

**MARKET CONDUCT EXAMINATION REPORT**

**OF**

**CALIFORNIA CASUALTY INDEMNITY  
EXCHANGE**

**AS OF**

**DECEMBER 31, 2018**

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

**Property and Casualty Division  
Market Conduct Section**

# 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  
[www.scc.virginia.gov/boi](http://www.scc.virginia.gov/boi)

## STATE CORPORATION COMMISSION BUREAU OF INSURANCE

I, Joy M. Morton, Market Conduct Manager, of the Bureau of Insurance, do hereby certify that the annexed copy of the Market Conduct Examination Report of California Casualty Indemnity Exchange as of December 31, 2018, conducted at the company's office in Colorado Springs, Colorado, 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-2019-00130 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 8th of November 2019.

---

Joy M. Morton  
Examiner in Charge

**MARKET CONDUCT EXAMINATION REPORT**

**OF**

**CALIFORNIA CASUALTY INDEMNITY  
EXCHANGE**

**AS OF**

**DECEMBER 31, 2018**

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

**Property and Casualty Division  
Market Conduct Section**

# TABLE OF CONTENTS

EXECUTIVE SUMMARY .....	1
INTRODUCTION.....	3
COMPANY PROFILE .....	3
SCOPE OF THE EXAMINATION .....	6
PART ONE - THE EXAMINERS' OBSERVATIONS .....	9
CLAIMS REVIEW.....	9
Private Passenger Automobile Claims.....	9
FORMS REVIEW .....	13
Automobile Forms .....	13
Policy Forms Used During the Examination Period.....	13
Policy Forms Currently Used by the Company.....	14
PART TWO – CORRECTIVE ACTION PLAN.....	15
General .....	15
Claims Review.....	15
PART THREE – RECOMMENDATIONS .....	17
RECOMMENDATIONS.....	17
Claims .....	17
Forms.....	17
SUMMARY OF PREVIOUS EXAMINATION FINDINGS .....	18
ACKNOWLEDGEMENT .....	19

## EXECUTIVE SUMMARY

The examination included a detailed review of California Casualty Indemnity Exchange's private passenger automobile business in Virginia for the period beginning January 1, 2018 and ending December 31, 2018. This review included claims handling and forms.

This is the second Market Conduct Examination the Bureau of Insurance (Bureau) has performed on this company. The prior examination was done in 2012. In comparison to the claims portion of the prior examination, the examiners noted a significant increase in violations and an overall lack of attention to detail.

This examination revealed 209 violations and six general business practices (GBP). It should be noted that the company did not have any forms violations.

The violations that rose to the level of a GBP were; failure to properly document the claim files, failure to disclose all of the pertinent coverages to the insured, failure to offer the insured a fair and reasonable amount, failure to provide the vehicle owner with a copy of the estimate, failure to properly represent pertinent facts or insurance policy provisions relating to coverages at issue, failure to pay medical benefits directly to an insured when no valid Assignment of Benefits (AOB) existed, and improperly reducing medical bills.

The corrective action plan (CAP) requested that the company document all claim files accurately, disclose all coverages applicable to the loss to the insured, offer an amount that is fair and reasonable and implement standards for a prompt fair and equitable settlement, provide the vehicle owner with a copy of the repair estimate, properly represent pertinent facts or insurance policy provisions relating to coverages at issue, pay medical benefits to providers only when there is a valid AOB, and reduce medical bills only where permitted as shown under § 38.2-2201 of the Code of Virginia, conduct an

internal audit on its Medical Expense Benefits Claims, and conduct an internal audit on its Uninsured Motorist Property Damage claims. The CAP also requested that restitution of \$39,959.08 be made to 33 Virginia consumers.

## INTRODUCTION

Pursuant to the authority of § 38.2-1317 of the Code of Virginia, a targeted examination has been made of the private passenger automobile claims and forms for California Casualty Indemnity Exchange at its office in Colorado Springs.

The examination commenced March 4, 2019 and concluded May 20, 2019. Karen S. Gerber, Gloria Warriner, examiners of the Bureau of Insurance, and Joyclyn M. Morton, Market Conduct Manager of the Bureau of Insurance, participated in the work of the examination. The examination was called in the Market Action Tracking System on May 20, 2019 and was assigned the Action Number of VA-VA177-8. The examination was conducted in accordance with the guidelines contained in the National Association of Insurance Commissioners (NAIC) Market Regulation Handbook.

