

**MARKET CONDUCT EXAMINATION REPORT**

**OF**

**VICTORIA FIRE AND CASUALTY COMPANY**

**AS OF**

**DECEMBER 31, 2011**

**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

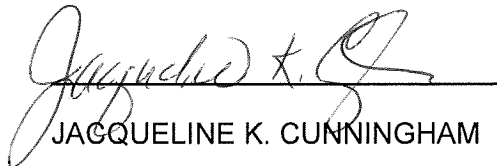


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## STATE CORPORATION COMMISSION BUREAU OF INSURANCE

I, Jacqueline K. Cunningham, Commissioner of Insurance of the Commonwealth of Virginia, do hereby certify that the annexed copy of the Market Conduct Examination Report of **Victoria Fire and Casualty Company** as of December 31, 2011, which took place at the company's offices in Richmond, Virginia and Columbus, Ohio is a true copy of the original Report on file with the Bureau and also includes a true copy of the company's final response to the findings set forth therein, and of the Bureau's letter and the Order of the State Corporation Commission finalizing the Report.

IN WITNESS WHEREOF, I have  
hereunto set my hand and affixed  
the official seal of this the Bureau  
at the City of Richmond, Virginia,  
this 22nd day of April, 2014.



JACQUELINE K. CUNNINGHAM

Commissioner of Insurance

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## **INTRODUCTION**

Pursuant to the authority of § 38.2-1317 of the Code of Virginia, a market conduct examination has been made of the private passenger automobile line of business written by Victoria Fire and Casualty Company at its offices in Richmond, Virginia and Columbus, Ohio.

The examination commenced June 11, 2012 and concluded January 7, 2013. Andrea D. Baytop, Brandon Ayers, William T. Felvey, Ju'Coby Hendrick, Richard L. Howell and Melody Morrissette, 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 March 9, 2012 and was assigned the examination number of VA177-M1. The examination was conducted in accordance with the procedures established by the National Association of Insurance Commissioners (NAIC).

## **COMPANY PROFILE\***

This company was incorporated under the laws of Ohio on July 11, 1983 as a stock company and commenced business on August 9, 1983. Nationwide Mutual Insurance acquired THI Holdings, Inc., which owns Victoria Fire and Casualty Company on August 1, 2003.

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\* Source: Best's Insurance Reports, Property & Casualty, 2011 Edition.

The table below indicates when the company was licensed in Virginia and the lines of insurance that the company was licensed to write in Virginia during the examination period. All lines of insurance were authorized on January 27, 1989, except as noted in the table.

<b>GROUP CODE: 140</b>	<b>VICTORIA FIRE AND CASUALTY COMPANY</b>
<b>NAIC Company Number</b>	42889
LICENSED IN VIRGINIA	1/27/1989
LINES OF INSURANCE	
Aircraft Liability	X
Aircraft Physical Damage	X
Animal	X
Automobile Liability	X
Automobile Physical Damage	X
Boiler and Machinery	X
Burglary and Theft	X
Commercial Multi-Peril	X
Credit	X
Elevator	X
Farmowners Multi-Peril	X
Fidelity	X
Fire	X
General Liability	X
Glass	X
Homeowner Multi-Peril	X
Home Protection	X
Inland Marine	X
Legal Services	X
Miscellaneous Property	X
Mortgage Guaranty	9/15/1998
Ocean Marine	X
Surety	X
Water Damage	X
Workers' Compensation	X

The table below shows the company's premium volume and approximate market share of business written in Virginia during 2011 for the line of insurance included in this examination.\* This business was developed through captive and independent agents.

<b>VICTORIA FIRE AND CASUALTY COMPANY</b>	<b>PREMIUM VOLUME</b>	<b>MARKET SHARE</b>
Private Passenger Automobile Liability	\$ 35,780,450	1.49%
Private Passenger Automobile Physical Damage	\$ 13,191,934	.75%

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\* Source: The 2011 Annual Statement on file with the Bureau of Insurance and the Virginia Bureau of Insurance Statistical Report.



## SCOPE OF THE EXAMINATION

The examination included a detailed review of the company's private passenger automobile line of business written in Virginia for the period beginning January 1, 2011 and ending December 31, 2011. This review included rating, underwriting, policy terminations, claims handling, forms, policy issuance\*, statutory notices, agent's licensing, complaint-handling, and information security practices. The purpose of this examination was to determine compliance with Virginia insurance statutes and regulations and to determine that the company's operations were consistent with public interest. The Report is by test, and all tests applied during the examination are reported.

This Report is divided into three sections, Part One – The Examiners' Observations, Part Two – Corrective Action Plan, and Part Three – Recommendations. Part One outlines all of the violations of Virginia insurance statutes and regulations that were cited during the examination. In addition, the examiners cited instances where the company failed to adhere to the provisions of the policies issued on risks located in Virginia. Finally, violations of other related laws that apply to insurers, characterized as "Other Law Violations," are also noted in this section of the Report.

In Part Two, the Corrective Action Plan identifies the violations that rise to the level of a general business practice and are subject to a monetary penalty.

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

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

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

### **STATISTICAL SUMMARY**

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

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

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

**Population  
Sample Requested**

AREA	<u>VFCC</u>	<u>TOTAL</u>	<u>FILES REVIEWED</u>	<u>FILES NOT FOUND</u>	<u>FILES WITH ERRORS</u>	<u>ERROR RATIO</u>
<b><u>Private Passenger Auto</u></b>						
New Business	<u>30069</u> 40	<u>30069</u> 40	40	0	40	100%
Renewal Business	<u>40067</u> 40	<u>40067</u> 40	40	0	40	100%
Co-Initiated Cancellations <sup>1</sup>	<u>2902</u> 44	<u>2902</u> 44	24	0	22	92%
All Other Cancellations <sup>1</sup>	<u>38134</u> 42	<u>38134</u> 42	33	0	19	58%
Nonrenewals <sup>1</sup>	<u>293</u> 5	<u>293</u> 5	4	0	0	0%
<b><u>Claims</u></b>						
Auto <sup>2</sup>	<u>9018</u> 90	<u>9018</u> 90	89	0	63	71%

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

Footnote <sup>2</sup> - One file was PIP coverage and was not reviewed.

## **PART ONE - THE EXAMINERS' OBSERVATIONS**

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

### **RATING AND UNDERWRITING REVIEW**

#### **Automobile New Business Policies**

The Bureau requested 40 new business policy files for review. The examiners reviewed all of these files. As a result of this review, the examiners found overcharges totaling \$898.00 and undercharges totaling \$1,120.40. The net amount that should be refunded to insureds is \$898.00 plus six percent (6%) simple interest.

- (1) The examiners found 47 violations of § 38.2-305 A of the Code of Virginia. The company failed to specify in the insurance policy all of the information required by this statute. The company failed to list the Virginia, Federal, and District of Columbia Employees Using Autos in Government Business endorsements and/or the Transportation Expenses endorsement on the declarations page.
- (2) The examiners found 36 violations of § 38.2-502 of the Code of Virginia. The company misrepresented the benefits, advantages, conditions, or terms of the insurance policy. The declarations page misrepresented the policy fee, eligible discounts, and the effective time of the policy.
- (3) The examiners found four violations of § 38.2-1318 of the Code of Virginia. The company failed to provide convenient access to the files, documents, and records relating to the examination. The company failed to provide a copy of the new business application.

- (4) The examiners found 27 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 three instances, the company failed to use the correct discounts and/or surcharges.
  - b. In three instances, the company failed to apply the correct surcharge points for accidents and/or convictions.
  - c. In three instances, the company failed to use the correct symbols.
  - d. In one instance, the company failed to use the correct territory.
  - e. In seven instances, the company failed to use the correct tier eligibility criteria.
  - f. In seven instances, the company failed to use the correct base and/or final rates.
  - g. In three instances, the company failed to use proper credit score information when rating a policy.
- (5) The examiners found three violations of § 38.2-2234 A of the Code of Virginia.
- a. In two instances, the company failed to provide the Insurance Credit Score Disclosure notice at the time of application.
  - b. In one instance, the company failed to provide the Credit Score Adverse Action notice.
- (6) The examiners found two violations of § 38.2-2234 E of the Code of Virginia. The company failed to use credit information that was obtained within 90 days of writing the policy.

**Automobile Renewal Business Policies**

The Bureau requested 40 renewal business policy files for review. The examiners reviewed all of these files. As a result of this review, the examiners found overcharges totaling \$774.00 and undercharges totaling \$802.00. The net amount that should be refunded to insureds is \$774.00 plus six percent (6%) simple interest.

- (1) The examiners found seven violations of § 38.2-305 A of the Code of Virginia. The company failed to specify in the insurance policy accurate information required by this statute. The company failed to list the Transportation Expenses endorsement on the declarations page.
- (2) The examiners found 66 violations of § 38.2-502 of the Code of Virginia. The company misrepresented the benefits, advantages, conditions, or terms of the insurance policy. The declarations page misrepresented the policy fee, eligible discounts, and effective time of the policy.
- (3) The examiners found one violation of § 38.2-1905 A of the Code of Virginia. The company failed to notify the insured in writing that the policy had been surcharged for an at-fault accident.
- (4) The examiners found 29 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 three instances, the company failed to use the correct discounts and/or surcharges.
  - b. In six instances, the company failed to apply the correct surcharge points for accidents and/or convictions.
  - c. In one instance, the company failed to use the correct symbols.
  - d. In two instances, the company failed to use the correct tier eligibility criteria.
  - e. In five instances, the company failed to use the correct base and/or final

rates.

- f. In 12 instances, the company failed to use proper current credit score information when rating a policy.
- (5) The examiners found two violations of § 38.2-2234 B of the Code of Virginia. The company failed to update the insured's credit information at least once in a three year period or when requested by the insured.

### **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 60<sup>TH</sup> DAY OF COVERAGE**

The Bureau reviewed 13 automobile cancellations that were initiated by the company where the company mailed the notices prior to the 60th day of coverage in the initial policy period. As a result of this review, the examiners found overcharges totaling \$84.65 and undercharges totaling \$31.87. The net amount that should be refunded to insureds is \$84.65 plus six percent (6%) simple interest.

