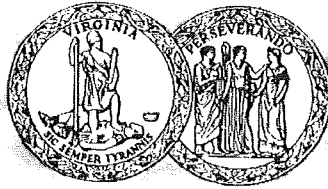


# COMMONWEALTH OF VIRGINIA



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## STATE CORPORATION COMMISSION BUREAU OF INSURANCE

I, Karen S. Gerber, Senior Insurance Market Examiner of the Bureau of Insurance, do hereby certify that the annexed copy of the Market Conduct Examination Report of Occidental Fire and Casualty Company of North Carolina as of July 1, 2014, conducted at the company's office in Bradenton, Florida is a true copy of the original Report on file with the Bureau and also includes a true copy of the company's response to the findings set forth therein, and a true copy of the Bureau's review letters and the State Corporation Commission's Order in Case No. INS-2016-00250 finalizing the Report.

**IN WITNESS WHEREOF**, I have  
hereunto set my hand and affixed  
the official seal of the Bureau  
at the City of Richmond, Virginia,  
this 31<sup>st</sup> day of January, 2017.

Karen S. Gerber  
Examiner in Charge

**MARKET CONDUCT EXAMINATION REPORT**

**OF**

**OCCIDENTAL FIRE AND CASUALTY COMPANY  
OF NORTH CAROLINA**

**AS OF**

**JULY 1, 2014**

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

**Property and Casualty Division  
Market Conduct Section**

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## INTRODUCTION

Pursuant to the authority of § 38.2-1317 of the Code of Virginia, a comprehensive examination has been made of the homeowner line of business written by Occidental Fire and Casualty of North Carolina at its office in Bradenton, Florida.

The examination commenced October 19, 2015 and concluded March 30, 2016. Brandon Ayers, Andrea D. Baytop, Karen S. Gerber, Ju'Coby Hendrick, Melody Morrissette, and Gloria V. Warriner, examiners of the Bureau of Insurance, Teresa Ratliff, Office Technician, and Joyclyn M. Morton, Market Conduct Manager of the Bureau of Insurance, participated in the work of the examination. The examination was called in the Examination Tracking System on March 20, 2015 and was assigned the examination number of VA-VA097-1. The examination was conducted in accordance with the guidelines contained in the National Association of Insurance Commissioners Market Regulation Handbook.

## COMPANY PROFILES\*

Occidental Fire & Casualty of North Carolina was incorporated on October 31, 1961 under the laws of North Carolina and began business on January 2, 1962. The words "of North Carolina" were added to the company title on July 27, 1966.

All outstanding capital stock of Occidental Fire & Casualty is owned by McM Corporation. Occidental Fire & Casualty Company of North Carolina owns 100% of the outstanding capital stock of Wilshire Insurance Company. Paid-in capital of \$2.6 million consists of 250,000 outstanding common shares at \$10.40 par value each. There are 300,000 common shares authorized. McM Corporation also owns 100% of the outstanding capital stock of Acceptance Indemnity Insurance Company and Acceptance Casualty Insurance Company, two Nebraska domiciled property-casualty companies.

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\* Source: Best's Insurance Reports, Property & Casualty, 2014 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 date the company was licensed except as noted in the table.

<b>GROUP CODE: 0225</b>	<b>OCCIDENTAL</b>
<b>NAIC Company Number:</b>	23248
LICENSED IN VIRGINIA	12/28/1962
LINES OF INSURANCE	
Accident and Sickness	
Aircraft Liability	X
Aircraft Physical Damage	
Animal	
Automobile Liability	X
Automobile Physical Damage	X
Boiler and Machinery	
Burglary and Theft	X
Commercial Multi-Peril	X
Credit	11/6/1986
Farmowners Multi-Peril	X
Fidelity	X
Fire	X
General Liability	X
Glass	X
Homeowners Multi-Peril	X
Inland Marine	X
Miscellaneous Property	X
Ocean Marine	
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 2014 for those lines of insurance included in this examination.\* This business was developed through independent agents.

<b>COMPANY AND LINE</b>	<b>PREMIUM VOLUME</b>	<b>MARKET SHARE</b>
<b>Occidental Fire &amp; Casualty Company of North Carolina</b>		
Homeowner	\$5,620,699	.2790%

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\* Source: The 2014 Annual Statement on file with the Bureau of Insurance and the Virginia Bureau of Insurance Statistical Report.

## SCOPE OF THE EXAMINATION

The examination included a detailed review of the company's homeowner line of business written in Virginia for the period beginning July 1, 2014 and ending June 30, 2015. This review included rating and underwriting, policy terminations, claims handling, forms, policy issuance,<sup>1</sup> statutory notices, agent licensing, complaint-handling, and information security practices. The purpose of this examination was to determine compliance with Virginia insurance statutes and regulations and to determine that the company's operations were consistent with public interest. The Report is by test, and all tests applied during the examination are reported.

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

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

In Part Three, the examiners list recommendations regarding the company's practices that require some action by the company. This section also summarizes the violations for which the company was cited in previous examinations.

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

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



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

### **STATISTICAL SUMMARY**

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

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

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

AREA	<u>Population</u>		<u>FILES</u>	<u>FILES NOT</u>	<u>FILES</u>	<u>ERROR</u>
	<u>Sample</u>	<u>Requested</u>				
	<u>OF&amp;C</u>	<u>TOTAL</u>			<u>ERRORS</u>	
<b><u>Homeowners</u></b>						
New Business	<u>3698</u> 60	<u>3698</u> 60	60	0	41	68%
Renewal Business	<u>4354</u> 60	<u>4354</u> 60	60	0	22	37%
Co-Initiated Cancellations <sup>1</sup>	<u>1595</u> 38	<u>1595</u> 38	33	0	32	97%
All Other Cancellations <sup>2</sup>	<u>2996</u> 35	<u>2996</u> 35	28	0	21	75%
Nonrenewals <sup>3</sup>	<u>6</u> 3	<u>6</u> 3	6	0	6	100%
<b><u>Claims</u></b>						
Property	<u>296</u> 52	<u>296</u> 52	52	0	34	65%

Footnote 1- 1 policy moved to Insd Requested, 3 policies moved to Non-Renew, 2 cancel-rewrite and not reviewed,

Footnote 2- 5 policies were 1st 90 and not reviewed - 3 policies were cancel-rewrites and not reviewed- 1 policy moved from 1st 90

Footnote 3- 3 policies moved from First 90

## **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**

#### **Homeowners New Business Policies**

The Bureau reviewed 60 new business policy files. As a result of this review, the examiners found no overcharges and undercharges totaling \$5,874.00.

The examiners found 55 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 18 instances, the company failed to use the correct discounts and/or surcharges.
- b. In 19 instances, the company failed to use the correct tier eligibility criteria.
- c. In 18 instances, the company failed to use the correct base and/or final rates.

