

MARKET CONDUCT EXAMINATION REPORT

OF

**BANKERS INDEPENDENT INSURANCE
COMPANY**

AS OF

MARCH 31, 2014

**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, Karen S. Gerber, Senior Insurance Market Examiner of the Bureau of Insurance, do hereby certify that the annexed copy of the Market Conduct Examination Report of Bankers Independent Insurance Company as of March 31, 2014, conducted at the company's office in Atlanta, Georgia, is a true copy of the original Report on file with the Bureau and also includes a true copy of the companies' 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 No. INS-2015-00095 finalizing the 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 9th day of July, 2015.

Karen S. Gerber
Examiner in Charge

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INTRODUCTION

Pursuant to the authority of § 38.2-1317 of the Code of Virginia, a comprehensive examination has been made of the private passenger auto line of business written by Bankers Independent Insurance Company at their office in Atlanta, Georgia.

The examination commenced September 22, 2014 and concluded January 16, 2015. Andrea D. Baytop, William T. Felvey, Karen S. Gerber, Ju'Coby D. Hendrick, and Gloria V. Warriner, examiners of the Bureau of Insurance, and Joyclyn M. Morton, Market Conduct Supervisor of the Bureau of Insurance, participated in the work of the examination. The examination was called in the Examination Tracking System on February 19, 2014 and was assigned the examination number of VA 097-M15. The examination was conducted in accordance with the procedures established by the National Association of Insurance Commissioners (NAIC).

COMPANY PROFILE*

Bankers Independent Insurance Company (BIIC) was incorporated and began business on February 19, 1936 as Bankers Mutual Insurance Company of the District of Columbia under the laws of the District of Columbia. The name of the company was changed to Bankers Mutual Insurance Company of Maryland when the company was redomesticated to the State of Maryland on January 25, 1986. On January 1, 1987 the company was converted to a stock company and the present title was adopted.

In May 1998, Maryland Diversified Corporation, its holding company parent, signed a definitive agreement to be acquired by American Live Stock and its parent. This transaction received regulatory approval on July 14, 1998 and closed on July 28, 1998. Approximately 45% of the Maryland Diversified stock was acquired by American Live Stock Insurance Company, and the remaining 55% by American Live Stock's parent

* Source: Best's Insurance Reports, Property & Casualty, 2014 Edition.

company, ALTOHA, Inc. American Live Stock and ALTOHA contributed \$3 million to Bankers Independent as part of this transaction.

In February 2005, American Live Stock Insurance Company and ALTOHA signed a definitive agreement to sell BIIC and its holding company parent, Maryland Diversified Corporation, to American Independent Insurance Company. This transaction received regulatory approval and closed in May 2005. Bankers Independent redomesticated from Maryland to Pennsylvania during the fourth quarter of 2006. On September 4, 2008, Maryland Diversified Corporation was dissolved, leaving the company a wholly owned subsidiary of American Independent Insurance Company.

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 December 22, 1999.

GROUP CODE: 3678	BANKERS
NAIC Company Number	13455
LICENSED IN VIRGINIA	12/22/1999
LINES OF INSURANCE	
Accident and Sickness	x
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	x
General Liability	
Glass	
Homeowners Multi-Peril	
Inland Marine	
Miscellaneous Property	
Ocean Marine	
Surety	
Water Damage	
Workers' Compensation	

The table below shows the company's premium volume and approximate market share of business written in Virginia during 2013 for the line of insurance included in this examination.* This business was developed through independent agents.

COMPANY AND LINE	PREMIUM VOLUME	MARKET SHARE
Bankers Independent Insurance Company		
Private Passenger Automobile Liability	\$5,522,165	.21%
Private Passenger Automobile Physical Damage	\$847,053	.04%

* Source: The 2013 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 private passenger automobile line of business written in Virginia for the period beginning April 1, 2013 and ending March 31, 2014. This review included rating and underwriting, policy terminations, claims handling, forms, policy issuance,¹ statutory notices, agent 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. The Report is by test, and all tests applied during the examination are reported.

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 statutes and regulations 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 on risks located in Virginia. Finally, violations of other related laws that apply to insurers, characterized as "Other Law Violations," are also noted in this section of the Report.

In Part Two, the Corrective Action Plan identifies the violations that rise to the level of a general business practice and 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. This section also summarizes the violations for which the company was cited in previous examinations.

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

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

specific company practices does not constitute an acceptance of the practices by the Bureau.

STATISTICAL SUMMARY

The files selected for the review of the rating and underwriting, termination, 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.

AREA	Population					
	BIIC	TOTAL	FILES REVIEWED	FILES NOT FOUND	FILES WITH ERRORS	ERROR RATIO
Private Passenger Auto						
New Business	<u>4479</u> 31	<u>4479</u> 31	31	0	19	61%
Renewal Business	<u>5810</u> 30	<u>5810</u> 30	30	0	20	67%
Co-Initiated Cancellations	<u>71</u> 11	<u>71</u> 11	11	0	9	82%
All Other Cancellations ¹	<u>4562</u> 30	<u>4562</u> 30	24	0	15	63%
Nonrenewals	<u>869</u> 12	<u>869</u> 12	12	0	3	25%
Claims						
Auto	<u>837</u> 63	<u>837</u> 63	63	0	51	81%

Footnote ¹ - The company was unable to provide accurate data for the cancellation populations for the examination period.

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

Automobile New Business Policies

The Bureau requested 31 new business policy files for review. The examiners reviewed all of these files. During this review, the examiners found overcharges totaling \$1,731.62 and undercharges totaling \$53.87. The net amount that should be refunded to insureds is \$1,731.62 plus six percent (6%) simple interest.

- (1) The examiners found two violations of § 38.2-305 A of the Code of Virginia. The company failed to specify accurate information in the insurance policy. The company failed to include all of the applicable information on the declarations page.
- (2) The examiners found one violation of § 38.2-610 A of the Code of Virginia. The company failed to provide the insured with written notice of an Adverse Underwriting Decision (AUD).
- (3) The examiners found one violation of § 38.2-2206 A of the Code of Virginia. The company failed to obtain a signed rejection of the higher uninsured motorist limits.
- (4) The examiners found 21 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 14 instances, the company failed to use the correct discounts and/or surcharges.

- b. In four instances, the company failed to apply the correct surcharge points for accidents and/or convictions.
- c. In one instance, the company failed to use the correct driver classification factor.
- d. In two instances, the company failed to use the correct base and/or final rates.

Automobile Renewal Business Policies

The Bureau requested 30 renewal business policy files for review. The examiners reviewed all of these files. As a result of this review, the examiners found overcharges totaling \$1,576.74 and undercharges totaling \$474.17. The net amount that should be refunded to insureds is \$1,576.74 plus six percent (6%) simple interest.

- (1) The examiners found one violation of § 38.2-1905 C of the Code of Virginia. The company applied surcharge points under a Safe Driver Insurance Plan (SDIP) to a vehicle other than the one customarily operated by the driver who incurred the points.
- (2) The examiners found 30 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 19 instances, the company failed to use the correct discounts and/or surcharges.
 - b. In four instances, the company failed to apply the correct surcharge points for accidents and/or convictions.
 - c. In two instances, the company failed to use the correct symbol.
 - d. In four instances, the company failed to use the correct base and/or final rates.
 - e. In one instance, the company failed to use the filed rounding rule.