- (1) The examiners found eight violations of § 38.2-502 of the Code of Virginia. The company misrepresented the benefits, advantages, conditions, or terms of an insurance policy. The company misrepresented the amount of the policy fee to the insured on the declarations page.
- (2) The examiners found one violation of § 38.2-610 A of the Code of Virginia. The company failed to provide the specific reason for cancellation in the written notice of an Adverse Underwriting Decision (AUD).

- (3) The examiners found seven violations of § 38.2-1906 D of the Code of Virginia. The company failed to use the rules and/or rates on file with the Bureau. The company failed to calculate the return premium correctly.
- (4) The examiners found two violations of § 38.2-2208 B of the Code of Virginia. The company failed to retain proof of mailing the cancellation notice to the lienholder.

NOTICE MAILED AFTER THE 59<sup>TH</sup> DAY OF COVERAGE

The Bureau reviewed 11 automobile cancellations that were initiated by the company where the company mailed the notices on or after the 60<sup>th</sup> 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 \$17.08.

- (1) The examiners found one violation of § 38.2-502 of the Code of Virginia. The company misrepresented the benefits, advantages, conditions, or terms of an insurance policy. The company misrepresented the amount of the policy fee to the insured on the declarations page.
- (2) The examiners found two 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.
- (3) The examiners found two violations of § 38.2-2208 B of the Code of Virginia.
- a. In one instance, the company failed to retain proof of mailing the cancellation notice to the insured.
  - b. In one instance, the company failed to retain proof of mailing the cancellation notice to the lienholder.
- (4) The examiners found six violations of § 38.2-2212 D of the Code of Virginia.
- a. In four instances, the company cancelled the insured's motor vehicle



policy for a reason not permitted by the Code of Virginia.

- b. In one instance, 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.
  - 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.
- (5) The examiners found 12 violations of § 38.2-2212 E of the Code of Virginia.
- a. In four instances, the company failed to mail the notice of cancellation to the insured at least 45 days prior to the effective date of cancellation.
  - b. In eight instances, the company failed to state the specific reason for cancelling the policy.

#### 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 two violations 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.

### **All Other Cancellations – Automobile Policies**

#### NONPAYMENT OF THE PREMIUM

The Bureau reviewed 19 automobile cancellations that were initiated by the company for nonpayment of the policy premium. As a result of this review, the examiners found overcharges totaling \$16.06 and undercharges totaling \$66.97. The net amount that should be refunded to insureds is \$16.06 plus six percent (6%) simple interest.

- (1) The examiners found four violations of § 38.2-502 of the Code of Virginia. The company misrepresented the benefits, advantages, conditions, or terms of an insurance policy. The company misrepresented the amount of the policy fee to the insured on the declarations page.
- (2) 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.
- (3) 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.
- (4) The examiners found three 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.
  - b. In one instance, the company failed to obtain valid proof of mailing the notice of cancellation to the lienholder.
- (5) The examiners found three violations of § 38.2-2212 E of the Code of Virginia.
  - a. In one instance, the company failed to mail the notice of cancellation at least 15 days prior to the effective date of cancellation.
  - b. In one instance, the company failed to advise the insured of his right to request a review by the Commissioner of Insurance.
  - c. 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).

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.

REQUESTED BY THE INSURED

The Bureau reviewed 14 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 \$69.79 and no undercharges. The net amount that should be refunded to insureds is \$69.79 plus six percent (6%) simple interest.

- (1) The examiners found one violation of § 38.2-502 of the Code of Virginia. The company misrepresented the benefits, advantages, conditions, or terms of an insurance policy. The company misrepresented the amount of the policy fee to the insured on the declarations page.
- (2) The examiners found four 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.
- (3) The examiners found nine occurrences where the company failed to comply with the provisions of the insurance contract.
  - a. In one instance, the company failed to honor the date of cancellation requested by the insured.
  - b. In eight instances, the company failed to obtain advance written notice of cancellation from the insured.

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 Non-renewals – Automobile Policies**

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

The examiners found no violations in this area.

### **CLAIMS REVIEW**

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

The examiners reviewed 89 automobile claims for the period of January 1, 2011 through December 31, 2011. The findings below appear to be contrary to the standards set forth by Virginia insurance statutes and regulations. As a result of this review, the examiners found overpayments totaling \$3,152.95 and underpayments totaling \$3,416.73. The net amount that should be paid to claimants is \$3,416.73 plus six percent (6%) simple interest.

- (1) The examiners found 21 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 seven violations of 14 VAC 5-400-40 A. The company obscured or concealed from a first party claimant, directly or by omission, benefits, coverages, or other provisions of an insurance contract that were pertinent to the claim.

- a. In three 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.

- b. In four instances, the company failed to inform an insured of the benefits or coverages, including rental benefits, available under the Uninsured Motorist Property Damage coverage (UMPD) and/or Underinsured Motorist coverage (UIM).

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

- (3) The examiners found five 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 ten 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 pay the insured's UMPD claim

properly when Collision and UMPD coverages applied to the claim.

- b. In four instances, the company failed to properly pay the insured's UMPD claim.
- c. In one instance, the company failed to pay the proper sales and use tax, title fee, and license fee on first party total loss settlements.
- d. In one instance, the company failed to pay the claim in accordance with the policy provisions under the insured's Medical Expense Benefits coverage.
- e. In six instances, the company failed to pay the claim in accordance with the policy provisions under the insured's Transportation Expenses coverage.

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

- (7) The examiners found six 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 three instances, the company failed to provide a copy of the estimate to the insured.
  - b. In three instances, the company failed to provide a copy of the estimate to the claimant.
- (8) The examiners found 37 violations of § 38.2-510 A 1 of the Code of Virginia. The company misrepresented pertinent facts or insurance policy provisions relating to the coverage at issue.
  - a. In 30 instances, the company issued written communications that misrepresented pertinent facts of the claim.

- b. In seven instances, the company failed to properly convey to the claimant the company's obligation concerning payment of the rental claim.

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

- (9) The examiners found six 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.
- (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 24 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.

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

- (12) The examiners found two violations of § 38.2-510 A 14 of the Code of Virginia. The company failed to provide a reasonable explanation of the basis in the insurance policy in relation to the facts or applicable law for the denial of a claim or offer of a compromise settlement.
  - a. In one instance, the company failed to state a specific reason that was relevant to the claim.
  - b. In one instance, the company failed to properly pay the claimant's claim for rental of a comparable substitute vehicle under the property damage liability coverage.

- (13) The examiners found one violation of § 38.2-517 A 6 of the Code of Virginia. The company set arbitrary or unreasonable limits on the reimbursement for paint and/or materials.
- (14) The examiners found three violations of § 38.2-2201 B of the Code of Virginia. The company failed to obtain a statement from an insured authorizing the company to make payments directly to the medical provider.
- (15) The examiners found nine occurrences where the company failed to comply with the provisions of the insurance contract.
- a. In four instances, the company failed to include the lienholder on the check.
  - b. In four instances, the company paid an insured more than he/she was entitled to receive under the terms of his/her policy.
  - c. In one instance, the company issued payments under the incorrect coverages.

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



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

### **Automobile Policy Forms**

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

The company provided copies of 24 forms that were used during the examination period to provide coverage on policies insuring risks located in Virginia.

- (1) The examiners found two violations of § 38.2-2214 of the Code of Virginia. The company used a rate classification statement other than the one filed and approved by the Bureau.
- (2) The examiners found three violations of § 38.2-2220 of the Code of Virginia. The company failed to have available for use the Reinstatement of Insurance, Suspension of Insurance, and Single UM Limit forms adopted by the Bureau.

#### **POLICY FORMS CURRENTLY USED**

The examiners found no additional forms to review.

#### **REVIEW OF THE POLICY ISSUANCE PROCESS**

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

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

### **Automobile Policies**

The company provided five new business policies mailed on February 5 and 6, 2012. In addition, the company provided five renewal business policies mailed on March 27, 2012.

#### NEW BUSINESS POLICIES

- (1) The examiners found four violations of § 38.2-305 B of the Code of Virginia. The company failed to provide the insured with the Important Information Regarding Your Insurance notice as required by this statute.
- (2) The examiners found four violations of § 38.2-310 B of the Code of Virginia. The company failed to provide a list of all applicable fees to the insured in writing.
- (3) The examiners found four violations of § 38.2-502 of the Code of Virginia. The company misrepresented the benefits, advantages, conditions, or terms of an insurance policy. The company misrepresented the physical damage coverage and the effective time of the coverage period by showing conflicting effective date information on the declarations page and the application.
- (4) The examiners found five violations of § 38.2-604 A 1 of the Code of Virginia. The company failed to provide the Notice of Information Collection and Disclosure Practices as required by this statute.

**RENEWAL BUSINESS POLICIES**

- (1) The examiners found two violations of § 38.2-305 A of the Code of Virginia. The company failed to specify in the insurance policy all of the information required by this statute. The company failed to list the Transportation Expenses endorsement on the declarations page.
- (2) The examiners found four violations of § 38.2-502 of the Code of Virginia. The company misrepresented the benefits, advantages, conditions, or terms of an insurance policy. The company failed to state the effective time of coverage as 12:01 AM on the declarations page.

**REVIEW OF STATUTORY NOTICES**

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

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

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

**General Statutory Notices**

- (1) The examiners found three violations of § 38.2-604 B of the Code of Virginia. The company's long form Notice of Information Collection and Disclosure Practices did not contain all of the information required by this statute.
- (2) The examiners found two violations of § 38.2-604 C of the Code of Virginia. The company's short form Notice of Information Collection and Disclosure Practices did not contain all of the information required by this statute.
- (3) The examiners found one violation of § 38.2-610 A of the Code of Virginia. The company's AUD notice did not include wording substantially similar to that of the prototype set forth in Administrative Letter 1981-16.

**Statutory Vehicle Notices**

- (1) The examiners found one violation of § 38.2-2210 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 one violation of § 38.2-2230 of the Code of Virginia. The company failed to have available for use a written offer to purchase rental reimbursement coverage on a policy that provided Other Than Collision or Collision coverage.
- (3) The examiners found two violations of § 38.2-2234 A of the Code of Virginia. The company's Credit Score Disclosure notice did not contain all the information required by this statute.

**Other Notices**

The company provided copies of 15 other notices, including applications that were used during the examination period.

The examiners found no violations in this area.

#### Other Law Violations

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

The examiners found one violation of § 52-40 B of the Code of Virginia. The company failed to include the insurance fraud statement on the application.