## COMPANY PROFILE\*

This interinsurance exchange was organized and began business on January 1, 1914. The attorney-in-fact and manager is California Casualty Management Company (CCMC), a California corporation, most of whose stockholders and directors are directly associated in the management and conduct of the business. The name of the attorney-in-fact was changed from Index Underwriters, Inc. to the present form on July 1, 1969. The exchange was granted a certificate of perpetual non-assess ability as of February 17, 1966 under the 1965 amendment to the California Insurance Code.

---

\* Source: Best's Insurance Reports, Property & Casualty, 2017 Edition.

The table below indicates when the company was licensed in Virginia and the line 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: 0169</b>	<b>CCIE</b>
NAIC Company Number	20117
LICENSED IN VIRGINIA	8/25/2000
LINES OF INSURANCE	
Accident and Sickness	
Aircraft Liability	
Aircraft Physical Damage	
Animal	3/11/2016
Automobile Liability	X
Automobile Physical Damage	X
Boiler and Machinery	
Burglary and Theft	X
Commercial Multi-Peril	
Credit	
Farmowners Multi-Peril	
Fidelity	
Fire	X
General Liability	X
Glass	X
Homeowners Multi-Peril	X
Inland Marine	X
Miscellaneous Property	X
Ocean Marine	
Surety	
Water Damage	X
Workers' Compensation	



The table below shows the company's premium volume and approximate market share of business written in Virginia during 2018 for the line of insurance included in this examination.\* This business was developed through independent agents.

COMPANY AND LINE	PREMIUM VOLUME	MARKET SHARE
California Casualty Indemnity Exchange		
Automobile Liability	\$2,256,529	.07%
Automobile Physical Damage	\$2,125,854	.09%

---

\* Source: The 2018 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 auto line of business written in Virginia for the period beginning January 1, 2018 and ending December 31, 2018. This review included claims handling and forms. 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 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 specific company practices does not constitute an acceptance of the practices by the Bureau.

for the review of 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.

<u>Population</u>						
Sample Requested						
AREA	CAC	TOTAL	FILES REVIEWED	FILES NOT FOUND	FILES WITH ERRORS	ERROR RATIO
<b>Private Passenger Auto</b>						
<b>Claims</b>						
Auto	<u>609</u> 111	<u>609</u> 111	111	0	88	79%

## 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.

### CLAIMS REVIEW

#### **Private Passenger Automobile Claims**

The examiners reviewed 111 automobile claims for the period of January 1, 2018 through December 31, 2018. The findings below appear to be contrary to the standards set forth by Virginia insurance statutes and regulations. During this review, the examiners found overpayments totaling \$1,432.18 and underpayments totaling \$39,263.26. The net amount that should be paid to claimants is \$38,726.01 plus six percent (6%) simple interest.

- (1) The examiners found 11 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 41 violations of 14 VAC 5-400-40 A. The company obscured or concealed from a first party claimant, directly or by omission, the benefits, coverages, or other provisions of an insurance policy that were pertinent to the claim.
  - a. In one instance, the company failed to accurately inform an insured of the physical damage deductible when the file indicated that the coverage was applicable to the loss.

- b. In 20 instances, the company failed to accurately inform an insured of the Medical Expense Benefits coverage when the file indicated the coverage was applicable to the loss.
- c. In five instances, the company failed to accurately inform an insured of the Transportation Expenses coverage when the file indicated the coverage was applicable to the loss.
- d. In 14 instances, the company failed to accurately inform an insured of the benefits or coverages, including rental benefits, available under the Uninsured Motorist Property Damage coverage (UMPD) and/or Underinsured Motorist coverage (UIM) when the file indicated the coverage was applicable to the loss.
- e. In one instance, the company failed to accurately inform the insured of Income Loss Benefits coverage 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 two violations of 14 VAC 5-400-50 C. The company failed to make an appropriate reply within 15 calendar 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 5-400-70 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.
- (5) The examiners found 29 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 seven instances, the company failed to pay the insured's UMPD claim properly when Collision and/or UMPD coverages applied to the loss.
- b. In four instances, the company failed to pay the insured's rental benefits, available under the UMPD and/or UIM coverage.
- c. In four instances, the company failed to pay the proper sales and use tax, title fee, and/or license fee on a first party total loss settlement.
- d. In nine instances, the company failed to pay the claim in accordance with the policy provisions under the insured's MEB coverage.
- e. In five 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.

