

MARKET CONDUCT EXAMINATION REPORT

OF

**AMERICAN STRATEGIC INSURANCE
CORPORATION**

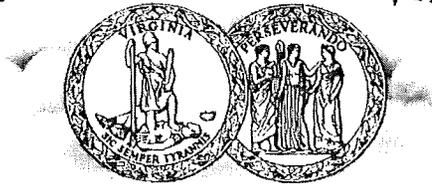
AS OF

DECEMBER 31, 2015

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

**Property and Casualty Division
Market Conduct Section**

COMMONWEALTH OF VIRGINIA



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STATE CORPORATION COMMISSION BUREAU OF INSURANCE

I, Karen S. Gerber, Senior Insurance Market Examiner of the Bureau of Insurance, do hereby certify that the annexed copy of the Market Conduct Examination Report of American Strategic Insurance Corporation as of December 31, 2015, conducted at the company's office in St. Petersburg, 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-2017-00159 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 21st day of August, 2017.

Examiner in Charge

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INTRODUCTION

Pursuant to the authority of § 38.2-1317 of the Code of Virginia, a comprehensive examination has been made of the homeowner line of business written by American Strategic Insurance Corporation at its office in St. Petersburg, Florida.

The examination commenced June 6, 2016 and concluded December 20, 2016. Brandon Ayers, Karen S. Gerber, Ju'Coby Hendrick, and Melody Morrissette, 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 January 29, 2016 and was assigned the examination number of VA-VA097-5. The examination was conducted in accordance with the guidelines contained in the National Association of Insurance Commissioners Market Regulation Handbook.

COMPANY PROFILE*

American Strategic Insurance Corporation was incorporated in the state of Florida on August 18, 1997. It received its Certificate of Authority on December 18, 1997 and began writing business on January 1, 1998.

The company is a wholly owned subsidiary of ARX Holding Corp., a Delaware domiciled holding company. ARX Holding Corp. is owned by XL Re Ltd., a subsidiary of XL Capital Limited (39.7%), Fasteau Insurance Holdings, LLC (8.4%), Marc Fasteau, chairman of the board (7.6%), Flexpoint Fund, L.P. (6.6%), PC Investment Company (4.9%), New Capital Partners Private Equity Fund, L.P. (1.1%) and management (31.7%).

* 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 April 17, 2008.

GROUP CODE:	ASIC
NAIC Company Number	10872
LICENSED IN VIRGINIA	4/17/2008
LINES OF INSURANCE	
Accident and Sickness	
Aircraft Liability	
Aircraft Physical Damage	
Animal	
Automobile Liability	
Automobile Physical Damage	
Boiler and Machinery	
Burglary and Theft	
Commercial Multi-Peril	x
Credit	
Farmowners Multi-Peril	
Fidelity	
Fire	x
General Liability	x
Glass	
Homeowners Multi-Peril	x
Inland Marine	x
Miscellaneous Property	
Ocean Marine	
Surety	
Water Damage	
Workers' Compensation	

The table below shows the company's premium volume and approximate market share of business written in Virginia during 2015 for the line of insurance included in this examination.* This business was developed through independent agents.

COMPANY AND LINE	PREMIUM VOLUME	MARKET SHARE
American Strategic Ins Co	\$19,019,679	.93%

* Source: The 2015 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 January 1, 2014 and ending December 31, 2015. This review included rating and underwriting, policy terminations, claims handling, forms, policy issuance,¹ statutory notices, agent licensing, complaint-handling, and information security practices. The purpose of this examination was to determine compliance with Virginia insurance statutes and regulations and to determine that the company's operations were consistent with public interest. The Report is by test, and all tests applied during the examination are reported.

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

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

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

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

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

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

STATISTICAL SUMMARY

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

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

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

**Population
Sample Requested**

AREA	ASI	TOTAL	FILES REVIEWED	FILES NOT FOUND	FILES WITH ERRORS	ERROR RATIO
Homeowners						
New Business		<u>13,429</u> 60	60	0	34	57%
Renewal Business ¹		<u>38,058</u> 60	48	0	28	58%
Co-Initiated Cancellations ²		<u>612</u> 30	24	0	24	100%
All Other Cancellations ³		<u>8,077</u> 48	22	0	16	73%
Nonrenewals		<u>441</u> 9	9	0	7	78%
Claims						
Property ⁴		<u>2,126</u> 90	88	0	37	42%

Footnote ¹- Twelve policies were not reviewed

Footnote ²- Six policies were not reviewed (1 was an expiration, 2 were insured requested, 2 were rewrites)

Footnote ³- 26 policies were not reviewed (25 were expirations and 1 cancelled flat)

Footnote ⁴- Two claims were not reviewed. (1 policy did not match insured name, 1 loss reported in error)

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. During this review, the examiners found overcharges totaling \$11.00 and undercharges totaling \$353.00. The net amount that should be refunded to insureds is \$11.00 plus six percent (6%) simple interest.

- (1) The examiners found 16 violations of § 38.2-1906 D of the Code of Virginia. The company failed to use the rules and rates on file with the Bureau of Insurance.
 - a. In 11 instances, the company failed to use the correct discounts and/or surcharges.
 - b. In two instances, the company failed to use the correct base and/or final rates.
 - c. In three instances, the company failed to use the correct public protection class.
- (2) The examiners found eight violations of § 38.2-2104 of the Code of Virginia. The company failed to make coverage effective at 12:01 AM as required by the statute.
- (3) The examiners found 24 violations of § 38.2-2126 A of the Code of Virginia. The company failed to provide the credit adverse action notice.

Homeowners Renewal Business Policies

The Bureau reviewed 59 renewal business policy files. During this review, the examiners found overcharges totaling \$526.32 and undercharges totaling \$909.12. The net amount that should be refunded to insureds is \$526.32 plus six percent (6%) simple interest.

- (1) The examiners found 28 violations of § 38.2-1906 D of the Code of Virginia. The company failed to use the rules and rates on file with the Bureau of Insurance.
 - a. In 17 instances, the company failed to use the correct discount and/or surcharges.
 - b. In one instance, the company failed to use the correct tier eligibility criteria.
 - c. In seven instances, the company failed to use the correct base and/or final rate.
 - d. In two instances, the company failed to use the correct public protection class.
 - e. In one instance, the company failed to update the insured's credit information at least once in a three year period.
- (2) The examiners found six violations of § 38.2-2104 of the Code of Virginia. The company failed to make coverage effective at 12:01 AM as required by the statute.
- (3) The examiners found 11 violations of § 38.2-2126 A of the Code of Virginia. The company failed to provide the credit adverse action notice.

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 90TH DAY OF COVERAGE

The Bureau reviewed eight 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. During this review, the examiners found no overcharges and no undercharges.

- (1) The examiners found eight violations of § 38.2-610 A of the Code of Virginia. The company failed to provide the insured with a written Adverse Underwriting Decision notice (AUD).
- (2) The examiners found two violations of § 38.2-2113 C 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.

NOTICE MAILED AFTER THE 89TH DAY OF COVERAGE

The Bureau reviewed 16 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. During this review, the examiners found overcharges totaling \$1,765.00 and no undercharges. The net amount that should be refunded to insureds is \$1,765.00 plus six percent (6%) simple interest.

- (1) The examiners found 15 violations of § 38.2-610 A of the Code of Virginia. The company failed to provide the applicant with a written AUD notice.
- (2) The examiners found 11 violations of § 38.2-2113 C of the Code of Virginia.
 - a. In one instance, the company failed to retain the cancellation notice sent

- to the lienholder.
- b. In five instances, the company failed to retain proof of mailing the cancellation notice to the insured.
 - c. In five instances, the company failed to retain proof of mailing the cancellation notice to the lienholder.
- (3) The examiners found 18 violations of § 38.2-2114 A of the Code of Virginia.
- a. In one instance, the company failed to provide a notice of cancellation to the insured.
 - b. In three instances, the company failed to mail the cancellation notice on an owner-occupied dwelling to the address shown on the policy.
 - c. In 14 instances, the company cancelled a policy insuring an owner-occupied dwelling after the 89th day of coverage for a reason not permitted by the statute.
- (4) The examiners found three violations of § 38.2-2114 C of the Code of Virginia. The company failed to provide 30 days' notice of cancellation to the insured when the company cancelled the policy after the 89th day of coverage.
- (5) The examiners found two occurrences where the company failed to comply with the provisions of the insurance contract. The company failed to refund earned premium to the insured.

All Other Cancellations – Homeowners Policies

NONPAYMENT OF THE PREMIUM

The Bureau reviewed 18 homeowner cancellations that were initiated by the company for nonpayment of the policy premium. During this review the examiners found no overcharges and no undercharges:

- (1) The examiners found five violations of § 38.2-2113 C of the Code of Virginia.

- a. In two instances, the company failed to retain proof of mailing the cancellation notice to the insured.
 - b. In one instance, the company failed to obtain valid proof of mailing the cancellation notice to the lienholder.
 - c. In one instance, the company failed to retain proof of mailing the cancellation notice to the lienholder.
 - d. In one instance, the company failed to retain the cancellation notice sent to the insured.
- (2) The examiners found 24 violations of § 38.2-2114 C of the Code of Virginia.
- a. In 12 instances, the company failed to advise the insured of his right to request a review by the Commissioner of Insurance.
 - b. In 12 instances, the company failed to advise the insured of the availability of other insurance.

REQUESTED BY THE INSURED

The Bureau reviewed four homeowner cancellations that were initiated by the insured where the cancellation was to be effective during the policy term. During this review, the examiners found no overcharges and no undercharges.

The examiners found two violations 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 nine homeowner nonrenewals that were initiated by the company.

- (1) The examiners found seven violations of § 38.2-610 A of the Code of Virginia. The company failed to provide the insured with a written AUD notice.

- (2) The examiners found two violations of § 38.2-2113 C 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.

CLAIMS REVIEW

Homeowners Claims

The examiners reviewed 88 homeowner claims for the period of January 1, 2014 through December 31, 2015. The findings below appear to be contrary to the standards set forth by Virginia insurance statutes and regulations. During this review, the examiners found overpayments totaling \$12,781.68 and underpayments totaling \$1,741.34. The net amount that should be paid to claimants is \$1,716.34 plus six percent (6%) simple interest.

- (1) The examiners found 10 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 five 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.
 - b. In one instance, the company failed to inform the insured of the

- replacement cost benefits under the Dwelling coverage.
- c. In one instance, the company failed to inform the insured of the replacement cost benefits under the Personal Property coverage.
- (3) The examiners found three 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.
- (4) The examiners found three 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.
- (5) The examiners found five 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 one instance, the company failed to pay the entire claim under the insureds Dwelling Replacement Cost coverage.
- b. In two 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.
- (6) The examiners found one violation of § 38.2-236 A of the Code of Virginia. The company failed to notify the claimant within five days when the company issued a settlement payment \$5,000.00 or greater to the claimant's attorney or other representative.
- (7) The examiners found 12 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.

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

- (8) The examiners found four violations of § 38.2-510 A 3 of the Code of Virginia. The company failed to adopt and implement reasonable standards for the prompt investigation of claims arising under insurance policies.
- (9) The examiners found one violation of § 38.2-510 A 10 of the Code of Virginia. The company made a claim payment to the insured or beneficiary that was not accompanied by a statement setting forth the correct coverage(s) under which payment was made.
- (10) The examiners found eight occurrences where the company failed to comply with the provisions of the insurance contract. The company paid an insured more than he/she was entitled to receive under the terms of his policy.

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

REVIEW OF FORMS

The examiners reviewed the 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.

Homeowners Policy Forms

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 violations in this area.