#### **Homeowners Renewal Business Policies**

The Bureau reviewed 60 renewal business policy files. As a result of this review, the examiners found overcharges totaling \$3,738.00 and undercharges totaling \$1,062.00. The net amount that should be refunded to insureds is \$3,738.00 plus six percent (6%) simple interest.

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 five instances, the company failed to use the correct discounts and/or surcharges.
- b. In two instances, the company failed to use the correct tier eligibility criteria.
- c. In 13 instances, the company failed to use the correct base and/or final rates.
- d. In two instances, the company failed to use the correct construction type.
- e. In five instances, the company failed to rate the policy based upon credit information obtained.

### **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 – Homeowners Policies**

#### **NOTICE MAILED PRIOR TO THE 90<sup>TH</sup> DAY OF COVERAGE**

The Bureau reviewed 10 homeowner cancellations that were initiated by the company where the notices were mailed prior to the 90th day of coverage in the initial policy period. As a result of this review, the examiners found no overcharges and no undercharges.

- (1) The examiners found nine violations of § 38.2-2113 C of the Code of Virginia.
  - a. In three instances, the company failed to retain proof of mailing the cancellation notice to the insured.
  - b. In six instances, the company failed to retain proof of mailing the cancellation notice to the lienholder.

- (2) The examiners found one occurrence where the company failed to comply with the provisions of the insurance contract. The company failed to provide the lienholder with the correct number of days' notice of cancellation.

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

The Bureau reviewed 23 homeowner cancellations that were initiated by the company where the notices were mailed on or after the 90<sup>th</sup> day of coverage in the initial policy period or at any time during the term of a subsequent renewal policy. As a result of this review, the examiners found no overcharges and no undercharges.

- (1) The examiners found 24 violations of § 38.2-2113 C of the Code of Virginia.
- a. In three instances, the company failed to provide proper notice of cancellation to the lienholder.
  - b. In two instances, the company failed to retain proof of mailing the cancellation notice to the insured.
  - c. In 15 instances, the company failed to retain proof of mailing the cancellation notice to the lienholder.
  - d. In four instances, the company failed to retain the electronic notification of cancellation to the lienholder.
- (2) The examiners found 23 violations of § 38.2-2114 A of the Code of Virginia.
- a. In one instance, the company failed to mail the cancellation notice on an owner-occupied dwelling to the address shown on the policy.
  - b. In 22 instances, the company cancelled a policy insuring an owner-occupied dwelling after the 89<sup>th</sup> day of coverage for a reason not permitted by the statute.
- (3) The examiners found 23 violations of § 38.2-2114 C of the Code of Virginia.
- a. In five instances, the company failed to provide 30 days' notice of cancellation to the insured when the company cancelled the policy after

the 89<sup>th</sup> day of coverage.

- b. In four instances, the company failed to provide the specific reason for cancellation of a policy insuring an owner-occupied dwelling.
  - c. In 14 instances, the company failed to advise the insured of his right to request a review by the Commissioner of Insurance.
- (4) The examiners found five occurrences where the company failed to comply with the provisions of the insurance contract. The company failed to provide the lienholder with the correct number of days' notice of cancellation.

### **All Other Cancellations – Homeowners Policies**

#### NONPAYMENT OF THE PREMIUM

The Bureau reviewed 20 homeowner cancellations that were initiated by the company for nonpayment of the policy premium. As a result of this review, the examiners found overcharges totaling \$17.00 and no undercharges. The net amount that should be refunded to insureds is \$17.00 plus six percent (6%) simple interest.

- (1) 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 earned premium correctly.
- (2) The examiners found two violations of § 38.2-2113 A of the Code of Virginia. The company failed to obtain valid proof of mailing the cancellation notice to the insured.
- (3) The examiners found 22 violations of § 38.2-2113 C of the Code of Virginia.
  - a. In four instances, the company failed to provide proper notice of cancellation to the lienholder.
  - b. In four instances, the company failed to retain proof of mailing the cancellation notice to the insured.

- c. In one instance, the company failed to obtain a valid proof of mailing the cancellation notice to the lienholder.
  - d. In 13 instances, the company failed to retain proof of mailing the cancellation notice to the lienholder.
- (2) The examiners found 42 violations of § 38.2-2114 C of the Code of Virginia.
- a. In four instances, the company failed to provide 10 days' notice of cancellation to the insured when the company cancelled the policy on an owner occupied dwelling.
  - b. In 19 instances, the company failed to advise the insured of his right to request a review by the Commissioner of Insurance.
  - c. In 19 instances, the company failed to advise the insured of the availability of other insurance.
- (3) The examiners found one occurrence where the company failed to comply with the provisions of the insurance contract. The company failed to provide the lienholder with the correct number of days' notice of cancellation.

#### REQUESTED BY THE INSURED

The Bureau reviewed eight homeowner 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 no overcharges and no undercharges.

The examiners found one violation of § 38.2-2114 E of the Code of Virginia. The company failed to obtain a written request to cancel a policy insuring an owner-occupied dwelling.

#### **Company-Initiated Non-renewals – Homeowners Policies**

The Bureau reviewed six homeowner nonrenewals that were initiated by the company.

- (1) The examiners found eight violations of § 38.2-2113 C of the Code of Virginia.
  - a. In one instance, the company failed to provide proper notice of nonrenewal to the lienholder.
  - b. In one instance, the company failed to retain proof of mailing the nonrenewal notice to the insured.
  - c. In six instances, the company failed to retain proof of mailing the nonrenewal notice to the lienholder.
- (2) The examiners found two violations of § 38.2-2114 C of the Code of Virginia.
  - a. In one instance, the company failed to provide the specific reason for nonrenewal of a policy insuring an owner-occupied dwelling.
  - b. In one instance, the company failed to advise the insured of his right to request a review by the Commissioner of Insurance.
- (3) The examiners found one occurrence where the company failed to comply with the provisions of the insurance contract. The company failed to provide the lienholder with the correct number of days' notice of nonrenewal.

## CLAIMS REVIEW

### **Homeowner Claims**

The examiners reviewed 52 homeowner claims for the period of July 1, 2014 through June 30, 2015. 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 \$618.69 and underpayments totaling \$5,499.98. The net amount that should be paid to claimants is \$5,499.98 plus six percent (6%) simple interest.

- (1) The examiners found 13 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 nine 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 inform the insured of the benefits under the additional living expense coverage of the policy.
  - b. In two instances, the company failed to inform the insured of the replacement cost benefits under the Dwelling coverage of the policy.
  - c. In four instances, the company failed to inform the insured of the replacement cost benefits under the Personal Property coverage of the policy.

