitution spreadsheet, and any review sheets withdrawn, added or altered as a result of this review.

Once we have received and reviewed the Company's responses to these items, we will be in a position to make a settlement offer. We look forward to your response by July 16, 2021.

Sincerely,



Andrea Baytop, AMCM  
Manager, Market Conduct Section  
Property & Casualty Division  
Cell: (804) 592-0245  
Office: (804) 371-9547  
[andrea.baytop@scc.virginia.gov](mailto:andrea.baytop@scc.virginia.gov)

ADB/pgh  
Attachments

**From:** [Robert Brestowski](#)  
**To:** [Andrea Baytop](#); [Gloria Warriner](#)  
**Cc:** [Kirk Raslowsky](#)  
**Subject:** RE: VA BOI-PURE Revised Report 7/02/21  
**Date:** Friday, July 16, 2021 5:00:07 PM

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Andrea and Gloria –

Thank you for the opportunity to respond to the Bureau's concerns. I just uploaded our response and supporting documents to the "PURE External/VA Examination Report/PURE Response to Report" folder in Box.com. As noted in our response, we would welcome the opportunity to participate in a telephone call with you to discuss the information provided and/or to mutually resolve any items that remain outstanding after you review our response.

Please note, we are still finalizing the Revised Restitution Spreadsheet for Rating and Underwriting under Part II of the Corrective Action Plan. I apologize for the late notice, but our colleague that handles it is not available unexpectedly. May we upload it next week?

I hope you both have a nice weekend.

Thanks again,  
Rob

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**From:** Andrea Baytop <Andrea.Baytop@scc.virginia.gov>  
**Sent:** Friday, July 2, 2021 7:49 PM  
**To:** Robert Brestowski <RBrestowski@pureinsurance.com>; Kirk Raslowsky <KRaslowsky@pureinsurance.com>  
**Cc:** Gloria Warriner <Gloria.Warriner@scc.virginia.gov>  
**Subject:** VA BOI-PURE Revised Report 7/02/21

**[EXTERNAL MESSAGE]**

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Good Evening,

I have uploaded the Revised Market Conduct Examination Report of Privilege Underwriters Reciprocal Exchange to Box.com. The Bureau's Letter, Revised Report and corresponding materials are in the PURE External/VA Examination Report/Revised Report 7.02.21 folder in Box.com.

The company should upload its response into the PURE External/VA Examination Report/PURE Response to Report folder in Box.com.

The deadline for the company's response is July 16, 2021. Please do not hesitate to contact me if the company needs additional time to respond.

As I've indicated in earlier communications, the company may request an interim Conference call to discuss specific matters concerning the Report.



Thank you,

**Andrea Baytop, AMCM**  
Manager  
P&C Market Conduct Section  
Virginia Bureau of Insurance  
804.592.0245  
[andrea.baytop@scc.virginia.gov](mailto:andrea.baytop@scc.virginia.gov)

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## **PART ONE – EXAMINERS’ OBSERVATIONS**

### **Homeowner New Business Rating and Underwriting Review**

- (1) The violation for RHO030 remains in the Report. The Company provided a copy of the membership application, subscribers agreement, and the e-delivery agreement. These documents do not include the limits, policy period, deductibles, or coverages requested by the named insured. For reconsideration, the Company must provide a copy of the High Value Homeowner Premium Indication document. This document was included in the documentation provided for other policies reviewed during the examination.

*Company Response: We respectfully request that this violation be removed from the Report. Attached please find the Homeowner Premium Indication document requested. See Supplemental RHO030.*

- (3b) After further review, the violations for RHO022 and RHO025 have been withdrawn from the Report. A recommendation has been written for the Company to update the Tier Rule in the Rating Manual; the rule should indicate that the Company only uses prior losses that have occurred at the insured location.

*Company Response: Thank you. We will update and file the rating rule to explicitly state that only prior losses at the insured location are included.*

### **Homeowner Renewal Business Rating and Underwriting Review**

- (3) After further review, the violation for RHO065 has been withdrawn from the Report. The Company provided a copy of the screen print showing the date the insurance score was pulled for the named insured. The Report has been renumbered to reflect this change.

*Company Response: Thank you.*

### **Cancellation Notice Mailed After the 89<sup>th</sup> Day of Coverage-Homeowner Policies**

- (1) The violation for THO001 remains in the Report. The Company stated that the refund was sent to the mortgagee as the policy had been endorsed to mortgagee billing.

However, the policy is a written contract between the Company and the insured. Therefore, the Company must submit any refunds to the insured.

