

**MARKET CONDUCT EXAMINATION REPORT**

**OF**

**Agency Insurance Company of Maryland, Inc.**

**AS OF**

**September 30, 2017**

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

**Property and Casualty Division  
Market Conduct Section**

# COMMONWEALTH OF VIRGINIA



SCOTT A. WHITE  
COMMISSIONER OF INSURANCE  
STATE CORPORATION COMMISSION  
BUREAU OF INSURANCE

P.O. BOX 1157  
RICHMOND, VIRGINIA 23218  
1300 E. MAIN STREET  
RICHMOND, VIRGINIA 23219  
TELEPHONE: (804) 371-9741  
[www.scc.virginia.gov/boi](http://www.scc.virginia.gov/boi)

## STATE CORPORATION COMMISSION BUREAU OF INSURANCE

I, Gloria V. Warriner, Senior Insurance Market Examiner of the Bureau of Insurance, do hereby certify that the annexed copy of the Market Conduct Examination Report of Agency Insurance Company of Maryland, Inc. as of September 30, 2017, conducted at the company's office in Hanover, MD 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-2018-00204 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 7th day of November, 2018.

A handwritten signature in black ink, appearing to read 'Gloria V. Warriner', written in a cursive style.

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Gloria V. Warriner  
Examiner in Charge

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## INTRODUCTION

Pursuant to the authority of § 38.2-1317 of the Code of Virginia, a target claims examination has been made of the commercial automobile line of business, and a comprehensive examination has been made of the private passenger automobile line of business written by Agency Insurance Company of Maryland, Inc. at its office in Hanover, Maryland.

The examination commenced December 4, 2017 and concluded April 27, 2018. Andrea D. Baytop, William T. Felvey, Karen S. Gerber, Ju'Coby D. Hendrick, Melody S. Morrissette, Latitia L. Orange, and Gloria V. Warriner, examiners of the Bureau of Insurance, and Joyclyn M. Morton, Market Conduct Manager of the Bureau of Insurance, participated in the work of the examination. The examination was called in the Market Action Tracking System on April 23, 2018 and was assigned the Action Number of VA-VA097-19. The examination was conducted in accordance with the guidelines contained in the National Association of Insurance Commissioners (NAIC) Market Regulation Handbook.

## COMPANY PROFILE\*

Agency Insurance Company of Maryland, Inc was incorporated August 14, 1989, under the laws of Maryland and commenced business in March 1990. The company is a wholly owned subsidiary of Agency Holding Company of Maryland, Incorporated. Agency Insurance Company is licensed in seven states. The company is based in Hanover, Maryland.

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

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

<b>GROUP CODE:</b>	<b>AICM</b>
NAIC Company Number	35173
LICENSED IN VIRGINIA	10/17/1997
LINES OF INSURANCE	
Accident and Sickness	
Aircraft Liability	
Aircraft Physical Damage	
Animal	
Automobile Liability	X
Automobile Physical Damage	X
Boiler and Machinery	
Burglary and Theft	
Commercial Multi-Peril	
Credit	
Farmowners Multi-Peril	
Fidelity	
Fire	
General Liability	
Glass	
Homeowners Multi-Peril	
Inland Marine	5/14/14
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 2017 for the lines of insurance included in this examination.\* This business was developed through independent agents.

COMPANY AND LINE	PREMIUM VOLUME	MARKET SHARE
<b>Agency Insurance Company of Maryland, Inc.</b>		
Private Automobile Liability	\$23,128,256	.75%
Private Automobile Physical Damage	\$11,988,559	.51%
Commercial Automobile Liability	\$6,309,411	1.25%
Commercial Automobile Physical Damage	\$1,652,032	.94%

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\* Source: The 2017 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 targeted claims review of the company's commercial automobile line of business and a comprehensive review of the private passenger automobile line of business written in Virginia for the period beginning April 1, 2017 and ending September 30, 2017. This review included rating, underwriting, policy terminations, claims handling, forms, policy issuance<sup>1</sup>, statutory notices, agent licensing, complaint-handling, and information security practices. The purpose of this examination was to determine compliance with Virginia insurance statutes and regulations and to determine that the company's operations were consistent with public interest.

This Report is divided into three sections, Part One – The Examiners' Observations, Part Two – Corrective Action Plan, and Part Three – Recommendations. Part One outlines all of the violations of Virginia insurance laws that were cited during the examination. In addition, the examiners cited instances where the company failed to adhere to the provisions of the policies issued in Virginia. The Other Law Violations portion of Part One notes violations of other related laws that apply to insurers.

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

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

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

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

### **STATISTICAL SUMMARY**

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

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

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

**Population  
Sample Requested**

AREA	AICM	TOTAL	FILES REVIEWED	FILES NOT FOUND	FILES WITH ERRORS	ERROR RATIO
<b>Private Passenger Auto</b>						
New Business <sup>1</sup>	<u>6870</u> 35	<u>6870</u> 35	34	0	16	47%
Renewal Business	<u>10985</u> 35	<u>10985</u> 35	35	0	11	31%
Co-Initiated Cancellations	<u>469</u> 12	<u>469</u> 12	12	0	5	42%
All Other Cancellations <sup>2</sup>	<u>16017</u> 28	<u>16017</u> 28	25	0	6	24%
Nonrenewals	<u>220</u> 15	<u>220</u> 15	15	0	11	73%
<b>Claims</b>						
Auto <sup>3</sup>	<u>4206</u> 80	<u>4206</u> 80	79	0	37	47%
Commercial <sup>4</sup>	<u>320</u> 45	<u>320</u> 45	34	0	9	26%
Footnote <sup>1</sup> - One policy was canceled flat and was not reviewed.						
Footnote <sup>2</sup> - Two policies were duplicates and were not reviewed. One policy was submitted with the wrong cancellation date and was not reviewed.						
Footnote <sup>3</sup> - One claim was handled by the Consumer Services Department and was not reviewed.						
Footnote <sup>4</sup> - Nine claims were duplicates and were not reviewed. One claim was sent to Consumer Services and was not reviewed. One claim was changed to record only by the insured and was not reviewed.						

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

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

### **RATING AND UNDERWRITING REVIEW**

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

The examiners reviewed 34 new business policy files. During this review, the examiners found overcharges totaling \$344.00 and undercharges totaling \$242.00. The net amount that should be refunded to insureds is \$344.00 plus six percent (6%) simple interest.

- (1) The examiners found three violations of § 38.2-1906 D of the Code of Virginia. The company failed to use the rules and/or rates on file with the Bureau.
  - a. In one instance, the company failed to use the correct discounts and/or surcharges.
  - b. In one instance, the company failed to apply the correct surcharge points for accidents and/or convictions.
  - c. In one instance, the company failed to use the correct classification factors.
- (2) The examiners found 14 violations of § 38.2-2204 of the Code of Virginia. The company issued a motor vehicle policy that did not provide coverage to the named insured and any other person using or responsible for the use of the motor vehicle. The company attempted to exclude a driver contrary to the statute.

#### **Automobile Renewal Business Policies**

The examiners reviewed 35 renewal business policy files. During this review, the examiners found overcharges totaling \$2,392.00 and undercharges totaling \$418.00. The

net amount that should be refunded to insureds is \$2,392.00 plus six percent (6%) simple interest.