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

- (3) The examiners found one violation of 14 VAC 5-400-50 A. The company failed to acknowledge receipt of a claim within ten working days of the company's notice of a claim.
- (4) The examiners found one violation of 14 VAC 5-400-60 B. The company failed to notify the insured, in writing, every 45 days of the reason for the company's delay in completing the investigation of the claim.
- (5) The examiners found one violation of 14 VAC 5-400 70 A. The company failed to deny a claim or part of a claim, in writing, and/or failed to keep a copy of the written denial in the claim file.

- (6) The examiners found two violations of 14 VAC 5-400-70 B. The company failed to provide a reasonable explanation of the basis for its denial in the written denial of the claim.
- (7) The examiners found seven 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.
- a. In two instances, the company failed to pay the entire claim under the insureds Dwelling Replacement Cost coverage.
  - b. In three instances, the company failed to pay the entire claim under the insured's Additional Living Expense coverage.
  - c. In two instances, the company failed to pay the entire claim under the insured's replacement cost personal property coverage.

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

- (8) The examiners found two 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. The company failed to properly represent the replacement cost provisions of the policy.
- (9) The examiners found nine violations of § 38.2-510 A 3 of the Code of Virginia. The company failed to adopt and implement reasonable standards for the prompt investigation of claims arising under insurance policies.

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

- (10) The examiners found two violations of § 38.2-510 A 6 of the Code of Virginia. The company failed to attempt, in good faith, to make a prompt, fair, and

- equitable settlement of a claim in which liability was reasonably clear.
- (11) The examiners found two violations of § 38.2-510 A 10 of the Code of Virginia. The company made a claim payment to the insured or beneficiary that was not accompanied by a statement setting forth the correct coverage(s) under which payment was made.
- (12) The examiners found 12 occurrences where the company failed to comply with the provisions of the insurance contract.
- a. In four instances, the company requested the insured obtain a copy of a police report when the report should have been obtained by the company.
  - b. In seven instances, the company failed to include the lienholder on the check.
  - c. In one instance, the company paid an insured more than the insured was entitled to receive under the terms of his policy.

#### **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 each 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.

### **Homeowners Policy Forms**

The company provided copies of 45 forms that were used during the examination period to provide coverage on policies insuring risks located in Virginia.

#### POLICY FORMS USED DURING THE EXAMINATION PERIOD

The examiners found no violations in this area.

#### OTHER FORMS USED DURING THE EXAMINATION PERIOD

The examiners found no additional forms to review.

#### REVIEW OF THE POLICY ISSUANCE PROCESS

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

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

### **Homeowners Policies**

The company provided five new business policies mailed on the following dates: July 1 and July 17, 2015. In addition, the company provided five renewal business policies mailed on the following dates: July 1 and July 10, 2015.

#### NEW BUSINESS POLICIES

The examiners found no violations in this area.

**RENEWAL BUSINESS POLICIES**

The examiners found no violations in this area.

**REVIEW OF STATUTORY NOTICES**

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

To obtain copies of the statutory notices used during the examination period for the line of business listed below, the Bureau requested copies from the company. For the forms 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 property policies issued on risks located in Virginia complied with the Code of Virginia. The examiners also reviewed documents that were created by the company but were not required by the Code of Virginia. These documents are addressed in the Other Notices category below.

**General Statutory Notices**

The examiners found one violation 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 the information required by this statute.

**Statutory Property Notices**

The examiners found three violations of § 38.2-2126 A 1 of the Code of Virginia.

The company failed to include all of the information required by the statute in its Insurance Credit Score Disclosure notice.

**Other Notices**

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

The examiners found no violations in this area.

**LICENSING AND APPOINTMENT REVIEW**

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

**Agent**

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

**Agency**

- (1) The examiners found 13 violations of § 38.2-1812 of the Code of Virginia. The company failed to appoint an agency within 30 days of the date of application.
- (2) The examiners found two violations of § 38.2-1822 of the Code of Virginia. The company permitted a person to act in the capacity of an agent who was not licensed in the Commonwealth of Virginia.
- (3) The examiners found 58 violations of § 38.2-1833 of the Code of Virginia. The company failed to appoint an agent within 30 days of the date of the application.

**REVIEW OF THE COMPLAINT-HANDLING PROCESS**

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

The examiners found no violations in this area

**REVIEW OF PRIVACY AND INFORMATION SECURITY PROCEDURES**

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

The company provided its Information Security Procedures.

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

Business practices and the error tolerance guidelines are determined in accordance with the guidelines outlines in the Market Regulation Handbook. A seven percent (7%) error criterion was applied to claims. Any error ratio above this threshold 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**

Occidental Fire & Casualty of North Carolina shall:

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

### **Rating and Underwriting Review**

Occidental Fire & Casualty of North Carolina 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) Use the rules and rates on file with the Bureau. Particular attention should be given to the use of filed discounts, surcharges, tier eligibility, base and/or final



rates, construction type and update the insured's credit information at least once in a three year period.

### **Termination Review**

Occidental Fire & Casualty of North Carolina shall:

- (1) Correct the errors that caused the overcharges and send refunds to the insureds or credit the insureds' accounts the amount of the overcharge as 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) Calculate return premium according to the filed rules and policy provisions.
- (5) Obtain and retain valid proof of mailing the cancellation notice to the insured and lienholder.
- (6) Provide proper notice of cancellation or refusal to renew to the insured and lienholder.
- (7) Send the cancellation notice to the address listed on the policy.
- (8) Cancel a policy insuring an owner-occupied dwelling when the notice is mailed after the 89<sup>th</sup> day of coverage only for those reasons permitted by statute.
- (9) Provide the insured with the specific reason for the nonrenewal of his policy.
- (10) Provide the insured notice of his right to have the termination of his policy reviewed by the Commissioner of Insurance.

- (11) Send the cancellation notice at least 30 days before the effective date of cancellation when the notice is mailed after the 89th day of coverage.
- (12) Provide the insured with notice of the availability of other insurance.
- (13) Obtain advance written notice when the insured requests cancellation of the policy.

### **Claims Review**

Occidental Fire & Casualty of North Carolina shall:

- (1) Correct the errors that caused the underpayments and overpayments, and send the amount of the underpayment to insureds and claimants.
- (2) Include six percent (6%) simple interest in the amount paid to the insureds and claimants.
- (3) Complete and submit to the Bureau the enclosed file titled "Claims Underpayments Cited during the Examination." By returning the completed file to the Bureau, the companies acknowledge that they have paid the underpayments listed in the file.
- (4) Document 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 replacement cost benefits under Dwelling coverage, Personal Property coverage, and Additional Living Expense coverage.
- (6) Offer the insured an amount that is fair and reasonable as shown by the investigation of the claim, and pay the claim in accordance with the insured's policy provisions.

- (7) Adopt and implement reasonable standards for the prompt investigation of claims.