#### **LICENSING AND APPOINTMENT REVIEW**

##### **Agent**

The examiners found no violations in this area.

##### **Agency**

The examiners found no violations in this area.

#### **REVIEW OF THE COMPLAINT-HANDLING PROCESS**

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

The examiners found two violations of § 38.2-511 of the Code of Virginia. The company failed to maintain a complete register in compliance with this statute.

#### **REVIEW OF PRIVACY AND INFORMATION SECURITY PROCEDURES**

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

The company provided its written information security procedures.

## **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 company 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**

Victoria Fire and Casualty Company shall:

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

### **Rating and Underwriting Review**

Victoria Fire and Casualty Company shall:

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

- (4) Specify accurate information in the policy by listing the Virginia, Federal, and District of Columbia Employees Using Autos in Government Business endorsements and/or the Transportation Expenses endorsement on the declarations page.
- (5) Properly represent the fees, discounts and effective time on the declarations page.
- (6) Retain a copy of all new business applications.
- (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, base and/or final rates, and credit information.
- (8) Provide the Credit Score Disclosure notice as required by the Code of Virginia.
- (9) Provide the Credit Score Adverse Action notice as required by the Code of Virginia.
- (10) Use credit information that was obtained within 90 days of the new business policy effective date.
- (11) Update the insured's credit information at least once in a three year period or when requested by the insured.

### **Termination Review**

Victoria Fire and Casualty 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 "Termination Overcharges Cited during the Examination." By returning the completed file to the Bureau, the company acknowledges that it has refunded or credited the overcharges listed in the file.
- (4) Properly represent the policy fee on the declarations page.
- (5) Calculate return premium according to the filed rules and policy provisions.
- (6) Obtain and retain valid proof of mailing the notice of cancellation to the insured and lienholder.
- (7) Send the cancellation notice for nonpayment of premium at least 15 days prior to the effective date of cancellation.
- (8) Provide proper notice of cancellation to the lienholder.
- (9) Cancel private passenger automobile policies when the notice is mailed after the 59th day of coverage only for those reasons permitted by § 38.2-2212 of the Code of Virginia.
- (10) Advise the insured of the specific reason for cancelling the policy.
- (11) Send the cancellation notice at least 45 days before the effective date of cancellation when the notice is mailed after the 59th day of coverage.
- (12) Provide the insured notice of his right to have the termination of his policy reviewed by the Commissioner of Insurance.
- (13) Provide the insured with notice of the availability of insurance through an agent, another insurer, or the VAIP in the cancellation notice of a private passenger automobile policy.



**Claims Review**

Victoria Fire and Casualty Company shall:

- (1) Correct the errors that caused the underpayments and overpayments and send the amount of the underpayment to insureds and claimants.
- (2) Include six percent (6%) simple interest in the amount paid to the insureds and claimants.
- (3) Complete and submit to the Bureau the enclosed file titled "Claims Underpayments Cited during the Examination." By returning the completed file to the Bureau, the company acknowledges that it has paid the underpayments listed in the file.
- (4) Properly document claim files so that all events and dates pertinent to the claim can be reconstructed.
- (5) Document the claim file that all applicable coverages have been discussed with the insured. Particular attention should be given to Transportation Expenses coverage and rental benefits under the UMPD coverage.
- (6) Make all claim denials in writing and keep a copy 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 insured's policy provisions.
- (8) Properly represent pertinent facts or insurance policy provisions relating to coverages at issue.
- (9) Include a correct statement of coverage under which payments are made with all claim payments to insureds.

**Forms Review**

Victoria Fire and Casualty Company shall:

- (1) Use the rate classification statement filed and approved by the Bureau.
- (2) Use the required Reinstatement of Insurance, Suspension of Insurance and the Single Limit UM forms adopted by the Bureau.

**Review of Policy Issuance Process**

Victoria Fire and Casualty Company shall:

- (1) List all applicable forms on the declarations page.
- (2) Provide the insured with the Important Information Regarding Your Insurance notice as required by the Code of Virginia.
- (3) Provide a list of all applicable service fees to the insured in writing.
- (4) Properly represent the policy effective and expiration times on the application and the declarations page.
- (5) Provide the Notice of Information Collection and Disclosure Practices as required by the Code of Virginia.

**Review of Statutory Notices**

Victoria Fire and Casualty Company shall:

- (1) Amend the long form Notice of Information Collection and Disclosure Practices to comply with § 38.2-604 B of the Code of Virginia.
- (2) Amend the short form Notice of Information Collection and Disclosure Practices to comply with § 38.2-604 C of the Code of Virginia.
- (3) Amend the language within the AUD notice to be substantially similar to the prototype set forth in Administrative Letter 1981-16.
- (4) 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.
- (5) Develop a Rental Reimbursement notice that complies with § 38.2-2230 of the Code of Virginia.
  - (6) Amend the Credit Score Disclosure notice to comply with § 38.2-2234 A 1 of the Code of Virginia.

**Review of the Complaint-Handling Process**

Victoria Fire and Casualty Company shall:

Maintain a complete complaint register that is in compliance with § 38.2-511 of the Code of Virginia.

### **PART THREE – RECOMMENDATIONS**

The examiners also found violations that did not appear to rise to the level of business practices by the company. The company should carefully scrutinize these errors and correct the causes before these errors become business practices. The following errors will not be included in the settlement offer:

#### **RECOMMENDATIONS**

We recommend the company take the following actions:

#### **Rating and Underwriting**

- The company should file its rounding rules with the Bureau.
- The company should cease sending a generic AUD notice to insureds when an adverse underwriting decision is not made by the company.
- The company should accurately state Victoria Fire & Casualty Company and not Titan Insurance Company on its binders.
- The company should follow its filed rules, specifically GEN-RU98, for the use of credit information at renewal.
- The company should list all applicable forms on the declarations page in accordance with its filed rule RU235.

#### **Claims**

- The company should assure that all fields within a form letter are completed correctly.
- The company should assure that the coverage limits and vehicle descriptions shown in its claim system match the declarations page.
- The company should clearly state in any written correspondence that Victoria Fire and Casualty Company is the company handling the claim.
- The company should sign and date any Non-Waiver Agreement.
- The company should not request a copy of the insured's vehicle title on owner retained salvage in a total loss settlement.

**Forms**

- The company should use bold print in all areas where the standard form uses quotation marks.
- The company should withdraw the Contents Coverage Endorsement from use if the company withdraws the corresponding rules and rates.

**Policy Issuance Process**

- The company should include the policy fee in the total premium amount on the declarations page but exclude the service fees for financial responsibility filings.
- The company should change the wording of “Comprehensive” to “Other Than Collision (OTC)” on the declarations page.
- The company should change the wording of “Rental Reimbursement” to “Transportation Expenses” on the declarations page.

**Notices**

- The company should include the 60-day Cancellation Warning notice on the first screen of the company’s online application process to ensure this notice is provided to the insured correctly during the application process before the policy is issued.

**SUMMARY OF PREVIOUS EXAMINATION FINDINGS**

The Bureau has conducted three prior examinations of Victoria Fire and Casualty Company.

During the examination of the Victoria Fire and Casualty Company as of September 30, 1996, the company violated §§ 38.2-510 A 6, 38.2-510 A 10, 38.2-511, 38.2-610 B, 38.2-1833, 38.2-1905, 38.2-1906 B, 38.2-2202, 38.2-2210, 38.2-2212, and 38.2-2220 of the Code of Virginia, as well as 14 VAC 5-400-40 A, 14 VAC 5-400-70 A, 14 VAC 5-400-70 D, and 14 VAC 5-400-80 D of the Virginia Administrative Code.

During the examination of the Victoria Fire and Casualty Company as of December 31, 2001, the company violated §§ 38.2-510 A 1, 38.2-510 A 10, 38.2-610,

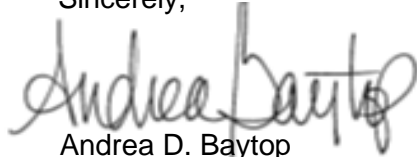
38.2-1906 D, 38.2-2212 and 38.2-2220 of the Code of Virginia, as well as 14 VAC 5-400-40 A, 14 VAC 5-400-70 D and 14 VAC 5-400-80 D of the Virginia Administrative Code.

During the examination of the Victoria Fire and Casualty Company as of December 31, 2008, the company violated §§ 38.2-305 A, 38.2-305 B, 38.2-310, 38.2-502, 38.2-510 A 10, 38.2-604 B, 38.2-604.1, 38.2-610 A, 38.2-1318, 38.2-1905 A, 38.2-1906 D, 38.2-2202 A, 38.2-2202 B, 38.2-2208 A, 38.2-2208 B, 38.2-2212 D, 38.2-2212 E, 38.2-2212 F, 38.2-2214, 38.2-2220, 38.2-2234 A, and 38.2-2234 B of the Code of Virginia, as well as 14 VAC 5-400-30 and 14 VAC 5-400-80 D of the Virginia Administrative Code.

**ACKNOWLEDGEMENT**

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

Sincerely,

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

Andrea D. Baytop  
Senior Insurance Market Examiner

# COMMONWEALTH OF VIRGINIA

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



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February 21, 2013

## VIA UPS 2<sup>nd</sup> DAY DELIVERY

Cheryl L. Davis, MCM, AIRC, ACS  
Senior Market Conduct Director  
Nationwide Insurance  
One Nationwide Plaza 1-35-102  
Columbus, Ohio 43215

RE: Market Conduct Examination  
Victoria Fire & Casualty Company (NAIC# 42889)  
Examination Period: January 1, 2011-December 31, 2011

Dear Ms. Davis:

The Bureau of Insurance (Bureau) has conducted a market conduct examination of the above referenced company for the period of January 1, 2011 through December 31, 2011. The preliminary examination report (Report) has been drafted for the company's review.

Enclosed with this letter is a copy of the preliminary examination report and copies of review sheets that have been withdrawn or revised since January 7, 2013. Also enclosed are several reports that will provide you with the specific file references for the violations listed in the report.

Since there appears to have been a number of violations of Virginia insurance laws on the part of the company, I would urge you to closely review the report. Please provide a written response. When the company responds, please use the same format (headings and numbering) as found in the Report. If not, the response will be returned to the company to be put in the correct order. By adhering to this practice, it will be much easier to track the responses against the Report. The company does not need to respond to any particular item with which it agrees. If the company disagrees with an item or wishes to further comment on an item, please do so in Part One of the Report. Please be aware that the examiners are unable to remove an item from the report or modify a violation unless the company provides written documentation to support its position.