- (1) The examiners found one violation of § 38.2-1905 A of the Code of Virginia. The company failed to notify the insured that the policy was surcharged for an at-fault accident.
- (2) The examiners found 12 violations of § 38.2-1906 D of the Code of Virginia. The company failed to use the rules and/or rates on file with the Bureau.
  - a. In two instances, the company failed to use the correct discounts and/or surcharges.
  - b. In three instances, the company failed to apply the correct surcharge points for accidents and/or convictions.
  - c. In three instances, the company failed to use the correct symbol and/or model year factor.
  - d. In two instances, the company failed to use the correct tier eligibility criteria.
  - e. In two instances, the company failed to use the correct classification factors.
- (3) The examiners found one violation of § 38.2-2234 B of the Code of Virginia. The company failed to update the insured's credit score in a thirty-six month period.

#### **TERMINATION REVIEW**

The examiners requested cancellation files in several categories due to the difference in the way these categories are treated by Virginia insurance statutes, regulations, and policy provisions. The breakdown of these categories is described below.

#### **Company-Initiated Cancellations – Automobile Policies**

##### **NOTICE MAILED PRIOR TO THE 60<sup>TH</sup> DAY OF COVERAGE**

The examiners reviewed ten private passenger automobile cancellations that were

initiated by the company where the notice was mailed prior to the 60<sup>th</sup> day of coverage in the initial policy period. During this review, the examiners found no overcharges and no undercharges.

#### Other Law Violations

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

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

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

The examiners reviewed two private passenger automobile cancellations that were initiated by the company where the notice was mailed on or after the 60<sup>th</sup> day of coverage in the initial policy period or at any time during the term of a subsequent renewal policy period. During this review, the examiners found no overcharges and no undercharges.

The examiners found two violations of § 38.2-2212 D of the Code of Virginia.

- a. In one instance, the company cancelled the policy for a reason not permitted by the statute.
- b. In one instance, the company failed to obtain sufficient documentation from the insured verifying relocation to another state that would permit the company to cancel the policy after the 59<sup>th</sup> day of coverage.

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

##### NONPAYMENT OF THE PREMIUM

The examiners reviewed 17 private passenger automobile 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 two violations of § 38.2-2208 A of the Code of Virginia. The company failed to obtain valid proof of mailing the notice of cancellation to the insured.
- (2) The examiners found four violations of § 38.2-2208 B of the Code of Virginia.
  - a. In one instance, the company failed to provide proper notice of cancellation to the lienholder.
  - b. In two instances, the company failed to obtain valid proof of mailing the notice of cancellation to the lienholder.
  - c. In one instance, the company failed to retain proof of mailing the cancellation notice to the lienholder.
- (3) The examiner found one violation of § 38.2-2212 E of the Code of Virginia. The company failed to send the cancellation notice to the insured.

#### Other Law Violations

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

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

#### REQUESTED BY THE INSURED

The examiners reviewed eight automobile cancellations that were initiated by the insured where the cancellation was to be effective during the policy term. During this review, the examiners found overcharges totaling \$32.66 and no undercharges. The net amount that should be refunded to insureds is \$32.66 plus six percent (6%) simple interest.

The examiners found one violation of § 38.2-512 A of the Code of Virginia. The company misrepresented the applicable fees. The company assessed billing fees to a policy after the policy was set to cancel.

Other Law Violations

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

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

**Company-Initiated Non-renewals – Automobile Policies**

The examiners reviewed 15 automobile non-renewals that were initiated by the company.

- (1) The examiners found 12 violations of § 38.2-2208 B of the Code of Virginia.
  - a. In eight instances, the company failed to provide proper notice of nonrenewal to the lienholder.
  - b. In four instances, the company failed to obtain valid proof of mailing the nonrenewal notice to the lienholder.
- (2) The examiners found seven violations of § 38.2-2212 E of the Code of Virginia. The company failed to provide 45 days' notice prior to the nonrenewal of the policy.
- (3) The examiners found one occurrence where the company failed to comply with the provisions of the policy. The company failed to provide adequate days' notice of cancellation to the lienholder.

CLAIMS REVIEW**Private Passenger Automobile Claims**

The examiners reviewed 79 automobile claims for the period of April 1, 2017 through September 30, 2017. 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 \$160.05 and underpayments totaling \$9,118.02. The net



amount that should be paid to claimants is \$9,118.02 plus 6% simple interest.

- (1) The examiners found nine 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 11 violations of 14 VAC 5-400-40 A. The company obscured or concealed from a first party claimant, directly or by omission, benefits, coverages, or other provisions of an insurance policy that were pertinent to the claim.

- a. In one instance, the company failed to inform an insured of his physical damage deductible when the file indicated the coverage was applicable to the loss.
- b. In one instance, the company failed to accurately inform an insured of his Medical Expense Benefits coverage when the file indicated the coverage was applicable to the loss.
- c. In six instances, the company failed to accurately inform an insured of his Transportation Expenses coverage when the file indicated the coverage was applicable to the loss.
- d. In three instances, the company failed to accurately inform an insured of his benefits or coverages, including rental benefits, available under the Uninsured Motorist Property Damage coverage (UMPD) and/or Underinsured Motorist coverage (UIM) when the file indicated the coverage was applicable to the loss.

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

practice.

- (3) The examiners found one violation of 14 VAC 5-400-70 A. The company failed to deny a claim or part of a claim, in writing, and/or failed to keep a copy of the written denial in the claim file.
- (4) The examiners found 11 violations of 14 VAC 5-400-70 D. The company failed to offer the insured an amount that was fair and reasonable as shown by the investigation of the claim or failed to pay a claim in accordance with the insured's policy provisions.
  - a. In three instances, the company failed to pay the insured's UMPD claim properly when Collision and UMPD coverages applied to the claim.
  - b. In five instances, the company failed to pay the insured's rental benefits, available under the UMPD coverage and/or UIM coverage.
  - c. In two instances, the company failed to pay the claim in accordance with the policy provisions under the insured's Medical Expense Benefits coverage.
  - d. In one instance, the company failed to pay the claim in accordance with the policy provisions under the insured's Other Than Collision or Collision coverage.

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

- (5) The examiners found one violation of 14 VAC 5-400-80 C. The company applied a pro rata share of the allocated loss adjustment expense when an outside attorney was not involved in the claim.
- (6) The examiners found four violations of 14 VAC 5-400-80 D. The company failed to provide the vehicle owner a copy of the estimate for the cost of repairs prepared

by or on behalf of the company.

- (7) The examiners found one violation of 14 VAC 5-400-80 E. The company failed to document all information relating to the application of betterment or depreciation in the claim file.
- (8) The examiners found four violations of § 38.2-510 A 1 of the Code of Virginia. The company misrepresented pertinent facts or insurance policy provisions relating to coverages at issue
- a. In three instances, the company misrepresented the coverages pertinent to the claim.
  - b. In one instance, the company failed to properly convey to the insured and/or claimant the company's obligation concerning payment of the rental or loss of use claim.
- (9) The examiners found one violation of § 38.2-510 A 3 of the Code of Virginia. The company failed to adopt and implement reasonable standards for the prompt investigation of claims arising under insurance policies.
- (10) The examiners found one violation of § 38.2-510 A 6 of the Code of Virginia. The company failed to attempt, in good faith, to make a prompt, fair, and equitable settlement of a claim in which liability was reasonably clear. The company unreasonably delayed the settlement of a claim.
- (11) The examiners found six violations of § 38.2-510 C of the Code of Virginia. The company failed to disclose the required aftermarket parts notice to the vehicle owner on the estimate of repairs or in a separate document.
- a. In four instances, the company failed to disclose the required aftermarket parts notice to the insured owner on the estimate of repairs or in a separate document on an estimate prepared by or on behalf of the company.
  - b. In two instances, the company failed to disclose the required aftermarket

parts notice to the claimant owner on the estimate of repairs or in a separate document on an estimate prepared by or on behalf of the company.