Company Response: We request that this violation be removed from the Report. As noted in our response dated May 13, 2021, mortgagee billing was selected at the specific request of the member through the broker. Our policy is silent as to who the refund will be returned to, which allows for the return of the premium to the payor. Specifically, the relevant policy provisions provide, in pertinent part:

#### **P. Cancellation**

1. You may cancel this policy at any time by returning it to us or by letting us know in writing of the date cancellation is to take effect.

\* \* \*

3. When this policy is cancelled, the premium for the period from the date of cancellation to the expiration date will be refunded pro rata.

4. If the return premium is not refunded with the notice of cancellation or when this policy is returned to us, we will refund it within a reasonable time after the date cancellation takes effect.

As the mortgagee is listed on the policy, it has certain rights under the policy. Further, we were specifically requested to mortgagee bill this policy. Thus, we believe our language permits us to refund any premiums due to cancellation to the mortgagee. Further, we are unaware of any law that prohibits returning refunds to the payor, as was done here.

#### **Cancellations Requested by the Insured-Homeowner Policies**

- (1) After further review, the violation for THO005 has been withdrawn from the Report. The Company provided evidence that the insured's refund was applied to their other policies. The Report has been renumbered to reflect this change.

Company Response: Thank you.

- (2) After further review, the violations for THO006 and THO021 have been withdrawn from the Report. The Company provided the insured's request for cancellation via a voice-recorded call. The Report has been renumbered to reflect this change.

Company Response: Thank you.

## Rejected Applications-Homeowner Policies

- (1) After further review, these violations have been withdrawn from the Report. The Company provided evidence that its system will not advance without the user indicating that the notice had been disclosed to the applicant. The Report has been renumbered to reflect this change.

Company Response: Thank you.

- (2) These violations remain in the Report. The Company must provide the Adverse Underwriting Decision (AUD) notice to the applicant for all declinations. The Bureau acknowledges that the Company anticipates implementing the AUD changes in the fourth quarter of 2021.

Company Response: We respectfully disagree with this finding as articulated in our response dated May 13, 2021, which is incorporated herein by reference. While we believe our position is correct under Virginia law, in light of the Bureau's concerns, we have agreed to provide a notice of AUD to both the broker and applicant following all declinations. As per our discussion, we are targeting a fourth quarter 2021 anticipated implementation date. Until then, we will request the brokers provide confirmation that the AUD was provided to the applicant.

## Renters Cancellations

- (2) The violation for TTN001 remains in the Report. The Company must provide the AUD notice to the insured for all declinations. The Bureau acknowledges that the Company anticipates implementing the AUD changes in the fourth quarter of 2021.

Company Response: We respectfully disagree with this finding as articulated in our response dated May 13, 2021, which is incorporated herein by reference. While we believe our position is correct under Virginia law, in light of the Bureau's concerns, we have agreed to provide a notice of AUD to both the broker and applicant following all declinations. As per our discussion, we are targeting a fourth quarter 2021 anticipated implementation date. Until then, we will request the brokers provide confirmation that the AUD was provided to the applicant.

- (3) After further review, the violation for TTN005 has been withdrawn from the Report. The Company provided evidence that the insured's refund was applied to their other policies. The Report has been renumbered to reflect this change.

Company Response: Thank you

- (4) The violations for TTN002 and TTN003 remain in the Report. The Company stated in its response that there is no Virginia law that requires a written request for insured requested terminations. However, Section IV P of the contract issued on these policies required written request on mid-term insured requested cancellations, therefore, the Company was not in compliance with its policy provisions. The Bureau acknowledges that the Company was unable to provide voice recorded calls for TTN002 and TTN003.

Company Response: We agree with these violations. In light of the fact that the broker was unable to locate the voice recordings for the relevant policies, we have amended our practices to require the broker to provide written requests to cancel policies.

The violation for TTN005 remains in the Report. The Company's response referred to an attached document for the TTN005 e-mail, however, the only information provided for TTN005 was the billing documentation that applied to the violation in Item (3) above.

Company Response: We respectfully request that this violation be removed from the Report. We also apologize for any confusion. The document titled TTN005 Email is an email from the broker specifically stating that: "this policy was supposed to be cancelled on 10/15/19 when the new policy . . . was issued." Thus, we have a written request to cancel this policy.

### **General Statutory Notices**

- (2) The violation for NGS005 remains in the Report. The Company should review § 38.2-604 A 1 b of the Code of Virginia. The Company's contention that providing the long form notice at the time the policy is issued is incorrect. When the Company is collecting information from sources other than the insured or public records, the Company must provide the Notice of Information Collection and Disclosure Practices at the time the collection is initiated. For further consideration, please provide the script the brokers are reading to the applicant at the time of the quote.

