

**MARKET CONDUCT EXAMINATION REPORT**

**OF**

**WEST VIRGINIA NATIONAL AUTO  
INSURANCE COMPANY**

**AS OF**

**June 30, 2015**

**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

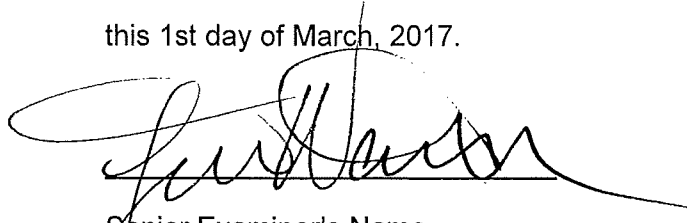


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## STATE CORPORATION COMMISSION BUREAU OF INSURANCE

I, Gloria Warriner, Senior Insurance Market Examiner of the Bureau of Insurance, do hereby certify that the annexed copy of the Market Conduct Examination Report of West Virginia National Auto Insurance Company as of June 30, 2015, conducted at the office of the State Corporation Commission in Richmond, VA is a true copy of the original Report on file with the Bureau and also includes a true copy of the company's response to the findings set forth therein, and a true copy of the Bureau's review letters and the State Corporation Commission's Order in Case No. INS-2017-00004 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 1st day of March, 2017.



Senior Examiner's Name  
Examiner in Charge

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## INTRODUCTION

Pursuant to the authority of § 38.2-1317 of the Code of Virginia, a target examination has been made of the private passenger automobile line of business written by West Virginia National Auto Insurance Company at the office of the State Corporation Commission in Richmond, Virginia.

The examination commenced December 7, 2015 and concluded July 6, 2016. Brandon L. Ayers, Andrea D. Baytop, William T. Felvey, Karen S. Gerber, Ju'Coby D. Hendrick, Melody Morrissette, and Gloria V. Warriner, examiners of the Bureau of Insurance, and Joyclyn M. Morton, Market Conduct Manager of the Bureau of Insurance, participated in the work of the examination. The examination was called in the Examination Tracking System on March 11, 2015, and was assigned the examination number of VA097-4. The examination was conducted in accordance with the procedures established by the National Association of Insurance Commissioners (NAIC).

## COMPANY PROFILE\*

West Virginia National Auto Insurance Company is a wholly-owned subsidiary of W VA National Company, L.L.C. a West Virginia limited liability company. The company specializes in providing non-standard private passenger automobile liability and physical damage insurance coverages. The company's products are distributed through an independent agency network throughout the states of West Virginia and Virginia. Recent premium growth has been attributed to expansion efforts in the company's neighboring state of Virginia for automobile business only. The company has no branch offices and all underwriting, claims handling and administrative functions are handled in the home office in West Virginia.

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

The table below indicates when the company was licensed in Virginia and the line of insurance that the company was licensed to write in Virginia during the examination period. All lines of insurance were authorized on March 30, 2010.

	<b>WVAN</b>
<b>NAIC Company Number</b>	10911
<b>LICENSED IN VIRGINIA</b>	3/30/2010
<b>LINES OF INSURANCE</b>	
Accident and Sickness	
Aircraft Liability	
Aircraft Physical Damage	
Animal	
Automobile Liability	X
Automobile Physical Damage	X
Boiler and Machinery	
Burglary and Theft	
Commercial Multi-Peril	
Credit	
Farmowners Multi-Peril	
Fidelity	
Fire	X
General Liability	X
Glass	
Homeowner Multi-Peril	X
Inland Marine	
Miscellaneous Property	X
Ocean Marine	
Surety	
Water Damage	
Workers' Compensation	

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

COMPANY AND LINE	PREMIUM VOLUME	MARKET SHARE
West Virginia Natl Auto Ins Co		
Automobile Liability	\$1,664,902	.06%
Automobile Physical Damage	\$796,136	.04%

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\* Source: The 2015 Annual Statement on file with the Bureau of Insurance and the Virginia Bureau of Insurance Statistical Report.