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

- (12) The examiners found two violations of § 38.2-2201 B of the Code of Virginia. The company failed to obtain a statement from an insured authorizing the company to make payments directly to the medical provider.
- (13) The examiners found two occurrences where the company failed to comply with the provisions of the insurance policy.
  - a. In one instance, the company paid an insured more than the insured was entitled to receive under the terms of his policy.
  - b. In one instance, the company made a claim payment to the insured or beneficiary that was not accompanied by a statement setting forth the correct coverage under which payment was made.

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 three violations of § 52-40 of the Code of Virginia. The company failed to include the statement regarding insurance fraud on claim documents.

**Commercial Automobile Claims**

The examiners reviewed 34 commercial automobile claims for the period of April 1, 2017 through September 30, 2017. The findings below appear to be contrary to the standards set forth by Virginia insurance statutes and regulations. During this review, the

examiners found no overpayments and underpayments totaling \$3,458.25. The net amount that should be paid to claimants is \$3,458.25 plus six percent (6%) simple interest.

- (1) The examiners found two 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.
- (2) The examiners found three violations of 14 VAC 5-400-40 A. The company obscured or concealed from a first party claimant, directly or by omission, benefits, coverages, or other provisions of an insurance policy that were pertinent to the claim.
  - a. In one instance, the company failed to inform an insured of his physical damage deductible when the file indicated that the coverage was applicable to the loss.
  - b. In one instance, the company failed to accurately inform an insured of his Medical Expense Benefits coverage when the file indicated the coverage was applicable to the loss.
  - c. In one instance, the company failed to accurately inform an insured of his benefits or coverages, including rental benefits, available under the Uninsured Motorist Property Damage coverage (UMPD) and/or Underinsured Motorist coverage (UIM) when the file indicated the coverage was applicable to the loss.

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

- (3) The examiners found one violation of 14 VAC 5-400-50 C. The company failed to make an appropriate reply within ten working days to pertinent communications from a claimant, or a claimant's authorized representative, that reasonably

suggested a response was expected.

- (4) The examiners found one violation of 14 VAC 5-400-70 A. The company failed to deny a claim or part of a claim, in writing, and/or failed to keep a copy of the written denial in the claim file.
- (5) The examiners found two violations of 14 VAC 5-400-70 D. The company failed to offer the insured an amount that was fair and reasonable as shown by the investigation of the claim or failed to pay a claim in accordance with the insured's policy provisions under the insured's Collision or Other than Collision coverage.
- (6) The examiners found two violations 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 of \$5,000.00 or greater to the claimant's attorney or other representative.
- (7) The examiners found one violation 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.
- (8) The examiners found two violations of § 38.2-510 C of the Code of Virginia. The company failed to disclose the required aftermarket parts notice to the vehicle owner on the estimate of repairs or in a separate document.
- (9) The examiners found one occurrence where the company failed to comply with the provisions of the insurance policy. The company failed to properly pay an Uninsured Motorist Property Damage (UMPD) claim.

#### **REVIEW OF FORMS**

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

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

### **Automobile Policy Forms**

#### POLICY FORMS USED DURING THE EXAMINATION PERIOD

The company provided copies of 22 forms that were used during the examination period to provide coverage on policies insuring risks located in Virginia.

The examiners found no violations in this section.

#### OTHER FORMS USED DURING THE EXAMINATION PERIOD

The examiners found no additional forms to review.

#### POLICY FORMS CURRENTLY USED

The examiners found no violations in this section.

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

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

For this review, the examiners verified that the company enclosed and listed all of the applicable policy forms on the declarations page. In addition, the examiners verified that all required notices were enclosed with each policy. Finally, the examiners verified

that the coverages on the new business policies were the same as those requested on the applications for those policies.

### **Automobile Policies**

The company provided five new business policies mailed on October 3, 2017. In addition, the company provided five renewal business policies mailed on October 3, 2017.

#### NEW BUSINESS POLICIES

The examiners found no violations in this area.

#### RENEWAL BUSINESS POLICIES

The examiners found no violations in this area.

#### REVIEW OF STATUTORY NOTICES

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

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

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



### **General Statutory Notices**

The examiners found no violations in this area.

### **Statutory Vehicle Notices**

- (1) The examiners found one violation of § 38.2-2202 A of the Code of Virginia. The company's Medical Expense Benefits notice was not in the precise wording as required by the statute.
- (2) The examiners found one violation of § 38.2-2202 B of the Code of Virginia. The rejection of higher Uninsured Motorist limits notice was not in the precise wording as required by the statute.

### **Other Notices**

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

The examiners found one violation of § 52-40 B of the Code of Virginia. The company's Statement of No Losses/Application for Reinstatement or Renewal Without Lapse notice, did not contain the fraud language as required by the statute.

### **LICENSING AND APPOINTMENT REVIEW**

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

**Agent Review**

The examiners found two 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 Review**

The examiners found one violation of § 38.2-1812 E of the Code of Virginia. The company paid commissions to a trade name that was not filed with the Commission.

**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 written information security procedures.

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

Business practices and the error tolerance guidelines are determined in accordance with the standards set forth by the NAIC. A seven percent (7%) error criterion was applied to claims handling. Any error ratio above this threshold for claims indicates a general business practice. In 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**

Agency Insurance Company of Maryland, Inc. shall:

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

### **Rating and Underwriting Review**

Agency Insurance Company of Maryland, Inc. shall:

- (1) Correct the errors that caused the overcharges and undercharges and send refunds to the insureds or credit the insureds' accounts the amount of the overcharge as of the date the error first occurred.
- (2) Include six percent (6%) simple interest in the amount refunded and/or credited to the insureds' accounts.
- (3) Complete and submit to the Bureau, the enclosed file titled "Rating Overcharges Cited during the Examination." By returning the completed file to the Bureau, the company acknowledges that it has refunded or credited the overcharges listed in the file.
- (4) Use the rules and rates on file with the Bureau. Particular attention should be focused on the use of filed discounts, surcharges, points for accidents and

convictions, symbols, tier eligibility criteria, and driver classification factors.

- (5) Provide coverage to the named insured and any other person using or responsible for the use of the motor vehicle as required by the statute.

### **Termination Review**

Agency Insurance Company of Maryland, Inc. shall:

- (1) Correct the errors that caused the overcharges and send refunds to the insureds or credit the insureds' accounts the amount of the overcharge as the date the error first occurred.
- (2) Include six percent (6%) simple interest in the amount refunded and/or credited to the insureds' accounts.
- (3) Complete and submit to the Bureau, the enclosed file titled "Termination Overcharges Cited during the Examination." By returning the completed file to the Bureau, the company acknowledges that it has refunded or credited the overcharges listed in the file.
- (4) Obtain valid proof of mailing the cancellation and nonrenewal notice to the insured and lienholder.
- (5) Indicate the correct date of nonrenewal on the lienholder notices.
- (6) Send the nonrenewal notice at least 45 days before the nonrenewal effective date.

### **Claims Review**

Agency Insurance Company of Maryland, Inc. shall:

- (1) Correct the errors that caused the underpayments and overpayments and send the amount of the underpayment to insureds and claimants.
- (2) Include six percent (6%) simple interest in the amount paid to the insureds and claimants.
- (3) Complete and submit to the Bureau, the enclosed file titled "Claims

Underpayments Cited during the Examination.” By returning the completed file to the Bureau, the company acknowledges that it has paid the underpayments listed in the file.

- (4) Document claim files so that all events and dates pertinent to the claim can be reconstructed.
- (5) Document the claim file that all applicable coverages have been discussed with the insured. Particular attention should be given to deductibles, rental benefits under UMPD Coverage and Transportation Expenses coverage, and Medical Benefits Expense coverage.
- (6) Offer the insured an amount that is fair and reasonable as shown by the investigation of the claim, and pay the claim in accordance with the insured’s policy provisions.
- (7) Disclose the required aftermarket parts notice to the vehicle owner on the estimate of repair or in a separate document.