- (6) The examiners found eight 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.

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

- (7) The examiners found two violations of 14 VAC 5-400-80 I. The company failed to provide a reasonable time for the insured to receive payment prior to terminating transportation expenses.
- (8) The examiners found two violations of § 38.2-236 A of the Code of Virginia. The company failed to notify the claimant within five business days that a settlement

payment was issued to the claimant's attorney or representative.

- (9) The examiners found 49 violations of § 38.2-510 A 1 of the Code of Virginia. The company misrepresented pertinent facts or insurance policy provisions relating to coverages at issue.

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

- (10) The examiners found four 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.

- (11) 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.

a. In four instances, the company unreasonably delayed payment to the insured.

b. In one instance, the company failed to make payment to the claimant.

- (12) The examiners found eight violations of § 38.2-2201 D of the Code of Virginia.

a. In five instances, the company incorrectly paid the health care provider instead of the insured without a valid Assignment of Benefits.

b. In three instances, the company reduced the amount payable to an insured when Medical Expense Benefits may not be reduced for any benefits paid, payable, or available through an insurance contract providing hospital, medical, surgical and similar or related benefits.

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

- (13) The examiners found four violations of § 38.2-2206 A of the Code of Virginia. The



company applied an UMPD deductible when no deductible applied to the loss.

- (14) The examiners found 43 occurrences where the company failed to comply with the provisions of the insurance policy.
- a. In one instance, the company requested that the insured obtain a copy of a police report when the report was not required under the facts of the UMPD claim.
  - b. In three instances, the company failed to include the lienholder on the check.
  - c. In 25 instances, the company paid an insured more than the insured was entitled to receive under the terms of his policy.
  - d. In 14 instances, the company failed to pay an Uninsured Motorist (UM) claim properly.

#### **FORMS REVIEW**

The examiners reviewed the company's policy forms and endorsements 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 policy forms and endorsements used during the examination period for the line of business listed below, the Bureau requested copies from the company.

#### **Automobile Forms**

##### **POLICY FORMS USED DURING THE EXAMINATION PERIOD**

The company provided 29 copies of 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 BY THE COMPANY

The examiners found no additional forms to review.

## PART TWO – CORRECTIVE ACTION PLAN

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 claims handling. Any error ratio above this threshold for claims indicates a general business practice. In forms, 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

California Casualty and Indemnity Exchange shall:

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

### Claims Review

California Casualty and Indemnity Exchange 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 made the restitution 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 deductibles and rental benefits under UMPD, as well as Transportation Expenses coverage, and MEB 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) Provide copies of repair estimates prepared by or on behalf of the company to insureds and/or claimants.
  - (8) Properly represent pertinent facts or insurance policy provisions relating to coverages at issue.
  - (9) Obtain a written authorization from an insured prior to making MEB payments directly to the medical provider and reprice medical bills only where permitted by § 38.2-2201 of the Code of Virginia.
  - (10) Based on the Bureau's examination of the Company's MEB claims, the company should conduct an internal audit of the MEB claims where the provider was paid directly without a valid AOB and make restitution to the insured where applicable. The Company should complete the Bureau prepared spreadsheet indicating the payments made as a result of the internal audit.
  - (11) Based on the Bureau's examination of the Company's UM claims, the Company should conduct an internal audit of the UM claims where the deductible was applied incorrectly when the at-fault party was identified and make restitution to insureds where applicable. The Company should complete the Bureau prepared spreadsheet indicating the payments made as a result of the internal audit.

