

MARKET CONDUCT EXAMINATION REPORT

OF

ESURANCE INSURANCE COMPANY

**ESURANCE PROPERTY AND CASUALTY
INSURANCE COMPANY**

AS OF

MARCH 31, 2013

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

**Property and Casualty Division
Market Conduct Section**

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

STATE CORPORATION COMMISSION BUREAU OF INSURANCE

I, Andrea Baytop, Senior Insurance Market Examiner of the Bureau of Insurance, do hereby certify that the annexed copy of the Market Conduct Examination Report of Esurance Insurance Company and Esurance Property and Casualty Insurance Company as of March 31, 2013, conducted at the companies' office in Sacramento, California 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-2015-00035 finalizing the Report.

IN WITNESS WHEREOF, I have
hereunto set my hand and affixed
the official seal of the Bureau
at the City of Richmond, Virginia,
this 31st day of August, 2015.

A handwritten signature in cursive script, reading 'Andrea Baytop', written over a horizontal line.

Senior Examiner's Name
Examiner in Charge

MARKET CONDUCT EXAMINATION REPORT

OF

ESURANCE INSURANCE COMPANY

**ESURANCE PROPERTY AND CASUALTY
INSURANCE COMPANY**

AS OF

MARCH 31, 2013

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

**Property and Casualty Division
Market Conduct Section**

TABLE OF CONTENTS

INTRODUCTION	1
COMPANIES' PROFILES	1
SCOPE OF THE EXAMINATION	5
STATISTICAL SUMMARY	6
PART ONE - THE EXAMINERS' OBSERVATIONS	8
RATING AND UNDERWRITING REVIEW	8
Automobile New Business Policies	8
Automobile Renewal Business Policies.....	9
TERMINATION REVIEW	11
Company-Initiated Cancellations – Automobile Policies	11
Notice Mailed Prior to the 60 th Day of Coverage	11
Notice Mailed After the 59 th Day of Coverage	11
All Other Cancellations – Automobile Policies	12
Nonpayment of the Premium	12
Requested by the Insured	13
Company-Initiated Nonrenewals – Automobile Policies.....	13
Rejected Applications – Automobile Policies.....	14
CLAIMS REVIEW	14
Automobile Claims	14
REVIEW OF FORMS.....	18
Automobile Policy Forms	19
Policy Forms Used During the Examination Period	19
Policy Forms Currently Used	19
REVIEW OF THE POLICY ISSUANCE PROCESS.....	19
Automobile Policies.....	20
New Business Policies	20
Renewal Business Policies.....	20

REVIEW OF STATUTORY NOTICES	20
General Statutory Notices	21
Statutory Vehicle Notices	21
Other Notices.....	21
LICENSING AND APPOINTMENT REVIEW	22
Agent Review.....	22
Agency Review	22
REVIEW OF THE COMPLAINT-HANDLING PROCESS.....	22
REVIEW OF PRIVACY AND INFORMATION SECURITY PROCEDURES.....	22
PART TWO – CORRECTIVE ACTION PLAN	23
General.....	23
Rating and Underwriting Review	23
Termination Review	24
Claims Review	25
Forms Review	26
Review of Policy Issuance Process.....	26
Review of Statutory Notices	26
PART THREE – RECOMMENDATIONS.....	27
RECOMMENDATIONS	27
Rating and Underwriting.....	27
Termination.....	27
Policy Issuance Process	27
Statutory Notices.....	28
Complaint-Handling Process.....	28
SUMMARY OF PREVIOUS EXAMINATION FINDINGS.....	28
ACKNOWLEDGEMENT.....	29

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 Esurance Insurance Company and Esurance Property and Casualty Insurance Company at their office in Sacramento, California.

The examination commenced October 7, 2013 and concluded May 2, 2014. Brandon L. Ayers, Andrea D. Baytop, Karen S. Gerber, Ju'Coby D. Hendrick, Melody S. Morrisette, 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 7, 2013 and was assigned the examination number of VA097-M8. The examination was conducted in accordance with the procedures established by the National Association of Insurance Commissioners (NAIC).

COMPANIES' PROFILES*

Esurance Insurance Company (EIC) was incorporated on December 1, 1933 under the laws of Oklahoma as the Tri-State Casualty Insurance Company and began business on December 5, 1933. Its initial insurance operations, accident, liability, and workers' compensation coverages on behalf of zinc mine owners in Ottawa County, Oklahoma, were abandoned in August 1938. The word "Casualty" was deleted from the company's name on June 9, 1949, and the current title was adopted on August 27, 2002. On May 18, 2006, EIC redomesticated from the state of Oklahoma to Wisconsin. On October 7, 2011, The Allstate Corporation (Allstate) acquired Esurance and Answer Financial from White Mountains Insurance Group, Ltd. EIC is a company within the Esurance Group.

* Source: Best's Insurance Reports, Property & Casualty, 2013 Edition.

Esurance Property and Casualty Insurance Company (EPCIC) was incorporated on October 22, 1987 under the laws of California as Pacific Security Insurance Company. It commenced business on December 30, 1987. In 1988, the company became ultimately controlled by General Accident plc. On July 11, 1995, NZ Re Holdings, Inc. merged with and into the company. On June 1, 2001, the Bermuda-based White Mountains Insurance Group, Ltd. (WTM) purchased OneBeacon Insurance Group (OneBeacon), formerly the United States property and casualty insurance operation of CGU plc. As a result of the acquisition of OneBeacon, WTM became the ultimate controlling parent of EPCIC. The name was changed to General Accident Reinsurance Company of America on December 11, 1995 with the current name adopted on January 2, 2002. On October 1, 2003, the company's affiliate EIC acquired 100% ownership of the company from OneBeacon. On October 7, 2011, The Allstate Corporation (Allstate) acquired Esurance and Answer Financial from White Mountains Insurance Group. EPCIC is a company within the Esurance Group.

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

GROUP CODE: 0008	EIC	EPCIC
NAIC Company Number	25712	30210
LICENSED IN VIRGINIA	7/21/1998	10/06/2004
LINES OF INSURANCE		
Accident and Sickness		
Aircraft Liability	x	
Aircraft Physical Damage	x	
Animal		
Automobile Liability	x	x
Automobile Physical Damage	x	x
Boiler and Machinery	10/1/13	4/25/12
Burglary and Theft	x	4/25/12
Commercial Multi-Peril	x	
Credit		
Farmowners Multi-Peril		
Fidelity	x	
Fire	x	4/25/12
General Liability	x	4/25/12
Glass	x	4/25/12
Homeowners Multi-Peril	x	4/25/12
Inland Marine	x	4/25/12
Miscellaneous Property	x	4/25/12
Ocean Marine	x	
Surety	x	
Water Damage	10/1/13	
Workers' Compensation	x	

The table below shows the companies' premium volume and approximate market share of business written in Virginia during 2012 for the line of insurance included in this examination.* This business was developed through captive agents.

COMPANY AND LINE	PREMIUM VOLUME	MARKET SHARE
Esurance Insurance Company		
Private Passenger Automobile Liability	\$3,278,195	.13%
Private Passenger Automobile Physical Damage	\$1,706,852	.09%
Esurance Property And Casualty Insurance Company		
Private Passenger Automobile Liability	\$16,994,728	.66%
Private Passenger Automobile Physical Damage	\$8,430,592	.44%

* Source: The 2012 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 companies' private passenger automobile line of business written in Virginia for the period beginning April 1, 2012 and ending March 31, 2013. 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 companies' 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 companies 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 companies' practices that require some action by the companies. This section also summarizes the violations for which the companies were cited in previous examinations.

The examiners may not have discovered every unacceptable or non-compliant activity in which the companies engaged. The failure to identify, comment on, or criticize

¹ Policies reviewed under this category reflected the companies' 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 companies. The relationship between population and sample is shown on the following page.

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

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

**Population
Sample Requested**

AREA	<u>EIC</u>	<u>EPCIC</u>	<u>TOTAL</u>	<u>FILES REVIEWED</u>	<u>FILES NOT FOUND</u>	<u>FILES WITH ERRORS</u>	<u>ERROR RATIO</u>
<u>Private Passenger Auto</u>							
New Business	<u>0</u>	<u>15205</u>	<u>15205</u>	35	0	35	100%
	0	35	35				
Renewal Business	<u>8126</u>	<u>14241</u>	<u>22367</u>	65	0	65	100%
	30	35	65				
Co-Initiated Cancellations	<u>6</u>	<u>1067</u>	<u>1073</u>	23	0	16	70%
	4	19	23				
All Other Cancellations ¹	<u>2426</u>	<u>13095</u>	<u>15521</u>	43	0	12	28%
	27	21	48				
Nonrenewals	<u>169</u>	<u>466</u>	<u>635</u>	18	0	5	28%
	7	11	18				
Rejected Applications	<u>0</u>	<u>1322</u>	<u>1322</u>	6	0	6	100%
	0	6	6				
<u>Claims</u>							
Auto ²	<u>960</u>	<u>2838</u>	<u>3798</u>	124	0	69	56%
	51	76	127				

Footnote ¹ The companies were unable to provide accurate cancellation populations for Insured Requested and Nonpayment of Premium terminations.

Footnote ² The following files were not reviewed: One file was a Kentucky policy, one file was previously reviewed by the Bureau's Consumer Services Section and one file was a duplicate.

PART ONE - THE EXAMINERS' OBSERVATIONS

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

RATING AND UNDERWRITING REVIEW

Automobile New Business Policies

The Bureau reviewed 35 new business policy files. During this review, the examiners found overcharges totaling \$454.00 and undercharges totaling \$492.00. The net amount that should be refunded to insureds is \$454.00 plus six percent (6%) simple interest.

- (1) The examiners found 25 violations of § 38.2-502 of the Code of Virginia. The company misrepresented the benefits, advantages, conditions or terms of the insurance policy. The company displayed inaccurate discounts and premium amounts on the declarations page.
- (2) The examiners found 35 violations of § 38.2-1906 A of the Code of Virginia. The company failed to file all rates and supplementary rate information with the Bureau. The company failed to file all of the Score Logic details that were pertinent in calculating the insured's credit score with the Insurance Scoring Model on file with the Bureau.
- (3) The examiners found 32 violations of § 38.2-1906 D of the Code of Virginia. The company failed to use the rules and/or rates on file with the Bureau.
 - a. In one instance, the company failed to use the correct discounts and/or surcharges.
 - b. In 22 instances, the company failed to use the correct symbols.

- c. In five instances, the company failed to use the correct tier eligibility criteria.
- d. In two instances, the company failed to use the correct base and/or final rates.
- e. In two instances, the company failed to use its filed fees.

Automobile Renewal Business Policies

The Bureau reviewed 65 renewal business policy files. As a result of this review, the examiners found overcharges totaling \$3,150.00 and undercharges totaling \$178.00. The net amount that should be refunded to insureds is \$3,150.00 plus six percent (6%) simple interest.

