

MARKET CONDUCT EXAMINATION REPORT

OF

ASSURANCEAMERICA INSURANCE CO.

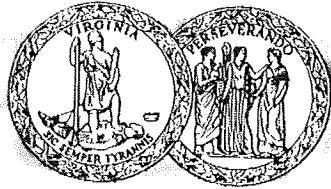
AS OF

DECEMBER 31, 2012

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

**Property and Casualty Division
Market Conduct Section**

COMMONWEALTH OF VIRGINIA



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

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

STATE CORPORATION COMMISSION BUREAU OF INSURANCE

I, Jacqueline K. Cunningham, Commissioner of Insurance of the Commonwealth of Virginia, do hereby certify that the annexed copy of the Market Conduct Examination Report of **AssuranceAmerica Insurance Company** as of **December 31, 2012**, which took place at the company's offices in **Atlanta, GA** is a true copy of the original Report on file with the Bureau and also includes a true copy of the company's final response to the findings set forth therein, and of the Bureau's letter and the Order of the State Corporation Commission finalizing the Report.

IN WITNESS WHEREOF, I have
hereunto set my hand and affixed
the official seal of this the Bureau
at the City of Richmond, Virginia,
this 24th day of **June, 2014**.

A handwritten signature in cursive script, appearing to read 'Jacqueline K. Cunningham', written over a horizontal line.

JACQUELINE K. CUNNINGHAM
Commissioner of Insurance

TABLE OF CONTENTS

INTRODUCTION	1
COMPANY PROFILES	1
SCOPE OF THE EXAMINATION	4
STATISTICAL SUMMARY	5
PART ONE – THE EXAMINERS’ OBSERVATIONS	7
RATING AND UNDERWRITING REVIEW	7
Automobile New Business Policies	7
Automobile Renewal Business Policies	8
TERMINATION REVIEW.....	9
Company-Initiated Cancellations – Automobile Policies	9
Notice Mailed Prior to the 60 th Day of Coverage	9
Notice Mailed After the 59 th Day of Coverage	9
All Other Cancellations – Automobile Policies	10
Nonpayment of Premium.....	10
Requested by the Insured	11
Company-Initiated Nonrenewals – Automobile Policies.....	12
CLAIMS REVIEW.....	12
Private Passenger Automobile Claims	12
REVIEW OF FORMS	16
Automobile Policy Forms.....	16
Policy Forms Used During the Examination Period.....	16
Policy Forms Currently Used.....	17
REVIEW OF THE POLICY ISSUANCE PROCESS.....	17
Automobile Policies	17
New Business Policies	17
Renewal Business Policies.....	18
REVIEW OF STATUTORY NOTICES.....	18

General Statutory Notices	19
Statutory Vehicle Notices	19
Other Notices	20
LICENSING AND APPOINTMENT REVIEW	20
Agent.....	20
Agency	20
REVIEW OF THE COMPLAINT-HANDLING PROCESS.....	20
REVIEW OF PRIVACY AND INFORMATION SECURITY PROCEDURES	21
PART TWO – CORRECTIVE ACTION PLAN	22
General.....	22
Rating and Underwriting Review	22
Termination Review.....	23
Claims Review.....	24
Review of Policy Issuance Process.....	25
Review of Statutory Notices	25
Licensing and Appointment Review	25
PART THREE – RECOMMENDATIONS.....	26
RECOMMENDATIONS	26
Rating and Underwriting.....	26
Termination	26
Claims	26
Policy Issuance	27
Statutory Notices.....	27
SUMMARY OF PREVIOUS EXAMINATION FINDINGS:.....	27
ACKNOWLEDGEMENT	28

INTRODUCTION

Pursuant to the authority of § 38.2-1317 of the Code of Virginia, a market conduct examination has been made of the private passenger automobile line of business written by AssuranceAmerica Insurance Company at the office of the State Corporation Commission – Bureau of Insurance.

The examination commenced June 24, 2013 and concluded October 31, 2013. Brandon Ayers, Karen S. Gerber, Ju'Coby Hendrick, and Melody Morrisette, examiners of the Bureau of Insurance participated in the work of the examination. The examination was called in the Examination Tracking System on February 7, 2013 and was assigned the examination number of VA097-M6. The examination was conducted in accordance with the procedures established by the National Association of Insurance Commissioners (NAIC).

COMPANY PROFILES*

The company was incorporated on November 25, 2002 in the state of South Carolina and commenced business on April 1, 2003. The company's affiliated MGA, AssuranceAmerica Managing General Agency, commenced business in 1999. The MGA functioned as an insurance company in all aspects, except for the retention of risk. The MGA performed all of the underwriting, claims, and policyholder service functions associated with a book of nonstandard private passenger automobile insurance business in the states of Alabama, South Carolina, Georgia, Florida, Texas, Louisiana, Mississippi, Arizona, and Indiana. The MGA uses the independent agency system as its sole distribution channel. In late 2002, the MGA's principle owners, Guy W. Millner and Lawrence Stumbaugh, through personal investments, formed and later capitalized the insurance company in order to retain the risks that the MGA underwrites.

* Source: Best's Insurance Reports, Property & Casualty, 2012 Edition.

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

GROUP CODE:	AAIC
NAIC Company Number	11558
LICENSED IN VIRGINIA	1/13/2009

LINES OF INSURANCE

Accident and Sickness	x
Aircraft Liability	
Aircraft Physical Damage	
Animal	
Automobile Liability	x
Automobile Physical Damage	x
Boiler and Machinery	
Burglary and Theft	
Commercial Multi-Peril	
Credit	
Farmowners Multi-Peril	
Fidelity	
Fire	
General Liability	
Glass	
Homeowner Multi-Peril	
Inland Marine	
Miscellaneous Property	
Ocean Marine	
Surety	
Water Damage	
Workers' Compensation	

The table below shows the company's premium volume and approximate market share of business written in Virginia during 2012 for the lines of insurance included in this examination.* This business was developed through independent agents.

COMPANY AND LINE	PREMIUM VOLUME	MARKET SHARE
AssuranceAmerica Ins. Co.		
Private Passenger Auto Liability	\$4,846,840	.19%
Private Passenger Auto Physical Damage	\$2,751,609	.15%

* Source: The 2012 Annual Statement on file with the Bureau of Insurance and the Virginia Bureau of Insurance Statistical Report.

SCOPE OF THE EXAMINATION

The examination included a detailed review of the company's private passenger automobile line of business written in Virginia for the period beginning January 1, 2012 and ending December 31, 2012. This review included rating and underwriting, policy terminations, claims handling, forms, policy issuance,¹ statutory notices, agent licensing, complaint-handling, and information security practices. The purpose of this examination was to determine compliance with Virginia insurance statutes and regulations and to determine that the company's operations were consistent with public interest. The Report is by test, and all tests applied during the examination are reported.