### **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:

#### **Claims**

- The company should acknowledge correspondence that reasonably suggests a reply is expected from insureds and claimants within 15 calendar days.
- The company should notify the claimant within five business days when a settlement check of \$5000.00 or greater is sent to the claimant's attorney or representative.
- The company should make all claim denials in writing.
- The company should adopt and implement reasonable standards for the prompt investigation of claims arising under insurance policies.
- The company should provide a reasonable time for the insured to receive payment prior to terminating transportation expenses.
- The company should include the lienholder on payments when applicable.
- The company should make payments to the insured for the amount he/she is entitled to receive under the terms of the policy.

#### **Forms**

- The company should amend the Health Care Professional Physical Damage Waiver Deductible Benefit form, PC 00 87 11 09, to comply with § 38.2-2206 of the Code of Virginia.
- The company should amend the Public Safety Professional Physical Damage Waiver of Deductible Benefit form, PC 00 77 11 09, to comply with § 38.2-2206 of the Code of Virginia.
- The company should amend Educators Coverage Enhancements form,

PC 00 97 11 12, to comply with § 38.2-2206 of the Code of Virginia and remove all reference to the "Eligibility Period" of December 31, 2014.

**SUMMARY OF PREVIOUS EXAMINATION FINDINGS**

The Virginia Bureau of Insurance conducted one prior market conduct examination of California Casualty Indemnity Exchange.

During the private passenger auto and homeowner lines of business examination of California Casualty Indemnity Exchange as of December 31, 2010, the company violated §§ 38.2-228, 38.2-502, 38.2-510 A 1, 38.2-510 A 3, 38.2-604.1 B, 38.2-604 C, 38.2-1906 D, 38.2-2113 A, 38.2-2113 C, 38.2-2125, 38.2126 A, 38.2-2126 B, 38.2-2202 A, 38.2-2202 B, 38.2-2208 A, 38.2-2208 B, 38.2-2210 A, 38.2-2212 E, 38.2-2234 A, of the Code of Virginia and, 14 VAC 5-400-30, 14 VAC 5-400-40 A, 14 VAC 5-400-50 C, 14 VAC 5-400-70 D, and 14 VAC 5-400-80 D of the Commission's Rules Governing Unfair Claim Settlement Practices, and 14 VAC 5-400-10 *et seq.*, by failing to properly handle claims with such frequency as to indicate a general business practice.

**ACKNOWLEDGEMENT**

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

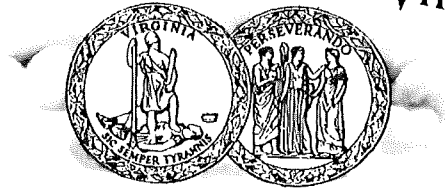
Sincerely,

A handwritten signature in cursive script that reads "Karen S Gerber".

Karen S. Gerber  
Senior Insurance Market Examiner

# 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  
[www.scc.virginia.gov/boi](http://www.scc.virginia.gov/boi)

May 29, 2019

## VIA E-MAIL DELIVERY

Todd Brickel CPCU, MCM, ARC  
Vice President Underwriting Operations  
California Casualty Indemnity Exchange  
1650 Telstar Drive  
Colorado Springs, CO 80920

RE: California Casualty Indemnity Exchange (NAIC# 20117)  
Market Conduct Examination  
Examination Period: January 1, 2018 – December 31, 2018

Dear Mr. Brickel:

The Bureau of Insurance (Bureau) has conducted a market conduct examination of California Casualty Indemnity Exchange for the period of January 1, 2018 through December 31, 2018. The preliminary examination report (Report) has been drafted for the company's review.

Enclosed with this letter is a copy of the Report and copies of review sheets that have been added, withdrawn, or revised since May 20, 2019. Also enclosed are several technical reports that will provide you with the specific file references for the violations listed in the Report.

Since there appears to have been several 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 it agrees. 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 its position. When the company responds please do not include any personally identifiable or privileged information (names, policy numbers, claim numbers, addresses, etc.) in the response. 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 it wishes 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.

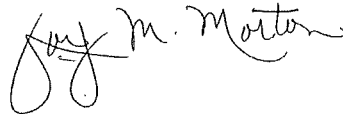
Finally, we have enclosed an Excel file that the company must complete and return to the Bureau with their response. This file lists the review items for which the examiners identified overcharges (rating and terminations) and underpayments (claims).