- (1) The examiners found one violation of § 38.2-305 A of the Code of Virginia. The company failed to specify accurate information in the policy. The company failed to list the Loss of Income Coverage form on the declarations page.
- (2) The examiners found 49 violations of § 38.2-502 of the Code of Virginia. The company misrepresented the benefits, advantages, conditions, or terms of the insurance policy. The company listed discounts on the declarations page that were not applicable to the policy.
- (3) The examiners found two violations of § 38.2-1905 A of the Code of Virginia. The company failed to notify the insured in writing that his policy had been surcharged for an at-fault accident.
- (4) The examiners found one violation of § 38.2-1905 C of the Code of Virginia. The company failed to apply surcharge points only to the vehicle customarily driven by the operator responsible for the accident or conviction.
- (5) The examiners found 65 violations of § 38.2-1906 A of the Code of Virginia. The company failed to file all rates and supplementary rate information with the

- Bureau. The company failed to file all of the Score Logic details that were pertinent in calculating the insured's credit score with the Insurance Scoring Model on file with the Bureau.
- (6) The examiners found 121 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 six instances, the company failed to use the correct discounts and/or surcharges.
 - b. In four instances, the company failed to apply the correct point surcharges for accidents and/or convictions.
 - c. In 89 instances, the company failed to use the correct symbols.
 - d. In 12 instances, the company failed to use the correct base and/or final rates.
 - e. In one instance, the company failed to rate the policy in accordance with its filed credit rules.
 - f. In nine instances, the company failed to verify the vehicle the insured customarily operates.

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 13 automobile cancellations that were initiated by the companies where the notice was mailed prior to the 60th day of coverage in the initial policy period. As a result of this review, the examiners found overcharges totaling \$38.94 and no undercharges. The net amount that should be refunded to insureds is \$38.94 plus six percent (6%) simple interest.

- (1) 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 return premium correctly.
- (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.
- (3) The examiners found six occurrences where the company failed to comply with the provisions of the insurance policy. The address on the proof of mailing did not correspond to the address shown on the insured's declarations page.

NOTICE MAILED AFTER THE 59TH DAY OF COVERAGE

The Bureau reviewed ten automobile cancellations that were initiated by the companies where the notice was 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 no overcharges or undercharges.

- (1) The examiners found six violations of § 38.2-2212 D of the Code of Virginia.
 - a. In five instances, the company cancelled the insured's motor vehicle policy due to revocation or suspension of a driver's license that did not occur during the period of time allowed by the statute.
 - b. In one instance, the company failed to obtain sufficient documentation from the insured verifying relocation to another state that would permit the company to cancel the policy.
- (2) The examiners found six violations of § 38.2-2212 E of the Code of Virginia.
 - a. In three instances, the company failed to send the cancellation notice to the address listed on the policy.
 - b. In three instances, the company failed to state the specific reason for canceling the policy.

All Other Cancellations – Automobile Policies

NONPAYMENT OF THE PREMIUM

The Bureau reviewed 21 automobile cancellations that were initiated by the companies for nonpayment of the policy premium. As a result of this review, the examiners found no overcharges and undercharges totaling \$47.52.

- (1) The examiners found one violation of § 38.2-1906 D of the Code of Virginia. The company failed to use the rules and/or rates on file with the Bureau. The company failed to calculate the return premium correctly.
- (2) The examiners found three violations of § 38.2-2208 B of the Code of Virginia. The company failed to obtain valid proof of mailing the cancellation notice to the lienholder.

- (3) The examiners found four violations of § 38.2-2212 E of the Code of Virginia.
- a. In one instance, the company failed to send the insured written notice of cancellation of his motor vehicle policy.
 - b. In three instances, the company failed to send the cancellation notice to the address listed on the policy.

REQUESTED BY THE INSURED

In addition, the Bureau reviewed 22 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 \$206.75 and undercharges totaling \$553.02. The net amount that should be refunded to insureds is \$206.75 plus six percent (6%) simple interest.

The examiners found five 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 return premium correctly.

Other Law Violations

Although not a violation of Virginia insurance laws, the examiners noted the following as a violation of another Virginia law.

The examiners found one violation of § 46.2-482 of the Code of Virginia. The company failed to file an SR-26 within 15 days of cancelling the policy as required by the Virginia Motor Vehicle Code.

Company-Initiated Nonrenewals – Automobile Policies

The Bureau reviewed 18 automobile nonrenewals that were initiated by the companies.

- (1) The examiners found one violation of § 38.2-2208 B of the Code of Virginia. The company failed to obtain valid proof of mailing the nonrenewal notice to the

- lienholder.
- (2) The examiners found six violations of § 38.2-2212 E of the Code of Virginia.
- a. In four instances, the company failed to send the nonrenewal notice to the address listed on the policy.
 - b. In two instances, the company failed to state the specific reason for refusing to renew the policy.
- (3) The examiners found one violation of § 38.2-2215 of the Code of Virginia. The company refused to renew a motor vehicle policy solely due to the age of the vehicle.

Rejected Applications – Automobile Policies

The Bureau reviewed six automobile insurance applications for which the company declined to issue a policy.

The examiners found six violations 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).

CLAIMS REVIEW

Automobile Claims

The examiners reviewed 124 automobile claims for the period of April 1, 2012 through March 31, 2013. The findings below appear to be contrary to the standards set forth by Virginia insurance statutes and regulations. The examiners found overpayments totaling \$4,479.95 and underpayments totaling \$5,410.78 during the review of these files. The net amount that should be paid to claimants is \$4,365.12 plus six percent (6%) simple interest.

- (1) The examiners found 27 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 28 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 policy that were pertinent to the claim.
- a. In one instance, the company failed to inform an insured of his physical damage deductible.
 - b. In six instances, the company failed to accurately inform the first party claimant of the Medical Expense Benefits coverage when the file indicated the coverage was applicable to the loss.
 - c. In 12 instances, the company failed to accurately inform an insured of his Transportation Expenses coverage when the file indicated the coverage was applicable to the loss.
 - d. In nine instances, the company failed to accurately inform an insured of the benefits or coverages, including rental benefits, available under the Uninsured Motorist 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 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 12 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.

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

- (5) The examiners found two violations of 14 VAC 5-400-70 B. The company failed to provide a reasonable explanation of the basis for the denial in its written denial of the claim.

- (6) The examiners found 13 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 one instance, the company failed to reimburse the insured his portion of the Collision deductible under the Uninsured Motorist Property Damage (UMPD) coverage.
- b. In four instances, the company failed to pay the insured's rental benefits available under the UMPD and/or Underinsured Motorist (UIM) coverage.
- c. In two instances, the company failed to pay the proper sales and use tax, title fee, and license fee on first party total loss settlements.
- d. In two instances, the company failed to pay the claim in accordance with the policy provisions under the insured's Transportation Expenses coverage.
- e. In four instances, the company failed to pay the claim in accordance with the policy provisions under the insured's Other Than Collision or Collision coverage.

- 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 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.
- a. In one instance, the company failed to provide a copy of the repair estimate to the insured.
 - b. In one instance, the company failed to provide a copy of the repair estimate to the claimant.
- (8) The examiners found five 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.
- (9) The examiners found ten 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.
- (10) The examiners found one violation 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.
- (11) The examiners found two violations 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.
- (12) The examiners found four 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.

- (13) The examiners found 11 occurrences where the company failed to comply with the provisions of the insurance policy.
- a. In two instances, the company failed to include the lienholder on the insured's check.
 - b. In seven instances, the company paid an insured more than he was entitled to receive under the terms of his policy.
 - c. In two instances, the company overpaid the sales and use tax and/or the title transfer fees.

Other Law Violations

Although not a violation of Virginia insurance laws, the examiners noted the following as violations of other Virginia laws.

The examiners found 14 violations of § 52-40 of the Code of Virginia. The company failed to include the statement regarding insurance fraud on claim forms required by the company as a condition of payment.

REVIEW OF FORMS

The examiners reviewed the companies' 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 companies' compliance with Virginia insurance statutes and regulations.

To obtain copies of the policy forms and endorsements used during the examination period for each line of business listed below, the Bureau requested copies from the companies. In addition, the Bureau requested copies of new and renewal

business policy mailings that the companies were 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 companies' current practices.

Automobile Policy Forms

POLICY FORMS USED DURING THE EXAMINATION PERIOD

The companies provided copies of 40 forms that were used during the examination period to provide coverage on policies insuring risks located in Virginia.

The examiners found four violations of § 38.2-2220 of the Code of Virginia. The company failed to have available for use mandatory forms filed and adopted by the Bureau. The company failed to have available for use the Suspension of Insurance form (PP 01 02 08 86) and the Reinstatement of Insurance form (PP 02 02 08 86).

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 companies' policy issuance process for the lines examined, the examiners requested new and renewal business policy mailings that were sent after the companies received the Examination Data Call. The companies were 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 companies 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 companies provided three new business policies mailed on the following dates: April 24, 2013 and June 6 and 7, 2013. In addition, the companies provided six renewal business policies mailed on the following dates: April, 1, 12, 16, 17, 25, and 26, 2013.

NEW BUSINESS POLICIES

The examiners found no violations in this area.

RENEWAL BUSINESS POLICIES

- (1) The examiners found three violations of § 38.2-305 A of the Code of Virginia. The company failed to specify accurate information in the policy as required by the statute. The company listed forms not applicable to the policy on the declarations page.
- (2) The examiners found one violation of § 38.2-2230 of the Code of Virginia. The company failed to offer in writing to the insured the option of purchasing rental reimbursement coverage at the time the company issued a motor vehicle policy that provided Other than Collision (OTC) and/or Collision coverage.

REVIEW OF STATUTORY NOTICES

The examiners reviewed the companies' 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 companies' compliance with Virginia insurance statutes and regulations.

To obtain copies of the statutory notices used during the examination period for the private passenger automobile line of business, the Bureau requested copies from the

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

General Statutory Notices

The examiners found no violations in this area.

Statutory Vehicle Notices

- (1) The examiners found one violation of § 38.2-2210 A of the Code of Virginia. The company failed to include the 60-day cancellation warning notice on or attached to the first page of the application.
- (2) The examiners found two violations of § 38.2-2234 A 1 of the Code of Virginia. The company failed to include all of the information required by the statute in its Insurance Credit Score Disclosure notice.

Other Notices

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

The examiners found two violations of § 38.2-502 of the Code of Virginia. The company misrepresented the benefits, advantages, conditions or terms of the insurance policy. The company incorrectly stated a short rate fee would be charged on nonpayment of premium cancellations.

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. Only Esurance Property and Casualty Insurance Company wrote new business during the examination period.

Agent Review

The examiners found no violations in this area.

Agency Review

The examiners found no violations in this area.

REVIEW OF THE COMPLAINT-HANDLING PROCESS

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

The examiners found no violations in this area.

REVIEW OF PRIVACY AND INFORMATION SECURITY PROCEDURES

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

The companies provided their 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. Unless otherwise noted, a ten percent (10%) error criterion was applied to all operations of the companies, with the exception of claims handling. The threshold applied to claims handling was seven percent (7%). Any error ratio above these thresholds indicates a general business practice. 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

Esurance Property and Casualty Insurance Company and Esurance Insurance Company shall:

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

Rating and Underwriting Review

Esurance Property and Casualty Insurance Company and Esurance 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 companies acknowledge that they have refunded or credited the overcharges listed in the file.