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

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

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

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

STATISTICAL SUMMARY

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

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

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

AREA	<u>Population</u>				
	<u>AIC</u>	<u>FILES</u> <u>REVIEWED</u>	<u>FILES NOT</u> <u>FOUND</u>	<u>FILES WITH</u> <u>ERRORS</u>	<u>ERROR</u> <u>RATIO</u>
<u>Private Passenger Auto</u>					
New Business	<u>5,511</u> 50	50	0	39	78%
Renewal Business ¹	<u>5,771</u> 50	49	0	44	90%
Co-Initiated Cancellations ²	<u>271</u> 35	19	0	18	95%
All Other Cancellations ²	<u>11,772</u> 40	40	0	32	80%
Nonrenewals ²	<u>49</u> 5	5	0	5	100%
<u>Claims</u>					
Auto	<u>1,995</u> 60	60	0	38	63%

Footnote ¹ - One policy's renewal effective date was outside of the audit period.

Footnote ² - The company was unable to provide accurate population data to reflect the terminations processed during the examination period.

PART ONE – THE EXAMINERS' OBSERVATIONS

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

RATING AND UNDERWRITING REVIEW

Automobile New Business Policies

The examiners reviewed 50 new business policy files. As a result of this review, the examiners found overcharges totaling \$6,314.67 and undercharges totaling \$162.44. The net amount that should be refunded to insureds is \$6,314.67 plus six percent (6%) simple interest.

- (1) The examiners found 68 violations of § 38.2-1906 D of the Code of Virginia. The company failed to use the rules and/or rates on file with the Bureau.
 - a. In 26 instances, the company failed to use the correct discounts and/or surcharges.
 - b. In 29 instances, the company failed to use the correct symbol.
 - c. In five instances, the company failed to use the correct base and/or final rates.
 - d. In eight instances, the company failed to use the correct tier eligibility criteria.
- (2) The examiners found one violation of § 38.2-2206 A of the Code of Virginia. The company failed to obtain a signed rejection of the higher uninsured motorist limits.

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

Automobile Renewal Business Policies

The examiners reviewed 49 renewal business policy files. As a result of this review, the examiners found overcharges totaling \$10,218.19 and undercharges totaling \$443.00. The net amount that should be refunded to insureds is \$10,218.19 plus six percent (6%) simple interest.

- (1) The examiners found 100 violations of § 38.2-1906 D of the Code of Virginia. The company failed to use the rules and/or rates on file with the Bureau.
- a. In 14 instances, the company failed to use the correct discounts and/or surcharges.
 - b. In six instances, the company failed to apply the correct surcharge points for accidents and/or convictions.
 - c. In 35 instances, the company failed to use the correct symbol.
 - d. In two instances, the company failed to use the correct classification factor.
 - e. In eight instances, the company failed to use the correct base and/or final rates.
 - f. In 35 instances, the company failed to use the correct tier eligibility criteria.
- (2) The examiners found eight violations of § 38.2-2234 B of the Code of Virginia. The company failed to properly rate the policy as required using the credit information obtained.

TERMINATION REVIEW

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

Company-Initiated Cancellations – Automobile Policies**NOTICE MAILED PRIOR TO THE 60TH DAY OF COVERAGE**

The Bureau reviewed nine automobile cancellations that were initiated by the company where the company mailed the notices on or prior to the 60th day of coverage in the initial policy period. As a result of this review, the examiners found overcharges totaling \$81.27 and no undercharges. The net amount that should be refunded to insureds is \$81.27 plus six percent (6%) simple interest

- (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 return premium correctly.
- (2) The examiners found one violation of § 38.2-2208 A of the Code of Virginia. The company failed to obtain valid proof of mailing the cancellation notice to the insured.
- (3) The examiners found three violations of § 38.2-2208 B of the Code of Virginia. The company failed to provide proper notice of cancellation to the lienholder.

NOTICE MAILED AFTER THE 59TH DAY OF COVERAGE

The Bureau reviewed 10 automobile cancellations that were initiated by the company where the company mailed the notices on or after the 60th day of coverage in

the initial policy period or at any time during the term of a subsequent renewal policy. As a result of this review, the examiners found no overcharges and undercharges totaling \$12.53.

- (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 return premium correctly.
- (2) The examiners found nine violations of § 38.2-2212 E of the Code of Virginia. The company failed to send the insured written notice of cancellation.

All Other Cancellations – Automobile Policies

NONPAYMENT OF PREMIUM

The Bureau reviewed 20 automobile cancellations that were initiated by the company for nonpayment of the policy premium. As a result of this review, the examiners found overcharges totaling \$49.19 and no undercharges. The net amount that should be refunded to insureds is \$49.19 plus six percent (6%) simple interest.

- (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 return premium correctly.
- (2) The examiners found two violations of § 38.2-2208 A of the Code of Virginia. The company failed to obtain valid proof of mailing the cancellation notice to the insured.
- (3) The examiners found six violations of § 38.2-2208 B of the Code of Virginia. The company failed to provide proper notice of cancellation to the lienholder.

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 FR-46 within 15 days of cancelling the policy as required by the Virginia Motor Vehicle Code.

REQUESTED BY THE INSURED

The Bureau reviewed 20 automobile cancellations that were initiated by the insured where the cancellation was to be effective during the policy term. As a result of this review, the examiners found overcharges totaling \$586.28 and no undercharges. The net amount that should be refunded to insureds is \$586.28 plus six percent (6%) simple interest.

- (1) The examiners found 18 violations of § 38.2-1906 D of the Code of Virginia. The company failed to use the rules and/or rates on file with the Bureau. The company failed to calculate the return premium correctly.
- (2) The examiners found three occurrences where the company failed to comply with the policy provisions. The company failed to obtain an advance written request for cancellation from the insured.

Other Law Violations

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

The examiners found two violations of § 46.2-482 of the Code of Virginia. The company failed to file an FR-46 within 15 days of cancelling the policy as required by the Virginia Motor Vehicle Code.

Company-Initiated Nonrenewals – Automobile Policies

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

The examiners found six violations of § 38.2-2212 E of the Code of Virginia.

- a. In one instance, the company failed to send the cancellation notice to the address listed on the policy.
- b. In five instances, the company failed to mail the notice of nonrenewal to the insured at least 45 days prior to the effective date of nonrenewal.

CLAIMS REVIEW

The examiners reviewed 60 automobile claims for the period of January 1, 2012 through December 31, 2012. The findings below appear to be contrary to the standards set forth by Virginia insurance statutes and regulations. As a result of this review, the examiners found no overpayments and underpayments totaling \$3,190.14. The net amount that should be paid to claimants is \$3,190.14 plus six percent (6%) simple interest.

