

**MARKET CONDUCT EXAMINATION REPORT**  
**OF**  
**LIBERTY MUTUAL INSURANCE COMPANY**  
**LIBERTY MUTUAL FIRE INSURANCE COMPANY**  
**THE FIRST LIBERTY INSURANCE CORPORATION**  
**LM INSURANCE CORPORATION**  
**LIBERTY INSURANCE CORPORATION**  
**LM GENERAL INSURANCE COMPANY**

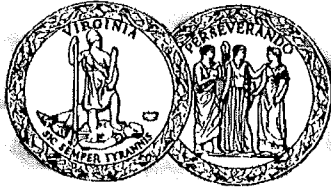
**AS OF**

**March 31, 2016**

**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 Liberty Mutual Insurance Company, Liberty Mutual Fire Insurance Company, The First Liberty Insurance Corporation, LM Insurance Corporation, Liberty Insurance Corporation, and LM General Insurance Company of March 31, 2016, conducted at the office of the State Corporation Commission in Richmond, Virginia, is a true copy of the original Report on file with the Bureau and also includes a true copy of the companies' response to the findings set forth therein, and a true copy of the Bureau's review letters and the State Corporation Commission's Order in Case No. INS-2018-00213, 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 12<sup>th</sup> of October, 2018.

Karen S. Gerber  
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 private passenger automobile and homeowner lines of business written by Liberty Mutual Fire Insurance Company, Liberty Mutual Insurance Company, The First Liberty Insurance Corporation, LM Insurance Corporation, Liberty Insurance Corporation, and LM General Insurance Company at the office of the State Corporation Commission Bureau of Insurance in Richmond, Virginia.

The examination commenced January 4, 2017 and concluded November 3, 2017. Brandon L. Ayers, Andrea D. Baytop, Eric Ellerbe, William T. Felvey, Karen S. Gerber, Ju'Coby Hendrick, Melody S. Morrissette, and Latitia Orange, 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 January 23, 2017 and was assigned the Action Number of VA-VA097-7. The examination was conducted in accordance with the guidelines contained in the National Association of Insurance Commissioners (NAIC) Market Regulation Handbook.

## COMPANY PROFILES\*

Liberty Mutual Insurance Company was incorporated under the laws of Massachusetts on January 1, 1912 and began business July 1, 1912. The sponsors were leading manufacturers desiring to provide workers' compensation insurance at cost. The company was incorporated as part of the Workers' Compensation Act of Massachusetts, under the name of Massachusetts Employees Insurance Association. The present title was adopted on August 15, 1917.

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\* Source: Best's Insurance Reports, Property & Casualty, 2016 Edition

At a special meeting on November 9, 2001, policyholders voted in favor of a plan to reorganize Liberty Mutual Insurance Company into a mutual holding company structure. The Massachusetts Insurance Commissioner approved the plan on November 27, 2001, and on November 28, 2001, Liberty Mutual Insurance Company reorganized to a stock insurance company, indirectly owned by its newly formed parent Liberty Mutual Holding Company Inc. This was the first step in a series of transactions designed to bring two of Liberty Mutual Insurance Company's affiliates, namely Liberty Mutual Fire Insurance Company and Employers Insurance Company of Wausau, under a single mutual holding company structure. These transactions were completed in the first quarter of 2002.

Liberty Mutual Fire Insurance Company was incorporated October 31, 1908 under the laws of Massachusetts as the United Druggists Mutual Fire Insurance Company. The word "Druggists" was deleted from its title in 1918. The present name was adopted on December 15, 1949.

At a special meeting on November 9, 2001, policyholders voted in favor of a plan to reorganize Liberty Mutual Fire Insurance Company into a mutual holding company structure. This was part of a series of transactions designed to bring two of Liberty Mutual Fire Insurance Company's affiliates, namely, Liberty Mutual Insurance Company and Employers Insurance Company of Wausau, under a single mutual holding company structure, namely Liberty Mutual Holding Company Inc. These transactions were completed in the first quarter of 2002. On December 22, 2005, the company re-domesticated from Massachusetts to Wisconsin.

The First Liberty Insurance Corporation was incorporated under the laws of Iowa on June 16, 1989 and began business on June 22, 1989.

Paid-up capital of \$3,600,000 consists of 30,000 common shares at a par value of \$120 each. The company has 30,000 authorized shares.



LM Insurance Corporation was incorporated under the laws of Iowa on June 16, 1989 and began business on June 22, 1989.

Paid-up capital of \$3,600,000 consists of 30,000 common shares at a par value of \$120 each. The company has 30,000 authorized shares.

Liberty Insurance Corporation was incorporated under the laws of Vermont on October 21, 1988. It began business December 15, 1988 when it merged with Liberty Insurance Corporation, a Delaware Corporation, incorporated in 1983, and assumed all of its business. The company re-domesticated from Vermont to Illinois in 2002.

Capital paid-up of \$3,500,000 consists of 25,000 common shares of \$140 par value stock issued and outstanding. The company has 30,000 shares authorized.

LM General Insurance Company was incorporated on November 17, 1978, under the laws of Delaware and began business on December 29, 1978.

Paid-up capital is \$3,500,000, which consists of 2,000 shares of capital stock at a par value of \$1,750 per share. The company has 5,000 authorized shares.

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

<b>GROUP CODE:</b>	<b>LMFIC</b>	<b>LMIC</b>	<b>FLIC</b>	<b>LMIC</b>	<b>LIC</b>	<b>LMGIC</b>
NAIC Company Number	23035	23043	33588	33600	42404	36447
LICENSED IN VIRGINIA	12/22/21	10/12/18	12/6/89	12/6/89	9/29/83	10/16/81
<b>LINES OF INSURANCE</b>						
Accident and Sickness		X	X	X	X	
Aircraft Liability	X	X	X	X	X	
Aircraft Physical Damage	X	X	X	X	X	
Animal					X	
Automobile Liability	X	X	X	X	X	X
Automobile Physical Damage	X	X	X	X	X	X
Boiler and Machinery	X	X	X	X	X	1/11/93
Burglary and Theft	X	X	X	X	X	1/11/93
Commercial Multi-Peril	X	X	X	X	X	1/11/93
Credit		X			X	
Farmowners Multi-Peril	X	X	X	X	X	
Fidelity	6/28/95	X	X	X		1/11/93
Fire	X	X	X	X	X	1/11/93
General Liability	X	X	X	X	X	1/11/93
Glass	X	X	X	X	X	1/11/93
Homeowners Multi-Peril	X	X	X	X	X	
Inland Marine	X	X	X	X	X	1/11/93
Miscellaneous Property	X	X	X	X	X	1/11/93
Ocean Marine	X	X	X	X	X	1/11/93
Surety	6/28/95	X	X	X		1/11/93
Water Damage	X	X	X	X	X	1/11/93
Workers' Compensation	9/23/75	X	X	X	X	1/11/93

The table below shows the companies' premium volume and approximate market share of business written in Virginia during 2016 for the lines of insurance included in this examination.\* This business was developed through employee agents.

COMPANY AND LINE	PREMIUM VOLUME	MARKET SHARE
<b>Liberty Mutual Fire Insurance Company</b>		
Private Automobile Liability	\$4,098,249	.14%
Private Automobile Physical Damage	\$3,270,128	.15%
Homeowner Multiple Peril	\$16,426,134	.79%
<b>Liberty Mutual Insurance Company</b>		
Private Automobile Liability	\$2,383,613	.08%
Private Automobile Physical Damage	\$1,906,041	.09%
Homeowner Multiple Peril	\$19,517,833	.94%
<b>The First Liberty Insurance Corporation</b>		
Private Automobile Liability	\$7,898,045	.28%
Private Automobile Physical Damage	\$6,504,101	.29%
Homeowner Multiple Peril	\$13,546,087	.65%
<b>LM Insurance Corporation</b>		
Private Automobile Liability	\$9,450,660	.33%
Private Automobile Physical Damage	\$7,767,022	.35%
Homeowner Multiple Peril	\$4,118,827	.20%
<b>Liberty Insurance Corporation</b>		
Private Automobile Liability	\$366,675	.01%
Private Automobile Physical Damage	\$260,317	.01%
Homeowner Multiple Peril	\$50,426,929	2.43%
<b>LM General Insurance Company</b>		
Private Automobile Liability	\$39,704,524	1.39%
Private Automobile Physical Damage	\$41,088,727	1.85%

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\* Source: The 2016 Annual Statement on file with the Bureau of Insurance and the Virginia Bureau of Insurance Statistical Report.

## SCOPE OF THE EXAMINATION

The examination included a detailed review of the companies' private passenger automobile and homeowner lines of business written in Virginia for the period beginning April 1, 2015 and ending March 31, 2016. This review included rating, underwriting, policy terminations, claims handling, forms, policy issuance\*, statutory notices, agent licensing, complaint-handling, and information security practices. The purpose of this examination was to determine compliance with Virginia insurance statutes and regulations and to determine that the companies' operations were consistent with public interest.

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

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

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

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

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

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

### **STATISTICAL SUMMARY**

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

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

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

AREA	Population Sample Requested							TOTAL	FILES	FILES NOT	FILES WITH	ERROR
	LIC	LMICorp	LMICo	FLIC	LMGIC	LMFIC	LG		REVIEWED	FOUND	ERRORS	RATIO
<b>Private Passenger Auto</b>												
Co-Initiated Cancellations <sup>1</sup>	<u>0</u>	<u>0</u>	<u>1</u>	<u>0</u>	<u>12</u>	<u>0</u>	<u>0</u>	<u>13</u>	9	0	1	11%
	0	0	1	0	12	0	0	13				
All Other Cancellations <sup>2</sup>	<u>78</u>	<u>2279</u>	<u>672</u>	<u>1669</u>	<u>7734</u>	<u>0</u>	<u>0</u>	<u>12,432</u>	49	0	24	49%
	10	10	10	10	15	10	0	65				
Nonrenewals <sup>1</sup>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	2	0	1	50%
	0	0	0	0	2	0	0	2				
Rejected Applications	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>9409</u>	<u>9,409</u>	25	0	8	32%
	0	0	0	0	0	0	25	25				
<b>Homeowner</b>												
New Business	<u>12554</u>	<u>1</u>	<u>7509</u>	<u>0</u>	<u>0</u>	<u>1</u>	<u>0</u>	<u>20,065</u>	21	0	18	86%
	9	1	10	0	0	1	0	21				
Renewal Business	<u>40910</u>	<u>6242</u>	<u>20564</u>	<u>10239</u>	<u>0</u>	<u>10258</u>	<u>0</u>	<u>88,213</u>	44	0	34	77%
	7	5	5	13	0	14	0	44				
Co-Initiated Cancellations <sup>3</sup>	<u>1309</u>	<u>4</u>	<u>837</u>	<u>15</u>	<u>0</u>	<u>10</u>	<u>0</u>	<u>2,175</u>	34	0	27	79%
	10	4	7	8	0	7	0	36				
All Other Cancellations <sup>4</sup>	<u>6656</u>	<u>1073</u>	<u>3522</u>	<u>1277</u>	<u>0</u>	<u>1083</u>	<u>0</u>	<u>13,611</u>	57	0	16	28%
	15	8	15	8	0	8	0	54				
Nonrenewals	<u>92</u>	<u>19</u>	<u>39</u>	<u>61</u>	<u>0</u>	<u>39</u>	<u>0</u>	<u>250</u>	18	0	1	6%
	5	2	3	5	0	3	0	18				
Rejected Applications	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>5286</u>	<u>5,286</u>	15	5	1	7%
	0	0	0	0	0	0	15	15				
<b>Claims</b>												
Auto <sup>5</sup>	<u>282</u>	<u>9582</u>	<u>1693</u>	<u>5991</u>	<u>34698</u>	<u>2274</u>	<u>0</u>	<u>54,520</u>	148	0	77	52%
	11	30	17	27	45	20	0	150				
Property <sup>6</sup>	<u>4198</u>	<u>415</u>	<u>2073</u>	<u>1066</u>	<u>0</u>	<u>939</u>	<u>0</u>	<u>8,691</u>	165		75	45%
	68	16	30	29	0	23	0	166				

Footnote <sup>1</sup> - Four policies were non-renewals two policies were reviewed as nonrenewals and two were not reviewed.

Footnote <sup>2</sup> - Twelve policies were re-writes and not were reviewed. Three policies were Motorcycle and were not reviewed. One policy was outside of the examination period.

Footnote <sup>3</sup> - Three policies moved to Insured Requested. One policy cancelled flat and was not reviewed. Eleven policies were miscoded as After 90 and were reviewed as 1st 90.

Footnote <sup>4</sup> - One renter policy was not reviewed. One policy was a reinstatement and was not reviewed. Four policies were moved from 1st 90. One Non-Pay moved was to Insured Requested.

Footnote <sup>5</sup> - One file previously reviewed by Consumer Services. Two files created in error. One file was created in error.

Footnote <sup>6</sup> - One claim was filed under an incorrect policy number 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 companies. These include all instances where the companies violated Virginia insurance statutes and regulations. In addition, the examiners noted any instances where the companies violated any other Virginia laws applicable to insurers.

### **RATING AND UNDERWRITING REVIEW**

#### **Automobile Rating Review**

The examiners were unable to examine the companies' automobile rating processes as originally requested in the Data Call sent to the companies on June 6, 2016. The companies were unable to provide verifiable data to support the companies' compliance with rates and rules filed with the Bureau. Multiple elements within the companies' systems could not be confirmed by the examiners. Therefore, to complete examination exam number VA-VA097-7 within a reasonable amount of time, the automobile rating portion of the examination was removed and a separate examination was called under exam number VA-VA177-3 in the Market Action Tracking System on February 1, 2017.

#### **Homeowner New Business Policies**

The Bureau reviewed 21 new business policy files. During this review, the examiners found overcharges totaling \$460.00 and undercharges totaling \$72.00. The net amount that should be refunded to insureds is \$460.00 plus six percent (6%) simple interest.

- (1) The examiners found one violation of § 38.2-1318 of the Code of Virginia. The company failed to provide convenient access to files, documents, and records relating to the examination. The company failed to provide the entire policy file.
- (2) The examiners found three violations of § 38.2-1906 A of the Code of Virginia. The

company failed to file with the Commission all rates and supplementary rate information including fees.

- (3) The examiners found 22 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 four instances, 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 rates.
- (4) The examiners found one violation of § 38.2-2126 E of the Code of Virginia. The company used credit information that was obtained more than 90 days prior to the new business policy effective date.

#### **Homeowner Renewal Business Policies**

The examiners reviewed 44 renewal business policy files. During this review, the examiners found overcharges totaling \$3,768.00 and undercharges totaling \$247.00. The net amount that should be refunded to insureds is \$3,768.00 plus six percent (6%) simple interest.

- (1) The examiners found three violations of § 38.2-1906 A of the Code of Virginia. The company failed to file with the Commission all rates and supplementary rate information including fees.
- (2) The examiners found 51 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 18 instances, the company failed to use the correct discounts and/or surcharges.



- b. In four instances, the company failed to use the correct tier eligibility criteria.
- c. In 29 instances, the company failed to use the correct base and/or final rates.

### **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 nine automobile cancellations that were initiated by the companies where the notice was mailed prior to the 60th day of coverage in the initial policy period. During this review, the examiners found overcharges totaling \$22.00 and no undercharges. The net amount that should be refunded to insureds is \$22.00 plus six percent (6%) simple interest.

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

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

The company could not provide any files for the Bureau's review. The company did not properly code and categorize its files and could not identify terminations in this category.

**All Other Cancellations – Automobile Policies**NONPAYMENT OF THE PREMIUM

The examiners reviewed 27 automobile cancellations that were initiated by the companies for nonpayment of the policy premium. During this review, the examiners found \$46.00 in overcharges and \$32.76 in undercharges. The net amount that should be refunded to insureds is \$46.00 plus six percent (6%) simple interest.

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

REQUESTED BY THE INSURED

The examiners reviewed 22 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 no overcharges and undercharges totaling \$1,157.40.

- (1) The examiners found seven violations of § 38.2-1906 D of the Code of Virginia. The company failed to use the rules and/or rates on file with the Bureau. The company failed to calculate the earned premium correctly.
  - a. In six instances, the company failed to calculate premium on a 90% of pro-rata basis.
  - b. In one instance, the company failed to bill for the final installment.
- (2) The examiners found 17 violations of § 38.2-2212 F of the Code of Virginia. The company failed to obtain a written request from the insured to cancel his policy.

Other Law Violations

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

The examiners found 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.

### **Rejected Applications- Automobile**

The examiners reviewed 25 automobile insurance applications for which the companies declined to issue a policy.

- (1) The examiners found seven violations of § 38.2-604 A of the Code of Virginia. The company failed to provide the Notice of Information Collection and Disclosure Practices as required by the statute.
- (2) The examiners found seven violations of § 38.2-610 A of the Code of Virginia. The company failed to provide the applicant with written notice of an Adverse Underwriting Decision (AUD).
- (3) The examiners found one violation of § 38.2-1318 of the Code of Virginia. The company failed to provide convenient access to files, documents, and records relating to the examination. The company failed to provide the application.

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

The examiners reviewed two automobile non-renewals that were initiated by the companies.

The examiners found no violations in this area.

### Other Law Violations

Although not a violation of Virginia insurance laws, the examiners noted 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 non-renewing the policy as

required by the Virginia Motor Vehicle Code.

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

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

The examiners reviewed six homeowner cancellations that were initiated by the companies 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 examiners found no violations in this area.

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

The examiners reviewed 27 homeowner cancellations that were initiated by the companies where the notices were mailed on or after the 90th day of coverage in the initial policy period or at any time during the term of a subsequent renewal policy. During this review, the examiners found no overcharges and no undercharges.

The examiners found 27 violations of § 38.2-2114 A of the Code of Virginia. The company cancelled a policy insuring an owner-occupied dwelling after the 89th day of coverage for a reason not permitted by the statute.

### **All Other Cancellations – Homeowner Policies**

#### NONPAYMENT OF THE PREMIUM

The examiners reviewed 17 homeowner cancellations that were initiated by the companies for nonpayment of the policy premium. During this review, the examiners found \$25.00 overcharges and no undercharges. The net amount that should be refunded to insureds is \$25.00 plus six percent (6%) simple interest.

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

failed to calculate the earned premium correctly.

- (2) The examiners found one violation of § 38.2-2113 C of the Code of Virginia. The company failed to retain proof of mailing the cancellation notice to the insured.

#### REQUESTED BY THE INSURED

The examiners reviewed 40 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 overcharges totaling \$50.00 and no undercharges. The net amount that should be refunded to insureds is \$50.00 plus six percent (6%) simple interest.

- (1) The examiners found two violations of § 38.2-1906 D of the Code of Virginia. The company failed to use the rules and/or rates on file with the Bureau. The company failed to calculate the earned premium correctly.
- (2) The examiners found 14 occurrences where the company failed to comply with the provisions of the insurance policy. The company failed to retain evidence of the insured's request for cancellation.

#### **Rejected Applications – Homeowner Policies**

The examiners reviewed 15 homeowner insurance applications for which the companies declined to issue a policy.

- (1) The examiners found one violation of § 38.2-604 A of the Code of Virginia. The company failed to provide the Notice of Insurance Information Collection and Disclosure Practices as required by the statute.
- (2) The examiners found one violation of § 38.2-610 A of the Code of Virginia. The company failed to provide the applicant with written notice of an AUD.

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

The examiners reviewed 18 homeowner non-renewals that were initiated by the

companies.

The examiners found one violation of § 38.2-2114 A of the Code of Virginia. The company failed to mail the cancellation notice on an owner-occupied dwelling to the address shown on the policy.

### **CLAIMS REVIEW**

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

The examiners reviewed 148 automobile claims for the period of April 1, 2015 through March 31, 2016. 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 \$24,612.19 and underpayments totaling \$16,345.94. The net amount that should be paid to claimants is \$16,345.94 plus six percent (6%) simple interest.

- (1) The examiners found 20 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 13 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 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.
  - b. In seven 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 five violations of 14 VAC 5-400-50 C. The company failed to make an appropriate reply within ten working days to pertinent communications from a claimant, or a claimant's authorized representative, that reasonably suggested a response was expected.
- (4) The examiners found two 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.
- (5) The examiners found two violations of 14 VAC 5-400-70 B. The company failed to provide a reasonable explanation of the basis for the denial in the written denial of the claim.
- (6) The examiners found 21 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 six instances, the company failed to pay the insured's UMPD claim properly when Collision and/or UMPD coverages applied to the claim.
  - b. In one instance, the company failed to pay the insured's rental benefits, available under the UMPD coverage and/or UIM coverage.
  - c. In four instances, the company failed to pay the proper sales and use tax,

title fee, and/or license fee on first party total loss settlements.