Company Response: We respectfully disagree with this finding as articulated in our response dated May 13, 2021, which is incorporated herein by reference. While we believe our position is correct under Virginia law, we have agreed to provide a short form notice containing a shorter script to address the Bureau's concerns. See Notice of Information Practices – Short Form.

### **Agent Licensing and Appointment Review**

The violations for AG001 and AG003 remain in the Report. For reconsideration of these two violations, the Company should provide evidence that the agent, Mark G. (license number 870845), originally placed this business with the Company; a system screen shot will suffice.

Company Response: We respectfully request that this violation be removed from the Report. Per the Bureau's request, attached please find screen shots showing Mark G. as the original producer for the relevant policies. See *AG001 and AG003 Screenshots*.

## **PART TWO – CORRECTIVE ACTION PLAN**

### **Rating and Underwriting**

- (3) The Company should make the requested restitution and return the completed Revised Restitution Spreadsheet with its response.

Company Response: We will provide the Revised Restitution Spreadsheet under separate cover.

### **Termination**

- (4) The Company should make the requested restitution and return the completed Revised Restitution Spreadsheet with its response.

Company Response: We note that that this violation was removed in the PURE Revised Report Letter 04.09.21 and rewritten to TermOvr90HO1614882396 for failing to send the refund to the insured after cancellation. As stated in our response to the Preliminary Report dated January 18, 2021, THO001 premium was paid by the mortgagee company, which received the remaining balance upon cancellation. Thus, the refund had already been provided.

Thank you for your consideration of the above and the opportunity to respond to the Bureau's concerns. We would welcome the opportunity to participate in a telephone call with you to discuss the information provided above and/or to mutually resolve any remaining outstanding items.

**From:** [Robert Brestowski](#)  
**To:** [Andrea Baytop](#)  
**Cc:** [Gloria Warriner](#); [Joy Morton](#); [Pam Henry](#); [Kirk Raslowsky](#)  
**Subject:** RE: VA BOI Response 8/06/21 (to PURE Response 7/16/21)  
**Date:** Thursday, August 12, 2021 4:34:51 PM

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Hi Andrea –

Thank you for the email. We appreciate the opportunity to review and provide additional information for violation THO001. We reached out to the independent broker for this policy and they confirmed that the refund was provided by the bank to the insured. I uploaded the email from the broker with that information to the secure portal in the VA Examination Report/ PURE Response to Report folder.

If you have questions or need additional information, please let us know. Otherwise, we look forward to receiving the Final Report and Pre-settlement Letter.

Thanks again,  
Rob

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**From:** Andrea Baytop <Andrea.Baytop@scc.virginia.gov>  
**Sent:** Friday, August 6, 2021 7:33 PM  
**To:** Robert Brestowski <RBrestowski@pureinsurance.com>; Kirk Raslowsky <KRaslowsky@pureinsurance.com>  
**Cc:** Gloria Warriner <Gloria.Warriner@scc.virginia.gov>; Joy Morton <Joy.Morton@scc.virginia.gov>; Pam Henry <Pam.Henry@scc.virginia.gov>  
**Subject:** VA BOI Response 8/06/21 (to PURE Response 7/16/21)

**[EXTERNAL MESSAGE]**

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Good Evening Mr. Brestowski,

We have reviewed the company's response dated July 16, 2021 and there is only one outstanding issue for which we require the company's attention before possible settlement. We are unable to proceed toward settlement until all Restitution has been paid. We have specified that item below along with our other comments to the company's response.

**Homeowner New Business Rating and Underwriting Review**

(1) After further review, the violation for RHO030 has been withdrawn from the Report. The Company provided a copy of the High Value Homeowner Premium Indication document. The Report has been renumbered to reflect this change.

**Homeowner Renewal Business Rating and Underwriting Review**

(2b) After further review, the violation for RHO050 has been withdrawn from the Report. The examiners determined the Company was correctly applying the occupancy surcharge factor for

rented to others. The Overcharge amount of \$6 was removed from the restitution spreadsheet. This policy now contains an Undercharge amount of \$79 due to the rate capping violation.

(2c) The violation for RHO050 remains in the Report. The Overcharge amount of \$6 was removed from the restitution spreadsheet. This policy contains an Undercharge amount of \$79 due to the rate capping violation.