Secondly, the company should provide a corrective action plan that addresses all of the issues identified in the examination. In some cases, the issues that should be addressed in the plan may be broader than those that are in Part Two of the Report.



Ms. Davis  
February 21, 2013  
Page 2

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

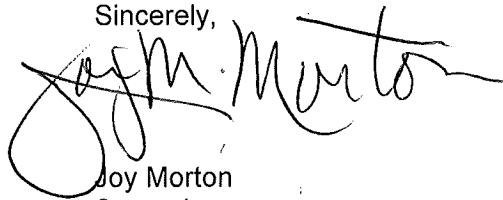
Finally, we have enclosed an Excel file that the company must complete and return to the Bureau with the company's response. This file lists the review items for which the examiners identified overcharges (rating and terminations) and underpayments (claims).

The company's response and the spreadsheet mentioned above must be returned to the Bureau by April 1, 2013.

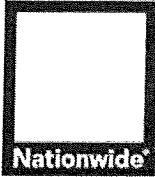
After the Bureau has received and reviewed the company's response, we will make any justified revisions to the report. The Bureau will then be in a position to determine the appropriate disposition of the market conduct examination.

We look forward to your reply by April 1, 2013.

Sincerely,

A handwritten signature in black ink, appearing to read "Joy Morton". The signature is fluid and cursive, with a large loop at the beginning.

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



Cheryl L. Davis, MCM, ACS, AIRC  
Senior Compliance Director

May 30, 2013

Joy Morton  
Supervisor, Market Conduct Section  
Property and Casualty Division  
Virginia Bureau of Insurance  
P.O. Box 1157  
Richmond, VA 23218

RE: Market Conduct Exam Draft Report Response on Victoria Fire and Casualty Company

Dear Ms. Morton:

On behalf of Victoria Fire and Casualty Company ("Company"), please allow this acceptance letter and its enclosures to serve as our response to the Market Conduct Examination Draft Report ("Report") as of February 21, 2013. We have reviewed the Report and respectfully submit the following for your consideration:

1. This letter to accept the Report
2. Revised Draft Report Response
3. Remediation Excel Files

We have organized our revised response in relation to the findings set forth in the Report. For each item identified, included is a description of the Bureau's finding followed by Victoria Fire and Casualty Company's response/corrective action plan.

If you have any questions or concerns, please feel free to contact me by email at [davisc60@nationwide.com](mailto:davisc60@nationwide.com) or via telephone at (614) 249-4580.

Sincerely,

Cheryl L. Davis  
Senior Compliance Director

Enclosures

**MARKET CONDUCT EXAMINATION REPORT  
RESPONSE  
AND CORRECTIVE ACTION PLAN  
OF  
VICTORIA FIRE AND CASUALTY COMPANY**

**May 29, 2012**

## **PART ONE - THE EXAMINERS' OBSERVATIONS**

### **RATING AND UNDERWRITING REVIEW**

#### **Automobile New Business Policies**

- (4) The examiners found 42 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.

- f. In one instance, the company failed to use the correct driver classification factor.

Company Response: The rate filing from 2011 contained confirmation that the company's Developed Average Driver Factor is rounded 2 decimal places at the end of the Rate Order of Calculation. Please refer to Exhibit 1 from the February 2011 filing that shows that the developed average factor is rounded to two decimals. We respectfully ask you to re-consider this violation.

- h. In one instance, the company failed to use the correct increased limits factor.

Company Response: The Company was advised that a rate factor of 1.28 should have been used within the rating process. However, the limit associated with 1.28 is 50/100/50. The policy in question has a UM limit of 50/100/25. The rate factor associated with this limit (50/100/25) is 1.23. Please refer to Exhibit 2 from the February 7, 2011 rate revision that shows the different rate factors associated with each limit. We have also attached a copy of the policy detail screen confirming the policy did have 50/100/25. We respectfully ask you to re-consider this violation.

- i. In 16 instances, the company failed to use proper credit score information when rating a policy.

Company Response: The Company is enclosing copies of screen shots (please refer to Exhibits 3a – 3p) from our system to show that credit was run for all the noted policies at new business. We respectfully ask you to re-consider this violation. (Please note that we have no record of receiving review sheet 1346073329 - RPA028, but the corresponding credit information is provided in Exhibit 4e.)

- (6) The examiners found 16 violations of § 38.2-2234 E of the Code of Virginia. The company failed to use credit information that was obtained within 90 days of writing the policy.

Company Response: The Company is enclosing copies of screen shots (please refer to Exhibits 4a – 4q) from our system to show that credit was run for all the noted policies at new business: We respectfully ask you to re-consider this violation.

### **TERMINATION REVIEW**

#### **All Other Cancellations — Automobile Policies**

#### **NONPAYMENT OF THE PREMIUM**

- (5) The examiners found three violations of § 38.2-2212 E of the Code of Virginia.

- b. 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 policy in question had to be cancelled back to accommodate an error in the date of cancellation. This resulted in a Confirmation of Cancellation form being sent to the customer. This form informs them of the adjusted cancellation date they requested. Once the manual cancellation was processed, the official cancellation notice, which contained the language in question, was mailed to the customer. The cancellation notice is enclosed as Exhibit 5 for your review.

- c. 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 policy in question here had to be cancelled back to accommodate an error in the date of cancellation. This resulted in a Confirmation of Cancellation form being sent to the customer. This form informs them of the adjusted cancellation date they requested. Once the manual cancellation was processed, the official cancellation notice, which contained the language in question, was mailed to the customer. The cancellation notice is enclosed as Exhibit 5 for your review.

## REVIEW OF STATUTORY NOTICES

### General Statutory Notices

- (3) The examiners found one violation of § 38.2-610 A of the Code of Virginia. The AUD language in the company's cancellation notice did not include wording substantially similar to that of the prototype set forth in Administrative Letter 1981-16.

Company Response: The Company's cancellation notice provides language that is substantially similar to the prototype set for in Administrative Letter 1981-16. Please see the enclosed cancellation notices (Exhibits 6 and 7) that are provided to our customers.

### Statutory Vehicle Notices

- (1) The examiners found two violations 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: Our Virginia Application does provide this language on the first page. A copy of the application (Exhibit 8) is enclosed to show the location along with the language.

- (3) The examiners found four violations of § 38.2-2234 A of the Code of Virginia.
  - a. in two instances, the company's Credit Score Disclosure notice did not contain all the information required by this statute.

Company Response: The Virginia Application does provide the required language within the Applicant Approval sections that displays on the Titan internet application (TI.COM).

A screen shot (please refer to Exhibit 9) is provided to show the exact language provided. Section 38.2-2234-A1 provides example disclosure language that meets these requirements, which can be found verbatim in the "Applicant Approval" section of the application that requires signature by the applicant. Please note that the policies that were reviewed from TI.com were in Victoria Select, which was not covered by this exam. Victoria Fire and Casualty used the same forms and screen shots on TI.com while it was an active company. The company still respectfully submits that the Credit Score Disclosure notice was compliant with § 38.2-2234 A of the Code of Virginia.

- b. In two instances, the company's Credit Score Adverse Action notice did not contain all the information required by this statute.

Company Response: The Company rates policies without credit if the applicant so chooses. The use of the word "may" reflects the fact that the applicant may be rated without the use of credit.

## **PART TWO — CORRECTIVE ACTION PLAN**

### **GENERAL**

Victoria Fire and Casualty Company shall:

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

Company Response: The Corrective Action Plan (CAP) is provided below.

### **RATING AND UNDERWRITING REVIEW**

Victoria Fire and Casualty 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: Please see response for item 3.

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

Company Response: Please see response for item 3.

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

Company Response: The completed refund spreadsheet is enclosed.

- (4) Specify accurate information in the policy by listing the Transportation Expenses endorsement on the declarations page.

Company Response: A project was initiated to correct the printing of endorsements on the declarations page. This project was implemented on May 4, 2013.

- (5) Properly represent the fees, discounts and effective time on the declarations page.

Company Responses:

Fees: A billing accuracy project was implemented on June 6, 2011. This project addressed any inconsistencies with billing information which included the policy fee.

Discounts: A project was implemented into production on October 8, 2012 to correct the printing of discounts/surcharges on the declarations page.

Effective Time: A project will be implemented by December 31, 2013 to show the correct effective time on the declarations page.

- (6) Retain a copy of all new business applications.

Company Response: Victoria Fire and Casualty Company is a closed company and is no longer accepting new applications.

- (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, territory, tier eligibility, driver classification, base and/or final rates, increased limits factor, and credit information.

Company Response: The Company has already implemented projects to address inconsistencies with billing information (policy fees) and tier placement/eligibility. The Bureau identified one policy each with incorrect symbols and incorrect territories. The Company does not believe this rises to the level of a general business practice, but will review the symbols and territories against the policy system and against its filings to verify accuracy by the end of 2013.

- (8) Provide the Credit Score Disclosure notice as required by the Code of Virginia.

Company Response: Victoria Fire and Casualty Company is closed to new business. As the Credit Score Disclosure Notice is required only at the time of application, no corrective is needed.

- (9) Provide the Credit Score Adverse Action notice as required by the Code of Virginia.

Company Response: A rebuttal has been submitted for this item in Part One of this response.

- (10) Use credit information that was obtained within 90 days of the new business policy effective date.

Company Response: Victoria Fire & Casualty Company is a closed company and not writing new business.

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

Company Response: Two policies were noted in the findings that credit did not run every three years. The Company investigated these policies to the fullest and could not find a systemic issue relating to the ordering of credit at that time. The Company completed a review of the credit ordering process on additional policies and confirmed that the process is working correctly.

## **TERMINATION REVIEW**

Victoria Fire and Casualty 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: Please see response for item 3.



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

Company Response: Please see response for item 3.

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

Company Response: The completed refund spreadsheet is enclosed.

- (4) Properly represent the policy fee on the declarations page.

Company Response: A billing accuracy project was released on June 6, 2011 that corrected the issue with properly showing the policy fee. Because this release was in the middle of the exam review period, policies prior to that time may have reflected inaccurate amounts.