- d. In four instances, the company failed to pay the claim in accordance with the policy provisions under the insured's Medical Expense Benefits coverage.
- e. In one instance, the company failed to pay the claim in accordance with the policy provision under the insured's Towing and Storage Expense coverage.
- f. In three instances, the company failed to pay the claim in accordance with the policy provisions under the insured's Transportation Expenses coverage.
- g. 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.
- h. In one instance, the company failed to pay the insured's UMBI claim properly when UMBI coverage applied to the claim.

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

- (7) The examiners found 15 violations of 14 VAC 5-400-80 D. The company failed to provide the vehicle owner a copy of the estimate for the cost of repairs prepared by or on behalf of the company.
  - a. In 14 instances, the company failed to provide a copy of the estimate to the insured.
  - b. In one instance, the company failed to provide a copy of the estimate to the claimant.

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



practice.

- (8) The examiners found one violation of § 38.2-236 A of the Code of Virginia. The company failed to send the Notice of Settlement Payment to the claimant within five business days of issuing a settlement payment of \$5,000.00 or greater to the claimant's attorney or other representative.
- (9) The examiners found ten 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.
- (10) The examiners found ten violations of § 38.2-510 A 3 of the Code of Virginia. The company failed to adopt and implement reasonable standards for the prompt investigation of claims arising under insurance policies.
- (11) The examiners found eight 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.
- (12) The examiners found five violations of § 38.2-2201 B of the Code of Virginia. The company failed to obtain a valid Assignment of Benefits from an insured authorizing the company to make payments directly to the medical provider.
- (13) The examiners found one violation of § 38.2-2201 D of the Code of Virginia. The company reduced the amount payable to an insured when Medical Expense Benefits may not be reduced for any benefits paid, payable, or available through an insurance contract providing hospital, medical, surgical and similar or related benefits.
- (14) The examiners found 14 occurrences where the company failed to comply with the provisions of the insurance policy.
  - a. In one instance, the company requested the insured obtain a copy of a police

report when the report should have been obtained by the company.

- b. In ten instances, the company paid an insured more than the insured was entitled to receive under the terms of his policy.
- c. In two instances, the company failed to handle the UMPD payment correctly.
- d. In one instance, the company issued payment under the incorrect coverage.

#### Other Law Violations

The examiners found one violation of § 46.2-624 of the Code of Virginia. The company failed to notify the Virginia Department of Motor Vehicles when payment was made in excess of \$3,500.00 on a water-damaged vehicle.

#### **Homeowner Claims**

The examiners reviewed 165 homeowner claims for the period of April 1, 2015 through March 31, 2016. 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 \$42,678.28 and underpayments totaling \$15,284.46. The net amount that should be paid to claimants is \$14,284.47 plus six percent (6%) simple interest.

- (1) The examiners found 18 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 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.

- (3) The examiners found 12 violations of 14 VAC 5-400 70 A. The company failed to deny a claim or part of a claim, in writing, and/or failed to keep a copy of the written denial in the claim file.

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

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

- (5) The examiners found three violations of 14 VAC 5-400-70 D. The company failed to offer the insured an amount that was fair and reasonable as shown by the investigation of the claim or failed to pay a claim.

a. In two instances, the company failed to pay the entire claim under the insureds Dwelling Replacement Cost coverage.

b. In one instance, the company failed to pay the entire claim under the insured's Additional Living Expense coverage.

- (6) The examiners found 38 violations of § 38.2-510 A 1 of the Code of Virginia. The company misrepresented pertinent facts or insurance policy provisions relating to the coverage at issue.

a. In two instances, the company misrepresented Additional Living Expense coverage.

b. In 36 instances, 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.

- (7) The examiners found eight 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.

- (8) The examiners found two violations of § 38.2-510 A 6 of the Code of Virginia. The company failed to attempt, in good faith, to make a prompt, fair, and equitable settlement of a claim in which liability was reasonably clear.
- (9) The examiners found four violations of § 38.2-510 A 10 of the Code of Virginia. The company made a claim payment to the insured or beneficiary that was not accompanied by a statement setting forth the correct coverage(s) under which payment was made.
- (10) The examiners found 13 occurrences where the company failed to comply with the provisions of the insurance contract.
  - a. In one instance, the company included the lienholder on a payment less than its defined threshold.
  - b. In four instances, the company failed to include the lienholder on the check.
  - c. In eight instances, the company paid an insured more than the insured was entitled to receive under the terms of his/her policy.

#### **FORMS REVIEW**

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

To obtain copies of the policy forms and endorsements used during the examination period for each line of business listed below, the Bureau requested copies from the companies. In addition, the Bureau requested copies of new and renewal business policy mailings that the companies were processing at the time of the Examination Data Call. The details of these policies are set forth in the Policy Issuance

Process section of the Report. The examiners then reviewed the forms used on these policies to verify the companies' current practices.

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

## **Automobile Policy Forms**

### POLICY FORMS USED DURING THE EXAMINATION PERIOD

The companies provided copies of 49 forms that were used and/or available for use during the examination period to provide coverage on policies insuring risks located in Virginia.

The examiners found 18 violations of § 38.2-2220 of the Code of Virginia. The company used a version of a standard automobile form that was not in the precise language filed and adopted for use by the Bureau.

### POLICY FORMS CURRENTLY USED

The examiners found no additional forms to review.

## **Homeowner Policy Forms**

### POLICY FORMS USED DURING THE EXAMINATION PERIOD

The companies provided copies of 65 forms that were used and/or available for use during the examination period to provide coverage on policies insuring risks located in Virginia.

The examiners found 29 violations of § 38.2-317 A of the Code of Virginia. The company used a form which had not been filed with the Commission at least 30 days prior to its effective date.

POLICY FORMS CURRENTLY USED

The examiners found no additional forms to review.

POLICY ISSUANCE PROCESS REVIEW

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

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

**Automobile Policies**

The companies provided six new business policies sent to the insured on the following dates: July 18, 26, 28, and 29, 2016. In addition, the companies provided 18 renewal business policies sent on the following dates: July 27, 28, and 29, and August 1, 2016.

NEW BUSINESS POLICIES

The examiners found six violations of § 38.2-305 A of the Code of Virginia. The company listed forms on the declarations page that were not applicable to the policy.

RENEWAL BUSINESS POLICIES

The examiners found three violations of § 38.2-305 A of the Code of Virginia. The company listed forms on the declarations page that were not applicable to the

policy.

### **Homeowner Policies**

The companies provided six new business policies sent on the following dates: June 22, July 12, 14, 26, and 28, 2016. In addition, the companies provided 15 renewal business policies sent on the following dates: July 29, August 12 and 31, September 2, 5, and 9, 2016.

#### NEW BUSINESS POLICIES

- (1) 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.
- (2) 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 caused by water that backs up through sewers or drains.
- (3) The examiners found four violations of § 38.2-2124 of the Code of Virginia. The company failed to provide the Ordinance and Law notice as required by the statute.

#### RENEWAL BUSINESS POLICIES

The examiners found three violations of § 38.2-305 A of the Code of Virginia. The company listed forms on the declarations page that were not applicable to the policy.

**STATUTORY NOTICES REVIEW**

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

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

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

**General Statutory Notices**

- (1) The examiners found six violations 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 six violations 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 Vehicle Notices**

The examiners found six violations of § 38.2-2234 A 1 of the Code of Virginia. The company's Insurance Credit Score Disclosure notice did not include all of the information required by the statute.



**Statutory Property Notices**

- (1) The examiners found six violations of § 38.2-2118 of the Code of Virginia. The company's Replacement Cost Coverage provisions notice did not comply with the requirements of the statute.
- (2) The examiners found eight violations of § 38.2-2124 of the Code of Virginia. The company's Ordinance and Law notice did not comply with the requirements of the statute.
- (3) The examiners found seven violations of § 38.2-2126 A of the Code of Virginia. The company failed to include all of the information required by the statute in its Credit Score Disclosure notice.

**Other Notices**

The examiners found no violations in this area.

**LICENSING AND APPOINTMENT REVIEW**

A review was made of the private passenger automobile and homeowner new business policies to verify the agent of record. 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.

**Agency**

The examiners found no violations in this area.

**Agent**

- (1) The examiners found nine violations of § 38.2-1809 B of the Code of Virginia. The company failed to retain records relative to insurance transactions for three prior years.
- (2) The examiners found one violation 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.

**COMPLAINT-HANDLING PROCESS REVIEW**

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.

**PRIVACY AND INFORMATION SECURITY PROCEDURES REVIEW**

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

The companies provided their Information Security Procedures.

## PART TWO – CORRECTIVE ACTION PLAN

Business practices and the error tolerance guidelines are determined in accordance with the guidelines contained in the NAIC Market Regulation Handbook. 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

Liberty Mutual Fire Insurance Company  
Liberty Mutual Insurance Company  
The First Liberty Insurance Corporation  
LM Insurance Corporation  
Liberty Insurance Corporation  
LM General Insurance Company shall:

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

### Rating and Underwriting Review

Liberty Mutual Fire Insurance Company  
Liberty Mutual Insurance Company  
The First Liberty Insurance Corporation  
LM Insurance Corporation  
Liberty Insurance Corporation and  
LM General Insurance Company shall:

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

Cited during the Examination.” By returning the completed file to the Bureau, the companies acknowledge that they have refunded or credited the overcharges listed in the file.

- (4) Provide convenient access to files, documents and records relating to the examination.
- (5) Use the rules and rates on file with the Bureau. Particular attention should be focused on the use of filed discounts, surcharges, tier eligibility, and accurate base and/or final rates.
- (6) Use credit information that was obtained within 90 days of writing the policy.

#### **Termination Review**

Liberty Mutual Fire Insurance Company  
Liberty Mutual Insurance Company  
The First Liberty Insurance Corporation  
LM Insurance Corporation  
Liberty Insurance Corporation and  
LM General Insurance Company shall:

- (1) Correct the errors that caused the overcharges and undercharges, and send refunds to the insureds or credit the insureds' accounts the amount of the overcharge as of the date the error first occurred.
- (2) Include six percent (6%) simple interest in the amount refunded and/or credited to the insureds' accounts.
- (3) Complete and submit to the Bureau the enclosed file titled “Termination Overcharges Cited during the Examination.” By returning the completed file to the Bureau, the companies acknowledge that they have refunded or credited the overcharges listed in the file.
- (4) Provide the applicant the Notice of Insurance Information Collection and Disclosure Practices as required by the statute for rejected applications.

- (5) Provide the insured with a written AUD notice.
- (6) Calculate return premium according to the filed rules and policy provisions.
- (7) Retain proof of mailing the cancellation notice to the insured.
- (8) Cancel an owner-occupied dwelling policy after the 89<sup>th</sup> day of coverage only for reasons permitted by the statute.
- (9) Send the cancellation notice on an owner-occupied dwelling to the address shown on the policy.
- (10) Obtain written notice when the insured requests cancellation of the policy.

### **Claims Review**

Liberty Mutual Fire Insurance Company  
Liberty Mutual Insurance Company  
The First Liberty Insurance Corporation  
LM Insurance Corporation  
Liberty Insurance Corporation and  
LM General Insurance Company shall:

- (1) Correct the errors that caused the underpayments and overpayments, and send the amount of the underpayment to insureds and claimants.
- (2) Include six percent (6%) simple interest in the amount paid to the insureds and claimants.
- (3) Complete and submit to the Bureau the enclosed file titled "Claims Underpayments Cited during the Examination." By returning the completed file to the Bureau, the companies acknowledge that they have paid the underpayments listed in the file.
- (4) Document 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 rental benefits under UMPD and Transportation Expenses coverage.

- (6) Make all claim denials, in writing, and keep a copy of the written denial in the claim file.
- (7) Offer the insured an amount that is fair and reasonable as shown by the investigation of the claim, and pay the claim in accordance with the insured's policy provisions.
- (8) Provide copies of repair estimates prepared by or on behalf of the companies to insureds and claimants.
- (9) Properly represent pertinent facts or insurance provisions relating to coverages at issue.

### **Forms Review**

Liberty Mutual Fire Insurance Company  
Liberty Mutual Insurance Company  
The First Liberty Insurance Corporation  
LM Insurance Corporation  
Liberty Insurance Corporation and  
LM General Insurance Company shall:

- (1) File all homeowner forms with the Bureau at least 30 days prior to use.
- (2) Provide convenient access to files, documents and records relating to the examination.
- (3) Use the precise language of the standard automobile forms as adopted by the Bureau.

### **Policy Issuance Process Review**

Liberty Mutual Fire Insurance Company  
Liberty Mutual Insurance Company  
The First Liberty Insurance Corporation  
LM Insurance Corporation  
Liberty Insurance Corporation and  
LM General Insurance Company shall:

- (1) Specify accurate information in the policy by showing the only the forms applicable

- to the policy on the declarations page.
- (2) Provide the Replacement Cost Coverage notice with all new and renewal policies as required by the Code of Virginia.
  - (3) 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.
  - (4) Provide the Ordinance and Law Coverage notice with all new and renewal policies as required by the Code of Virginia.

### **Statutory Notices Review**

Liberty Mutual Fire Insurance Company  
Liberty Mutual Insurance Company  
The First Liberty Insurance Corporation  
LM Insurance Corporation  
Liberty Insurance Corporation and  
LM General Insurance Company shall:

- (1) Amend the long form Notice of Information Collection and Disclosure Practices to comply with § 38.2-604 B of the Code of Virginia.
- (2) Amend the AUD notice to comply with § 38.2-610 A of the Code of Virginia.
- (3) Amend the Replacement Cost notice to comply with § 38.2-2118 of the Code of Virginia.
- (4) Amend the Ordinance and Law notice to comply with § 38.2-2124 of the Code of Virginia.
- (5) Amend the Credit Score Adverse Action notice to comply with § 38.2-2126 A of the Code of Virginia.
- (6) Amend the Insurance Credit Score Disclosure notice to comply with § 38.2-2234 A 1 of the Code of Virginia.

### **Licensing and Appointment Review**

Liberty Mutual Fire Insurance Company

Liberty Mutual Insurance Company  
The First Liberty Insurance Corporation  
LM Insurance Corporation  
Liberty Insurance Corporation and  
LM General Insurance Company shall:

- (1) Retain records relative to insurance transactions for three prior years.
- (2) Appoint agents within 30 days of the agent accepting an application for insurance.

### **PART THREE – EXAMINERS’ RECOMMENDATIONS**

The examiners also found violations that did not appear to rise to the level of business practices by the companies. The companies should carefully scrutinize these errors and correct the causes before these errors become business practices.

#### **RECOMMENDATIONS**

We recommend that the companies take the following actions:

#### **Termination**

- The companies should file a pro rata table to comply with Rule G8.
- The companies should amend Rules 7 and 8 related to calculation of premium for private passenger auto and motorcycles.
- The companies should amend Rule 7 in the General Manual to clarify the expiration date.
- The companies should properly code termination data. Several cancellations coded as cancellations within the first 60 days of coverage should have been coded as non-renewals.

#### **Claims**

- The companies should acknowledge correspondence that reasonably suggests a reply is expected from insureds and claimants within ten business days.
- The companies should provide a reasonable explanation of the basis for the denial in its written denial of the claim.
- The companies 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 companies should adopt reasonable standards for the prompt investigation of claims.
- The companies should adopt and implement reasonable standards for the prompt, fair, and equitable settlement of a claim in which liability and/or coverage is reasonably clear.
- The companies should obtain a written authorization from an insured prior to making payments directly to the medical provider.
- The companies should pay the amount due to an insured when Medical Expense Benefits may not be reduced for any benefits paid, payable, or available through an insurance contract providing hospital, medical, surgical and similar or related benefits.
- The companies should include the lienholder on payments when applicable.
- The companies should make payments to the insured for the amount he/she is entitled to receive under the terms of the policy.
- The companies should make claim payments under the correct coverage.
- The companies should obtain police reports when warranted.

#### **SUMMARY OF PREVIOUS EXAMINATION FINDINGS**

The Bureau conducted three prior market conduct examinations of Liberty Mutual Fire Insurance Company, two prior market conduct examinations of Liberty Mutual Insurance Company, and one prior market conduct examination of Liberty Insurance Corporation.

During the private passenger auto, homeowner, and commercial examination of Liberty Mutual Insurance Company, Liberty Mutual Fire Insurance Company, and Liberty Insurance Corporation as of August 31, 1985, Liberty Mutual Fire Insurance Company the companies violated §§ 38.1-332, 38.1-333, 38.1-337, 38.1-279.48:1, 38.1-52.9.10, 38.1-52.10, 38.1-57.13, 38.1-279.34.B, 38.1-279.36.2, 38.1-371.1, 38.1-371.2, 38.1-279.49:1, 38.1-335.2, 38.1-380.2.A, 38.1-381.1, 38.1-381.5, 38.1-1-381.8, and 38.1-384 ( §§ 38.2-

304, 38.2-305, 38.2-310, 38.2-317, 38.2-510.A.10, 38.2-511, 38.2-610, 38.2-1906.B, 38.2-1908.B., 38.2-2113, 38.2-2114, 38.2-2118, 38.2-2120, 38.2-2202.A, 38.2-2208, 38.2-2212, 38.2-2215, and 38.2-2220 current codes at the time of the Order), as well as Administrative Order No. 8255; Liberty Mutual Insurance Company violated Virginia Code §§ 38.1-332, 38.1-52.10, 38.1-279.36.2, 38.1-263, 38.1-381 (b), and 38.1-381.5 (§§ 38.2-304, 38.2-511, 38.2-1908.B, 38.2-2014, 38.2-2206. A, and 38.2-2212 current codes at the time of the Order) as well as Administrative Order No. 7707; Liberty Insurance Corporation violated Virginia Code §§ 38.1-332, 38.1-52.10, 38.1-57.13, 38.1-381.1, 38.1-381.5 and 38.1-381,8 ( §§ 38.2- 304, 38.2-511, 38.2-610, 38.2-2208, 38.2- 2212, and 38.2-2215 current codes at the time of the Order).

During the private passenger auto, homeowner, and commercial examination of Liberty Mutual Insurance Company and Liberty Mutual Fire Insurance Company as of March 31, 1995, Liberty Mutual Insurance Company the companies violated Virginia Code §§ 38.2-231, 38.2-304, 38.2317, 38.2-510.A6, 38.2-510.A10, 38.2-1904, 38.2-1906, 38.2-2005, 38.2-014, 38.-2206, 38.2-2220, as well as 14 VAC 5-390-40.D, 14 VAC 5-400-30 and 14 VAC 5-400-40 A. Liberty Mutual Fire Insurance Company violated Virginia Code violated §§ 38.2-231, 38.2-304, 38.2-305, 38.2-317, 38.2-1904, 38.2-1906, 38.2-2014 and 38.2-2220.

During the private passenger automobile and homeowner examination of Liberty Fire Insurance Company as of December 31, 1998, Liberty Fire Insurance Company the companies violated Virginia Codes §§ 38.2-317, 38.2-510 A1, 38.2-610 A, 38.2-1906 D, 38.2-2113, 38.2-2114, 38.2-2208, 38.2-2212, 38.2-2220, and 38.2-2223.

**ACKNOWLEDGEMENT**

The Bureau acknowledges the officers' and employees' response to requests from the Bureau during the course of the examination.

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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STATE CORPORATION COMMISSION  
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November 17, 2017

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

Sebestyen Q. Martens  
Corporate Counsel  
Liberty Mutual Insurance Group  
Global Compliance and Ethics  
175 Berkeley Street  
Boston, MA 02116

RE: Liberty Mutual Fire Insurance Company (NAIC # 23035)  
Liberty Mutual Insurance Company (NAIC# 23043)  
The First Liberty Insurance Corporation (NAIC# 33588)  
LM Insurance Corporation (NAIC# 33600)  
Liberty Insurance Corporation (NAIC# 42404)  
LM General Insurance Company (NAIC# 36447)  
Market Conduct Examination  
Exam Period: April 1, 2015 – March 31, 2016

Dear Mr. Martens:

The Bureau of Insurance (Bureau) has conducted a market conduct examination of the above referenced companies for the period of April 1, 2015, through March 31, 2016. The preliminary examination report (Report) has been drafted for the companies' review.