REVIEW OF THE POLICY ISSUANCE PROCESS

To obtain sample policies to review the company's policy issuance process for the line of business examined, the examiners requested five new and five 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 listed and enclosed 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: January 12, 13, February 10, 17 and 22, 2016. In addition, the company provided five

renewal business policies mailed on the following dates: December 12, 15, and 30, 2015 and March 1, 2016.

NEW BUSINESS POLICIES

- (1) The examiners found five violations of § 38.2-305 B of the Code of Virginia. The company failed to provide the Important Information to Policyholders notice as required by the statute.
- (2) The examiners found five violations of § 38.2-2118 of the Code of Virginia. The company failed to provide the Replacement Cost Coverage notice as required by the statute.
- (3) The examiners found five violations of § 38.2-2126 A of the Code of Virginia. The company failed to provide the Credit Score Disclosure notice at the time of application as required by the statute.

RENEWAL BUSINESS POLICIES

- (1) The examiners found three violations of § 38.2-305 A of the Code of Virginia. The company failed to specify accurate information in the policy as required by the statute. The company failed to include the effective time of coverage on the declarations page.
- (2) The examiners found five violations of § 38.2-305 B of the Code of Virginia. The company failed to provide the Important Information to Policyholders notice as required by the statute.
- (3) The examiners found one violation of § 38.2-2120 of the Code of Virginia. The company failed to provide the notice offering the insured the option of purchasing coverage for damage caused by water that backs up through sewers and drains as required by the statute.
- (4) The examiners found one violation of § 38.2-2124 of the Code of Virginia. The company failed to provide the Ordinance and Law notice as required by the as

required by the statute.

REVIEW OF STATUTORY NOTICES

To obtain sample policies to review the content of the statutory notices that the company is required to provide to insureds and used by the company for the line of business examined, the examiners used the same new business policy and renewal business policy mailings that were previously described. The details of these policies have been set forth previously under 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.

General Statutory Notices

- (1) The examiners found one violation of § 38.2-305 B of the Code of Virginia. The company failed to have available for use the Important Information Regarding Your Insurance notice.
- (2) 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 include all of the information required by the statute.
- (3) 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 include all the information required by the statute.
- (4) The examiners found two violation of § 38.2-604.1 B of the Code of Virginia. The company's Financial Information Collection and Disclosure Practices did not include all of the information required by the statute.
- (5) The examiners found one violation of § 38.2-610 A of the Code of Virginia. The company's AUD notice did not comply with the requirements of the statute.

Statutory Property Notices

- (1) The examiners found one violation of § 38.2-2118 of the Code of Virginia. The company's Replacement Cost provisions notice did not comply with the requirements of the statute.
- (2) The examiners found one violation of § 38.2-2125 of the Code of Virginia. The company failed to include all of the information required by the statute in its Flood Exclusion notice.
- (3) The examiners found two violations of § 38.2-2126 A of the Code of Virginia.
 - a. In one instance, the company failed to include all of the information required by the statute in its Credit Score Disclosure notice.
 - b. In one instance, the company failed to include all of the information required by the statute in its Credit Score Adverse Action notice.
- (4) The examiners found one violation of § 38.2-2129 of the Code of Virginia. The company failed to have available for use the Earthquake Exclusion notice.

Other Notices

The company provided ten copies of other notices and documents including applications and cancellation notices that were used during the examination period.

The examiners found two violations of § 38.2-1906 A of the Code of Virginia.

The company's Premium Notice included incorrect installment fees.

LICENSING AND APPOINTMENT REVIEW

A review was made of new business homeowner policies to verify that the agent of record for those policies reviewed was licensed and appointed to write business for the company as required by Virginia insurance statutes. In addition, the agent or agency to

which the company paid commission for these new business policies was reviewed to verify that the entity held a valid Virginia license and was appointed by the company.

Agent

- (1) The examiners found 14 violations of § 38.2-1822 A of the Code of Virginia. The company permitted a person to act in the capacity of an agent who was not licensed in Virginia.
- (2) The examiners found 14 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

The examiners found two 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.

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 standards set forth by the NAIC. Any error ratio above these guidelines indicates a general business practice. The threshold applied to claims handling is seven percent (7%). In some instances, such as filing requirements, forms, notices, and agent licensing, the Bureau applies a zero tolerance standard. This section identifies the violations that were found to be business practices of Virginia insurance statutes and regulations.

General

American Strategic Insurance Corp. shall:

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

Rating and Underwriting Review

American Strategic Insurance Corp. shall:

- (1) Correct the errors that caused the overcharges and undercharges and send refunds to the insureds or credit the insureds' accounts the amount of the overcharge as the date the error first occurred.
- (2) Include six percent (6%) simple interest in the amount refunded and/or credited to the insureds' accounts.
- (3) Complete and submit to the Bureau, the enclosed file titled "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, base and/or final rates, tier eligibility, and

public protection classifications.

- (5) Make coverage in effective at 12:01 A.M. as required for all statutory fire insurance policies.
- (6) Provide the Credit Adverse Action notice as required by § 38.2-2126 A of the Code of Virginia.
- (7) Update the insured's credit information at least once in a three year period or when requested by the insured.

Termination Review

American Strategic Insurance Corp. shall:

- (1) Correct the errors that caused the overcharges and undercharges and send refunds to the insureds or credit the insureds' accounts the amount of the overcharge as the date the error first occurred.
- (2) Include six percent (6%) simple interest in the amount refunded and/or credited to the insureds' accounts.
- (3) Complete and submit to the Bureau, the enclosed file titled "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) Provide the insured with a written AUD notice.
- (5) Obtain and retain valid proof of mailing cancellation and non-renewal notices to the insured and lienholder
- (6) Retain the cancellation notice sent to the insured.
- (7) Send notice of cancellation or nonrenewal to the insured.
- (8) Send cancellation notices at least 30 days before the effective date of cancellation when a policy is after the 89th day of coverage.

- (9) Cancel an owner-occupied dwelling policy after the 89th day of coverage only for the reasons permitted by the statute.
- (10) Provide the insured notice of his right to have the termination of his policy reviewed by the Commissioner of Insurance
- (11) Provide the insured with notice of the availability of insurance through the VPIA in the cancellation notice of an owner-occupied dwelling policy.
- (12) Obtain written notice when the insured requests cancellation of the policy sent to the insured.

Claims Review

American Strategic Insurance Corp. 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) Properly document claim files so that all events and dates pertinent to the claim can be reconstructed.
- (5) Properly represent pertinent facts or insurance provisions relating to the replacement cost provisions of the policy.

Review of Policy Issuance Process

American Strategic Insurance Corp. shall:

- (1) Specify accurate information in the policy by showing the time the policy becomes effective.
- (2) Provide the Important Information to Policyholders notice as required by the Code of Virginia.
- (3) Provide the Replacement Cost Coverage notice with all new and renewal policies as required by the Code of Virginia.
- (4) Offer the insured the option of purchasing coverage for damage caused by water that backs up through sewers and drains as required by the Code of Virginia.
- (5) Provide the Ordinance and Law Coverage notice with all new and renewal policies as required by the Code of Virginia.
- (6) Provide the Credit Score Disclosure notice to an applicant or insured when using credit for rating, tier placement or underwriting a policy.

Review of Statutory Notices

American Strategic Insurance Corp. shall:

- (1) Develop an Important Information Regarding Your Insurance notice to comply with § 38.2-305 B of the Code of Virginia.
- (2) Amend the long form Notice of Information Collection and Disclosure Practices to comply with § 38.2-604 B of the Code of Virginia.
- (3) Amend the short form Notice of Information Collection and Disclosure Practices to comply with § 38.2-604 C of the Code of Virginia.
- (4) Amend the Notice of Financial Information Collection and Disclosure Practices to comply with § 38.2-604.1 B of the Code of Virginia.
- (5) Amend the AUD notice to comply with § 38.2-610 A of the Code of Virginia.

- (6) Amend the Premium Notice to correctly identify the applicable installment fee.

Statutory Property Notices

- (1) Develop a Replacement Cost notice to comply with § 38.2-2118 of the Code of Virginia.
- (2) Amend the Flood Exclusion notice to comply with § 38.2-2125 of the Code of Virginia.
- (3) Amend the Credit Score Disclosure notice and the Credit Score Adverse Action notice to comply with § 38.2-2126 A of the Code of Virginia.
- (4) Develop an Earthquake Exclusion notice to comply with § 38.2-2129 of the Code of Virginia.

Licensing and Appointment Review

American Strategic Insurance Corp. shall:

- (1) Appoint agents within 30 days of the application.
- (2) Pay commissions only to agencies that are appointed by the company.
- (3) Accept business only from agents and agencies that have a current license from 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 company. The company should carefully scrutinize these errors and correct the causes before these errors become business practices. The following errors will not be included in the settlement offer:

RECOMMENDATIONS

We recommend that the company take the following actions:

Terminations

- The company should properly code terminations in the correct category. Special attention should be given to insured requested, cancellations after the 89th day, and non-pay cancellations.

Claims

- The company should modify its form letter to clarify that the insured is not required to obtain a police report on behalf of the company.
- The company should accurately represent pertinent facts or insurance provisions relating to the additional living expense benefits as well as the replacement cost provisions of the policy.
- The company should make all claim denials in writing and keep a copy in the claim file.
- 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 notify the claimant within five business days when a settlement check \$5000.00 or greater is sent to the claimant's attorney or representative.
- The company should adopt and implement reasonable standards for the prompt investigation of claims.
- The company should include a correct statement of the coverages under which payments are made with all claim payments to insureds.

Policy Issuance Process

The company should update the edition date on the declaration pages for the Increased Replacement Cost Coverage form ASI HO VA IRC.

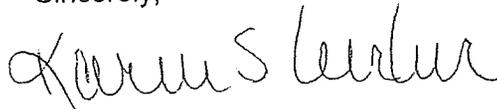
SUMMARY OF PREVIOUS EXAMINATION FINDINGS

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 company during the course of the examination is gratefully acknowledged.

Sincerely,

A handwritten signature in cursive script, appearing to read "Karen S Gerber".

Karen S. Gerber
Senior Insurance Market Examiner

COMMONWEALTH OF VIRGINIA



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

January 6, 2017

VIA UPS 2nd DAY DELIVERY

Maria Bellido
Compliance Leader
American Strategic Insurance Corporation
1 ASI Way
Saint Petersburg, Florida, 33702

RE: American Strategic Insurance Corporation - NAIC# 10872
Market Conduct Examination
Examination Period: January 1, 2014 – December 31, 2015

Dear Ms. Bellido:

The Bureau of Insurance (Bureau) has conducted a market conduct examination of the above referenced company for the period of January 1, 2014, through December 31, 2015. The preliminary examination report (Report) has been drafted for the company's review.

Enclosed with this letter is a copy of the Report and copies of review sheets that have been added, withdrawn or revised since December 20, 2016. Also enclosed are several technical reports that will provide you with the specific file references for the violations listed in the Report.

Since there appears to have been 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. The company does not need to respond to any particular item with which it agrees. If the company disagrees with an item or wishes to further comment on an item, please do so in Part One of the Report. Please be aware that the examiners are unable to remove an item from the Report or modify a violation unless the company provides written documentation to support its position. When the company responds, please do not include any personal identifiable or privileged information (names, policy numbers, claim numbers, addresses). If the company needs to reference any of this information please use exhibits or appendices. In addition, please use the same format (headings and numbering) as found in the Report. If not, the response will be returned to the company to be put in the correct order. By adhering to this practice, it will be much easier to track the responses against the Report.

Secondly, the company must provide a corrective action plan that addresses all of the issues identified in the examination, again using the same headings and numberings as are used in the Report.