### **Review of Statutory Notices**

Agency Insurance Company of Maryland, Inc. shall:

- (1) Amend the Medical Expense Benefits notice to comply with § 38.2-2202 A of the Code of Virginia.
- (2) Amend the Notice of Optional Uninsured Motorist Coverage to comply with § 38.2-2202 B of the Code of Virginia.

### **Licensing and Appointment Review**

Agency Insurance Company of Maryland, Inc. shall:

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

- (2) Accept business only from agencies that have a current license from the Commonwealth of Virginia.

### **PART THREE – EXAMINERS’ 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:

#### **Claims**

- Acknowledge correspondence that reasonably suggests a reply is expected from insureds and claimants within ten business days.
- Make all denials in writing and keep a copy in the claim file.
- Provide copies of vehicle repair estimates prepared by or on behalf of the company to insureds.
- Document all information relating to the application of betterment or depreciation in the claim file.
- Notify the claimant within five business days when a settlement check \$5,000.00 or greater is sent to the claimant’s attorney or representative.
- Properly represent pertinent facts or insurance provisions relating to coverage(s) at issue.
- Include a correct statement of the coverages under which payments are made with all claim payments to insureds.
- Adopt and implement reasonable standards for the prompt investigation of claims.
- Make a prompt, fair, and equitable settlement of a claim in which liability is reasonably clear.
- Make medical payments directly to the insured unless a statement from

the insured authorizing the company to make payments directly to the medical provider has been obtained first.

- Pay an insured no more than what he or she is entitled to receive under the terms of the policy.
- Make payments under the correct coverage(s) properly when both Collision and UMPD coverages pertain to the claim.
- Include the fraud statement on all claim forms required by the company as a condition of payment.
- Revise the form letter to properly state the company's obligation for the reasonable cost of a comparable substitute vehicle.

### **Forms**

- Amend the Medical Expense and Income Loss Benefits Coverage-Virginia form (PP05960116) to be in the precise wording as the standard form.
- Amend the PAP Packet (VA00010316) to include the most current version of the Window Glass Deductible Endorsement (VA00010316).
- Withdraw form VACA-011 (0314), Virginia Garagekeepers Coverage, and file a revised form for approval with the Rates and Forms Section. The revised form must require the company to settle claims on behalf of the insured, including the insured's deductible, fully compensating the claimant. The company can then collect the deductible directly from the insured. To do otherwise will be a violation of the Code of Virginia § 38.2-510 A 4 and 6, Unfair Claim Settlement Practices.

### **Statutory Notices**

- Remove the TDD number from the Important Information to Policyholders notice as this number is no longer in use by the Bureau.
- Amend the Statement of No Losses/Application for Reinstatement or Renewal Without Lapse notice to include the Fraud language as required by § 52-40 B of the Code of Virginia.

### **Complaint Register**

- Ensure each complaint record indicates the classification by line of business, nature of each complaint, the disposition of the complaint and the time it took to process the complaint.

**SUMMARY OF PREVIOUS EXAMINATION FINDINGS**

The Bureau conducted two prior market conduct examinations of the private passenger automobile line of business for Agency Insurance Company of Maryland, Inc.

During the private passenger automobile examination of Agency Insurance Company of Maryland, Inc. as of March 31, 2007, the company violated §§ 38.2-305 A, 38.2-502, 38.2-511, 38.2-1906 D, and 38.2-2208 of the Code of Virginia, as well as 14 VAC 5-400-40 A, 14 VAC 5-400-60 B, and 14 VAC 5-400-70 A of the Virginia Administrative Code.

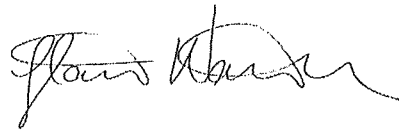
During the private passenger automobile examination of Agency Insurance Company of Maryland, Inc. as of August 31, 2009, the company violated §§ 38.2-305 A, 38.2-502, 38.2-510 A 3, 38.2-510 A 6, 38.2-1812, 38.2-1906 D, 38.2-2208 A, 38.2-2212 D, 38.2-2212 E, and 38.2-2234 A of the Code of Virginia; and 14 VAC 5-400-50 C and 14 VAC 5-400-80 D of the Virginia Administrative Code.



**ACKNOWLEDGEMENT**

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

Sincerely,

A handwritten signature in black ink, appearing to read "Gloria Warriner", written in a cursive style.

Gloria Warriner  
Senior Insurance Market Examiner

# COMMONWEALTH OF VIRGINIA

SCOTT A. WHITE  
COMMISSIONER OF INSURANCE  
STATE CORPORATION COMMISSION  
BUREAU OF INSURANCE



P.O. BOX 1157  
RICHMOND, VIRGINIA 23218  
1300 E. MAIN STREET  
RICHMOND, VIRGINIA 23219  
TELEPHONE: (804) 371-9741  
[www.scc.virginia.gov/boi](http://www.scc.virginia.gov/boi)

May 21, 2018

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

Clifford O. Myers  
Agency Insurance Company of Maryland Inc.  
7450 Coca Cola Drive  
Hanover, MD 21076

RE: Market Conduct Examination  
Agency Insurance Company of Maryland, Inc. (NAIC# 35173)  
Exam Period: April 1, 2017 – September 30, 2017

Dear Mr. Myers:

The Bureau of Insurance (Bureau) has conducted a market conduct examination of the above referenced company for the period of April 1, 2017 through September 30, 2017. 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 April 27, 2018. 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, etc.). The company should use exhibits or appendices to reference any of this information. In addition, please use the same format (headings and numbering) as found in the Report. If the company fails to respond in the format of the Report 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.

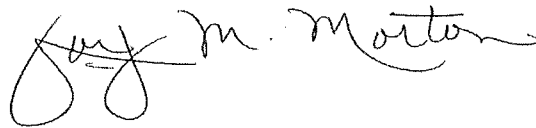
Finally, we have enclosed an Excel file that the company must complete and return to the Bureau with the company's response. This file lists the review items for which the examiners identified overcharges (rating and terminations) and underpayments (claims).

The company's response and the spreadsheet mentioned above must be returned to the Bureau by June 29, 2018.

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

We look forward to your reply by June 29, 2018.

Sincerely,

A handwritten signature in black ink that reads "Joy M. Morton". The signature is fluid and cursive, with the first name "Joy" being particularly prominent.

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

# Agency Insurance Company

www.agencyinsurancecompany.com

P.O. BOX 8900 • ELKRIDGE, MD 21075-8900  
410-684-3399  
1-800-492-5629

Claims Department  
410-684-2727  
1-800-841-5241

Facsimile  
1-800-966-6924  
1-800-525-3699 (Claims)

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

Re: Market Conduct Examination  
Agency Insurance Company of Maryland, Inc. (NAIC#: 35173)  
Exam Period: April 1, 2017 – September 30, 2017

June 27, 2018

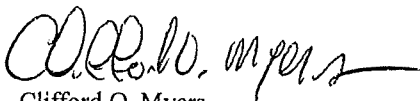
Dear Ms. Morton:

The preliminary examination report was received by Agency Insurance Company (AIC) on Thursday, May 24, 2018. AIC's response was requested by June 29, 2018. Our response is attached.

As noted in our attached response, most of the items in the Corrective Action Plan are already completed. In fact, AIC was able to successfully and quickly address and resolve nearly all areas or issues of concern, many before the on-site portion was completed. Thank you for the cordiality of your team and the openness to discuss various aspects of the policy issues covered during the exam and in that process, providing guidance that was material in AIC being able to quickly resolve issues that were raised.