Private Passenger Automobile Claims

- (1) The examiners found seven violations of 14 VAC 5-400-30. The company failed to document the claim file sufficiently to reconstruct events and/or dates that were pertinent to the claim.

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

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

- a. In three instances, the company failed to properly inform an insured of his Medical Expense Benefits coverage.
- b. In two instances, the company failed to inform an insured of his Transportation Expense coverage when the file indicated the coverage was applicable to the loss.
- c. In four instances, the company failed to inform an insured of the benefits or coverages, including rental benefits, available under the Uninsured Motorist coverage 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 two 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 three violations of 14 VAC 5-400-70 A. The company failed to deny a claim or part of a claim, in writing, and/or failed to keep a copy of the written denial in the claim file.
- (5) The examiners found eight 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 two instances, the company failed to reimburse the insured his portion of the collision deductible under the Uninsured Motorist Property Damage coverage (UMPD).

- b. In one instance, the company failed to pay the insured's rental benefits, available under the UMPD coverage (UMPD) and/or Underinsured Motorist coverage (UIM).
- c. In one instance, the company failed to pay the claim in accordance with the policy provisions under the insured's Medical Expense Benefits coverage.
- d. In two instances, the company failed to pay the claim in accordance with the policy provisions under the insured's Transportation Expenses coverage.
- e. 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.
- f. In one instance, the company failed to pay the claim in accordance with the policy provisions under the insured's right to a subrogated recovery.

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

- (6) The examiners found four violations of 14 VAC 5-400-80 D. The company failed to provide the vehicle owner a copy of the estimate for the cost of repairs prepared by or on behalf of the company.
- (7) The examiners found 23 violations of § 38.2-510 A 1 of the Code of Virginia. The company misrepresented pertinent facts or policy provisions relating to coverages at issue.
 - a. In 17 instances, the company failed to provide accurate coverage information in its Reservation of Rights letters.
 - b. In six instances, the company failed to properly inform the claimant of the

company's obligation in regard to payment of the claimant's rental or loss of use claim.

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

- (8) The examiners found four violations of § 38.2-510 A 3 of the Code of Virginia. The company failed to adopt and implement reasonable standards for the prompt investigation of claims arising under insurance policies.
- (9) The examiners found one violation of § 38.2-510 A 4 of the Code of Virginia. The company refused arbitrarily and unreasonably to pay a claim.
- (10) The examiners found one violation of § 38.2-510 A 13 of the Code of Virginia. The company failed to promptly settle a claim where liability was reasonably clear under one portion of the policy coverage in order to influence a settlement under another portion of the policy coverage.
- (11) The examiners found one violation of § 38.2-510 A 14 of the Code of Virginia. The company failed to provide a reasonable explanation of the basis in the insurance policy in relation to the facts or applicable law for the denial of a claim or offer of a compromise settlement.
- (12) The examiners found one violation of § 38.2-2201 B of the Code of Virginia. The company failed to obtain a statement from an insured authorizing the company to make payments directly to the medical provider.
- (13) The examiners found six occurrences where the company failed to comply with the provisions of the insurance policy. The company required the insured to obtain a police and/or fire report as a condition for settlement of the claim.

Other Law Violations

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

- (1) The examiners found two violations of § 8.01-425.1 of the Code of Virginia. The company failed to provide the right of rescission when the claimant or insured was not represented by an attorney.
- (2) The examiners found 20 violations of § 52-40 of the Code of Virginia. The company failed to include the statement regarding insurance fraud on claim forms required by the company as a condition of payment.

REVIEW OF FORMS

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

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

Automobile Policy Forms

POLICY FORMS USED DURING THE EXAMINATION PERIOD

The company provided copies of 18 forms that were used during the examination period to provide coverage on policies insuring risks located in Virginia.

The examiners found no violations in this area.

POLICY FORMS CURRENTLY USED

The examiners found no additional forms to review.

REVIEW OF THE POLICY ISSUANCE PROCESS

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

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

Automobile Policies

The company provided five new business policies mailed on the following dates: March 18, April 12, 23, 26, and May 8, 2013. In addition, the company provided five renewal business policies that were mailed on May 6, 2013.

NEW BUSINESS POLICIES

- (1) The examiners found five violations of § 38.2-305 A of the Code of Virginia. The company failed to specify in the insurance policy all of the information required by the statute. The company failed to provide the insured with electronic access to the Virginia Standard forms applicable to the policy.
- (2) The examiners found five violations of § 38.2-2202 A of the Code of Virginia. The company failed to provide the Medical Expense Benefits notice as required

by the Code of Virginia.

- (3) The examiners found one violation of § 38.2-2202 B of the Code of Virginia. The company failed to provide the Rejection of Higher Uninsured Motorist Limits notice as required by the statute.
- (4) The examiners found two violations of § 38.2-2230 of the Code of Virginia. The company failed to provide the Rental Reimbursement notice on a motor vehicle policy that provided Other Than Collision or Collision coverage.
- (5) The examiners found five violations of § 38.2-2234 A of the Code of Virginia. The company failed to provide a Credit Score Disclosure notice at the time of application.

RENEWAL BUSINESS POLICIES

- (1) The examiners found one violation of § 38.2-305 A of the Code of Virginia. The company failed to specify in the insurance policy all of the information required by the statute. The company failed to list all forms applicable to the policy on the declarations page.
- (2) The examiners found two violations of § 38.2-2230 of the Code of Virginia. The company failed to provide the Rental Reimbursement notice on a motor vehicle policy that provided Other Than Collision or Collision coverage.

REVIEW OF STATUTORY NOTICES

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

To obtain copies of the statutory notices used during the examination period for each line of business listed below, the Bureau requested copies from the company. For

those currently used, the Bureau used the same new and renewal business policy mailings that were previously described in the Review of the Policy Issuance Process section of the Report.

The examiners verified that the notices used by the company on all applications, on all policies, and those special notices used for vehicle policies issued on risks located in Virginia complied with the Code of Virginia.

General Statutory Notices

The examiners found no violations in this area.

Statutory Vehicle Notices

- (1) The examiners found one violation of § 38.2-1905 A of the Code of Virginia. The company failed to include all of the information required by the statute in its Point Surcharge notice.
- (2) The examiners found one violation of § 38.2-2202 A of the Code of Virginia. The company failed to have available for use the optional Medical Expense Benefits notice.
- (3) The examiners found one violation of § 38.2-2202 B of the Code of Virginia. The company failed to provide the Uninsured Motorist Limits notice in the precise language and in boldface type as required by the statute.
- (4) The examiners found one violation of § 38.2-2230 of the Code of Virginia. The company failed to have available for use a Rental Reimbursement notice.
- (5) The examiners found two violations of § 38.2-2234 A of the Code of Virginia.
 - a. In one instance, the company failed to include all of the information required by the statute in its Insurance Credit Adverse Action notice.
 - b. In one instance, the company failed to include all of the information

required by the statute in its Insurance Credit Score Disclosure notice.