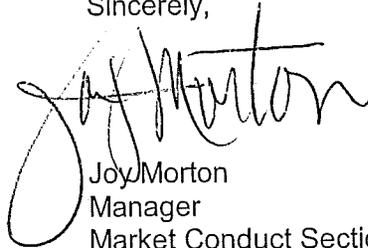
Thirdly, if the company has comments it wishes to make regarding Part Three of the Report, please use the same headings and numbering for the comments. In particular, if the examiners identified issues that were numerous but did not rise to the level of a business practice, the company should outline the actions 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 February 13, 2017.

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,



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



~~June 27, 2017~~ February 24, 2017

Joy M. Morton
Supervisor
Market Conduct Section
Property & Casualty Division (804)
Commonwealth of Virginia
P.O. Box 1157
Richmond, VA 23218

Re: American Strategic Insurance Corp. (NAIC #10872)
Market Conduct Examination
Examination Period: January 1, 2014 – December 31, 2015

Dear Ms. Morton,

Attached, in separate files, is American Strategic Insurance Company's response to the Market Conduct Exam.

As requested by Ms. Gerber, we have provided files that supplement the report to include additional supporting documentation for areas in which ASI seeks further consideration. We have enclosed spreadsheets with the refunds and claim overpayments that have been processed.

We would like to thank you and your team for the efficiency and professional attitudes shown throughout the exam. We also appreciate the opportunity to provide additional documentation we believe supports ASI's positions and look forward to the continued dialogue as we conclude the examination process.

If there are items in the report you or your team have questions about or need additional information on, please feel free to contact me.

Sincerely,

Maria Bellido
Compliance Leader
866-274-8765 ext. 1130

1 ASI Way • St. Petersburg, FL 33702
P: 866-274-8765 • www.AmericanStrategic.com

PROGRESSIVE

The ASI Group is an affiliate of The Progressive Corporation and is rated A (Excellent) by A.M. Best Co.

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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 American Strategic Insurance Corporation at its office in St. Petersburg, Florida.

The examination commenced June 6, 2016 and concluded December 20, 2016. Brandon Ayers, Karen S. Gerber, Ju'Coby Hendrick, and Melody Morrissette, 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 January 29, 2016 and was assigned the examination number of VA-VA097-5. The examination was conducted in accordance with the guidelines contained in the National Association of Insurance Commissioners Market Regulation Handbook.

COMPANY PROFILE*

American Strategic Insurance Corporation was incorporated in the state of Florida on August 18, 1997. It received its Certificate of Authority on December 18, 1997 and began writing business on January 1, 1998.

The company is a wholly owned subsidiary of ARX Holding Corp., a Delaware domiciled holding company. ARX Holding Corp. is owned by XL Re Ltd., a subsidiary of XL Capital Limited (39.7%), Fasteau Insurance Holdings, LLC (8.4%), Marc Fasteau, chairman of the board (7.6%), Flexpoint Fund, L.P. (6.6%), PC Investment Company (4.9%), New Capital Partners Private Equity Fund, L.P. (1.1%) and management (31.7%).

* 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 April 17, 2008.

GROUP CODE:	ASIC
NAIC Company Number	10872
LICENSED IN VIRGINIA	4/17/2008
LINES OF INSURANCE	
Accident and Sickness	
Aircraft Liability	
Aircraft Physical Damage	
Animal	
Automobile Liability	
Automobile Physical Damage	
Boiler and Machinery	
Burglary and Theft	
Commercial Multi-Peril	X
Credit	
Farmowners Multi-Peril	
Fidelity	
Fire	X
General Liability	X
Glass	
Homeowners Multi-Peril	X
Inland Marine	X
Miscellaneous Property	
Ocean Marine	
Surety	
Water Damage	
Workers' Compensation	

The table below shows the company's premium volume and approximate market share of business written in Virginia during 2015 for the line of insurance included in this examination.* This business was developed through independent agents.

COMPANY AND LINE	PREMIUM VOLUME	MARKET SHARE
American Strategic Ins Co	\$19,019,679	.93%

* Source: The 2015 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 January 1, 2014 and ending December 31, 2015. This review included rating and underwriting, policy terminations, claims handling, forms, policy issuance,¹ statutory notices, agent licensing, complaint-handling, and information security practices. The purpose of this examination was to determine compliance with Virginia insurance statutes and regulations and to determine that the company's operations were consistent with public interest. The Report is by test, and all tests applied during the examination are reported.

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

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

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

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

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

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

STATISTICAL SUMMARY

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

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

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

AREA	<u>Population</u>					<u>ERROR RATIO</u>
	<u>ASI</u>	<u>TOTAL</u>	<u>FILES REVIEWED</u>	<u>FILES NOT FOUND</u>	<u>FILES WITH ERRORS</u>	
<u>Homeowners</u>						
New Business		<u>13,429</u> 60	60	0	34	57%
Renewal Business ¹		<u>38,058</u> 60	59	0	28	47%
Co-Initiated Cancellations ²		<u>612</u> 30	24	0	24	100%
All Other Cancellations ³		<u>8,077</u> 48	22	0	16	73%
Nonrenewals		<u>441</u> 9	9	0	7	78%
<u>Claims</u>						
Property ⁴		<u>2,126</u> 90	88	0	39	44%

Footnote ¹- One policy was an expiration and was not reviewed

Footnote ²- Six policies were not reviewed (1 was an expiration, 2 were insured requested, 2 were rewrites)

Footnote ³- 26 policies were not reviewed (25 were expirations and 1 cancelled flat)

Footnote ⁴- Two claims were not reviewed. (1 policy did not match insured name, 1 loss reported in error)

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. During this review, the examiners found overcharges totaling \$11.00 and undercharges totaling \$353.00. The net amount that should be refunded to insureds is \$11.00 plus six percent (6%) simple interest.

The company does not have objections to the findings in this section

- (1) The examiners found 16 violations of § 38.2-1906 D of the Code of Virginia. The company failed to use the rules and rates on file with the Bureau of Insurance.
 - a. In 11 instances, the company failed to use the correct discounts and/or surcharges.
 - b. In two instances, the company failed to use the correct base and/or final rates.
 - c. In three instances, the company failed to use the correct public protection class.
- (2) The examiners found eight violations of § 38.2-2104 of the Code of Virginia. The company failed to make coverage effective at 12:01 AM as required by the statute.
- (3) The examiners found 24 violations of § 38.2-2126 of the Code of Virginia. The

company failed to provide the credit adverse action notice

Homeowners Renewal Business Policies

The Bureau reviewed 59 renewal business policy files. During this review, the examiners found overcharges totaling \$401.32 and undercharges totaling \$983.12. The net amount that should be refunded to insureds is \$401.32 plus six percent (6%) simple interest.

The company does not have objections to the findings in this section

- (1) The examiners found 28 violations of § 38.2-1906 D of the Code of Virginia. The company failed to use the rules and rates on file with the Bureau of Insurance.
 - a. In 17 instances, the company failed to use the correct discount and/or surcharges.
 - b. In one instance, the company failed to use the correct tier eligibility criteria.
 - c. In seven instances, the company failed to use the correct base and/or final rate.
 - d. In two instances, the company failed to use the correct public protection class.
 - e. In one instance, the company failed to update the insured's credit information at least once in a three year period.
- (2) The examiners found six violations of § 38.2-2104 of the Code of Virginia. The company failed to make coverage effective at 12:01 AM as required by the statute.
- (3) The examiners found 12 violation of § 38.2-2126 of the Code of Virginia. The company failed to provide the credit adverse action notice.

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.

The company does not have objections to the findings in this section

Company-Initiated Cancellations – Homeowners Policies

NOTICE MAILED PRIOR TO THE 90TH DAY OF COVERAGE

The Bureau reviewed eight 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. During this review, the examiners found no overcharges and no undercharges.

The company does not have objections to the findings in this section

- (1) The examiners found eight violations of § 38.2-610 A of the Code of Virginia. The company failed to provide the insured with a written Adverse Underwriting Decision notice (AUD).
- (2) The examiners found two violations of § 38.2-2113 C 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.

NOTICE MAILED AFTER THE 89TH DAY OF COVERAGE

The Bureau reviewed 16 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. During this review, the examiners found overcharges totaling \$1,016.99 and no undercharges. The net amount that should be refunded to insureds is \$1,016.99 plus six percent (6%) simple interest.

- (1) The examiners found 15 violations of § 38.2-610 A of the Code of Virginia. The company failed to provide the applicant with a written AUD notice.
- (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 earned premium correctly.
- (3) The examiners found 11 violations of § 38.2-2113 C of the Code of Virginia.
 - a. In one instance, the company failed to retain the cancellation notice sent to the lienholder.
 - b. In five instances, the company failed to retain proof of mailing the cancellation notice to the insured.
 - c. In five instances, the company failed to retain proof of mailing the cancellation notice to the lienholder.
- (4) The examiners found 18 violations of § 38.2-2114 A of the Code of Virginia.
 - a. In one instance, the company failed to provide a notice of cancellation to the insured.
 - b. In three instances, the company failed to mail the cancellation notice on an owner-occupied dwelling to the address shown on the policy.
 - c. In 14 instances, the company cancelled a policy insuring an owner-occupied dwelling after the 89th day of coverage for a reason not permitted by the statute.
- (4) The examiners found three violations of § 38.2-2114 C of the Code of Virginia. The company failed to provide 30 days' notice of cancellation to the insured when the company cancelled the policy after the 89th day of coverage.
- (5) The examiners found two occurrences where the company failed to comply with the provisions of the insurance contract. The company failed to refund earned premium to the insured.

All Other Cancellations – Homeowners PoliciesNONPAYMENT OF THE PREMIUM

The Bureau reviewed 18 homeowner cancellations that were initiated by the company for nonpayment of the policy premium. During this review the examiners found no overcharges and no undercharges.

The company does not have objections to the findings in this section

- (1) The examiners found five violations of § 38.2-2113 C of the Code of Virginia.
 - a. In two instances, the company failed to retain proof of mailing the cancellation notice to the insured.
 - b. In one instance, the company failed to obtain valid proof of mailing the cancellation notice to the lienholder.
 - c. In one instance, the company failed to retain proof of mailing the cancellation notice to the lienholder.
 - d. In one instance, the company failed to retain the cancellation notice sent to the insured.
- (2) The examiners found 24 violations of § 38.2-2114 C of the Code of Virginia.
 - a. In 12 instances, the company failed to advise the insured of his right to request a review by the Commissioner of Insurance.
 - b. In 12 instances, the company failed to advise the insured of the availability of other insurance.

REQUESTED BY THE INSURED

The Bureau reviewed four homeowner cancellations that were initiated by the insured where the cancellation was to be effective during the policy term. During this review, the examiners found no overcharges and no undercharges.

The company does not have objections to the findings in this section

The examiners found two violations 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 nine homeowner nonrenewals that were initiated by the company.

The company does not have objections to the findings in this section

- (1) The examiners found seven violations of § 38.2-610 A of the Code of Virginia. The company failed to provide the insured with a written AUD notice.
- (2) The examiners found two violations of § 38.2-2113 C 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.

CLAIMS REVIEW

Homeowners Claims

The examiners reviewed 88 homeowner claims for the period of January 1, 2014 through December 31, 2015. The findings below appear to be contrary to the standards set forth by Virginia insurance statutes and regulations. During this review, the examiners found overpayments totaling \$12,781.68 and underpayments totaling \$2,098.08. The net amount that should be paid to claimants is \$2,073.08 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.