### **Homeowner Cancellation Notice Mailed After the 89<sup>th</sup> Day of Coverage**

(1) The violation for THO001 remains in the Report. The Company must submit any refunds to the insured and indicate such payment on the revised restitution spreadsheet.

### **Homeowner Rejected Applications**

(2) These violations remain in the Report. The Company must provide the Adverse Underwriting Decision (AUD) notice to the applicant for all declinations.

### **Renters Cancellations**

(2) The violation for TTN001 remains in the Report. The Company must provide the Adverse Underwriting Decision (AUD) notice to the applicant for all declinations.

(3) After further review, the violation for TTN005 has been withdrawn from the Report. The examiner was able to locate the replacement policy number in the population data.

### **General Statutory Notices**

(2) The violation for NGS005 remains in the Report. Without a copy of the script the brokers are reading to applicants at the time of the quote, the Bureau is unable to reconsider this violation. If the company can provide what the insured receives or is read at the time of gathering non-public information, then we can review it to determine compliance with § 38.2-604 of the Code of Virginia.

### **Agent Licensing and Appointment Review**

After further review, the violations for AG001 and AG003 have been withdrawn from the Report. The company provided a system screen shot for AG001 and AG003, as was previously requested, indicating evidence that Mark G. placed this business with the Company.

We have uploaded the revised technical reports, review sheets and restitution spreadsheet to the secure portal in the VA Examination Report/Email 08.06.21 folder. The outstanding restitution is highlighted in the restitution spreadsheet for THO001.

We look forward to the company's response no later than Monday, August 16, 2021, which should include a revised Restitution Spreadsheet and any additions to the corrective action plan. Once we have received the company's response, we will proceed to send you the Final Report and Pre-settlement Letter.

Please feel free to contact me if you have any questions or concerns.

Thank you,



**Andrea Baytop, AMCM**  
Manager  
P&C Market Conduct Section  
Virginia Bureau of Insurance  
804.592.0245  
[andrea.baytop@scc.virginia.gov](mailto:andrea.baytop@scc.virginia.gov)

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## Andrea Baytop

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**From:** Robert Brestowski <RBrestowski@pureinsurance.com>  
**Sent:** Thursday, August 26, 2021 10:57 AM  
**To:** Andrea Baytop  
**Subject:** RE: VA BOI Response 8/06/21 (to PURE Response 7/16/21)

Hi Andrea –

Thank you for the call last week. I just uploaded the Restitution Spreadsheet to the secure portal in the VA Examination Report/ PURE Response to Report folder. As discussed, it is our position that this is not a refund as we view the payment noted in the Restitution Spreadsheet as a payment outside the normal course of business.

Please let us know if you have any questions. Otherwise, we'll wait to receive the Final Report and Pre-settlement Letter from you.

Thanks again,  
Rob

---

**From:** Robert Brestowski  
**Sent:** Wednesday, August 18, 2021 5:05 PM  
**To:** Andrea Baytop <Andrea.Baytop@scc.virginia.gov>  
**Subject:** RE: VA BOI Response 8/06/21 (to PURE Response 7/16/21)

Thanks Andrea – appreciate the quick response. I'll send an invite for us to talk on Friday.

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**From:** Andrea Baytop <[Andrea.Baytop@scc.virginia.gov](mailto:Andrea.Baytop@scc.virginia.gov)>  
**Sent:** Wednesday, August 18, 2021 4:26 PM  
**To:** Robert Brestowski <[RBrestowski@pureinsurance.com](mailto:RBrestowski@pureinsurance.com)>  
**Subject:** RE: VA BOI Response 8/06/21 (to PURE Response 7/16/21)

[EXTERNAL MESSAGE]

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Hi Rob,  
I can discuss on Friday starting at 10:30 AM or anytime later. If you would like to include Joy Morton (my manager) on the call, we would need to wait until next week.

Thank you,

Andrea

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**From:** Robert Brestowski <[RBrestowski@pureinsurance.com](mailto:RBrestowski@pureinsurance.com)>  
**Sent:** Wednesday, August 18, 2021 1:01 PM  
**To:** Andrea Baytop <[Andrea.Baytop@scc.virginia.gov](mailto:Andrea.Baytop@scc.virginia.gov)>  
**Subject:** RE: VA BOI Response 8/06/21 (to PURE Response 7/16/21)

Hi Andrea –

Thanks for the email. Do you have time free this afternoon or Friday for a call to discuss? I'm happy to send out a Teams meeting invite if you let us know what time works best for you. We're also happy to talk next week if that's better for you.