Other Notices

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

The examiners found no violations in this area.

LICENSING AND APPOINTMENT REVIEW

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

Agent

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

Agency

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

REVIEW OF THE COMPLAINT-HANDLING PROCESS

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

The examiners found no violations in this area

REVIEW OF PRIVACY AND INFORMATION SECURITY PROCEDURES

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

The company provided its information security procedures.

PART TWO – CORRECTIVE ACTION PLAN

Business practices and the error tolerance guidelines are determined in accordance with the standards set forth by the NAIC. Unless otherwise noted, a ten percent (10%) error criterion was applied to all operations of the company, with the exception of claims handling. The threshold applied to claims handling was seven percent (7%). Any error ratio above these thresholds indicates a general business practice. In some instances, such as filing requirements, forms, notices, and agent licensing, the Bureau applies a zero tolerance standard. This section identifies the violations that were found to be business practices of Virginia insurance statutes and regulations.

General

AssuranceAmerica Insurance Company shall:

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

Rating and Underwriting Review

AssuranceAmerica Insurance Co. shall:

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

- (4) Use the rules and rates on file with the Bureau. Particular attention should be focused on the use of filed discounts, surcharges, tier eligibility criteria, symbols, classification factors, and base and/or final rates.
- (5) Use credit information that was obtained within 90 days of writing the policy.
- (6) Obtain a signed written rejection of Uninsured Motorists limits equal to the liability limits selected by the insured.
- (7) Use credit information according to the requirements of the filed rules and statutes.

Termination Review

AssuranceAmerica 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 company acknowledges that it has refunded or credited the overcharges listed in the file.
- (4) Calculate earned premium according to filed rules and policy provisions.
- (5) Send written notice of cancellation to the insured when canceling a policy.
- (6) Obtain valid proof of mailing the cancellation or nonrenewal notice to the insured.
- (7) Provide proper notice of cancellation to the lienholder when canceling a policy.
- (8) Send the cancellation notice to the address listed on the policy.

- (9) Obtain advance written notice when the insured requests cancellation of the policy.
- (10) Send the notice of nonrenewal at least 45 days before the effective date of cancellation.

Claims Review

AssuranceAmerica Insurance Company shall:

- (1) Correct the errors that caused the overpayments and underpayments and send the amount of the underpayment to insureds and claimants.
- (2) Include six percent (6%) simple interest in the amount paid to the insureds and claimants.
- (3) Complete and submit to the Bureau the enclosed file titled "Claims Underpayments Cited during the Examination." By returning the completed file to the Bureau, the company acknowledges that it has paid the underpayments listed in the file.
- (4) Document the claim file so that all events and dates pertinent to the claim can be reconstructed.
- (5) Document the claim file that all applicable coverages have been discussed with the insured. Particular attention should be given to Medical Expense coverage, Transportation Expenses coverage, and Uninsured Motorists coverage including rental benefits.
- (6) Offer the insured an amount that is fair and reasonable as shown by the investigation of the claim and pay the claim in accordance with the insured's policy provisions.
- (7) Properly represent pertinent facts or policy provisions relating to the coverage at issue.

Review of Policy Issuance Process

AssuranceAmerica Insurance Company shall:

- (1) Specify the required information in the policy by listing and providing access to all applicable forms.
- (2) Provide the Medical Expense Benefits notice on all new business policies as required by the Code of Virginia.
- (3) Provide the Higher Uninsured Motorist limits notice on all new business policies as required by the Code of Virginia.
- (4) Provide the Rental Reimbursement notice on a motor vehicle policy when Collision or Other Than Collision coverage exists.
- (5) Provide the Credit Score Disclosure notice on all new business policies as required by the Code of Virginia.

Review of Statutory Notices

AssuranceAmerica Insurance Company shall:

- (1) Amend the Point Surcharge notice to comply with the Code of Virginia.
- (2) Develop a Medical Expense Benefits notice to comply with the Code of Virginia.
- (3) Amend the Uninsured Motorist Limits notice to comply with the Code of Virginia.
- (4) Develop a Rental Reimbursement notice to comply with the Code of Virginia.
- (5) Amend the Credit Adverse Action notice to comply with the Code of Virginia.
- (6) Amend the Credit Score Disclosure notice to comply with the Code of Virginia.

Licensing and Appointment Review

AssuranceAmerica Insurance Company shall:

Appoint agents and agencies within 30 days of the application.

PART THREE – RECOMMENDATIONS

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

RECOMMENDATIONS

We recommend that the company take the following actions:

Rating and Underwriting

- The company should update and file its Vehicle Identification Number (VIN) file.

Termination

- The company should remove reference to the insured's right to a review by the Commissioner of Insurance on policies terminated within the first 60 days of coverage and insured-requested cancellations.
- The company should file an FR-46 with the Department of Motor Vehicles within 15 days of the cancellation of a motor vehicle policy.

Claims

- The company should obtain permission before taking a recorded statement.
- The company should make an appropriate reply within ten working days to communications reasonably suggesting a response is expected.
- The company should make all claim denials in writing and should keep a copy of the written denial in the claim file.
- The company should provide the vehicle owner a copy of the estimate for the cost of repairs prepared by or on behalf of the company.
- The company should pay claims promptly and fairly.
- The company should provide a reasonable explanation of the basis in the insurance policy, in relation to the facts or applicable law, for the denial of a claim or offer of a compromise settlement.

- The company should comply with the provisions of the policy contract.
- The company should obtain a written authorization from an insured prior to making payments directly to the medical provider.

Policy Issuance

- The company should remove any reference to excluded drivers from its "Potential Driver Affidavit."
- The company should list only forms and endorsements on the declaration page.
- The company should use the term "Other Than Collision" instead of "Comprehensive" on the declaration page.

Statutory Notices

- The company should add the TDD number on their Important Information Regarding Your Insurance notice.

SUMMARY OF PREVIOUS EXAMINATION FINDINGS

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

ACKNOWLEDGEMENT

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

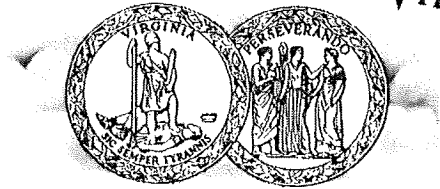
Sincerely,

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

Karen Gerber
Senior Insurance Market Examiner

COMMONWEALTH OF VIRGINIA

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



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

November 20, 2013

VIA UPS 2nd DAY DELIVERY

Mark H. Hain, Executive Vice President
Secretary, General Counsel
AssuranceAmerica Insurance Company
5500 Interstate North Parkway, 6th Floor
Atlanta, GA 30328

Re: Market Conduct Examination
AssuranceAmerica Insurance Company (NAIC #11558)
Examination Period: January 1, 2012 through December 31, 2012

Dear Mr. Hain:

The Bureau of Insurance (Bureau) has conducted a market conduct examination of the above referenced company for the period of January 1, 2012 through December 31, 2012. The preliminary examination report (Report) has been drafted for the company's review.