Enclosed with this letter is a copy of the Report and copies of review sheets that have been added, withdrawn or revised since November 2, 2017. 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 companies, I would urge you to closely review the Report. Please provide a written response. The companies do not need to respond to any particular item with which they agree. If the companies disagree 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 companies provide written documentation to support their position. When the companies respond, please do not include any personal identifiable or privileged information (names, policy numbers, claim numbers, addresses, etc.). The companies should use exhibits or appendices to reference such information. In addition,

please use the same format (headings and numbering) as found in the Report. If not, the response will be returned to the companies to be put in the correct order. By adhering to this practice, it will be much easier to track the responses against the Report.

Secondly, the companies 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 companies have comments they wish to make regarding Part Three of the Report, please use the same headings and numbering for the comments. In particular, if the examiners identified issues that were numerous but did not rise to the level of a business practice, the companies should outline the actions they are taking to prevent those issues from becoming a business practice.

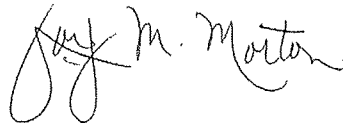
Finally, we have enclosed an Excel file that the companies must complete and return to the Bureau with their response. This file lists the review items for which the examiners identified overcharges (rating and terminations) and underpayments (claims).

The companies' response and the spreadsheet mentioned above must be returned to the Bureau by January 16, 2018.

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

We look forward to your reply by January 16, 2018.

Sincerely,

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

Joy Morton  
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January 16, 2018

Joy Morton, Manager  
Virginia Bureau of Insurance  
Market Conduct Section  
Property & Casualty Division  
1300 E. Main Street  
Richmond, VA 23218

RE: Liberty Mutual Fire Insurance Company (NAIC #23035)  
Liberty Mutual Insurance Company (NAIC #23043)  
The First Liberty Insurance Corporation (NAIC #33588)  
LM Insurance Corporation (NAIC #33600)  
Liberty Insurance Corporation (NAIC #42404)  
LM General Insurance Company (NAIC #36447)  
Market Conduct Examination

Dear Ms. Morton:

On behalf of Liberty Mutual Group, please accept this letter and the following enclosures to serve as our response to the draft report dated November 11, 2017. We have reviewed the report and respectfully submit the following for your consideration:

1. Draft report response and exhibits
2. Corrective action plan
3. Remediation spreadsheet

Per your request, we have followed the same formatting (i.e. headings and numbering) as found in the draft report. Please note that for Part One, we have only provided responses to those items we respectfully disagree with.

Should you have any questions or require any additional information, please do not hesitate to contact me.

Sincerely,

A handwritten signature in black ink, appearing to read "Sebestyen", is written over a light blue horizontal line.

Sebestyen Martens

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

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

### **RATING AND UNDERWRITING REVIEW**

#### **Automobile Rating Review**

The Bureau was unable to examine the companies' automobile rating processes as originally requested in the Data Call sent to companies on June 6, 2016. The companies could not provide verifiable data to support the companies' compliance with rates and rules filed with the Bureau. Multiple elements within the companies' systems could not be confirmed by the examiners. Therefore, to complete examination Action Number of VA-VA097-7 within a reasonable amount of time, the automobile rating portion of the examination was removed and called under exam number VA-VA177-3 in the Market Action Tracking System on 02/01/2017.

#### **Company Response:**

**Due to the manner in which the companies store their data, including the significant challenges involved in pulling this information for purposes of an examination, the Bureau called a separate examination number (VA-VA177-3) in the Market Action Tracking System on February, 1, 2017.**

#### **Homeowner New Business Policies**

The Bureau reviewed 21 new business policy files. During this review, the examiners found overcharges totaling \$462.00 and undercharges totaling \$463.00. The net amount that should be refunded to insureds is \$462.00 plus six percent (6%) simple interest.

- (1) The examiners found one violation of § 38.2-1318 of the Code of Virginia. The company failed to provide convenient access to files, documents, and records relating to the examination. The company failed to provide the entire policy file.
- (2) The examiners found three violations of § 38.2-1906 A of the Code of Virginia. The company failed to file with the Commission all rates and supplementary rate information including fees.
- (3) The examiners found 27 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 13 instances, the company failed to use the correct discounts and/or surcharges.

#### **Company Response:**

1. **We disagree with the examiner's finding per review sheet - 2044644189. As noted in the Company's response dated March 2, 2017, there is an auto policy associated with the household. This**

information was provided to the examiner via email on February 17, 2017, and can also be seen in Customer Service Workbench. A copy of the policy declarations page has been provided for the examiner's review. Please refer to Exhibit 1.

2. We disagree with the examiner's finding per review sheet 1208227651. A copy of the insured's CLUE report has been provided for the examiner's review. Please refer to Exhibit 2.

b. In four instances, the company failed to use the correct tier eligibility criteria.

**Company Response:**

1. We disagree with the examiner's finding per review sheet 73549824. The characteristics we are applying are the same. Variances in the tier values are the result of our relative AOI factors. The relative AOI falls between two different levels (1.25 and 1.30 based on 1.293 value). The factors in the tier matrix are interpolated per page 24 of the Elements rating manual.

2. We disagree with the examiner's finding per review sheet 649250718. On September 8, 2017, the Company provided further details regarding the calculation; however, did not receive a response from the examiner.

3. We disagree with the examiner's finding per review sheet 373610584. On September 12, 2017, the Company provided a further explanation of the calculation; however, did not receive a response from the examiner.

4. The Company has no record of receiving review sheet 896639810.

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

**Company Response:**

1. We disagree with the examiner's finding per review sheet 546272111. On October 16, 2017, the Company provided further details regarding the calculation; however, did not receive a response from the examiner.

2. We disagree with the examiner's finding per review sheet 515047729. On October 24, 2017, the Company provided further details regarding the calculation; however, did not receive a response from the examiner.

3. The Company has no record of receiving review sheet 593101632.

(4) The examiners found one violation of § 38.2-2126 E of the Code of Virginia. The company used credit information that was obtained more than 90 days prior to the new business policy effective date.



## **Homeowner Renewal Business Policies**

The Bureau reviewed 44 renewal business policy files. During this review, the examiners found overcharges totaling \$3,669.00 and undercharges totaling \$254.00. The net amount that should be refunded to insureds is \$3,669.00 plus six percent (6%) simple interest.

- (1) The examiners found three violations of § 38.2-1906 A of the Code of Virginia. The company failed to file with the Commission all rates and supplementary rate information including fees.
- (2) The examiners found 53 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 20 instances, the company failed to use the correct discounts and/or surcharges.

### **Company Response:**

1. **We disagree with the examiner's finding per review sheet 4661011. The Company provided a response on February 16, 2017; however, received no further communication from the examiner.**
  2. **The Company has no record of receiving review sheet - 2073502339.**
- b. In four instances, the company failed to use the correct tier eligibility criteria.
  - c. In 29 instances, the company failed to use the correct base and/or final rates.

### **Company Response:**

**We disagree with the examiner's finding per review sheet 1020988900. The Company provided further details of the calculation on October 16, 2017; however, did not receive a response from the examiner.**

## **TERMINATION REVIEW**

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

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

#### **NOTICE MAILED PRIOR TO THE 60TH DAY OF COVERAGE**

The Bureau reviewed nine automobile cancellations that were initiated by the companies where the notice was mailed prior to the 60th day of coverage in the initial policy period. During this review, the examiners found overcharges totaling \$22.00 and no undercharges. The net amount that should be refunded to insureds is \$22.00 plus six percent (6%) simple interest.

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

#### NOTICE MAILED AFTER THE 59TH DAY OF COVERAGE

The company could not provide any files for the Bureau's review. The company did not properly code and categorize its files and could not identify terminations in this category.

#### Company Response:

**The Company has no record of receiving any review sheets nor email correspondence regarding the above issue.**

#### **All Other Cancellations - Automobile Policies**

#### NONPAYMENT OF THE PREMIUM

The Bureau reviewed 27 automobile cancellations that were initiated by the companies for nonpayment of the policy premium. During this review, the examiners found \$54.80 in overcharges and \$23.96 in undercharges. The net amount that should be refunded to insureds is \$54.80 plus six percent (6%) simple interest.

#### Company Response:

**The Company disagrees with the overcharge amount cited by the Bureau. Please refer to TPA020, TPA022, and TPA035 on the Restitution Spreadsheet for additional information.**

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

#### REQUESTED BY THE INSURED

The Bureau reviewed 22 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 no overcharges and undercharges totaling \$1,157.40.

- (1) The examiners found eight 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.
  - a. In six instances, the company failed to use calculate premium on a 90% (ninety percent) pro-rata basis.
  - b. In two instances, the company failed to calculate the earned premium correctly.
- (2) The examiners found 17 violations of § 38.2-2212 F of the Code of Virginia. The

company failed to obtain a written request from the insured to cancel his policy.

**Company Response:**

**We agree with the examiners' findings; however, note that in all seventeen instances, the Company obtained and documented the insured's verbal request to cancel the policy.**

- (3) The examiners found one occurrence where the company failed to comply with the provisions of the insurance policy. The company failed to use the cancellation date requested by the insured.

**Company Response:**

**We disagree with the examiner's finding per review sheet 76192121. As noted in our response dated March 13, 2017, it is documented in the Policy Comments screen within Customer Service Workbench that the insured requested to cancel the policy on December 4, 2015, as she had secured coverage with another carrier effective on that date. A copy of the policy cancellation notice showing the insured requested cancellation effective date of December 4, 2015 is attached. Please refer to Exhibit 3.**

**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.

**Rejected Applications - Automobile**

The Bureau reviewed 25 automobile insurance applications for which the companies declined to issue a policy.

- (1) The examiners found seven violations of § 38.2-604 A of the Code of Virginia. The company failed to provide the Notice of Information Collection and Disclosure Practices as required by the statute.
- (2) The examiners found seven violations of § 38.2-610 A of the Code of Virginia. The company failed to provide the applicant with written notice of an AUD.
- (3) The examiners found one violation of § 38.2-1318 of the Code of Virginia. The company failed to provide convenient access to files, documents, and records relating to the examination. The company failed to provide the application.

**Company Response:**

**We disagree with the examiner's finding per review sheet 1487363334. A copy of the declination letter was provided to the examiner on March 8, 2017. In addition,**

per the examiner's request, access to the server location where the declination notices are stored was provided on July 6, 2017. There would be no record for this customer in Customer Service Workbench since the quote was declined. Customer Service Workbench only stores policyholder information.

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

The Bureau reviewed two automobile non-renewals that were initiated by the company.

The examiners found no violations in this area.

### Other Law Violations

Although not a violation of Virginia insurance laws, the examiners noted 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 non-renewing the policy as required by the Virginia Motor Vehicle Code.

### **Company-Initiated Cancellations - Homeowner Policies**

#### NOTICE MAILED PRIOR TO THE 90TH DAY OF COVERAGE

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

The examiners found two violations of § 38.2-2113 C of the Code of Virginia. The company failed to obtain valid proof of mailing the cancellation notice to the lienholders.

#### NOTICE MAILED AFTER THE 89TH DAY OF COVERAGE

The Bureau reviewed 17 homeowner cancellations that were initiated by the companies where the notices were mailed on or after the 90th day of coverage in the initial policy period or at any time during the term of a subsequent renewal policy. As a result of this review, the examiners found no overcharges and no undercharges.

The examiners found 28 violations of § 38.2-2114 A of the Code of Virginia.

- a. In one instance, the company failed to provide 30 days' notice to the insured when the company cancelled the policy after the 89th day of coverage.

### **Company Response:**

**We disagree with the examiner's finding per review sheet -366813733. As noted in our response dated February 13, 2017, and documented in the Customer Service Workbench Policy Comments screen, the policy was cancelled at the request of the insured as the property was sold.**

- b. In 27 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.

**Company Response:**

We disagree with the examiners comments regarding the following review sheets: 1312200652, 325032076, 1347523196, 1855338628, 2126870924, 524449172, 986030805, 455821779, 1358048635, 852973533, 1425984712, 793049163, 257224146, 1508142845, 551316006, 346916027, 1920541540, 952185543, 1178000734, 1562213543, 1856223686, 609517509, 1491450691, 416062742, 674649525, and 1545389897.

In each instance, the Company received a letter from the mortgage company / lender stating that the foreclosure process on the insured property was complete. We took action only when we knew the process was complete. The Company's action is consistent with the Bureau's publication titled "Common Problems Identified by the Property and Casualty Market Conduct and Consumer Services Sections Rev. 9/2016." Page 5 of the publication states in part: "Some insurers are cancelling homeowners' policies at the request of the mortgagee prior to the completion of the foreclosure process." In the above referenced 26 instances, the letters received from the mortgage company indicated that ownership of the property was transferred to them (i.e. the foreclosure process was complete). At that point, the named insured would no longer have an insurable interest in the property and thus our termination action is warranted and within the spirit of the statute.

**All Other Cancellations - Homeowner Policies**

**NONPAYMENT OF THE PREMIUM**

The Bureau reviewed 16 homeowner cancellations that were initiated by the companies for nonpayment of the policy premium. During this review, the examiners found \$25.00 overcharges and no undercharges. The net amount that should be refunded to insureds is \$25.00 plus six percent (6%) simple interest.

**Company Response:**

**The Company disagrees with the overcharge amount cited by the Bureau. Please refer to THO052 on the Restitution Spreadsheet for additional information.**

- (1) The examiners found one violation of § 38.2-1906 D of the Code of Virginia. The company failed to use the rules and/or rates on file with the Bureau. The company failed to calculate the earned premium correctly.
- (2) The examiners found one violation of § 38.2-2113 C of the Code of Virginia. The company failed to retain proof of mailing the cancellation notice to the insured.

**REQUESTED BY THE INSURED**

The Bureau reviewed 40 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

overcharges totaling \$93.67 and no undercharges. The net amount that should be refunded to insureds is \$93.67 plus six percent (6%) simple interest.

**Company Response:**

**The Company disagrees with the overcharge amount cited by the Bureau. Please refer to THO069, THO091, and TPA046 on the Restitution Spreadsheet for additional information.**

- (1) The examiners found two violations of § 38.2-1906 D of the Code of Virginia. The company failed to use the rules and/or rates on file with the Bureau. The company failed to calculate the earned premium correctly.
- (2) In 15 instances, the company failed to retain proof of the request for cancellation by the insured.

**Company Response:**

**We disagree with the examiner's finding per review sheet 1483627792. As noted in our response dated January 13, 2017, and documented in the Customer Service Workbench Policy Comments screen, this policy was rewritten on September 12, 2015, from an H6 (condominium) policy to an H3 (homeowner) policy. Therefore, the existing policy was cancelled to avoid duplication of coverage. A cancellation request from the insured was not required in this instance.**

**Rejected Applications - Homeowner Policies**

The Bureau reviewed 15 homeowner insurance applications for which the companies declined to issue a policy.

- (1) The examiners found one violation of § 38.2-604 A of the Code of Virginia. The company failed to provide the Notice of Insurance Information Collection and Disclosure Practices as required by the statute.
- (2) The examiners found one violation of § 38.2-610 A of the Code of Virginia. The company failed to provide the applicant with written notice of an AUD.

**Company-Initiated Non-renewals - Homeowner Policies**

The Bureau reviewed 18 homeowner non-renewals that were initiated by the companies.

The examiners found one violation of § 38.2-2114 A of the Code of Virginia. The company failed to mail the cancellation notice on an owner-occupied dwelling to the address shown on the policy.

**CLAIMS REVIEW**

**Private Passenger Automobile Claims**

The examiners reviewed 147 automobile claims for the period of April 1, 2015 through August 31, 2016. 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 \$24,612.19 and underpayments totaling \$19,373.86. The net amount that should be paid to claimants is \$19,373.86 plus six percent (6%) simple interest.

**Company Response:**

**The Company disagrees with the undercharge amount cited by the Bureau. Please refer to CPA030, CPA042, CPA043, CPA075, CPA108, and CPA121 on the Restitution Spreadsheet for additional information.**

- (1) The examiners found 20 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 13 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 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.
  - b. In seven 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 applied to the loss.

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

- (3) The examiners found five violations of 14 VAC 5-400-50 C. The company failed to make an appropriate reply within ten working days to pertinent communications from a claimant, or a claimant's authorized representative that reasonably suggested a response was expected.
- (4) The examiners found two 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.
- (5) The examiners found two violations of 14 VAC 5-400-70 B. The company failed to provide a reasonable explanation of the basis for the denial in the written denial of the claim.
- (6) The examiners found 21 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 six instances, the company failed to pay the insured's UMPD claim properly when Collision and/or UMPD coverages applied to the claim.
  - b. In one instance, the company failed to pay the insured's rental benefits, available

under the UMPD coverage and/or UIM coverage.

- c. In four instances, the company failed to pay the proper sales and use tax, title fee, and/or license fee on first party total loss settlements.
- d. In four instances, the company failed to pay the claim in accordance with the policy provisions under the insured's Medical Expense Benefits coverage.
- e. In one instance, the company failed to pay the claim in accordance with the policy provision under the insured's Towing and Storage Expense coverage.
- f. In three instances, the company failed to pay the claim in accordance with the policy provisions under the insured's Transportation Expenses coverage.
- g. 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.
- h. In one instance, the company failed to pay the insured's UMBI claim properly when UMBI coverage applied to the claim.

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

- (7) The examiners found 15 violations of 14 VAC 5-400-80 D. The company failed to provide the vehicle owner a copy of the estimate for the cost of repairs prepared by or on behalf of the company.
  - a. In 14 instances, the company failed to provide a copy of the estimate to the insured.
  - b. In one instance, the company failed to provide a copy of the estimate to the claimant.

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

- (8) The examiners found one violation of § 38.2-236 A of the Code of Virginia. The company failed to send the Notice of Settlement Payment to the claimant within five days of issuing a settlement payment of \$5,000.00 or greater to the claimant's attorney or other representative.
- (9) The examiners found 11 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.

**Company Response:**

**The Company has no record of receiving the following review sheets: 765153296, - 229519189, 234002322, and 1718294901.**

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

- (10) The examiners found ten violations of § 38.2-510 A 3 of the Code of Virginia. The



company failed to adopt and implement reasonable standards for the prompt investigation of claims arising under insurance policies.

- (11) The examiners found eight 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.

**Company Response:**

**The Company has no record of receiving the following review sheets: 1111192273 and 1509473220.**

- (12) The examiners found five violations of § 38.2-2201 B of the Code of Virginia. The company failed to obtain a valid Assignment of Benefits from an insured authorizing the company to make payments directly to the medical provider.
- (13) The examiners found one violation of § 38.2-2201 D of the Code of Virginia. The company reduced the amount payable to an insured when Medical Expense Benefits may not be reduced for any benefits paid, payable, or available through an insurance contract providing hospital, medical, surgical and similar or related benefits.
- (14) The examiners found 14 occurrences where the company failed to comply with the provisions of the insurance policy.
- a. In one instance, the company requested the insured obtain a copy of a police report when the report should have been obtained by the company.
  - b. In ten instances, the company paid an insured more than the insured was entitled to receive under the terms of his policy.
  - c. In two instances, the company failed to handle the UMPD payment correctly.
  - d. In one instance, the company issued payment under the incorrect coverage.

**Other Law Violations**

The examiners found one violation of § 46.2-624 of the Code of Virginia. The company failed to notify the Virginia Department of Motor Vehicles when payment was made in excess of \$3,500.00 on a water-damaged vehicle.

**Homeowner Claims**

The examiners reviewed 165 homeowner claims for the period of April 1, 2015 through March 31, 2016. 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 \$43,128.27 and underpayments totaling \$24,984.44. The net amount that should be paid to claimants is \$23,984.45 plus six percent (6%) simple interest.

**Company Response:**

**The Company disagrees with the amounts cited by the Bureau. Please refer to CHO034**

**and CHO048 on the Restitution Spreadsheet for additional information.**

- (1) The examiners found 18 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 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.
- (3) The examiners found 12 violations of 14 VAC 5-400 70 A. The company failed to deny a claim or part of a claim, in writing, and/or failed to keep a copy of the written denial in the claim file.

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

- (4) The examiners found two violations of 14 VAC 5-400-70 B. The company failed to provide a reasonable explanation of the basis for its denial in the written denial of the claim.
- (5) The examiners found four violations of 14 VAC 5-400-70 D. The company failed to offer the insured an amount that was fair and reasonable as shown by the investigation of the claim or failed to pay a claim.
  - a. In two instances, the company failed to pay the entire claim under the insureds Dwelling Replacement Cost coverage.
  - b. In one instance, the company failed to pay the entire claim under the insured's Additional Living Expense coverage.
  - c. In one instance, the company failed to pay the entire claim under the insured's replacement cost Personal Property Replacement Cost coverage.