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

Company Response: The Company will work with the Bureau to identify the issues in the unearned premium refund process. The Company will revise the process and implement the changes by December 31, 2013.

- (6) Obtain and retain valid proof of mailing the notice of cancellation to the insured and lienholder.

Company Response: The Company is reviewing the proof of mailing process and will work with its vendor to implement the needed changes by December 31, 2013.

- (7) Send the cancellation notice for nonpayment of premium at least 15 days prior to the effective date of cancellation.

Company Response: A termination code project was released in November 2011 and within this project programming updated the number of days notice to accommodate the state statute for the number of required days notice.

- (8) Provide proper notice of cancellation to the lienholder.

Company Response: The Company is reviewing its lienholder cancellation process and will work with its vendor to implement the needed changes by December 31, 2013.

- (9) Cancel private passenger automobile policies when the notice is mailed after the 591h day of coverage only for those reasons permitted by § 38.2-2212 of the Code of Virginia.

Company Response: A termination code project, released in November 2011 near the end of the exam review period, revised the reasons that print on termination notices to be more specific. Those reasons are compliant with Virginia statutes.

- (10) Advise the insured of the specific reason for cancelling the policy.

Company Response: A termination code project, released in November 2011 near the end of the exam review period, revised the reasons that print on termination notices to be more specific. Those reasons are compliant with Virginia statutes.

- (11) Send the cancellation notice at least 45 days before the effective date of cancellation when the notice is mailed after the 59th day of coverage.

Company Response: A termination code project was released in November 2011 and within this project programming updated the number of days notice to accommodate the state statute for the number of required days notice.

- (12) Provide the insured notice of his right to have the termination of his policy reviewed by the Commissioner of Insurance.

Company Response: A rebuttal has been submitted for this item in Part One of this response.

- (13) Provide the insured with notice of the availability of insurance through an agent, another insurer or the VAIP in the cancellation notice of a private passenger automobile policy.

Company Response: A rebuttal has been submitted for this item in Part One of this response.

## **CLAIMS REVIEW**

Victoria Fire and Casualty Company shall:

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

Company Response: Please see response for item 3.

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

Company Response: Please see response for item 3.

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

Company Response: For corrective action items 1-3 above, the Company has sent the additional payments to the insured and claimants noted in the underpayment listing. Please refer to the enclosed spreadsheet for the required details of the remediation effort.

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

Company Response: A meeting was held with the leaders and managers in the operation regarding the appropriate documentation and document retention of claims files. Following that meeting, a training session was held for all associates. The training took place on Friday, November 9, 2012. The subject was also discussed and reinforced during a communication

meeting on Friday February 8, 2013. We have also incorporated this topic and reinforcement of appropriate documentation and document retention into all new hire sessions.

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

Company Response: A meeting was held with the leaders and managers in the operation regarding the appropriate documentation of claims files. Following that meeting our leaders held one on one meetings with their associates to review the opportunity and to discuss expectations. I have subsequently met with our trainer and a training session was held in April 2013 to again reinforce this information with our associates. This has also been incorporated into our new hire sessions.

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

Company Response: A meeting was held with the leaders and managers in the operation regarding the appropriate documentation and document retention of claims files. Following that meeting, a training session was held for all associates. The training took place on Friday, November 9, 2012. The subject was also discussed and reinforced during a communication meeting on Friday, February 8, 2013. We have also incorporated this topic and reinforcement of appropriate documentation and document retention into all new hire sessions.

- (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 insured's policy provisions.

Company Response: All claims that had noted opportunities for offering a fair and reasonable settlement were reviewed with our management team and with our trainer. Following that meeting our leaders held one-on-one meetings with their associates to review the opportunity and to discuss expectations. A training session was held in April 2013 to again reinforce this information with our associates. This has also been incorporated into our new hire sessions.

- (8) Properly represent pertinent facts or insurance policy provisions relating to coverage's at issue.

Company Response: This issue was addressed during an all associate session on Friday, November 9, 2012 and again during a communication meeting on Friday, February 8, 2013. Our managers and trainer will continue to review and address any misses that are noted going forward for immediate feedback and coaching.

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

Company Response: A meeting was held with the leaders and managers in the operation regarding the appropriate documentation and document retention of claims files. Following that meeting, a training session was held for all associates. The training took place on Friday, November 9, 2012. The subject was also discussed and reinforced during a communication meeting on Friday, February 8, 2013. We have also incorporated this topic and reinforcement of appropriate documentation and document retention into all new hire sessions.

## **FORMS REVIEW**

Victoria Fire and Casualty Company shall:

- (1) Use the rate classification statement filed and approved by the Bureau.

Company Response: The Rate Classification statement is on file and approved for use via SERFF NWSC-128336738. This notice will be programmed for a December 31, 2013 effective date.

- (2) Use the required Reinstatement of Insurance, Suspension of Insurance and the Single Limit UM forms adopted by the Bureau.

Company Response: The Reinstatement of Insurance, Suspension of Insurance and the Single Limit UM forms will be programmed for a December 31, 2013 effective date.

## **REVIEW OF POLICY ISSUANCE PROCESS**

Victoria Fire and Casualty Company shall:

- (1) List all applicable forms on the declarations page.

Company Response: A project was initiated to correct the printing of endorsements on the declarations page. This project was completed and implemented on May 4, 2013.

- (2) Provide the insured with the Important Information Regarding Your Insurance notice as required by the Code of Virginia.

Company Response: Victoria Fire & Casualty Company is a closed company and therefore the Company will not be sending this notice to customers during policy issuance. However, this notice will continue to be sent to each customer at their renewal.

- (3) Provide a list of all applicable service fees to the insured in writing.

Company Response: Victoria Fire & Casualty Company is a closed company and therefore the Company will not be sending this notice to customers during policy issuance. However, this notice will continue to be sent to each customer at their renewal.

- (4) Properly represent the policy effective and expiration times on the application and the declarations page.

Company Response: A project will be implemented by December 31, 2013 to show the correct effective time on the declarations page.

- (5) Provide the Notice of Information Collection and Disclosure Practices as required by the Code of Virginia.

Company Response: Victoria Fire & Casualty Company is a closed company and therefore the Company will not be sending this notice to customers during policy issuance. However, this notice will continue to be sent to each customer at their renewal.

## REVIEW OF STATUTORY NOTICES

Victoria Fire and Casualty Company shall:

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

Company Response: The revised Privacy Notice will be programmed for a December 31, 2013 effective date.

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

Company Response: Section 38.2-604 C of the Code of the Virginia permits a short form notice as an alternative to providing a long form notice under § 38.2-604 B ("Instead of the notice prescribed in subsection B of this section..."). The Company provides a long form notice as part of the delivery of the insurance policy, which is permitted under §38.2-604 A(1)(a). A revised long form notice is being programmed for an implementation date of no later than December 31, 2013.

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

Company Response: A rebuttal has been submitted for this item in Part One of this response.

- (4) 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.

Company Response: A rebuttal has been submitted for this item in Part One of this response.

- (5) Develop a Rental Reimbursement notice that complies with § 38.2-2230 of the Code of Virginia.

Company Response: The Offer of Rental Reimbursement will be programmed for a December 31, 2013 effective date.

- (6) Amend the Credit Score Disclosure notice to comply with § 38.2-2234 A 1 of the Code of Virginia.  
Company Response: A rebuttal has been submitted for this item in Part One of this response.

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

Company Response: The Company will revise the notice and program for a December 31, 2013 effective date.

## REVIEW OF THE COMPLAINT HANDLING PROCESS

Victoria Fire and Casualty Company shall:

Maintain a complete complaint register that is in compliance with § 38.2-511 of the Code of Virginia.

Company Response: On March 28, 2013, the Company conducted training for the complaint coordinators pertaining to the process of correctly entering the complainants name in the complainant field in our e-PowerCenter system.

### **PART THREE — RECOMMENDATIONS**

#### RECOMMENDATIONS

Company Response: The Company has reviewed the Bureau's recommendations. Some of the items were previously implemented prior to the exam but after the exam review period. The other items will be considered for implementation, with the understanding that the Company is closed to new business and focus will be on those items related to renewal business.

# 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>

August 26, 2013

## VIA UPS 2<sup>nd</sup> DAY DELIVERY

Ms. Cheryl Davis, MCM, AIRC, ACS  
Senior Market Conduct Director  
Nationwide Insurance  
One Nationwide Plaza, 1-35-102  
Columbus, Ohio 43215

Re: Market Conduct Examination  
Victoria Fire & Casualty Company (NAIC # 42889)  
Examination Period: January 1, 2011 – December 31, 2011

Dear Ms. Davis:

The Bureau of Insurance (Bureau) has reviewed your May 30, 2013 response to the Preliminary Market Conduct Report (Report) of Victoria Fire & Casualty Company (Company). The Bureau has referenced only those items in which the Company has disagreed with the Bureau's findings, or items that have changed in the Report. This response follows the format of the Report.

## PART ONE – EXAMINERS' OBSERVATIONS

### New Business Automobile Rating Review

- (4f) After further review, the violation for RPA013 has been withdrawn from the Report. The Report has been renumbered and the net undercharge has been revised to reflect this change.
- (4h) After further review, the violation for RPA016 has been withdrawn from the Report. The Report has been renumbered and the net undercharge has been revised to reflect this change.
- (4i) Only one of these 16 violations has been withdrawn from the Report due to data integrity issues found with the Company's documentation of credit score information obtained for applicants. The Company has provided five different sources of this information during the examination process. The Company has not provided the original screen print source in response to these violations. The Company has not provided any explanation regarding the



origins of the different sources of credit information. Due to the manner in which the Company has provided the information, the Bureau is unable to rely upon the accuracy of this information to remove these violations. Please see the examiners' responses below regarding each of the disputed 16 violations.

The violation for RPA011 remains in the Report. The website credit score documentation provided by the Company does not reflect; the insured's social security number, the correct agency number to correspond to the policy file, or the raw credit score. Further, this documentation is not verifiable since there are multiple entries for the same insured name.

The violation for RPA018 remains in the Report. The Session A mainframe documentation does not provide the raw credit score obtained on June 15, 2011.

The violation for RPA023 remains in the Report. The Session A mainframe documentation does not provide the raw credit score obtained on June 7, 2011. Further, the Company's documentation indicates the insured's credit was obtained on June 7th, but the insured's application was not signed until August 1, 2011.