Enclosed with this letter is a copy of the preliminary examination report and copies of review sheets that have been withdrawn or revised since October 31, 2013. Also enclosed are several reports that will provide you with the specific file references for the violations listed in the report.

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

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

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

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

The company's response and the spreadsheet mentioned above must be returned to the Bureau by January 6, 2014.

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

We look forward to your reply by January 6, 2014.

Sincerely,

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



January 20, 2014

Commonwealth of Virginia
Attn: Joy Morton, Market Conduct Supervisor
1300 East Main Street
Richmond, Virginia 23219

RE: Market Conduct Examination
AssuranceAmerica Insurance Company (NAIC #11558)
Examination Period: January 1, 2012 through December 31, 2012

Dear Ms. Morton:

As requested in your November 20, 2013 letter, please find enclosed the Company's response to the Bureau's preliminary Market Conduct Examination report.

AssuranceAmerica Insurance Company wants to acknowledge the professionalism, courtesy and thoroughness of the Virginia Bureau of Insurance's Market Conduct examiners working on the above referenced examination.

Attached is AssuranceAmerica Insurance Company's response to Part One and Part Three of the report, the corrective action plan (Part Two), and the excel file regarding overcharges and underpayments. In each case where the Company disagrees with the Report, the explanation and supporting documents are also attached.

All responses and comments follow the format (headings and numbering) of the Report.

Should you have any questions or comments regarding our response, please contact me at your convenience.

Regards,

A handwritten signature in black ink, appearing to read 'Mark H. Hain', written in a cursive style.

Mark H. Hain
Executive Vice President, General Counsel, Secretary
AssuranceAmerica Insurance Company



PART ONE – THE EXAMINERS’ OBSERVATIONS

AAIC’s Response: During the examination process, the Bureau has given the Company the opportunity to express the Company’s position on each of the noted observations and to provide supporting documentation for the Company’s position. Except as listed below, although the Company may not agree with the Bureau’s findings or conclusions in all cases, the Company has no additional documentation to support its position and therefore accepts the Bureau’s observations.

Except for the purposes of this Report, it should be noted that the Company’s acceptance of the Bureau’s observations should not be construed to waive or relinquish any right the Company may have to dispute and contest the factual accuracy, findings, conclusions, or assessments of a violation of any statute or rule in any other venue or for any other purpose.

Exceptions

CLAIMS REVIEW

Private Passenger Automobile Claims (10)

Claims Section 38.2-510 A-6/01

Claim Number [REDACTED]; CPA051

In this claim, the Company initially paid the insured the amount of the estimated cost of repairs less the deductible; when it was determined to be a total loss, the Company paid the difference between the total loss and the amount already paid to the insured. The Company verbally confirmed that the insured had not paid any amount to the repair shop and owed no amount to the repair shop, followed by an email to that effect. The Company also paid the storage costs. Attached and marked Supporting Documents are the additional documents reflecting those facts. As a result, the Company timely and properly offered and paid an amount that was reasonable and fair as shown by the investigation of the claim, within the policy limits, and in accordance with the policy provisions. The Company respectfully requests this violation be removed from the Report.



PART TWO – CORRECTIVE ACTION PLAN

“AssuranceAmerica Insurance Company shall:

Rating and Underwriting Review

- 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.

AAIC’s Response: The Company has corrected the errors that caused the overcharges and undercharges. Refunds have been made as reflected in the excel spreadsheet; where an adjustment was made, the facts supporting the adjustment are reflected in the additional tab to the excel spreadsheet.

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

AAIC’s Response: Six percent (6%) simple interest has been included with each refund. A separate check for the interest was issued in each case and is reflected on the excel spreadsheet and where an adjustment was made, the facts supporting the adjustment are reflected in the additional tab to the excel spreadsheet.

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

AAIC’s Response: The excel spreadsheet is attached with the Company’s adjustments reflected. All refunds or credits have been made on the dates stated.

- 4) Use the rules and rates on file with the Bureau. Particular attention should be focused on the use of filed discounts, surcharges, tier eligibility criteria, symbols, classification factors, and base and/or final rates.

AAIC’s Response: It is and always has been the policy of the Company to use the rules and rates on file with the Bureau. In October 2013, the Company filed additional or clarifying rules and rating information to correct the observations regarding the use of rules and rates on file with the Bureau. Although the filing has not been approved to



date, the outstanding issues do not appear to be material. As soon as the approval is received, the changes will be implemented.

- 5) Use credit information that was obtained within 90 days of writing the policy.
AAIC's Response: Resolved in July, 2013.
- 6) Obtain a signed written rejection of Uninsured Motorists limits equal to the liability limits selected by the insured.
AAIC's Response: Resolved in January, 2013.
- 7) Use credit information according to the requirements of the filed rules and statutes.
AAIC's Response: Resolved in the October, 2013 filing with the Bureau of Insurance. It will be implemented as soon as the filing is approved.

Termination Review

- 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.
AAIC's Response: The Company has corrected the errors that caused the overcharges and undercharges. Refunds have been made as reflected in the excel spreadsheet; where an adjustment was made, the facts supporting the adjustment are reflected in the additional tab to the excel spreadsheet.
- 2) Include six percent (6%) simple interest in the amount refunded and/or credited to the insureds' accounts.
AAIC's Response: Six percent (6%) simple interest has been included with each refund. A separate check for the interest was issued in each case and is reflected on the excel spreadsheet and where an adjustment was made, the facts supporting the adjustment are reflected in the additional tab to the excel spreadsheet.
- 3) Complete and submit to the Bureau the enclosed file titled "Termination Overcharges Cited during the Examination." By returning the completed file to the Bureau, the company acknowledges that it has refunded or credited the overcharges listed in the file.
AAIC's Response: The excel spreadsheet is attached with the Company adjustments reflected. All refunds or credits have been made on the dates stated.