**Company Response:**

**The Company has no record of receiving review sheet 1545829238. Furthermore, per the examiner's response to review sheet 480571662 dated February 8, 2017 (also regarding reference number CHO034), the Bureau acknowledged that the claim was reported as "incident-only" with no expectation of payment.**

- (6) The examiners found 38 violations of § 38.2-510 A 1 of the Code of Virginia. The company misrepresented pertinent facts or insurance policy provisions relating to the coverage at issue.
  - a. In two instances, the company misrepresented Additional Living Expense coverage.

- b. In 36 instances, the company failed to properly represent the replacement cost provisions of the policy.

**Company Response:**

**The Company has no record of receiving review sheet 1509708626.**

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

- (7) The examiners found eight 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.
- (8) The examiners found two violations of § 38.2-510 A 6 of the Code of Virginia. The company failed to attempt, in good faith, to make a prompt, fair, and equitable settlement of a claim in which liability was reasonably clear.
- (9) The examiners found four violations of § 38.2-510 A 10 of the Code of Virginia. The company made a claim payment to the insured or beneficiary that was not accompanied by a statement setting forth the correct coverage(s) under which payment was made.

**Company Response:**

**1. We disagree with the examiner's comments per review sheet - 1962982391. The Company responded to the examiner on June 13, 2017, citing the sample EOPs that were provided at the beginning of the exam.**

**2. The Company has no record of receiving review sheet 461646643.**

- (10) The examiners found 16 occurrences where the company failed to comply with the provisions of the insurance contract.
  - a. In one instance, the company included the lienholder on a payment less than its defined threshold.
  - b. In four instances, the company failed to include the lienholder on the check.
  - c. In 11 instances, the company paid an insured more than the insured was entitled to receive under the terms of his/her policy.

**Company Response:**

**1. We disagree with the examiner's comments per review sheet 1483104465. Per the Company's response dated January 10, 2017, payment was for a negotiated liability settlement which was paid within the policy limits.**

**2. We disagree with the examiner's comments per review sheet - 15711110890. Per the Company's response dated June 6, 2017, and subsequent responses dated June 9, 2017, and June 23, 2017,**

payment was for the repair of a frozen pipe which is covered under the policy.

3. We disagree with the examiner's comments per review sheet 1485198563. Per the Company's response dated June 13, 2017, and subsequent response dated June 23, 2017, payment was for a sewer pipe damaged by tree roots. The Company respectfully disagrees with the Bureau's position that the sewer pipe is not part of the dwelling.
4. The Company has no record of receiving review sheet 1487016351.

## **FORMS REVIEW**

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

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

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

### **Automobile Policy Forms**

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

The companies provided copies of 49 forms that were used and/or available for use during the examination period to provide coverage on policies insuring risks located in Virginia.

The examiners found 24 violations of § 38.2-2220 of the Code of Virginia. The company used a version of a standard automobile form that was not in the precise language filed and adopted for use by the Bureau.

#### **Company Response:**

1. We disagree with the examiner's findings regarding review sheets 691820406 and 754891333. The Company maintains that we do not offer a Suspension of Coverage or Reinstatement of Coverage endorsement in Virginia. Therefore, per § 38.2-2220, we are not using a standard form covering substantially the same provisions without the precise language of the form filed and adopted by the Commission. Furthermore, the Company maintains that we provided a sufficient

response on February 23, 2017, to the examiner's inquiry of what would happen to active military personnel needing a suspension or reinstatement of coverage, per our "Suspension" rule.

2. The Company has no record of receiving review sheet 536619535.

#### POLICY FORMS CURRENTLY USED

The examiners found no additional forms to review.

#### **Homeowner Policy Forms**

#### POLICY FORMS USED DURING THE EXAMINATION PERIOD

The companies provided copies of 65 forms that were used and/or available for use during the examination period to provide coverage on policies insuring risks located in Virginia.

The examiners found 29 violations of § 38.2-317 A of the Code of Virginia. The company used a form which had not been filed with the Commission at least 30 days prior to its effective date.

#### POLICY FORMS CURRENTLY USED

The examiners found no additional forms to review.

#### POLICY ISSUANCE PROCESS REVIEW

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

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

#### **Automobile Policies**

The companies provided six new business policies sent to the insured on the following dates: July 18, 26, 28, and 29, 2016. In addition, the companies provided 18 renewal business policies sent on the following dates: July 27, 28, and 29, and August 1, 2016.

#### NEW BUSINESS POLICIES

The examiners found six violations of § 38.2-305 A of the Code of Virginia. The company listed forms on the declarations page that were not applicable to the policy.

#### RENEWAL BUSINESS POLICIES

The examiners found three violations of § 38.2-305 A of the Code of Virginia. The company listed forms on the declarations page that were not applicable to the policy.

### **Homeowner Policies**

The companies provided six new business policies sent on the following dates: June 22, July 12, 14, 26, and 28, 2016. In addition, the companies provided 15 renewal business policies sent on the following dates: July 29, August 12 and 31, September 2, 5, and 9, 2016.

### **NEW BUSINESS POLICIES**

- (1) 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.
- (2) 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 caused by water that backs up through sewers or drains.

#### **Company Response:**

**As noted in our response to review sheet 95987643 dated November 18, 2016, Form FMHO 3196 05 12 - Backup of Sewer and Sump Pump Overflow Coverage, was provided in the new business policy application packet that was sent to the insured which was not included with our initial data submission. A copy of the unsigned application packet that includes form FMHO 3196 05 12 was attached to this response and also uploaded to our internal document repository, VIEWS.**

- (3) The examiners found four violations 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.

#### **Company Response:**

**As noted in our response to review sheets 1877442016, 2139459215, and 19558448 dated November 18, 2016, form PMKT 682 05 12 - Additional Virginia Ordinance or Law Coverage Available, was provided in the new business policy application packet that was sent to the insured which was not included with our initial data submission. A copy of the unsigned application packet that includes form PMKT 682 05 12 was attached to each response and also uploaded to our internal document repository, VIEWS.**

### **RENEWAL BUSINESS POLICIES**

The examiners found three violations of § 38.2-305 A of the Code of Virginia. The company listed forms on the declarations page that were not applicable to the policy.

### **STATUTORY NOTICES REVIEW**

#### **Statutory Notices Review**

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

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

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

### **General Statutory Notices**

- (1) The examiners found six violations 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 six violations 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 Vehicle Notices**

The examiners found six violations of § 38.2-2234 A 1 of the Code of Virginia. The company's Insurance Credit Score Disclosure notice did not include all of the information required by the statute.

### **Company Response:**

**The Company maintains that its use of a script, in addition to form PMKT 566 12 10, brings us into compliance with 38.2-2234 A1. The script is for the representative to disclose orally during quoting at the time of information collecting. The Company provided the examiners a copy of the script on August 21, 2017. The latest version of the script was uploaded to our system in 2011 and was in use during the exam period.**

### **Statutory Property Notices**

- (1) The examiners found six violations of § 38.2-2118 of the Code of Virginia. The company's Replacement Cost Coverage provisions notice did not comply with the requirements of the statute.
- (2) The examiners found eight violations of § 38.2-2124 of the Code of Virginia. The company's Ordinance and Law notice did not comply with the requirements of the statute.
- (3) The examiners found seven violations of § 38.2-2126 A of the Code of Virginia. The company failed to include all of the information required by the statute in its Credit Score Disclosure notice.

**Company Response:**

The Company maintains that its use of a script, in addition to form PMKT 566 12 10, brings us into compliance with 38.2-2126 A. The script is for the representative to disclose orally during quoting at the time of information collecting. The Company provided the examiners a copy of the script on August 21, 2017. The latest version of the script was uploaded to our system in 2011 and was in use during the exam period.

**Other Notices**

The examiners found no violations in this area.

**LICENSING AND APPOINTMENT REVIEW**

A review was made of the private passenger automobile and homeowner new business policies to verify the agent of record. 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.

**Agency**

The examiners found no violations in this area.

**Agent**

- (1) The examiners found nine violations of § 38.2-1809 B of the Code of Virginia. The company failed to retain records relative to insurance transactions for three prior years.
- (2) 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.

**Company Response:**

The Company has no record of receiving review sheet -1258080063.

**COMPLAINT-HANDLING PROCESS REVIEW**

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.

**PRIVACY AND INFORMATION SECURITY PROCEDURES REVIEW**

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

The companies provided their Information Security Procedures.



## PART TWO - CORRECTIVE ACTION PLAN

Business practices and the error tolerance guidelines are determined in accordance with the guidelines contained in the NAIC Market Regulation Handbook. 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

Liberty Mutual Fire Insurance Company  
Liberty Mutual Insurance Company  
The First Liberty Insurance Corporation  
LM Insurance Corporation  
Liberty Insurance Corporation  
LM General Insurance Company shall:

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

### Rating and Underwriting Review

Liberty Mutual Fire Insurance Company  
Liberty Mutual Insurance Company  
The First Liberty Insurance Corporation  
LM Insurance Corporation  
Liberty Insurance Corporation and  
LM General Insurance Company shall:

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

#### **Company Response:**

**The Company has reviewed the errors identified by the Bureau and is in process of issuing refunds to the insureds.**

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

#### **Company Response:**

**The Company will include 6% simple interest with the refund amount issued to the insureds as a result of the Bureau's review.**

- (3) Complete and submit to the Bureau the enclosed file titled "Rating Overcharges Cited during the Examination." By returning the completed file to the Bureau, the companies acknowledge that they have refunded or credited the overcharges listed in the file.

**Company Response:**

The Company has reviewed the errors identified by the Bureau and is in process of issuing refunds to the insureds. We will submit an updated Restitution Spreadsheet once all refunds have been processed.

- (4) Provide convenient access to files, documents and records relating to the examination.

**Company Response:**

The Company maintains that the above single violation is an isolated finding and respectfully requests that the corrective action be removed from the final report as it does not meet the NAIC error threshold.

- (5) Use the rules and rates on file with the Bureau. Particular attention should be focused on the use of filed discounts, surcharges, tier eligibility, driver classification factors, filed premium determination rule accurate base and/or final rates, and credit score information.

**Company Response:**

With SERFF filing #LBPM-131223119, the Company has corrected issues in our Elements rating manual. Specifically, we have revised the rating manual to add increased personal liability factors that are applicable to H4 / H6 policies, added a table with the factors for number of families, revised the manual to account for liability factors of 500K and 1M, and removed language regarding the inflation protection credit. Additionally, the Company is in process of submitting SERFF filing #LBPM-131333304 for our Legacy home product rule manual. Specifically, we are updating the rule manual to reflect our intentions and rating logic in regards to the IPP and Home Protector Plus rules.

- (6) Use credit information that was obtained within 90 days of writing the policy.

**Company Response:**

The Company maintains that the above single violation is an isolated finding and respectfully requests that the corrective action be removed from the final report as it does not meet the NAIC error threshold.

**Termination Review**

Liberty Mutual Fire Insurance Company  
Liberty Mutual Insurance Company  
The First Liberty Insurance Corporation  
LM Insurance Corporation  
Liberty Insurance Corporation and  
LM General Insurance Company shall:

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

**Company Response:**

**The Company has reviewed the errors identified by the Bureau and is in process of issuing refunds to the insureds for those refund amounts we are in agreement with. Please refer to the Restitution Spreadsheet for additional information on those refund amounts we continue to dispute.**

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

**Company Response:**

**The Company will include 6% simple interest with the refund amount issued to the insureds for those refund amounts we are in agreement with. Please refer to the Restitution Spreadsheet for additional information on those refund amounts we continue to dispute.**

- (3) Complete and submit to the Bureau the enclosed file titled "Termination Overcharges Cited during the Examination." By returning the completed file to the Bureau, the companies acknowledge that they have refunded or credited the overcharges listed in the file.

**Company Response:**

**The Company has reviewed the errors identified by the Bureau and is in process of issuing refunds to the insureds for those refund amounts we are in agreement with. We will submit an updated Restitution Spreadsheet once all refunds have been processed.**

- (4) Provide the applicant the Notice of Insurance Information Collection and Disclosure Practices as required by the statute for rejected applications.

**Company Response:**

**The Company has taken corrective action to implement changes to our declination process and improve our quality control procedures. Specifically, production of the letters was moved to a dedicated team who installed additional rigor to the quality controls and additional layers of sign-off prior to publishing the notices. This included creating a defined schedule for timely release. Additionally, the process itself was streamlined and automation of letter production enhanced where possible.**

- (5) Provide the insured with a written AUD notice.

**Company Response:**

**The Company has taken corrective action to implement changes to our declination process and improve our quality control procedures. Specifically, production of the letters was moved to a dedicated team who installed additional rigor to the quality controls and additional layers of sign-off prior to publishing**

**the notices. This included creating a defined schedule for timely release. Additionally, the process itself was streamlined and automation of letter production enhanced where possible.**

- (6) Provide convenient access to files, documents and records relating to the examination.

**Company Response:**

**The Company maintains that the above single violation is an isolated finding and respectfully requests that the corrective action be removed from the final report as it does not meet the NAIC error threshold.**

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

**Company Response:**

**The Company will file a rule in our Gears rating manual reflecting our intent to refund insured cancellations on a 100% pro-rata basis. We will also update the manual to account for the return payment service charge.**

**Additionally, we are in process of submitting SERFF filing #LBPM-131333304 for our Legacy home product rule manual which accounts for the return payment service charge.**

- (8) Obtain and retain valid proof of mailing cancellation and non-renewal notices to the insured and lienholder.

**Company Response:**

**The Company maintains that the above are isolated findings (two) and respectfully requests that the corrective action be removed from the final report. It is our company practice to retain valid proof of mailing of cancellation and non-renewal notices to the insured and lienholder.**

- (9) Send notice of cancellation to the address listed on the declaration page.

**Company Response:**

**The Company maintains that the above single violation is an isolated finding and respectfully requests that the corrective action be removed from the final report as it does not meet the NAIC error threshold.**

- (10) Send cancellation notices at least 30 days before the effective date of cancellation when a policy is after the 89th day of coverage.

**Company Response:**

**The Company maintains that the above single violation is an isolated finding and respectfully requests that the corrective action be removed from the final report as it does not meet the NAIC error threshold.**

**Additionally, the Company maintains that the insured requested cancellation when they called to advise that the property has been sold.**

- (11) Cancel an owner-occupied dwelling policy after the 89th day of coverage only for the reasons permitted by the statute.

**Company Response:**

**The Company respectfully disagrees with the above corrective action item. Please refer to our response to 26 of the 27 violations noted by the examiners in Part One of the report.**

**The Company maintains that the remaining violation is an isolated finding and respectfully requests that the corrective action be removed from the final report as it does not meet the NAIC error threshold.**

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

**Company Response:**

**The Company will update its policy contract to allow for verbal requests for cancellation.**

**Claims Review**

Liberty Mutual Fire Insurance Company  
Liberty Mutual Insurance Company  
The First Liberty Insurance Corporation  
LM Insurance Corporation  
Liberty Insurance Corporation and  
LM General Insurance Company shall:

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

**Company Response:**

**The Company has reviewed the errors identified by the Bureau and is in process of issuing refunds to the insureds for those refund amounts we are in agreement with. Please refer to the Restitution Spreadsheet for additional information on those refund amounts we continue to dispute.**

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

**Company Response:**

**The Company will include 6% simple interest with the refund amount issued to the insureds for those refund amounts we are in agreement with. Please refer to the Restitution Spreadsheet for additional information on those refund amounts we continue to dispute.**

- (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.

**Company Response:**

The Company has reviewed the errors identified by the Bureau and is in process of issuing refunds to the insureds for those refund amounts we are in agreement with. We will submit an updated Restitution Spreadsheet once all refunds have been processed.

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

**Company Response:**

A significant percentage of the findings were due to emails that appeared to be missing from the claims system. During Q3 2017, the Company adopted the EZMail System, which integrates adjuster emails with our claims system.

Our property claims team is reviewing procedural changes to ensure better documentation of discussions with customers on repair decisions and the availability and payment of benefits for additional living expenses.

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

**Company Response:**

The Company has implemented system enhancements to alert adjusters to potential UMPD exposures and developed reporting to ensure compliance with Virginia UMPD processing requirements. Our online job aids for Virginia have been updated to provide adjusters with clear and concise direction for both UMPD and transportation expense coverage.

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

**Company Response:**

Throughout 2017, the Company conducted training and follow-up with auto claims adjusters on denial processing. System changes were implemented to make it easier for adjusters to produce PPA denial letters. Opportunities to improve partial denial communications for the property claims team will be addressed in 2018.

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

**Company Response:**

**Quality Improvement (QI) reviews are in place to review claims to ensure that they are paid properly. Attention has been given to job aids used by QI examiners to ensure that Virginia specifics such as assignment of benefit forms, UMPD, and transportation expense coverage are properly documented and paid.**

- (8) Provide copies of repair estimates prepared by or on behalf of the companies to insureds and claimants.

**Company Response:**

**The gap noted by the Bureau occurs when a customer or claimant receives an estimate at a network repair facility, approves the estimate, and arranges to have the vehicle repaired at the facility. The facility provides Liberty Mutual with a copy of the estimate; however, the Company does not receive evidence from these facilities that the customer was provided a copy of the estimate. The Company now provides access to the estimates electronically for customers who choose to have electronic claims document access. We are exploring solutions for the remaining customers.**

- (9) Properly represent pertinent facts or insurance provisions relating to coverages at issue.

**Company Response:**

**In addition to the steps noted above, property claim letters will be modified during 2018 to include the time limit for replacement cost claims.**

**Forms Review**

Liberty Mutual Fire Insurance Company  
Liberty Mutual Insurance Company  
The First Liberty Insurance Corporation  
LM Insurance Corporation  
Liberty Insurance Corporation and  
LM General Insurance Company shall:

- (1) File all homeowner forms with the Bureau at least 30 days prior to use.

**Company Response:**

**We will review all violations noted by the examiners and submit additional filings, as needed, to withdraw forms that are no longer in use and / or re-file active forms.**

- (2) Provide convenient access to files, documents and records relating to the examination.

**Company Response:**

**The Company has no record of receiving any violations in regards to the above corrective action item. Therefore, we ask that this corrective action item be removed from the final report.**

- (3) Use the precise language of the standard automobile forms as adopted by the Bureau.

**Company Response:**

**The Company respectfully disagrees with the above corrective action item. Please refer to our response in Part One of the report.**

**Policy Issuance Process Review**

Liberty Mutual Fire Insurance Company  
Liberty Mutual Insurance Company  
The First Liberty Insurance Corporation  
LM Insurance Corporation  
Liberty Insurance Corporation and  
LM General Insurance Company shall:

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

**Company Response:**

1. **We will update our auto policy declarations page to list the LibertyGuard Auto Policy, AUTO 3615 04 08, underneath the Endorsements - Changes to Your Policy subsection.**
  2. **We will attach form LMHC Membership (2340) to the policy and ensure this form is filed.**
  3. **When Mutual Holding Company (2340e) is listed as an endorsement, we will ensure that the form is attached to the policy.**
- (2) Provide the Replacement Cost Coverage notice with all new and renewal policies as required by the Code of Virginia.

**Company Response:**

**The Company will create a Replacement Cost Coverage notice compliant with 38.2-2118 to provide with all new and renewal policies.**

- (3) 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.

**Company Response:**

**Please note that the Company inadvertently failed to provide this form to the examiners for one policy as part of the policy issuance review; however, it was sent to the insured which is our current company practice. Therefore, it is the Company's position that no corrective action is required.**

- (4) Provide the Ordinance and Law Coverage notice with all new and renewal policies as required by the Code of Virginia.



**Company Response:**

**We have found one instance where we did not provide the above referenced form to the insured. For three of the four violations noted by the examiners, the Company inadvertently failed to provide this form as part of the policy issuance review. However, in all three instances, the form was provided to the insured which is our current company practice. Therefore, it is the Company's position that no corrective action is required.**

**Statutory Notices Review**

Liberty Mutual Fire Insurance Company  
Liberty Mutual Insurance Company  
The First Liberty Insurance Corporation  
LM Insurance Corporation  
Liberty Insurance Corporation and  
LM General Insurance Company shall:

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

**Company Response:**

**We will amend the long form Notice of Information Collection and Disclosure practices to comply with 38.2-604 B, subsections 4 and 5.**

- (2) Amend the AUD notice to comply with § 38.2-610 A of the Code of Virginia.

**Company Response:**

**We will amend the AUD notice to comply with 38.2-610 of the Code of Virginia.**

- (3) Amend the Replacement Cost notice to comply with § 38.2-2118 of the Code of Virginia.