### **Review of Statutory Notices**

Occidental Fire & Casualty of North Carolina shall I:

- (1) Amend the short form Notice of Information Collection and Disclosure Practices to comply with § 38.2-604 C of the Code of Virginia.
- (2) Amend the Insurance Credit Score Disclosure notice to comply with §§ 38.2-2126 A of the Code of Virginia.

### **Licensing and Appointment Review**

Occidental Fire & Casualty of North Carolina shall I:

- (1) Appoint agents within 30 days of the application.
- (2) Only pay commissions to agencies that are appointed by the company.
- (3) Accept business only from agencies that are licensed in the Commonwealth of Virginia.

### **PART THREE – RECOMMENDATIONS**

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

#### **Termination**

- The company should include all named insureds on the proof of mailing to ensure the validity of the cancellation.
- The company should properly code terminations in the correct category.
- The company should remove the right to a review by the Commissioner on terminations issued in the first 90 days of coverage.

#### **Claims**

- The company should acknowledge correspondence that reasonably suggests a reply is expected from insureds and claimants within ten business days.
- The company should notify the insured within 45 days from the date of notification of a first party claim the reason for the delay.
- The company should make all claim denials in writing and keep a copy in the claim file.
- The company should provide a reasonable explanation of the basis for the denial in its written denial of the claim.
- The company should properly represent pertinent facts or policy provisions relating to the coverages at issue.
- The company should make a prompt, fair, and equitable settlement of a claim in which liability is reasonably clear.
- The company should include the correct statement of coverage under which payments are made with all claim payments made to insureds.
- The company should make payments to the insured for the amount he/she is entitled to receive under the terms of the policy.

- The company should include the lienholder on payments when applicable.
- The company should order and obtain police reports when available and deemed to be necessary to the investigation of a claim.

**SUMMARY OF PREVIOUS EXAMINATION FINDINGS**

This is the first time the Virginia Bureau of Insurance has conducted an examination of the company

**ACKNOWLEDGEMENT**

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

Sincerely,

A handwritten signature in black ink that reads "Karen S Gerber". The signature is written in a cursive style with a large, prominent "K" and "G".

Karen S. Gerber  
Senior Insurance Market Examiner

# COMMONWEALTH OF VIRGINIA

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



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

May 17, 2016

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

Michael D. Blinson  
Senior Vice President/Corporate Secretary  
Occidental Fire and Casualty Company of North Carolina  
702 Oberlin Road  
Raleigh, NC 27605

RE: Market Conduct Examination  
Occidental Fire and Casualty Company of North Carolina, NAIC #23248  
Examination Period: July 1, 2014 – June 30, 2015

Dear Mr. Blinson:

The Bureau of Insurance (Bureau) has conducted a market conduct examination of the above referenced company for the period of July 1, 2014, through June 30, 2015. 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. 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 responding, 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, again using the same headings and numberings as are used in the Report.

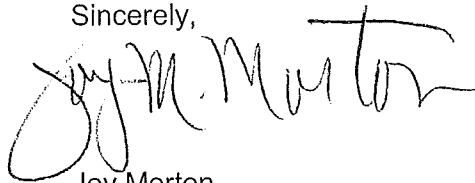
Thirdly, if the company has comments it wishes to make regarding Part Three of the Report, please use the same headings and numbering for the comments. In particular, if the examiners identified issues that were numerous but did not rise to the level of a business practice, the company should outline the actions 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 June 24, 2016.

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.

Sincerely,

A handwritten signature in black ink, appearing to read "Joy M. Morton". The signature is fluid and cursive, with a large initial "J" and "M".

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

Enclosure



# Occidental Fire & Casualty Company of North Carolina

702 OBERLIN ROAD, BOX 10800, RALEIGH, NORTH CAROLINA 27605 (919) 833-1600 1-800-525-7486 (National) 1-800-342-0753 (In N.C.)

June 24, 2016

Ms. Joy Morton  
BOI Manager  
Market Conduct Section  
Property & Casualty Division  
Virginia Bureau of Insurance  
1300 East Main Street  
Richmond, Virginia 23219

Re: Market Conduct Examination  
Occidental Fire & Casualty Company of North Carolina, NAIC #23248  
Examination Period: July 1, 2014 – June 30, 2015

Dear Ms. Morton:

Pursuant to your letter of May 17, 2016, this will provide the required responses to the above referenced examination report. Also enclosed are the completed Excel worksheets regarding identified overcharges (rating and terminations) and underpayments (claims).

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

### **CLAIMS REVIEW**

#### **Homeowners Claims**

The examiners reviewed 52 homeowner claims for the period of July 1, 2014 through June 30, 2015. 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 \$1,118.59 and underpayments totaling \$5,399.96. The net amount that should be paid to claimants is \$4,899.96 plus six percent (6%) simple interest.

#### **Company General Response:**

**The Company respectfully disagrees in part with the Bureau's findings for Reference Numbers CHO016, CHO018, CHO026, CHO043 and CHO046. The Company has,**

however taken the feedback from this examination as an opportunity to furnish additional training to pertinent claims personnel.

- (1) The examiners found 13 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.

**Company Response:**

**Ref No: CHO016**

Although the photos reflected the house may have been uninhabitable, the independent adjuster had confirmed the insured chose to stay at the residence and in fact preferred to stay at the dwelling, therefore ALE was not an incurred expense. We acknowledge the examiner did not make a note in the file of the adjuster's acknowledgement and should have done so. We again disagree with your determination that we owe ALE based on an estimated amount or at all when the insured did not leave the home or incur additional living expense.

We further disagree with the violation and observations set forth in your review in which you cite an over payment regarding tree debris removal. Please see Exhibit 1 for supporting documentation.

**Ref No: CHO018**

We respectfully disagree with your findings regarding the underpayment on this claim of \$999.99 + interest. The claim was ongoing at the time of your review. The insured was informed of the claim process numerous times from the first day the loss was reported. The insured did not agree with estimated damages at times throughout the claim process. An advance was considered and the examiner subsequently followed up with the insured regarding the outstanding content list at the time of your review along with ALE. The claim is now concluded, however and below is a list of additional items considered to bring the claim to conclusion (copies of checks attached in Exhibit 2):

- Cabinets and stolen vanity - \$9,650.00
- Contents, RCV contents, appliances, electronics and cleanable content items - \$28,818.55
- Additional living expenses - \$7,410.74

Please see Exhibit 2 for supporting documentation.

**Ref No: CHO026**

We respectfully disagree with your findings that the Company owes additional indemnity on this claim. The insured reported that while his vehicle was parked at his neighbors in November 2014, someone broke in and stole his camera and his lens. The insured valued

these items at \$1,800.00. The insured provided the original purchase receipt which did not include the lens which was listed separately. The insured claimed he purchased the lens in 2004 with a purchase price of \$600.00.