The violation for RPA027 remains in the Report. The Session A mainframe documentation does not provide the raw credit score obtained on September 21, 2011.

After further review, the violation for RPA028 has been withdrawn from the Report. The Company made a payment of \$99.00 to the insured for restitution; however, the withdrawal of this violation results in an undercharge of \$238.00. The Report has been updated to reflect this change.

The violation for RPA030 remains in the Report. This Session A mainframe documentation does not provide the raw credit score obtained on October 19, 2011.

The violation for RPA031 remains in the Report. The Company did not provide any documentation for this policy in the Exhibits provided.

The violation for RPA032 remains in the Report. The Company's Session A mainframe documentation in Exhibit 3h does not relate to this policy.

The violation for RPA033 remains in the Report. The Session A mainframe documentation does not provide the raw credit score obtained on October 25, 2011.

The violation for RPA034 remains in the Report. The Session A mainframe documentation does not provide the raw credit score obtained on October 28, 2011.

The violation for RPA035 remains in the Report. The Session A mainframe documentation provided by the Company for this response does not reflect the correct agency number to correspond to the policy file.

The violation for RPA036 remains in the Report. The Session A mainframe documentation does not provide the raw credit score obtained on November 1, 2011.

The violation for RPA037 remains in the Report. The Session A mainframe documentation does not provide the raw credit score obtained on November 23, 2011.

The violation for RPA038 remains in the Report. The Session A mainframe documentation does not provide the raw credit score obtained on December 2, 2011.

The violation for RPA039 remains in the Report. The Session A mainframe documentation does not provide the raw credit score obtained on November 15, 2011. Further, the Company's documentation indicates the insured's credit was obtained on November 15th, but the insured's application was not signed until December 21, 2011.

The violation for RPA040 remains in the Report. The Session A mainframe documentation does not provide the raw credit score obtained on December 22, 2011.

The Company provided credit score information for RPA029 in Exhibit 3f, however, the policy was not cited for this violation.

(5b) The violation for RPA022 remains in the Report. The Company did not provide a rebuttal for this violation, although the Company's response in Part Two of the Report indicates a rebuttal was provided.

(6) The violations for RPA011, RPA032 and RPA035 remain in the Report due to insufficient documentation as cited in item (4i) above.

After further review, the violations for RPA018, RPA023, RPA027, RPA028, RPA029, RPA030, RPA033, RPA034, RPA036, RPA037, RPA038, RPA039 and RPA040 have been withdrawn from the Report. The Company provided evidence that the insured's credit information was obtained within 90 days of the policy effective date.

### **Nonpayment of Premium Cancellations**

(5b & c) Based on the Company's records, this policy was cancelled for nonpayment of premium, which is adverse to the insured and incorrect. This policy was actually an expiration where the insured did not accept the Company's offer for renewal. Since a record of nonpayment can be adverse to an insured, the Company must provide evidence that it has updated its records from a cancellation for nonpayment to an expiration. Upon receipt of such documentation, we will remove this violation.

### **General Statutory Notices**

(3) The violation for NGS018 remains in the Report as amended below. The Report incorrectly stated the Company's cancellation notice included incorrect Adverse Underwriting Decision (AUD) language. However, the Company's cancellation notice was not cited for this issue. The Company's AUD notice used for RPA047 was cited for not containing language substantially similar to the statute. The Report has been corrected.

### Statutory Vehicle Notices

- (1) The violation for NSV005 remains in the Report. The company does not provide the written application until after the policy is issued. The statute requires the notice to be given at the time of application.
- The violation for NSV017 has been withdrawn from the Report. The screen prints provided by the company indicate the written application containing the notice is provided at the time of application before the policy is issued.
- (3a) The violations for NSV006 and NSV018 remain in the Report. The Nationwide and Titan online application screen shots provided by the Company did not include the Credit Score Disclosure notice. This notice must be provided at the time of application when the Company obtains the insured's credit information, before the policy is issued. A Credit Score Disclosure notice must be added to the Nationwide and Titan online applications to comply with the statute.
- (3b) After further review, the violations for NSV019 and NSV020 have been withdrawn from the Report.

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

### **Review of Rating and Underwriting**

- (4) Please provide a copy of a declarations page listing the Transportation Expenses endorsement.
- (7) The symbols violations were accurately considered general business practices. There were four separate policies with symbols violations in both New and Renewal Business Rating sections. Since there was only one territory violation, it is not considered a general business practice, and Part Two of the Report has been revised to eliminate reference to territories. In addition, since the violations for increased limit factors and driver classification factors have been withdrawn, these references have been eliminated from Part Two as well.
- (9) The violation for RPA022 remains in the Report. Contrary to the Company's response, a rebuttal to this violation was not provided in Part One of the Report.

### **Termination Review**

- (5) The Company's response indicated it would work with the Bureau to correct this issue. Please advise as to the type of assistance requested by the Company so the examiners can help the Company resolve this issue with calculating return premium.

### **Forms Review**

- (1) The Company's response indicated the Rate Classification Statement will be implemented on December 31, 2013. The filing referenced in the Company's response was filed to be effective August 1, 2012. As such, the Company

should provide the SERFF filing number under which the Company filed to delay implementation of this form until December 31, 2013. Otherwise, the Company is and has been in violation of § 38.2-2214 of the Code of Virginia since August 1, 2012. Further, the Company should ensure that the filed Rate Classification statement accurately corresponds to the Company's rules and rates currently filed with the Bureau.

#### **Policy Issuance Review**

- (1) Please provide a copy of a declarations page showing all required forms and endorsements currently used during renewal policy issuance.

#### **Review of Statutory Notices**

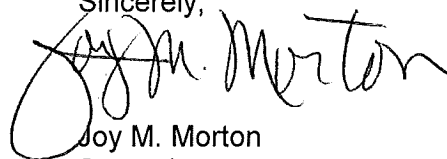
- (2) This short form notice is normally used by insurers writing new business and it is given at the time of application. If the Company resumes writing new business and chooses to use this notice, the Company would need to revise it.
- (4) This notice must be on the first page of the application, either page 1 of a paper application or on the first screen of an online application. If the application is taken verbally, the Company must provide this notice no later than ten days after the application if coverage is bound.
- (6) The Nationwide and Titan online applications did not provide a Credit Score Disclosure notice. This notice must be given to applicants at the time credit information is obtained, before the policy is issued.
- (7) This item has been withdrawn from the Report.

#### **Review of the Complaint Handling Process**

The Company should also ensure all written complaints are included in its complaint register, as well as recording the complainant's name.

We have made the changes noted above to the Market Conduct Examination Report. Enclosed with this letter is a revised version of the Report and technical reports. The Company's response to this letter is due in the Bureau's office by September 16, 2013.

Sincerely,



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

Enclosures



**Cheryl L. Davis, MCM, ACS, AIRC**  
Senior Compliance Director

September 26, 2013

Joy Morton  
Supervisor, Market Conduct Section  
Property and Casualty Division  
Virginia Bureau of Insurance  
P.O. Box 1157  
Richmond, VA 23218

RE: Market Conduct Exam Draft Report Response on Victoria Fire and Casualty Company

Dear Ms. Morton:

On behalf of Victoria Fire and Casualty Company ("Company"), please allow this letter and attachments to serve as our response to the Market Conduct Examination Draft Report ("Report") and Cover Letter dated August 26, 2013.

We have organized our revised response in relation to the items included in the Cover Letter. For each item identified, included is a description of the Bureau's finding followed by Victoria Fire and Casualty Company's response/corrective action plan.

If you have any questions or concerns, please feel free to contact me by email at [davisc60@nationwide.com](mailto:davisc60@nationwide.com) or via telephone at (614) 249-4580.

Sincerely,

A handwritten signature in blue ink that reads "Cheryl L. Davis". The signature is written in a cursive, flowing style.

Cheryl L. Davis  
Senior Compliance Director

**MARKET CONDUCT EXAMINATION REPORT  
RESPONSE  
AND CORRECTIVE ACTION PLAN  
OF  
VICTORIA FIRE AND CASUALTY COMPANY**

**September 26, 2013,**

## **PART ONE - THE EXAMINERS' OBSERVATIONS**

### **RATING AND UNDERWRITING REVIEW**

#### **Automobile New Business Policies**

(4) The examiners found 39 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.

- g. In 15 instances, the company failed to use proper credit score information when rating a policy.

Company Response: The reason the Company provided multiple submissions was because the Bureau did not accept the first round of supporting documentation in an Excel formatted table. The Company provided the documentation in this format because the Company felt it would make the process of reviewing easier for the Bureau. All information within each version of documentation provided is consistent, as it was received from the same source. Included with this response, you will find the responses to each individual review sheet, along with further supporting documentation which was requested. Instead of provided individual screen shots for each review sheet, the company has provided one screen shot addressing each RPA number. The Company respectfully requests the Bureau review the information provided in order to have the violations removed from the final report.

RPA011 – Attached is the CLUE/MVR report entitled “4i – RPA011” which contains the customer’s social security number. This attachment also has the related policy number to help match our previous rebuttal documentation to the policy file. This attachment can be used in conjunction with the previous documentation provided. The agency number in the policy file will not match the agency number that pulled the credit at new business because this policy was bound through our Nationwide.com internet channel.

RPA018 – Please see attachment entitled “4i - Raw Credit and FR Score”

RPA023 – Please see attachment entitled “4i - Raw Credit and FR Score”. The agency pulled credit on June 7, 2011 before the binding date of the policy to provide customer a quote. Once credit is pulled during the quoting process, it does not need to be pulled

again unless the Company is outside of the required timeframe, which in this case the Company was not.

RPA027 – Please see attachment entitled “4i - Raw Credit and FR Score”

RPA030 – Please see attachment entitled “4i - Raw Credit and FR Score”

RPA031 – Please see attachment entitled “4i - Raw Credit and FR Score”

RPA032 – Please see attachment entitled “4i - Raw Credit and FR Score”

RPA033 – Please see attachment entitled “4i - Raw Credit and FR Score”

RPA034 – Please see attachment entitled “4i - Raw Credit and FR Score”

RPA035 – The agency number does not match the policy file. This policy is now serviced by a different producer within the same agency it was bound in. This is the reason for the difference in agency number.