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 – Automobile Policies**NOTICE MAILED PRIOR TO THE 60TH DAY OF COVERAGE**

The Bureau reviewed seven automobile cancellations that were initiated by the company where the notices were mailed prior to the 60th day of coverage in the initial policy period. As a result of this review, the examiners found overcharges totaling \$58.00 and no undercharges. The net amount that should be refunded to insureds is \$58.00 plus six percent (6%) simple interest.

- (1) The examiners found six 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 five instances, the company failed to calculate the earned premium correctly.
 - b. In one instance, the company failed to use the filed fees.
- (2) The examiners found one violation of § 38.2-2208 A of the Code of Virginia. The company failed to obtain valid proof of mailing the cancellation notice to the insured.

NOTICE MAILED AFTER THE 59TH DAY OF COVERAGE

The Bureau reviewed four automobile cancellations that were initiated by the company where the notices were mailed on or after the 60th day of coverage in the initial policy period or at any time during the term of a subsequent renewal policy. As a result of this review, the examiners found overcharges totaling \$58.60 and no undercharges.

The net amount that should be refunded to insureds is \$58.60 plus six percent (6%) simple interest.

The examiners found three 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. The company failed to calculate the earned premium correctly.

All Other Cancellations – Automobile Policies

NONPAYMENT OF PREMIUM

The Bureau reviewed eight automobile cancellations that were initiated by the company for nonpayment of the policy premium. As a result of this review, the examiners found overcharges totaling \$171.36 and no undercharges. The net amount that should be refunded to insureds is \$171.36 plus six percent (6%) simple interest.

- (1) The examiners found one violation of § 38.2-310 of the Code of Virginia. The company failed to state in the policy all fees, charges, premiums or other consideration charged for insurance or for procurement of insurance.
- (2) The examiners found seven 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. The company failed to calculate the earned premium correctly.
- (3) The examiners found two violations of § 38.2-2208 A of the Code of Virginia. The company failed to obtain valid proof of mailing the notice of cancellation to the insured.

REQUESTED BY THE INSURED

In addition, the Bureau reviewed 16 automobile cancellations that were initiated by the insured where the cancellation was to be effective during the policy term. As a result of this review, the examiners found overcharges totaling \$29.65 and undercharges

totaling \$595.00. The net amount that should be refunded to insureds is \$29.65 plus six percent (6%) simple interest.

- (1) The examiners found eight 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. The company failed to calculate the earned premium correctly.
- (2) The examiners found four violations of § 38.2-2212 F of the Code of Virginia. The company failed to obtain a written request from the insured to cancel his policy.

Company-Initiated Nonrenewals – Automobile Policies

The Bureau reviewed 12 automobile nonrenewals that were initiated by the company.

The examiners found three violations of § 38.2-2208 A of the Code of Virginia.

The company failed to obtain valid proof of mailing the nonrenewal notice to the insured.

CLAIMS REVIEW

Automobile Claims

The examiners reviewed 63 automobile claims for the period of April 1, 2013 through March 31, 2014. The findings below appear to be contrary to the standards set forth by Virginia insurance statutes and regulations. The examiners found overpayments totaling \$512.00 and underpayments totaling \$4,547.67 during the review of these files. The net amount that should be paid to claimants is \$4,035.67 plus six percent (6%) simple interest.

- (1) The examiners found 14 violations of 14 VAC 5-400-30. The company failed to document the claim file sufficiently to reconstruct events and/or dates that were pertinent to the claim.

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

- (2) The examiners found 11 violations of 14 VAC 5-400-40 A. The company obscured or concealed from a first party claimant, directly or by omission, benefits, coverages, or other provisions of an insurance contract that were pertinent to the claim.
 - a. In two instances, the company failed to properly inform an insured of his Medical Expense Benefits coverage.
 - b. In three instances, the company failed to inform an insured of his Transportation Expense coverage when the file indicated the coverage was applicable to the loss.
 - c. In six instances, the company failed to inform an insured of the benefits or coverages, including rental benefits, available under the Uninsured Motorist coverage (UM) when the file indicated the coverage was applicable to the loss.

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

- (3) The examiners found three violations of 14 VAC 5-400-50 C. The company failed to make an appropriate reply within ten working days to pertinent communications from a claimant or a claimant's authorized representative that reasonably suggested a response was expected.
- (4) The examiners found one violation of 14 VAC 5-400-50 D. The company failed to provide reasonable assistance to the first party claimant.
- (5) The examiners found four violations 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.

- (6) The examiners found one violation of 14 VAC 5-400-70 B. The company failed to provide a reasonable explanation of the basis for its denial of a claim.
- (7) The examiners found nine violations of 14 VAC 5-400-70 D. The company failed to offer the insured an amount that was fair and reasonable as shown by the investigation of the claim or failed to pay a claim in accordance with the insured's policy provisions.
 - a. In three instances, the company failed to reimburse the insured his portion of the collision deductible under the Uninsured Motorist Property Damage (UMPD) coverage.
 - b. In three instances, the company failed to pay the proper sales and use tax, title fee, and/or license fee on first party total loss settlements.
 - c. In one instance, the company failed to pay the claim in accordance with the policy provisions under the insured's Medical Expense Benefits coverage.
 - d. In two instances, the company failed to pay the claim in accordance with the policy provisions under the insured's Transportation Expenses coverage.

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

- (8) The examiners found four violations of 14 VAC 5-400-80 D. The company failed to provide the vehicle owner a copy of the estimate for the cost of repairs prepared by or on behalf of the company.
- (9) The examiners found four violations of 14 VAC 5- 80 E. The company failed to document all information relating to the application of betterment or depreciation

in the claim file.

- (10) The examiners found five violations of § 38.2-236 A of the Code of Virginia. The company failed to send the claimant's attorney or other representative a copy of the claimant's notice regarding a settlement payment of \$5,000.00 or greater.

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

- (11) The examiners found two violations of § 38.2-236 B of the Code of Virginia. The company failed to send a notice of settlement payment of \$5,000.00 or more in the language required by the statute.

- (12) The examiners found 18 violations of § 38.2-510 A 1 of the Code of Virginia. The company misrepresented pertinent facts or policy provisions relating to coverages at issue.

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

- (13) The examiners found seven 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.

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

- (14) The examiners found five violations of § 38.2-510 A 6 of the Code of Virginia. The company failed to attempt, in good faith, to make a prompt, fair, and equitable settlement of a claim in which liability was reasonably clear.

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

- (15) The examiners found one violation of § 38.2-510 A 10 of the Code of Virginia. The company made a claim payment to the insured or beneficiary that was not accompanied by a statement setting forth the correct coverage(s) under which payment was made.
- (16) The examiners found two violations of § 38.2-510 A 14 of the Code of Virginia. The company failed to provide a reasonable explanation of the basis in the insurance policy in relation to the facts or applicable law for the denial of a claim or offer of a compromise settlement.
- (17) The examiners found four occurrences where the company failed to comply with the provisions of the insurance policy.
- a. In two occurrences, the company paid an insured more than he/she was entitled to receive under the terms of the policy.
 - b. In two occurrences, the company failed to comply with the policy provisions when making payment for an uninsured motorist claim.

REVIEW OF FORMS

The examiners reviewed the company's policy forms and endorsements used during the examination period and those that are currently used for the line 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 line 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 Review of the Policy Issuance Process section of the Report. The examiners then reviewed the forms used on these policies to verify the company's current practices.