We agree with your statement that we should have advised the insured of the ACV payment on the lens with an explanation of the payment. We paid 881.56 for all of the items including ACV of the lens (\$1,881.56 less \$1,000.00 deductible). The lens we depreciated 60% based on its age being purchased in 2004. We agree we should have explained this to the insured. The insured had not submitted a receipt for the replacement of the camera lens for consideration of the Replacement Cost Benefit as of your review of the file in October, therefore no Replacement Cost Benefit had been considered.

We took corrective action and followed up with the insured both in writing and by phone explaining the available benefit on the camera lens, should the lens be replaced, cost be incurred and receipt submitted. The insured subsequently submitted a receipt dated December 2015 for the actual cost incurred to replace the camera equipment of \$1,444.64 in total (receipt attached). The insured had a \$1,000 deductible. The total claim payable at Replacement Cost less deductible was \$444.64. We have made two payments on this claim. The first payment was ACV less \$1,000.00 deductible in the amount of \$881.56 and a second, in error, for Replacement Cost benefit when the insured submitted the receipt for the replaced camera items and lens in the amount of \$360.00. Based on the information submitted we have overpaid this claim by \$786.92. It is our opinion that we do not owe an additional \$400.00 or the 6% interest.

Please see Exhibit 3 for supporting documentation.

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

**Company Response:**

**Ref No: CHO043**

We respectfully disagree with the violation cited as well as the observation outlined. Endorsement HC055211 09/11 deletes subparagraph (2) of 1.c Water Damage in Form HO 00 03. All other provisions in the policy apply.

Please see Exhibit 4 for supporting documentation.

(7) The examiners found seven violations of 14 VAC 5-400-70D. 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 the claim.

**Ref No: CHO046**

**We are in disagreement with the violation in part as well as the observation cited in reference to CHO046. It is subjective to draw an absolute conclusion that the hotel stay should have been longer based on the review of the file. The additional expenses incurred were addressed and paid. Any additional amount would be paying for expenses the insured did not incur.**

**Time line for ALE:**

- **On 10/15/14 adjuster recommended payment for ALE – paid 10/16/15**
- **On 10/23/14 adjuster advised in report he had provided the insured with an ALE worksheet to complete**
- **On 10/31/14 adjuster submitted his final report and recommended payment for ALE based on the worksheet for the additional food cost. That amount was paid on 10/31/14. At this point we were not aware of any additional receipts. Claim was closed.**
- **On 11/21/14 adjuster submitted a supplemental claim for contents only. Adjuster advised no revisions were made to the ALE portion of the claim advising the insured was not claiming any additional receipts incurred for ALE.**

**PART TWO – CORRECTIVE ACTION PLAN**

**Rating and Underwriting Review**

Occidental Fire & Casualty Company of North Carolina 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:**

**With respect to reference file RHO061, the Company calculated the premium based upon the updated insurance score and calculated the overcharge to be \$1,877.00, greater than the**

**\$1,693.00 calculated by the Bureau. This amount, plus interest, has been paid to the insured as detailed on the attached spreadsheet.**

**The Company respectfully disagrees with the examination findings for reference file RHO062. The updated insurance score did not change between the third and fourth terms and the premium amount accordingly was correct.**

**The Company respectfully disagrees with the examination findings for reference file RHO063. While the insurance score did change from the third to fourth terms (846 to 856), it did not result in a different rating tier. The term premium was correct and was not overcharged.**

**The Company respectfully disagrees with the examination findings for reference file RHO064. While the insurance score did change from the third to fourth terms (579 to 500), it did not result in a different rating tier. The term premium was correct and was not overcharged.**

**The Company respectfully disagrees with the examination findings for reference file RHO067. The updated insurance score did not change between the third and fourth terms and the premium amount accordingly was correct.**

**The Company respectfully disagrees with the examination findings for reference file RHO097. The premium calculation of \$1,007 is correct.**

- **\$544 – Non Cat adjusted base premium**
- **\$399 – Cat adjusted base premium**
- **\$14 – Other endorsements**
- **\$50 – Policy fee**

**Please see the attached supporting documentation regarding this file labeled as Exhibit A.**

**The Company respectfully disagrees with the examination findings for reference file RHO098. Updated information showing the insurance score used in the rating of this policy is enclosed directly behind the worksheet.**

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

**Company Response:**

**The Company included the 6% simple interest in the amounts credited or refunded to the insureds.**

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

**Company Response:**

**The completed file titled "Rating Overcharges Cited During the Examination" is enclosed.**

- (4) Use the rules and rates on file with the Bureau. Particular attention should be given to the use of filed discounts, surcharges, tier eligibility, base and/or final rates, construction type and update the insured's credit information at least once in a three year period.

**Company Response:**

**The Company is making the following changes based on the observations noted in Part 1.**

**Prime Time Credit – The Company will modify its quoting and application process to capture the employment status and validate age based upon date of birth input. This will be completed on or before 9/01/16.**

**Companion Policy Credit – The Company will reinforce expectations that producers keep supporting documentation when applying this credit. Additionally, producers will be subject to audits by the Company that will result in the removal of the credit if the producer cannot furnish the supporting documentation.**

**Rating for Home Features – All inforce policies will be rated for up to three home features at their next renewal. New business policies with 9/01/16 effective dates and later will be rated as filed relative to home features.**

**Protective Device Discount – The Company will reinforce with its staff the use of effective dates when processing changes. The specific policy in question, was adjusted and premium credited to the insured on 6/15/16.**

**No Prior Insurance or Lapse in Coverage – The no prior insurance adjustment is based on the producer entering information during the quote. During the application, the expiration date of the former policy is entered. The Company will add rules ensuring this information aligns within the application process or prompts the producer otherwise. This update will be made on or before 9/01/16.**

**Proximity – Inner Waterway – The Company updated its filing to reflect the Company’s original intent that the proximity – inner waterway factor only applies to the cat premium. The filing was approved effective 6/15/16.**

**Termination Review**

Occidental Fire & Casualty Company of North Carolina shall:

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

**Company Response:**

**The Company has credited or refunded the amounts noted in the file titled “Termination Overcharges Cited During the Examination” to the insureds.**

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

**Company Response:**

**The Company included 6% simple interest in the amounts credited or refunded to the insureds.**

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

**Company Response:**

**The completed file titled Termination Overcharges Cited During the Examination is enclosed.**

- (4) Calculate return premium according to the filed rules and policy procedures.

**Company Response:**

**The Company will calculate return premium in accordance with the filed rules and policy provisions.**

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

**Company Response:**

**The Company has made changes to its electronic notifications to lien holders to include advance notice of cancellation with proof of mailing. This change was implemented on 3/22/16. The Company will continue to obtain and retain valid proof of mailing on cancellation notices to insureds.**

(6) Provide proper notice of cancellation or refusal to renew to the insured and lienholder.