I look forward to your reply to the attached response and will rapidly provide any additional documentation, should it be needed.

Cordially,



Clifford O. Myers  
S.V.P., Operations  
Agency Insurance Company of Maryland, Inc.  
410.684.3278  
[cmyers@aiconline.com](mailto:cmyers@aiconline.com)

cc: John B. Stansbury, CEO  
E. Scott Tadlock, President  
Laura Touhey, S.V.P., Claims  
Raymond Bray, V.P., Claims

PART ONE – EXAMINERS OBSERVATIONS

**RATING AND UNDERWRITING REVIEW (pg 7 of the preliminary report)**



**Automobile New Business policies**

- (2) "...The company attempted to exclude a driver contrary to the statute"

**AIC RESPONSE:** At issue was verbiage AIC included on the application which referenced the names of drivers the insured had "rejected" at the time of sale as individuals not in the household or drivers with no regular access to the vehicles and therefore should not be listed or rated on the policy. AIC accepted the policyholder statement as to these individuals and did not list or rate them on the policy. As a reminder to the insured, AIC included the names of these individuals on the application, in a separate section, along with the following statement:

*"The following driver(s) was/were rejected and not listed on the policy. Please be aware than any claim resulting from a rejected driver may be denied due to your material misrepresentation of important policy information"*

AIC did not, does not and never intended to exclude a driver from coverage. AIC has, does and will continue to pay claims for drivers where material misrepresentation is not a factor.

However, as listed under PART TWO in this response, AIC willingly amended the above statement to phrasing mutually acceptable between AIC and the Bureau. This was quickly accomplished, put into production and a sample already provided to the Bureau.

**ALL OTHER CANCELLATIONS – AUTOMOBILE POLICIES (pg 10 of the preliminary report)**

**NONPAYMENT OF THE PREMIUM**

- (1) The examiners found two violations of §38.2-2208 A of the Code of Virginia. The company failed to obtain valid proof of mailing the notice of cancellation to the insured.

**AIC RESPONSE:** Please see Appendices 5 and 6. These responses had been included in a 3/7/2018 email response to the BOI. AIC, pending the BOI review, asks that these two violations be removed.

**COMPANY-INITIATED NON-RENEWALS – AUTOMOBILE POLICIES (pg 11 of the preliminary report)**

- (2) The examiners found seven violations of §38.2-2208 B of the Code of Virginia. The company failed to provide 45 days' notice prior to the nonrenewal of the policy.

**AIC RESPONSE:** This was a manual error by long-time staff that impacted roughly just 3% of the non-renewals issued for the exam period. It is worth noting that out of the overall base of nearly 220 non-renewals issued and covered for the exam period, of the net 15 automobile non-renewals selected for the exam out of the 220 available, every non-renewal that was issued with less than the 45 day requirement was selected for review. This gives rise to an incorrect impression that AIC regularly and consistently issues non-renewals with less than the statutorily mandated number of days' notice. As noted above, in reality, it was just 3% and as such, AIC believes this should not be considered a business practice. Nonetheless, AIC strives to have no non-renewal issued with less than 45 days' notice. To that end, AIC has placed into production a new system-based override routine that alerts staff and management, *prior to the printing and mailing of such a notice*, whenever a non-renewal is processed with 45 or fewer days.

**CLAIMS REVIEW (pg 12 of the preliminary report)**

- (4) The examiners found 12 violations of 14 VAC 5-400-70 A. The company failed to offer the insured an amount that was fair and reasonable as shown by the investigation of the claim or failed to pay a claim in accordance with the insured's policy provisions.

d. In two instances, the company failed to pay the claim in accordance with the policy provisions under the Insured's Other Than Collision or Collision coverage.

**AIC RESPONSE:** Please see Appendix 4 in regard to CPA013 (PPA1023977988). AIC received a subrogation payment from the other carrier and in turn on 8/2/2017 issued a check to Ms. Gholson for \$248.59, check # 482614, and cleared on 8/7/2017. This in turn impacted the amount of the check as requested under the Corrective Action Plan, Claims Review, numbers (1)-(3).

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

b. In two instances, the company failed to properly convey to the insured and/or claimant the company's obligation concerning payment of the rental or loss of use claim.

**AIC RESPONSE:** Please see Appendix 1 in regard to CCA029 (PPA569949986). In this instance, there was no CDW charged to the claimant and therefore there is no error in incorrectly charging a claimant nor is there any restitution to be made, as requested under Part Two, Corrective Action Plan, Claims Review, numbers (1)-(3). AIC asks that this violation be removed.

- (10) The examiners found three violations of §38.2-510 A 6 of the Code of Virginia. The company failed to attempt, in good faith, to make a prompt, fair, and equitable settlement of a claim in which liability was reasonably clear.

a. In two instances, the company unreasonably delayed the settlement of a claim

**AIC RESPONSE:** Please see Appendix 2 in regard to CPA039 (PPA1512741440). In this instance, the subrogation demand as provided was in connection to a different claim. This claim did not have a subrogation request and therefore there is not a payment to be made as requested under Part Two, Corrective Action Plan, Claims Review, numbers (1)-(3). AIC asks that this violation be removed.

#### **Commercial Automobile Claims (begins pg 16 of preliminary report)**

- (8) The examiners found one occurrence where the company failed to comply with the provisions of the insurance policy. The company failed to properly pay an Uninsured Motorist Property Damage (UMPD) claim.

**AIC RESPONSE:** Please see Appendix 3 in regard to CCA029 (CA1369667327). AIC has repeatedly attempted to discern to whom a payment should be made and does not know who owns the salvage on this vehicle, with the vehicle reported as having been shipped overseas. Therefore, there is not a payment that can be made under Part Two, Corrective Action Plan, Claims Review, numbers (1)-(3). AIC asks that this violation be removed.

#### **REVIEW OF STATUTORY NOTICES (pg 20 of the preliminary report)**

##### **Other Notices (pg 21)**

The examiners found one violation of §52-40 B of the Code of Virginia. The company's statement of No Losses/Application for Reinstatement Or Renewal Without Lapse notice, did not contain the fraud language as required by statute.

**AIC RESPONSE:** The Company consistently provides the required fraud language on all applicable new policy applications and no exceptions were found in the exam. However, the Company No Loss Statement – used when an insured wishes to reinstate their prior lapsed policy, under which the original application remains the ruling application for the policy and does contain the fraud statement, is called "Application for Reinstatement..." in the sense that the insured

*Agency Insurance Company Virginia Preliminary Market Conduct Report Response: June 27, 2018*

wishes for AIC to consider their request to re-establish and continue their prior lapsed policy. It is this form the Bureau has cited as also requiring the Virginia fraud statement. While the Company disagreed, we did concur it was a good idea to also incorporate the fraud language on our No Loss Statement. This was quickly accomplished, put into production with a sample already provided to the Bureau.