Automobile Policy FormsPOLICY FORMS USED DURING THE EXAMINATION PERIOD

The company provided copies of 11 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.

REVIEW OF THE POLICY ISSUANCE PROCESS

To obtain sample policies to review the company's policy issuance process for the lines examined, the examiners requested new and renewal business policy mailings that were sent 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 enclosed and listed all of the applicable policy forms 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.

Automobile Policies

The company provided five new business policies mailed on the following dates: May 2, 6, 18, 22, and 30, 2014. In addition, the company provided five renewal business policies mailed on the following dates: May 2, 13, and 21, 2013.

NEW BUSINESS POLICIES

The examiners found no violations in this area.

RENEWAL BUSINESS POLICIES

The examiners found no violations in this area.

REVIEW OF STATUTORY NOTICES

The examiners reviewed the company's statutory notices used during the examination period and those that are currently used for the line 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 each line 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 Review of 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 vehicle and property policies issued on risks located in Virginia complied with the Code of Virginia.

General Statutory Notices

- (1) The examiners found one violation of § 38.2-604.1 B of the Code of Virginia. The company's Notice of Financial Information Collection and Disclosure Practices did not contain all of the information required by this statute.
- (2) The examiners found one violation of § 38.2-610 A of the Code of Virginia. The AUD language in the company's cancellation notice did not include wording substantially similar to that of the prototype set forth in Administrative Letter 1981-16.

Statutory Vehicle Notices

- (1) The examiners found one violation of § 38.2-2202 A of the Code of Virginia. The company failed to provide the Medical Expense Benefits notice in the precise language as required by this statute.
- (2) The examiners found one violation of § 38.2-2202 B of the Code of Virginia. The company failed to provide the Uninsured Motorist Limits notice in boldface type as required by this statute.
- (3) The examiners found one violation of § 38.2-2230 of the Code of Virginia. The company failed to have available for use a rental reimbursement notice that contained all of the information required by this statute.

Other Notices

The company provided copies of two other notices including applications that were used during the examination period.

The examiners found one violation of § 38.2-502 of the Code of Virginia. The company misrepresented the benefits, advantages, conditions or terms of the insurance policy. The company's declarations page includes a termination notice that is not permitted under the statute.

LICENSING AND APPOINTMENT REVIEW

A review was made of new business private passenger automobile policies to verify that the agent of record for those policies reviewed was licensed and appointed to write business for the company as required by Virginia insurance statutes. 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 Review

- (1) The examiners found five violations of § 38.2-1822 of the Code of Virginia. The company permitted a person to act in the capacity of an agent who was not licensed in the Commonwealth of Virginia.
- (2) 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 the application.

Agency Review

The examiners found three violations of § 38.2-1812 of the Code of Virginia. The company paid commissions to an agency not duly appointed within 30 days of the date of application.

REVIEW OF THE COMPLAINT-HANDLING PROCESS

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 found in this area.

REVIEW OF PRIVACY AND INFORMATION SECURITY PROCEDURES

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 Procedures for review.

PART TWO – CORRECTIVE ACTION PLAN

Business practices and the error tolerance guidelines are determined in accordance with the standards set forth by the NAIC. Any error ratio above these guidelines indicates a general business practice. The threshold applied to claims handling is seven percent (7%). In some instances, such as filing requirements, forms, notices, and agent 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

Bankers Independent Insurance Company shall:

Provide a Corrective Action Plan (CAP) with its response to the Report.

Rating and Underwriting Review

Bankers Independent Insurance Company 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 enclosed 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) Specify accurate information in the policy by showing the correct premium per vehicle and garaging address on the declarations page.

- (5) Provide an AUD notice to the insured when the company issues the policy with information that differs from the information provided by the insured in the application.
- (6) Properly assign points under a Safe Driver Insurance Plan (SDIP) to the vehicle customarily driven by the operator incurring the points.
- (7) Use the rules and rates on file with the Bureau. Particular attention should be focused on the use of filed discounts, surcharges, points for accidents and convictions, symbols, base and/or final rates, rounding rule, and classification factors.
- (8) Obtain a signed written rejection of Uninsured Motorist Limits equal to the liability limits selected by the insured.

Termination Review

Bankers Independent Insurance Company 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 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) Charge fees and/or calculate earned premium according to the filed rules and policy provisions.
- (5) Obtain valid proof of mailing cancellation and non-renewal notices to the insured.

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

Claims Review

Bankers Independent Insurance Company shall:

- (1) Correct the errors that caused the underpayments and overpayments, and send the amount of the underpayment to insureds and claimants.
- (2) Include six percent (6%) simple interest in the amount paid to the insureds and claimants.
- (3) Complete and submit to the Bureau the enclosed file titled "Claims Underpayments Cited during the Examination." By returning the completed file to the Bureau, the company acknowledges that they have paid the underpayments listed in the file.
- (4) Document claim files so that all events and dates pertinent to the claim can be reconstructed.
- (5) Document the claim file that all applicable coverages have been discussed with the insured. Particular attention should be given to Medical Expense Benefits coverage, Transportation Expenses coverage, and rental benefits under UMPD coverage.
- (6) Offer the insured an amount that is fair and reasonable as shown by the investigation of the claim, and pay the claim in accordance with the insured's policy provisions.
- (7) Copy the claimant's attorney or other representative when a notice of settlement of \$5,000 or more has been sent to the claimant.
- (8) Properly represent pertinent facts or insurance provisions relating to coverages at issue.

Review of Statutory Notices

Bankers Independent Insurance Company shall:

- (1) Amend the Notice of Financial Information Collection and Disclosure Practices to comply with § 38.2-604.1 B of the Code of Virginia.
- (2) Amend the language within the AUD notice to be substantially similar to the prototype set forth in Administrative Letter 1981-16.
- (3) Develop a Notice of Optional Medical Expense Benefits Coverage that complies with § 38.2-2202 A of the Code of Virginia.
- (4) Amend the Notice of Optional Uninsured Motorist Coverage to comply with § 38.2-2202 B of the Code of Virginia.
- (5) Amend the Rental Reimbursement notice to comply with § 38.2-2230 of the Code of Virginia.
- (6) Amend or remove the termination notice language on the company's declarations page.

Licensing and Appointment Review

Bankers Independent Insurance Company shall:

- (1) Accept business only from agents that have a current license from the Commonwealth of Virginia.
- (2) Appoint agents within 30 days of the application.
- (3) Pay commissions only to agencies that are appointed by the company.

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. The following errors will not be included in the settlement offer:

RECOMMENDATIONS

We recommend that the company take the following actions:

Rating and Underwriting

- The company should add a rule to its manual to define its rounding methodology.
- The company should delete the Policy Term factor from its rule manual because the company currently has Annual and Semi-Annual rates.
- The Company should delete the rates for Towing, Transportation Expense, and Income Loss Benefits from the Annual and Semi-Annual rate pages because the company has a separate page in the rates manual that list the rates only for those coverages.
- The Company should correct the Discounts page in the rates manual to include all of the factors that apply to Medical Expense Benefits.
- The Company should correct the inconsistency between the Surcharge Point Assignment table in the rules manual and the Driving Record Point Determination table in its rates manual. The company is only required to maintain one table in its manual that outlines the point surcharges for violations and accidents.
- The company should update the algorithm to reflect the rates currently in the rates manual by deleting the following rows: Territory factor, Apply to Premium, and Policy Term.
- The company should remove the increase limit factor from Income Loss Benefits row.
- The Company should update the Medical Expense Benefits column to reflect all of the discounts that it currently uses to calculate the rate.