- (4) Properly represent the benefits, coverage, advantages and conditions of the policy by only listing discounts that are applicable to the policy and showing the correct premium amount being charged on the declarations page.
- (5) Provide the Accident Point Surcharge notice when the policy has been surcharged for an at-fault accident.
- (6) File all rates and supplementary rate information with the Bureau prior to use.
- (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, tier eligibility, credit information, base and/or final rates, filed fees, and verify driver assignments.

Termination Review

Esurance Property and Casualty Insurance Company and Esurance 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 companies acknowledge that they have refunded or credited the overcharges listed in the file.
- (4) Provide a written AUD notice when applicable.
- (5) Charge fees and/or calculate return premium according to the filed rules and policy provisions.

- (6) Obtain valid proof of mailing cancellation and nonrenewal notices to the insured and lienholder.
- (7) Cancel private passenger automobile policies for suspension or revocation only during the time period permitted by the Code of Virginia.
- (8) Send the cancellation or nonrenewal notice to the address listed on the policy.
- (9) Advise the insured of the specific reason for cancelling or non-renewing the policy.

Claims Review

Esurance Property and Casualty Insurance Company and Esurance 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 companies acknowledge that they have paid the underpayments listed in the file.
- (4) Document the claim file 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 Physical Damage coverage, Medical Expense Benefits Coverage, Transportation Expenses coverage, and Uninsured Motorists coverage including rental benefits.
- (6) Make all claim denials in writing and keep a copy of the written denial in the claim file.

- (7) 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 policy provisions.
- (8) Implement reasonable standards for the prompt investigation of claims.

Forms Review

Esurance Property and Casualty Insurance Company and Esurance Insurance Company shall:

Use the required Reinstatement of Insurance and the Suspension of Insurance forms adopted by the Bureau.

Review of Policy Issuance Process

Esurance Property and Casualty Insurance Company and Esurance Insurance Company shall:

- (1) Specify accurate information in the policy by only listing forms applicable to the policy on the declarations page.
- (2) Provide the insured with the notice advising them of the option of purchasing Rental Reimbursement coverage when the policy has OTC or Collision coverage.

Review of Statutory Notices

Esurance Property and Casualty Insurance Company and Esurance Insurance Company shall:

- (1) Provide the 60-day Cancellation Warning notice on or attached to the first page of the application to comply with § 38.2-2210 A of the Code of Virginia.
- (2) Amend the Insurance Credit Score Disclosure notice to comply with § 38.2-2234 A of the Code of Virginia.
- (3) Properly represent the benefits, advantages, conditions or terms of the insurance policy by accurately stating that the short rate cancellation fee applies to insured requested cancellations only.

PART THREE – RECOMMENDATIONS

The examiners also found violations that did not appear to rise to the level of business practices by the companies. The companies 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 the companies take the following actions:

Rating and Underwriting

- The companies should consistently use the same term to refer to the Expense Savings Discount. The application and compare rates pages refer to the discount as an internet discount, while the Virginia Auto Rating Information page refers to the discount as the Fast 5 Discount.
- The companies should follow their rounding rule when applying the Expense Constant to the Bodily Injury coverages on policies with multiple vehicles.
- The companies should round the premiums by coverage in accordance with Rule P11. Rule P11 states, “Premium by coverage should be rounded to the nearest whole dollar.”
- The companies should update the Vehicle Ownership Factors page (Exhibit 21) of the rates manual to reflect “Gap” coverage instead of “LL.”

Termination

- The companies should not provide the right to review notice on cancellations within the first 60 days of coverage.

Policy Issuance Process

- The companies should not list notices on the declarations page under the “Forms and Endorsements made as a part of this policy at the time of issue” section.

Statutory Notices

- The companies should provide the insured with either the primary factors used as the basis for an adverse action or state that the insured can obtain the information by contacting the company.

Complaint-Handling Process

- The companies should change their complaint log to indicate the line of business for each complaint as required by statute.

SUMMARY OF PREVIOUS EXAMINATION FINDINGS

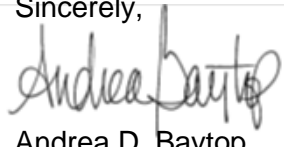
The Bureau conducted a prior market conduct examination of the private passenger automobile line of business of Esurance Insurance Company as of December 31, 2007.

During the examination, the company violated §§ 38.2-305 A, 38.2-323, 38.2-502, 38.2-510 A 3, 38.2-610 A, 38.2-1906 A, 38.2-1906 D, 38.2-2202 B, 38.2-2206, 38.2-2212, 38.2-2214, 38.2-2230, 38.2-2234 B of the Code of Virginia, and 14 VAC 5-400-40 A, 14 VAC 5-400-50 C, 14 VAC 5-400-70 A, 14 VAC 5-400-70 D, 14 VAC 5-400-80 D of the Virginia Administrative Code.

ACKNOWLEDGEMENT

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

Sincerely,

A handwritten signature in black ink, appearing to read "Andrea Baytop", enclosed within a thin black rectangular border.

Andrea D. Baytop

Senior Insurance Market Examiner

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

June 20, 2014

VIA UPS 2nd DAY DELIVERY

Robin Bogdanich
Esurance Insurance Companies
1011 Sunset Boulevard, Suite 100
Rocklin, CA, 95765

RE: Market Conduct Examination
Esurance Insurance Company (NAIC#25712)
Esurance Property and Casualty Insurance Company (NAIC#30210)

Dear Ms. Bogdanich:

The Bureau of Insurance (Bureau) has conducted a market conduct examination of the above referenced companies for the period of April 1, 2012, through March 31, 2013. The preliminary examination report (Report) has been drafted for the companies' 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 June 2, 2014. 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 companies we would urge you to closely review the report. Please provide a written response. When the companies respond please use the same format (headings and numbering) as found in the Report. If not, the response will be returned to the companies 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 companies do not need to respond to any particular item with which they agree. If the companies disagree with an item or wish 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 companies provide written documentation to support their position.

Secondly, the companies 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 companies have 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 companies should outline the actions they are taking to prevent those issues from becoming a business practice.

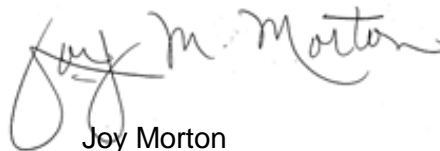
Finally, we have enclosed an Excel file that the companies must complete and return to the Bureau with the companies' response. This file lists the review items for which the examiners identified overcharges (rating and terminations) and underpayments (claims).

The companies' response and the spreadsheet mentioned above must be returned to the Bureau by July 28, 2014.

After the Bureau has received and reviewed the companies' 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 28, 2014.

Sincerely,

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

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

September 2, 2014

Commonwealth of Virginia
Bureau of Insurance
Market Conduct Section - P&C Division
Attn: Joy Morton, Supervisor
P.O. Box 1157
Richmond, Virginia 23218

Re: Market Conduct Examination
Esurance Insurance Company (NAIC #25712)
Esurance Property and Casualty Insurance Company (NAIC #30210)

Dear Ms. Morton:

On behalf of Esurance Insurance Company and Esurance Property and Casualty Insurance Company (collectively, the "companies"), I am in receipt of the preliminary examination report (the "report"). Please allow letter this to serve as the companies' response to the report. We respectfully submit our responses in the order appearing in the report beginning on page 2.

The companies offer their sincere gratitude to the Bureau of Insurance and to the Examiners for the courtesies granted to the companies throughout the course of the examination.

Sincerely,

Robin Bogdanich

Robin Bogdanich, AMCM
Senior Regulatory Compliance Manager
Esurance Insurance Company
Esurance Property and Casualty Insurance Company

PART ONE - THE EXAMINERS' OBSERVATIONS

RATING AND UNDERWRITING REVIEW

Automobile New Business

The Bureau reviewed 35 new business policy files. During this review, the examiners found overcharges totaling \$454.00 and undercharges totaling \$492.00. The net amount that should be refunded to insureds is \$454.00 plus six percent (6%) simple interest.

(1) *The examiners found 25 violations of § 38.2-502 of the Code of Virginia. The company misrepresented the benefits, advantages, conditions or terms of the insurance policy. The company displayed inaccurate discounts and premium amounts on the declarations page.*

Company Response

The company's records indicate that the violations related to the inaccurate display of discounts were specifically related to the Rating Information Page, not the declarations page. The company is implementing a change to its system to ensure that only those discounts applicable to the policy are listed on the Rating Information Page. The company anticipates this change will be implemented no later than October 31, 2014.

The company agrees with the examiners' observations related to the display of inaccurate premium amounts on the declarations page. As stated during the

examination, this was a display issue only, the correct premium was being collected. The company took immediate steps to correct this issue.

- (2) *The examiners found 35 violations of § 38.2-1906 A of the code of Virginia. The company failed to file all rates and supplementary rate information with the Bureau. The company failed file the Score Logic details that were pertinent in calculating the insured's credit score with the Insurance Scoring Model on file with the Bureau.*

Company Response

The Company believes that its Insurance Scoring Model on file with the Bureau meets the requirements of 38.2-1906 A and Administrative Letter 2002-6. At no time during the filing process was the Company asked to provide additional detailed information regarding its scoring model.

The "Score Logic" documents that were provided to the BOI during the examination are the business requirements that were used to program the system. We believe that filing this additional documentation would place an unreasonable burden on the Company.

The company is actively working with the Bureau's Policy and Form and Rate Filings - Property and Casualty Division (the "Division") regarding the need for a supplementary rate filing. Upon agreement with the Division, the company will submit such supplementary rate filing within 30 days.

(3) *The examiners found 32 violations of § 38.2-1906 D of the Code of Virginia. The company failed to use the rules and/or rates on file with the Bureau.*

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

Company Response

The company agrees with the examiner's observation.

b. In 22 instances, the company failed to use the correct symbols.

Company Response

The company agrees with the examiners' observations. The company submitted SERFF filing ESUR-129490390 on April 9, 2014, which provided additional detail around the company's symbols.

c. In five instances, the company failed to use the correct tier eligibility criteria.

Company Response

The company agrees with the examiners' observations.

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

Company Response

The company agrees with the examiners' observations.

e. In two instances the company failed to use its filed fees.

Company Response

The company agrees with the examiners' observations.

AUTOMOBILE RENEWAL BUSINESS

The Bureau reviewed 65 renewal business policy files. As a result of this review, the examiners found overcharges totaling \$3,150.00 and undercharges totaling \$255.00. The net amount that should be refunded to insureds is \$3,150.00 plus six percent (6%) simple interest.

(1) *The examiners found one violation of § 38.2-305 A of the Code of Virginia. The company failed to specify accurate information in the policy. The company failed to list the Loss of Income Coverage form on the declarations page.*

Company Response

The company agrees with the examiner's observation.

(2) *The examiners found 49 violations of § 38.2-502 of the Code of Virginia. The company misrepresented the benefits, advantages, conditions or terms of the insurance policy. The company listed discounts on the declarations page that were not applicable to the policy.*

Company Response

The company acknowledges the examiners' observations. The company's records indicate that these violations were specifically related to the renewal offer email and Rating Information Page, not the declarations page. The company is implementing a change to its system to ensure that only those discounts applicable to the policy are listed on the renewal offer email and the Rating Information Page. The company anticipates this change will be implemented no later than October 31, 2014.