**Company Response:**

**The Company corrected this issue as of June 14, 2016. Procedural documents and training were provided to appropriate company staff.**

(7) Send the cancellation notice to the address listed on the policy.

**Company Response:**

**The cancellation notice in question was mailed to the correct address. The proof of mailing log was not documented accurately by a company associate and this has since been remedied through additional training.**

(8) Cancel a policy insuring an owner-occupied dwelling when the notice is mailed after the 89<sup>th</sup> day of coverage only for those reasons permitted by statute.

**Company Response:**

**The Company has taken steps to ensure compliance with Section 38.2-2114A and all related requirements.**

**Vacancy of the Property – The Company recognizes that the vacancy of the property is not a valid reason to take adverse action on the policy after the 89<sup>th</sup> day. The Company has implemented procedures that specify that no adverse action may be taken on the basis that the property is vacant.**

**Change in Occupancy Status – The Company recognizes that the change of occupancy of the property is not a valid reason to take adverse action on the policy after the 89<sup>th</sup> day. The Company has implemented procedures that specify that no adverse action may be taken on the basis of a change in occupancy.**

(9) Provide the insured with the specific reason for the nonrenewal of his policy.

**Company Response:**



**The Company will ensure specific reasons for nonrenewal are included in notices.  
Additional training and reinforcement occurred with company staff.**

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

**Company Response:**

**The Company updated the language within its notice as of November 30, 2015.**

- (11) Send the cancellation notice at least 30 days before the effective date of cancellation when the notice is mailed after the 89<sup>th</sup> day of coverage.

**Company Response:**

**The Company acknowledges this observation and has implemented updated procedures with staff.**

- (12) Provide the insured with notice of the availability of other insurance.

**Company Response:**

**The Company corrected the language within its notice as of November 20, 2015.**

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

**Company Response:**

**The Company acknowledges this observation and reinforced regulatory requirements with staff.**

#### **Claims Review**

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

**Company Response:**

**With regard to Reference Number CHO019, the Company acknowledges that it failed to properly reimburse the insured the \$1,000 deductible upon receipt of subrogation recovery. The deductible has been paid. The Company respectfully disagrees with the remaining items indicated as having been underpaid. Discussions of the reasons for the Company's disagreement are addressed in Part One of this response and supporting documentation is enclosed.**

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

**Company Response:**

**Payment of 6% interest has been provided with respect to Reference Number CHO019 as noted in item (1) above. No interest has been paid on the other items as it is the Company's position that there was no underpayment.**

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

**Company Response:**

**The file titled "Claims Underpayments Cited During the Examination" has been completed and is enclosed.**

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

**Company Response:**

**The Company acknowledges this finding. This issue was addressed as of December 15, 2015 through procedural documents and training provided to company staff.**

- (5) Document the claim file that all applicable coverages have been discussed with the insured. Particular attention should be given to replacement cost benefits under Dwelling coverage, Personal Property coverage, and Additional Living Expense

**Company Response:**

**The Company acknowledges this finding. The Company originally addressed this issue with company staff as of August 31, 2015 and followed up with procedural documents and additional training provided to company staff as of December 15, 2015.**

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

**Company Response:**

**The Company acknowledges this finding. This issue was addressed as of December 15, 2015 through procedural documents and training provided to company staff.**

- (7) Adopt and implement reasonable standards for the prompt investigation of claims.

**Company Response:**

**The Company acknowledges this finding. This issue was addressed as of December 15, 2015 through procedural documents and training provided to company staff.**

**Review of Statutory Notices**

Occidental Fire & Casualty Company of North Carolina shall:

- (1) 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:**

**The Company does not utilize a short form Notice of Information Collection and Disclosure Practices. The Company's long form complies with § 38.2-604 C of the Code of Virginia and was updated as of December 17, 2015 and included with all policies.**

- (2) Amend the insurance Credit Score Disclosure notice to comply with § 38.2-2126 A of the Code of Virginia.

**Company Response:**

**The Company will amend the insurance Credit Score Disclosure notice to comply with § 38.2-2126 A of the Code of Virginia. This will be completed on or before September 1, 2016.**

**Licensing and Appointment Review**

Occidental Fire & Casualty Company of North Carolina shall:

- (1) Appoint agents within 30 days of the application.

**Company Response:**

**The Company acknowledges this observation and has implemented new procedures to ensure business entity agencies are appointed timely as of July 15, 2015.**

- (2) Only pay commissions to agencies that are appointed by the Company.

**Company Response:**

**The Company acknowledges this observation and has implemented new procedures on July 15, 2015 to ensure commissions are paid only to agencies appointed by the Company.**

(3) Accept business only from agencies that are licensed in the Commonwealth of Virginia.

**Company Response:**

**The Company acknowledges this observation and implemented new procedures as of July 15, 2015 to ensure business entity agencies are licensed in the Commonwealth of Virginia.**

### **PART THREE – RECOMMENDATIONS**

#### **Terminations**

The Company should include all named insureds on the proof of mailing to ensure the validity of the cancellation.

**Company Response:**

**The Company will amend its process to capture all named insureds on the proof of mailing log.**

The Company should properly code terminations in the correct category.

**Company Response:**

**The Company will amend how it codes terminations in its processes.**

The Company should remove the right to a review by the Commissioner on terminations issued in the first 90 days of coverage.

**Company Response:**

**The Company updated the language used in termination notices issued in the first 90 days of coverage on December 17, 2015.**

#### **Claims**

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

**Company Response:**

**The Company provided additional procedural documents and training to company staff on December 15, 2015 to emphasize regulatory compliance.**

The Company should notify the insured within 45 days from the date of notification of a first party claim the reason for the delay.

**Company Response:**

**The Company provided additional procedural documents and training to company staff on December 15, 2015 to emphasize regulatory compliance.**

The Company should make all claim denials in writing and keep a copy in the claim file.

**Company Response:**

**The Company provided additional procedural documents and training to company staff on December 15, 2015 to emphasize regulatory compliance.**

The Company should provide a reasonable explanation of the basis for the denial in its written denial of the claim.

**Company Response:**

**The Company provided additional procedural documents and training to company staff on December 15, 2015 to emphasize regulatory compliance.**

The Company should properly represent pertinent facts or policy provisions relating to the coverages at issue.

**Company Response:**

**The Company provided additional procedural documents and training to company staff on December 15, 2015 to emphasize regulatory compliance.**

The Company should make a prompt, fair, and equitable settlement of a claim in which liability is reasonably clear.