## SCOPE OF THE EXAMINATION

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

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

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

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

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

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

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

### **STATISTICAL SUMMARY**

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

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

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

AREA	Population Sample Requested					
	WVN	TOTAL	FILES REVIEWED	FILES NOT FOUND	FILES WITH ERRORS	ERROR RATIO
<b><u>Private Passenger Auto</u></b>						
New Business <sup>1</sup>	<u>4036</u> 100	<u>4036</u> 100	99	0	99	100%
Renewal Business	<u>1542</u> 50	<u>1542</u> 50	50	0	50	100%
Co-Initiated Cancellations <sup>2</sup>	<u>418</u> 31	<u>418</u> 31	13	0	10	77%
All Other Cancellations <sup>3</sup>	<u>4170</u> 35	<u>4170</u> 35	33	0	22	67%
Nonrenewals	<u>678</u> 14	<u>678</u> 14	14	0	6	43%
<b><u>Claims</u></b>						
Auto	<u>2503</u> 111	<u>2503</u> 111	111	0	62	56%

Footnote<sup>1</sup>- 1 policy cancelled flat and was not reviewed.

Footnote<sup>2</sup>- 11 policies cancelled flat and were not reviewed, 2 policies were not Fst60 and were not reviewed,  
3 policies were not Ovr60 and were not reviewed, 1 policy expired and was not reviewed, 1 policy move to IR.

Footnote<sup>3</sup>- 1 policy moved from Fst60, 3 policies cancelled flat and were not reviewed.

## PART ONE - THE EXAMINERS' OBSERVATIONS

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

### RATING AND UNDERWRITING REVIEW

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

The examiners reviewed 99 new business policy files. During this review, the examiners found overcharges totaling \$5,878.00 and undercharges totaling \$2,290.00. The net amount that should be refunded to insureds is \$5,878.00 plus six percent (6%) simple interest.

- (1) The examiners found 25 violations of § 38.2-305 A of the Code of Virginia. The company failed to specify accurate information in the policy as required by the statute.
  - a. In one instance, the company included incorrect driver information on the declarations page.
  - b. In 24 instances, the company listed superseded endorsements on the declarations page.
- (2) The examiners found 13 violations of § 38.2-502 of the Code of Virginia. The company misrepresented the benefits, advantages, conditions or terms of the insurance policy.
  - a. In one instance, the company misrepresented the surcharges applicable to the policy.
  - b. In 12 instances, the company misrepresented the applicable coverages by showing transportation expenses coverage as applicable to the policy.

- (3) The examiners found one violation of § 38.2-1318 of the Code of Virginia. The company failed to provide convenient access to the files, documents, and records relating to the examination. The company failed to provide the new business application.
- (4) The examiners found three violations of § 38.2-1905 A of the Code of Virginia. The company failed to notify the insured in writing that his policy had been surcharged for an at-fault accident.
- (5) The examiners found 17 violations of § 38.2-1905 C of the Code of Virginia. The company failed to assign points to the vehicle customarily driven by the operator responsible for incurring points.
- (6) The examiners found 379 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 94 instances, the company failed to use the correct discounts and/or surcharges.
  - b. In eight instances, the company failed to apply the correct surcharge points for accidents and/or convictions.
  - c. In 180 instances, the company failed to use the correct symbol and/or model year.
  - d. In one instance, the company failed to use the correct territory.
  - e. In one instance, the company failed to use the correct tier eligibility criteria.
  - f. In four instances, the company failed to use the correct driver classification factor.
  - g. In two instances, the company failed to use the correct base and/or final rates.
  - h. In 87 instances, the company failed to follow its filed rounding rule.

- i. In two instances, the company failed to follow its filed driver assignment rule.

### **Automobile Renewal Business Policies**

The examiners reviewed 50 renewal business policy files. During this review, the examiners found overcharges totaling \$3,066.00 and undercharges totaling \$1,398.00. The net amount that should be refunded to insureds is \$3,066.00 plus six percent (6%) simple interest.

- (1) The examiners found 55 violations of § 38.2-305 A of the Code of Virginia. The company failed to specify accurate information in the policy as required by the statute.
  - a. In 44 instances, the company failed to list applicable forms on the declarations page.
  - b. In 11 instances, the company listed superseded endorsements on the declarations page.
- (2) The examiners found one violation of § 38.2-1905 A of the Code of Virginia. The company failed to notify the insured in writing that his policy had been surcharged for an at-fault accident.
- (3) The examiners found 10 violations of § 38.2-1905 C of the Code of Virginia. The company failed to assign points to the vehicle customarily driven by the operator responsible for incurring points.
- (4) The examiners found 194 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 four instances, the company failed to use the correct discounts and/or surcharges.
  - b. In nine instances, the company failed to apply the correct surcharge

- points for accidents and/or convictions.
- c. In 117 instances, the company failed to use the correct symbol and/or model year.
  - d. In one instance, the company failed to use the correct driver classification factor.
  - e. In eight instances, the company failed to use the correct base and/or final rates.
  - f. In one instance the company failed to use the correct increased limits factor.
  - g. In 54 instances, the company failed to follow its filed rounding rule.