- (3) *The examiners found two violations of § 38.2-1905 A of the Code of Virginia. The company failed to notify the insured in writing that his policy had been surcharged for an at-fault accident.*

Company Response

The company agrees with the examiners' observations. The company took immediate steps to correct the issue.

- (4) *The examiners found one violation of § 38.2-1905 C of the Code of Virginia. The company failed to apply surcharge points only to the vehicle customarily driven by the operator responsible for the accident or conviction.*

Company Response

The company agrees with the examiner's observation.

- (5) *The examiners found 65 violations of § 38.2-1906 A of the code of Virginia. The company failed to file all rates and supplementary rate information with the Bureau. The company failed file the Score Logic details that were pertinent in calculating the insured's credit score with the Insurance Scoring Model on file with the Bureau.*

Company Response

The Company believes that its Insurance Scoring Model on file with the Bureau meets the requirements of 38.2-1906 A and Administrative Letter 2002-6. At no time during the filing process was the Company asked to provide additional detailed information regarding its scoring model.

The "Score Logic" documents that were provided to the BOI during the examination are the business requirements that were used to program the system. We believe that filing this additional documentation would place an unreasonable burden on the Company.

The company is actively working with the Bureau's Policy and Form and Rate Filings - Property and Casualty Division (the "Division") regarding the need for a supplementary rate filing. Upon agreement with the Division, the company will submit such supplementary rate filing within 30 days.

(6) *The examiners found 126 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 11 instances, the company failed to use the correct discounts and/or surcharges.

Company Response

The company agrees with the examiners' observations for RPA052 and RAP090.

The company continues to disagree with the examiners' observations for RPA078, RPA0080 and RPA096. Supporting documentation is included with this response; please see Exhibit A.

b. In four instances, the company failed to apply the correct points for accidents and/or convictions.

Company Response

The company agrees with the examiners' observations.

- c. In 89 instances, the company failed to use the correct symbols*

Company Response

The company agrees with the examiners' observations. The company submitted SERFF filing ESUR-129490390 on April 9, 2014, which provided additional detail around the company's symbols.

- d. In 12 instances, the company failed to use the correct base and/or final rates.*

Company Response

The company agrees with the examiners' observations.

- e. In one instance the company failed to rate the policy in accordance with its rules regarding credit information.*

Company Response

The company agrees with the examiner's observation.

- f. In nine instances, the company failed to verify the vehicle the insured customarily operates.*

Company Response

The company agrees with the examiners' observations.

- (7) The examiners found two violations of § 38.2-2234 B of the code of Virginia. The company failed to update credit information at least once in a three year period or when requested by insured.*

Company Response

The company disagrees with the examiners' observations. Although the company initially acknowledged that it did not pull credit at the three year anniversary for these policies, the policyholders had the most favorable priced tier or rate based on the credit information. Therefore, in accordance with § 38.2- 2234 B of the Code of Virginia, the company was not required to obtain updated credit information. Supporting documentation is included with this response; please see Exhibit B.

The company respectfully that these violations be removed the Report.

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 13 automobile cancellations that were initiated by the companies where the notice was mailed prior to the 60th day of coverage in the initial policy period. As a result of this review, the examiners found overcharges totaling \$38.94 and no undercharges. The net amount that should be refunded to insureds is \$38.94 plus six percent (6%) simple interest.

- (1) *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 Bureau. The company failed to calculate the return premium correctly.*

Company Response

The company agrees with the examiners' observations.

- (2) *The examiners found one violation of § 38.2-2208 of the Code of Virginia. The company failed to obtain valid proof of mailing the cancellation notice to the insured.*

Company Response

The company agrees with the examiners' observation. Although the company did obtain a proof of mailing, the USPS did not date stamp the individual page for the cancellation notice to the insured. This was an isolated incident and is not reflective of the company's general business practice.

- (3) *The examiners found three violations of § 38.2-2208 B of the Code of Virginia.*
a. In one instance, the company failed to retain a copy of the cancellation sent to the insured.

Company Response

The company disagrees with the examiners' observation. During the examination, the company provided a copy of the cancellation notice that was sent to the insured. The company advised the examiners that the cancellation notice was affected by a display issue. This display issue was identified as part of a regular review of terminations and immediately

corrected. As part of its corrective action, the company reinstated the policy prior to the cancellation effective date. Supporting documentation is included with this response; please see Exhibit C.

As corrective action was taken prior to the cancellation effective date, the company respectfully requests that this violation be removed from the Report.

- b. In two instances, the company failed to obtain valid proof mailing the cancellation notice to the lienholder.*

Company Response

The company disagrees with the examiners' observations. According to LexisNexis, they no longer obtain a date stamp from the Post Office. The Proof of Mailing that they provide has a Mail ID which matches the Customer Reference ID, in the Mailing Transaction Receipt portion of the Proof of mailing. On the Proof of Mailing page, within the mailing Transaction Receipt section, it shows the post office of mailing, the mail arrival date and time, and the mail clerk initials. Additionally, it identifies the amount of postage paid. Supporting documentation, including the mailing list, is included with this response; please see Exhibit D.

The company respectfully requests that these violations be removed from the Report.

- (4) *The examiners found six occurrences where the company failed to comply with the provisions of the insurance policy. The address on the proof mailing did not correspond to the address shown on the insured's declarations page.*

Company Response

The company agrees with the examiners' observations. In reviewing the proof of mailing, it is apparent that the full street address was truncated due to a column width/sizing issue. The company took immediate steps to correct the issue.

NOTICE MAILED AFTER THE 59TH DAY OF COVERAGE

The Bureau reviewed ten automobile cancellations that were initiated by the companies where the notice was 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 no overcharges and undercharges totaling \$7.66.

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

Company Response

The company acknowledges the examiner's observation. During the examination, the company advised the examiners that the cancellation notice was affected by a display issue. This display issue was identified as part of a regular review of terminations and immediately corrected. As part of its

corrective action, the company reinstated the policy prior to the cancellation effective date. Supporting documentation is included with this response; please see Exhibit E.

As corrective action was taken prior to the cancellation effective date, the company respectfully requests that this violation be removed from the Report.

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

Company Response

The company disagrees with the examiners' observation. Supporting documentation is included with this response; please see Exhibit F.

- (3) *The examiners found two violations of § 38.2-2208 B of the Code of Virginia. The company failed to obtain valid proof of mailing the cancellation notice to the lienholder.*

Company Response

The company disagrees with the examiners' observations. According to LexisNexis, they no longer obtain a date stamp from the Post Office. The Proof of Mailing that they provide has a Mail ID which matches the Customer Reference ID, in the Mailing Transaction Receipt portion of the Proof of mailing. On the Proof of Mailing page, which is provided the USPS, within the mailing Transaction Receipt section, it shows the post office of mailing, the mail arrival date and time, and the mail clerk initials. Additionally, it identifies the amount of postage

paid. Supporting documentation, including the mailing list, is included with this response; please see Exhibit G.

The company respectfully requests that these violations be removed from the Report.

(4) *The examiners found seven violations of § 38.2-2212 D of the Code of Virginia.*

a. In one instance, the company cancelled the insured's motor vehicle policy for a reason not permitted by the Code of Virginia.

Company Response

The company acknowledges the examiners' observations. The intent of the processing representative was for this to be a cancellation during the first 59 days. However, the cancellation notice was not mailed until day 61. The processing error was identified as part of a regular review of terminations. As part of its corrective action, the policy was reinstated prior to the cancellation effective date. Supporting documentation is included with this response; please see Exhibit H.

As corrective action was taken prior to the cancellation effective date, the company respectfully requests that this violation be removed from the Report.

b. In five instances, the company cancelled the insured's motor vehicle policy due to revocation or suspension of a driver's license that did not occur during the period of time allowed by the statute.

Company Response

The company agrees with examiners' observations.

- c. In one instance, the company failed to obtain sufficient documentation from the insured verifying relocation to another state that would permit the company to cancel the policy.*

Company Response

The company agrees with examiner's observations.

- (5) The examiners found seven violations of § 38.2-2212 E of the Code of Virginia.*
- a. In three instances, the company failed to send the cancellation notice to the address listed on the policy.*

Company Response

The company agrees with the examiners' observations. In reviewing the proof of mailing, it is apparent that the full street address was truncated due to a column width/sizing issue. The company took immediate steps to correct the issue.

- b. In one instance, the company failed to mail the notice of cancellation to the insured at least 45 days prior to the effective date of cancellation.*

Company Response

The company acknowledges the examiner's observation. The intent of the processing representative was for this to be a cancellation during the first 59 days. However, the cancellation notice was not mailed until day 61.

The processing error was identified as part of a regular review of

terminations. As part of its corrective action, the policy was reinstated prior to the cancellation effective date. Supporting documentation is included with this response; please see Exhibit H.

As corrective action was taken prior to the cancellation effective date, the company respectfully requests that this violation be removed from the Report.

- c. In three instances, the company failed to state the specific reason for canceling the policy.*

Company Response

The company acknowledges the examiners' observations.

- d. In one instance, the company failed to advise the insured of his right to request a review by the Commissioner of Insurance.*

Company Response

The company acknowledges the examiners' observation. During the examination, the company advised the examiners that the cancellation notice was affected by a display issue. This display issue was identified as part of a regular review of terminations and immediately corrected. As part of its corrective action, the company reinstated the policy prior to the cancellation effective date. Supporting documentation is included with this response; please see Exhibit I.

As corrective action was taken prior to the cancellation effective date, the company respectfully requests that this violation be removed from the Report.

- e. In one instance, the company failed to advise the insured of the availability of other insurance through his agent, another insurer or the Virginia Automobile Insurance Plan (VAIP).*

Company Response

The company acknowledges the examiners' observation. During the examination, the company advised the examiners that the cancellation notice was affected by a display issue. This display issue was identified as part of a regular review of terminations and immediately corrected. As part of its corrective action, the company reinstated the policy prior to the cancellation effective date. Supporting documentation is included with this response; please see Exhibit I.

As corrective action was taken prior to the cancellation effective date, the company respectfully requests that this violation be removed from the Report.

- (6) The examiners found one occurrence where the company failed to comply with the provisions of the insurance policy. The company failed to send the cancellation notice to the lienholder at least 45 days in advance of the cancellation date.*

Company Response

The company acknowledges the examiners' observations. The intent of the processing representative was for this to be a cancellation during the first 59 days. However, the cancellation notice was not mailed until day 61, making this a mid-term cancellation. The processing error was identified as part of a regular review of terminations. As part of its corrective action, the policy was reinstated prior to the cancellation effective date. Supporting documentation is included with this response; please see Exhibit J.

As corrective action was taken prior to the cancellation effective date, the company respectfully requests that this violation be removed from the Report.

All Other Cancellations - Automobile Policies

NONPAYMENT OF THE PREMIUM

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

Company Response

The company agrees with the examiner's observation.

- (2) *The examiners found two violations of § 38.2-2208 B of the Code of Virginia.*
- a. *In two instances, the company failed to provide proper notice of cancellation to the lienholder.*

Company Response

The company disagrees with the examiners' observations. According to LexisNexis, they no longer obtain a date stamp from the Post Office. The Proof of Mailing that they provide has a Mail ID which matches the Customer Reference ID, in the Mailing Transaction Receipt portion of the Proof of mailing. On the Proof of Mailing page, which is provided the USPS, within the mailing Transaction Receipt section, it shows the post office of mailing, the mail arrival date and time, and the mail clerk initials. Additionally, it identifies the amount of postage paid. Supporting documentation, including the mailing list, is included with this response; please see Exhibit L.