**Company Response:**

**The Company provided additional training to company staff on December 15, 2015 to emphasize regulatory compliance.**

The Company should include the correct statement of coverage under which payments are made with all claim payments made to insureds.

**Company Response:**

**The Company provided additional procedural documents and training to company staff on December 15, 2015 to emphasize regulatory compliance.**

The Company should make payments to the insured for the amount he/she is entitled to receive under the terms of the policy.

**Company Response:**

**The Company provided additional procedural documents and training to company staff on December 15, 2015 to emphasize regulatory compliance.**

The Company should include the lienholder on payments when applicable.

**Company Response:**

**The Company provided additional procedural documents and training to company staff on December 15, 2015 to emphasize regulatory compliance. All lienholders will be included on payments when applicable.**

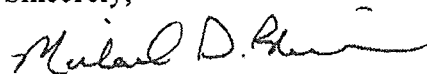
The Company should order and obtain police reports when available and deemed to be necessary to the investigation of a claim.

**Company Response:**

**The Company provided additional procedural documents and training to company staff on December 15, 2015 for securing police reports when available and needed for the investigation.**

Thank you for your assistance throughout the examination and let us know if you have any questions regarding the enclosed.

Sincerely,

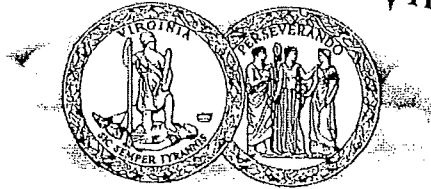


Michael D. Blinson  
Senior Vice President  
Corporate Secretary

Enclosures

# COMMONWEALTH OF VIRGINIA

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



P.O. BOX 1157  
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<http://www.scc.virginia.gov/division/bo>

August 19, 2016

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

Michael D. Blinson  
Senior Vice President/Corporate Secretary  
Occidental Fire and Casualty of North Carolina  
702 Oberlin Road  
Raleigh, NC 27605

Re: Market Conduct Examination  
Occidental Fire and Casualty of North Carolina (NAIC# 23248)  
Examination Period: June 1, 2014 – June 30, 2015

Dear Mr. Blinson:

The Bureau of Insurance (Bureau) has reviewed the July 12, 2016 response (dated June 24, 2016) to the Preliminary Market Conduct Report of Occidental Fire and Casualty of North Carolina (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 (Report). This response follows the format of the Report.

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

### **Homeowner Renewal Business Rating**

- (d) The violation for RHO098 remains in the Report. According to the rating spreadsheet provided with the response, the Company used masonry veneer rates during the new business term and during the 2015 term. The rates used during the July 3, 2014 policy period were frame rates.
- (e) The violations for RHO062, RHO063, RHO064 and RHO067 all remain in the Report. The Company has not provided evidence that the insured's credit score was the same at the renewal under review as it was three years prior to the renewal. For reconsideration please provide evidence that the insured's credit score was the same at the time of the renewal under review.

### **Homeowner Claims**

- (1) The violation for CHO016 remains in the Report. This was a large loss and the file is missing documentation regarding what the insured was told about Additional Living Expense (ALE) after the fallen tree partially collapsed the roof causing extensive damage to the home, especially to the kitchen. The file does not document how and why a mobile home arrived at the property, who called Serve Pro and what the insured was told about the next steps in the claims handling process.

The violation for CHO18 remains in the Report. There are numerous complaints from the insured regarding the handling of her personal items. The insured obtained an attorney because of delays and failing to be informed of next steps in the claim process. This was a significant fire and water damage loss. The claim file is missing documentation to support time delays, direction for repairs and when direction was given. The file is missing documentation on how the insured was involved in the repair process. This loss occurred 5/24/2014 and according to the Company's recent response, it was not concluded until late December 2015.

- (6) The violation for CHO043 remains in the Report. Endorsement HC055211 09 11 states the following "We insure, up to the limit of liability shown in the schedule above for this coverage, for direct loss caused by water which backs up through sewers or drains or which overflows from a sump.". Water back up was the cause of the loss. There was no evidence that flood waters caused the sump pump to fail and therefore, coverage should not have been denied.

- (7a) The violation for CHO043 remains in the Report. This was a covered loss as was noted in the previous Section (6) above. The company should determine the amount of the damage and reimburse the insured.

- (7b) The violation for CHO016 remains in the Report. The insured was not advised of available coverage under ALE and therefore would not have known to request reimbursement for additional meal expenses which would most certainly have been incurred considering the extensive damage to the kitchen. Further, the Company did not ask where the insured stayed on the night of the loss when the tree collapsed their roof and rain was pouring into the home. The Company has assumed that the insured incurred no meal expense, no hotel expense, and no increased utility expenses. The Company should contact the insured, inform him of ALE coverage and determine what expenses the insured is owed.

The violation for CHO018 remains in the Report. The Company has provided proof of payment for temporary housing. The Company has not provided any additional documentation regarding the insured's food, mileage, and utility expenses that were increased as a result of the loss. Additionally, the Company owes the insured six percent (6%) simple interest on the recent ACV payments for the personal property. This loss payment was unreasonably delayed. The Resitution Spreadsheet has been updated to



reflect this amount as well as the estimated remaining ALE owed to the insured.

The violation for CHO046 remains in the Report. There is no evidence or documentation that the IA advised the insured that increased water and electric expenses were covered under ALE. This loss was such that these increased expenses would be expected. The Company should contact the insured, determine the extent of the ALE loss and reimburse the insured for this covered loss.

- (7c) The violation for CHO026 remains in the Report. However, the restitution has been removed.
- (12c) The violation for CHO016 is withdrawn from the Report.

#### CORRECTIVE ACTION PLAN

#### Rating and Underwriting

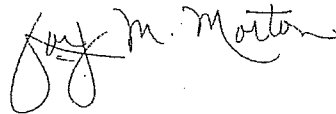
- (1) The Bureau acknowledges that the Company has made the restitution for RHO061. The Company should make the outstanding restitution to the insureds as indicated in the Revised Restitution Spreadsheet enclosed.

#### Claims

- (1) The Company should make the outstanding restitution to insureds as indicated in the Revised Restitution Spreadsheet enclosed.

We have made the changes noted above to the Market Conduct Examination Report. Enclosed with this letter is a revised version of the Report, technical reports and Restitution spreadsheet.

Sincerely,



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

## Karen Gerber

---

**From:** Mike Blinson <Mike.Blinson@iatinsurance.com>  
**Sent:** Monday, September 19, 2016 2:22 PM  
**To:** Joy Morton  
**Subject:** Market Conduct Examination - Occidental Fire & Casualty  
**Attachments:** Restitution 8-19-16.xlsx

Ms. Morton,

Pursuant to your letter of August 19, 2016, I have attached the completed Restitution spreadsheet for the market conduct examination of Occidental Fire & Casualty Company of North Carolina. I believe this completes all outstanding matters related to the examination. Please let me know if you have any questions.