Claims

- The company should acknowledge correspondence that reasonably suggests a reply is expected from insureds and claimants within ten business days.
- The company should provide reasonable assistance to the first party claimant.
- The company should provide a reasonable written explanation for denial of a claim and keep a written copy of the denial in the claim file.
- The company should provide copies of repair estimates prepared by or on behalf of the company to insureds and claimants.
- The company should document all information relating to the application of betterment or depreciation in the claim file.
- The company should use compliant language when sending a notice of settlement payment of \$5,000.00 or more to the claimant.
- The company should make a claim payment to an insured or beneficiary accompanied by a statement setting forth the coverage under which the payment was made.
- The company should properly represent pertinent facts or insurance provisions relating to the coverages at issue.

Statutory Notices

- The company should remove the NSV003 identifier from their notice of Medical Expense Benefits coverage.

SUMMARY OF PREVIOUS EXAMINATION FINDINGS

The Bureau conducted one prior market conduct examination for Bankers Independent Insurance Company.

During the examination, the company violated §§ 38.2-305 A, 38.2-502, 38.2-510 A 1, 38.2-510 A 3, 38.2-510 A 6, 38.2-510 A 10, 38.2-511, 38.2-604.1, 38.2-610, 38.2-1812, 38.2-1833, 38.2-1905 A, 38.2-1906 D, 38.2-2202, 38.2-2208, 38.22212, 38.2-2214, 38.2-2220 of the Code of Virginia as well as 14 VAC 5-390-40 D, 14 VAC 5-390-

40 F, 14 VAC 5-400-40 A, 14 VAC 5-400-50 C, 14 VAC 5-400-60 B, 14 VAC 5-400-70 A, and 14 VAC 5-400-80 D of the Virginia Administrative Code.

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 cursive script, appearing to read "Karen S. Gerber".

Karen S. Gerber
Senior Insurance Market Examiner

COMMONWEALTH OF VIRGINIA

JACQUELINE K. CUNNINGHAM
COMMISSIONER OF INSURANCE
STATE CORPORATION COMMISSION
BUREAU OF INSURANCE



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TELEPHONE: (804) 371-9741
TDD/VOICE: (804) 371-9206
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March 5, 2015

VIA UPS 2nd DAY DELIVERY

Alice Grillo
American Independent Insurance Group
2018 Powers Ferry Road
Atlanta, GA 30339

RE: Market Conduct Examination
Bankers Independent Insurance Company (NAIC #13455)

Dear Ms. Grillo:

The Bureau of Insurance (Bureau) has conducted a market conduct examination of the above-referenced company for the period of April 1, 2013, through March 31, 2014. The preliminary examination report (Report) has been drafted for the company's review.

Enclosed with this letter is a copy of the preliminary examination report and copies of review sheets that have been withdrawn or revised since January 7, 2015. Also enclosed are several reports that will provide you with the specific file references for the violations listed in the report.

Since there appears to have been a number of violations of Virginia insurance laws on the part of the company, we would urge you to closely review the report. Please provide a written response. When the company responds, 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. 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.

Secondly, the company should 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.

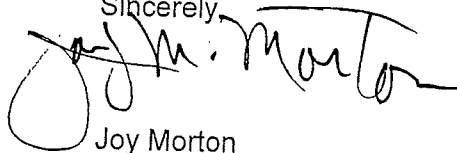
Finally, we have enclosed an Excel file that the company must complete and return to the Bureau with the company's response. This file lists the review items for which the examiners identified overcharges (rating and terminations) and underpayments (claims).

The company's response and the spreadsheet mentioned above must be returned to the Bureau by April 13, 2015.

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 April 13, 2015.

Sincerely,



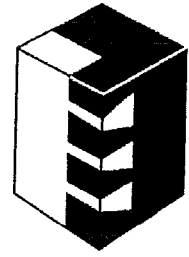
Joy Morton
Supervisor
Market Conduct Section
Property & Casualty Division
(804) 371-9540
joy.morton@scc.virginia.gov

JMM/pgh
Enclosure

STATE CORP. COMMISSION

2015 APR -8 AM 7: 14

BUREAU OF INSURANCE



April 7, 2015

Joy Morton
Supervisor
Market and Conduct Section
Bureau of Insurance
PO Box 1157
Richmond, VA 23218

RE: Bankers Independent Insurance Company
Market Conduct Examination Draft Report

Dear Ms. Morton:

Bankers Independent Insurance Company (the "Company") is in receipt of your letter dated March 5, 2015, and the Department's Draft Report of Examination covering the period of April 1, 2013, through March, 31, 2014. Kindly accept this letter as the Company's response to the Report.

As you know, the Company serves the unique segment of the market, namely, the non-standard automobile insurance market, in which most of its customers are interested in purchasing just the minimum level of statutory coverage. We value the opportunity to fill this significant market need and strive to maintain this coverage at affordable levels and in a very consumer friendly environment.

Our responses throughout the report address each of the Department's recommendations. We accept the Report constructively in an effort to improve our procedures, and the Company is implementing the recommendations of the Department to further strengthen our compliance. To the extent the Department views certain matters to be a violation of Virginia law, given the circumstances, the Company respectfully submits that none of such actions should be viewed as an intentional violation of the law or any general pattern or practice of noncompliance.

The Company appreciates the professional courtesy of your staff through the examination process. We look forward to working with you to reach a mutually agreeable resolution in the Report. If you have any questions in connection with the letter or you require any further information, please do not hesitate to call me.

Respectfully Submitted,

A handwritten signature in black ink, appearing to read 'Bruce Arneson', with a long horizontal flourish extending to the right.

Bruce Arneson
President
Bankers Independent Insurance Company

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

Automobile New Business Policies

The Bureau requested 31 new business policy files for review. The examiners reviewed all of these files. During this review, the examiners found overcharges totaling \$1,731.62 and undercharges totaling \$53.87. The net amount that should be refunded to insureds is \$1,731.62 plus six percent (6%) simple interest.

- (1) The examiners found two violations of § 38.2-305 A of the Code of Virginia. The company failed to specify accurate information in the insurance policy. The company failed to include all of the applicable information on the declarations page.

The Company has taken steps to rectify the concerns regarding the absence of applicable information on the declarations page as well as specifying accurate information in the insurance policy. In October, 2014, the Company removed the language of "may decide to cancel or refuse to renew your policy wholly or partially based on claims made under this policy" and amended the important notice regarding the Medical Expense Benefits coverage.

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

The Company is working to rectify this concern by programming the AUD notice so that it generates and is sent to the insured when an endorsement is processed back to the inception date, as cited on policy number - 5643946.

- (3) The examiners found one violation of § 38.2-2206 A of the Code of Virginia. The company failed to obtain a signed rejection of the higher uninsured motorist limits.
- In December, 2014, the Company amended the application to require the insured's signature when higher BI limits are selected and matching Uninsured Motorist limits are not selected.***
- (4) The examiners found 21 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 14 instances, the company failed to use the correct discounts and/or surcharges.
- The Company completed an update to the processing system in October, 2014 to no longer allow the inappropriate application of discounts to the Medical Expense Benefit coverage as shown in the rate manual on file with the Bureau.***
- b. In four instances, the company failed to apply the correct surcharge points for accidents and/or convictions.
- The Company acknowledges that there was a discrepancy between the rate and rule manual with regards to the correct surcharge being charged for certain violations. We've since updated our manuals with the December 2014 filing and all accidents/violations should now be correctly surcharged.***
- c. In one instance, the company failed to use the correct driver classification factor.