The company's response and the spreadsheet mentioned above must be returned to the Bureau by July 1, 2019.

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 July 1, 2019.

Sincerely,

A handwritten signature in black ink that reads "Joy M. Morton". The signature is fluid and cursive, with the first name "Joy" and last name "Morton" clearly legible.

Joy Morton, AMCM  
Manager  
Market Conduct Section  
Property & Casualty Division  
(804) 371-9540  
[joy.morton@scc.virginia.gov](mailto:joy.morton@scc.virginia.gov)

Enclosures



June 28, 2019

**VIA E-MAIL DELIVERY**

Joy Morton, AMCM  
Manager  
Market Conduct Section  
Property & Casualty Division  
Bureau of Insurance  
Commonwealth of Virginia  
1300 E. Main Street  
Richmond, VA 23219

RE: California Casualty Indemnity Exchange (NAIC #20117)  
Market Conduct Examination  
Examination Period: January 1, 2018 – December 31, 2018

Dear Ms. Morton:

This letter is in response to your May 29, 2019, preliminary examination report (Report) of California Casualty Indemnity Exchange (NAIC #20117). Where necessary or otherwise deemed appropriate, a response has been provided on the following pages to the Examiner's observations, request for corrective action, and recommendations.

Before we address the specific findings in Parts One, Two, and Three, I would like to request a modification to the statement on page 6 that reads: "This business was developed through independent agents." This is untrue. As a direct writer all business was developed through captive agents employed solely by California Casualty Management Company as attorney-in-fact and manager. Secondly, the paragraph that begins at the top of page 8 appears to be an incomplete statement.

**PART ONE – EXAMINER'S OBSERVATIONS – CLAIMS REVIEW**

**Private Passenger Automobile Claims**

The company agrees with the findings as stated in Part One of the report.



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

### **Private Passenger Automobile Claims**

1-3 California Casualty has sent the amount of underpayments plus six percent (6%) simple interest to the insureds and claimants. The information is provided in the California Casualty Restitution Spreadsheet that has been uploaded to the Bureau's portal.

Note: Regarding reference number CPA031, payment under Medical Payments was issued for the total amount of actual billed treatment plus six percent (6%) simple interest.

Note: Regarding reference number CPA036, no medical billings have been submitted. We are attempting to contact the insured to request submission of medical billings for processing. Once the bills are received and processed, the Restitution Spreadsheet will be updated.

Note: Regarding reference number CPA051, no medical billings have been submitted. We are attempting to contact the insured and passenger to request submission of medical billings for processing. Once the bills are received and processed, the Restitution Spreadsheet will be updated.

Note: Regarding reference number CPA085, no medical billings have been submitted. We are attempting to contact the insured to request submission of medical billings for processing. Once the bills are received and processed, the Restitution Spreadsheet will be updated.

Note: Regarding reference number CPA109, no rental bill has been submitted. We are attempting to contact the insured to request submission of the rental billing for processing. Once the bill is received and processed, the Restitution Spreadsheet will be updated.

4-11 California Casualty will communicate guidance and reinforcement of proper claims handling procedure to the Claims staff, including documentation of claims files so that all events and dates pertinent to the claim can be reconstructed; document the claims files that all applicable coverages have been discussed with the insured to include particular attention given to deductibles and rental benefits under UMPD as well as Transportation Expenses coverages and MEB coverage; 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; provide copies of repair estimates prepared by or on behalf of the company to insureds and/or claimants; properly represent pertinent facts or insurance policy provisions relating to coverages at issue; obtain a written authorization from an insured prior to making MEB payments directly to the medical provider and re-price medical bills only where permitted by SS 38.2-2201 of the Code of Virginia.

9-11 California Casualty will conduct an internal audit of the MEB claims where the provider was paid directly without a valid AOB and make restitution to the insured where applicable; conduct an internal audit of the UM claims where the deductible was applied incorrectly when the at-fault party was identified and make restitution to insureds where applicable. The Company will complete the Bureau's prepared spreadsheet documenting payments made (including six percent simple interest) as a result of these audits.