- 4) Calculate earned premium according to filed rules and policy provisions.
AAIC's Response: Resolved in the October, 2013 filing with Bureau of Insurance.
- 5) Send written notice of cancellation to the insured when canceling a policy.
AAIC's Response: Resolved in March, 2013.
- 6) Obtain valid proof of mailing the cancellation or nonrenewal notice to the insured.
AAIC's Response: The Company has advised the mailing vendor to be sure the correct process is followed each and every time. The vendor has responded that they will do so.
- 7) Provide proper notice of cancellation to the lienholder when cancelling a policy.
AAIC's Response: Resolved in January, 2013.
- 8) Send the cancellation notice to the address listed on the policy.
AAIC's Response: Resolved in April, 2013.
- 9) Obtain advance written notice when the insured requests cancellation of the policy.
AAIC's Response: Resolved in August, 2013.
- 10) Send the notice of nonrenewal at least 45 days before the effective date of cancellation.
AAIC's Response: Resolved in February, 2013.

Claims Review

- 1) Correct the errors that caused the overpayments and underpayments and send the amount of the underpayment to insureds and claimants.
AAIC's Response: The Company has corrected the errors that caused the overcharges and undercharges. Except for CPA051, refunds have been made as reflected in the excel spreadsheet.
- 2) Include six percent (6%) simple interest in the amount paid to the insureds and claimants.
AAIC's Response: Six percent (6%) simple interest has been included in each refund.



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

AAIC's Response: The excel spreadsheet is attached. Except for CPA051, all refunds or credits have been made on the dates stated.

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

AAIC's Response: The Company's claim organization management and supervisory staff met on September 17, 2013 to review and reinforce best practices specific to handling of Virginia claims including emphasis on clear verbiage with less use of shorthand references and abbreviations that may not be easily understood. The Company's claim organization also implemented a process change whereby only certain designated claims representatives would handle Virginia claims. A training session was held on September 24, 2013 with those representatives and supervisors to communicate the findings of the Report with special attention to the statutory requirements and the Bureau of Insurance directives. Likewise, the need to avoid typographical errors in the Company's documents and documentation was reinforced. The claims organization's continuous review and audit practices will be employed to assess this corrective action.

- 5) Document the claim file that all applicable coverages have been discussed with the insured. Particular attention should be given to Medical Expense coverage, Transportation Expenses coverage, and Uninsured Motorists coverage including rental benefits.

AAIC's Response: The Company's claim organization management and supervisory staff met on September 17, 2013 to review and reinforce best practices specific to handling of Virginia claims including emphasis on full documentation reflecting that all applicable coverages have been discussed with the insured including Medical Expense coverage, Transportation Expense coverage, and Uninsured Motorist coverage including rental benefits. The Company's claim organization also implemented a process change whereby only certain designated claims representatives will handle Virginia claims. A training session was held on September 24, 2013 with those representatives and supervisors to communicate the findings of the Report with special attention to the statutory requirements and the Bureau of Insurance directives which included Medical expense coverage, Transportation Expense coverage, and Uninsured Motorist coverage



including rental benefits. The claims organization's continuous review and audit practices will be employed to assess this corrective action.

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

AAIC's Response: It has always been the Company's policy to offer an 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. The Company's claim organization management and supervisory staff met on September 17, 2013 to review and reinforce best practices specific to handling of Virginia claims including the responsibility to present offers to the insureds that are fair and reasonable as shown by the investigation and make payment in accordance with the provisions of the insured's policy. The Company's claim organization also implemented a process change whereby only certain designated claims representatives will handle Virginia claims. A training session was held on September 24, 2013 with the Virginia designated representatives and supervisors to communicate the findings of the Report with attention to the responsibility to offer amounts to our individual insureds that are fair and reasonable as determined through the investigation of the claim and in accordance with the provisions of the individual insured's policy. The claims organization's continuous review and audit practices will be employed to assess this corrective action.

- 7) Properly represent pertinent facts or policy provisions relating to the coverage at issue.

AAIC's Response: It has always been the Company's policy to properly represent facts or policy provisions relating to coverage at issue. The Company's claim organization management and supervisory staff met on September 17, 2013 to review and reinforce best practices specific to handling of Virginia claims including emphasis on our need to properly represent pertinent facts and/or policy provisions relating to coverage. The Company's claim organization also implemented a process change whereby only certain designated claims representatives would handle Virginia claims. A training session was held on September 24, 2013 with the Virginia designated representatives and supervisors to communicate the findings of the Report with special attention to proper representation of pertinent facts and/or policy provisions relating to the coverage(s) at issue. The claims organization's continuous review and audit practices will be employed to assess this corrective action.



Review of Policy Issuance Process

- 1) Specify the required information in the policy by listing and providing access to all applicable forms.
AAIC's Response: Resolved in August, 2013.
- 2) Provide the Medical Expense Benefits notice on all new business policies as required by the Code of Virginia.
AAIC's Response: Resolved in September, 2013.
- 3) Provide the Higher Uninsured Motorist limits notice on all new business policies as required by the Code of Virginia.
AAIC's Response: Resolved in September, 2013.
- 4) Provide the Rental Reimbursement notice on a motor vehicle policy when Collision or Other than Collision coverage exists.
AAIC's Response: Resolved in September, 2013.
- 5) Provide the Credit Score Disclosure notice on all new business policies as required by the Code of Virginia.
AAIC's Response: Resolved in October, 2013.

Review of Statutory Notices

- 1) Amend the Point Surcharge notice to comply with the Code of Virginia.
AAIC's Response: Resolved in September, 2013.
- 2) Develop a Medical Expense Benefits notice to comply with the Code of Virginia.
AAIC's Response: Resolved in September, 2013.
- 3) Amend the Uninsured Motorist Limits notice to comply with the Code of Virginia.
AAIC's Response: Resolved in September, 2013.
- 4) Develop a Rental Reimbursement notice to comply with the Code of Virginia.
AAIC's Response: Resolved in September, 2013.



- 5) Amend the Credit Adverse Action notice to comply with the Code of Virginia.
AAIC's Response: Resolved in July, 2013.
- 6) Amend the Credit Score Disclosure notice to comply with the Code of Virginia.
AAIC's Response: Resolved in October, 2013.

Licensing and Appointment Review

- 1) Appoint agents and agencies within 30 days of the application.
AAIC's Response: It is the Company's policy to appoint all agents and agencies as soon as possible but in no event later than 30 days after an application. The Company has implemented a procedure (i) to have the independent agency notify the Company of changes to its agents on a regular schedule and (ii) to not allow an Agency to submit business until it has been appointed.

PART THREE – RECOMMENDATIONS

“We recommend that the company take the following actions:

Rating and Underwriting

- The Company should update and file its Vehicle Identification Number (VIN) file.
AAIC's Response: The Company updated and filed its VIN file in August, 2013.

Termination

- The Company should remove reference to the insured's right to a review by the Commissioner of Insurance on policies terminated within the first 60 days of coverage and insured-requested cancellations.
AAIC's Response: Resolved in August, 2013.
- The Company should file an FR-46 with the Department of Motor Vehicles within 15 days of the cancellation of a motor vehicle policy.
AAIC's Response: Resolved in December, 2013.