- d. In two instances, the company failed to use the correct base and/or final rates. (Do we have any responses for these.)

The Company completed a filing in December 2014 which addressed the confusion between the base rates and territory factors and the filed territory base rate pages. It has always been our position that our program included a base rate by coverage as well as factors for each territory but some time ago, Virginia required that we file territory base rates and the practice continued after it was no longer required. We are currently using the correct base rates on file with the bureau to rate our policies.

Automobile Renewal Business Policies

The Bureau requested 30 renewal business policy files for review. The examiners reviewed all of these files. As a result of this review, the examiners found overcharges totaling \$1,576.74 and undercharges totaling \$474.17. The net amount that should be refunded to insureds is \$1,576.74 plus six percent (6%) simple interest.

- (1) The examiners found one violation of § 38.2-1905 C of the Code of Virginia. The company applied surcharge points under a Safe Driver Insurance Plan (SDIP) to a vehicle other than the one customarily operated by the driver who incurred the points.

The Company has taken steps to ensure that the vehicle customarily operated by the driver is properly identified on the application and rated appropriately. Programming should be completed by April, 2015.

- (2) The examiners found 30 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 19 instances, the company failed to use the correct discounts and/or surcharges.
 - b. In four instances, the company failed to apply the correct surcharge points for accidents and/or convictions.
 - c. In two instances, the company failed to use the correct symbol.
 - d. In four instances, the company failed to use the correct base and/or final rates.
 - e. In one instance, the company failed to use the filed rounding rule.

The Company acknowledges that there were a few discrepancies in the application of discounts and/or surcharges; the application of points for accidents and convictions; as well as some minor discrepancies in terms of how the base rates and territory factors were being applied in the class plan. These items have been corrected with our December 2014 filing.

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 - Automobile Policies

NOTICE MAILED PRIOR TO THE 60th DAY OF COVERAGE

The Bureau reviewed seven automobile cancellations that were initiated by the company where the notices were mailed prior to the 60th of coverage in the initial policy period. As a result of this review, the examiners found overcharges totaling \$58.00 and no undercharges. The net amount that should be refunded to insureds is \$58.00 plus six percent (6%) simple interest.

- (1) The examiners found six 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 five instances, the company failed to calculate the earned premium correctly.
 - b. In one instance, the company failed to use the filed fees.
- (2) The examiners found one violation of § 38.2-2208 A of the Code of Virginia. The company failed to obtain valid proof of mailing the cancellation notice to the insured.

NOTICE MAILED AFTER THE 59th DAY OF COVERAGE

The Bureau reviewed four automobile cancellations that were initiated by the company where the notices were mailed on or after the 60th day of coverage in the initial policy period or at any time during the term of a subsequent renewal policy. As a result of this review, the examiners found overcharges totaling \$58.60 and no undercharges.

The net amount that should be refunded to insureds is \$58.60 plus six percent (6%) simple interest.

The examiners found three 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. The company failed to calculate the earned premium correctly.

All Other Cancellations - Automobile Policies

NONPAYMENT OF PREMIUM

The Bureau reviewed eight automobile cancellations that were initiated by the company for nonpayment of the policy premium. As a result of this review, the examiners found overcharges totaling \$171.36 and no undercharges. The net amount that should be refunded to insureds is \$171.36 plus six percent (6%) simple interest.

- (1) The examiners found one violation of § 38.2-310 of the Code of Virginia. The company failed to state in the policy all fees, charges, premiums or other consideration charged for insurance or for procurement of insurance.
- (2) The examiners found seven 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. The company failed to calculate the earned premium correctly.
- (3) The examiners found two violations of § 38.2-2208 A of the Code of Virginia. The company failed to obtain valid proof of mailing the notice of cancellation to the insured.

REQUESTED BY THE INSURED

In addition, the Bureau reviewed 16 automobile cancellations that were initiated by the insured where the cancellation was to be effective during the policy term. As a result of this review, the examiners found overcharges totaling \$29.65 and undercharges

totaling \$595.00. The net amount that should be refunded to insureds is \$29.65 plus six percent (6%) simple interest.

- (1) The examiners found eight 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. The company failed to calculate the earned premium correctly.
- (2) The examiners found four violations of § 38.2-2212 F of the Code of Virginia. The company failed to obtain a written request from the insured to cancel his policy.

In December, 2014, the Company updated the rate / rule manual to address the handling / charging of installment fees, late fees and EFT fees.

Company-Initiated Nonrenewals -Automobile Policies

The Bureau reviewed 12 automobile nonrenewals that were initiated by the company.

The examiners found three violations of § 38.2-2208 A of the Code of Virginia. The company failed to obtain valid proof of mailing the nonrenewal notice to the insured.

The Company has addressed with our mailing vendor the importance of the requirement of the USPS date stamp and signature to meet the Bureau standards of valid proof of mailing to the insured. We are now getting a valid proof of mailing for all non-renewal notices.

CLAIMS REVIEW

Automobile Claims

The examiners reviewed 63 automobile claims for the period of April 1, 2013 through March 31, 2014. The findings below appear to be contrary to the standards set forth by Virginia insurance statutes and regulations. The examiners found overpayments totaling \$512.00 and underpayments totaling \$4,547.67 during the review of these files. The net amount that should be paid to claimants is \$4,035.67 plus six percent (6%) simple interest.

- (1) The examiners found 14 violations of 14 VAC 5-40030. The company failed to document the claim file sufficiently to reconstruct events and/or dates that were pertinent to the claim.

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

- (2) The examiners found 11 violations of 14 VAC 5-400-40 A. The company obscured or concealed from a first party claimant, directly or by omission, benefits, coverages, or other provisions of an insurance contract that were pertinent to the claim.
 - a. In two instances, the company failed to properly inform an insured of his Medical Expense Benefits coverage.
 - b. In three instances, the company failed to inform an insured of his Transportation Expense coverage when the file indicated the coverage was applicable to the loss.
 - c. In six instances, the company failed to inform an insured of the benefits or coverages, including rental benefits, available under the Uninsured Motorist coverage (UM) when the file indicated the coverage was applicable to the loss.

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

- (3) The examiners found three violations of 14 VAC 5-400-50 C. The company failed to make an appropriate reply within ten working days to pertinent communications from a claimant or a claimant's authorized representative that reasonably suggested a response was expected.
- (4) The examiners found one violation of 14 VAC 5-400-50 D. The company failed to provide reasonable assistance to the first party claimant.
- (5) The examiners found four violations 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.
- (6) The examiners found one violation of 14 VAC 5-400-70 B. The company failed to provide a reasonable explanation of the basis for its denial of a claim.
- (7) The examiners found nine violations of 14 VAC 5-400-70 D. The company failed to offer the insured an amount that was fair and reasonable as shown by the investigation of the claim or failed to pay a claim in accordance with the insured's policy provisions.
 - a. In three instances, the company failed to reimburse the insured his portion of the collision deductible under the Uninsured Motorist Property Damage (UMPD) coverage.
 - b. In three instances, the company failed to pay the proper sales and use tax, title fee, and/or license fee on first party total loss settlements.
 - c. In one instance, the company failed to pay the claim in accordance with the policy provisions under the insured's Medical Expense Benefits coverage.
 - d. In two instances, the company failed to pay the claim in accordance with the policy provisions under the insured's Transportation Expenses coverage.