**PART TWO - CORRECTIVE ACTION PLAN (pg 23 of preliminary report)**

**Rating and Underwriting Review (pg 23 of preliminary report)**

- (1) Correct the errors that caused the overcharges and undercharges and send refunds to the insureds or credit the insured's accounts the amount of the overcharge as of the date the error first occurred.
  - a. Completed
- (2) Include six percent (6%) simple interest in the amount refunded and/or credited to the insured's accounts.
  - a. Completed
- (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. Completed. The file is included herein.
- (4) Use the rules and rates on file with the Bureau. Particular attention should be focused on the use of filed discounts, surcharges, points for accidents and convictions, symbols, tier eligibility criteria, and driver classification factors.
  - a. AIC is expanding the range of test cases utilized to internally verify that rates and all factors are correctly captured in connection with any filed rating change. AIC recently added additional business analysts with job responsibilities that include policy and rating review. Additionally certain filed rules have been updated. For instance, Driving Record (Rule D3), has already been updated to clarify point assignments. Likewise, the Rate Order of Calculation (Rule R11) has already been updated to make clear the applicability of the rule across vehicles.
- (5) Provide coverage to the named insured and any other person using or responsible for the use of the motor vehicle as required by the statute.
  - a. As noted above under our Part One responses, AIC did not, does not and never intended to exclude a driver from coverage. AIC has, does and will continue to pay claims for drivers where material misrepresentation is not a factor.
  - b. However, AIC willingly amended the prior application statement reminding insureds about who they indicated should not be listed as drivers to phrasing mutually acceptable between AIC and the Bureau. This was quickly accomplished, put into production and a sample already provided to the Bureau.

**Termination Review (pg 24 of preliminary report)**

- (1) Correct the errors that caused the overcharges and undercharges and send refunds to the insureds or credit the insured's accounts the amount of the overcharge as of the date the error first occurred.
  - a. Completed
- (2) Include six percent (6%) simple interest in the amount refunded and/or credited to the insured's accounts.
  - a. Completed
- (3) Complete and submit to the Bureau, the enclosed file titled "Termination Overcharges Cited during the Examination." By returning the completed file to the Bureau, the Company acknowledges that it has refunded or credited the overcharges listed in the file.
  - a. Completed. The file is included herein.
- (4) Obtain valid proof of mailing the cancellation and nonrenewal notice to the insured and lienholder.
  - a. Our vendor has already completed enhancements to utilize 1<sup>st</sup> class mail tracking via use of an IMb code.
- (5) Provide proper notice of refusal to renew to the lienholder.
  - a. A date field in the existing nonrenewal notice to lienholders was incorrect. This was corrected during the onsite portion of the examination and already placed into production.



- (6) Send the nonrenewal notice at least 45 days before the nonrenewal effective date.
- a. This was a manual error by long-time staff that impacted roughly just 3% of the non-renewals issued for the exam period. It is worth noting that out of the overall base of nearly 220 non-renewals issued and covered for the exam period, every non-renewal that was issued with less than the 45 day requirement was selected for review. Nonetheless, AIC strives to have no non-renewal issued with less than 45 days' notice. To that end, AIC has placed into production a new system-based override routine that alerts staff and management, *prior to the printing and mailing of such a notice*, whenever a non-renewal is processed with 45 or fewer days.

#### Claims Review (pg 24 of preliminary report)

- (1) Correct the errors that caused the underpayments and underpayments and send the amount of the underpayments insureds and claimants.
  - a. Completed; however,
  - b. Please note that there are three (3) requested payments that AIC did not process. These are for items:
    - i. CCA029 – see our response and rebuttal reasoning under Part One and Appendix 1.
    - ii. CPA008 – see our response and rebuttal reasoning under Part One and Appendix 2.
    - iii. CPA039 – see our response and rebuttal reasoning under Part One and Appendix 3.
    - iv. CPA013 – see our response and rebuttal reasoning under Part One and Appendix 4.
- (2) Include six percent (6%) simple interest in the amount refunded and/or credited to the insured's accounts.
  - a. Completed – for all in which a payment has been issued. See the immediately preceding response in regard to three (3) requested payments AIC did not process and one (1) processed for a lesser amount.
- (3) Complete and submit to the Bureau, the enclosed file titled "Claims Underpayments Cited during the Examination." By returning the completed file to the Bureau, the Company acknowledges that it has refunded or credited the overcharges listed in the file.
  - a. Completed – for all in which a payment has been issued. See the immediately preceding responses in regard to three (3) requested payments AIC did not process and one (1) processed for a lesser amount.
- (4) Document claim files so that all events and dates pertinent to the claim can be reconstructed.
  - a. Responses to (4)-(7) all provided after (7).
- (5) Document the claim file that all applicable coverages have been discussed with the Insured. Particular attention should be given to deductibles, rental benefits under UMPD Coverage and Transportation Expenses Coverage, and Medical benefits Expense Coverage.
  - a. Responses to (4)-(7) all provided after (7).
- (6) Offer the Insured an amount that is fair and reasonable as shown by the investigation of the claim, and pay the claim in accordance with the Insured's policy provisions.
  - a. Responses to (4)-(7) all provided after (7).
- (7) Disclose the required aftermarket parts notice to the vehicle owner on the estimate of repair or in a separate document.

*This below response is directed to points (4)-(7) above:*

The company has within the last year hired a full time compliance/training specialist. This individual will design and implement a project plan to address the areas of concern identified in the audit. This plan will include but is not limited to the following measures:

- a. Dissemination of audit results to the claims staff
- b. Dissemination of regulatory code/statutes to the claims staff
- c. Random audits of claims files to ensure on-going compliance in the following areas:

1. File documentation
2. Explanation/documentation of all applicable coverages
3. Fair/reasonable payments supported by the claims investigation and policy provisions
4. Disclosure of the required aftermarket parts notice
- d. One on one training with claims representatives who were in violation of the regulatory code
- e. Regular compliance meetings

**Forms Review (pg 25 of preliminary report)**

Use the precise language of the automobile form filed and approved by the Bureau.

- a. There was a single form (Windshield Replacement Endorsement) wherein the incorrect form number had been referenced. This has already been corrected. AIC will incorporate a review of all forms with each rate revision, even if no forms are being altered, to ensure the correct forms are in use.

**Review of Statutory Notices (pg 25 of preliminary report)**

- (1) Amend the Medical Expense Benefits notice to comply with § 38.2-2202 A of the Code of Virginia
  - a. This was quickly corrected during the onsite exam period, put into production and a sample already provided to the Bureau.
- (2) Amend the Notice of Optional Uninsured Motorist Coverage to comply with § 38.2-2202 B of the Code of Virginia
  - a. This was quickly corrected during the onsite exam period, put into production and a sample already provided to the Bureau.
- (3) Amend the Statement of No Losses/Application For Reinstatement or Renewal Without Lapse notice to include the Fraud Language as required by § 52-40 B of the Code of Virginia.
  - a. As noted above under Part One responses, Review of the Policy Issuance Process, Other Notices, while the Company disagreed, we did concur it was a good idea to also incorporate the fraud language on our No Loss Statement. This was quickly accomplished, put into production with a sample already provided to the Bureau.

**Licensing and Appointment Review (pg 26 of preliminary report)**

- (1) Appoint agents within 30 days of the application.
  - a. Our Territory Sales Managers (TSM's), as part of their ongoing agency review, audit all listed agents appointed for an agency against all licensed individuals currently employed in an agency. There is a system report that is utilized to assist with this review.
- (2) Accept business only from agencies that have a current license from the Commonwealth of Virginia
  - a. This topic stemmed from an agency with a DBA name. AIC will review and ensure where agencies using DBA names that the name as presented agrees with the tax ID reported to is being operated under for the state of Virginia.

**PART THREE – EXAMINERS RECOMMENDATIONS**

**Claims**

The AIC response under the Corrective Action Plan (Claims Review, number 7) is equally applicable in regard to the recommendations made by the BOI.

**Forms**

AIC has already corrected the Medical Expense and Income Loss Benefits Coverage Form to be in the precise wording as the standard form and previously provided a copy to the Bureau.