Thanks again,  
Rob

---

**From:** Andrea Baytop <[Andrea.Baytop@scc.virginia.gov](mailto:Andrea.Baytop@scc.virginia.gov)>

**Sent:** Wednesday, August 18, 2021 11:35 AM

**To:** Robert Brestowski <[RBrestowski@pureinsurance.com](mailto:RBrestowski@pureinsurance.com)>; Gloria Warriner <[Gloria.Warriner@scc.virginia.gov](mailto:Gloria.Warriner@scc.virginia.gov)>

**Cc:** Kirk Raslowsky <[KRaslowsky@pureinsurance.com](mailto:KRaslowsky@pureinsurance.com)>; Pam Henry <[Pam.Henry@scc.virginia.gov](mailto:Pam.Henry@scc.virginia.gov)>

**Subject:** RE: VA BOI Response 8/06/21 (to PURE Response 7/16/21)

**[EXTERNAL MESSAGE]**

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Good Morning Mr. Brestowski,

We have reviewed the company's response regarding TH0001 where the company sent the cancellation refund to the mortgage company instead of the insured. The violation under item (1) of the Homeowner Cancellation Notice Mailed After the 89th Day of Coverage category remains in the Report and restitution should be made to the insured. Our decision is based upon the following:

- The mortgage company initially deposited an unknown amount of the policy refund into the escrow account, but did not forward the refund directly to the insured.
- The broker email did not provide specific evidence that the mortgage company provided the total insurance policy refund to the insured.
- Although the mortgage company refunded money to the insured, this refund was prompted by the closing of the loan (escrow account), not the cancellation of the insurance policy.
- The documentation could not certify that the total policy refund was included when the loan was closed.
- Since the premium was paid by the insured via escrow, any insurance policy refund should be sent directly to the insured, not the mortgage company.

Therefore, the company should make the requested restitution payment to the insured and send back the completed Restitution Spreadsheet by August 27, 2021. The company should use the Restitution Spreadsheet uploaded by the Bureau on August 6, 2021.

Once the restitution is completed, we will proceed toward the settlement process. We look forward to your reply by August 27, 2021.

Thank you,

**Andrea Baytop, AMCM**

Manager

P&C Market Conduct Section

Virginia Bureau of Insurance

804.592.0245

[andrea.baytop@scc.virginia.gov](mailto:andrea.baytop@scc.virginia.gov)

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**From:** Gloria Warriner <[Gloria.Warriner@scc.virginia.gov](mailto:Gloria.Warriner@scc.virginia.gov)>  
**Sent:** Monday, August 16, 2021 7:55 AM  
**To:** Robert Brestowski <[RBrestowski@pureinsurance.com](mailto:RBrestowski@pureinsurance.com)>; Andrea Baytop <[Andrea.Baytop@scc.virginia.gov](mailto:Andrea.Baytop@scc.virginia.gov)>  
**Cc:** Kirk Raslowsky <[KRaslowsky@pureinsurance.com](mailto:KRaslowsky@pureinsurance.com)>  
**Subject:** RE: VA BOI Response 8/06/21 (to PURE Response 7/16/21)

Good morning Rob,

Thank you for the additional information for THO001.

We will review it and let you know if we need additional information.

Have a good day.

Gloria

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**From:** Robert Brestowski <[RBrestowski@pureinsurance.com](mailto:RBrestowski@pureinsurance.com)>  
**Sent:** Thursday, August 12, 2021 4:35 PM  
**To:** Andrea Baytop <[Andrea.Baytop@scc.virginia.gov](mailto:Andrea.Baytop@scc.virginia.gov)>  
**Cc:** Gloria Warriner <[Gloria.Warriner@scc.virginia.gov](mailto:Gloria.Warriner@scc.virginia.gov)>; Joy Morton <[Joy.Morton@scc.virginia.gov](mailto:Joy.Morton@scc.virginia.gov)>; Pam Henry <[Pam.Henry@scc.virginia.gov](mailto:Pam.Henry@scc.virginia.gov)>; Kirk Raslowsky <[KRaslowsky@pureinsurance.com](mailto:KRaslowsky@pureinsurance.com)>  
**Subject:** RE: VA BOI Response 8/06/21 (to PURE Response 7/16/21)

Hi Andrea –

Thank you for the email. We appreciate the opportunity to review and provide additional information for violation THO001. We reached out to the independent broker for this policy and they confirmed that the refund was provided by the bank to the insured. I uploaded the email from the broker with that information to the secure portal in the VA Examination Report/ PURE Response to Report folder.