We agree with some violations noted in this area; however, we respectfully disagree that the alleged violations constitute a general business practice. Additionally, there are several instances in which responses provided by ASI were not reviewed or reconsidered by the examiner. These responses include:

- 1. The examiner indicated they were not able to open the supporting documents. We resubmitted the documents and confirmed that the examiner was able to open them. As such, this violation should be withdrawn. (CHO019)**
- 2. The examiner was unable to locate the personal property inventory list. The inventory list was, however, included in the independent adjuster's report. The date of the report and page where the inventory list could be found was provided to the examiner. Therefore, this violation should be withdrawn. (CHO078)**
- 3. The examiner was unable to locate the police report in the file. The adjuster made the decision not to order the police report upon receipt of other valid information confirming the facts of the loss. (CHO076)**
- 4. The examiner was unable to locate an explanation for the payment. The date of the claim file note (March 31, 2015) explaining the payment was provided to the examiner. As a result, this violation should be withdrawn. (CHO025)**
- 5. The examiner noted the image of an inventory sheet provided by the**

insured was cut off, making it not possible to verify some of the item prices. Although the prices were cut off on some of the items, the insured provided the same list (which included the prices) to the police and they included it on their report. The adjuster was able to match the item prices on the police report with the items on the inventory list.
(CHO023)

6. The examiner was unable to locate documentation regarding the reason for withholding depreciation. The adjuster handled the file in accordance with the policy and the corresponding policy provision language was provided to the examiner. (CHO012)

We believe that if the examiner had the opportunity to review these responses, multiple violations would have been withdrawn and the findings would have been more favorable. Our position remains that 14 VAC 5-400-30 should not be placed in consideration as a general business practice.

- (2) The examiners found five 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.
 - b. In one instance, the company failed to inform the insured of the replacement cost benefits under the Dwelling coverage.
 - c. In one instance, the company failed to inform the insured of the replacement cost benefits under the Personal Property coverage.

- (3) The examiners found three 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.
 - (4) The examiners found three 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.
 - (5) The examiners found five 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 one instance, the company failed to pay the entire claim under the insureds Dwelling Replacement Cost coverage.
 - b. In two 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.
 - (6) The examiners found one violation of § 38.2-236 A of the Code of Virginia. The company failed to notify the claimant within five days when the company issued a settlement payment \$5,000.00 or greater to the claimant's attorney or other representative.
 - (7) The examiners found 13 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.
- These findings occurred with such frequency as to indicate a general business practice.

We agree with some violations noted in this area; however, we respectfully disagree that the alleged violations constitute a general business practice. Additionally, there are several instances in which responses provided by ASI were not reviewed or reconsidered by the examiner. These responses include:

- 1. The examiner noted file documentation stating that mold was not covered. Although the adjuster initially advised the insured that damage related to mold was not covered, this position was reconsidered as the investigation continued and coverage was appropriately extended. A copy of the mitigation and rebuild invoices, and the applicable language included in the release, was provided to the examiner. Therefore, this violation should be withdrawn. (CHO069)**
- 2. The examiner was unable to locate the police report in the file. The adjuster made the decision not to order the police report upon receipt of other valid information confirming the facts of the loss. (CHO084)**
- 3. The examiner was unable to determine whether the insured was advised of the policy provision under which he could claim replacement cost. The examiner was provided, however, with the date of the claim file note and letter, both dated March 7, 2014, in which the adjuster advised the insured to submit their paid invoices of repair to receive their recoverable depreciation. Because of this, it is clear the adjuster did advise the insured of their ability to receive recoverable depreciation. (CHO011)**

4. The examiner was unable to determine whether the insured was advised of the policy provision under which he could claim replacement cost. The examiner was provided, however, with the date of the claim file note and letter, both dated March 4, 2015, in which the adjuster advised the insured to submit their paid invoices of repair to receive their recoverable depreciation. Because of this, it is clear the adjuster did advise the insured of their ability to receive recoverable depreciation. (CHO037)
5. The examiner was unable to determine whether the insured was advised of the policy provision under which he could claim replacement cost. The examiner was provided, however, with the date of the claim file note and letter, both dated May 5, 2015, in which the adjuster advised the insured to submit their paid invoices of repair to receive their recoverable depreciation. Because of this, it is clear the adjuster did advise the insured of their ability to receive recoverable depreciation. (CHO035)
6. The examiner was unable to determine whether the insured was advised of the policy provision under which he could claim replacement cost. The examiner was provided, however, with the date of the letter dated November 13, 2014, in which the adjuster advised the insured to submit their paid invoices of repair to receive their recoverable depreciation. Because of this, it is clear the adjuster did advise the insured of their ability to receive recoverable depreciation. (CHO024)

We believe that if the examiner had the opportunity to review these responses, multiple violations would have been withdrawn and the findings

would have been more favorable. Our position remains that § 38.2-510 A 1 should not be placed in consideration as a general business practice.

- (8) The examiners found four violations of § 38.2-510 A 3 of the Code of Virginia. The company failed to adopt and implement reasonable standards for the prompt investigation of claims arising under insurance policies.
- (9) The examiners found one violation of § 38.2-510 A 10 of the Code of Virginia. The company made a claim payment to the insured or beneficiary that was not accompanied by a statement setting forth the correct coverage(s) under which payment was made.
- (10) The examiners found eight occurrences where the company failed to comply with the provisions of the insurance contract. The company paid an insured more than he/she was entitled to receive under the terms of his policy.

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

REVIEW OF FORMS

The examiners reviewed the 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.

Homeowners Policy Forms**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 violations in this area.

REVIEW OF THE POLICY ISSUANCE PROCESS

To obtain sample policies to review the company's policy issuance process for the line of business examined, the examiners requested five new and five 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 listed and enclosed 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: January 12, 13, February 10, 17 and 22, 2016. In addition, the company provided five renewal business policies mailed on the following dates: December 12, 15, 15, and 30, 2015 and March 1, 2016.

The company does not have objections to the findings in this section

NEW BUSINESS POLICIES

- (1) The examiners found five violations of § 38.2-305 B of the Code of Virginia. The company failed to provide the Important Information to Policyholders notice as required by the statute.
- (2) The examiners found five violations of § 38.2-2118 of the Code of Virginia. The company failed to provide the Replacement Cost Coverage notice as required by the statute.
- (3) The examiners found five violations of § 38.2-2126 A of the Code of Virginia. The company failed to provide the Credit Score Disclosure notice at the time of application as required by the statute.

RENEWAL BUSINESS POLICIES

- (1) The examiners found three violations of § 38.2-305 A of the Code of Virginia. The company failed to specify accurate information in the policy as required by the statute. The company failed to include the effective time of coverage on the declarations page.
- (2) The examiners found five violations of § 38.2-305 B of the Code of Virginia. The company failed to provide the Important Information to Policyholders notice as required by the statute.

- (3) The examiners found one violation of § 38.2-2120 of the Code of Virginia. The company failed to provide the notice offering the insured the option of purchasing coverage for damage caused by water that backs up through sewers and drains as required by the statute.
- (4) The examiners found one violation of § 38.2-2124 of the Code of Virginia. The company failed to provide the Ordinance and Law notice as required by the as required by the statute.

REVIEW OF STATUTORY NOTICES

To obtain sample policies to review the content of the statutory notices that the company is required to provide to insureds and used by the company for the line of business examined, the examiners used the same new business policy and renewal business policy mailings that were previously described. The details of these policies have been set forth previously under 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 company does not have objections to the findings in this section

General Statutory Notices

- (1) The examiners found one violation of § 38.2-305 B of the Code of Virginia. The company failed to have available for use the Important Information Regarding Your Insurance notice.
- (2) The examiners found two 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 include all of the information required by the statute.

- (3) 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 include all the information required by the statute.
- (4) The examiners found one violation of § 38.2-604.1 B of the Code of Virginia. The company's Financial Information Collection and Disclosure Practices did not include all of the information required by the statute.
- (5) The examiners found one violation of § 38.2-610 A of the Code of Virginia. The company's AUD notice did not comply with the requirements of the statute.

Statutory Property Notices

- (1) The examiners found one violation of § 38.2-2118 of the Code of Virginia. The company's Replacement Cost provisions notice did not comply with the requirements of the statute.
- (2) The examiners found one violation of § 38.2-2125 of the Code of Virginia. The company failed to include all of the information required by the statute in its Flood Exclusion notice.
- (3) The examiners found two violations of § 38.2-2126 A of the Code of Virginia.
 - a. In one instance, the company failed to include all of the information required by the statute in its Credit Score Disclosure notice.
 - b. In one instance, the company failed to include all of the information required by the statute in its Credit Score Adverse Action notice.
- (4) The examiners found one violation of § 38.2-2129 of the Code of Virginia. The company failed to have available for use the Earthquake Exclusion notice.

Other Notices

The company provided ten copies of other notices and documents including applications and cancellation notices that were used during the examination period.

The company does not have objections to the findings in this section

- (1) The examiners found one violation of § 38.2-604 B of the Code of Virginia. The company's Notice of Information Collection and Disclosure Practices did not include all of the information required by the statute.
- (2) The examiners found one violation of § 38.2-604.1 B of the Code of Virginia. The company's Financial Information Collection and Disclosure Practice notice did not include all of the information required by the statute.
- (3) The examiners found two violations of § 38.2-1906 A of the Code of Virginia. The company's Premium Notice included incorrect installment fees.
- (4) The examiners found two violations of § 38.2-2114 C of the Code of Virginia. The company's Cancellation Notices did not include all of the notices required by the statute.
 - a. In one instance, the company failed to advise the insured of his right to request a review by the Commissioner of Insurance.
 - b. In one instance, the company failed to advise the insured of the availability of insurance through the VPIA.

LICENSING AND APPOINTMENT REVIEW

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

The company does not have objections to the findings in this section

Agent

- (1) The examiners found 14 violations of § 38.2-1822 A of the Code of Virginia. The company permitted a person to act in the capacity of an agent who was not licensed in Virginia.
- (2) The examiners found 15 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

The examiners found two 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.

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 standards set forth by the NAIC. Any error ratio above these guidelines indicates a general business practice. The threshold applied to claims handling is seven percent (7%). In some instances, such as filing requirements, forms, notices, and agent licensing, the Bureau applies a zero tolerance standard. This section identifies the violations that were found to be business practices of Virginia insurance statutes and regulations.

General

American Strategic Insurance Corp. shall:

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

Rating and Underwriting Review

American Strategic Insurance Corp. shall:

- (1) Correct the errors that caused the overcharges and undercharges and send refunds to the insureds or credit the insureds' accounts the amount of the overcharge as the date the error first occurred.
 - a. ***The errors have been corrected, and refunds will be sent on 2/27/17.***
- (2) Include six percent (6%) simple interest in the amount refunded and/or credited to the insureds' accounts.
 - a. ***The six percent (6%) simple interest will be included with all refunds.***
- (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.

a. Please find included a completed file showing the refunds issued on 2/27/17.

- (4) Use the rules and rates on file with the Bureau. Particular attention should be given to the use of filed discounts, base and/or final rates, tier eligibility, and public protection classifications.

a. Acknowledged

- (5) Make coverage in effective at 12:01 A.M. as required for all statutory fire insurance policies.

a. ASI has updated our HO4 Declarations Page to include the time the policy becomes effective.

- (6) Provide the Credit Adverse Action notice as required by § 38.2-2126 A of the Code of Virginia.

a. We have developed a notice complying with § 38.2-2126 A of the Code of Virginia and will provide it accordingly.

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

a. Acknowledged

Termination Review

American Strategic Insurance Corp. 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.

a. ASI reviewed THO013 and THO023 with Ms. Gerber and as instructed we are providing documentation showing the necessary information we respectfully feel that should be withdrawn.