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

- (8) The examiners found four violations of 14 VAC 5-400-80 D. The company failed to provide the vehicle owner a copy of the estimate for the cost of repairs prepared by or on behalf of the company.
- (9) The examiners found four violations of 14 VAC 5- 80 E. The company failed to document all information relating to the application of betterment or depreciation in the claim file.
- (10) The examiners found five violations of § 38.2-236 A of the Code of Virginia. The company failed to send the claimant's attorney or other representative a copy of the claimant's notice regarding a settlement payment of \$5,000.00 or greater. These findings occurred with such frequency as to indicate a general business practice.
- (11) The examiners found two violations of § 38.2-236 B of the Code of Virginia. The company failed to send a notice of settlement payment of \$5,000.00 or more in the language required by the statute.
- (12) The examiners found 18 violations of § 38.2-510 A 1 of the Code of Virginia. The company misrepresented pertinent facts or policy provisions relating to coverages at issue.

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

- (13) The examiners found seven 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.

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

(14) The examiners found five violations of § 38.2-510 A 6 of the Code of Virginia. The company failed to attempt, in good faith, to make a prompt, fair, and equitable settlement of a claim in which liability was reasonably clear.

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

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

(16) The examiners found two violations of § 38.2-510 A 14 of the Code of Virginia. The company failed to provide a reasonable explanation of the basis in the insurance policy in relation to the facts or applicable law for the denial of a claim or offer of a compromise settlement.

(17) The examiners found four occurrences where the company failed to comply with the provisions of the insurance policy.

a. In two occurrences, the company paid an insured more than he/she was entitled to receive under the terms of the policy.

b. In two occurrences, the company failed to comply with the policy provisions when making payment for an uninsured motorist claim.

REVIEW OF FORMS

The examiners reviewed the company's policy forms and endorsements used during the examination period and those that are currently used for the line 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 line 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 Review of the Policy Issuance Process section of the Report. The examiners then reviewed the forms used on these policies to verify the company's current practices.

Automobile Policy Forms

POLICY FORMS USED DURING THE EXAMINATION PERIOD

The company provided copies of 11 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.

REVIEW OF THE POLICY ISSUANCE PROCESS

To obtain sample policies to review the company's policy issuance process for the lines examined, the examiners requested new and renewal business policy mailings that were sent 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 enclosed and listed all of the applicable policy forms 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.

Automobile Policies

The company provided five new business policies mailed on the following dates: May 2, 6, 18, 22, and 30, 2014. In addition, the company provided five renewal business policies mailed on the following dates: May 2, 13, and 21, 2013.

NEW BUSINESS POLICIES

The examiners found no violations in this area.

RENEWAL BUSINESS POLICIES

The examiners found no violations in this area.

REVIEW OF STATUTORY NOTICES

The examiners reviewed the company's statutory notices used during the examination period and those that are currently used for the line 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 each line 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 Review of 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 vehicle and property policies issued on risks located in Virginia complied with the Code of Virginia.

General Statutory Notices

- (1) The examiners found one violation of § 38.2-604.18 of the Code of Virginia. The company's Notice of Financial Information Collection and Disclosure Practices did not contain all of the information required by this statute.
- (2) The examiners found one violation of § 38.2-610 A of the Code of Virginia. The AUD language in the company's cancellation notice did not include wording substantially similar to that of the prototype set forth in Administrative Letter 1981-16.

Statutory Vehicle Notices

- (1) The examiners found one violation of § 38.2-2202 A of the Code of Virginia. The company failed to provide the Medical Expense Benefits notice in the precise language as required by this statute.

The language has been modified accordingly.

- (2) The examiners found one violation of § 38.2-2202 B of the Code of Virginia. The company failed to provide the Uninsured Motorist Limits notice in boldface type as required by this statute.

The Company resolved this issue in October, 2014, by updating the form to the correct bold type when printing the UM notice.

- (3) The examiners found one violation of § 38.2-2230 of the Code of Virginia. The company failed to have available for use a rental reimbursement notice that contained all of the information required by this statute.

The Company resolved this issue in October, 2014, by updating the rental reimbursement notice with the appropriate verbiage.

Other Notices

The company provided copies of two other notices including applications that were used during the examination period.

The examiners found one violation of § 38.2-502 of the Code of Virginia. The company misrepresented the benefits, advantages, conditions or terms of the insurance policy. The company's declarations page includes a termination notice that is not permitted under the statute.

LICENSING AND APPOINTMENT REVIEW

A review was made of new business private passenger automobile policies to verify that the agent of record for those policies reviewed was licensed and appointed to write business for the company as required by Virginia insurance statutes. 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 Review

- (1) The examiners found five violations of § 38.2-1822 of the Code of Virginia. The company permitted a person to act in the capacity of an agent who was not licensed in the Commonwealth of Virginia.
- (2) 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 the application.

Agency Review

The examiners found three violations of § 38.2-1812 of the Code of Virginia. The company paid commissions to an agency not duly appointed within 30 days of the date of application.

REVIEW OF THE COMPLAINT-HANDLING PROCESS

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 found in this area.

REVIEW OF PRIVACY AND INFORMATION SECURITY PROCEDURES

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 Procedures for review.

PART TWO - CORRECTIVE ACTION PLAN

Business practices and the error tolerance guidelines are determined in accordance with the standards set forth by the NAIC. Any error ratio above these guidelines indicates a general business practice. The threshold applied to claims handling is seven percent (7%). In some instances, such as filing requirements, forms, notices, and agent 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

Bankers Independent Insurance Company shall:

Provide a Corrective Action Plan (CAP) with its response to the Report.

Rating and Underwriting Review

Bankers Independent Insurance Company 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.

The Company has issued all refunds and credits to the insureds.

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

The Company added 6% simple interest to all refunds and credits to the insureds.

- (3) Complete and submit to the Bureau the enclosed 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.

The Company has completed and submitted to the Bureau "Rating Overcharges Cited during the Examination".

- (4) Specify accurate information in the policy by showing the correct premium per vehicle and garaging address on the declarations page.

The Company will comply to show the correct premium per vehicle and garaging address on the declarations page.

- (5) Provide an AUD notice to the insured when the company issues the policy with information that differs from the information provided by the insured in the application.

The Company will comply and provide an AUD notice when the policy with information that differs from what was provided during the application process.

- (6) Properly assign points under a Safe Driver Insurance Plan (SDIP) to the vehicle customarily driven by the operator incurring the points.

The Company will properly assign points to the vehicle customarily operated by the driver. Programming to the application to further enhance the point assignment process is scheduled to be resolved in April 2015

- (7) Use the rules and rates on file with the Bureau. Particular attention should be focused on the use of filed discounts, surcharges, points for accidents and convictions, symbols, base and/or final rates, rounding rule, and classification factors.

The Company submitted a rate/rule filing at the suggestion of the examiners to further clarify the rates/rules for Bankers Independent. Many of the discrepancies cited were corrected in this filing and it is our position that the incidents involving confusion regarding base rates, discount application and rounding have been resolved.

- (8) Obtain a signed written rejection of Uninsured Motorist Limits equal to the liability limits selected by the insured.

The Company has since revised the application to ensure that the UM rejection/selection signature is properly secured.