The company respectfully requests that these violations be removed from the Report.

- b. In one instance, the company failed to obtain valid proof of mailing the cancellation notice to the lienholder.*

Company Response

The company disagrees with the examiners' observations. According to LexisNexis, they no longer obtain a date stamp from the Post Office. The Proof of Mailing that they provide has a Mail ID which matches the Customer Reference ID, in the Mailing Transaction Receipt portion of the Proof of mailing. On the Proof of Mailing page, which is provided the USPS, within the mailing Transaction Receipt section, it shows the post

office of mailing, the mail arrival date and time, and the mail clerk initials. Additionally, it identifies the amount of postage paid. Supporting documentation, including the mailing list, is included with this response; please see Exhibit M.

The company respectfully requests that these violations be removed from the Report.

(3) *The examiners found four violations of § 38.2-2212 E of the Code of Virginia.*

a. In one instance, the company failed to send the insured written notice of cancellation of his motor vehicle policy.

Company Response

The company agrees with the examiner's observation.

b. In three instances, the company failed to send the cancellation notice to the address listed on the policy.

Company Response

The company agrees with the examiners' observations. In reviewing the proof of mailing, it is apparent that the full street address was truncated due to a column width/sizing issue. The company took immediate steps to correct the issue.

REQUESTED BY THE INSURED

In addition, the Bureau reviewed 22 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 \$206.75 and undercharges totaling \$553.02. The net amount that should be refunded to insureds is \$206.75 plus six percent (6%) simple interest.

The examiners found five 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 return premium correctly.

Company Response

The Company acknowledges the examiners' observations. The company has established guidelines for situations in which the short-rate cancellation is waived, including when military personnel is deployed. The company will file an amendment to its rule manual.

Other Law Violations

Although not a violation of Virginia insurance laws, the examiners noted the following as a violation of another Virginia law.

The examiners found one violation of § 46.2-482 of the Code of Virginia. The company failed to file an SR-26 within 15 days of cancelling the policy as required by the Virginia Motor Vehicle Code.

Company Response

The Company acknowledges the examiner's observation. Although the policy notes clearly indicate that the SR26 was filed on October 8, 2012, the company was unable to provide a copy of the filed form.

Company-Initiated Non-renewals - Automobile Policies

- (1) *The examiners found two violations of § 38.2-2208 B of the Code of Virginia. The company failed to obtain valid proof of mailing the nonrenewal notice to the lienholder.*

Company Response

The company disagrees with the examiners' observations. According to LexisNexis, they no longer obtain a date stamp from the Post Office. The Proof of Mailing that they provide has a Mail ID which matches the Customer Reference ID, in the Mailing Transaction Receipt portion of the Proof of mailing. On the Proof of Mailing page, which is provided the USPS, within the mailing Transaction Receipt section, it shows the post office of mailing, the mail arrival date and time, and the mail clerk initials. Additionally, it identifies the amount of postage paid. Supporting documentation, including the mailing list, is included with this response; please see Exhibit N.

The company respectfully requests that these violations be removed from the Report.

- (2) *The examiners found six violations of § 38.2-2212 E of the Code of Virginia.*
- a. *In four instances, the company failed to send the nonrenewal notice to the address listed on the policy.*

Company Response

The company agrees with the examiners' observations. In reviewing the proof of mailing, it is apparent that the full street address was truncated due to a column width/sizing issue. The company took immediate steps to correct the issue.

- b. *In two instances, the company failed to state the specific reason for refusing to renew the policy.*

Company Response

The company acknowledges the examiners' observations.

- (3) *The examiners found one violation of § 38.2-2215 of the Code of Virginia. The company refused to renew a motor vehicle policy solely due to the age of the vehicle.*

Company Response

The company acknowledges the examiners' observations.

Rejected Applications - Automobile Policies

The Bureau reviewed six automobile insurance applications for which the company declined to issue a policy.

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

Company Response

The company agrees with the examiners' observations. The company is implementing a change to its system to ensure that a copy of the written AUD provided to all rejected applicants is retained. The company anticipates this change will be implemented no later than December 31, 2014.

CLAIMS REVIEW

Automobile Claims

The examiners reviewed 124 automobile claims for the period of April 1, 2012 through March 31, 2013. The findings below appear to be contrary to the standards set forth by Virginia insurance statutes and regulations. The examiners found overpayments totaling \$4,479.95 and underpayments totaling \$6,222.47 during the review of these files. The net amount that should be paid to claimants is \$5,176.81. plus six percent (6%) simple interest.

Company Response

In its review of the "Claims Overpay/Underpay Report, the company determined that the entry for CPA032 was incorrect. On October 15, 2013, the Bureau amended the review sheet to delete the claim underpayment; please see Exhibit O. This brings the total amount of underpayments to \$5,410.78, and the net amount that should be paid to claimants to \$4,365.12.

- (1) *The examiners found 27 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.

Company Response

The agrees with the examiners' observations. The company provided additional training to its claims associates and Managers regarding the requirements around claim file documentation in October 2013. A refresher training session on this topic will be conducted no later than August 31, 2014. To ensure compliance, the Companies have implemented a regular review of claim files to ensure that each is documented in a manner in which all events and dates pertinent to the claim can be reconstructed.

- (2) *The examiners found 28 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 provision of an insurance policy that were pertinent to the claim.*

- a. *In one instance, the company failed to inform an insured of his physical damage deductible.*
- b. *In six instances, the company failed to accurately inform the first party claimant of the Medical Expense Benefits coverage when the file indicated the coverage was applicable to the loss.*

- c. *In 12 instances, the company failed to accurately inform an insured of his Transportation Expenses coverage when the file indicated the coverage was applicable to the loss.*
- d. *In nine instances, the company failed to accurately inform an insured of the benefits or coverages, including rental benefits, available under the Uninsured Motorist 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.

Company Response

The agrees with the examiners' observations. The company provided additional training to its claims associates and Managers regarding the requirements around claim file documentation in October 2013. A refresher training session on this topic will be conducted no later than August 31, 2014.

To ensure compliance, the Companies have implemented a regular review of claim files to ensure that each is documented in a manner in which all events and dates pertinent to the claim can be reconstructed.

- (3) *The examiners found two 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.*

Company Response

The company agrees with the examiners' observations.

- (4) *The examiners found 12 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 in the claim file.*

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

Company Response

The company agrees with the examiners' observations. In October 2013, the Companies provided additional training to its claims associates and Managers regarding the need to make all claim denials in writing and to retain a copy of the written denial in the claim file. A refresher training session on this topic will be conducted no later than August 31, 2014.

To ensure compliance, the Companies have implemented a regular review of claim files to ensure that all claim denials are made in writing and that a copy of the written denial is kept in the claim file.

- (5) *The examiners found two violations of 14 VAC 5-400-70 B. The company failed to provide a reasonable explanation of the basis for the denial in its written denial of the claim.*

Company Response

The company agrees with the examiners' observations.

(6) *The examiners found 13 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 one instance, the company failed to reimburse the insured his portion of the Collision deductible under the Uninsured Motorist Property Damage (UMPD) coverage.*
- b. In four instances, the company failed to pay the insured's rental benefits available under the UMPD and/or Underinsured Motorist (UIM) coverage.*
- c. In two instances, the company failed to pay the proper sales and use tax, title fee, and license fee on first party total loss settlements.*
- d. In two instances, the company failed to pay the claim in accordance with the policy provision under the insured's Transportation Expenses coverage.*
- e. In four instances, the company failed to pay the claim in accordance with the policy provisions under the insured's Other Than Collision or Collision coverage.*

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

Company Response

The company agrees with the examiners' observations. The Company believes that it has adopted and implemented procedures such that claims are paid in

accordance with the policy provisions. The Company has reviewed the cited claims and reinforced the standards for payment with the claims staff.

To ensure compliance, the Companies have implemented a regular review of claim files to ensure that the insured is offered an amount that is fair and reasonable as shown by the investigation of the claim and that the claim is paid in accordance with the policy provisions.

(7) *The examiners found two 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.*

a. *In one instance, the company failed to provide a copy of the repair estimate to the insured.*

Company Response

The company agrees with the examiners' observations.

b. *In one instance, the company failed to provide a copy of the repair estimate to the claimant.*

Company Response

The company agrees with the examiner's observation.

(8) *The examiners found five 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.*

Company Response

The company agrees with the examiners' observations.

- (9) *The examiners found ten 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.*

Company Response

The company agrees with the examiners' observations. The Company believes that it has adopted and implemented reasonable standards for the prompt investigation of claims. The Company has reviewed the cited claims and reinforced the standards with the claims staff. To ensure compliance, the Companies have implemented a regular review of claim files to ensure that all claims are promptly investigated.

- (10) *The examiners found one violation 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 reasonable clear.*

Company Response

The company agrees with the examiner's observation.

- (11) *The examiners found two violations 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.*

Company Response

The company agrees with the examiners' observations.

- (12) *The examiners found four 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.*

Company Response

The company agrees with the examiners' observations.

- (13) *The examiners found 11 occurrences where the company failed to comply with the provisions of the insurance policy .*
- a. In two instances, the company failed to include the lienholder on the insured's check.*

Company Response

The company agrees with the examiners' observations.

- b. In seven instances, the company paid an insured more than he was entitled to receive under the terms of his policy.*

Company Response

The company agrees with the examiners' observations.

- c. In two instances, the company overpaid the sales and use tax and/or the title transfer fees.*

Company Response

The company agrees with the examiners' observations.

Other Law Violations

Although not a violation of Virginia insurance laws, the examiners noted the following as violations of other Virginia laws.

The examiners found 14 violations of § 52-40 of the Code of Virginia. The company failed to include the statement regarding insurance fraud on claim forms required by the company as a condition of payment.

Company Response

The company agrees with the examiners' observations. The company has updated its claim forms to ensure that they include the statement regarding insurance fraud required by § 52-40 of the Code of Virginia.

REVIEW OF FORMS

The examiners reviewed the companies' 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 companies' compliance with Virginia insurance statutes and regulations.

To obtain copies of the policy forms and endorsements used during the examination period for each line of business listed below, the Bureau requested copies from the companies. In addition, the Bureau requested copies of new and renewal business policy mailings that the companies were 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 companies; current practices.

Automobile Policy Forms

POLICY FORMS USED DURING THE EXAMINATION PERIOD

The companies provided copies of 40 that were used during the examination period to provide coverage on policies insuring risks located in Virginia.

The examiners found four violations of § 38.2-2220 of the Code of Virginia. The company failed to have available for use mandatory forms filed and adopted by the Bureau. The company failed to have available for use the Suspension of Insurance form (PP 01 02 08 86) and the Reinstatement of Insurance form (PP 02 02 08 86).

Company Response

The companies disagree with the examiners' observations. The companies use the required Suspension of Insurance and the Reinstatement of Insurance forms adopted by the Bureau. The forms and corresponding index provided to the Bureau as part of the Forms Review portion of the examination were copies of all policy, endorsements, and application forms *issued* in Virginia during the examination period. The companies have confirmed that the forms cited above were not *issued* during the examination period.