- (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 it has refunded or credited the overcharges listed in the file
- (4) Provide the insured with a written AUD notice.
 - a. **Acknowledged**
- (5) Obtain and retain valid proof of mailing cancellation and non-renewal notices to the insured and lienholder
 - a. **Acknowledged**
- (6) Retain the cancellation notice sent to the insured.
 - a. **ASI retains the cancellation notice sent to the insured.**
- (7) Send notice of cancellation or nonrenewal to the insured.
 - a. **ASI sends notice of cancellation or nonrenewal to the insured.**
- (8) Send cancellation notices at least 30 days before the effective date of cancellation when a policy is after the 89th day of coverage.
 - a. **ASI sends cancellation notices at least 30 days before the effective date of cancellation when a policy is after the 89th day of coverage.**
- (9) Cancel an owner-occupied dwelling policy after the 89th day of coverage only for the reasons permitted by the statute.
 - a. **Acknowledged**
- (10) Provide the insured notice of his right to have the termination of his policy reviewed by the Commissioner of Insurance
 - a. **ASI provides to the insured notice of his rights to have the termination of his policy reviewed by the Commissioner of Insurance.**
- (11) Provide the insured with notice of the availability of insurance through the VPIA in the cancellation notice of an owner-occupied dwelling policy.

a. Acknowledged

- (12) Obtain written notice when the insured requests cancellation of the policy sent to the insured.

a. Acknowledged

Claims Review

American Strategic Insurance Corp. shall:

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

a. All amounts due to underpayments have been issued

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

a. The six percent (6%) simple interest was added to all underpayments issued.

- (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.

a. The file is included in the submission.

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

a. All claims have been properly documented

- (5) Properly represent pertinent facts or insurance provisions relating to the replacement cost provisions of the policy.

a. The settlement letter was updated to include the proper time frame language for the replacement cost provision.

Review of Policy Issuance Process

American Strategic Insurance Corp. shall:

- (1) Specify accurate information in the policy by showing the time the policy becomes effective.
 - a. ***ASI has updated our HO4 Declarations Page to include the time the policy becomes effective.***
- (2) Provide the Important Information to Policyholders notice as required by the Code of Virginia.
 - a. ***ASI has developed notices, both for new and renewal business, as required by the Code of Virginia, and will provide these notices to policyholders.***
- (3) Provide the Replacement Cost Coverage notice with all new and renewal policies as required by the Code of Virginia.
 - a. ***ASI has included the required replacement cost coverage language on our new-business application, and added the same language to a notice issued at renewal.***
- (4) Offer the insured the option of purchasing coverage for damage caused by water that backs up through sewers and drains as required by the Code of Virginia.
 - a. ***ASI has included the option of purchasing water back-up coverage on our new-business application. We have also included a notification of the availability of this coverage to a notice issued at renewal.***
- (5) Provide the Ordinance and Law Coverage notice with all new and renewal policies as required by the Code of Virginia.
 - a. ***ASI has added the required ordinance and law coverage notification language to both our new-business application and to a notice issued at renewal.***
- (6) Provide the Credit Score Disclosure notice to an applicant or insured when using credit for rating, tier placement or underwriting a policy

- a. ***ASI has added language to our new-business application regarding credit score disclosure, and developed a new notice containing all of the information required by § 38.2-604 of the Code of Virginia.***

Review of Statutory Notices

American Strategic Insurance Corp. shall:

- (1) Develop an Important Information Regarding Your Insurance notice to comply with § 38.2-305 B of the Code of Virginia.
 - a. ***ASI developed an Important Information Regarding Your Insurance notice to comply with § 38.2-305 B of the Code of Virginia.***
- (2) Amend the long form Notice of Information Collection and Disclosure Practices to comply with § 38.2-604 B of the Code of Virginia.
 - a. ***ASI developed notices, both for new and renewal business, as required by the Code of Virginia, and will provide these notices to policyholders.***
- (3) Amend the short form Notice of Information Collection and Disclosure Practices to comply with § 38.2-604 C of the Code of Virginia.
 - a. ***ASI included the required replacement cost coverage language on our new-business application, and added the same language to a notice issued at renewal.***
- (4) Amend the Notice of Financial Information Collection and Disclosure Practices to comply with § 38.2-604.1 B of the Code of Virginia.
 - a. ***ASI included the option of purchasing water back-up coverage on our new-business application. We have also included a notification of the availability of this coverage to a notice issued at renewal.***
- (5) Amend the AUD notice to comply with § 38.2-610 A of the Code of Virginia.

ASI added the required ordinance and law coverage notification language to both our new-business application and to a notice issued at renewal.

- (6) Amend the Premium Notice to correctly identify the applicable installment fee.
- a. **ASI amended the Premium Notice to correctly identify the applicable installment fee.**
- (7) Amend the Cancellation notice to include the notice of right to review by the Commissioner of Insurance to comply with § 38.2-2114 C of the Code of Virginia.
- a. **ASI amended our cancellation notices to include the notice of right to review by the Commissioner of Insurance to comply with § 38.2-2114 C of the Code of Virginia.**

Statutory Property Notices

- (1) Develop a Replacement Cost notice to comply with § 38.2-2118 of the Code of Virginia.
- a. **ASI developed a Replacement Cost notice to comply with § 38.2-2118 of the Code of Virginia.**
- (2) Amend the Flood Exclusion notice to comply with § 38.2-2125 of the Code of Virginia.
- a. **ASI amended the Flood Exclusion notice to comply with § 38.2-2125 of the Code of Virginia.**
- (3) Amend the Credit Score Disclosure notice and the Credit Score Adverse Action notice to comply with § 38.2-2126 A 1 of the Code of Virginia.
- a. **ASI amended our Credit Score Disclosure notice and the Credit Score Adverse Action notice to comply with § 38.2-2126 A 1 of the Code of Virginia.**
- (4) Develop an Earthquake Exclusion notice to comply with § 38.2-2129 of the Code of Virginia.
- a. **ASI added the required earthquake exclusion notification language to both our new-business application and to a notice issued at renewal.**

Licensing and Appointment Review

American Strategic Insurance Corp. shall:

- (1) Appoint agents within 30 days of the application.
 - a. ***ASI has implemented a weekly audit to ensure agents are appointed within 30 days of the application.***
- (2) Pay commissions only to agencies that are appointed by the company.
 - a. ***ASI pays commission to agencies that are appointed.***
- (3) Accept business only from agents and agencies that have a current license from the Commonwealth of Virginia.
 - a. ***With the ASI weekly audit report, ASI is able to confirm that the agents and agencies currently hold an active license from 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 company. The company should carefully scrutinize these errors and correct the causes before these errors become business practices. The following errors will not be included in the settlement offer:

RECOMMENDATIONS

We recommend that the company take the following actions:

Terminations

- The company should properly code terminations in the correct category. Special attention should be given to insured requested, cancellations after the 89th day, and non-pay cancellations.
 - **Acknowledged**

Claims

- The company should modify its form letter to clarify that the insured is not required to obtain a police report on behalf of the company.
 - **ASI has revised the letter language clarifying to the insured that they are not obligated to obtain the police report on behalf of the company.**
- The company should accurately represent pertinent facts or insurance provisions relating to the additional living expense benefits as well as the replacement cost provisions of the policy.
 - **When applicable and after discussing with the customer, ASI provides a letter to the customer including an explanation of the replacement cost benefits under the personal property coverage and/or additional living expense benefits under the insurance policy provisions. Technology enhancements and leadership oversight continue to support this effort.**
- The company should make all claim denials in writing and keep a copy in the claim file.
 - **ASI continues to document all claim denial discussions in the claim file and send the denial letter to the customer. A copy of the denial letter is kept in the claim file. Technology enhancements and**

leadership oversight continue to support this effort.

- The company should make payments to the insured for the amount he/she is entitled to receive under the terms of the policy.
 - *ASI claim adjusters receive frequent and ongoing training that continually improve the adjuster's application of the policy terms.*
- The company should notify the claimant within five business days when a settlement check \$5000.00 or greater is sent to the claimant's attorney or representative.
 - *The company will notify any claimant within five business days when a settlement check of \$5000.00 or greater is sent to the claimant's attorney or representative through the support of technology enhancements and leadership oversight.*
- The company should adopt and implement reasonable standards for the prompt investigation of claims.
 - *On an ongoing basis, ASI adopts and implements standards ensuring the prompt investigation of claims. Recent technology upgrades further support this effort.*
- The company should include a correct statement of the coverages under which payments are made with all claim payments to insureds.
 - *The company has corrected the statement of coverages through a system enhancement.*

Policy Issuance Process

The company should update the edition date on the declaration pages for the Increased Replacement Cost Coverage form ASI HO VA IRC.

- **Acknowledged**

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 company during the course of the examination is gratefully acknowledged.

Sincerely,

Karen S. Gerber
Senior Insurance Market Examiner

COMMONWEALTH OF VIRGINIA

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



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March 23, 2017

VIA UPS 2nd DAY DELIVERY

Maria Bellido
Compliance Leader
American Strategic Insurance Corporation
1 ASI Way
St. Petersburg, FL 33702

Re: Market Conduct Examination
American Strategic Ins. Corp. (NAIC #10872)
Examination Period: January 1, 2014 – December 31, 2015

Dear Ms. Bellido:

The Bureau of Insurance (Bureau) has reviewed the February 24, 2017 response to the Preliminary Market Conduct Report (Report) of American Strategic Insurance Corporation (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

Terminations

Notice Mailed After the 89th Day of Coverage

- (2) The violation for THO016 has been withdrawn from the Report and moved to review sheet TermOvr90HO1490014897. The Restitution Spreadsheet has been amended to reflect this change. The Report has been renumbered to reflect this change.

After further review, the violation for THO023 has been withdrawn from the Report.

Rev. Jan 2017

- (6) The violation for THO012 remains in the Report. The premium refund was issued to the insured and the mortgage company. The check was cashed by the mortgage company. The insurance contract is a contract between the insured and the insurer. The premium may have been paid by the mortgage company from an escrowed account, however, the money in the escrow account is money placed there by the insured and should there be a need to return premium that refund should be to the insured.

After further review, the violation for THO013 has been withdrawn from the Report.

Homeowner Claims

- (1) The violation for CHO012 remains in the Report. The Company cannot arbitrarily decide that one claim will be depreciated while another will be settled at replacement cost. All insureds must be treated the same.

After further review, the violation for CHO019 has been withdrawn from the Report.

After further review, the violation for CHO023 has been withdrawn from the Report.

The violation for CHO025 remains in the Report. The claim file addresses the rationale for the payment but does not address the coverage analysis or the reason for extending coverage for a loss resulting solely from the poor workmanship of the contractor who ultimately caused the loss.

After further review, the violation for CHO076 has been withdrawn from the Report.

The violation for CHO078 remains in the Report. The independent adjuster's estimate does itemize part of the personal property loss; however the total personal property amount of \$920.19 does not match what the adjuster has allowed for in the estimate. There are clearly other items in the estimate included under personal property coverage which cannot be identified. This prevents the examiner from reconstructing the calculation of the amount paid under personal property coverage.

- (7) The violations for CHO011, CHO024, CHO035 and CHO037 remain in the Report. These violations were for the Company's failure to advise the insured of the time within which they had to make a claim for the holdback of depreciation. The file does indicate that the insured was advised that they could make a claim for the holdback but the insured was not advised that the request must be made within 6 months of the last ACV payment on the claim.

The violation for CHO069 remains in the Report. The Company incorrectly advised the insured that mold damage as a result of a covered loss was not covered. Although the signed release ultimately states "...which may have been caused by any water, mold and/or any concurrent or resulting damage..." this does not equate to a corrective statement advising the insured of coverage.

After further review, the violation for CHO084 has been withdrawn from the Report.

Licensing and Appointment

- (2) After further review, the violation for AG006 has been withdrawn from the Report.

PART TWO – CORRECTIVE ACTION PLAN

Rating and Underwriting Review

The Company must provide the Corrective Actions it will take in response to the Corrective Action Plan in the Report. To simply acknowledge the Corrective Action is not a sufficient response in this area.