### **PART THREE – RECOMMENDATIONS - CLAIMS REVIEW**

#### **Private Passenger Automobile Claims**

- The Company will acknowledge correspondence that reasonably suggests a reply is expected from the insureds and claimants within 15 calendar days.
- The Company will notify the claimant within five business days when a settlement check of \$5000.00 or greater is sent to the claimant's attorney or representative.
- The Company will make all claim denials in writing.
- The Company will institute formal training to ensure that reasonable standards developed are followed on a consistent basis.
- The Company will provide a reasonable time for the insured to receive payment prior to terminating transportation expenses.
- The Company will include the lienholder on payments when applicable.
- The Company will make payments to the insured for the amount he/she is entitled to receive under the terms of the policy.

### **PART THREE – RECOMMENDATIONS - FORMS REVIEW**

#### **Private Passenger Automobile Claims**

The company filed the changes to the form in filing number VA-19-A-FM-84 and is currently working through questions with the Bureau.

Sincerely,

Todd Brickel, CPCU, MCM, ARC  
Vice President Underwriting Operations & Analysis  
California Casualty Management Company  
1650 Telstar Drive  
Colorado Springs, CO 80920  
Telephone: (719) 532-8320  
Email: [tbrickel@calcas.com](mailto:tbrickel@calcas.com)

Enclosure: Uploaded to Portal

# 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  
[www.scc.virginia.gov/boi](http://www.scc.virginia.gov/boi)

July 18, 2019

## VIA EMAIL DELIVERY

Todd Brickel, CPCU, MCM, ARC  
Vice President Underwriting Operations  
California Casualty Indemnity Exchange  
1650 Telstar Drive  
Colorado Springs, CO 80920

RE: Market Conduct Examination  
California Casualty Indemnity Exchange (NAIC# 20117)  
Exam Period: January 1, 2018 – December 31, 2018

Dear Mr. Brickel:

The Bureau of Insurance (Bureau) has reviewed the June 28, 2019 response to the Preliminary Market Conduct Report (Report) of the above referenced company. The Bureau has referenced only those items in which the Company has disagreed with the Bureau's findings, or items that have changed in the Report. This response follows the format of the Report.

The statement on page six referencing "independent agents" has been amended to show that California Casualty's business is developed through captive agents.

## STATISTICAL SUMMARY

The incomplete statement on page eight has been amended to include the Statistical Summary heading and amend the grammatical error on this page.

## PART TWO – CORRECTIVE ACTION PLAN

### CLAIMS

(1-3) The Bureau acknowledges the correction to CPA031. The Restitution Spreadsheet has been amended to reflect this change.

The Medical Expense Benefits (MEB) underpayments referenced in the Company's response for CPA036, CPA051 and CPA085, reference letters that were sent to the insureds on June 18, 2019. Please provide copies of the letters sent to each insured.

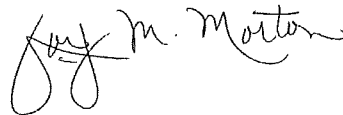
The rental underpayment for CPA109 referenced in the Company's response references a letter sent to the insured on June 18, 2019. Please provide a copy of the letter.

- (4-11) Please provide the dates that training happened or will happen to address the corrective actions identified in the Report.

We have made the changes noted above to the Market Conduct Examination Report. Enclosed with this letter is a revised version of the Report and the applicable technical reports. The Company's response to this letter is due by August 6, 2019.

Once we have received and reviewed the Company's response to these items, we will be in a position to make a settlement offer. We look forward to your response by August 6, 2019.

Sincerely,



Joy M. Morton  
Manager  
Market Conduct Section  
Property and Casualty Division  
(804) 371-9540  
[joy.morton@scc.virginia.gov](mailto:joy.morton@scc.virginia.gov)

Enclosures

July 26, 2019

To: Joy Morton/VA BO Market Conduct Manager

From: Ed Mapes/California Casualty Mgmt Co

Re: Market Conduct Examination/California Casualty Indemnity Exchange (NAIC# 20117)

Hello Joy-

In response to your July 18, 2019 requesting additional material under these items

(1-3) *The Medical Expense Benefits (MEB) underpayments referenced in the Company's response for CPA036, CPA051 and CPA085, reference letters that were sent to the insureds on June 18, 2019. Please provide copies of the letters sent to each insured.*

*The rental underpayment for CPA109 referenced in the Company's response references a letter sent to the insured on June 18, 2019. Please provide a copy of the letter.*

### **Company Response:**

The requested letters are attached.