#### 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 60<sup>TH</sup> DAY OF COVERAGE

The Bureau reviewed eight automobile cancellations that were initiated by the company where the company mailed the notices prior to the 60th day of coverage in the initial policy period. During this review, the examiners found no overcharges and undercharges totaling \$57.10.

- (1) The examiners found five violations of § 38.2-610 A of the Code of Virginia. The company failed to provide the insured written Notice of an Adverse Underwriting Decision (AUD).
- (2) 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.

- (3) The examiners found five violations of § 38.2-2208 B of the Code of Virginia.
  - a. In four instances, the company failed to retain proof of mailing the cancellation notice to the insured.
  - b. In one instances, the company failed to provide proper notice of cancellation to the lienholder.
- (4) The examiners found three occurrences where the company failed to comply with the provisions of the insurance contract. The company failed to provide advance notice of cancellation to the insured.

#### Other Law Violations

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

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

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

The Bureau reviewed three automobile cancellations that were initiated by the company where the notice was mailed on or after the 60<sup>th</sup> day of coverage in the initial policy period or at any time during the term of a subsequent renewal policy. During this review, the examiners found overcharges totaling \$49.77 and no undercharges. The net amount that should be refunded to insureds is \$49.77 plus six percent (6%) simple interest.

- (1) The examiners found two violations of § 38.2-610 A of the Code of Virginia. The company failed to provide the insured written Notice of an Adverse Underwriting Decision (AUD).



- (2) 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.
- (3) The examiners found four violations of § 38.2-2208 B of the Code of Virginia.
  - a. In two instances, the company failed to retain proof of mailing the cancellation notice to the insured.
  - b. In two instances, the company failed to provide proper notice of cancellation to the lienholder.
- (4) The examiners found three violation of § 38.2-2212 D of the Code of Virginia.
  - a. In one instance, the company cancelled the insured's motor vehicle policy for a reason not permitted after the 59<sup>th</sup> day of coverage.
  - b. In two instances, the company cancelled the policy due to moving out of state without confirmation of the move from the insured.
- (5) The examiners found four violations of § 38.2-2212 E of the Code of Virginia.
  - a. In one instance, the company failed to mail the notice of cancellation to the insured at least 45 days prior to the effective date of cancellation.
  - b. In three instances, the company failed to provide notice of the insured's right to have the cancellation reviewed by the Commissioner of Insurance.

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.

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

The Bureau reviewed 20 automobile cancellations that were initiated by the company for nonpayment of the policy premium. During this review, the examiners found no overcharges and undercharges totaling \$9.00.

- (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 six violations of § 38.2-2208 B of the Code of Virginia.
  - a. In two instances, the company failed to retain proof of mailing the cancellation notice to the insured.
  - b. In four instances, the company failed to provide proper notice of cancellation to the lienholder.
- (3) The examiners found 24 violations of § 38.2-2212 E of the Code of Virginia.
  - a. In eight instances, the company failed to mail the notice of cancellation to the insured at least 15 days prior to the effective date of cancellation.
  - b. In 16 instances, the company failed to provide notice of the insured's right to have the cancellation reviewed by the Commissioner of Insurance.
- (4) The examiners found one occurrence where the company failed to comply with the provisions of the insurance policy. The company failed to mail the cancellation notice to the lienholder at least 15 days prior to the effective date of cancellation.

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 four violations of § 46.2-482 of the Code of Virginia. The

company failed to file an SR-26 within 15 days of cancelling the policy as required by the Virginia Motor Vehicle Code.

#### REQUESTED BY THE INSURED

The Bureau reviewed 15 automobile cancellations that were initiated by the insured where the cancellation was to be effective during the policy term. During this review, the examiners found overcharges totaling \$100.00 and undercharges totaling \$60.00. The net amount that should be refunded to insureds is \$100.00 plus six percent (6%) simple interest.

- (1) The examiners found four 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 § 38.2-2212 F of the Code of Virginia. The company failed to obtain written request from the insured for cancellation of the 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 three violations of § 46.2-482 of the Code of Virginia. The company failed to file an SR-26 within 15 days of cancelling the policy as required by the Virginia Motor Vehicle Code.

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

The examiners reviewed 14 automobile nonrenewals that were initiated by the company.