If you have questions or need additional information, please let us know. Otherwise, we look forward to receiving the Final Report and Pre-settlement Letter.

Thanks again,  
Rob

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**From:** Andrea Baytop <[Andrea.Baytop@scc.virginia.gov](mailto:Andrea.Baytop@scc.virginia.gov)>  
**Sent:** Friday, August 6, 2021 7:33 PM  
**To:** Robert Brestowski <[RBrestowski@pureinsurance.com](mailto:RBrestowski@pureinsurance.com)>; Kirk Raslowsky <[KRaslowsky@pureinsurance.com](mailto:KRaslowsky@pureinsurance.com)>  
**Cc:** Gloria Warriner <[Gloria.Warriner@scc.virginia.gov](mailto:Gloria.Warriner@scc.virginia.gov)>; Joy Morton <[Joy.Morton@scc.virginia.gov](mailto:Joy.Morton@scc.virginia.gov)>; Pam Henry <[Pam.Henry@scc.virginia.gov](mailto:Pam.Henry@scc.virginia.gov)>  
**Subject:** VA BOI Response 8/06/21 (to PURE Response 7/16/21)

[EXTERNAL MESSAGE]

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Good Evening Mr. Brestowski,

We have reviewed the company's response dated July 16, 2021 and there is only one outstanding issue for which we require the company's attention before possible settlement. We are unable to proceed toward settlement until all Restitution has been paid. We have specified that item below along with our other comments to the company's response.

#### **Homeowner New Business Rating and Underwriting Review**

(1) After further review, the violation for RHO030 has been withdrawn from the Report. The Company provided a copy of the High Value Homeowner Premium Indication document. The Report has been renumbered to reflect this change.

#### **Homeowner Renewal Business Rating and Underwriting Review**

(2b) After further review, the violation for RHO050 has been withdrawn from the Report. The examiners determined the Company was correctly applying the occupancy surcharge factor for rented to others. The Overcharge amount of \$6 was removed from the restitution spreadsheet. This policy now contains an Undercharge amount of \$79 due to the rate capping violation.

(2c) The violation for RHO050 remains in the Report. The Overcharge amount of \$6 was removed from the restitution spreadsheet. This policy contains an Undercharge amount of \$79 due to the rate capping violation.

#### **Homeowner Cancellation Notice Mailed After the 89<sup>th</sup> Day of Coverage**

(1) The violation for THO001 remains in the Report. The Company must submit any refunds to the insured and indicate such payment on the revised restitution spreadsheet.

#### **Homeowner Rejected Applications**

(2) These violations remain in the Report. The Company must provide the Adverse Underwriting Decision (AUD) notice to the applicant for all declinations.

#### **Renters Cancellations**

(2) The violation for TTN001 remains in the Report. The Company must provide the Adverse Underwriting Decision (AUD) notice to the applicant for all declinations.

(3) After further review, the violation for TTN005 has been withdrawn from the Report. The examiner was able to locate the replacement policy number in the population data.

#### **General Statutory Notices**

(2) The violation for NGS005 remains in the Report. Without a copy of the script the brokers are reading to applicants at the time of the quote, the Bureau is unable to reconsider this violation. If the company can provide what the insured receives or is read at the time of gathering non-public information, then we can review it to determine compliance with § 38.2-604 of the Code of Virginia.

#### **Agent Licensing and Appointment Review**

After further review, the violations for AG001 and AG003 have been withdrawn from the Report. The company provided a system screen shot for AG001 and AG003, as was previously requested, indicating evidence that Mark G. placed this business with the Company.

We have uploaded the revised technical reports, review sheets and restitution spreadsheet to the secure portal in the VA Examination Report/Email 08.06.21 folder. The outstanding restitution is highlighted in the restitution spreadsheet for THO001.

We look forward to the company's response no later than Monday, August 16, 2021, which should include a revised Restitution Spreadsheet and any additions to the corrective action plan. Once we have received the company's response, we will proceed to send you the Final Report and Pre-settlement Letter.

Please feel free to contact me if you have any questions or concerns.