**Company Response:**

**As noted by the Company in our response to the Policy Issuance corrective action plans, we will develop a written notice pursuant to 38.2-2118 to provide the policyholder with a clearer understanding of the coverage provisions and the effect on claim payment.**

- (4) Amend the Ordinance and Law notice to comply with § 38.2-2124 of the Code of Virginia.

**Company Response:**

**We will amend the Ordinance and Law notice to add the word demolition to the following: "Ordinance or Law Coverage pays for the additional cost to repair or replace residential building property in accordance with building ordinances or laws that regulate building construction or repair (insert demolition here), when such property is damaged by a covered peril."**

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

**Company Response:**

The Company respectfully disagrees with the above corrective action item. Please refer to our response in Part One of the report.

- (6) Amend the Insurance Credit Score Disclosure notice to comply with § 38.2-2234 A 1 of the Code of Virginia.

**Company Response:**

The Company respectfully disagrees with the above corrective action item. Please refer to our response in Part One of the report.

**Licensing and Appointment Review**

Liberty Mutual Fire Insurance Company  
Liberty Mutual Insurance Company  
The First Liberty Insurance Corporation  
LM Insurance Corporation  
Liberty Insurance Corporation and  
LM General Insurance Company shall:

- (1) Retain records relative to insurance transactions for three prior years.

**Company Response:**

The violations identified by the examiner were unusual situations (e.g. motorhomes that had to be written on separate policies from the primary auto, divorce rewrites, etc.) that were processed outside of our normal systems process which is to automatically upload the application to the policy file. We will remind personnel that even in these situations, if they send an application to the customer, they should retain a copy in our internal document repository, VIEWS.

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

**Company Response:**

It is the Company's current practice to process new appointments effective the same day as the policy bind. Therefore, no corrective action is required.

## **PART THREE - EXAMINERS' RECOMMENDATIONS**

The examiners also found violations that did not appear to rise to the level of business practices by the companies. The companies should carefully scrutinize these errors and correct the causes before these errors become business practices.

### **RECOMMENDATIONS**

We recommend that the companies take the following actions:

#### **Termination**

- The companies should file a pro rata table to comply with Rule G8.
- The companies should amend Rules 7 and 8 related to calculation of premium for private passenger auto and motorcycles.
- The companies should amend Rule 7 in the General Manual to clarify the expiration date.
- The companies should properly code termination data. Several cancellations coded as cancellations within the first 60 days of coverage should have been coded a non-renewals.

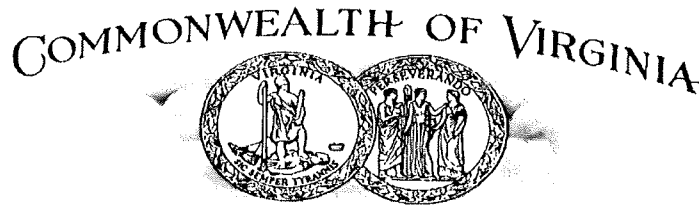
#### **Claims**

- The companies should acknowledge correspondence that reasonably suggests a reply is expected from insureds and claimants within ten business days.
- The companies should provide a reasonable explanation of the basis for the denial in its written denial of the claim.
- The companies 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 companies should adopt reasonable standards for the prompt investigation of claims.
- Adopt and implement reasonable standards for the prompt, fair, and equitable settlement of a claim in which liability and/or coverage is reasonably clear.
- The companies should obtain a written authorization from an insured prior to making payments directly to the medical provider.
- The companies should pay the amount due to an insured when Medical Expense Benefits may not be reduced for any benefits paid, payable, or available through an insurance contract providing hospital, medical, surgical and similar or related benefits.
- The companies should include the lienholder on payments when applicable.
- The companies should make payments to the insured for the amount he/she is entitled to receive under the terms of the policy.
- The companies should make claim payments under the correct coverage.
- The companies should obtain police reports when warranted.

#### **Company Response:**

**The Company acknowledges the recommendations of the Bureau and will take them under advisement.**

SCOTT A. WHITE  
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STATE CORPORATION COMMISSION  
BUREAU OF INSURANCE



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March 27, 2018

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

Sebestyen Martens  
Regulatory Counsel  
Liberty Mutual Insurance Company  
175 Berkeley St.  
Boston, MA 02116

RE: Liberty Mutual Fire Insurance Company (NAIC # 23035)  
Liberty Mutual Insurance Company (NAIC# 23043)  
The First Liberty Insurance Corporation (NAIC# 33588)  
LM Insurance Corporation (NAIC# 33600)  
Liberty Insurance Corporation (NAIC# 42404)  
LM General Insurance (NAIC# 36447)  
Market Conduct Examination  
Exam Period: April 1, 2015 – March 31, 2016

Dear Mr. Martens,

The Bureau of Insurance (Bureau) has reviewed the Company's January 16, 2018 response to the Preliminary Market Conduct Report (Report) of Liberty Mutual Fire Insurance Company, Liberty Mutual Insurance Company, The First Liberty Insurance Corporation, LM Insurance Corporation, Liberty Insurance Corporation, and LM General Insurance (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

### Homeowner New Business Rating

(3a) After further review, the violation for RHO027 has been withdrawn from the Report. The Company provided a copy of the automobile declarations page needed to verify the multi policy discount.

After further review, violation number three for RHO001 has been withdrawn from the Report. The Company provided a copy of the CLUE report to verify if any claims were associated with the policy. Violations number one and two remain.

(3b) The violation for RHO002 remains in the Report. The Bureau acknowledges that the Relative Amount of Insurance (AOI) limit factors interpolate to a factor of 1.293.

However, the Company only filed tier values for Relative AOI factors of 1.25 and 1.30. Therefore, the appropriate tier value was 1.30 as it is the closest value to 1.293. For reconsideration, the Company should provide its calculation for interpolating the AOI value code, the resulting tier value scores, and a copy of Page 24 of the Elements rating manual referenced in the Company's response.

The violation for RHO004 remains in the Report. The Company stated that it responded to the violation in review sheet 649250718 on September 8, 2017 and did not receive a reply from the examiners. The tier calculation provided by the Company did not appear to follow its filed rules. The examiner has provided the characteristics used to develop the tier as stated in the observation. The Company's response did not address whether the characteristics were incorrect. This violation resulted in an overcharge of \$15.00.

The violation for RHO010 remains in the Report. The Company stated that it responded to the violation in review sheet 373610584 on September 12, 2017 and did not receive a reply from the examiners. The tier calculation provided by the Company did not appear to follow its filed rules. The examiner has provided the characteristics used to develop the tier as stated in the observation. The Company's response did not address whether the characteristics were incorrect.

The violation for RHO030 remains in the Report. The Company stated in its response that it has not received review sheet ending in 896639810. The Company failed to use the correct tier for perils A, F, G, H, I, J, K, and N. The examiners used the following information to determine the tier for each peril: No Count 1 loses, No children, 19 miles to coast, No count 2 loses, No count 3 loses, 1755 Insurance Score, No count 4 loses, No count 5 loses, relative AOI of .8, No count 6 loses, No count 7 loses, age of home of 35 years, No smokers in household, Occupation is employed, customer is 62 years old, No count 8 loses, 15 years with prior carrier, education is Bachelor, and a max severity of 0. The examiners determined the tier for each peril to be the following: Peril A: 973 (Company used 975), Peril F: 1010 (Company used 1011), Peril G: 1017 (Company used 1018), Peril H: 970 (Company used 969), Peril I: 1004 (Company used 1005), Peril J: 999 (Company used 1000), Peril K: 1005 (Company used 1006), Peril N: 1037 (Company used 1039).

(3c) The violation for RHO009 remains in the Report. The Company provided its calculations for Peril A. The Company should provide its calculations for Perils B, C, E, G, H, I, J, and K. The examiners were able to identify where the discrepancy was for the Peril A calculations; however, the examiners still have premium amounts for the perils listed above that differ from the Company's calculations.

The violation for RHO035 remains in the Report. The Company stated that it responded to the violation in review sheet 515047729 on October 24, 2017 and did not receive a reply from the examiners. The Company stated in its October 24, 2017 review sheet response that the Final Peril Premium for Peril A is \$597.00. The elements spreadsheet provided by the Company showed the Final Peril Premium for Peril A as \$65,000. Due to the conflicting information, the examiners are unable to reconsider the violation.

The violation for RHO030 remains in the Report. The Company stated in its response that they have not received review sheet ending in 593101632. The base rate for this policy is \$1,095. The relative AOI is .78 and the deductible as a percentage is .552. The examiners determined the premium amount for each peril to be the following: A. \$71, B. \$15, C. \$57, D. \$10, E. \$30, F. \$3, G. \$113, H. \$7, I \$17, J. \$19, K. \$42, L. \$5, M. \$2, and N. \$283. The total policy premium is \$674.

## **Homeowner Renewal Business Rating**

- (2a) Violation number three for RHO111, review sheet 4661011 remains in the Report. Violations number one and two have been withdrawn from the Report. The Company stated in its January 25, 2017 review sheet response that the HomeProtector Plus premium is developed by multiplying the 10% HPP factor by the deductible adjusted base premium. The Company's rule on file with the Bureau has additional steps to determine the HPP premium: The rule states to apply each of the HPP credits individually to the deductible adjusted base premium and then to combine the amounts in 1. and 2. above for the final cost of the HomeProtector Plus premium. If it is the Company's intention to apply only Step One of the filed rule the Company should revise its manual.

The violation for RHO078 remains in the Report. The Company stated in its response that they have not received review sheet ending in 2073502339. The Company listed an Early Shopper discount on the declarations page; however, the insured is not eligible for this discount. The insured has been with the Company over 10 years; therefore, the early shopper factor is 1.

- (2c) The violation for RHO088 remains in the Report. The Company's rule for Recent Home Buyer states the following: Peril-specific rating factors (Section R and/or RM) will be applied to each of the peril premiums based on the number of years a customer has resided in the covered dwelling. The Company's filed rule does not state that the system rounds to the next month. The Company's policy system shows the insured purchased the house in February of 2015 and moved in on February 6, 2015. The effective date of this policy is February 6, 2016; therefore, the insured should have received a Recent Home Buyer discount of 1 year.

## **Termination Review**

### **Automobile Notice Mailed After the 59<sup>th</sup> Day of Coverage**

The population data provided by the Companies did not include any files for terminations after the 59<sup>th</sup> day of coverage. Therefore, there were no review sheets generated for this category.

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

- (1) The overcharge for TPA020 remains in the Report. The Company's response indicates that no refund is owed as the charges were written off. However, the insured's account was charged; therefore, the account must be credited.

The overcharge for TPA022 remains in the Report. The Company's response indicates that no refund is owed as the charges were written off. However, the insured's account was charged, therefore, the account must be credited.

After further review, the \$8.80 overcharge for TPA035 has been changed to an undercharge.

### **Automobile Cancellations Requested by the Insured**

The restitution spreadsheet has been corrected to remove the overcharges for TPA046 and TPA065.

- (2) The Bureau acknowledges the Company's agreement that written requests were not obtained. The Company is permitted to accept verbal requests once it has filed to amend the termination provisions.
- (3) After further review, the violation for TPA058 has been withdrawn from the Report.

### **Automobile Rejected Applications**

- (3) The violation for TPA101 remains in the Report. The Company's response indicates that the declination notices and access to the server storing the declination notices were provided to the examiners. However, this violation was cited due to the Bureau's inability to locate any record of the applicant in the Company's system.

### **Homeowner Notice Mailed After the 89<sup>th</sup> Day of Coverage**

- a. The violation for THO027 remains in the Report. The Company's response indicates that the policy was cancelled at the request of the insured. For reconsideration, the Company should provide evidence of the insured's request to cancel the policy.
- b. These violations remain in the Report. The statute requires evidence of a change in the deed of trust as recorded in the land title records of the jurisdiction of the property to validate terminating after the 90<sup>th</sup> day of coverage for foreclosure. The Company has not provided the required documentation to reconsider these violations.

### **Homeowner Nonpayment of the Premium**

The overcharge for THO052 remains in the Report. The Company sent the insured to collections and the balance was paid by the collections Company. However, the insured was overcharged by \$25; therefore, the Company must refund the money to the insured.

### **Homeowner Cancellations Requested by the Insured**

- (1) The overcharge for THO069 remains in the Report. The Company sent the insured to collections and the balance was charged off. However, the insured's account was charged and therefore the account must be credited.

The overcharge for THO091 remains in the Report. The Company sent the insured to collections and the balance was charged off. However, the insured's account was charged; therefore, the account must be credited.

The Company incorrectly referenced the overcharge for TPA046 in this section. The Bureau has addressed this item in the appropriate area.

- (2) After further review, the violation for THO072 has been withdrawn from the Report.

## **Automobile Claims**

- (6d) The violation for CPA030 remains in the Report. The Company failed to obtain a properly executed Assignment of Benefits. The Company should not have paid the medical provider directly. The injured first party insured is legally entitled to the benefits.

The violation for CPA043 remains in the Report. The Company has indicated a total underpayment amount of \$2,423.47. The Company failed to obtain a properly executed Assignment of Benefits. The Company should have issued payment to the injured first party insured. The total medical bills submitted by the insured was \$3966.57. The bills submitted were (\$1,311.64 + \$620.00 + \$461.84 + \$1,543.10 + \$12.00 + \$17.99).

- (9) The violations for CPA018, CPA119, CPA121, CPA140 remain in the Report. The review sheets requested by the Company are enclosed.
- (11) The violations for CPA089 and CPA093 remain in the Report. The review sheets requested by the Company are enclosed.

## **Homeowners Claims**

- (5b) The violation for ClaimPropHO-1830362855, CHO048, remains in the Report. The Bureau acknowledges that the Company has made restitution.
- (5c) The violations for CHO034 review sheets ClaimPropHO-480571662 and ClaimPropHO-198388487 were previously withdrawn and did not relate to the violation under review. Based on the Company's response to the violation under review (ClaimPropHO-1545829238), this violation has been withdrawn from the Report. A copy is attached for the Company.
- (6b) Review sheet ClaimPropHO-1509708626, CHO102, is attached for the Company's review.
- (9) The violation for review sheet ClaimPropHO-1962982391, CHO002, remains in the Report. The Company has not provided any documentation to support its position.



Review sheet for ClaimPropHO-461646643, CHO031, is attached for the Company's review.

- (10c) After further review, the violation for ClaimPropHO-1487616351, CHO005 has been withdrawn from the Report.

The violation for ClaimPropHO-1571110890, CHO047, remains in the Report. A pipe froze in the insured's home. Subsequent water damage was properly covered by the Company. However, although freezing was a covered loss, the "system or appliance from which the water or steam escaped" is excluded. The water escaped from the pipe and the pipe is therefore excluded.

The violation for ClaimPropHO-1485198563, CHO136, has been withdrawn from the Report after additional review of the Company's documentation.

Review sheet for ClaimPropHO-1483104465, CHO074, is attached for the Company's review.

### **Automobile Policy Forms**

- (1) The violations for FPA020 and FPA021 remain in the Report. The Company failed to have available for use the Suspension of Insurance Endorsement. The Company is required to allow military personnel insured on Virginia policies the ability to suspend coverage while deployed. As the Company must offer the ability to suspend they must have an endorsement to reinstate.
- (2) The violation for FPA050 remains in the Report. The Company stated in its response that they have not received review sheet ending in -536619535. The Company did not have this form available for use during the examination period. A copy of the review sheet is enclosed for review.

### **Homeowner New Business Policy Issuance**

- (2) This violation remains in the Report. The Company was instructed in the Data Call, as well as in the initial conference call, to provide everything that was sent to the insured via mail or electronic delivery at new business. A Company Representative also signed a copy of the Data Request Checklist to verify that all notices, forms, and other information sent to the insured was included in the Company's submission. The policy provided by the Company did not include the Water that Backs up through Sewers and Drains notice.
- (3) These violations remain in the Report. The Company was instructed in the Data Call, as well as in the initial conference call, to provide everything that was sent to the insured via mail or electronic delivery at new business. A Company Representative also signed a copy of the Data Request Checklist to verify that all notices, forms, and other information sent to the insured was included in the Company's submission. The policies provided by the Company did not include the Ordinance or Law Notice.

## Statutory Vehicle Notices

This violation stays in. The examiner reviewed the Important Notice, PMKT 566 12 10 together with the oral FCRA disclosure script and together, these two notices fail to comply with § 38.2-2234 A 1 of the Code of Virginia. The Important Notice, PMKT 566 12 10, advises the applicant that the Company "**may** review your credit report", considering the Company utilizes credit in the rating of the policies, the notice needs to inform the applicant that the Company "**shall** review your credit report". The use of the word "**may**" is subjective and leaves room to question when the Company would not review the applicants credit. Furthermore, the term "**shall**" is used in the prototype language found in the above statute.

## Statutory Property Notices

- (3) This violation stays in. The examiner reviewed the Important Notice, PMKT 566 12 10 together with the oral FCRA disclosure script and together, these two notices fail to comply with § 38.2-2126 A 1 of the Code of Virginia. The Important Notice, PMKT 566 12 10, advises the applicant that the Company "**may** review your credit report", considering the Company utilizes credit in the rating of the policies, the notice needs to inform the applicant that the Company "**shall** review your credit report". The use of the word "**may**" is subjective. Furthermore, the term "**shall**" is used in the prototype language found in the above Code cite.

## Licensing and Appointment Review

The Companies' response indicates that they have no record of receiving review sheet 1258080063; therefore, the review sheet is enclosed.

## Part Two – Corrective Action Plan

### Terminations

- (1) The Companies should make the restitution for TPA009 since there was no disagreement provided in the Companies' response.
- (6) After further review, this item has been withdrawn from this section.
- (7) The Companies' response indicates that they intend to submit a filing to amend their rules to include refunding insured requested cancellations pro rata and add the return payment service charge. Please provide the estimated date that this filing will be made.
- (8) After further review, this item has been withdrawn from this section and moved to the Recommendations section.
- (9) After further review, this item has been withdrawn from this section.
- (10) After further review, this item has been withdrawn from this section.

- (11) The Companies should obtain a copy of the records required by the statute when cancelling an owner-occupied dwelling after the 89th day of coverage.
- (12) The Companies' response indicates that they intend to submit a filing to amend their rules to include verbal requests for cancellation. Please provide the estimated date the filing will be made.

### Claims

- (1) The Company should make the outstanding restitution as indicated in the revised Restitution Spreadsheet.
- (2) The Company should make the restitution for CPA042. The Restitution Spreadsheet has been revised to reference the correct amount.

### Statutory Notices Review

- (1) Amend the Homeowner Credit Disclosure notice to comply with § 38.2-2126 A 1 of the Code of Virginia.
- (2) Amend the Automobile Insurance Credit Disclosure notice to comply with § 38.2-2234 A 1 of the Code of Virginia.

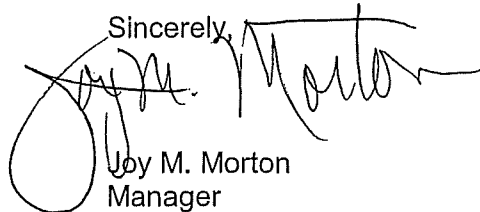
## PART THREE – EXAMINERS' RECOMMENDATION

### Termination

Obtain and retain valid proof of mailing cancellation and non-renewal notices to the insured and lienholder.

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 Companies' response to this letter is due in the Bureau's office by April 13, 2018.

Sincerely,



Joy M. Morton  
Manager  
Market Conduct Section  
Property and Casualty Division  
(804) 371-9540  
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Enclosures



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April 27, 2018

Joy Morton, Manager  
Virginia Bureau of Insurance  
Market Conduct Section  
Property & Casualty Division  
1300 E. Main Street  
Richmond, VA 23218

RE: Liberty Mutual Fire Insurance Company (NAIC #23035)  
Liberty Mutual Insurance Company (NAIC #23043)  
The First Liberty Insurance Corporation (NAIC #33588)  
LM Insurance Corporation (NAIC #33600)  
Liberty Insurance Corporation (NAIC #42404)  
LM General Insurance Company (NAIC #36447)  
Market Conduct Examination

Dear Ms. Morton:

On behalf of Liberty Mutual Group, please accept this letter and the following enclosures to serve as our response to the draft report dated March 27, 2018. We have reviewed the report and respectfully submit the following for your consideration:

1. Draft report response and exhibits
2. Corrective action plan
3. Remediation spreadsheet

Per your request, we have followed the same formatting (i.e. headings and numbering) as found in the draft report. Please note that we have only provided responses to new items or those items we continue to respectfully disagree with.

Should you have any questions or require any additional information, please do not hesitate to contact me.