Claims

- The Company should obtain permission before taking a recorded statement.



AAIC's Response: AssuranceAmerica Insurance Company claims organization has a strict policy that a conversation should not be recorded unless the party(s) to the conversation has been advised. The Company has met with the individual representative that failed to advise of the recording in the one example uncovered in the Report and reinforced the Company's policy.

- The Company should make an appropriate reply within ten working days to communications reasonably suggesting a response is expected.

AAIC's Response: The claims organization's policy is to respond to communications within a stricter time frame than the ten working day guideline. The claims organization has communicated, and will continue to communicate, our dedication to responding timely to external communications and in no event later than 10 working days. The claims organization's ability to meet its guidelines and expectations is, and will be measured, through ongoing internal auditing.

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

AAIC's Response: The claims organization's policy is to always communicate denials in writing. The Report cited examples in which the Company did not provide a written denial when charges on rental vehicle were paid by the renter prior to the Company's receipt and the Company only paid the balance due. Going forward, the Company, when presented with similar circumstances and when there is a doubt as to whether the Company's not paying could be construed as a denial, will issue a written denial. This process change was explained and implemented after the September 2013 training session. The claims organization proper implementation of this change will be measured through ongoing internal auditing.

- The Company should provide the vehicle owner a copy of the estimate for the cost of repairs prepared by or on behalf of the company.

AAIC's Response: The claims organization reinforced this responsibility to the responsible claims representatives in the training session of September 2013. The two examples cited in the Report were presented as examples. The claims organization proper handling of this issue will be measured through ongoing internal auditing.



- The Company should pay claims promptly and fairly.
AAIC's Response: The Company's claims organization policy has been, is and will continue to be to pay claims promptly and fairly. This policy is the cornerstone of the claims organization's self-assessment through the claims organization's internal auditing process.
- The Company should provide a reasonable explanation of the basis in the insurance policy, in relation to the facts or applicable law, for the denial of a claim or offer of a compromise settlement.
AAIC's Response: The Company's claims organization policy has been, is and will continue to be to properly communicate the specific reason or reasons the Company is unable to pay a claim presented against the insured's policy. Proper communication of denials of coverage is measured through the claims organization's continuous internal auditing process.
- The Company should comply with the provisions of the policy contract.
AAIC's Response: The Company's claims organization policy has been, is and will continue to be to properly comply with the provisions of the policy contract. Correct handling of claims in accordance with the policy contract is measured through the claims organization's continuous internal auditing process.
- The Company should obtain a written authorization from an insured prior to making payments directly to the medical provider.
AAIC's Response: The staff of the claims organization's has been instructed that no payment may be issued to a provider unless the insured has provided a written authority to pay the provided directly or the provider can produce the patients signed assignment of benefits. Communications regarding this procedure was communicated to the affected staff verbally and through electronic correspondence in September 2013. Correct handling of medical expense claims in accordance with Virginia regulations is measured through the claims organization's continuous internal auditing process.

Policy Issuance

- The Company should remove any reference to excluded drivers from its "Potential Driver Affidavit."
AAIC's Response: Resolved in November, 2013.



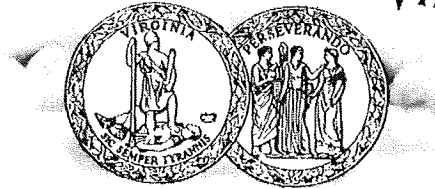
- The Company should list only forms and endorsements on the declaration page.
AAIC's Response: Resolved in November, 2013.
- The Company should use the term "Other than Collision" instead of "Comprehensive" on the declaration page.
AAIC's Response: Resolved in November, 2013.

Statutory Notices

- The Company should add the TDD number on their Important Information Regarding Your Insurance notice.
AAIC's Response: Resolved in 2013.

COMMONWEALTH OF VIRGINIA

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



P.O. BOX 1157
RICHMOND, VIRGINIA 23218
TELEPHONE: (804) 371-9741
TDD/VOICE: (804) 371-9206
<http://www.scc.virginia.gov/division/bo>

February 26, 2014

VIA UPS 2nd DAY DELIVERY

Mark H. Hain, Executive Vice President
Secretary, General Counsel
AssuranceAmerica Insurance Company
5500 Interstate North Parkway, 6th Floor
Atlanta, GA 30328

RE: Market Conduct Examination
Assurance America Insurance Company (NAIC # 11558)
Exam Period: January 1, 2012-December 31, 2012

Dear Mr. Hain:

The Bureau of Insurance (Bureau) has reviewed AssuranceAmerica Insurance Company's January 20, 2014, response to the Preliminary Market Conduct Report (Report). The Bureau has referenced only those items in which the Company has disagreed with the Bureau's findings, or items that have changed in the Report. This response follows the format of the Report.

PART ONE – EXAMINERS' OBSERVATIONS

Automobile Claims

- (5a) After further review, the violation for CPA051 has been removed from the Report.
- (10) After further review, the violation for CPA051 has been removed from the Report. The Report has been renumbered to reflect this change.

PART TWO CORRECTIVE ACTION PLAN

Rating and Underwriting

- (1) The Restitution Spreadsheet has been amended based upon the company's response. The revised spreadsheet includes, the restitution amount originally requested by the Bureau (this is highlighted in yellow); the amount that the original amount has been modified is highlighted in green; and the amount the

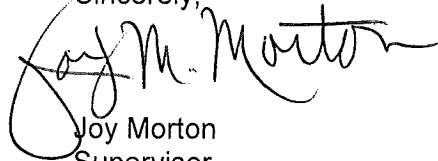
Company has sent to the insureds is not highlighted in the spreadsheet. The Company should make the remaining restitution and return the completed spreadsheet to the Bureau.

Terminations

- (1) The Restitution Spreadsheet has been amended based upon the company's response. The revised spreadsheet includes, the restitution amount originally requested by the Bureau (this is highlighted in yellow); the amount that the original amount has been modified is highlighted in green; and the amount the Company has sent to the insureds is not highlighted in the spreadsheet. The Company should make the remaining restitution and return the completed spreadsheet to the Bureau.

Enclosed with this letter is a revised version of the Report, technical reports, the Restitution spreadsheets and any review sheets that have been withdrawn, added or altered as a result of this review. The Company's response to this letter, including paying the remaining restitution, is due in the Bureau's office by March 19, 2014.