Thank you,

**Andrea Baytop, AMCM**  
Manager  
P&C Market Conduct Section  
Virginia Bureau of Insurance  
804.592.0245  
[andrea.baytop@scc.virginia.gov](mailto:andrea.baytop@scc.virginia.gov)

Confidential

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# COMMONWEALTH OF VIRGINIA



SCOTT A. WHITE  
COMMISSIONER OF INSURANCE  
STATE CORPORATION COMMISSION  
BUREAU OF INSURANCE

P.O. BOX 1157  
RICHMOND, VIRGINIA 23218  
1300 E. MAIN STREET  
RICHMOND, VIRGINIA 23219  
TELEPHONE: (804) 371-9741  
[scc.virginia.gov](http://scc.virginia.gov)

August 27, 2021

## VIA E-MAIL

Rob Brestowski  
Associate General Counsel  
Privilege Underwriters Reciprocal Exchange  
44 South Broadway, Suite 301  
White Plains, NY 10601  
[rbrestowski@pureinsurance.com](mailto:rbrestowski@pureinsurance.com)

RE: Market Conduct Examination  
Privilege Underwriters Reciprocal Exchange, NAIC #12873  
Examination Period: January 1, 2019 through December 31, 2019

Dear Mr. Brestowski:

The Bureau of Insurance (Bureau) has concluded its review of the company's response of August 12, 2021 and August 27, 2021. Based upon the Bureau's review of the company's correspondence, we are now in a position to conclude this examination. Attached is the final Market Conduct Examination Report of Privilege Underwriters Reciprocal Exchange (Report).

Based on the Bureau's review of the Report and the company's responses, it appears that a number of Virginia insurance laws and regulations have been violated, specifically:

Sections 38.2-510 A 10, 38.2-604 A, 38.2-604 B, 38.2-604 C, 38.2-610 A, 38.2-1833, 38.2-1906 A, 38.2-1906 D, 38.2-2114 A, 38.2-2125, 38.2-2126 A 1, and 38.2-2129 of the Code of Virginia.

Violations of the laws mentioned above provide for monetary penalties of up to \$5,000 for each violation as well as suspension or revocation of an insurer's license to engage in the insurance business in Virginia.

In light of the above, the Bureau will be in further communication with you shortly regarding the appropriate disposition of this matter.

Sincerely,

A handwritten signature in black ink that reads "Andrea Baytop". The signature is written in a cursive style.

Andrea Baytop, AMCM  
Manager, Market Conduct Section  
Property & Casualty Division  
Cell: (804) 592-0245  
Office: (804) 371-9547  
[andrea.baytop@scc.virginia.gov](mailto:andrea.baytop@scc.virginia.gov)

ADB/pgh  
Attachment



September 23, 2021

Rebecca Nichols  
Deputy Commissioner  
Property and Casualty  
Bureau of Insurance  
P. O. Box 1157  
Richmond, VA 23218

RE: Market Conduct Examination Settlement Offer  
Ecase/Docket Number: INS-2021-00111

Dear Ms. Nichols:

This will acknowledge receipt of the Bureau of Insurance's letter dated August 27, 2021, concerning the above-referenced matter.

We wish to make a settlement offer on behalf of the insurance company listed below for the alleged violations of §§ 38.2-510 A 10, 38.2-604 A, 38.2-604 B, 38.2-604 C, 38.2-610 A, 38.2-1833, 38.2-1906 A, 38.2-1906 D, 38.2-2114 A, 38.2-2125, 38.2-2126 A 1, and 38.2-2129 of the Code of Virginia to indicate a general business practice.

1. We enclose with this letter a check payable to the Treasurer of Virginia in the amount of \$16,800.
2. We agree to comply with the corrective action plan set forth in the company's correspondence of January 18, 2021, May 13, 2021 and July 16, 2021.
3. We confirm that restitution was made to two consumers for \$2,495.48 in accordance with the company's correspondence of January 18, 2021, May 13, 2021, July 16, 2021 and August 26, 2021.
4. We further acknowledge the company's right to a hearing before the State Corporation Commission in this matter and waive that right if the State Corporation Commission accepts this offer of settlement.

PURE Insurance  
44 South Broadway, Suite 301  
White Plains, NY 10601  
888.813.7873

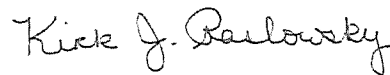


high value homeowners | automobile | watercraft | jewelry, art & collections | personal excess liability | flood | fraud & cyber

This offer is being made solely for the purpose of a settlement and does not constitute, nor should it be construed as, an admission of any violation of law.

Sincerely,

Privilege Underwriters Reciprocal Exchange  
NAIC #12873



---

(Signed)

Kirk J. Raslowsky  
(Type or Print Name)

Secretary of PURE Risk Management, Attorney-in-Fact for Privilege  
Underwriters Reciprocal Exchange  
(Title)

September 23, 2021  
(Date)

Enclosure

**PURE Insurance**  
44 South Broadway, Suite 301  
White Plains, NY 10601  
888.813.7873



Privilege Underwriters Reciprocal Exchange (PURE), is a Florida domiciled reciprocal insurer. PURE Risk Management, LLC serves as the Attorney-In-Fact.