Termination Review

The Company must provide the Corrective Actions it will take in response to the Corrective Action Plan in the Report. To simply acknowledge the Corrective Action is not a sufficient response in this area.

Claims

- (1) The Company must make the outstanding restitution on CHO055. The violation did not pertain to recoverable depreciation. The violation involved the Company failing to pay for an increase in utilities for the fans and blowers at the insured's house and the increase in the water bill due to the water loss. The deductible was satisfied with the check issued for the dwelling loss.

Policy Issuance

- (2-6) Please provide copies of the newly developed notices for our review.

Review of General Statutory Notices

- (3) The cite pertained to Notice of Information Collection and Disclosure Practices. The Company has responded as if the cite was for the Replacement Cost Notice.

- (4) The cite pertained to Notice of Financial Information Collection and Disclosure Practices. The Company has responded as if the cite was for the Water Backup Notice.
- (5) The cite pertained to Adverse Underwriting Decision Notice. The Company has responded as if the cite was for the Ordinance and Law Notice.
- (6-7) Please provide copies of the amended notices for our review.

Statutory Property Notices

- (1-4) Please provide copies of the amended notices for our review.

Other Notices

The violations in this section have been amended. The § 38.2-604 and the §38.2-604.1 notices have been moved to the General Statutory Notices Section.

Licensing and Appointment

- (2) The Report included two violations for paying commission to unappointed agents. The Company should outline what Corrective Actions have been taken to prevent this from happening in the future.

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. The Company's response to this letter is due in the Bureau's office by April 28, 2017.

Sincerely,

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

Enclosures

Karen Gerber

From: Maria Bellido <mbellido@asicorp.org>
Sent: Thursday, June 08, 2017 1:32 PM
To: Joy Morton
Cc: Karen Gerber
Subject: Re: Response to Report
Attachments: ASI Draft report.docx

Hi Joy,

Thank you so much for your patience on this. Please let me know if you need anything else. Again, I really want to thank you both for your patience with me.

Thanks,
Maria

Maria Bellido

Compliance Leader
American Strategic Insurance Group
Phone: 727-821-8765 x1130
Fax: 866-602-3675
E-Mail: mbellido@asicorp.org

Smile, it will brighten someone's day

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On Tue, Jun 6, 2017 at 2:10 PM, Maria Bellido <mbellido@asicorp.org> wrote:
Hi Joy. Yes, I'am finalizing the last bit of it to send it over. :)

Maria Bellido

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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 American Strategic Insurance Corporation at its office in St. Petersburg, Florida.

The examination commenced June 6, 2016 and concluded December 20, 2016. Brandon Ayers, Karen S. Gerber, Ju'Coby Hendrick, and Melody Morrissette, 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 January 29, 2016 and was assigned the examination number of VA-VA097-5. The examination was conducted in accordance with the guidelines contained in the National Association of Insurance Commissioners Market Regulation Handbook.

COMPANY PROFILE*

American Strategic Insurance Corporation was incorporated in the state of Florida on August 18, 1997. It received its Certificate of Authority on December 18, 1997 and began writing business on January 1, 1998.

The company is a wholly owned subsidiary of ARX Holding Corp., a Delaware domiciled holding company. ARX Holding Corp. is owned by XL Re Ltd., a subsidiary of XL Capital Limited (39.7%), Fasteau Insurance Holdings, LLC (8.4%), Marc Fasteau, chairman of the board (7.6%), Flexpoint Fund, L.P. (6.6%), PC Investment Company (4.9%), New Capital Partners Private Equity Fund, L.P. (1.1%) and management

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

(31.7%).

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 April 17, 2008.

GROUP CODE:	ASIC
NAIC Company Number	10872
LICENSED IN VIRGINIA	4/17/2008

LINES OF INSURANCE

Accident and Sickness

Aircraft Liability

Aircraft Physical Damage

Animal

Automobile Liability

Automobile Physical Damage

Boiler and Machinery

Burglary and Theft

Commercial Multi-Peril x

Credit

Farmowners Multi-Peril

Fidelity

Fire x

General Liability x

Glass

Homeowners Multi-Peril x

Inland Marine x

Miscellaneous Property

Ocean Marine

Surety

Water Damage

Workers' Compensation

The table below shows the company's premium volume and approximate market share of business written in Virginia during 2015 for the line of insurance included in this examination.* This business was developed through independent agents.

COMPANY AND LINE	PREMIUM VOLUME	MARKET SHARE
American Strategic Ins Co	\$19,019,679	.93%

* Source: The 2015 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 January 1, 2014 and ending December 31, 2015. This review included rating and underwriting, policy terminations, claims handling, forms, policy issuance,¹ statutory notices, agent licensing, complaint-handling, and information security practices. The purpose of this examination was to determine compliance with Virginia insurance statutes and regulations and to determine that the company's operations were consistent with public interest. The Report is by test, and all tests applied during the examination are reported.

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

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

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

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

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

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

STATISTICAL SUMMARY

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

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

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

**Population
Sample Requested**

AREA	<u>ASI</u>	<u>TOTAL</u>	<u>FILES REVIEWED</u>	<u>FILES NOT FOUND</u>	<u>FILES WITH ERRORS</u>	<u>ERROR RATIO</u>
<u>Homeowners</u>						
New Business		<u>13,429</u> 60	60	0	34	57%
Renewal Business ¹		<u>38,058</u> 60	59	0	28	47%
Co-Initiated Cancellations ²		<u>612</u> 30	24	0	24	100%
All Other Cancellations ³		<u>8,077</u> 48	22	0	16	73%
Nonrenewals		<u>441</u> 9	9	0	7	78%
<u>Claims</u>						
Property ⁴		<u>2,126</u> 90	88	0	39	44%

Footnote ¹ - One policy was an expiration and was not reviewed

Footnote ² - Six policies were not reviewed (1 was an expiration, 2 were insured requested, 2 were rewrites)

Footnote ³ - 26 policies were not reviewed (25 were expirations and 1 cancelled flat)

Footnote ⁴ - Two claims were not reviewed. (1 policy did not match insured name, 1 loss reported in error)

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. During this review, the examiners found overcharges totaling \$11.00 and undercharges totaling \$353.00. The net amount that should be refunded to insureds is \$11.00 plus six percent (6%) simple interest.

- (1) The examiners found 16 violations of § 38.2-1906 D of the Code of Virginia. The company failed to use the rules and rates on file with the Bureau of Insurance.
 - a. In 11 instances, the company failed to use the correct discounts and/or surcharges.
 - b. In two instances, the company failed to use the correct base and/or final rates.
 - c. In three instances, the company failed to use the correct public protection class.
- (2) The examiners found eight violations of § 38.2-2104 of the Code of Virginia. The company failed to make coverage effective at 12:01 AM as required by the statute.
- (3) The examiners found 24 violations of § 38.2-2126 of the Code of Virginia. The

company failed to provide the credit adverse action notice.

Homeowners Renewal Business Policies

The Bureau reviewed 59 renewal business policy files. During this review, the examiners found overcharges totaling \$401.32 and undercharges totaling \$983.12. The net amount that should be refunded to insureds is \$401.32 plus six percent (6%) simple interest.

- (1) The examiners found 28 violations of § 38.2-1906 D of the Code of Virginia. The company failed to use the rules and rates on file with the Bureau of Insurance.
 - a. In 17 instances, the company failed to use the correct discount and/or surcharges.
 - b. In one instance, the company failed to use the correct tier eligibility criteria.
 - c. In seven instances, the company failed to use the correct base and/or final rate.
 - d. In two instances, the company failed to use the correct public protection class.
 - e. In one instance, the company failed to update the insured's credit information at least once in a three year period.
- (2) The examiners found six violations of § 38.2-2104 of the Code of Virginia. The company failed to make coverage effective at 12:01 AM as required by the statute.
- (3) The examiners found 11 violations of § 38.2-2126 of the Code of Virginia. The company failed to provide the credit adverse action notice.

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 90TH DAY OF COVERAGE

The Bureau reviewed eight 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. During this review, the examiners found no overcharges and no undercharges.

- (1) The examiners found eight violations of § 38.2-610 A of the Code of Virginia. The company failed to provide the insured with a written Adverse Underwriting Decision notice (AUD).
- (2) The examiners found two violations of § 38.2-2113 C 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.

NOTICE MAILED AFTER THE 89TH DAY OF COVERAGE

The Bureau reviewed 16 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. During this review, the examiners found overcharges totaling \$1,016.99

and no undercharges. The net amount that should be refunded to insureds is \$1,016.99 plus six percent (6%) simple interest.

- (1) The examiners found 15 violations of § 38.2-610 A of the Code of Virginia. The company failed to provide the applicant with a written AUD notice.
- (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 earned premium correctly.
- (3) The examiners found 11 violations of § 38.2-2113 C of the Code of Virginia.
 - a. In one instance, the company failed to retain the cancellation notice sent to the lienholder.
 - b. In five instances, the company failed to retain proof of mailing the cancellation notice to the insured.
 - c. In five instances, the company failed to retain proof of mailing the cancellation notice to the lienholder.
- (4) The examiners found 18 violations of § 38.2-2114 A of the Code of Virginia.
 - a. In one instance, the company failed to provide a notice of cancellation to the insured.
 - b. In three instances, the company failed to mail the cancellation notice on an owner-occupied dwelling to the address shown on the policy.
 - c. In 14 instances, the company cancelled a policy insuring an owner-occupied dwelling after the 89th day of coverage for a reason not permitted by the statute.
- (4) The examiners found three violations of § 38.2-2114 C of the Code of Virginia. The company failed to provide 30 days' notice of cancellation to the insured when the company cancelled the policy after the 89th day of coverage.
- (5) The examiners found two occurrences where the company failed to comply with

the provisions of the insurance contract. The company failed to refund earned premium to the insured.

All Other Cancellations – Homeowners PoliciesNONPAYMENT OF THE PREMIUM

The Bureau reviewed 18 homeowner cancellations that were initiated by the company for nonpayment of the policy premium. During this review the examiners found no overcharges and no undercharges.

- (1) The examiners found five violations of § 38.2-2113 C of the Code of Virginia.
 - a. In two instances, the company failed to retain proof of mailing the cancellation notice to the insured.
 - b. In one instance, the company failed to obtain valid proof of mailing the cancellation notice to the lienholder.
 - c. In one instance, the company failed to retain proof of mailing the cancellation notice to the lienholder.
 - d. In one instance, the company failed to retain the cancellation notice sent to the insured.
- (2) The examiners found 24 violations of § 38.2-2114 C of the Code of Virginia.
 - a. In 12 instances, the company failed to advise the insured of his right to request a review by the Commissioner of Insurance.
 - b. In 12 instances, the company failed to advise the insured of the availability of other insurance.

REQUESTED BY THE INSURED

The Bureau reviewed four homeowner cancellations that were initiated by the insured where the cancellation was to be effective during the policy term. During this review, the examiners found no overcharges and no undercharges.

The examiners found two violations 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 nine homeowner nonrenewals that were initiated by the company.

- (1) The examiners found seven violations of § 38.2-610 A of the Code of Virginia. The company failed to provide the insured with a written AUD notice.
- (2) The examiners found two violations of § 38.2-2113 C 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.