Sincerely,

A handwritten signature in black ink, appearing to read "Sebestyen", is written over a light blue horizontal line.

Sebestyen Martens

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

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

### **RATING AND UNDERWRITING REVIEW**

#### **Automobile Rating Review**

The Bureau was unable to examine the companies automobile rating processes as originally requested in the Data Call sent to the companies on June 6, 2016. The companies were unable to provide verifiable data to support the companies' compliance with rates and rules filed with the Bureau. Multiple elements within the companies' systems could not be confirmed by the examiners. Therefore, to complete examination Action Number of VA-VA097-7 within a reasonable amount of time, the automobile rating portion of the examination was removed and a separate examination was called under exam number VA-VA 177-3 in the Market Action Tracking System on February 1, 2017.

#### **Company Response:**

The Company continues to maintain their position that, due to the manner in which we store our data, including the significant challenges involved in pulling this information for purposes of an examination, the Bureau called a separate examination number (VA-VA 177-3) in the Market Conduct Tracking System on February 1, 2017.

#### **Homeowner New Business Policies**

The Bureau reviewed 21 new business policy files. During this review, the examiners found overcharges totaling \$480.00 and undercharges totaling \$277.00. The net amount that should be refunded to insureds is \$480.00 plus six percent (6%) simple interest.

- (1) The examiners found one violation of § 38.2-1318 of the Code of Virginia. The company failed to provide convenient access to files, documents, and records relating to the examination. The company failed to provide the entire policy file.
- (2) The examiners found three violations of § 38.2-1906 A of the Code of Virginia. The company failed to file with the Commission all rates and supplementary rate information including fees.
- (3) The examiners found 25 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 four instances, the company failed to use the correct tier eligibility criteria.

Company Response:

1. The Company continues to respectfully disagree with the examiner's comments per review sheet R&UNBHO73549824. Per the Bureau's request, we have attached a copy of the Elements rating manual that was in effective when the policy was issued. Exhibit 6 reflects the calculation steps for interpolating the factor values not specifically identified in the rating table (e.g. relative AOI of 1.293). As 1.293 falls between filed values, we applied the interpolated values as described in Exhibit 7.
  2. The Company continues to respectfully disagree with the examiner's comments per review sheet R&UNBHO-649250718. Two characteristics applied by the examiner were incorrect. The customer's age was 54 versus 55 as applied by the examiner. Additionally, there was no prior carrier as this was a first time homebuyer. Several other factors were required to calculate the correct tier, as noted in our response dated May 18, 2017 (e.g. age of roof and age of plumbing / electrical).
  3. The Company continues to respectfully disagree with the examiner's comments per review sheet R&UNBHO-373610584. The characteristics applied by the examiner were correct. Our response dated September 12, 2017 noted that the variables were in fact the same and AOI interpolation was the source of the rating variance. Please refer to Exhibits 8 and 9.
  4. The Company respectfully disagrees with the examiner's comments per review sheet R&UNBHO896639810. Applying the correct relative AOI for this policy effective February 13, 2016 for new business, we arrive at a relative AOI of 0.78 with resulting tiers of:  
  
Peril A: 975, Peril F: 1011, Peril G: 1018, Peril H: 969, Peril I: 1005, Peril J: 1000, Peril K: 1006, Peril N: 1039  
  
Please refer to Exhibits 10 and 11.
- c. In ten instances, the company failed to use the correct base and/or final rates.

Company Response:

1. The Company continues to respectfully disagree with the examiner's comments per review sheet R&UNBHO546272111. Please refer to Exhibit 12 for the peril calculation, per the Bureau's request.
2. The Company continues to respectfully disagree with the examiner's comments per review sheet R&UNBHO-515047729. The \$650 Peril A premium corresponds to the fourth endorsement of the 2015 term. The total premium for the fourth endorsement is \$3,167, which is also the amount captured on the Elements spreadsheet provided on February 9, 2017. Please refer to Exhibits 13 and 14 for the new business and endorsement policy declaration pages.

3. The Company disagrees with the examiner's comments per review sheet R&UNBHO593101632. The base rate the examiner used to calculate the total policy premium was incorrect. For this policy effective February 13, 2016 for new business, the correct base rate is \$1,129 and not \$1,095. The resulting total policy premium when the correct base rate is applied is \$708.
- (4) The examiners found one violation of § 38.2-2126 E of the Code of Virginia. The company used credit information that was obtained more than 90 days prior to the new business policy effective date.

### **Homeowner Renewal Business Policies**

The Bureau reviewed 44 renewal business policy files. During this review, the examiners found overcharges totaling \$4,637.00 and undercharges totaling \$247.00. The net amount that should be refunded to insureds is \$4,637.00 plus six percent (6%) simple interest.

- (1) The examiners found three violations of § 38.2-1906 A of the Code of Virginia. The company failed to file with the Commission all rates and supplementary rate information including fees.
- (2) The examiners found 513 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.

### **Company Response:**

The Company notes that an incorrect violation count is cited by the Bureau. The correct violation count is 51.

- a. In 18 instances, the company failed to use the correct discounts and/or surcharges.
- b. In four instances, the company failed to use the correct tier eligibility criteria.
- c. In 29 instances, the company failed to use the correct base and/or final rates.

### **TERMINATION REVIEW**

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

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

#### **NOTICE MAILED PRIOR TO THE 60TH DAY OF COVERAGE**

The Bureau reviewed nine automobile cancellations that were initiated by the companies where the notice was mailed prior to the 60th day of coverage in the initial policy period. During this review,

the examiners found overcharges totaling \$22.00 and no undercharges. The net amount that should be refunded to insureds is \$22.00 plus six percent (6%) simple interest.

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

#### NOTICE MAILED AFTER THE 59TH DAY OF COVERAGE

The company could not provide any files for the Bureau's review. The company did not properly code and categorize its files and could not identify terminations in this category.

#### Company Response:

The Company continues to respectfully disagree with the Bureau's comments. We have no record of receiving any review sheets nor email correspondence regarding the above issue. It should be noted that mid-term cancellations occur infrequently with automobile policies; therefore, it is possible that none were processed during the examination period.

#### **All Other Cancellations - Automobile Policies**

#### NONPAYMENT OF THE PREMIUM

The Bureau reviewed 27 automobile cancellations that were initiated by the companies for nonpayment of the policy premium. During this review, the examiners found \$46.00 in overcharges and \$32.76 in undercharges. The net amount that should be refunded to insureds is \$46.00 plus six percent (6%) simple interest.

#### Company Response:

The Company respectfully disagrees with the overcharge amount cited by the Bureau. Please refer to TPA020 and TPA022 on the Restitution Spreadsheet for additional information.

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

#### REQUESTED BY THE INSURED

The Bureau reviewed 22 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 no overcharges and undercharges totaling \$1,157.40.



- (1) The examiners found eight 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.
  - a. In six instances, the company failed to use calculate premium on a 90% (ninety percent) pro-rata basis.
  - b. In two instances, the company failed to calculate the earned premium correctly.
- (2) The examiners found 17 violations of § 38.2-2212 F of the Code of Virginia. The company failed to obtain a written request from the insured to cancel his policy.

#### Other Law Violations

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

The examiners found 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.

#### **Rejected Applications-Automobile**

The Bureau reviewed 25 automobile insurance applications for which the companies declined to issue a policy.

- (1) The examiners found seven violations of § 38.2-604 A of the Code of Virginia. The company failed to provide the Notice of Information Collection and Disclosure Practices as required by the statute.
- (2) The examiners found seven violations of § 38.2-610 A of the Code of Virginia. The company failed to provide the applicant with written notice of an Adverse Underwriting Decisions (AUD).
- (3) The examiners found one violation of § 38.2-1318 of the Code of Virginia. The company failed to provide convenient access to files, documents, and records relating to the examination. The company failed to provide the application.

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

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

The examiners found no violations in this area.

#### Other Law Violations

Although not a violation of Virginia insurance laws, the examiners noted 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 non-renewing the policy as required by the Virginia Motor Vehicle Code.

### **Company-Initiated Cancellations - Homeowner Policies**

#### NOTICE MAILED PRIOR TO THE 90TH DAY OF COVERAGE

The Bureau reviewed six homeowner cancellations that were initiated by the companies 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 examiners found two violations of § 38.2-2113 C of the Code of Virginia. The company failed to obtain valid proof of mailing the cancellation notice to the lienholders.

#### NOTICE MAILED AFTER THE 89TH DAY OF COVERAGE

The Bureau reviewed 17 homeowner cancellations that were initiated by the companies where the notices were mailed on or after the 90th day of coverage in the initial policy period or at any time during the term of a subsequent renewal policy. As a result of this review, the examiners found no overcharges and no undercharges.

The examiners found 28 violations of § 38.2-2114 A of the Code of Virginia.

- a. In one instance, the company failed to provide 30 days' notice to the insured when the company cancelled the policy after the 89th day of coverage.

#### Company Response:

The Company continues to respectfully disagree with the examiner's comments per review sheet TermOvr90HO-366813733. As noted in our response dated February 13, 2017, and documented in the Customer Service Workbench Policy Comments screen, the policy was cancelled at the request of the insured as the property was sold. Please refer to Exhibit 5.

- b. In 27 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.

### **All Other Cancellations - Homeowner Policies**

#### NONPAYMENT OF THE PREMIUM

The Bureau reviewed 17 homeowner cancellations that were initiated by the companies for nonpayment of the policy premium. During this review, the examiners found \$25.00 overcharges and no undercharges. The net amount that should be refunded to insureds is \$25.00 plus six percent (6%) simple interest.

- (1) The examiners found one violation of § 38.2-1906 D of the Code of Virginia. The company failed to use the rules and/or rates on file with the Bureau. The company failed to calculate the earned premium correctly.
- (2) The examiners found one violation of § 38.2-2113 C of the Code of Virginia. The company failed to retain proof of mailing the cancellation notice to the insured.

#### REQUESTED BY THE INSURED

The Bureau reviewed 40 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 overcharges totaling \$93.67 and no undercharges. The net amount that should be refunded to insureds is \$93.67 plus six percent (6%) simple interest.

#### Company Comments:

**The Company respectfully disagrees with the overcharge amount cited by the Bureau. Please refer to THO069 and THO091 on the Restitution Spreadsheet for additional information.**

- (1) The examiners found two violations of § 38.2-1906 D of the Code of Virginia. The company failed to use the rules and/or rates on file with the Bureau. The company failed to calculate the earned premium correctly.
- (2) The examiners found 14 occurrences where the company failed to comply with the provisions of the insurance policy. The company failed to retain evidence of the insured's request for cancellation.

#### **Rejected Applications - Homeowner Policies**

The Bureau reviewed 15 homeowner insurance applications for which the companies declined to issue a policy.

- (1) The examiners found one violation of § 38.2-604 A of the Code of Virginia. The company failed to provide the Notice of Insurance Information Collection and Disclosure Practices as required by the statute.
- (2) The examiners found one violation of § 38.2-610 A of the Code of Virginia. The company failed to provide the applicant with written notice of an AUD.

#### **Company-Initiated Non-renewals - Homeowner Policies**

The Bureau reviewed 18 homeowner non-renewals that were initiated by the companies.

The examiners found one violation of § 38.2-2114 A of the Code of Virginia. The company failed to mail the cancellation notice on an owner-occupied dwelling to the address shown on the policy.

#### CLAIMS REVIEW

## **Private Passenger Automobile Claims**

The examiners reviewed 147 automobile claims for the period of April 1, 2015 through March 31, 2016. 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 \$24,612.19 and underpayments totaling \$18,334.49. The net amount that should be paid to claimants is \$18,334.49 plus six percent (6%) simple interest.

### **Company Comments:**

**The Company respectfully disagrees with the underpayment amount cited by the Bureau. Please refer to CPA043 and CPA088 on the Restitution Spreadsheet for additional information.**

- (1) The examiners found 20 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 13 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 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.
  - b. In seven 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 applied to the loss.

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

- (3) The examiners found five violations of 14 VAC 5-400-50 C. The company failed to make an appropriate reply within ten working days to pertinent communications from a claimant, or a claimant's authorized representative, that reasonably suggested a response was expected.
- (4) The examiners found two 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.
- (5) The examiners found two violations of 14 VAC 5-400-70 B. The company failed to provide a reasonable explanation of the basis for the denial in the written denial of the claim.

- (6) The examiners found 21 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 six instances, the company failed to pay the insured's UMPD claim properly when Collision and/or UMPD coverages applied to the claim.
  - b. In one instance, the company failed to pay the insured's rental benefits, available under the UMPD coverage and/or UIM coverage.
  - c. In four instances, the company failed to pay the proper sales and use tax, title fee, and/or license fee on first party total loss settlements.
  - d. In four instances, the company failed to pay the claim in accordance with the policy provisions under the insured's Medical Expense Benefits coverage.
  - e. In one instance, the company failed to pay the claim in accordance with the policy provision under the insured's Towing and Storage Expense coverage.
  - f. In three instances, the company failed to pay the claim in accordance with the policy provisions under the insured's Transportation Expenses coverage.
  - g. 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.
  - h. In one instance, the company failed to pay the insured's UMBI claim properly when UMBI coverage applied to the claim.

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

- (7) The examiners found 15 violations of 14 VAC 5-400-80 D. The company failed to provide the vehicle owner a copy of the estimate for the cost of repairs prepared by or on behalf of the company.
- a. In 14 instances, the company failed to provide a copy of the estimate to the insured.
  - b. In one instance, the company failed to provide a copy of the estimate to the claimant.

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

- (8) The examiners found one violation of § 38.2-236 A of the Code of Virginia. The company failed to send the Notice of Settlement Payment to the claimant within five of issuing a settlement payment of \$5,000.00 or greater to the claimant's attorney or other representative.
- (9) The examiners found 11 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.

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

Company Response:

1. The Company respectfully disagrees with the examiner's comments per review sheet ClaimVehPPA765153296. The claim file shows that three days of rental were approved at first notice of loss. Please refer to Exhibit 1.
  2. The Company respectfully disagrees with the examiner's comments per review sheet ClaimVehPPA-229519189. The claim file shows that Enterprise was authorized to provide nine days of rental up to \$900. Please refer to Exhibit 2.
  3. The Company respectfully disagrees with the examiner's comments per review sheet ClaimVehPPA1718294901. The file notes indicate that the adjuster provided reassurance that the rental would be extended beyond 30 days, if needed, as the repair was done by a Guaranteed Repair Network (GRN) facility. The file notes indicate that the rental was initially authorized for ten days based on the estimated repair time. Please refer to Exhibit 3.
- (10) The examiners found ten violations of § 38.2-510 A 3 of the Code of Virginia. The company failed to adopt and implement reasonable standards for the prompt investigation of claims arising under insurance policies.
- (11) The examiners found eight 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.
- (12) The examiners found five violations of § 38.2-2201 B of the Code of Virginia. The company failed to obtain a valid Assignment of Benefits from an insured authorizing the company to make payments directly to the medical provider.
- (13) The examiners found one violation of § 38.2-2201 D of the Code of Virginia. The company reduced the amount payable to an insured when Medical Expense Benefits may not be reduced for any benefits paid, payable, or available through an insurance contract providing hospital, medical, surgical and similar or related benefits.
- (14) The examiners found 14 occurrences where the company failed to comply with the provisions of the insurance policy.
- a. In one instance, the company requested the insured obtain a copy of a police report when the report should have been obtained by the company.
  - b. In ten instances, the company paid an insured more than the insured was entitled to receive under the terms of his policy.
  - c. In two instances, the company failed to handle the UMPD payment correctly.
  - d. In one instance, the company issued payment under the incorrect coverage.

### Other Law Violations

The examiners found one violation of § 46.2-624 of the Code of Virginia. The company failed to notify the Virginia Department of Motor Vehicles when payment was made in excess of \$3,500.00 on a water-damaged vehicle.

### **Homeowner Claims**

The examiners reviewed 165 homeowner claims for the period of April 1, 2015 through March 31, 2016. 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 \$42,678.28 and underpayments totaling \$15,284.46. The net amount that should be paid to claimants is \$14,284.47 plus six percent (6%) simple interest.

### Company Comments:

**The Company respectfully disagrees with the underpayment amount cited by the Bureau. Please refer to CHO048 on the Restitution Spreadsheet for additional information.**

- (1) The examiners found 18 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 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.
- (3) The examiners found 12 violations of 14 VAC 5-400-70 A. The company failed to deny a claim or part of a claim, in writing, and/or failed to keep a copy of the written denial in the claim file.

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

- (4) The examiners found two violations of 14 VAC 5-400-70 B. The company failed to provide a reasonable explanation of the basis for its denial in the written denial of the claim.
- (5) The examiners found four violations of 14 VAC 5-400-70 D. The company failed to offer the insured an amount that was fair and reasonable as shown by the investigation of the claim or failed to pay a claim.
  - a. In two instances, the company failed to pay the entire claim under the insureds Dwelling Replacement Cost coverage.
  - b. In one instance, the company failed to pay the entire claim under the insured's Additional Living Expense coverage.

- c. In one instance, the company failed to pay the entire claim under the insured's replacement cost Personal Property Replacement Cost coverage.

**Company Response:**

**Per Page 5 of the Bureau's letter dated March 27, 2018:**

**"Based on the Company's response to the violation under review (ClaimPropHO-1545829238), this violation has been withdrawn from the Report. A copy is attached for the Company."**

**The Company notes that the violation remains in the report as of March 27, 2018 and respectfully requests that it is removed from subsequent versions.**

- (6) The examiners found 38 violations of § 38.2-510 A 1 of the Code of Virginia. The company misrepresented pertinent facts or insurance policy provisions relating to the coverage at issue.
  - a. In two instances, the company misrepresented Additional Living Expense coverage.
  - b. In 36 instances, 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.

- (7) The examiners found eight 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.
- (8) The examiners found two violations of § 38.2-510 A 6 of the Code of Virginia. The company failed to attempt, in good faith, to make a prompt, fair, and equitable settlement of a claim in which liability was reasonably clear.
- (9) The examiners found four violations of § 38.2-510 A 10 of the Code of Virginia. The company made a claim payment to the insured or beneficiary that was not accompanied by a statement setting forth the correct coverage(s) under which payment was made.
- (10) The examiners found 14 occurrences where the company failed to comply with the provisions of the insurance contract.
  - a. In one instance, the company included the lienholder on a payment less than its defined threshold.
  - b. In four instances, the company failed to include the lienholder on the check.
  - c. In nine instances, the company paid an insured more than the insured was entitled to receive under the terms of his/her policy.



**Company Response:**

The Company respectfully disagrees with the examiner's comments per review sheet ClaimPropHO1487016351. Supplements were issued on January 18, 2018. It appears that the final supplement issued on this date is properly depreciated. Please refer to Exhibit 4.

**FORMS REVIEW**

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

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

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

**Automobile Policy Forms**

**POLICY FORMS USED DURING THE EXAMINATION PERIOD**

The companies provided copies of 49 forms that were used and/or available for use during the examination period to provide coverage on policies insuring risks located in Virginia.

The examiners found 24 violations of § 38.2-2220 of the Code of Virginia. The company used a version of a standard automobile form that was not in the precise language filed and adopted for use by the Bureau.

**Company Response:**

1. The Company continues to respectfully disagree with the examiner's comments per review sheet FormsFrmPPA691820406 and FormsFrmPPA-754891333. The Company does have a process under the suspension rule that allows military personnel insured on Virginia policies to suspend coverage while deployed. The language for the rule is as follows:

“If the named insured has been ordered to military duty outside the Commonwealth of Virginia, the insurance provided by this policy for a motor vehicle may be suspended at the request of the named insured or his legal representative, during any

period that the motor vehicle is impounded in a motor vehicle impound lot on a military base of the United States Armed Forces, the Reserves of the United States Armed Forces or the National Guard. However, a company may decline to suspend coverage if satisfactory evidence of such impoundment has not been furnished. The suspended coverage shall be reinstated upon the request of the named insured, or his legal representative, effective not earlier than the receipt of such request by the insurer or any of its authorized representatives.

Under Virginia Code, the only coverage that may be suspended is Liability coverage. Any unearned premium will be returned on a pro-rata basis and no minimum premium will be retained.”

2. The Company respectfully disagrees with the examiner’s comments per review sheet FormsFrmPPA536619535. Form AUTO 4228 02 14 was in use during the examination period and provided with our initial data submission in August 2016. We have no record of the 02 04 edition of the form as requested by the examiner.

#### POLICY FORMS CURRENTLY USED

The examiners found no additional forms to review.