Michael D. Blinson  
Senior Vice President  
Corporate Secretary

Occidental Fire & Casualty Company of North Carolina

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

October 11, 2016

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

Michael D. Blinson  
Senior Vice President/Corporate Secretary  
Occidental Fire and Casualty of North Carolina  
702 Oberlin Road  
Raleigh, NC 27605

Re: Market Conduct Examination  
Occidental Fire and Casualty of North Carolina (NAIC# 23248)  
Examination Period: June 1, 2014 – June 30, 2015

Dear Mr. Blinson:

The Bureau of Insurance (Bureau) has concluded its review of the company's response of September 19, 2016. Based upon the Bureau's review of the company's June 24, 2016, August 15, 2016 and September 19, 2016 letters, we are now in a position to conclude this examination. Enclosed is the final Market Conduct Examination Report of Occidental Fire and Casualty of North Carolina (Report).

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

Sections 38.2-510 A 3, 38.2-604 C, 38.2-1812, 38.2-1822, 38.2-1833, 38.2-1906 D, 38.2-2113 A, 38.2-2113 C, 38.2-2114 A, 38.2-2114 C, 38.2-2114 E, and 38.2-2126 A of the Code of Virginia; and 14 VAC 5-400-30, 14 VAC 5-400-40 A, and 14 VAC 5-400-70 D of the Virginia Administrative Code.

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 business of insurance 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  
Manager  
Market Conduct Section  
Property & Casualty Division  
(804) 371-9540  
[joy.morton@scc.virginia.gov](mailto:joy.morton@scc.virginia.gov)

# Occidental Fire & Casualty Company of North Carolina

702 OBERLIN ROAD, BOX 10800, RALEIGH, NORTH CAROLINA 27605 (919) 833-1600 (1-800-825-7486 (National) 1-800-342-0753 (In N.C.)

STATE CORP. COMMISSION

2016 OCT 27 AM 9:14

BUREAU OF INSURANCE

October 24, 2016

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

Re: Market Conduct Examination Settlement Offer  
INS-2016-00250:

Dear Ms. Nichols:

This will acknowledge receipt of the Bureau of Insurance's letter dated October 13, 2016, concerning the above referenced matter.

We wish to make a settlement offer on behalf of the insurance company listed below for the alleged violations of §§ 38.2-510 A 3, 38.2-604 C, 38.2-1812, 38.2-1822, 38.2-1833, 38.2-1906 D, 38.2-2113 A, 38.2-2113 C, 38.2-2114 A, 38.2-2114 C, 38.2-2114 E, and 38.2-2126 A of the Code of Virginia, and 14 VAC 5-400-30, 14 VAC 5-400-40 A, and 14 VAC 5-400-70 D of the Virginia Administrative Code.

1. We enclose with this letter a check payable to the Treasurer of Virginia in the amount of \$46,000.00.
2. We agree to comply with the corrective action plan set forth in the company's letter of June 24, 2016.
3. We confirm that restitution was made to 13 consumers for \$9,982.90 in accordance with the company's email of September 19, 2016.
4. We further acknowledge the company's right to a hearing before the State Corporation Commission in this matter and waive the right if the State Corporation Commission accepts this offer of settlement.

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

Sincerely,

Occidental Fire & Casualty Company of North Carolina

Michael D. Blinson

Michael D. Blinson

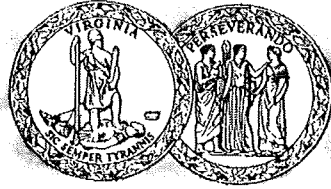
Senior Vice President / Corporate Secretary

October 24, 2016

Enclosure

# COMMONWEALTH OF VIRGINIA

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



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

Occidental Insurance Company of North Carolina has tendered to the Bureau of Insurance the settlement amount of \$46,000.00 by its check numbered 0000426397 and dated November 20, 2016, a copy of which is located in the Bureau's files.

COMMONWEALTH OF VIRGINIA  
STATE CORPORATION COMMISSION

AT RICHMOND, NOVEMBER 18, 2016

161130088

SCC-CLERK'S OFFICE  
DOCUMENT CONTROL CENTER

2016 NOV 18 P 1:02

COMMONWEALTH OF VIRGINIA, *ex rel.*

STATE CORPORATION COMMISSION

v.

CASE NO. INS-2016-00250

OCCIDENTAL FIRE AND CASUALTY  
COMPANY OF NORTH CAROLINA,  
Defendant

SETTLEMENT ORDER

Based on a market conduct examination performed by the Bureau of Insurance ("Bureau"), it is alleged that Occidental Fire and Casualty Company of North Carolina ("Defendant"), duly licensed by the State Corporation Commission ("Commission") to transact the business of insurance in the Commonwealth of Virginia ("Virginia"), violated: §§ 38.2-604 C and 38.2-2126 A of the Code of Virginia ("Code") by failing to accurately provide the required notices to insureds; §§ 38.2-1812 and 38.2-1833 of the Code by paying commissions to agencies/agents that are not appointed by the Defendant; § 38.2-1822 of the Code by knowingly permitting a person to act as an agent without first obtaining a license in the manner and form prescribed by the Commission; § 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; §§ 38.2-2113 A, 38.2-2113 C, 38.2-2114 A, 38.2-2114 C, and 38.2-2114 E of the Code by failing to properly terminate insurance policies; § 38.2-510 A (3) of the Code, as well as 14 VAC 5-400-30, 14 VAC 5-400-40 A, and 14 VAC 5-400-70 D of the Commission's Rules Governing Unfair Claim Settlement Practices,

14 VAC 5-400-10 *et seq.*, by failing to properly handle claims with such frequency as to indicate a general business practice.

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 Virginia the sum of Forty-six Thousand Dollars (\$46,000), waived its right to a hearing, agreed to comply with the corrective action plan set forth in its letters to the Bureau dated June 24, 2016, and October 24, 2016, and confirmed that restitution was made to 13 consumers in the amount of Nine Thousand Nine Hundred Eighty-two Dollars and Ninety Cents (\$9,982.90).

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.

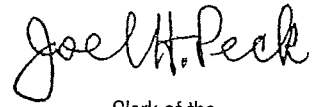
Accordingly, IT IS ORDERED THAT:

- (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:  
Michael D. Blinson, Senior Vice President/Corporate Secretary, Occidental Fire and Casualty of  
North Carolina, 702 Oberlin Road, Raleigh, North Carolina 27605; and a copy shall be delivered  
to the Commission's Office of General Counsel and the Bureau of Insurance in care of Deputy  
Commissioner Rebecca Nichols.

A True Copy  
Teste:



Clerk of the  
State Corporation Commission