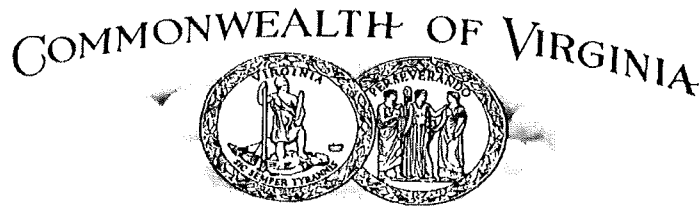
**Statutory Notices:**

AIC has already removed the TDD number from the Important Information to Policyholders notice and previously provided a copy to the Bureau.

**Complaint Register**

AIC Operations Team will add the line of business to our Excel logging and add a calculation to record the time to process such that all recommended items to include in the log will be covered. The Claims complaint record has also been updated to include the line of business, disposition of the complaint and processing time frame.

SCOTT A. WHITE  
COMMISSIONER OF INSURANCE  
STATE CORPORATION COMMISSION  
BUREAU OF INSURANCE



P.O. BOX 1157  
RICHMOND, VIRGINIA 23218  
1300 E. MAIN STREET  
RICHMOND, VIRGINIA 23219  
TELEPHONE: (804) 371-9741  
[www.scc.virginia.gov/boi](http://www.scc.virginia.gov/boi)

July 26, 2018

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

Clifford O. Myers  
Agency Insurance Company of Maryland Inc.  
7450 Coca Cola Drive  
Hanover, MD 21076

RE: Market Conduct Examination  
Agency Insurance Company of Maryland, Inc. (NAIC# 35173)  
Exam Period: April 1, 2017 – September 30, 2017

Dear Mr. Myers:

The Bureau of Insurance (Bureau) has reviewed the Company's June 27, 2018 response to the Preliminary Market Conduct Report (Report) of Agency Insurance Company (Company). The Bureau has referenced only those items in which the Company has disagreed with the Bureau's findings, or items that have changed in the Report. This response follows the format of the Report.

## **Part One – Examiners' Observations**

### **Automobile New Business Rating**

- (2) The violations for RPA004, RPA007, RPA009, RPA011, RPA012, RPA014, RPA015, RPA017, RPA019, RPA022, RPA024, RPA026, RPA030, and RPA033 remain in the Report. Virginia statute prohibits the Company from excluding drivers. Virginia is a permissive use state and if a driver has permission to operate the vehicle and a claim occurs, the coverage would apply. The Bureau acknowledges that the Company amended the statement on the application.

### **Termination Review**

#### **Automobile for Nonpayment of the Premium**

- (1) These violations remain in the report. The IMb tracing code provided by the Company does not match the IMb tracing code that was decoded by the Bureau. We received the Company's response dated March 6, 2018 and responded to the company on April 6, 2018. As stated in our April 6 response the IMb tracing code provided by the

Company does not match the information decoded by the Bureau. Attached is a copy of the review sheet responses for TPA013 and TPA026 for the Company's review.

### **Automobile for Non-renewals**

- (2) These violations remain in the report. The error ratio for business practices is based upon the number of errors in comparison to the sample selected for the examination not the Company's entire population. The violations cited in this area represented a 46.6% error ratio.

### **Automobile Claims**

- (4d) After further review, the violation for CPA013 has been withdrawn from the Report.
- (5) The violation for CPA013 remains in the Report. The Bureau acknowledges that the Company made a partial (pro-rata) payment of \$248.59 prior to the exam and has since made a payment for the remaining amount of \$1.41 plus six percent (6%). The Report has been amended to reflect this revision.
- (8) The Company reference review sheet ClaimVehPPA569949986 as CCA029 in its report response. This review sheet is for CPA008 and is found in section 10 of the Report. It relates to § 38.2-510 A 6 Code of Virginia.

After further review, the violation for CPA075 has been withdrawn and a Recommendation has been added to the Report.

- (10) After further review, the violations for CPA008 and CPA039 have been withdrawn.

### **Commercial Claims**

- (8) After further review, the violation for CCA029 has been withdrawn.

### **Automobile Forms**

After further review, the violation for FPA019 has been withdrawn and a Recommendation has been added to the Report.

### **Statutory Vehicle Notices**

This violation remains in the Report. While the Company disagreed with this violation, the Company included the fraud language in its "Statement of No Losses/Application For Reinstatement or Renewal Without Lapse" (VA NLS) effective February 2018.

## **Part Two – Corrective Action Plan**

### **Terminations**

- (6) Send the nonrenewal notice at least 45 days before the nonrenewal effective date.

The Bureau acknowledges that the company has corrected this issue.

## Automobile Claims

- (1) The Company has disputed CPA013 as related to restitution of \$250.00. The restitution has been amended to \$1.41 to reflect the payment of \$248.59 paid by the Company prior to the examination.

The violations for CCA029, CPA008 and CPA039 have been withdrawn. The restitution spreadsheet is revised to reflect these changes.

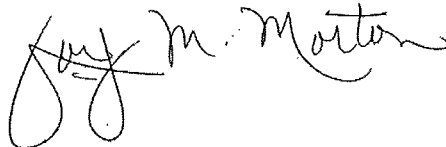
## Part Three – Recommendation

### Commercial Claims

The Company should withdraw form VACA-011 (0314), Virginia Garagekeepers Coverage, and file a revised form for approval with the Rates and Forms Section. The revised form must require the company to settle claims on behalf of the insured, including the insured's deductible, fully compensating the claimant. The company can then collect the deductible directly from the insured. To do otherwise will be a violation of the Code of Virginia § 38.2-510 A 4 and 6, Unfair Claim Settlement Practices.

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, review sheets changed, added or withdrawn and the restitution spreadsheet. The Company's response to this letter is due in the Bureau's office by August 13, 2018.

Sincerely,



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

Enclosures

# Agency Insurance Company

www.agencyinsurancecompany.com

P.O. BOX 8900 • ELKRIDGE, MD 21075-8900

410-684-3399

1-800-492-5629

Claims Department  
410-684-2727  
1-800-841-5241

Facsimile  
1-800-966-6924  
1-800-525-3699 (Claims)

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

Re: Market Conduct Examination  
Agency Insurance Company of Maryland, Inc. (NAIC#: 35173)  
Exam Period: April 1, 2017 – September 30, 2017

August 10<sup>th</sup>, 2018

Dear Ms. Morton:

The BOI response to AIC's comments on the preliminary examination report was received by Agency Insurance Company (AIC) on Friday, July 27<sup>th</sup>, 2018. AIC's response was requested by August 13<sup>th</sup>, 2018. Our comments are as follows:

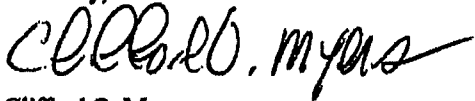
Automobile for Non-Renewals (2): AIC understands the item will remain in the report. It was important for AIC to record the rarity that within the sample set of 15 non-renewals for the exam out of 220 available, it selected "every" instance this issue occurred, giving rise to a 46.6% error ratio that is truly not representative of the overall population error ratio of 3%.

In regard to the new recommendation on the GarageKeepers coverage and policy form, AIC is already working on a complete Virginia commercial forms filing pursuant to the sunset of the use of ISO forms and will incorporate appropriate language. Additionally, AIC has already procedurally amended its claim handling to seek any deductible reimbursement, as applicable, from the insured.

AIC has no further comments on the amended report.

I believe this satisfies all outstanding issues. Please let me know if you require any additional information.