#### **Homeowner Policy Forms**

#### POLICY FORMS USED DURING THE EXAMINATION PERIOD

The companies provided copies of 65 forms that were used and/or available for use during the examination period to provide coverage on policies insuring risks located in Virginia.

The examiners found 29 violations of § 38.2-317 A of the Code of Virginia. The company used a form which had not been filed with the Commission at least 30 days prior to its effective date.

#### POLICY FORMS CURRENTLY USED

The examiners found no additional forms to review.

#### POLICY ISSUANCE PROCESS REVIEW

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

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

## **Automobile Policies**

The companies provided six new business policies sent to the insured on the following dates: July 18, 26, 28, and 29, 2016. In addition, the companies provided 18 renewal business policies sent on the following dates: July 27, 28, and 29, and August 1, 2016.

### NEW BUSINESS POLICIES

The examiners found six violations of § 38.2-305 A of the Code of Virginia. The company listed forms on the declarations page that were not applicable to the policy.

### RENEWAL BUSINESS POLICIES

The examiners found three violations of § 38.2-305 A of the Code of Virginia. The company listed forms on the declarations page that were not applicable to the policy.

## **Homeowner Policies**

The companies provided six new business policies sent on the following dates: June 22, July 12, 14, 26, and 28, 2016. In addition, the companies provided 15 renewal business policies sent on the following dates: July 29, August 12 and 31, September 2, 5, and 9, 2016.

### NEW BUSINESS POLICIES

- (1) 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.
- (2) 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 caused by water that backs up through sewers or drains.
- (3) The examiners found four violations 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.

### RENEWAL BUSINESS POLICIES

The examiners found three violations of § 38.2-305 A of the Code of Virginia. The company listed forms on the declarations page that were not applicable to the policy.

## **STATUTORY NOTICES REVIEW**

### **Statutory Notices Review**

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

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

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

### **General Statutory Notices**

- (1) The examiners found six violations 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 six violations 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 Vehicle Notices**

The examiners found six violations of § 38.2-2234 A 1 of the Code of Virginia. The company's Insurance Credit Score Disclosure notice did not include all of the information required by the statute.

### **Statutory Property Notices**

- (1) The examiners found six violations of § 38.2-2118 of the Code of Virginia. The company's Replacement Cost Coverage provisions notice did not comply with the requirements of the statute.
- (2) The examiners found eight violations of § 38.2-2124 of the Code of Virginia. The company's Ordinance and Law notice did not comply with the requirements of the statute.
- (3) The examiners found seven violations of § 38.2-2126 A of the Code of Virginia. The company failed to include all of the information required by the statute in its Credit Score Disclosure notice.

### **Other Notices**

The examiners found no violations in this area.

### **LICENSING AND APPOINTMENT REVIEW**

A review was made of the private passenger automobile and homeowner new business policies to verify the agent of record. 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.

### **Agency**

The examiners found no violations in this area.

### **Agent**

- (1) The examiners found nine violations of § 38.2-1809 B of the Code of Virginia. The company failed to retain records relative to insurance transactions for three prior years.
- (2) 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.

### **Company Response:**

The violations cited for AG001 and AG107 are for the same agent and policy, and therefore are duplicative. The Company respectfully requests that the violation count be reduced to one.

### **COMPLAINT-HANDLING PROCESS REVIEW**

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.

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

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

The companies provided their Information Security Procedures.

## PART TWO - CORRECTIVE ACTION PLAN

Business practices and the error tolerance guidelines are determined in accordance with the guidelines contained in the NAIC Market Regulation Handbook. 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

Liberty Mutual Fire Insurance Company  
Liberty Mutual Insurance Company  
The First Liberty Insurance Corporation  
LM Insurance Corporation  
Liberty Insurance Corporation  
LM General Insurance Company shall:

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

### Rating and Underwriting Review

Liberty Mutual Fire Insurance Company  
Liberty Mutual Insurance Company  
The First Liberty Insurance Corporation  
LM Insurance Corporation  
Liberty Insurance Corporation and  
LM General Insurance Company shall:

- (1) Correct the errors that caused the overcharges and undercharges, and send refunds to the insureds or credit the insureds' accounts the amount of the overcharge as of the date the error first occurred.
- (2) Include six percent (6%) simple interest in the amount refunded and/or credited to the insureds' accounts.
- (3) Complete and submit to the Bureau the enclosed file titled "Rating Overcharges Cited during the Examination." By returning the completed file to the Bureau, the companies acknowledge that they have refunded or credited the overcharges listed in the file.
- (4) Provide convenient access to files, documents and records relating to the examination.
- (5) Use the rules and rates on file with the Bureau. Particular attention should be focused on the use of filed discounts, surcharges, tier eligibility, driver classification factors, filed premium determination rule accurate base and/or final rates, and credit score information.
- (6) Use credit information that was obtained within 90 days of writing the policy.

## Termination Review

Liberty Mutual Fire Insurance Company  
Liberty Mutual Insurance Company  
The First Liberty Insurance Corporation  
LM Insurance Corporation  
Liberty Insurance Corporation and  
LM General Insurance Company shall:

- (1) Correct the errors that caused the overcharges and undercharges, and send refunds to the insureds or credit the insureds' accounts the amount of the overcharge as of the date the error first occurred.
- (2) Include six percent (6%) simple interest in the amount refunded and/or credited to the insureds' accounts.
- (3) Complete and submit to the Bureau the enclosed file titled "Termination Overcharges Cited during the Examination." By returning the completed file to the Bureau, the companies acknowledge that they have refunded or credited the overcharges listed in the file.
- (4) Provide the applicant the Notice of Insurance Information Collection and Disclosure Practices as required by the statute for rejected applications.
- (5) Provide the insured with a written AUD notice.
- (6) Provide convenient access to files, documents and records relating to the examination.

### Company Response:

Per Page 7 of the Bureau's letter dated March 27, 2018:

"After further review, this item has been withdrawn from this section."

The Company notes that the corrective action item remains in the report as of March 27, 2018 and respectfully requests that it is removed from subsequent versions.

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

### Company Response:

The Company will file a rule in the Gears rating manual reflecting our intent to refund insured cancellations on a 100% pro-rata basis. We will also update the manual to account for the return payment service charge. These changes will be filed upon completion of open Virginia exam number VA-VA 177-3.

SERFF filing LBPM-131333304 was submitted on April 25, 2018 to update the Company's legacy home product rule manual to account for the return payment service charge.

- (8) Obtain and retain valid proof of mailing cancellation and non-renewal notices to the insured and lienholder.

Company Response:

Per Page 7 of the Bureau's letter dated March 27, 2018:

"After further review, this item has been withdrawn from this section and moved to the Recommendations section."

The Company notes that the corrective action item remains in the report as of March 27, 2018 and respectfully requests that it is removed from subsequent versions.

- (9) Send notice of cancellation to the address listed on the declaration page.

Company Response:

Per Page 7 of the Bureau's letter dated March 27, 2018:

"After further review, this item has been withdrawn from this section."

The Company notes that the corrective action item remains in the report as of March 27, 2018 and respectfully requests that it is removed from subsequent versions.

- (10) Send cancellation notices on owner occupied dwelling policies at least 30 days before the effective date of cancellation when a cancellation is after the 89th day of coverage.

Company Response:

Per Page 7 of the Bureau's letter dated March 27, 2018:

"After further review, this item has been withdrawn from this section."

The Company notes that the corrective action item remains in the report as of March 27, 2018 and respectfully requests that it is removed from subsequent versions.

- (11) Cancel an owner-occupied dwelling policy after the 89th day of coverage only for reasons permitted by the statute.

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

Company Response:

The Company revised this requirement effective September 18, 2017 with SERFF filing LPBM-131123883.

Claims Review



Liberty Mutual Fire Insurance Company  
Liberty Mutual Insurance Company  
The First Liberty Insurance Corporation  
LM Insurance Corporation  
Liberty Insurance Corporation and  
LM General Insurance Company shall:

- (1) Correct the errors that caused the underpayments and overpayments, and send the amount of the underpayment to insureds and claimants.
- (2) Include six percent (6%) simple interest in the amount paid to the insureds and claimants.
- (3) Complete and submit to the Bureau the enclosed file titled "Claims Underpayments Cited during the Examination." By returning the completed file to the Bureau, the companies acknowledge that they have paid the underpayments listed in the file.
- (4) Document 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 rental benefits under UMPD and Transportation Expenses coverage.
- (6) Make all claim denials, in writing, and keep a copy of the written denial in the claim file.
- (7) Offer the insured an amount that is fair and reasonable as shown by the investigation of the claim, and pay the claim in accordance with the insured's policy provisions.
- (8) Provide copies of repair estimates prepared by or on behalf of the companies to insureds and claimants.
- (9) Properly represent pertinent facts or insurance provisions relating to coverages at issue.

### **Forms Review**

Liberty Mutual Fire Insurance Company  
Liberty Mutual Insurance Company  
The First Liberty Insurance Corporation  
LM Insurance Corporation  
Liberty Insurance Corporation and  
LM General Insurance Company shall:

- (1) File all homeowner forms with the Bureau at least 30 days prior to use.
- (2) Provide convenient access to files, documents and records relating to the examination.
- (3) Use the precise language of the standard automobile forms as adopted by the Bureau.

### **Policy Issuance Process Review**

Liberty Mutual Fire Insurance Company  
Liberty Mutual Insurance Company  
The First Liberty Insurance Corporation  
LM Insurance Corporation  
Liberty Insurance Corporation and  
LM General Insurance Company shall:

- (1) Specify accurate information in the policy by showing the only the forms applicable to the policy on the declarations page.
- (2) Provide the Replacement Cost Coverage notice with all new and renewal policies as required by the Code of Virginia.
- (3) 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.
- (4) Provide the Ordinance and Law Coverage notice with all new and renewal policies as required by the Code of Virginia.

**Statutory Notices Review**

Liberty Mutual Fire Insurance Company  
Liberty Mutual Insurance Company  
The First Liberty Insurance Corporation  
LM Insurance Corporation  
Liberty Insurance Corporation and  
LM General Insurance Company shall:

- (1) Amend the long form Notice of Information Collection and Disclosure Practices to comply with § 38.2-604 B of the Code of Virginia.
- (2) Amend the AUD notice to comply with § 38.2-610 A of the Code of Virginia.
- (3) Amend the Replacement Cost notice to comply with § 38.2-2118 of the Code of Virginia.
- (4) Amend the Ordinance and Law notice to comply with § 38.2-2124 of the Code of Virginia.
- (5) Amend the Credit Score Adverse Action notice to comply with § 38.2-2126 A of the Code of Virginia.
- (6) Amend the Insurance Credit Score Disclosure notice to comply with § 38.2-2234 A 1 of the Code of Virginia.

**Licensing and Appointment Review**

Liberty Mutual Fire Insurance Company  
Liberty Mutual Insurance Company  
The First Liberty Insurance Corporation  
LM Insurance Corporation

Liberty Insurance Corporation and  
LM General Insurance Company shall:

- (1) Retain records relative to insurance transactions for three prior years.
- (2) Appoint agents within 30 days of the application.

## **PART THREE- EXAMINERS' RECOMMENDATIONS**

The examiners also found violations that did not appear to rise to the level of business practices by the companies. The companies should carefully scrutinize these errors and correct the causes before these errors become business practices.

### **RECOMMENDATIONS**

We recommend that the companies take the following actions:

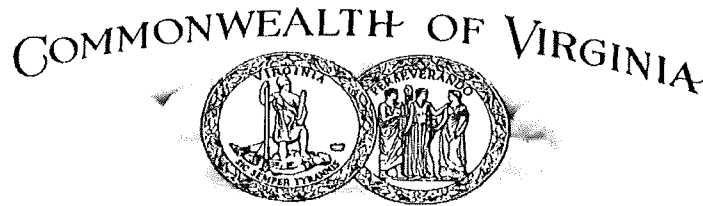
#### **Termination**

- The companies should file a pro rata table to comply with Rule G8.
- The companies should amend Rules 7 and 8 related to calculation of premium for private passenger auto and motorcycles.
- The companies should amend Rule 7 in the General Manual to clarify the expiration date.
- The companies should properly code termination data. Several cancellations coded as cancellations within the first 60 days of coverage should have been coded a non-renewals.

#### **Claims**

- The companies should acknowledge correspondence that reasonably suggests a reply is expected from insureds and claimants within ten business days.
- The companies should provide a reasonable explanation of the basis for the denial in its written denial of the claim.
- The companies 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 companies should adopt reasonable standards for the prompt investigation of claims.
- The companies should adopt and implement reasonable standards for the prompt, fair, and equitable settlement of a claim in which liability and/or coverage is reasonably clear.
- The companies should obtain a written authorization from an insured prior to making payments directly to the medical provider.
- The companies should pay the amount due to an insured when Medical Expense Benefits may not be reduced for any benefits paid, payable, or available through an insurance contract providing hospital, medical, surgical and similar or related benefits.
- The companies should include the lienholder on payments when applicable.
- The companies should make payments to the insured for the amount he/she is entitled to receive under the terms of the policy.
- The companies should make claim payments under the correct coverage.
- The companies should obtain police reports when warranted.

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

Sebestyen Martens  
Regulatory Counsel  
Liberty Mutual Insurance Company  
175 Berkeley St.  
Boston, MA 02116

RE: Liberty Mutual Fire Insurance Company (NAIC # 23035)  
Liberty Mutual Insurance Company (NAIC# 23043)  
The First Liberty Insurance Corporation (NAIC# 33588)  
LM Insurance Corporation (NAIC# 33600)  
Liberty Insurance Corporation (NAIC# 42404)  
LM General Insurance (NAIC# 36447)  
Market Conduct Examination  
Exam Period: April 1, 2015 – March 31, 2016

Dear Mr. Martens,

The Bureau of Insurance (Bureau) has reviewed the Company's April 17, 2018 response to the Preliminary Market Conduct Report (Report) of Liberty Mutual Fire Insurance Company, Liberty Mutual Insurance Company, The First Liberty Insurance Corporation, LM Insurance Corporation, Liberty Insurance Corporation, and LM General Insurance (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.

## Part One – Examiners' Observations

### Homeowner New Business Rating and Underwriting Review

- (3b) The violation for RHO002 remains in the Report. The Company interpolated Amount of Insurance (AOI) tier factors that do not exist in its filed manual. Since the Company only filed tier values for Relative AOI factors of 1.25 and 1.30, the appropriate tier value was 1.30 for an AOI of 1.293. In correspondence from the Company dated January 9, 2017, the Company stated, "If one or both factors do not appear in the table, we round the factors up to the next entry in the table. Round Relative AOI from 1.286 to 1.3...which corresponds to a factor in the filed table." The Company provided this instruction in response to the Bureau's inquiry before the examination started. As such, this was the rating method performed by the Bureau. Exhibit A provides a copy of the Company's filed manual pages pertaining to the AOI tier variable. It also includes the calculation performed in accordance with the filed manual to determine the 14 peril tiers and the Company's correspondence.

The violation for RHO004 remains in the Report. The customer's age was 55 on the policy effective date. The Company's filed rules did not state the age was determined as of the quote date instead of the policy effective date. The policy effective date was used for all other policies reviewed by the Bureau. The Company's filed manual does not use age of roof or age of plumbing/electrical to determine the tier, although these are individual discount factors applied to the policy. Please see Exhibit B for the customer's age determination, tier calculation, and the Bureau's review sheet response of October 30, 2017. The Bureau acknowledges that the tier should be determined with no prior carrier years (value 0).

The violation for RHO010 remains in the Report. The Company interpolated Amount of Insurance (AOI) tier factors that do not exist in its filed manual. Exhibit C provides the tier calculation performed in accordance with the Company's filed manual and the Bureau's review sheet response of October 30, 2017.

The violation for RHO030 remains in the Report. The Company stated in their response that they arrived at a relative AOI of .78. The examiners agree that the general rating of the policy should use a .78 AOI; however, the Company's filed tier pages (Variable I) have the options for relative AOI of .775 or .8. With the AOI being .78 the Company would have to round up to .8 when calculating the tier for each peril.

- (3c) After further review, the violation for RHO009 has been withdrawn from the Report. The Company provided their Peril calculations to support the premium being charged.

The violation for RHO035 remains in the Report. The Company stated that the information provided to the examiners in the elements spreadsheet was for the fourth endorsement. The Company provided the new business declarations page in their response. The examiners rated this policy based off the information that was provided by the Company in the elements spreadsheet. For reconsideration, the Company needs to provide their calculations based off the fourth endorsement premium of \$3,16.00.

After further review, the violation for RHO030 has been withdrawn from the Report. The Company applied the correct base rate of \$1,129.00.

## **Homeowner Renewal Business Rating and Underwriting Review**

- (2) The section of the Report has been revised to show the correct number of violations.

## **Automobile Notice Mailed After the 59<sup>th</sup> Day of Coverage**

As the Bureau has previously responded, the population data provided by the Companies did not include any files for terminations after the 59th day of coverage. Therefore, there were no review sheets generated and no violations in this category.

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

- (1) The violations for TPA020 and TPA022 remain in the Report. The manuals on file for Liberty Mutual Insurance Company during the audit period not have an NSF fee on file at the time that it was applied. The Bureau is not requesting that the Company return

premium. If there was a write-off, the amount of the write-off should be reduced by the amount of the overcharge, and the total amount applied to the account should be reflected in the Restitution Spreadsheet.

### **Homeowner Notice Mailed After the 89<sup>th</sup> Day of Coverage**

The violation for THO027 is withdrawn from the Report. The Company has provided evidence of the insured's request to cancel.

### **Homeowner Cancellations Requested by the Insured**

The overcharges for THO069 and THO091 remain in the Report. The Company is not required to refund money when there was a write-off. The Company should reduce the amount of the write-off by the amount shown on the Restitution Spreadsheet, with interest.

### **Automobile Claims**

The Restitution Spreadsheet has been amended for CPA043. The total amount due the insured is \$2,814.01. The Company used the \$1,311.64 reduced amount instead of the billed amount of \$1,543.10. In addition, the Company failed to pay the \$12.00 title/tag fee as well as the CDW underpayment of \$17.99. The Company should send an additional check for \$277.00.

The violation pertaining to the damage to the vehicle for CPA088 was withdrawn. The remaining underpayment of \$164.00; reflects the difference between what was billed and what the Company actually paid under the Medical Expense Benefits Coverage.

- (9) The violation for CPA018 remains in the Report. The information provided by the Company shows talking points. There is nothing in the notes that indicate the insured was actually informed.

After further review, the violation for CPA119 has been withdrawn from the Report.

The violation for CPA140 remains in the Report. The Company has inferred that there is a 30-day limit when the policy allows for per occurrence dictated solely by the limit stated in the policy.

### **Homeowners Claims**

The Restitution on CHO048 did not include the 6% (six percent) interest. The Company did not pay the \$1,300.00 until the Bureau identified this underpayment. The Company should pay \$78.00 for the interest owed.

- (5c) The violation for CHO034 has been withdrawn. The Report has been amended to reflect this withdrawal.

- (10c) After further review, the violation for CHO074 has been withdrawn from the Report.

## Automobile Policy Forms

The violations for FPA020 and FPA021 remain in the Report. The Company is required to have the Suspension of Coverage and Reinstatement of Coverage endorsement available for use in the state of Virginia. The rule on file with the Bureau regarding Military personnel is not sufficient to meet the requirement. An endorsement is necessary to insure the insured is aware of their coverage during a time of suspension and reinstatement. Virginia has standard auto forms that must be used for these situations. The Company should include the standard forms in its forms library.

After further review, the violation for FPA050 has been withdrawn from the Report.

## Part Two – Corrective Action Plan

### General

The Companies should make the outstanding restitution and credit accounts where applicable as reflected in the spreadsheet.

### Rating and Underwriting Review

- (3) The Company should provide documentation of the credits provided to insureds for RHO016 (\$10.16) and RHO071 (\$37.10). These credits should have been included in the amounts refunded to insureds, including the date the credit was applied.

The Company should make Restitution for RHO027 in the amount of \$19.08. The Restitution Spreadsheet sent to the Company with the Preliminary Report contained an overcharge amount of \$4.24. During the Bureau's first response to the Company, review sheet R&UNBHO-2044644189 was withdrawn causing the overcharge amount to change to \$22.00 (\$23.32 with the 6% interest). The Restitution Spreadsheet sent with the Bureau's first response to the Company reflected the amount due as \$23.32. The Company has already refunded the insured \$4.24; therefore, the Company needs to refund the remaining \$19.08.