Termination Review

Bankers Independent Insurance Company 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 the date the error first occurred.

The Company has completed and submitted to the Bureau Termination Overcharges cited during the Examination.

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

The Company added 6% simple interest to all refunds and credits to the insureds.

- (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.

The Company has completed and submitted to the Bureau "Termination Overcharges Cited during the Examination".

- (4) Charge fees and/or calculate earned premium according to the filed rules and policy provisions.

The Company will comply and has filed updated rules regarding the charging fees and/or calculate earned premium.

- (5) Obtain valid proof of mailing cancellation and non-renewal notices to the insured.

The Company will comply and has addressed this issue with our staff and mail vendor.

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

The Company will comply with this request and provide education to the agent regarding maintaining proper documentation on file.

Claims Review

Bankers Independent Insurance Company shall:

- (1) Correct the errors that caused the underpayments and overpayments, and send the amount of the underpayment to insureds and claimants.

The Company has now issued all underpayments to insureds and claimants.

- (2) Include six percent (6%) simple interest in the amount paid to the insureds and claimants.

The Company added 6% simple interest to all underpayments to insureds and claimants.

- (3) Complete and submit to the Bureau the enclosed file titled "Claims Underpayments Cited during the Examination." By returning the completed file to the Bureau, the company acknowledges that they have paid the underpayments listed in the file.

The Company has completed and submits to the Bureau "Claims Underpayments Cited during the Examination".

- (4) Document claim files so that all events and dates pertinent to the claim can be reconstructed.

The Company requires all claims staff to fully document claim files and has provided specific training concerning Virginia's documentation requirements. To further improve our compliance with Virginia requirements, the Company will be designating specific Claim Representatives to be re-trained and handle all Virginia claims.

- (5) Document the claim file that all applicable coverages have been discussed with the insured. Particular attention should be given to Medical Expense Benefits coverage, Transportation Expenses coverage, and rental benefits under UMPD coverage.

The Company will be designating specific Claim Representatives to be re-trained and handle all Virginia claims.

- (6) Offer the insured an amount that is fair and reasonable as shown by the investigation of the claim, and pay the claim in accordance with the insured's policy provisions.

The Company strives to always pay what is owed. By designating specific Claim Representatives to handle all Virginia claims, we believe we will improve the accuracy of our payments.

- (7) Copy the claimant's attorney or other representative when a notice of settlement of \$5,000 or more has been sent to the claimant.

The Company's computer system automatically sends notification of settlements of \$5,000 or more to claimants with a copy to their attorney. The Company is now revising our system to better display the copied correspondence to the attorney.

- (8) Properly represent pertinent facts or insurance provisions relating to coverages at issue.

The Company will be designating specific Claim Representatives to be re-trained and handle all Virginia claims. We believe this step will improve the accuracy of the information provided to customers.

Review of Statutory Notices

Bankers Independent Insurance Company shall:

- (1) Amend the Notice of Financial Information Collection and Disclosure Practices to comply with § 38.2-604.1 B of the Code of Virginia.

The Company's wording has been updated and submitted for review to the examiner.

Amend the language within the AUD notice to be substantially similar to the prototype set forth in Administrative Letter 1981-16.

The Company's wording is the same as the prototype set forth in the Administrative Letter 1981-16.

- (2) Develop a Notice of Optional Medical Expense Benefits Coverage that complies with § 38.2-2202 A of the Code of Virginia.

This has been updated accordingly.

- (3) Amend the Notice of Optional Uninsured Motorist Coverage to comply with § 38.2-2202 B of the Code of Virginia.

This has been updated accordingly with the appropriate bold face font as required.

- (4) Amend the Rental Reimbursement notice to comply with § 38.2-2230 of the Code of Virginia.

This notice has been amended to comply with the statute.

- (5) Amend or remove the termination notice language on the company's declarations page.

The termination language has been removed from the Company's declaration page.

Licensing and Appointment Review

Bankers Independent Insurance Company shall:

- (1) Accept business only from agents that have a current license from the Commonwealth of Virginia.
- (2) Appoint agents within 30 days of the application.
- (3) Pay commissions only to agencies that are appointed by the company.

The Company has a process in place to appoint and grant appropriate system authority to agency users based on their position in the agency and license status. The Company acknowledges that there were agency and agent appointments missing and individuals with authority when not actively licensed. The individual errors have been addressed and the appropriate actions taken to address the process errors. Further system enhancements are being pursued.

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. The following errors will not be included in the settlement offer:

RECOMMENDATIONS

We recommend that the company take the following actions:

Rating and Underwriting

- The company should add a rule to its manual to define its rounding methodology.
A defined rounding rule was filed with the December, 2014, rate/rule filing and has since been updated in our manual.
- The company should delete the Policy Term factor from its rule manual because the company currently has Annual and Semi-Annual rates.
The company updated its term factor terminology in the Rate Order Calculation exhibit of the December 2014 filing to specify that the six month policy term factor is .50.
- The Company should delete the rates for Towing, Transportation Expense, and Income Loss Benefits from the Annual and Semi-Annual rate pages because the company has a separate page in the rates manual that list the rates only for those coverages.
The company has since updated its rate manual to clearly define base rate coverage's and filed to remove the semi-annual and annual rate pages as suggested.
- The Company should correct the Discounts page in the rates manual to include all of the factors that apply to Medical Expense Benefits.
The company has since updated its discounts page in the rate manual and programmed the system to correctly apply discounts to Medical Expense Benefits when applicable.

- The Company should correct the inconsistency between the Surcharge Point Assignment table in the rules manual and the Driving Record Point Determination table in its rates manual. The company is only required to maintain one table in its manual that outlines the point surcharges for violations and accidents.

The company has updated the point's assignment table to eliminate further inconsistencies with the December 2014 filing.

- The company should update the algorithm to reflect the rates currently in the rates manual by deleting the following rows: Territory factor, Apply to Premium, and Policy Term.

The company has since opted to remove the six month and annual rate pages with the December 2014 filing and further adhere to the rating algorithm in its filings to maintain consistency with the programming of the system

- The company should remove the increase limit factor from Income Loss Benefits row.

The company never intended for there to be an increased limit factor for Income Loss Benefits as there's only one rate for six month policies and another for annual policies. The Rate Order Calculation exhibit was incorrectly marked and we've since updated the exhibit to eliminate the confusion. The company has a rate of \$11 filed for six month policies and \$21 for annual policies.

- The Company should update the Medical Expense Benefits column to reflect all of the discounts that it currently uses to calculate the rate.

The company has updated the Medical Expense column in the rate order calculation exhibit to properly display when it is used to calculate the rate.

Claims

- The company should acknowledge correspondence that reasonably suggests a reply is expected from insureds and claimants within ten business days.

The Company requires that all written correspondence receive a response within 7 business days and regularly monitors claim representative compliance on this issue.

- The company should provide reasonable assistance to the first party claimant.

The Company will be designating specific Claim Representatives to be re-trained and handle all Virginia claims.

- The company should provide a reasonable written explanation for denial of a claim and keep a written copy of the denial in the claim file

The Company requires that all claim denials be in writing with an explanation provided.

- The company should provide copies of repair estimates prepared by or on behalf of the company to insureds and claimants.

The Company requires that Claim Representatives provide insureds and claimants with copies of their estimates.

- The company should document all information relating to the application of betterment or depreciation in the claim file.

The Company requires all appraisers fully document the application of betterment and/or depreciation on their estimates.