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 companies' policy issuance process for the lines examined, the examiners requested new and renewal business policy mailings that were sent after the companies received the Examination Data Call. The companies were 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 companies 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 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 companies provided three new business policies mailed on the following dates: April 24, 2013; and June 6 and 7, 2013. In addition, the companies provided six renewal business policies mailed on the following dates: April 1, 12, 16, 17, 25, and 26, 2013.

NEW BUSINESS POLICIES

The examiners found no violations in this area.

RENEWAL BUSINESS POLICIES

(1) *The examiners found three violations of § 38.2-305 A of the Code of Virginia.*

The company failed to specify accurate information in the policy as required by

the statute. The company listed forms not applicable to the policy on the declarations page.

Company Response

The Company agrees with the examiners' observations. The company implemented a change to its system to ensure only forms applicable to the policy were listed on the declarations page. This change was implemented on March 5, 2014.

- (2) *The examiners found one violation of § 38.2-2230 of the Code of Virginia. The company failed to offer in writing to the insured the option of purchasing rental reimbursement coverage at the time the company issued a motor vehicle policy that provided Other than Collision (OTC) and/or Collision coverage.*

Company Response

The company agrees with the examiner's observation.

REVIEW OF STATUTORY NOTICES

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

General Statutory Notices

The examiners found no violations in this area.

Statutory Vehicle Notices

(1) The examiners found one violation of § 38.2-2210 A of the Code of Virginia. The company failed to include the 60-day cancellation warning notice on or attached to the first page of the application.

Company Response

The company agrees with the examiners' observation. The company is implementing a change to its system to provide the 60-day Cancellation Warning notice on the first page of the application. The company anticipates this change to be implemented no later than December 31, 2014.

- (2) *The examiners found two violations of § 38.2-2234 A 1 of the Code of Virginia. The company failed to include all of the information required by the statute in its Insurance Credit Score Disclosure notice.*

Company Response

The company agrees with the examiners' observations. The company is amending its Insurance Credit Score Disclosure notice to include all information required by § 38.2-2234 A 1 of the Code of Virginia. The company anticipates this change will be implemented no later than September 30, 2014.

Other Notices

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

The examiners found two violations of § 38.2-502 of the Code of Virginia. The company misrepresented the benefits, advantages, conditions or terms of the insurance policy. The company incorrectly stated a short rate fee would be charged on nonpayment of premium cancellations.

Company Response

The company agrees with the examiners' observations. The company is updating its Terms and Conditions document to accurately state that the short rate cancellation fee applies to insured requested cancellations only. The company anticipates this change will be implemented no later than December 31, 2014.

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 statues. 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. Only Esurance Property and Casualty Insurance Company wrote new business during the examination period.

Agent Review

The examiners found no violations in this area.

Agency Review

The examiners found no violations in this area.

REVIEW OF THE COMPLAINT-HANDLING PROCESS

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

The examiners found no violations in this area.

REVIEW OF PRIVACY AND INFORMATION SECURITY PROCEDURES

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

The companies provided their 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. Unless otherwise noted, a ten percent (10%) error criterion was applied to all operations of the companies, with the exception of claim handling. The threshold applied to claims handling was seven percent (7%). Any error ratio above these thresholds indicates a general business practice. 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

Esurance Property and Casualty Insurance Company and
Esurance Insurance Company shall:

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

Rating and Underwriting Review

Esurance Property and Casualty Insurance Company and
Esurance 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.*

Company Response

The companies are taking the necessary steps to correct the errors that caused the overcharges and undercharges to its insureds. The companies have processed the refunds to the insureds or credited the insureds' accounts the amount of the overcharges identified in the New Business Rating and Underwriting and Renewal Business Rating and Underwriting Overcharge/Undercharge Reports.

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

Company Response

The refunds and/or credits cited in (1) above included 6% interest as requested by the Bureau.

- (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 companies acknowledge that they have refunded or credited the overcharges listed in the file.*

Company Response

The companies acknowledge that they have refunded or credited the overcharges listed in the New Business Rating and Underwriting and Renewal Business Rating and Underwriting Overcharge/Undercharge Reports; please see Exhibit P.

- (4) *Properly represent the benefits, coverage, advantages and conditions of the policy by only listing discounts that are applicable to the policy and showing the correct premium amount being charged on the declarations page.*

Company Response

As noted in Part One above, the companies only lists the discounts that are applicable to the policy on the declarations page. The companies' records indicate that the violations related to the inaccurate display of discounts were specifically related to the Rating Information Page and the renewal offer email, not the declarations page. The companies are implementing a change to its system to ensure that it only lists discounts that are applicable to the policy on the Rating Information Page and the renewal offer email. The company anticipates this change to be implemented no later than October 31, 2014. The companies have taken the necessary steps to ensure that the correct premium amount being charged is shown on the declaration page.

- (5) *Provide the Accident Point Surcharge notice when the policy has been surcharged for an at-fault accident.*

Company Response

Prior to the examination, the company identified a system issue as a part of its regular review of the Accident Point Surcharge notice. The system issue was corrected in August 2013. Please note that this error was isolated to two policies underwritten by Esurance Insurance Company.

- (6) *File all rates and supplementary rate information with the Bureau prior to use.*

Company Response

The companies are actively working with the Bureau's Policy and Form and Rate Filings - Property and Casualty Division (the "Division") regarding the need for a supplementary rate filing. Upon agreement with the Division, the companies will submit such supplementary rate filing within 30 days.

- (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, tier eligibility, credit information, base and/or final rates and filed fees and verify driver assignments.*

Company Response

The companies are in the process of taking the necessary steps to ensure that it uses the rules and rates on file with the Bureau. The company anticipates that all necessary changes and/or Rate and Rule Manual updates will be made no later than October 31, 2014.

- (8) *Update the insured's credit information at least once in a three year period or when requested by the insured.*

Company Response

The company believes that its procedures are in compliance with the requirements of § 38.2-2234 B. The two policies underwritten by Esurance Insurance Company that were cited in violation of § 38.2-2234 B were

policyholders that had the most favorable priced tier or rate based on the credit information. Therefore, in accordance with § 38.2-2234 B, the company was not required to obtain updated credit information. The company has provided supporting documentation in Part One; please see Exhibit B.

Termination Review

Esurance Property and Casualty Insurance Company and

Esurance 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.*

Company Response

The companies are taking the necessary steps to correct the errors that caused the overcharges and undercharges to its insureds. The companies have processed the refunds or credited the insureds' accounts the amount of the overcharges identified in the Terminations Overcharge/Undercharge Report.

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

Company Response

The refunds and/or credits cited in (1) above included 6% interest as requested by the Bureau.

- (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 companies acknowledge that they have refunded or credited the overcharges listed in the file.*

Company Response

The companies acknowledge that they have refunded or credited the overcharges listed in the Terminations Overcharge/Undercharge Reports; please see Exhibit Q.

- (4) *Provide a written AUD notice when applicable.*

Company Response

The company is implementing a change to its system to ensure that a copy of the written AUD provided to all rejected applicants is retained. The company anticipates this change will be implemented no later than December 31, 2014. Please note that this error was isolated to policies underwritten by Esurance Property and Casualty Insurance Company.

- (5) *Charge fees and/or calculate return premium according to the filed rules and policy provisions.*

Company Response

The companies are taking the necessary steps to ensure that they are charging the fees and/or calculating return premium according to the filed rules and policy provisions.

- (6) *Obtain valid proof of mailing cancellation and non-renewal notices to the lienholder.*

Company Response

The companies continues to believe that it obtains valid proof of mailing for its cancellation and nonrenewal notices to the lienholder. The companies have provided supporting documentation in Part One confirming its compliance to this requirement.

- (7) *Cancel private passenger automobile policies for suspension or revocation only during the time period permitted by the Code of Virginia.*

Company Response

To ensure compliance with VA S § 38.2-2212 D. 1, the companies provided training to its representatives who process cancellations in December 2012. To ensure compliance, the companies will also include this as part of it regular review of terminations.

- (8) *Send the cancellation or nonrenewal notice to the address listed on the policy.*

Company Response

The companies were sending the cancellation or nonrenewal notice to the address listed on the policy. On the proof of mailing, the full street address was truncated due to a column width/sizing issue. The companies took immediate steps during the examination to correct the issue.

- (9) *Advise the insured of the specific reason for cancelling or non-renewing the policy.*

Company Response

The companies are implementing a change to its system to ensure that the insured is advised of the specific reason for cancelling or nonrenewing the policy. This includes identifying the specific operator and his/her driving record activity causing the cancellation or nonrenewal. The companies anticipate this change to be implemented no later than March 31, 2015. To ensure compliance, the company will also include this as part of its regular review of terminations.

(10) Provide proper notice of cancellation to the lienholder.

The companies believe that they provide proper notice of cancellation to the lienholder. The companies have provided supporting documentation in Part One confirming its compliance to this requirement.

Claims Review

Esurance Property and Casualty Insurance Company and
Esurance Insurance Company shall:

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

Company Response

The companies are taking the necessary steps to correct the errors that caused the underpayments and overpayments to insureds and claimants. With the exception of CPA032, the company has sent the amount of the underpayment to the insured and claimants.

With regards to CPA032, on October 15, 2013, the Bureau amended the review sheet to delete the claim underpayment; please see Exhibit O.

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

Company Response

The overpayments cited in (1) above included 6% simple interest as requested by the Bureau.

- (3) *Complete and submit to the Bureau the enclosed file titled Claim Underpayments Cited during the Examination. By returning the completed file to the Bureau, the company acknowledges that it has refunded the overcharges listed in the file.*

Company Response

The companies acknowledge that they have refunded the overcharges listed in the Claims Overpay/Underpay Report; please see Exhibit R.

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

Company Response

The companies provided additional training to its claims associates and Managers regarding the requirements around claim file documentation in October 2013. Associates were instructed to upload any and all documents to the file, including but not limited to police reports, medical bills/documentation, estimates, etc. They were also instructed to document the file relative to all

activities and discussions with parties to the loss. A refresher training session on this topic will be conducted no later than August 31, 2014.

To ensure compliance, the companies have implemented a regular review of claim files to ensure that each is documented in a manner in which 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 Physical Damage coverage, Medical Expense Benefits Coverage, Transportation Expenses coverage, and Uninsured Motorists coverage including rental benefits.*

Company Response

The companies provided additional training to its claims associates and Managers in October 2013. This training clarified and reinforced that all pertinent and applicable coverages should be discussed with the insured upon first contact and that the file must be documented accordingly. A refresher training session on this topic will be conducted no later than August 31, 2014.

In addition, an "Acknowledgement of Claim" letter is sent to all insureds immediately upon receipt of a loss. This letter includes a detailed explanation of coverages, including an addendum relative to Uninsured Motorist Property Damage benefits. Insureds may also access their account online 24/7 and review their claim information to include all available coverages and an explanation of same.

To ensure compliance, the companies have implemented a regular review of claim files to ensure that all applicable coverages have been discussed with the insured and that this has been properly documented in the claim file.