RPA036 – Please see attachment entitled “4i - Raw Credit and FR Score”

RPA037 – Please see attachment entitled “4i - Raw Credit and FR Score”

RPA038 – Please see attachment entitled “4i - Raw Credit and FR Score”

RPA039 – Please see attachment entitled “4i - Raw Credit and FR Score”. The agency pulled credit on November 15, 2011 before the binding date of the policy to provide customer a quote. Once credit is pulled during the quoting process, it does not need to be pulled again unless the Company is outside of the required timeframe, which in this case the Company was not.

RPA040 – Please see attachment entitled “4i - Raw Credit and FR Score”

- (6) The examiners found 3 violations of § 38.2-2234 E of the Code of Virginia. The company failed to use credit information that was obtained within 90 days of writing the policy.



Company Response: Please refer to the specific responses provided below.

RPA011 – Attached is the CLUE/MVR report which has the customer’s social security number. This attachment also has the related policy number to help match our rebuttal to the policy file. This attachment can be used in conjunction with the previous documentation provided. The agency number in the policy file will not match the agency number that pulled the credit at new business because this policy was bound through our Nationwide.com internet channel.

RPA032 – Please see attachment entitled “4i - Raw Credit and FR Score”

RPA035 – The agency number does not match the policy file. This policy is now serviced by a different producer within the same agency it was bound in. This is the reason for the difference in agency number.

## **TERMINATION REVIEW**

### **All Other Cancellations — Automobile Policies**

#### **NONPAYMENT OF THE PREMIUM**

- (5) The examiners found three violations of § 38.2-2212 E of the Code of Virginia.
- b. In one instance, the company failed to advise the insured of his right to request a review by the Commissioner of Insurance.

Company Response: Please see transaction #50 and #51 in the attachment entitled “5b & c – Policy Activity Report” where the company adjusted the cancellation from a “non-pay cancel” to an “all other reasons” code. The "all other reasons" code was used as the customer through his agent requested backdated termination of the policy to the renewal date. The Company does not have an "expiration" code that a processor can select to backdate a transaction. "All other reasons" was selected and the policy record was commented to reflect the insured's request for termination as of the renewal date, as other coverage had been obtained effective the renewal date.

- c. 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: Please see transaction #50 and #51 in the attachment entitled "5b & c – Policy Activity Report" where the company adjusted the cancellation from a "non-pay cancel" to an "all other reasons" code. The "all other reasons" code was used as the customer through his agent requested backdated termination of the policy to the renewal date. The Company does not have an "expiration" code that a processor can select to backdate a transaction. "All other reasons" was selected and the policy record was commented to reflect the insured's request for termination as of the renewal date, as other coverage had been obtained effective the renewal date.

## REVIEW OF STATUTORY NOTICES

### General Statutory Notices

- (3) The examiners found one violation of § 38.2-610 A of the Code of Virginia. The company's AUD notice did not include wording substantially similar to that of the prototype set forth in Administrative Letter 1981-16.

Company Response: In the violation for NGS018 / GSN68086517 (AUD Notice), the Bureau states that the Company's AUD notice is not on a form approved by the commission nor does it contain substantially similar language as that of the prototype notice as set forth in Administrative Letter 1981-16.

The underwriting letter that was originally used for the Company's response to RPA047 / R&URBPPA129033655 was incorrectly sent to the Bureau. The Company provided the correct AUD Notice (Summary of Rights) to satisfy RPA047 / R&URBPPA129033655.

The Summary of Rights notice does contain substantiality similar language as set forth in the Administrative Letter 1981-16. Please refer to Exhibit 3 - NGS018. If the Bureau continues to believe the letter does not contain substantially similar language to Administrative Letter 1981-16, the Company would appreciate specific information as to the language that is missing, as the Company believes it is in compliance with the letter.

## **PART TWO — CORRECTIVE ACTION PLAN**

### **GENERAL**

#### **RATING AND UNDERWRITING REVIEW**

- (4) Specify accurate information in the policy by listing the Transportation Expenses endorsement on the declarations page.

Additional Note From Examiner – Please provide a copy of a declarations page listing the Transportation Expenses endorsement.

Company Response: There is a project currently set for completion on December 31, 2013 to change “Rental Reimbursement” to “Transportation Expenses”.

#### **TERMINATION REVIEW**

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

Additional Note From Examiner – The Company’s response indicated it would work with the Bureau to correct this issue. Please advise as to the type of assistance requested by the Company so the examiners can help the Company resolve this issue with calculating return premium.

Company Response: The Company respectfully requests a detailed breakdown of each review sheet that addresses calculating return premium. In order for the Company to understand potential process gaps, the Company is requesting the Bureau provide the exact calculations used by the Bureau.

#### **REVIEW OF THE POLICY ISSUANCE PROCESS**

- (1) List all applicable forms on the declarations page.

Additional Note From Examiner – Please provide a copy of a declarations page showing all required forms and endorsements currently used during renewal policy issuance.

Company Response: There was a project scheduled for completion in May, 2013 to correct a defect that caused some form numbers not to print on the declarations pages in another state. Due to an internal miscommunication, Virginia was mistakenly not included in the fix. This miss was not identified until the Company reviewed declarations pages to send to the Bureau with this response. The Company has opened a new project with a completion date of December 31, 2013

to fix the missing form numbers on the declarations page in Virginia.

## **REVIEW OF THE COMPLAINT HANDLING PROCESS**

Maintain a complete complaint register that is in compliance with § 38.2-511 of the Code of Virginia.

Company Response: Training conducted for the complaint coordinators includes reinforcement of the requirement that all written complaints be accurately entered into the Company's complaint system.

## Andrea Baytop

---

**From:** Andrea Baytop  
**Sent:** Friday, December 06, 2013 5:35 PM  
**To:** 'ROPERJ1@nationwide.com'; 'DAVISC60@nationwide.com'  
**Cc:** Joy Morton  
**Subject:** Victoria FCC Exam Report Conference Call 12/06/13

Good Evening Ms. Davis,

This e-mail is to follow-up our conference call today during which we discussed the September 26, 2013 response to the Revised Market Conduct Report (Report) of Victoria Fire & Casualty Company (Company).

1. Regarding Item (4i) of New Business Rating: With the Company's latest response, the Bureau of Insurance (Bureau) has received 7 different formats of the credit information. The Company only provided the credit Excel spreadsheets in response to violations cited. Due to the manner in which the Company has provided the information, the Bureau is reluctant to rely upon the accuracy of this information. However, the multitude of credit information provided by the Company in response to the violations appears to correspond to the named insured for several policies. Therefore, the violations for RPA018, RPA023, RPA027, RPA030, RPA031, RPA033, RPA035, RPA036, RPA037, RPA038, RPA039 and RPA040 have been withdrawn from the Report.

The violation for RPA011 remains in the Report. The Company was unable to provide sufficient documentation to support the credit score used to rate the policy. The MVR/CLUE report date is different from the credit score report date. Additionally, the data provided with the Company's response did not indicate the raw credit score or credit report date with a matching social security number. The Company did not provide an explanation for this discrepancy.

The violation for RPA032 remains in the Report. The Company has provided three different names for whose credit information was obtained without any explanation for the discrepancies. The date the credit information was obtained was different as well.

The violation for RPA034 remains in the Report. The Company originally provided the credit information belonging to the insured's father. The Company did not address this discrepancy in its responses.

2. Regarding Item (6): The violations for RPA011 and RPA032 remain in the Report due to insufficient documentation per the responses provided above. The violation for RPA035 has been withdrawn from the Report.
3. Regarding Items 5b&c of Nonpayment of Premium Cancellations: The violations for TPA058 remain in the Report. The information provided by the Company in its response did not address the Bureau's concern. The Company's August 19, 2011 effective nonpayment cancellation notice did not contain the wording required by the statute. Per the proof of mailing provided by the Company, the Company mailed this notice to the insured on August 3, 2011. The Company cannot submit the subsequent insured requested cancellation confirmation processed on September 19, 2011 to meet compliance for the August cancellation notice.
4. The violation for NGS018 remains in the Report. The Company's AUD notice used for RPA047 did not inform the insured of the adverse underwriting action taken. The notice is not required to provide the specific reasons for the action; however, the insured must be informed of the action that has occurred. The Company's AUD provided possible adverse underwriting decisions, but did not specify the action on this particular policy.

5. For clarification, the Company's declarations page has not been corrected to list the Transportation Expenses coverage endorsement, for which this violation was cited. Additionally, the Company has not changed "Rental Reimbursement" to "Transportation Expenses" when listing the coverage limit on the declarations page; this item was cited as a recommendation, not a violation. The Company stated both issues will be corrected on December 9, 2013, and a copy of the revised declarations page will be provided to the Bureau by Friday, December 13, 2013.
  
6. The examiners provided their calculations for return premium in the review sheets already provided to the Company during the examination. If the Company disagrees with any specific calculations, please provide the Company's computations to the Bureau for review.
  
7. The SERFF filing referenced in the Company's prior response was filed to be effective August 1, 2012 for the Rating Stuffer. The Company is and has been in violation of § 38.2-2214 of the Code of Virginia since August 1, 2012. Further, the Company should ensure that the filed Rating Stuffer accurately corresponds to the Company's rules and rates currently filed with the Bureau. The Company stated the filed Rating Stuffer will be implemented on December 9, 2013, and a copy of the implemented Rating Stuffer will be provided to the Bureau by Friday, December 13, 2013.

The Final Report will reflect the changes indicated above.

Sincerely,

**Andrea Baytop**

Senior Insurance Market Examiner  
P&C Market Conduct Section  
Virginia Bureau of Insurance  
804.371.9547  
[andrea.baytop@scc.virginia.gov](mailto:andrea.baytop@scc.virginia.gov)

## Andrea Baytop

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**From:** Andrea Baytop  
**Sent:** Monday, December 30, 2013 12:17 PM  
**To:** 'ROPERJ1@nationwide.com'  
**Cc:** DAVISC60@nationwide.com; Joy Morton  
**Subject:** RE: Victoria FCC Exam Report Conference Call 12/06/13 - Submission of Dec Page and Rating Stuffer

Good Afternoon,

We have reviewed the information provided in your e-mail below in response to our December 6th conference call regarding the Revised Market Conduct Report (Report) of Victoria Fire & Casualty Company (company). Unfortunately, the company's response to Items #5 and 7 did not indicate the company corrected the issues identified in the Report.