CLAIMS REVIEW

Homeowners Claims

The examiners reviewed 88 homeowner claims for the period of January 1, 2014 through December 31, 2015. The findings below appear to be contrary to the standards set forth by Virginia insurance statutes and regulations. During this review, the examiners found overpayments totaling \$12,781.68 and underpayments totaling \$2,098.08. The net amount that should be paid to claimants is \$2,073.08 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 five 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.
 - b. In one instance, the company failed to inform the insured of the replacement cost benefits under the Dwelling coverage.
 - c. In one instance, the company failed to inform the insured of the replacement cost benefits under the Personal Property coverage.
- (3) The examiners found three 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.
- (4) The examiners found three 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.
- (5) The examiners found five 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 one instance, the company failed to pay the entire claim under the insureds Dwelling Replacement Cost coverage.
 - b. In two 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.
- (6) The examiners found one violation of § 38.2-236 A of the Code of Virginia. The company failed to notify the claimant within five days when the company issued a settlement payment \$5,000.00 or greater to the claimant's attorney or other representative.
- (7) The examiners found 13 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.

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

- (8) The examiners found four violations of § 38.2-510 A 3 of the Code of Virginia. The company failed to adopt and implement reasonable standards for the prompt investigation of claims arising under insurance policies.
- (9) The examiners found one violation of § 38.2-510 A 10 of the Code of Virginia. The company made a claim payment to the insured or beneficiary that was not accompanied by a statement setting forth the correct coverage(s) under which payment was made.
- (10) The examiners found eight occurrences where the company failed to comply with the provisions of the insurance contract. The company paid an insured more than he/she was entitled to receive under the terms of his policy.

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

REVIEW OF FORMS

The examiners reviewed the 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.

Homeowners Policy Forms**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 violations in this area.

REVIEW OF THE POLICY ISSUANCE PROCESS

To obtain sample policies to review the company's policy issuance process for the line of business examined, the examiners requested five new and five 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 listed and enclosed 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: January 12, 13, February 10, 17 and 22, 2016. In addition, the company provided five renewal business policies mailed on the following dates: December 12, 15, 15, and 30, 2015 and March 1, 2016.

NEW BUSINESS POLICIES

- (1) The examiners found five violations of § 38.2-305 B of the Code of Virginia. The company failed to provide the Important Information to Policyholders notice as required by the statute.
- (2) The examiners found five violations of § 38.2-2118 of the Code of Virginia. The company failed to provide the Replacement Cost Coverage notice as required by the statute.
- (3) The examiners found five violations of § 38.2-2126 A of the Code of Virginia. The company failed to provide the Credit Score Disclosure notice at the time of application as required by the statute.

RENEWAL BUSINESS POLICIES

- (1) The examiners found three violations of § 38.2-305 A of the Code of Virginia. The company failed to specify accurate information in the policy as required by

- the statute. The company failed to include the effective time of coverage on the declarations page.
- (2) The examiners found five violations of § 38.2-305 B of the Code of Virginia. The company failed to provide the Important Information to Policyholders notice as required by the statute.
 - (3) The examiners found one violation of § 38.2-2120 of the Code of Virginia. The company failed to provide the notice offering the insured the option of purchasing coverage for damage caused by water that backs up through sewers and drains as required by the statute.
 - (4) The examiners found one violation of § 38.2-2124 of the Code of Virginia. The company failed to provide the Ordinance and Law notice as required by the as required by the statute.

REVIEW OF STATUTORY NOTICES

To obtain sample policies to review the content of the statutory notices that the company is required to provide to insureds and used by the company for the line of business examined, the examiners used the same new business policy and renewal business policy mailings that were previously described. The details of these policies have been set forth previously under 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.

General Statutory Notices

- (1) The examiners found one violation of § 38.2-305 B of the Code of Virginia. The

company failed to have available for use the Important Information Regarding Your Insurance notice.

- (2) The examiners found two 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 include all of the information required by the statute.
- (3) 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 include all the information required by the statute.
- (4) The examiners found one violation of § 38.2-604.1 B of the Code of Virginia. The company's Financial Information Collection and Disclosure Practices did not include all of the information required by the statute.
- (5) The examiners found one violation of § 38.2-610 A of the Code of Virginia. The company's AUD notice did not comply with the requirements of the statute.

Statutory Property Notices

- (1) The examiners found one violation of § 38.2-2118 of the Code of Virginia. The company's Replacement Cost provisions notice did not comply with the requirements of the statute.
- (2) The examiners found one violation of § 38.2-2125 of the Code of Virginia. The company failed to include all of the information required by the statute in its Flood Exclusion notice.
- (3) The examiners found two violations of § 38.2-2126 A of the Code of Virginia.
 - a. In one instance, the company failed to include all of the information required by the statute in its Credit Score Disclosure notice.
 - b. In one instance, the company failed to include all of the information

required by the statute in its Credit Score Adverse Action notice.

- (4) The examiners found one violation of § 38.2-2129 of the Code of Virginia. The company failed to have available for use the Earthquake Exclusion notice.

Other Notices

The company provided ten copies of other notices and documents including applications and cancellation notices that were used during the examination period.

- (1) The examiners found one violation of § 38.2-604 B of the Code of Virginia. The company's Notice of Information Collection and Disclosure Practices did not include all of the information required by the statute.
- (2) The examiners found one violation of § 38.2-604.1 B of the Code of Virginia. The company's Financial Information Collection and Disclosure Practice notice did not include all of the information required by the statute.
- (3) The examiners found two violations of § 38.2-1906 A of the Code of Virginia. The company's Premium Notice included incorrect installment fees.
- (4) The examiners found two violations of § 38.2-2114 C of the Code of Virginia. The company's Cancellation Notices did not include all of the notices required by the statute.
 - a. In one instance, the company failed to advise the insured of his right to request a review by the Commissioner of Insurance.
 - b. In one instance, the company failed to advise the insured of the availability of insurance through the VPIA.

LICENSING AND APPOINTMENT REVIEW

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

Agent

- (1) The examiners found 14 violations of § 38.2-1822 A of the Code of Virginia. The company permitted a person to act in the capacity of an agent who was not licensed in Virginia.
- (2) The examiners found 15 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

The examiners found two 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.

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 standards set forth by the NAIC. Any error ratio above these guidelines indicates a general business practice. The threshold applied to claims handling is seven percent (7%). In some instances, such as filing requirements, forms, notices, and agent licensing, the Bureau applies a zero tolerance standard. This section identifies the violations that were found to be business practices of Virginia insurance statutes and regulations.

General

American Strategic Insurance Corp. shall:

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

Rating and Underwriting Review

American Strategic Insurance Corp. shall:

- (1) Correct the errors that caused the overcharges and undercharges and send refunds to the insureds or credit the insureds' accounts the amount of the overcharge as the date the error first occurred.
 - a. ***The errors have been corrected, and refunds will be sent on 2/27/17.***
- (2) Include six percent (6%) simple interest in the amount refunded and/or credited to the insureds' accounts.

- a. The six percent (6%) simple interest will be included with all refunds.**
- (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.
- a. The file was included in the submission.**
- (4) Use the rules and rates on file with the Bureau. Particular attention should be given to the use of filed discounts, base and/or final rates, tier eligibility, and public protection classifications.
- a. ASI will use the rules and rates on file with the Bureau and will pay particular attention to the use of filed discounts, base and/or final rates, tier eligibility, and public protection classifications.**
- (5) Make coverage in effective at 12:01 A.M. as required for all statutory fire insurance policies.
- a. ASI has updated our HO4 Declarations Page to include the time the policy becomes effective.**
- (6) Provide the Credit Adverse Action notice as required by § 38.2-2126 A of the Code of Virginia.
- a. We have developed a notice complying with § 38.2-2126 A of the Code of Virginia and have provided it to the BOI.**
- (7) Update the insured's credit information at least once in a three year period or

when requested by the insured.

- a. **ASI will update the insured's credit information at least once in a three year period or when requested by the insured.**

Termination Review

American Strategic Insurance Corp. 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.
 - a. **ASI has corrected the errors that caused the overcharges, and refunds were sent on 2/27/17.**
- (2) Include six percent (6%) simple interest in the amount refunded and/or credited to the insureds' accounts.
 - a. **ASI included the six percent (6%) simple interest with all refunds.**
- (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 it has refunded or credited the overcharges listed in the file
 - a. **The file was included in the previous submission.**
- (4) Provide the insured with a written AUD notice.
 - a. **ASI has updated our Cancellation and Nonrenewal notices to include**

language contained in Section 38.2-610 A of the Code of Virginia. The language added brings us into compliance with the requirement that we provide the insured a written Adverse Underwriting Decision notice.

- (5) Obtain and retain valid proof of mailing cancellation and non-renewal notices to the insured and lienholder
 - a. ***ASI is retaining valid proof of mailing cancellation and non-renewal notices to the insured and lienholder by using certificate of mailing to demonstrate proof of mailing.***
- (6) Retain the cancellation notice sent to the insured.
 - a. ***ASI is retaining an electronic copy of the cancellation notices sent to the insureds via our underwriting system.***
- (7) Send notice of cancellation or nonrenewal to the insured.
 - a. ***During ASI's review, it was noted that some insureds did not receive cancellation or non-renewal notices. We have provided additional training to our underwriting team to ensure they are properly sending notices to the insureds.***
- (8) Send cancellation notices at least 30 days before the effective date of cancellation when a policy is after the 89th day of coverage.
 - a. ***ASI has provided additional training to our underwriting team to ensure they are properly selecting more than 30 days' notice for any mid-term cancellations. In addition, we are now requiring any mid-term cancellation to be sent to a senior underwriter or team lead prior to issuance to ensure compliance.***
- (9) Cancel an owner-occupied dwelling policy after the 89th day of coverage only for the reasons permitted by the statute.

- a. ASI is no longer issuing mid-term cancellations for foreclosures, vacancies, or changes in occupancies.**
- (10) Provide the insured notice of his right to have the termination of his policy reviewed by the Commissioner of Insurance
- a. ASI provides insureds with notice of their right to have the termination reviewed by the Commissioner of Insurance.**
- (11) Provide the insured with notice of the availability of insurance through the VPIA in the cancellation notice of an owner-occupied dwelling policy.
- a. The required notice regarding the eligibility of coverage through the Virginia Property Insurance Association has been added to our Cancellation and Nonrenewal notices.**
- (12) Obtain written notice when the insured requests cancellation of the policy sent to the insured.
- a. ASI requests that the insured send us a signed request or proof of replacement coverage.**

Claims Review

American Strategic Insurance Corp. shall:

- (1) Correct the errors that caused the underpayments and overpayments and send the amount of the underpayment to insureds and claimants.
- a. All amounts due to underpayments have been issued as requested by the department.**
- (2) Include six percent (6%) simple interest in the amount paid to the insureds and

claimants.

- a. ***The six percent (6%) simple interest was added to all underpayments issued.***

- (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.

- a. ***The file was included in the previous submission.***

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

- a. ***ASI's claims adjusters receive frequent and ongoing training that continually improves their ability to adjust claims. This training includes instruction on properly documenting all events and dates that pertain to that claim file. ASI also conducts audits of the claims files to ensure the adjuster is providing proper documentation; the audit also ensures that the file shows the progression of the claim, including clear coverage investigation, liability/damages investigation, and proper payment issuance or declination.***

- (5) Properly represent pertinent facts or insurance provisions relating to the replacement cost provisions of the policy.

- a. ***ASI has updated the settlement letter to include the proper time frame language for the replacement cost provision.***

Review of Policy Issuance Process

American Strategic Insurance Corp. shall:

- (1) Specify accurate information in the policy by showing the time the policy becomes effective.
 - a. ***ASI has updated our HO4 Declarations Page to include the time the policy becomes effective.***
- (2) Provide the Important Information to Policyholders notice as required by the Code of Virginia.
 - a. ***ASI has developed notices, both for new and renewal business, as required by the Code of Virginia, and will provide these notices to policyholders.***
- (3) Provide the Replacement Cost Coverage notice with all new and renewal policies as required by the Code of Virginia.
 - a. ***ASI has included the required replacement cost coverage language on our new-business application, and added the same language to a notice issued at renewal.***
- (4) Offer the insured the option of purchasing coverage for damage caused by water that backs up through sewers and drains as required by the Code of Virginia
 - a. ***ASI has included the option of purchasing water back-up coverage on our new-business application. We have also included a notification of the availability of this coverage to a notice issued at renewal.***
- (5) Provide the Ordinance and Law Coverage notice with all new and renewal policies as required by the Code of Virginia
 - a. ***ASI has added the required ordinance and law coverage notification language to both our new-business application and to a notice issued at***

renewal.