2019 VA BOI -  
letters to insureds.pdf

(4-11) *Please provide the dates that training happened or will happen to address the corrective actions identified in the Report.*

### **Company Response:**

Training dates-Claims Staff \*

6/25/19 Total Loss Dept

6/27/19 Med pay/PIP team

7/23/19 Claims Adjusters-Az Office

7/24/19 Claims Adjusters-CO Office

7/25/19 Claims Adjusters-KS Office.

\*Includes Supervisors/Managers

Thank you and let me know if I can answer any questions,

*Ed*



**Ed Mapes, PCLA | Claims Consultant Team Manager**  
California Casualty Management Company  
p: 323.999.7335 e: [emapes@calcas.com](mailto:emapes@calcas.com)  
[www.calcas.com](http://www.calcas.com)



Pam Henry

---

**From:** EMapes@calcas.com <Office365@messaging.microsoft.com>  
**Sent:** Friday, September 6, 2019 2:37 PM  
**To:** Joy Morton; William Felvey  
**Cc:** EMapes@calcas.com; tbrickel@calcas.com  
**Subject:** Response to Report  
**Attachments:** cpa 036 letter.pdf; cpa 051 letter.pdf; cpa 085 letter.pdf; CPA 109 letter.pdf

Joy- att is a copy of my email that had not yet been sent. I'm cc'ing Will in case this doesn't get to you.

To: Joy Morton, AMCM, Virginia BOI-Manager  
From: Ed Mapes, California Casualty

September 4, 2019

Ms Morton

This is in response to your 8/29/2019 email to myself and Todd Brickel. Attached to this email are copies of the reference letters you requested for CPA 036 CPA 051 CPA 085 and CPA 109.

On your inquiry on training : The Company provided training on VA requirements to our claims staff in June and July 2019. Specific dates/groups are listed below:

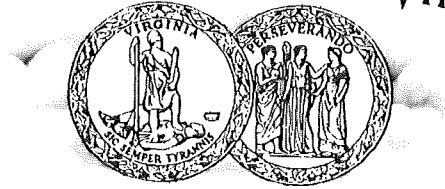
**Training Dates**

	<b>Specialized Adjusters</b>
6/25/2019	Total Loss Dept- Adjusters/Managers
6/27/2019	PIP/MedPay- Adjusters/Managers
	<b>Regional Claims Staff</b>
7/23/2019	Arizona Office: All Claims Adjusters/Managers
7/24/2019	Colorado Office: All Claims Adjusters/Managers
7/25/2019	Kansas Office: All Claims Adjusters/Managers

Thank you  
Ed Mapes

# 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  
[www.scc.virginia.gov/boi](http://www.scc.virginia.gov/boi)

September 17, 2019

## VIA E-MAIL DELIVERY

Todd Brickel, CPCU, MCM, ARC  
Vice President Underwriting Operations  
California Casualty Indemnity Exchange  
1650 Telstar Drive  
Colorado Springs, CO 80920

RE: Market Conduct Examination  
California Casualty Indemnity Exchange, NAIC #20117)  
Examination Period: January 1, 2018 – December 31, 2018

Dear Mr. Brickel:

The Bureau of Insurance (Bureau) has concluded its review of the company's responses of June 28, July 26, 2019, and the September 6, 2019 e-mail. 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 California Casualty Indemnity Exchange (Report).

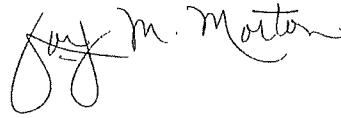
Based on the Bureau's review of the Report and the company's responses, it appears that a number of Virginia insurance laws and regulations have been violated, specifically:

Sections 38.2-510 A 1 and 38.2-2201 D of the Code of Virginia; and 14 VAC 5-400-30, 14 VAC 5-400-40 A, 14 VAC 5-400-70 D, and 14 VAC 5-400-80 D of the Virginia Administrative Code.