- (1) The examiners found one violation of § 38.2-610 A of the Code of Virginia. The company failed to provide the insured with written notice of an Adverse

Underwriting Decision (AUD).

- (2) The examiners found five violations of § 38.2-2208 B of the Code of Virginia. The company failed to retain valid proof of mailing the refusal to renew notice to the insured.
- (3) The examiners found four violations of § 38.2-2212 E of the Code of Virginia.
  - a. In three instances, the company failed to mail the notice of nonrenewal to the insured at least 45 days prior to the effective date of cancellation.
  - b. In one instance, the company failed to include the specific reason for nonrenewal in the notice.

#### CLAIMS REVIEW

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

The examiners reviewed 111 automobile claims for the period of July 1, 2014 through June 30, 2015. The findings below appear to be contrary to the standards set forth by Virginia insurance statutes and regulations. During this review, the examiners found overpayments totaling \$20,509.38 and underpayments totaling \$4,981.09. The net amount that should be paid to claimants is \$4,916.65 plus six percent (6%) simple interest.

- (1) The examiners found 23 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 ten 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 two instances, the company failed to inform an insured of the Medical Expense Benefits coverage when the file indicated the coverage was applicable to the loss.
- b. In two instances, the company failed to accurately inform the insured of the Transportation Expenses coverage when the file indicated the coverage was applicable to the loss.
- c. In six instances, the company failed to accurately inform an insured of his benefits or coverages, including rental benefits, available under the Uninsured Motorist Property Damage coverage (UMPD) and/or Underinsured Motorist coverage (UIM).

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

- (3) The examiners found one violation of 14 VAC 5-400-50 C. The company failed to make an appropriate reply within ten working days to pertinent communications from a claimant or a claimant's authorized representative that reasonably suggested a response was expected.
- (4) The examiners found 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 30 violations of 14 VAC 5-400-70 D. The company failed to offer the insured an amount that was fair and reasonable as shown by the investigation of the claim or failed to pay a claim in accordance with the insured's policy provisions.
  - a. In three instances, the company failed to pay the insured's UMPD claim properly when Collision and UMPD coverages applied to the claim.

- b. In three instances, the company failed to pay the insured's UMPD claim properly.
- c. In 14 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 two instances, the company failed to pay the claim in accordance with the policy provisions under the insured's Medical Expense Benefits coverage.
- e. In four instances, the company failed to pay the claim in accordance with the policy provisions under the insured's Transportation Expenses coverage.
- f. In four instances, the company failed to pay the claim in accordance with the policy provisions under the insured's Other than Collision or Collision coverage.

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

- (6) The examiners found two 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 one instance, 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.
- (7) The examiners found two violations of 14 VAC 5-400-80 E. The company failed to document all information relating to the application of betterment or depreciation in the claim.

- (8) The examiners found one violation of § 38.2-236 A of the Code of Virginia. The company failed to notify the claimant within five business days that a settlement/payment was issued to the claimant's attorney/representative.
- (9) The examiners found one violation of § 38.2-510 A 1 of the Code of Virginia. The company misrepresented pertinent facts or insurance policy provisions relating to coverages at issue.
- (10) The examiners found 13 violations of § 38.2-510 A 3 of the Code of Virginia. The company failed to adopt and implement reasonable standards for the prompt investigation of claims arising under insurance policies.

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

- (11) The examiners found one violation of § 38.2-510 A 6 of the Code of Virginia. The company failed to attempt, in good faith, to make a prompt, fair, and equitable settlement of a claim in which liability was reasonably clear.
- (12) 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.
- (13) The examiners found four violations 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.
- a. In three instances, the company failed to pay the claimant's property damage claim properly.
  - b. In one instance, the company failed to pay the claimant's claim for rental

of a comparable substitute vehicle properly.

- (14) The examiners found two violations of § 38.2-2201 B of the Code of Virginia. The company failed to obtain a statement from an insured authorizing the company to make payments directly to the medical provider.
- (15) The examiners found 16 occurrences where the company failed to comply with the provisions of the insurance policy.
- a. In one instance, the company failed to include the lienholder on the insured's check.
  - b. In 14 instances, the company paid an insured more than he/she was entitled to receive under the terms of the policy.
  - c. In one instance, the company failed to pay an Uninsured Motorist (UM) claim properly.

#### 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 one violation 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.
- (2) The examiners found one violation of § 46.2-1602 of the Code of Virginia. The company failed to request a non-repairable from the Virginia Department of Motor Vehicles.