# COMMONWEALTH OF VIRGINIA



**SCOTT A. WHITE**  
**COMMISSIONER OF INSURANCE**  
**STATE CORPORATION COMMISSION**  
**BUREAU OF INSURANCE**

**P.O. BOX 1157**  
**RICHMOND, VIRGINIA 23218**  
**1300 E. MAIN STREET**  
**RICHMOND, VIRGINIA 23219**  
**TELEPHONE: (804) 371-9741**  
**[scc.virginia.gov](http://scc.virginia.gov)**

Privilege Underwriters Reciprocal Exchange has tendered to the Bureau of Insurance the settlement amount of \$16,800 by its check numbered 400142076 and dated September 23, 2021, a copy of which is located in the Bureau's files.

COMMONWEALTH OF VIRGINIA  
STATE CORPORATION COMMISSION  
AT RICHMOND, NOVEMBER 16, 2021

SOC-CLERK'S OFFICE  
DOCUMENT CONTROL CENTER

2021 NOV 16 A 11: 08

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COMMONWEALTH OF VIRGINIA, *ex rel.*

STATE CORPORATION COMMISSION

v.

CASE NO. INS-2021-00111

PRIVILEGE UNDERWRITERS RECIPROCAL EXCHANGE,  
Defendant

SETTLEMENT ORDER

Based on a market conduct examination performed by the Bureau of Insurance ("Bureau"), it is alleged that Privilege Underwriters Reciprocal Exchange ("Defendant"), duly licensed by the State Corporation Commission ("Commission") to transact the business of insurance in the Commonwealth of Virginia ("Virginia"), violated: § 38.2-510 A 10 of the Code of Virginia ("Code") by failing to include with claims payments a statement setting forth the coverage under which payments are being made with such frequency as to indicate a general business practice; §§ 38.2-604 A, 38.2-604 B, 38.2-604 C, 38.2-610 A, 38.2-2125, 38.2-2126 A 1, and 38.2-2129 of the Code by failing to accurately provide the required notices to insureds; § 38.2-1833 of the Code by failing to appoint an agent within thirty (30) days of the date of the insurance application; §§ 38.2-1906 A by failing to file all rates and supplementary rate information with the Bureau and 38.2-1906 D of the Code by failing to use the rates and supplementary rate information on file with the Bureau; and § 38.2-2114 A of the Code of Virginia by failing to accurately terminate insurance policies.

The Commission is authorized by §§ 38.2-218, 38.2-219, and 38.2-1040 of the Code to impose certain monetary penalties, issue cease and desist orders, and suspend or revoke a

defendant's license upon a finding by the Commission, after notice and opportunity to be heard, that a defendant has committed the aforesaid alleged violations.

The Defendant has been advised of the right to a hearing in this matter whereupon the Defendant, without admitting or denying any violation of Virginia law, has made an offer of settlement to the Commission wherein the Defendant has agreed to comply with the corrective action plan outlined in company correspondence dated January 18, 2021, May 13, 2021 and July 16, 2021; has confirmed restitution was made to two consumers in the amount of Two Thousand Four Hundred Ninety Five Dollars and Forty-eight Cents (\$2,495.48); has tendered to the Treasurer of Virginia the sum of Sixteen Thousand Eight Hundred Dollars (\$16,800); and has waived the right to a hearing.

The Bureau has recommended that the Commission accept the offer of settlement of the Defendant pursuant to the authority granted the Commission in § 12.1-15 of the Code.

NOW THE COMMISSION, having considered the record herein, the offer of settlement of the Defendant, and the recommendation of the Bureau, is of the opinion that the Defendant's offer should be accepted.

Accordingly, IT IS ORDERED THAT:

(1) The offer of the Defendant in settlement of the matter set forth herein is hereby accepted.

(2) This case is dismissed, and the papers herein shall be placed in the file for ended causes.

A COPY of this order shall be sent by the Clerk of the Commission by electronic mail to: Rob Brestowski, Associate General Counsel, Privilege Underwriters Reciprocal Exchange, at [rbrestowski@pureinsurance.com](mailto:rbrestowski@pureinsurance.com), 44 South Broadway, Suite 301, White Plains, New York

10601; and a copy shall be delivered to the Commission's Office of General Counsel and the Bureau of Insurance in care of Deputy Commissioner Rebecca Nichols.

20140725