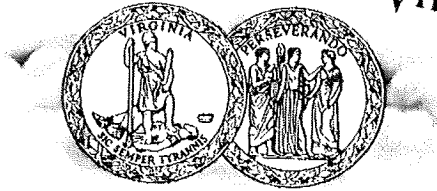
Sincerely,



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

COMMONWEALTH OF VIRGINIA

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



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

April 21, 2014

VIA UPS 2nd DAY DELIVERY

Mark H. Hain, Executive Vice President
Secretary, General Counsel
AssuranceAmerica Insurance Company
5500 Interstate North Parkway, 6th Floor
Atlanta, GA 30328

Re: Market Conduct Examination
AssuranceAmerica Insurance Company (NAIC #11558)
Examination Period: January 1, 2012 - December 31, 2012

Dear Mr. Hain:

The Bureau of Insurance (Bureau) has concluded its review of the company's response of January 20, 2014 and subsequent emails. Based upon the Bureau's review of the company's April 16, 2014 email, we are now in a position to conclude this examination. Enclosed is the final Market Conduct Examination Report of AssuranceAmerica Insurance Company (Report).

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

Sections 38.2-305 A, 38.2-510 A1, 38.2-1833, 38.2-1905 A, 38.2-1906 D, 38.2-2202 A, 38.2-2202 B, 38.2-2206 A, 38.2-2208 A, 38.2-2208 B, 38.2-2212 E, 38.2-2230, 38.2-2234 A, 38.2-2234 B, and 38.2-2234 E of the Code of Virginia; and 14 VAC 5-400-30, 14 VAC 5-400-40 A, and 14 VAC 5-400-70 D of the Virginia Administrative Code.

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

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

Sincerely,

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



STATE CORP. COMMISSION
2014 MAY -5 AM 9:45
BUREAU OF INSURANCE

May 1, 2014

Commonwealth of Virginia
Attn: Mary Bannister, Deputy Commissioner
Property and Casualty
Bureau of Insurance
PO Box 1157
Richmond, VA 23218

RE: Market Conduct Examination Settlement Offer

Dear Ms. Bannister:

This will acknowledge receipt of the Bureau of Insurance's letter dated April 23, 2014, concerning the above referenced matter.

We wish to make a settlement offer on behalf of the insurance company listed below for the alleged violations of: §§ 38.2-305 A, 38.2-510 A1, 38.2-1833, 38.2-1905 A, 38.2-1906 D, 38.2-2202 A, 38.2-2202 B, 38.2-2206 A, 38.2-2208 A, 38.2-2208 B, 38.2-2212 E, 38.2-2230, 38.2-2234 A, 38.2-2234 B, and 38.2-2234 E of the Code of Virginia; as well as 14 VAC 5-400-30, 14 VAC 5-400-40 A, and 14 VAC 5-400-70 D of the Virginia Administrative Code.

1. We enclose with this letter a check payable to the Treasurer of Virginia in the amount of \$28,710.00.
2. We agree to comply with the corrective action plan set forth in the company's letter of January 20, 2014.
3. We confirm that restitution was made to 115 consumers for \$20,439.74 in accordance with the company's letter of January 20, 2014.
4. We further acknowledge the company's right to a hearing before the State Corporation Commission in this matter and waive that right if the State Corporation Commission accepts this offer of settlement.

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,

AssuranceAmerica Insurance Company



(Signed)

MARK H. HAIN

(Type or Print Name)

E.V.P.

(Title)

5/1/2014

(Date)

Enclosure

400103

COMMONWEALTH OF VIRGINIA

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



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

AssuranceAmerica Insurance Company has tendered to the Bureau of Insurance the settlement amount of \$28,710.00 by their check numbered 12209 and dated May 2, 2014, a copy of which is located in the Bureau's files.

COMMONWEALTH OF VIRGINIA
STATE CORPORATION COMMISSION

140530057

AT RICHMOND, MAY 19, 2014

SCC-CLERK'S OFFICE
DOCUMENT CONTROL CENTER

COMMONWEALTH OF VIRGINIA, *ex rel.*

2014 MAY 19 P 3:54

STATE CORPORATION COMMISSION

v.

CASE NO. INS-2014-00081

ASSURANCEAMERICA INSURANCE
COMPANY,
Defendant

SETTLEMENT ORDER

Based on a market conduct examination performed by the Bureau of Insurance ("Bureau"), it is alleged that AssuranceAmerica Insurance Company ("Defendant"), duly licensed by the State Corporation Commission ("Commission") to transact the business of insurance in the Commonwealth of Virginia ("Commonwealth"), violated § 38.2-305 A of the Code of Virginia ("Code") by failing to provide the information required by the statute in its insurance policies; violated § 38.2-1833 of the Code by failing to properly appoint agents and agencies; violated §§ 38.2-1905 A, 38.2-2202 A, 38.2-2202 B, 38.2-2206 A, 38.2-2230, and 38.2-2234 A of the Code by failing to provide the required notices to insureds; violated § 38.2-1906 D of the Code by making or issuing insurance contracts or policies not in accordance with the rate and supplementary rate information filings in effect for the Defendant; violated §§ 38.2-2208 A, 38.2-2208 B, and 38.2-2212 E of the Code by failing to properly terminate insurance policies; violated §§ 38.2-2234 B and 38.2-2234 E of the Code by failing to properly use credit information obtained when rating the policy; violated § 38.2-510 A of the Code, as well as 14 VAC 5-400-30, 14 VAC 5-400-40 A, and 14 VAC 5-400-70 D of the Commission's Rules Governing Unfair Claim Settlement Practices, 14 VAC 5-400-10 *et seq.*, by failing to properly handle claims with such frequency as to indicate a general business practice.

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

The Defendant has been advised of its right to a hearing in this matter whereupon the Defendant, without admitting any violation of Virginia law, has made an offer of settlement to the Commission wherein the Defendant has tendered to the Commonwealth the sum of Twenty-eight Thousand Seven Hundred Ten Dollars (\$28,710), waived its right to a hearing, agreed to comply with the corrective action plan set forth in its letter to the Bureau dated January 20, 2014, and confirmed that restitution was made to 115 consumers in the amount of Twenty Thousand Four Hundred Thirty-nine Dollars and Seventy-four Cents (\$20,439.74).

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

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

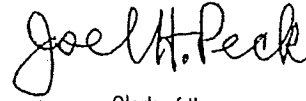
Accordingly, IT IS ORDERED THAT:

- (1) The offer of the Defendant in settlement of the matter set forth herein is hereby accepted.
- (2) This case is dismissed, and the papers herein shall be placed in the file for ended causes.

AN ATTESTED COPY hereof shall be sent by the Clerk of the Commission to:
Mark H. Hain, Executive Vice President, Secretary, General Counsel, AssuranceAmerica

Insurance Company, 5500 Interstate North Parkway, Sixth Floor, Atlanta, Georgia 30328; and a copy shall be delivered to the Commission's Office of General Counsel and the Bureau of Insurance in care of Deputy Commissioner Mary M. Bannister.

A True Copy
Teste:



Clerk of the
State Corporation Commission