#### 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 all of the lines of business examined. From this review, the examiners verified the company's compliance with Virginia insurance statutes and regulations.



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

## **Automobile Forms**

### POLICY FORMS USED DURING THE EXAMINATION PERIOD

The company provided copies of 11 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 six violations of § 38.2-2220 of the Code of Virginia.

- a. In one instance, the company used policy forms that were not in the precise language of the standard forms filed and adopted by the Bureau.
- b. In five instances, the company failed to have available for use mandatory standard forms. The company was unable to provide PP 01 99 04 15, Amendment of Policy Provisions - Virginia, PP 02 01 01 05, Suspension of Insurance, PP 02 02 08 86, Reinstatement of Insurance, PP 13 53 01 05, Joint Ownership Coverage - Virginia, and the Rate Classification Statement.

### POLICY FORMS CURRENTLY USED BY THE COMPANY

The examiners found no additional forms to review.

**REVIEW OF THE POLICY ISSUANCE PROCESS**

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

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

**Automobile Policies**

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.

**NEW BUSINESS POLICIES**

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

statute.

- a. In five instances, the company listed superseded form, Amendment of Policy Provisions - Virginia PP 02 01 07 06, on the declarations page.
  - b. In four instances, the company failed to attach the Transportation Expenses Coverage - Virginia PP 13 52 01 04, Medical Expense and Income Loss Benefits Coverage – Virginia PP 05 96 01 05, Loss Payable Clause PP 03 05 08 86 and the Towing and Labor Costs Coverage – Virginia PP 13 55 06 00 when applicable.
- (2) The examiners found five violations of § 38.2-2214 of the Code of Virginia. The company failed to provide the Rating Information Statement to the insured.

#### RENEWAL BUSINESS POLICIES

- (1) The examiners found five violations of § 38.2-305 A of the Code of Virginia. The company failed to specify accurate information in the policy as required by the statute. The company failed to list the correct version of the forms on the declarations page.
- (2) The examiners found two violations of § 38.2-604 A of the Code of Virginia. The company failed to provide the Notice of Information Collection and Disclosure Practices to the insured.
- (3) The examiners found five violations of § 38.2-604.1 A of the Code of Virginia. The company failed to provide the Notice of Financial Information Collection and Disclosure Practices to the insured.
- (4) The examiners found five violations of § 38.2-2214 of the Code of Virginia. The company failed to provide the Rating Information Statement to the insured.

#### REVIEW OF STATUTORY NOTICES

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

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

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

#### **General Statutory Notices**

- (1) The examiners found one violation of § 38.2-604 B of the Code of Virginia. The company failed to have available for use a long form Notice of Information Collection and Disclosure Practices.
- (2) The examiners found one violation of § 38.2-604.1 of the Code of Virginia. The company failed to have available for use its form Notice of Financial Information Collection and Disclosure Practices.
- (3) The examiners found one violation of § 38.2-610 A of the Code of Virginia. The company's AUD notice did not contain substantially similar language as that of the prototype set forth in Administrative Letter 2015-07.

**Statutory Vehicle Notices**

- (1) The examiners found one violation of § 38.2-1905 A of the Code of Virginia. The company failed to include in its Point Surcharge notice that the insured could appeal to the Commissioner of Insurance, within 60 days of the notice, the company's decision to surcharge the policy because of a motor vehicle accident.
- (2) The examiners found two violations of § 38.2-2202 A of the Code of Virginia. The company failed to provide the Medical Expense Benefits notice in the precise wording and in boldface type 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 in the precise language and in boldface type as required by the Code of Virginia.
- (4) The examiners found one violation of § 38.2-2210 A of the Code of Virginia. The company failed to print the 60-day cancellation warning notice in boldface type.

**LICENSING AND APPOINTMENT REVIEW**

A review was made of new business 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 Review**

- (1) The examiners found six violations of § 38.2-1318 of the Code of Virginia. The company failed to provide a copy of the new business application.
- (2) The examiners found nine violations of § 38.2-1833 of the Code of Virginia. The company failed to appoint an agent within 30 days of the date of the application.

### **Agency Review**

- (1) The examiners found eight violations of § 38.2-1318 of the Code of Virginia. The company failed to provide a copy of the new business application.
- (2) The examiners found six violations of § 38.2-1812 of the Code of Virginia. The company failed to appoint an agency within 30 days of the date of application.

### **REVIEW OF THE COMPLAINT-HANDLING PROCESS**

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

The examiners found no violations in this area.

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

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

The company provided its written information security procedures.