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 "Joy M. Morton". The signature is fluid and cursive, with the first name "Joy" being particularly prominent.

Joy M. Morton  
Manager  
Market Conduct Section  
Property and Casualty Division  
(804) 371-9540  
[joy.morton@scc.virginia.gov](mailto:joy.morton@scc.virginia.gov)

JMM/pgh  
Attachment



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

RE: Market Conduct Examination Settlement Offer  
California Casualty Indemnity Exchange, NAIC #20117  
Ecase/Docket Number: INS-2019-00130

Dear Ms. Nichols:

This will acknowledge receipt of the Bureau of Insurance's letter dated September 24, 2019, 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 1 and 38.2-2201 D of the Code of Virginia; and 14 VAC 5-400-30, 14 VAC 5-400-40 A, 14 VAC 5-400-70 D, and 14 VAC 5-400-80 D of the Virginia Administrative Code to indicate a general business practice.

1. We enclose with this letter a check payable to the Treasurer of Virginia in the amount of \$22,400.
2. We agree to comply with the corrective action plan set forth in the company's letters of June 28 and July 26, 2019, and e-mail of September 6, 2019.
3. We confirm that restitution was made to 34 consumers for \$32,609 in accordance with the companies' letters of June 28 and July 26, 2019, and e-mail of September 6, 2019.
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.

California Casualty Management Company  
Attorney-in-Fact and Manager

California Casualty Indemnity Exchange  
California Casualty General Insurance Company of Oregon

California Casualty Insurance Company  
California Casualty Compensation Insurance Company

California Casualty & Fire Insurance Company  
California Casualty Compensation Insurance Company

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,

Todd Brickel

California Casualty Indemnity Exchange



(Signed)

10/11/2019

Todd Brickel, CPCU, ARM, ARC

(Type or Print Name)

Vice President Underwriting

(Title)

October 7, 2019

(Date)

Enclosure

# 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  
[www.scc.virginia.gov/boi](http://www.scc.virginia.gov/boi)**

California Casualty Indemnity Exchange has tendered to the Bureau of Insurance the settlement amount of \$22,400 by its check numbered 30038528 and dated October 3, 2019, a copy of which is located in the Bureau's files.

COMMONWEALTH OF VIRGINIA  
STATE CORPORATION COMMISSION  
AT RICHMOND, NOVEMBER 8, 2019

SCC-CLERK'S OFFICE  
DOCUMENT CONTROL CENTER

2019 NOV -8 P 2:13

110310311

COMMONWEALTH OF VIRGINIA, *ex rel.*

STATE CORPORATION COMMISSION

v.

CASE NO. INS-2019-00130

CALIFORNIA CASUALTY INDEMNITY EXCHANGE,  
Defendant

SETTLEMENT ORDER

Based on a market conduct examination conducted by the Bureau of Insurance ("Bureau"), it is alleged that California Casualty Indemnity Exchange ("Defendant"), duly licensed by the State Corporation Commission ("Commission") to transact the business of insurance in the Commonwealth of Virginia ("Virginia"), in certain instances violated § 38.2-2201 D of the Code of Virginia ("Code") by failing to obtain written authorization from an insured prior to making medical expense benefit payments directly to the medical provider; and § 38.2-510 A (1) of the Code, 14 VAC 5-400-30 of the Commission's Rules Governing Unfair Claim Settlement Practices, 14 VAC 5-400-10 *et seq.*, 14 VAC 5-400-40 A, 14 VAC 5-400-70 D, and 14 VAC 5-400-80 D by failing to properly handle claims with such frequency as to indicate a general business practice.

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 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 June 28, 2019, July 26, 2019, and September 6, 2019, has confirmed that restitution was made to 34 consumers in the amount of Thirty-two Thousand Six Hundred Nine Dollars (\$32,609), has tendered to Virginia the sum of Twenty-two Thousand Four Hundred Dollars (\$22,400), 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.

AN ATTESTED COPY hereof shall be sent by the Clerk of the Commission to:  
Todd Brickel, CPCU, MCM, ARC, Vice President Underwriting Operations, California Casualty Indemnity Exchange, 1650 Telstar Drive, Colorado Springs, Colorado 80920; 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.