Cordially,



Clifford O. Myers  
S.V.P., Operations  
Agency Insurance Company of Maryland, Inc.  
410.684.3278

[www.aicofmd.com](http://www.aicofmd.com)

cc: John B. Stansbury, CEO  
E. Scott Tadlock, President  
Laura Touhey, S.V.P., Claims  
Raymond Bray, V.P., Claims

# COMMONWEALTH OF VIRGINIA

SCOTT A. WHITE  
COMMISSIONER OF INSURANCE  
STATE CORPORATION COMMISSION  
BUREAU OF INSURANCE



P.O. BOX 1157  
RICHMOND, VIRGINIA 23218  
1300 E. MAIN STREET  
RICHMOND, VIRGINIA 23219  
TELEPHONE: (804) 371-9741  
[www.scc.virginia.gov/boi](http://www.scc.virginia.gov/boi)

August 11, 2018

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

Clifford O. Myers  
Agency Insurance Company of Maryland Inc.  
7450 Coca Cola Drive  
Hanover, MD 21076

RE: Market Conduct Examination  
Agency Insurance Company of Maryland, Inc. (NAIC# 35173)  
Exam Period: April 1, 2017 – September 30, 2017

Dear Mr. Myers:

The Bureau of Insurance (Bureau) has concluded its review of the company's response of August 10, 2018. 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 Agency Insurance Company of Maryland (Report).

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

Sections 38.2 510 C, 38.2 512 A, 38.2 1812 E, 38.2-1833, 38.2-1905 A, 38.2-1906 D, 38.2-2202 A, 38.2 2202 B, 38.2-2204, 38.2-2208 A, 38.2-2208 B, 38.2-2212 D, 38.2-2212 E, and 38.2 2234 B of the Code of Virginia; and 14 VAC 5-400-30, 14 VAC 5-400-40 A and 14 VAC 5-400-70 D of the Virginia Administrative Code.

Violations of the laws mentioned above provide for monetary penalties of up to \$5,000 for each violation as well as suspension or revocation of an insurer's license to engage in the 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](mailto:joy.morton@scc.virginia.gov)



# Agency Insurance Company

www.agencyinsurancecompany.com

P.O. BOX 8900 • ELKRIDGE, MD 21075-8900  
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1-800-492-5629

Claims Department  
410-684-2727  
1-800-841-5241  
Rebecca Nichols  
Deputy Commissioner  
Property and Casualty  
Bureau of Insurance  
P. O. Box 1157  
Richmond, VA 23218

Facsimile  
1-800-966-6924  
1-800-525-3699 (Claims)

RE: Market Conduct Examination Settlement Offer  
Ecase/Docket Number: INS-2018-00204

Dear Ms. Nichols:

This will acknowledge receipt of the Bureau of Insurance's letter dated August 16, 2018, concerning the above referenced matter.

We wish to make a settlement offer on behalf of the insurance company listed below for the alleged violations of §§ 38.2 510 C, 38.2 512 A, 38.2 1812 E, 38.2-1833, 38.2-1905 A, 38.2-1906 D, 38.2-2202 A, 38.2 2202 B, 38.2-2204, 38.2-2208 A, 38.2-2208 B, 38.2-2212 D, 38.2-2212 E, and 38.2 2234 B of the Code of Virginia; and 14 VAC 5-400-30, 14 VAC 5-400-40 A and 14 VAC 5-400-70 D of the Virginia Administrative Code.

1. We enclose with this letter a check payable to the Treasurer of Virginia in the amount of \$26,400.00.
2. We agree to comply with the corrective action plan set forth in the company's letter of June 27, 2018.
3. We confirm that restitution was made to 23 consumers for \$16,265.63 in accordance with the company's letter of June 27, 2018.
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.

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,

Agency Insurance Company of Maryland

Clifford O. Myers  
(Signed)

CLIFFORD O. MYERS  
(Type or Print Name)

S.V.P., Operations  
(Title)

9/6/2018  
(Date)

Enclosure

# COMMONWEALTH OF VIRGINIA



**SCOTT A. WHITE**  
**COMMISSIONER OF INSURANCE**  
**STATE CORPORATION COMMISSION**  
**BUREAU OF INSURANCE**

**P.O. BOX 1157**  
**RICHMOND, VIRGINIA 23218**  
**1300 E. MAIN STREET**  
**RICHMOND, VIRGINIA 23219**  
**TELEPHONE: (804) 371-9741**  
**[www.scc.virginia.gov/boi](http://www.scc.virginia.gov/boi)**

Agency Insurance Company of Maryland, Inc. has tendered to the Bureau of Insurance the settlement amount of \$26,400.00 by their check numbered 051045 and dated September 7, 2018, a copy of which is located in the Bureau's files.

COMMONWEALTH OF VIRGINIA  
STATE CORPORATION COMMISSION  
AT RICHMOND, SEPTEMBER 28, 2018

SCC-CLERK'S OFFICE  
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COMMONWEALTH OF VIRGINIA, *ex rel.*

STATE CORPORATION COMMISSION

v.

CASE NO. INS-2018-00204

AGENCY INSURANCE COMPANY OF  
MARYLAND, INC.

Defendant

SETTLEMENT ORDER

Based on a market conduct examination conducted by the Bureau of Insurance ("Bureau"), it is alleged that Agency Insurance Company of Maryland, Inc. ("Defendant"), duly licensed by the State Corporation Commission ("Commission") to transact the business of insurance in the Commonwealth of Virginia ("Virginia"), in certain instances violated § 38.2-512 A of the Code of Virginia ("Code") by misrepresenting the fees applicable after the policy cancelled; § 38.2-1812 E of the Code by paying commissions to a trade name that was not registered with the Bureau; § 38.2-1833 of the Code by paying commissions to agencies/agents that are not appointed by the Defendant; § 38.2-1905 A of the Code by failing to notify insureds in writing when their policies were surcharged for at-fault accidents; § 38.2-1906 D of the Code by making or issuing insurance contracts or policies not in accordance with the rate and supplementary rate information filings in effect for the Defendant; §§ 38.2-2202 A and 38.2-2202 B of the Code by failing to accurately provide the required notices to insureds; § 38.2-2204 of the Code by failing to represent coverage for all permissive users; §§ 38.2-2208 A, 38.2-2208 B, 38.2-2212 D and 38.2-2212 E of the Code by failing to properly terminate insurance policies; § 38.2-2234 B of the Code by failing to update the insured's credit information at least once every three years; and § 38.2-510 C of the Code, as

well as 14 VAC 5-400-30, 14 VAC 5-400-40 A, and 14 VAC 5-400-70 D of the Commission's Rules Governing Unfair Claim Settlement Practices, 14 VAC 5-400-10 *et seq.*, by failing to properly handle claims with such frequency as to indicate a general business practice.

The Commission is authorized by §§ 38.2-218, 38.2-219 and 38.2-1040 of the Code to impose certain monetary penalties, issue cease and desist orders, and suspend or revoke a defendant's license upon a finding by the Commission, after notice and opportunity to be heard, that a defendant has committed the aforesaid alleged violations.

The Defendant has been advised of the right to a hearing in this matter whereupon the Defendant, without admitting any violation of Virginia law, has made an offer of settlement to the Commission wherein the Defendant has agreed to comply with the corrective action plan outlined in company correspondence dated June 27, 2018, has confirmed that restitution was made to 23 consumers in the amount of Sixteen Thousand Two Hundred Sixty-five Dollars and Sixty-three Cents (\$16,265.63), has tendered to Virginia the sum of Twenty-six Thousand Four Hundred Dollars (\$26,400), and has waived the right to a hearing.

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

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

Accordingly, IT IS ORDERED THAT:

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

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

AN ATTESTED COPY hereof shall be sent by the Clerk of the Commission to:  
John B. Stansbury, Chief Executive Officer, Agency Insurance Company of Maryland, Inc., 7450  
Coca Cola Drive, Hanover, Maryland 21076; 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.