- The company should use compliant language when sending a notice of settlement payment of \$5,000.00 or more to the claimant.

The Company's form letter notifying claimants and their attorneys of a settlement of \$5,000 or more contains all required language.

- The company should make a claim payment to an insured or beneficiary accompanied by a statement setting forth the coverage under which the payment was made.

The Company's check stubs include a notice as to the coverage under which the payment was made.

- The company should properly represent pertinent facts or insurance provisions relating to the coverages at issue.

The Company will be designating specific Claim Representatives to be re-trained and handle all Virginia claims. By designating specific Claim Representatives to handle all Virginia claims, we believe we will improve the accuracy of our communications to customers.

Statutory Notices

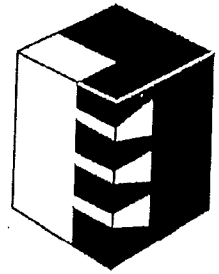
- The company should remove the NSV003 identifier from their notice of Medical Expense Benefits coverage.

SUMMARY OF PREVIOUS EXAMINATION FINDINGS

The Bureau conducted one prior market conduct examination for Bankers Independent Insurance Company.

During the examination, the company violated §§ 38.2-305 A, 38.2-502, 38.2-510 A 1, 38.2-510 A 3, 38.2-510 A 6, 38.2-510 A 10, 38.2-511, 38.2-604.1, 38.2-610, 38.2-1812, 38.2-1833, 38.2-1905 A, 38.2-1906 D, 38.2-2202, 38.2-2208, 38.22212, 38.2-2214, 38.2-2220 of the Code of Virginia as well as 14 VAC 5-390-40 D, 14 VAC 5-390-40 F, 14 VAC 5-400-40 A, 14 VAC 5-400-50 C, 14 VAC 5-400-60 B, 14 VAC 5-400-70 A, and 14 VAC 5-400-80 D of the Virginia Administrative Code.

STATE CORP. COMMISSION
2015 MAY 29 AM 9:36
BUREAU OF INSURANCE



May 29, 2015

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

RE: Market Conduct Examination Settlement Offer

Dear Ms. Bannister:

This will acknowledge receipt of the Bureau of Insurance's letter dated May 22, 2015 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 §§ 38.2-236 A, 38.2-305 A, 38.2-310, 38.2-502, 38.2-510 A 1, 38.2-510 A 3, 38.2-510 A 6, 38.2-604.1 B, 38.2-610 A, 38.2-1812, 38.2-1822, 38.2-1833, 38.2-1905 C, 38.2-1906 D, 38.2-2202 A, 38.2-2202 B, 38.2-2206 A, 38.2-2208 A, 38.2-2212 F, and 38.2-2230 of the Code of Virginia; and 14 VAC 5-400-30, 14 VAC 5-400-40 A, and 14 VAC 5-400-70 D of the Virginia Administrative Code.

1. We enclose with this letter a check payable to the Treasurer of Virginia in the amount of \$27,600.00.
2. We agree to comply with the corrective action plan set forth in the company's letter of April 17, 2015.
3. We confirm that restitution was made to 58 consumers for \$8,111.25 in accordance with the company's letter of April 17, 2015.
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.

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,

Dale Debner
VP, Product Management & Sales
Bankers Independent Insurance Company

Enclosure

COMMONWEALTH OF VIRGINIA

JACQUELINE K. CUNNINGHAM
COMMISSIONER OF INSURANCE
STATE CORPORATION COMMISSION
BUREAU OF INSURANCE



P.O. BOX 1157
RICHMOND, VIRGINIA 23218
TELEPHONE: (804) 371-9741
TDD/VOICE: (804) 371-9206
www.scc.virginia.gov/boi

Bankers Independent Insurance Company has tendered to the Bureau of Insurance the settlement amount of \$27,600.00 by their check numbered 10037279 and dated May 26, 2015, a copy of which is located in the Bureau's files.

COMMONWEALTH OF VIRGINIA
STATE CORPORATION COMMISSION

AT RICHMOND, JUNE 26, 2015

SCC-CLERK'S OFFICE
DOCUMENT CONTROL CENTER

2015 JUN 26 P 2:23

COMMONWEALTH OF VIRGINIA, *ex rel.*

STATE CORPORATION COMMISSION

v.

CASE NO. INS-2015-00095

BANKERS INDEPENDENT INSURANCE
COMPANY,

Defendant

SETTLEMENT ORDER

Based on a market conduct examination performed by the Bureau of Insurance ("Bureau"), it is alleged that Bankers Independent Insurance Company ("Defendant"), duly licensed by the State Corporation Commission ("Commission") to transact the business of insurance in the Commonwealth of Virginia ("Commonwealth"), violated: § 38.2-236 A of the Code of Virginia ("Code") by failing to send claimants' attorney or other representative a copy of the claimants' notice regarding a settlement payment of \$5,000 or greater; § 38.2-305 A of the Code by failing to provide the information required in the statute; § 38.2-310 of the Code by failing to state all fees in the policies; § 38.2-502 of the Code by misrepresenting the benefits, advantages, conditions or terms of insurance policies; §§ 38.2-510 A (1), 38.2-510 A (3), and 38.2-510 A (6) of the Code as well as 14 VAC 5-400-30, 14 VAC 5-400 40 A, and 14 VAC 5-400-70 D of the Commission's Rules Governing Unfair Claim Settlement Practices, 14 VAC 5-400-10 *et seq.*, by failing to properly handle claims with such frequency as to indicate a general business practice; § 38.2-604.1 B of the Code by failing to provide required notices to insureds; § 38.2-610 A of the Code by failing to accurately provide the required adverse underwriting decision and reasons to insureds; §§ 38.2-1812 and 38.2-1833 of the Code by

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paying commissions to agencies/agents that were not appointed by the Defendant; § 38.2-1822 of the Code by knowingly permitting persons to act as agents without first obtaining a license in the manner and form prescribed by the Commission; § 38.2-1905 C of the Code by assigning points under safe-driver insurance plans to a vehicle other than the vehicle customarily driven by the operator incurring the points; § 38.2-1906 D of the Code by making or issuing insurance contracts or policies not in accordance with the rate and supplementary rate information filings in effect for the Defendant; §§ 38.2-2202 A, 38.2-2202 B, and 38.2-2230 of the Code by failing to accurately provide the required notices to insureds; § 38.2-2206 A of the Code by failing to obtain a signed rejection of higher uninsured motorist limits; and §§ 38.2-2208 A and 38.2-2212 F of the Code by failing to properly 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 its right to a hearing in this matter whereupon the Defendant, without admitting any violation of Virginia law, has made an offer of settlement to the Commission wherein the Defendant has tendered to the Commonwealth the sum of Twenty-seven Thousand Six Hundred Dollars (\$27,600), waived its right to a hearing, agreed to comply with the corrective action plan set forth in its letter to the Bureau dated April 17, 2015, and confirmed that restitution was made to 58 consumers in the amount of Eight Thousand One Hundred Eleven Dollars and Twenty-five Cents (\$8,111.25).

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.

AN ATTESTED COPY hereof shall be sent by the Clerk of the Commission to: Alice Grillo, American Independent Insurance Group, 2018 Powers Ferry Road, Atlanta, Georgia 30339; and a copy shall be delivered to the Commission's Office of General Counsel and the Bureau of Insurance in care of Deputy Commissioner Mary M. Bannister.