5. The Bureau requested evidence that the Victoria Fire & Casualty Company's declarations page correctly listed the Transportation Expenses endorsement. However, the company provided a declarations page for a policy underwritten by Victoria Select Insurance Company (Select). We discussed in our conference call that Select was not reviewed in this examination and that any action taken by Select would not be considered a corrective action in response to the Report. Therefore, this declarations page was not pertinent to this examination and was not sufficient evidence of the necessary correction. The company must ensure current declarations pages issued by Victoria Fire & Casualty Company correctly list the Transportation Expenses endorsement.

7. The Bureau requested evidence that the company was providing the filed Rating Stuffer to insureds with new and renewal policies. The Rating Stuffer provided in your e-mail as currently used by the company was form # VA58GEC0101207. However, the Rating Stuffer currently filed and approved by the Bureau under SERFF filing # NWSC-128336738 is form # VA98GEC0101207 1207. The Rating Stuffer currently used by the company is not in the precise wording of the filed Rating Stuffer. The company must immediately determine if it will implement the Rating Stuffer filed effective August 1, 2012 or file the Rating Stuffer currently in use by the company.

Please let us know if you have any additional questions or need any clarification of the above items.

Sincerely,

*Andrea Baytop*

Senior Insurance Market Examiner  
P&C Market Conduct Section  
Virginia Bureau of Insurance  
[andrea.baytop@scc.virginia.gov](mailto:andrea.baytop@scc.virginia.gov)

## Andrea Baytop

---

**From:** Andrea Baytop  
**Sent:** Monday, January 06, 2014 4:58 PM  
**To:** 'ROPERJ1@nationwide.com'  
**Cc:** DAVISC60@nationwide.com; Joy Morton  
**Subject:** RE: Victoria FCC Exam Report Conference Call 12/06/13 - Submission of Dec Page and Rating Stuffer

Good Afternoon,

For #5: Which forms identify the Transportation Expenses (TE) endorsement on the three different declarations pages? The only two TE form numbers indicated for Victoria Fire & Casualty on the most current forms indexes filed with the Bureau are VA98GEE0051207 and VA59GEE0050810. These form numbers did not appear on any of the three declarations pages provided.

For #7: The Rating Stuffer provided in response to the Corrective Action Plan showed form number VA58GEC0101207, which did not contain the same verbiage as the VA98GEC0101207 Rating Stuffer filed by the company. If the company has internally named two different forms with the same form number, this may have led to the cited violations. We suggest the company use a different form number for the Rating Stuffer currently used, which still needs to be filed with the Bureau. Since the company is using a form that is different than the one filed, the company will need to file the form currently in use with an effective date no earlier than the date the company files it (go-forward effective date). Virginia does not allow insurers to file rules, rates or forms with filing/implementation effective dates in the past.

Please let us know if you have any additional questions.

Thank you,

*Andrea Baytop*

Senior Insurance Market Examiner  
P&C Market Conduct Section  
Virginia Bureau of Insurance  
[andrea.baytop@scc.virginia.gov](mailto:andrea.baytop@scc.virginia.gov)



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

February 3, 2014

**VIA UPS 2<sup>nd</sup> DAY DELIVERY**

Ms. Cheryl Davis, MCM, AIRC, ACS  
Senior Market Conduct Director  
Nationwide Insurance  
One Nationwide Plaza, 1-35-102  
Columbus, Ohio 43215

Re: Market Conduct Examination  
Victoria Fire & Casualty Company (NAIC # 42889)  
Examination Period: January 1, 2011 – December 31, 2011

Dear Ms. Davis:

The Bureau of Insurance (Bureau) has concluded its review of the Company's response of September 26, 2013, the notes from our conference call of December 6, 2013 and the Company's emails of December 13, 2013 and January 13, 2014. Based upon the Bureau's review of the aforementioned correspondence, we are now in a position to conclude this examination. Enclosed is the final Market Conduct Examination Report of Victoria Fire & Casualty Company (Report).

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

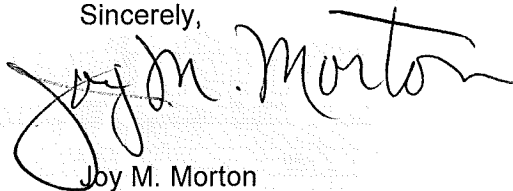
Sections 38.2-305 A, 38.2-305 B, 38.2-310 B, 38.2-502, 38.2-510 A 1, 38.2-510 A 10, 38.2-511, 38.2-604 A 1, 38.2-604 B, 38.2-604 C, 38.2-610 A, 38.2-1905 A, 38.2-1906 D, 38.2-2208 A, 38.2-2208 B, 38.2-2210 A, 38.2-2212 D, 38.2-2212 E, 38.2-2214, 38.2-2220, 38.2-2230, 38.2-2234 A, 38.2-2234 B, 38.2-2234 E of the Code of Virginia; and 14 VAC 5-400-30, 14 VAC 5-400-40 A, 14 VAC 5-400-70 A, 14 VAC 5-400-70 D of the Virginia Administrative Code.

Ms. Davis  
February 3, 2014  
Page 2

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

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

Sincerely,



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

JMM



STATE CORP COMMISSION  
BUREAU OF INSURANCE  
14 FEB 28 AM 9:49

David G. Arango  
President & COO, Titan Insurance

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

RE: Market Conduct Examination Settlement Offer

Dear Ms. Bannister:

This will acknowledge receipt of the Bureau of Insurance's letter February 10, 2014, concerning the above referenced matter.

We wish to make a settlement offer on behalf of the insurance company listed below for the alleged violations of §§ 38.2-305 A, 38.2-305 B, 38.2-310 B, 38.2-502, 38.2-510 A 1, 38.2-510 A 10, 38.2-511, 38.2-604 A 1, 38.2-604 B, 38.2-604 C, 38.2-610 A, 38.2-1905 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, 38.2-2214, 38.2-2220, 38.2-2230, 38.2-2234 A, 38.2-2234 B, 38.2-2234 E of the Code of Virginia; and 14 VAC 5-400-30, 14 VAC 5-400-40 A, 14 VAC 5-400-70 A, 14 VAC 5-400-70 D of the Virginia Administrative Code.

1. We enclose with this letter a check payable to the Treasurer of Virginia in the amount of \$72,400.00.
2. We agree to comply with the corrective action plan set forth in the company's letters of September 26, 2013, December 6, 2013 and emails of December 13, 2013 and January 13, 2014.
3. We confirm that restitution was made to 50 consumers for \$8,580.53 in accordance with the company's letters of September 26, 2013, December 6, 2013 and emails of December 13, 2013 and January 13, 2014.
4. We further acknowledge the company's right to a hearing before the State Corporation Commission in this matter and waive that right if the State Corporation Commission accepts this offer of settlement.

400097

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,

Victoria Fire & Casualty Company



(Signed)

David Arango

(Type or Print Name)

President : C.O.O.

(Title)

February 24, 2014

(Date)

Enclosure

# COMMONWEALTH OF VIRGINIA

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



**P.O. BOX 1157  
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TDD/VOICE: (804) 371-9206  
[www.scc.virginia.gov/boi](http://www.scc.virginia.gov/boi)**

Victoria Fire & Casualty Company has tendered to the Bureau of Insurance the settlement amount of \$72,400 by its check numbered 7010005048 and dated February 27, 2014, a copy of which is located in the Bureau's files.

COMMONWEALTH OF VIRGINIA  
STATE CORPORATION COMMISSION

140420005

AT RICHMOND, APRIL 9, 2014

SOC-CLERK'S OFFICE  
DOCUMENT CONTROL CENTER  
2014 APR -9 P 3: 16

COMMONWEALTH OF VIRGINIA, *ex rel.*

STATE CORPORATION COMMISSION

v.

CASE NO. INS-2014-00032

VICTORIA FIRE & CASUALTY COMPANY,

Defendant

SETTLEMENT ORDER

Based on a market conduct examination performed by the Bureau of Insurance ("Bureau"), it is alleged that Victoria Fire & Casualty Company ("Defendant"), duly licensed by the State Corporation Commission ("Commission") to transact the business of insurance in the Commonwealth of Virginia ("Commonwealth"), violated: §§ 38.2-305 A and 38.2-305 B of the Code of Virginia ("Code") by failing to provide the information required by the statute in insurance policies; § 38.2-310 B of the Code by failing to state all fees in the policies; § 38.2-502 of the Code by misrepresenting the benefits, advantages, conditions or terms of insurance policies; § 38.2-511 of the Code by failing to maintain a complete complaint register; §§ 38.2-604 A 1, 38.2-604 B, 38.2-604 C, 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 provide required notices to insureds; § 38.2-1906 D of the Code by making or issuing insurance contracts or policies not in accordance with the rate and supplementary rate information filings in effect for the Defendant; §§ 38.2-2234 B and 38.2-2234 E of the Code by failing to use credit information obtained to rate policies; §§ 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; §§ 38.2-2214 and 38.2-2220 of the Code by failing to use forms in the precise language approved by the Commission; and §§ 38.2-510 A (1) and 38.2-510 A (10) of the Code,

as well as 14 VAC 5-400-30, 14 VAC 5-400-40 A, 14 VAC 5-400-70 A, 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 Defendant has been advised of its right to a hearing in this matter whereupon the Defendant, without admitting any violation of Virginia law, has made an offer of settlement to the Commission wherein the Defendant has tendered to the Commonwealth the sum of Seventy-two Thousand Four Hundred Dollars (\$72,400), waived its right to a hearing, agreed to comply with the corrective action plan set forth in its letters to the Bureau dated September 26, 2013, and December 6, 2013, and e-mails of December 13, 2013, and January 13, 2014, and confirmed that restitution was made to 50 consumers in the amount of Eight Thousand Five Hundred Eighty Dollars and Fifty-three Cents (\$8,580.53).

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

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

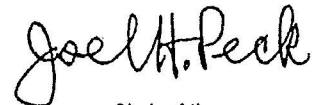
Accordingly, IT IS ORDERED THAT:

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

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

AN ATTESTED COPY hereof shall be sent by the Clerk of the Commission to: Cheryl Davis, Senior Market Conduct Director, Nationwide Insurance, One Nationwide Plaza, 1-35-102, Columbus, Ohio 43215; 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.

A True Copy  
Teste:



Clerk of the  
State Corporation Commission