The Company should make the restitution for RHO054 in the amount of \$1,026.08. The Company agreed to the violation on August 21, 2017. The \$1,026.08 amount was included in the March 27, 2018 Restitution Spreadsheet sent to the Company.

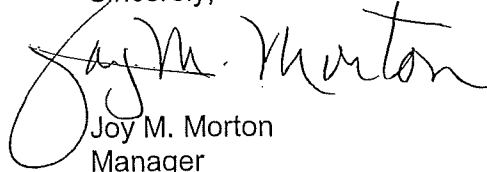
The Company should make the restitution for RHO071 in the amount of \$37.10. The Restitution Spreadsheet sent to the Company with the Preliminary Report included an overcharge amount of \$56.18. During the Bureau's first response to the Company, violation #2 in review sheet R&URBHO-722985178 was withdrawn causing the overcharge amount to change to \$88.00 (\$93.28 with the 6% interest). The restitution Spreadsheet sent with the Bureau's first response to the Company reflected the amount due as \$93.28. The Company has already refunded the insured \$56.18; therefore, the Company needs to refund the remaining \$37.10.

- (5) The Company should ensure that their filed tier eligibility criteria accurately correspond to the tier calculations the Companies are using.



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 Companies' response to this letter is due in the Bureau's office by June 8, 2018.

Sincerely,

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

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



Sebestyen Q. Martens  
Regulatory Counsel  
Liberty Mutual Insurance  
175 Berkeley Street  
Boston, MA 02116  
857-224-4659  
Sebestyen.Martens@LibertyMutual.com

June 8, 2018

Joy Morton, Manager  
Virginia Bureau of Insurance  
Market Conduct Section  
Property & Casualty Division  
1300 E. Main Street  
Richmond, VA 23218

RE: Liberty Mutual Fire Insurance Company (NAIC #23035)  
Liberty Mutual Insurance Company (NAIC #23043)  
The First Liberty Insurance Corporation (NAIC #33588)  
LM Insurance Corporation (NAIC #33600)  
Liberty Insurance Corporation (NAIC #42404)  
LM General Insurance Company (NAIC #36447)  
Market Conduct Examination

Dear Ms. Morton:

On behalf of Liberty Mutual Group, please accept this letter as our response to the draft report dated May 21, 2018. Our comments are included below and follow the format of the report.

### **Part One – Examiners’ Observations**

#### **Homeowner New Business Rating and Underwriting Review**

- (3b) We respectfully request that the Bureau provide copies of Exhibits A, B, and C for the Company’s review.
- (3c) Please see Exhibit 1 for a copy of the premium calculation for RHO035.

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

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

- (3) Please see Exhibit 2 for documentation of the credit provided to the policyholder for RHO16.

We respectfully request that the Bureau provide a copy of the overcharge calculation for RHO054.

Enclosed with this letter is a revised version of the Restitution Spreadsheet. The Company’s comments, when applicable, are included in Column M on each tab.

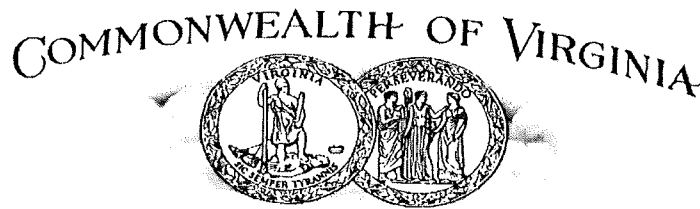
Should you have any questions, please do not hesitate to contact me.

Sincerely,

A handwritten signature in black ink, appearing to read 'Sebastyen Q. Martens', with a stylized, cursive script.

Sebastyen Q. Martens

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

June 19, 2018

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

Sebestyen Martens  
Regulatory Counsel  
Liberty Mutual Insurance Company  
175 Berkeley St.  
Boston, MA 02116

RE: Liberty Mutual Fire Insurance Company (NAIC # 23035)  
Liberty Mutual Insurance Company (NAIC# 23043)  
The First Liberty Insurance Corporation (NAIC# 33588)  
LM Insurance Corporation (NAIC# 33600)  
Liberty Insurance Corporation (NAIC# 42404)  
LM General Insurance (NAIC# 36447)  
Market Conduct Examination  
Exam Period: April 1, 2015 – March 31, 2016

Dear Mr. Martens,

The Bureau of Insurance (Bureau) has reviewed the Company's June 8, 2018 response to the Preliminary Market Conduct Report (Report) of Liberty Mutual Fire Insurance Company, Liberty Mutual Insurance Company, The First Liberty Insurance Corporation, LM Insurance Corporation, Liberty Insurance Corporation, and LM General Insurance (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.

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

##### **Homeowner New Business Rating and Underwriting Review**

- (3b) The Bureau is providing the following Exhibits for the Company's review: Exhibit A for RHO002, Exhibit B for RHO004, and Exhibit C for RHO010.
- (3c) After further review, the violation for RHO035 has been withdrawn from the Report. The Company provided the premium calculation for the fourth endorsement premium of \$3,167.

## PART TWO – CORRECTIVE ACTION PLAN

### General

The Company should make the outstanding restitution and credit accounts where applicable as reflected in the spreadsheet.

### Rating and Underwriting Review

- (1) The Company should provide evidence of the check number and the date the check was issued for THO071.
- (3) The Bureau has provided the Company with the overcharge calculation for RHO054. Please see Exhibit D.

### Termination Review

- (1) The Company should provide evidence of the check number and the date the check was issued for THO052.

The Company should provide screenshots showing the write offs for TPA020 and TPA022.

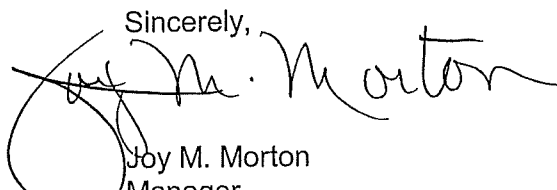
The Company should provide screenshots showing the write offs for THO069 and THO091.

### Claims

- (1) The Company should provide evidence of the check number and the date the check was issued for CPA043, CPA088, and CHO048.

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 Companies' response to this letter is due in the Bureau's office by July 9, 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



Sebestyen Q. Martens  
Regulatory Counsel  
Liberty Mutual Insurance  
175 Berkeley Street  
Boston, MA 02116  
857-224-4659  
Sebestyen.Martens@LibertyMutual.com

July 13, 2018

Joy Morton, Manager  
Virginia Bureau of Insurance  
Market Conduct Section  
Property & Casualty Division  
1300 E. Main Street  
Richmond, VA 23218

RE: Liberty Mutual Fire Insurance Company (NAIC #23035)  
Liberty Mutual Insurance Company (NAIC #23043)  
The First Liberty Insurance Corporation (NAIC #33588)  
LM Insurance Corporation (NAIC #33600)  
Liberty Insurance Corporation (NAIC #42404)  
LM General Insurance Company (NAIC #36447)  
Market Conduct Examination

Dear Ms. Morton:

On behalf of Liberty Mutual Group, please accept this letter as our response to the draft report dated June 19, 2018. Our comments are included below and follow the format of the report.

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

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

- (3) We respectfully disagree with the overcharge amount cited by the Bureau for RHO054. The Company acknowledges that, in this instance, unfiled rates were used; however, the Company maintains that the premium charged was appropriate for the coverages offered and that a restitution of \$1,026.08 is excessive and should not be due to the insured. As this was an administrative error, we request that the Bureau does not require us to provide coverage at no cost.

Enclosed with this letter is a revised version of the Restitution Spreadsheet. The Company's comments, when applicable, are included in Column M on each tab.

Should you have any questions, please do not hesitate to contact me.

Sincerely,

Sebestyen Q. Martens

## Karen Gerber

---

**From:** Karen Gerber  
**Sent:** Thursday, July 19, 2018 2:23 PM  
**To:** Martens, Sebestyen  
**Cc:** Bobillier, Cara; Joy Morton  
**Subject:** BOI response to Liberty Mutual 7/13/2018 response  
**Attachments:** Liberty Revised Report 7-19-2018.docx; Restitution 7-19-2018.xlsx; R&URBHO1493386599.docx

This email will become part of the public document.

Attached is the revised final Report and the revised restitution spreadsheet.

As a compromise to the finding on RHO054, the company will make restitution to the insured in the amount of \$99.00 plus 6% simple interest. This amount is the difference in the premium from the prior policy term and the term under review.

The company has agreed to make all remaining restitution (as itemized in the restitution spreadsheet) by August 15<sup>th</sup>, 2018.

Please send the Bureau confirmation of the company's payments/credits for the remaining restitution by August 15th, 2018.

Thank you.  
Karen Gerber

Karen S. Gerber  
Senior Insurance Market Examiner  
Market Conduct Division  
1300 E. Main St., Richmond, VA 23219  
804-371-9143  
karen.gerber@scc.virginia.gov



## Encrypted Message

karen.gerber@scc.virginia.gov

Authenticated by libertymutual.com Valid Signature

---

**From:** cara.bobillier@libertymutual.com  
**To:** Joy.Morton@scc.virginia.gov, Karen.Gerber@scc.virginia.gov  
**Cc:** Sebestyen.Martens@LibertyMutual.com  
**Sent:** Aug 17, 2018 12:42:40 PM CDT  
**Subject:** RE: Liberty mutual: Restitution Update  
**Attached:** Liberty Mutual Restitution Spreadsheet 8-17-18.xlsx (26 kb)

Hi Joy, Karen,

Please accept this email as confirmation that the outstanding restitution for RHO027 has been issued. A final version of the restitution spreadsheet is attached for your review. As always, please feel free to contact either Seb or myself with any questions.

Thank you,

Cara F. Bobillier  
Senior Compliance Analyst  
Liberty Mutual Insurance  
175 Berkeley Street  
Boston, MA 02116  
Phone: 857-224-1833  
[Cara.Bobillier@LibertyMutual.com](mailto:Cara.Bobillier@LibertyMutual.com)

From: Martens, Sebestyen  
Sent: Wednesday, August 15, 2018 3:47 PM  
To: Joy Morton <Joy.Morton@scc.virginia.gov>; Karen Gerber <Karen.Gerber@scc.virginia.gov>  
Cc: Bobillier, Cara <Cara.Bobillier@LibertyMutual.com>  
Subject: Liberty mutual: Restitution Update  
Sensitivity: Confidential

Hi Joy/Karen, attached please find a spreadsheet reflecting restitution as of 8/15/18. Please note that RHO027 in the amount of \$19.08 remains pending until tomorrow 8/16/18. We will keep you apprised.

Let us know if you have questions. Thanks, Seb.

Sebestyen Q. Martens  
Corporate Counsel  
Liberty Mutual Insurance Group  
Global Compliance and Ethics  
175 Berkeley Street  
Boston, MA 02116  
(857)-224-4659  
Email: [Sebestyen.Martens@LibertyMutual.com](mailto:Sebestyen.Martens@LibertyMutual.com)



# 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  
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TELEPHONE: (804) 371-9741  
[www.scc.virginia.gov/boi](http://www.scc.virginia.gov/boi)

August 23, 2018

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

Sebestyen Q. Martens  
Corporate Counsel  
Liberty Mutual Insurance Group  
Global Compliance and Ethics  
175 Berkeley Street  
Boston, MA 02116

RE: Liberty Mutual Fire Insurance Company (NAIC # 23035)  
Liberty Mutual Insurance Company (NAIC# 23043)  
The First Liberty Insurance Corporation (NAIC# 33588)  
LM Insurance Corporation (NAIC# 33600)  
Liberty Insurance Corporation (NAIC# 42404)  
LM General Insurance Company (NAIC# 36447)  
Market Conduct Examination  
Exam Period: April 1, 2015 – March 31, 2016

Dear Mr. Martens:

The Bureau of Insurance (Bureau) has concluded its review of the companies' response of July 13, 2018. Based upon the Bureau's review of the companies' January 16, 2018, April 27, 2018, June 8, 2018 and July 13, 2018 correspondence, we are now in a position to conclude this examination. Enclosed are review sheets that have changed since the companies' response and the final Market Conduct Examination Report of Liberty Mutual Fire Insurance Company, Liberty Mutual Insurance Company, The First Liberty Insurance Corporation, LM Insurance Corporation, Liberty Insurance Corporation and LM General Insurance Company (Report).

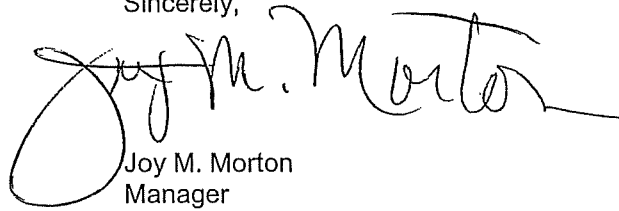
Based on the Bureau's review of the Report and the companies' responses, it appears that a number of Virginia insurance laws and regulations have been violated, specifically:

Sections 38.2-305 A, 38.2-317 A, 38.2-510 A 1, 38.2-604 A, 38.2-604 B, 38.2-610 A, 38.2-1318, 38.2-1809 B, 38.2-1833, 38.2-1906 A, 38.2-1906 D, 38.2-2113 C, 38.2-2114 A, 38.2-2118, 38.2-2120, 38.2-2124, 38.2-2126 A, 38.2-2126 E, 38.2-2212 F, 38.2-2220, and 38.2-2234 A, of the Code of Virginia; and 14 VAC 5-400-30, 14 VAC 5-400-40 A, 14 VAC 5-400-70 A, 14 VAC 5-400-70 D, and 14 VAC 5-400-80 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,

A handwritten signature in black ink that reads "Joy M. Morton". The signature is fluid and cursive, with a large loop at the beginning of the first name.

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)



Sebestyen Q. Martens  
Regulatory Counsel  
Liberty Mutual Insurance  
175 Berkeley Street  
Boston, MA 02116  
857-224-4659  
Sebestyen.Martens@LibertyMutual.com

September 17, 2018

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

RE: Market Conduct Examination Settlement Offer  
E-Case / Docket Number: INS-2018-00213

Dear Ms. Nichols:

This will acknowledge receipt of the Bureau of Insurance's letter August 30, 2018, concerning the above referenced matter.

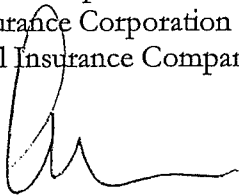
We wish to make a settlement offer on behalf of the insurance companies listed below for the alleged violations of §§ 38.2-305 A, 38.2-317 A, 38.2-510 A 1, 38.2-604 A, 38.2-604 B, 38.2-610 A, 38.2-1318, 38.2-1809 B, 38.2-1833, 38.2-1906 A, 38.2-1906 D, 38.2-2113 C, 38.2- 2114 A, 38.2-2118, 38.2-2120, 38.2-2124, 38.2-2126 A, 38.2-2126 E, 38.2-2212 F, 38.2-2220, and 38.2-2234 A, of the Code of Virginia; and 14 VAC 5-400-30, 14 VAC 5-400-40 A, 14 VAC 5-400-70 A, 14 VAC 5-400-70 D, and 14 VAC 5-400-80 D of the Virginia Administrative Code.

1. We enclose with this letter a check payable to the Treasurer of Virginia in the amount of \$71,100.00.
2. We agree to comply with the corrective action plan set forth in the companies' letters of January 16, 2018, April 27, 2018, June 8, 2018 and July 13, 2018.
3. We confirm that restitution was made to 62 consumers for \$37,053.19 in accordance with the companies' correspondence of January 16, 2018, April 27, 2018, June 8, 2018, July 13, 2018 and August 20, 2018.
4. We further acknowledge the companies' right to a hearing before the State Corporation Commission in this matter and waive that right if the State Corporation Commission accepts this offer of settlement.

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

Sincerely,

Liberty Mutual Fire Insurance Company  
Liberty Mutual Insurance Company  
The First Liberty Insurance Corporation  
LM Insurance Corporation  
Liberty Insurance Corporation  
LM General Insurance Company



\_\_\_\_\_  
(Signed)

SEBASTYEN MARTENS

\_\_\_\_\_  
(Type or Print Name)

REGULATORY COUNSEL

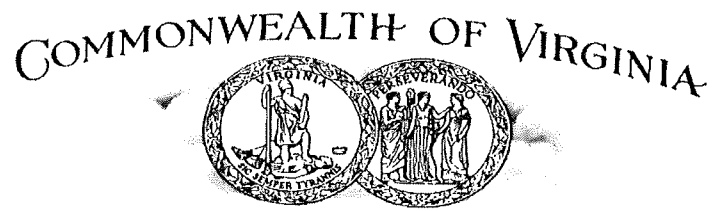
\_\_\_\_\_  
(Title)

9/15/18

\_\_\_\_\_  
(Date)

Enclosure

**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**  
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Liberty Mutual Group, Inc. has tendered to the Bureau of Insurance the settlement amount of \$71,100.00 by its check numbered 74686916 and dated September 6, 2018, a copy of which is located in the Bureau's files.

COMMONWEALTH OF VIRGINIA  
STATE CORPORATION COMMISSION  
AT RICHMOND, OCTOBER 2, 2018

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COMMONWEALTH OF VIRGINIA, *ex rel.*

STATE CORPORATION COMMISSION

v.

CASE NO. INS-2018-00213

LIBERTY MUTUAL FIRE INSURANCE COMPANY,  
LIBERTY MUTUAL INSURANCE COMPANY,  
THE FIRST LIBERTY INSURANCE CORPORATION,  
LM INSURANCE CORPORATION,  
LIBERTY INSURANCE CORPORATION,  
and  
LM GENERAL INSURANCE COMPANY,  
Defendants

SETTLEMENT ORDER

Based on a market conduct examination conducted by the Bureau of Insurance ("Bureau"), it is alleged that Liberty Mutual Fire Insurance Company, Liberty Mutual Insurance Company, The First Liberty Insurance Corporation, LM Insurance Corporation, Liberty Insurance Corporation, and LM General Insurance Company ("Defendants"), duly licensed by the State Corporation Commission ("Commission") to transact the business of insurance in the Commonwealth of Virginia ("Virginia"), in certain instances violated § 38.2-305 A of the Code of Virginia ("Code") by failing to provide the information required by the statute in the insurance policy; § 38.2-317 A of the Code by issuing insurance policies or endorsements without having filed such policies or endorsements with the Commission at least thirty days prior to their effective date; §§ 38.2-604 A, 38.2-604 B, 38.2-610 A, 38.2-2118, 38.2-2120, 38.2-2124, 38.2-2126 A, and 38.2-2234 A of the Code by failing to accurately provide the required notices to insureds; § 38.2-1318 of the Code by failing to provide convenient access to books, records, and files; § 38.2-1809 B of the Code by failing to retain records relative to insurance transactions for three previous calendar years;

§ 38.2-1833 of the Code by paying commissions to agencies/agents that are not appointed by the Defendants; § 38.2-1906 A of the Code by failing to file all rates and supplementary rate information; § 38.2-1906 D of the Code by making or issuing insurance contracts or policies not in accordance with the rate and supplementary rate information filings in effect for the Defendants; §§ 38.2-2113 C, 38.2-2114 A, and 38.2-2212 F of the Code by failing to properly terminate insurance policies; § 38.2-2126 E of the Code by failing to rate the policy with proper credit information; § 38.2-2220 of the Code by failing to use forms in the precise language of the standard forms previously filed and adopted by the Commission; and § 38.2-510 A (1) of the Code, as well as 14 VAC 5-400-30, 14 VAC 5-400-40 A, 14 VAC 5-400-70 A, 14 VAC 5-400-70 D and 14 VAC 5-400-80 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 of Virginia ("Code") to impose certain monetary penalties, issue cease and desist orders, and suspend or revoke a defendant's license upon a finding by the Commission, after notice and opportunity to be heard, that a defendant has committed the aforesaid alleged violations.

The Defendants have been advised of the right to a hearing in this matter whereupon the Defendants, without admitting any violation of Virginia law, have made an offer of settlement to the Commission wherein the Defendants have agreed to comply with the corrective action plan outlined in company correspondence dated January 16, 2018, April 27, 2018, June 8, 2018, and July 13, 2018; have confirmed that restitution was made to 62 consumers in the amount of

Thirty-seven Thousand Fifty-three Dollars and Nineteen Cents (\$37,053.19); have tendered to Virginia the sum of Seventy-one Thousand One Hundred Dollars (\$71,100); and have waived the right to a hearing.

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

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

Accordingly, IT IS ORDERED THAT:

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

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

AN ATTESTED COPY hereof shall be sent by the Clerk of the Commission to: David H. Long, President and Chief Executive Officer, Liberty Mutual Insurance Group, 175 Berkeley Street, Boston, Massachusetts 02116; 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.