- (6) *Make all claim denials in writing and keep a copy of the written denial in the claim file.*

Company Response

In October 2013, the companies provided additional training to its claims associates and Managers regarding the need to make all claim denials in writing and to retain a copy of the written denial in the claim file. A refresher training session on this topic will be conducted no later than August 31, 2014.

To ensure compliance, the companies have implemented a regular review of claim files to ensure that all claim denials are made in writing and that a copy of the written denial is kept in the claim file.

- (7) *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 policy provisions.*

Company Response

The companies believe that they have adopted and implemented procedures such that claims are paid in accordance with the policy provisions. The Companies have reviewed the cited claims and reinforced the standards for payment with the claims staff.

To ensure compliance, the companies have implemented a regular review of claim files to ensure that the insured is offered an amount that is fair and reasonable as shown by the investigation of the claim and that the claim is paid in accordance with the policy provisions.

- (8) *Implement reasonable standards for the prompt investigation of claims.*

Company Response

The companies believe that it has adopted and implemented reasonable standards for the prompt investigation of claims. The companies have reviewed the cited claims and reinforced the standards with the claims staff. To ensure compliance, the companies have implemented a regular review of claim files to ensure that all claims are promptly investigated.

Forms Review

Esurance Property and Casualty Insurance Company and
Esurance Insurance Company shall:

Use the required Reinstatement of Insurance and the Suspension of Insurance forms adopted by the Bureau.

Company Response

The companies use the required Reinstatement of Insurance and the Suspension of Insurance forms adopted by the Bureau. The forms and corresponding index provided to the Bureau as part of the Forms Review portion of the examination were copies of all policy, endorsement, and application forms issued in Virginia

during the examination period. The companies have confirmed that the forms were not issued during the examination period.

Review of Policy Issuance Review

Esurance Property and Casualty Insurance Company and

Esurance Insurance Company shall:

- (1) *Specify accurate information in the policy by only listing forms applicable to the policy on the declarations page.*

Company Response

The companies implemented a change to its system to ensure only forms applicable to the policy were listed on the declarations page. This change was implemented on March 5, 2014.

- (2) *Provide the insured with the notice advising them of the option of purchasing Rental Reimbursement coverage when the policy has OTC or Collision coverage.*

Company Response

The company is implementing a change to its system to provide the insured with the notice advising them of the option of purchasing Rental Reimbursement coverage when the policy has OTC coverage only at renewal. The company currently provides the insured with this notice when the policy has OTC and Collision coverages, or Collision coverage only. The company anticipates this change will be implemented no later than December 31, 2014. Please note that

this error was isolated to one policy underwritten by Esurance Property and Casualty Insurance Company.

Review of Statutory Notices

Esurance Property and Casualty Insurance Company and

Esurance Insurance Company shall:

- (1) *Provide the 60-day Cancellation Warning notice on or attached to the first page of the application comply with § 38.2-2210 A of the Code of Virginia.*

Company Response

The company is implementing a change to its system to provide the 60-day Cancellation Warning notice on the first page of the application. The company anticipates this change to be implemented no later than December 31, 2014.

Please note that this error was isolated to policies underwritten by Esurance Property and Casualty Insurance Company.

- (2) *Amend the Credit Score Disclosure notice to comply with § 38.2-2234 A of the Code of Virginia.*

Company Response

The companies will amend the Credit Score Disclosure notice to comply with § 38.2-2234 A of the Code of Virginia. The companies anticipate this change will be implemented no later than September 30, 2014.

- (3) *Properly represent the benefits, advantages, conditions or terms of the insurance policy by accurately stating that the short rate cancellation fee applies to insured requested cancellations only.*

Company Response

The companies are updating their Terms and Conditions document to accurately state that the short rate cancellation fee applies to insured requested cancellations only. The companies anticipate this change will be implemented no later than December 31, 2014.

PART THREE - RECOMMENDATIONS

The examiners also found violations that did not appear to rise to the level of business practices by the companies. The companies 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 the companies take the following actions:

Rating and Underwriting

- The companies should consistently use the same term to refer to the Expense Savings Discount. The application and compare rates pages refer to the discount as an Internet discount, while the Virginia Auto Rating Information page refers to the discount as the Fast 5 Discount.

Company Response

The companies will make the necessary corrections to ensure that they consistently use the same term to refer to the Expense Savings Discount.

- The companies should follow their rounding rule when applying the Expense Constant to the BI coverages on policies with multiple vehicles.

Company Response

The companies will file an update to their Rule Manual to provide clarification for the application of the Expense Constant when there are multiple vehicles on the policy.

- The companies should round the premiums by coverage in accordance with Rule P11. Rule P11 states, "Premium by coverage should be rounded to the nearest whole dollar."

Company Response

The companies will take the necessary steps to ensure that they round the premiums by coverage in accordance with their Rule Manual.

- The companies should update the Vehicle Ownership Factors page (Exhibit 21) of the rates manual to reflect "Gap" coverage instead of "LL."

Company Response

The companies will file an update to the Vehicle Ownership Factor page (Exhibit 21) of the rates manuals to reflect "Gap coverage instead of "LL". The companies will file this update no later than October 31, 2014.

Termination

- The companies should not provide the right to review notice on cancellations within the first 60 days of coverage.

Company Response

The company is in the process of removing the right to review from its notice of cancellations within the first 60 days of coverage. The company believes that it will have this change implemented no later than September 30, 2014. Please note that this error was isolated to policies underwritten by Esurance Property and Casualty Insurance Company.

Policy Issuance Process

- *The companies should not list notices on the declarations page under the "Forms and Endorsements made as a part of this policy at the time of issue" section.*

Company Response

The companies have removed the notices from the declarations page under the "Forms and Endorsements made as a part of this policy at the time of issue" section. This change was made on March 5, 2014.

Statutory Notices

- *The companies should provide the insured with either the primary factors used as the basis for an adverse action or state that the insured can obtain the information by contacting the company.*

Company Response

Although the companies' notice provided the insured with their contact information, the companies are making the additional changes to the Adverse Underwriting Decision notice recommended by the Bureau.

The companies anticipate having these change implemented no later than September 30, 2014.

Company-Handling Process

- *The companies should change their complaint log to indicate the line of business for each complaint as required by the statute.*

Company Response

The companies complaint log does include the line of business for each complaint as required by the statute. The line of business field was not included in the information provided to the Bureau as the companies only write private passenger automobile in Virginia and the examination only include the private passenger automobile line of business.

SUMMARY OF PREVIOUS OF EXAMINATION FINDINGS

The Bureau conducted a prior market conduct examination of the private passenger automobile line of business of Esurance Insurance Company as of December 31, 2007.

During the examination, the company violated § 38.2-305 A, 38.2-323, 38.2-502, 38.2-501 A 3, 38.2-610 A, 38.2-1906 A, 38.2-1906 D, 38.2-2202 B, 38.2-2206, 38.2-2212, 38.2-2214, 38.2-2230, 38.2-2230, 38.2-2234 B of the code of Virginia; and 14 VAC 5-400-40 A, 14 VAC 5-400-50 C, 14 VAC 5-400-70 A, 14 VAC 5-400-70 D, 14 VAC 5-400-80 D of the Virginia Administrative Code.

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
<http://www.scc.virginia.gov/division/boi>

December 18, 2014

VIA UPS 2nd DAY DELIVERY

Robin Bogdanich
Esurance Insurance Companies
1011 Sunset Boulevard, Suite 100
Rocklin, CA, 95765

RE: Market Conduct Examination
Esurance Insurance Company (NAIC#25712)
Esurance Property and Casualty Insurance Company (NAIC#30210)

Dear Ms. Bogdanich:

The Bureau of Insurance (Bureau) has reviewed the September 2, 2014 response to the Preliminary Market Conduct Report (Report) of Esurance Insurance Company and Esurance Property and Casualty Company (Companies). The Bureau has referenced only those items in which the Companies have disagreed with the Bureau's findings, or items that have changed in the Report. This response follows the format of the Report.

PART ONE – EXAMINERS' OBSERVATIONS

Rating and Underwriting Review

Automobile New Business

- (1) The 25 violations cited in this section remain in the Report. The Companies responded that they agree with the observations; however, the violations for the inaccurate display of discounts were specifically related to the Rating Information Page not the Declarations Page. The Bureau acknowledges this discrepancy and has revised the Report.
- (2) The 35 violations cited in this section remain in the Report. The Companies have responded that they were not asked to provide additional detailed information regarding the scoring model. Virginia is a file and use state and the information filed was not all of the information necessary to develop the Credit Score used. Upon manually calculating the credit scores, the examiners discovered the filed model was incomplete. The Insurance Scoring Model did not include enough information to interpret the insureds' Credit information and develop the score used by the Companies.

Automobile Renewal Business

- (2) The 49 violations cited in this section remain in the Report. The Companies responded that they agree with the observations; however, the inaccurate display of discounts were specifically related to the Rating Information Page not the Declarations Page. The Bureau acknowledges this discrepancy and has revised the Report.
- (5) The 65 violations cited in this section remain in the Report. The Companies have responded that they were not asked to provide additional detailed information regarding the scoring model. Virginia is a file and use state and the information filed was not all of the information necessary to develop the Credit Score used. Upon manually calculating the credit scores, the examiners discovered the filed model was incomplete. The Insurance Scoring Model did not include enough information to interpret the insureds' Credit information and develop the score used by the Companies.
- (6a) After further review, the violations for RPA078, RPA080 and RPA096 have been withdrawn from the Report.
- (7) After further review, the violations for RPA037 and RPA050 have been withdrawn from the Report. The Report has been renumbered to reflect this change.

Termination Review

Notice Mailed Prior to the 60th Day of Coverage

- (3a) The violation for TPA013 has been withdrawn from the Report.
- (3b) After further review, the violations for TPA002 have been withdrawn from the Report. The Report has been renumbered to reflect this change.

Notice Mailed After the 59th Day of Coverage

- (1) After further review, the violation for TPA023 has been withdrawn from the Report. The Report has been renumbered to reflect this change.
- (2) After further review, the violation for TPA019 has been withdrawn from the Report. The Report has been renumbered to reflect this change.
- (3) After further review, the violations for TPA019 have been withdrawn from the Report. The Report has been renumbered to reflect this change.
- (4a) After further review, the violation for TPA022 has been withdrawn from the Report. The Report has been renumbered to reflect this change.
- (5b) After further review, the violation for TPA022 has been withdrawn from the Report. The Report has been renumbered to reflect this change.

- (5d) After further review, the violation for TPA023 has been withdrawn from the Report.
- (5e) After further review, the violation for TPA023 has been withdrawn from the Report. The Report has been renumbered to reflect this change.
- (6) After further review, the violation for TPA022 has been withdrawn from the Report.

NonPayment of Premium

- (2a) After further review, the violations for TPA036 have been withdrawn from the Report. The Report has been renumbered to reflect this change.
- (2b) Based upon information provided by the Company two violations for TPA036 have been added to the Report. The lienholder name and address on the USPS Mailing List provided in the Company's response is illegible.

The violation of TPA038 remains in the Report. The proof of mailing provided was not for the May 9, 2012 cancellation date requested in our sample.

Company-Initiated Non-renewals

- (1) The violations for TPA078 remain in the Report. The lienholder names and addresses on the USPS Mailing list provided with the response were illegible.

Private Passenger Automobile Claims

The Report has been amended to delete the underpayment for CPA032.