- (6) Provide the Credit Score Disclosure notice to an applicant or insured when using credit for rating, tier placement or underwriting a policy
- a. ***ASI has added language to our new-business application regarding credit score disclosure, and developed a new notice containing all of the information required by § 38.2-604 of the Code of Virginia.***

Review of Statutory Notices

American Strategic Insurance Corp. shall:

- (1) Develop an Important Information Regarding Your Insurance notice to comply with § 38.2-305 B of the Code of Virginia.
- a. ***ASI developed an Important Information Regarding Your Insurance notice to comply with § 38.2-305 B of the Code of Virginia.***
- (2) Amend the long form Notice of Information Collection and Disclosure Practices to comply with § 38.2-604 B of the Code of Virginia.
- a. ***ASI developed notices, both for new and renewal business, as required by the Code of Virginia, and will provide these notices to policyholders.***
- (3) Amend the short form Notice of Information Collection and Disclosure Practices to comply with § 38.2-604 C of the Code of Virginia.

(1) Develop a Replacement Cost notice to comply with § 38.2-2118 of the Code of Virginia.

a. **ASI developed a Replacement Cost notice to comply with § 38.2-2118 of the Code of Virginia.**

(2) Amend the Flood Exclusion notice to comply with § 38.2-2125 of the Code of Virginia.

a. **ASI amended the Flood Exclusion notice to comply with § 38.2-2125 of the Code of Virginia.**

(3) Amend the Credit Score Disclosure notice and the Credit Score Adverse Action notice to comply with § 38.2-2126 A 1 of the Code of Virginia.

a. **ASI amended our Credit Score Disclosure notice and the Credit Score Adverse Action notice to comply with § 38.2-2126 A 1 of the Code of Virginia.**

(4) Develop an Earthquake Exclusion notice to comply with § 38.2-2129 of the Code of Virginia.

a. **ASI added the required earthquake exclusion notification language to both our new-business application and to a notice issued at renewal.**

Licensing and Appointment Review

American Strategic Insurance Corp. shall:

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

a. ASI utilizes Vertafore to onboard our agents and agencies and also has a weekly audit report to show which agencies and producers require state appointment. In addition, we have implemented a quality control review based on items/requirements to create consistency when processing appointments and termination. Attached is ASI's Blueprint of our onboarding process for agencies and producers, which was implemented in November 2015, along with an ASI Quality Control Review we have in place.

PART THREE – RECOMMENDATIONS

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

RECOMMENDATIONS

We recommend that the company take the following actions:

Terminations

- The company should properly code terminations in the correct category. Special attention should be given to insured requested, cancellations after the 89th day, and non-pay cancellations.
 - *ASI has provided additional training to our underwriting team to ensure they are properly selecting the correct termination code. We also are now requiring any insured requested cancellations after the 89th day, and non-pay cancellations, to be sent to a senior underwriter or team lead prior to issuance to ensure compliance.*

Claims

- The company should modify its form letter to clarify that the insured is not required to obtain a police report on behalf of the company.
 - *ASI adopts and implements standards ensuring the prompt investigation of claims. Recent technology upgrades further*

support this effort.

- The company should accurately represent pertinent facts or insurance provisions relating to the additional living expense benefits as well as the replacement cost provisions of the policy.
 - ***When applicable and after discussing with the customer, ASI provides a letter to the customer including an explanation of the replacement cost benefits under the personal property coverage and/or additional living expense benefits under the insurance policy provisions. Technology enhancements and leadership oversight continue to support this effort.***

- The company should make all claim denials in writing and keep a copy in the claim file.
 - ***ASI continues to document all claim denial discussions in the claim file and send the denial letter to the customer. A copy of the denial letter is kept in the claim file. Technology enhancements and leadership oversight continue to support this effort.***

- The company should make payments to the insured for the amount he/she is entitled to receive under the terms of the policy.
 - ***ASI's claims adjusters receive frequent and ongoing training that continually improves their ability to adjust claims. This training includes instruction on properly documenting all events and dates that pertain to that claim file. ASI also***

conducts audits of the claims files to ensure the adjuster is providing proper documentation; the audit also ensures that the file shows the progression of the claim, including clear coverage investigation, liability/damages investigation, and proper payment issuance or declination.

- The company should notify the claimant within five business days when a settlement check \$5000.00 or greater is sent to the claimant's attorney or representative.
 - ***The company will notify any claimant within five business days when a settlement check of \$5000.00 or greater is sent to the claimant's attorney or representative through the support of technology enhancements and leadership oversight.***

- The company should adopt and implement reasonable standards for the prompt investigation of claims.
 - ***On an ongoing basis, ASI adopts and implements standards ensuring the prompt investigation of claims. Recent technology upgrades further support this effort.***

- The company should include a correct statement of the coverages under which payments are made with all claim payments to insureds.
 - ***The company has corrected the statement of coverages through a system enhancement.***

Policy Issuance Process

The company should update the edition date on the declaration pages for the Increased Replacement Cost Coverage form ASI HO VA IRC.

- ***The company submitted an updated version of ASI HO VA IRC that was approved in filing AMSI-130925895. The new version has an updated edition date.***

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 company during the course of the examination is gratefully acknowledged.

Sincerely,

Karen S. Gerber

Senior Insurance Market Examiner

COMMONWEALTH OF VIRGINIA



P.O. BOX 1157
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RICHMOND, VIRGINIA 23219

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

June 22, 2017

VIA UPS 2nd DAY DELIVERY

Maria Bellido
Compliance Leader
American Strategic Insurance Corporation
1 ASI Way
Saint Petersburg, Florida, 33702

RE: American Strategic Insurance Corporation - NAIC# 10872
Market Conduct Examination
Examination Period: January 1, 2014 – December 31, 2015

Dear Ms. Bellido:

The Bureau of Insurance (Bureau) has concluded its review of the company's response of June 8, 2017. Based upon the Bureau's review of the company's correspondence, we are now in a position to conclude this examination. Enclosed is the final Market Conduct Examination Report of American Strategic Insurance Corporation (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, 38.2-510 A 1, 38.2-604 B, 38.2-604 C, 38.2-604.1, 38.2-610 A, 38.2-1812, 38.2-1822 A, 38.2-1833, 38.2-1906 A, 38.2-1906 D, 38.2-2104, 38.2-2113 C, 38.2-2114 A, 38.2-2114 C, 38.2-2114 E, 38.2-2118, 38.2-2120, 38.2-2124, 38.2-2125, 38.2-2126 A, 38.2-2129 of the Code of Virginia; and 14 VAC 5-400-30 of the Virginia Administrative Code.

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

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

Sincerely,

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



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

RE: Market Conduct Examination Settlement Offer
Ecase/Docket Number: INS-2017-00159

Dear Ms. Nichols:

This will acknowledge receipt of the Bureau of Insurance's letter June 28, 2017, concerning the above referenced matter.

We wish to make a settlement offer on behalf of the insurance company[ies] listed below for the alleged violations of §§ Sections 38.2-305 A, 38.2-305 B, 38.2-510 A 1, 38.2-604 B, 38.2-604 C, 38.2-604.1, 38.2-610 A, 38.2-1812, 38.2-1822 A, 38.2-1833, 38.2-1906 A, 38.2-1906 D, 38.2-2104, 38.2-2113 C, 38.2-2114 A, 38.2-2114 C, 38.2-2114 E, 38.2-2118, 38.2-2120, 38.2-2124, 38.2-2125, 38.2-2126 A, 38.2-2129 of the Code of Virginia; and 14 VAC 5-400-30 of the Virginia Administrative Code.

1. We enclose with this letter a check payable to the Treasurer of Virginia in the amount of \$ 37,700.00.
2. We agree to comply with the corrective action plan set forth in the company's correspondence of February 24, 2017 and May 2, 2017.
3. We confirm that restitution was made to 15 consumers for \$ 4,262.93 in accordance with the company's correspondence of February 24, 2017 and May 2, 2017.
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.

1 ASI Way • St. Petersburg, FL 33702
P: 866-274-8765 • www.AmericanStrategic.com

PROGRESSIVE The ASI Group is an affiliate of The Progressive Corporation and is rated A (Excellent) by A.M. Best Co.



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,

Company Name

A handwritten signature in black ink, which appears to be 'Angel Conlin', written over a horizontal line.

(Signed)

Angel Conlin

(Type or Print Name)

General Counsel

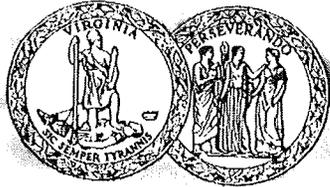
(Title)

7/19/2017

(Date)

COMMONWEALTH OF VIRGINIA

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



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American Strategic Insurance Corporation has tendered to the Bureau of Insurance the settlement amount of \$37,700.00 by its check numbered 0011115130 and dated July 3, 2017, a copy of which is located in the Bureau's files.

COMMONWEALTH OF VIRGINIA
STATE CORPORATION COMMISSION

AT RICHMOND, AUGUST 1, 2017

SCC-CLERK'S OFFICE
DOCUMENT CONTROL CENTER

2017 AUG -1 A 9: 56

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COMMONWEALTH OF VIRGINIA, *ex rel.*

STATE CORPORATION COMMISSION

v.

CASE NO. INS-2017-00159

AMERICAN STRATEGIC INSURANCE
CORPORATION,

Defendant

SETTLEMENT ORDER

Based on a market conduct examination performed by the Bureau of Insurance ("Bureau"), it is alleged that American Strategic Insurance Corporation ("Defendant"), duly licensed by the State Corporation Commission ("Commission") to transact the business of insurance in the Commonwealth of Virginia ("Virginia"), violated § 38.2-305 A of the Code of Virginia ("Code") by failing to provide accurate information required by the statute in the policies; violated §§ 38.2-305 B, 38.2-604 B, 38.2-604 C, 38.2-604.1, 38.2-610 A, 38.2-2118, 38.2-2120, 38.2-2124, 38.2-2125, 38.2-2126 A, and 38.2-2129 of the Code by failing to accurately provide the required notices to insureds; violated §§ 38.2-1812 and 38.2-1833 of the Code by paying commissions to agencies/agents that are not appointed by the Defendant; violated § 38.2-1822 A of the Code by permitting persons to act as agents without first obtaining a license in the manner and form prescribed by the Commission; violated §§ 38.2-1906 A, 38.2-1906 D, and 38.2-2104 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; violated §§ 38.2-2113 C, 38.2-2114 A, 38.2-2114 C, 38.2-2114 E of the Code by failing to properly terminate insurance policies; and violated § 38.2-510 A 1 of the Code, as well as 14

VAC 5-400 30 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 Thirty-seven Thousand Seven Hundred Dollars (\$37,700), waived its right to a hearing, agreed to comply with the corrective action plan set forth in its letters to the Bureau dated February 24, 2017, and May 2, 2017, and confirmed that restitution was made to 15 consumers in the amount of Four Thousand Two Hundred Sixty-two Dollars and Ninety-three Cents (\$4,262.93).

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: Angel Conlin, General Counsel, American Strategic Insurance Corporation, 1 ASI Way, Saint Petersburg, Florida 33702; 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.