Automobile Policy Forms Used During the Examination Period

The four violations remain in the Report. The Companies responded that they used the required Suspension of Insurance and the Reinstatement of Insurance forms adopted by the Bureau. The Data Call Manual provided to the Companies at the beginning of the examination process required the Companies to submit all forms that were issued, used, and available for use during the audit period, and the Companies failed to submit copies of the Suspension of Insurance and the Reinstatement of Insurance forms. The Companies have previously acknowledged these violations.

PART TWO – CORRECTIVE ACTION PLAN

Rating and Underwriting Review

- (8) This corrective action item (8) has been deleted from the Report since the violations for RPA037 and RPA050 have been withdrawn from 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, technical reports, the Restitution spreadsheet and any review sheets withdrawn, added or altered as a result of this review. The Companies' response to this letter is due in the Bureau's office by January 12, 2015.

Sincerely,



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

JMM/pgh
Enclosures

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

February 25, 2015

VIA UPS 2nd DAY DELIVERY

Robin Bogdanich
Esurance Insurance Companies
1011 Sunset Boulevard, Suite 100
Rocklin, CA 95765

RE: Market Conduct Examination
Esurance Insurance Company (NAIC #25712)
Esurance Property and Casualty Insurance Company (NAIC #30210)

Dear Ms. Bogdanich:

The Bureau of Insurance (Bureau) has concluded its review of the companies' emails of January 23, 2015 and February 4, 2015. Based upon the Bureau's review of the companies' responses, we are now in a position to conclude this examination. Enclosed are two review sheets that were revised based upon additional information provided by the companies. Also enclosed is the final Market Conduct Examination Report of Esurance Insurance Company and Esurance Property and Casualty Insurance Company (Report).

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

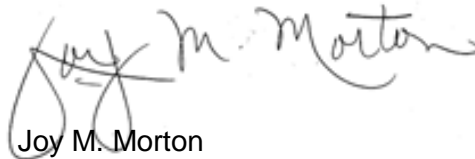
Sections 38.2-305 A, 38.2-502, 38.2-510 A 3, 38.2-610 A, 38.2-1905 A, 38.2-1905 C, 38.2-1906 A, 38.2-1906 D, 38.2-2208 A, 38.2-2208 B, 38.2-2210 A, 38.2-2212 D, 38.2-2212 E, 38.2-2215, 38.2-2220, 38.2-2230, and 38.2-2234 A of the Code of Virginia; as well as 14 VAC 5-400-30, 14 VAC 5-400-40 A, 14 VAC 5-400-70 A, and 14 VAC 5-400-70 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.

Ms. Bogdanich
February 25, 2015
Page 2

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 written in a cursive style with a large initial "J" and "M".

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

JMM/pgh

STATE CORP. COMMISSION
2015 MAY 21 AM 9:40
BUREAU OF INSURANCE

May 18, 2015

Commonwealth of Virginia
Bureau of Insurance
P&C Market Conduct Section
Attn: Joy Morton, MCM, Supervisor
Tyler Building
1300 E. Main Street
Richmond, Virginia 23219

Re: Market Conduct Examination
Esurance Insurance Company (NAIC #25712)
Esurance Property and Casualty Insurance Company (NAIC #30210)

Dear Ms. Morton:

On behalf of Esurance Insurance Company and Esurance Property and Casualty Insurance Company (collectively, the "companies"), I am in receipt of the settlement offer proposed by the Virginia Bureau of Insurance in relation to the above referenced market conduct examination. Please allow letter this to serve as the companies' acceptance of said settlement offer.

I have enclosed a signed copy of the companies' acceptance of the settlement order and a check for the fine in the amount of \$41,800.

The companies offer their sincere gratitude to the Bureau of Insurance and to the Examiners for the courtesies granted to the companies throughout the course of the examination.

Sincerely,

Robin Bogdanich

Robin Bogdanich, AMCM
Senior Regulatory Compliance Manager
Esurance Insurance Company
Esurance Property and Casualty Insurance Company

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

410179

RE: Market Conduct Examination Settlement Offer
Esurance Insurance Company
Esurance Property and Casualty Insurance Company

Dear Ms. Bannister:

This will acknowledge receipt of the Bureau of Insurance's letter of March 5, 2015, concerning the above referenced matter.

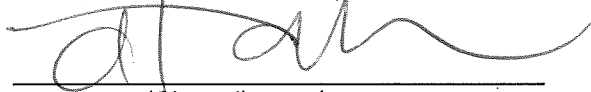
We wish to make a settlement offer on behalf of the insurance companies listed below for the alleged violations of §§ 38.2-305 A, 38.2-502, 38.2-510 A 3, 38.2-610 A, 38.2-1905 A, 38.2-1905 C, 38.2-1906 A, 38.2-1906 D, 38.2-2208 A, 38.2-2208 B, 38.2-2210 A, 38.2-2212 D, 38.2-2212 E, 38.2-2215, 38.2-2220, 38.2-2230, and 38.2-2234 A of the Code of Virginia; as well as 14 VAC 5-400-30, 14 VAC 5-400-40 A, 14 VAC 5-400-70 A, and 14 VAC 5-400-70 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 \$41,800.00.
2. We agree to comply with the corrective action plan set forth in the companies' letter of September 2, 2014.
3. We confirm that restitution was made to 59 consumers for \$8,708.20 in accordance with the companies' letter of September 2, 2014.
4. We further acknowledge the companies' 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,

Esurance Insurance Company
Esurance Property and Casualty Insurance Company



(Signed)

Charles Lee

(Type or Print Name)

Vice President General Counsel

(Title)

May 15, 2015

(Date)

Enclosure

(See attached)

CALIFORNIA ALL- PURPOSE CERTIFICATE OF ACKNOWLEDGMENT

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California }

County of San Francisco }

On May 15, 2015 before me, David Yoshimoto Notary Public
(Here insert name and title of the officer)

personally appeared Charles Lee,
who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

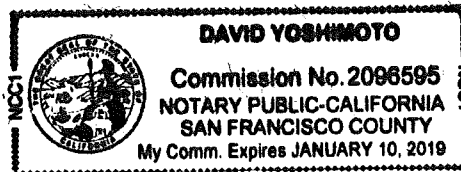
I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.



Notary Public Signature

(Notary Public Seal)



ADDITIONAL OPTIONAL INFORMATION

DESCRIPTION OF THE ATTACHED DOCUMENT

(Title or description of attached document)

(Title or description of attached document continued)

Number of Pages _____ Document Date _____

CAPACITY CLAIMED BY THE SIGNER

- Individual (s)
- Corporate Officer
_____ (Title)
- Partner(s)
- Attorney-in-Fact
- Trustee(s)
- Other _____

INSTRUCTIONS FOR COMPLETING THIS FORM

This form complies with current California statutes regarding notary wording and, if needed, should be completed and attached to the document. Acknowledgments from other states may be completed for documents being sent to that state so long as the wording does not require the California notary to violate California notary law.

- State and County information must be the State and County where the document signer(s) personally appeared before the notary public for acknowledgment.
- Date of notarization must be the date that the signer(s) personally appeared which must also be the same date the acknowledgment is completed.
- The notary public must print his or her name as it appears within his or her commission followed by a comma and then your title (notary public).
- Print the name(s) of document signer(s) who personally appear at the time of notarization.
- Indicate the correct singular or plural forms by crossing off incorrect forms (i.e. he/she/they, is /are) or circling the correct forms. Failure to correctly indicate this information may lead to rejection of document recording.
- The notary seal impression must be clear and photographically reproducible. Impression must not cover text or lines. If seal impression smudges, re-seal if a sufficient area permits, otherwise complete a different acknowledgment form.
- Signature of the notary public must match the signature on file with the office of the county clerk.
 - ❖ Additional information is not required but could help to ensure this acknowledgment is not misused or attached to a different document.
 - ❖ Indicate title or type of attached document, number of pages and date.
 - ❖ Indicate the capacity claimed by the signer. If the claimed capacity is a corporate officer, indicate the title (i.e. CEO, CFO, Secretary).
- Securely attach this document to the signed document with a staple.

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**

Esurance Insurance Service Inc. has tendered to the Bureau of Insurance the settlement amount of \$41,800.00 by its check numbered 61614 and dated May 12, 2015, a copy of which is located in the Bureau's files.

COMMONWEALTH OF VIRGINIA
STATE CORPORATION COMMISSION

AT RICHMOND, JUNE 22, 2015, SCC-CLERK'S OFFICE
DOCUMENT CONTROL CENTER

2015 JUN 22 P 3: 27

COMMONWEALTH OF VIRGINIA, *ex rel.*

STATE CORPORATION COMMISSION

v.

CASE NO. INS-2015-00035

ESURANCE INSURANCE COMPANY
and
ESURANCE PROPERTY AND CASUALTY
INSURANCE COMPANY,
Defendants

SETTLEMENT ORDER

Based on an investigation conducted by the Bureau of Insurance ("Bureau"), it is alleged that Esurance Insurance Company and Esurance Property and Casualty Insurance Company (collectively, "Defendants"), duly licensed by the State Corporation Commission ("Commission") to transact the business of insurance in the Commonwealth of Virginia ("Commonwealth"), violated § 38.2-305 A of the Code of Virginia ("Code") by failing to provide the information required in the statute; violated § 38.2-502 of the Code by misrepresenting the benefits, advantages, conditions or terms of insurance policies; violated §§ 38.2-610 A, 38.2-1905 A, 38.2-2210 A, 38.2-2230, and 38.2-2234 A of the Code by failing to accurately provide the required notices to insureds; violated § 38.2-1905 C of the Code by failing to properly assign points under safe driver insurance plans; violated § 38.2-1906 A and 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 Defendants; violated §§ 38.2-2208 A, 38.2-2208 B, 38.2-2212 D, and 38.2-2212 E of the Code by failing to properly terminate insurance policies; violated § 38.2-2215 of the Code by failing to issue or to renew

15063 0022

motor vehicle liability insurance on the basis of a motor vehicle's age; violated § 38.2-2220 of the Code by failing to use forms in the precise language of the standard forms filed and adopted by the Commission; and violated § § 38.2-510 A (3) of the Code, as well as 14 VAC 5-400-30, 14 VAC 5-400-40 A, 14 VAC 5-400-70 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.

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 Defendants have been advised of their right to a hearing in this matter whereupon the Defendants, without admitting any violation of Virginia law, have made an offer of settlement to the Commission wherein the Defendants have tendered to the Commonwealth the sum of Forty-one Thousand Eight Hundred Dollars (\$41,800), waived their right to a hearing, agreed to comply with the corrective action plan set forth in their letter to the Bureau dated September 2, 2014, and confirmed that restitution was made to 59 consumers in the amount of Eight Thousand Seven Hundred Eight Dollars and Twenty cents (\$8,708.20).

The Bureau has recommended that the Commission accept the offer of settlement of the Defendants 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 Defendants, and the recommendation of the Bureau, is of the opinion that the Defendants' offer should be accepted.

Accordingly, IT IS ORDERED THAT:

(1) The offer of the Defendants 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:
Robin Bogdanich, Esurance Insurance Companies, 1011 Sunset Boulevard, Suite 100, Rocklin, California 95765; 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.