## PART TWO – CORRECTIVE ACTION PLAN

Business practices and the error tolerance guidelines are determined in accordance with the standards set forth by the NAIC. 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

West Virginia National Auto Insurance Company shall:

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

### Rating and Underwriting Review

West Virginia National Auto 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 company acknowledges that it has refunded or credited the overcharges listed in

the file.

- (4) Specify accurate information in the policy by listing all forms applicable to the policy on the declarations page.
- (5) Properly represent the benefits, coverages, advantages, and conditions of the policy by showing an accurate premium on the declaration page.
- (6) Provide the insured with a written notice of an Adverse Underwriting Decision.
- (7) Maintain a copy of all new business applications.
- (8) Properly assign points under a Safe Driver Insurance Plan (SDIP) to the vehicle customarily driven by the operator incurring the points.
- (9) Use the rules and rates on file with the Bureau. Particular attention should be given to the use of filed discounts, surcharges, points for accidents and convictions, symbols, territories, tier eligibility, driver classification factors, base and/or final rates, rounding rule and driver assignment.
- (10) Provide coverage to all insureds and operators who have been given permission to operate the insured vehicle.

### **Termination Review**

West Virginia National Auto 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 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) Provide the insured with a written notice of an Adverse Underwriting Decision.
- (5) Calculate return premium according to the filed rules and policy provisions.
- (6) Obtain and retain valid proof of mailing the cancellation notice to the insured and lienholder.
- (7) Cancel private passenger automobile policies when the notice is mailed after the 59<sup>th</sup> day of coverage only for those reasons permitted by § 38.2-2212 of the Code of Virginia.
- (8) Provide proper notice of cancellation or refusal to renew to the insured and lienholder.
- (9) Obtain advanced written notice when the insured requests cancellation of the policy.
- (10) Send the cancellation notice at least 45 days before the effective date of cancellation when the notice is mailed after the 59<sup>th</sup> day of coverage.
- (11) Provide proper notice of the insured's right to have the cancellation reviewed by the Commissioner of Insurance.
- (12) Send the cancellation notice at least 15 days before the effective of date of cancellation when the notice of non-payment is mailed to the insured and lienholder.

### **Claims Review**

West Virginia National Auto 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 company acknowledges that it has paid the underpayments listed in the file.
- (4) Properly document claim files so that all events and dates pertinent to the claim can be reconstructed.
- (5) Document the claim file that all applicable coverages have been discussed with the insured. Particular attention should be given to the Medical Expense Benefits coverage, Transportation Expenses coverage, and Uninsured Motorist 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) Adopt and implement reasonable standards for prompt investigation of claims.

### **Form Review**

West Virginia National Auto Insurance Company shall:

- (1) Use the precise language of the standard automobile forms adopted by the Bureau.
- (2) Include PP 01 99 04 15, Amendment of Policy Provisions, PP 02 01 01 05, Suspension of Insurance, PP 02 02 08 86, Reinstatement of Insurance, PP 13 53 01 05, Joint Ownership Coverage and the Rate Information Statement in the forms library.

### **Review of Policy Issuance Process**

West Virginia National Auto Insurance Company shall:

- (1) Specify accurate information in the policy by listing only the applicable forms on the declarations page.
- (2) Provide the Transportation Expenses Coverage - Virginia PP 13 52 01 04 and the Towing and Labor Costs Coverage – Virginia PP 13 55 06 00 forms with all new and renewal policies when applicable.
- (3) Provide the Notice of Information Collection and Disclosure Practices with new business policies as required.
- (4) Provide the Notice of Financial Information Collection and Disclosure Practices with new business policies as required.
- (5) Provide the Rating Information Statement to policyholders as required by the Code of Virginia.

#### **Review of Statutory Notices**

West Virginia National Auto Insurance Company shall:

- (1) Develop the long form Notice of Information Collection and Disclosure Practices to comply with § 38.2-604 B of the Code of Virginia.
- (2) Develop the Notice of Financial Information Collection and Disclosure Practices to comply with § 38.2-604.1 B of the Code of Virginia.
- (3) Amend the language within the AUD notice to be substantially similar to the prototype set forth in Administrative Letter 2015-07.
- (4) Amend the Point Surcharge notice to comply with § 38.2-1905 A of the Code of Virginia.
- (5) Amend the Notice of Optional Medical Expense Benefits Coverage that complies with § 38.2-2202 A of the Code of Virginia.
- (6) Develop a Notice of Optional Uninsured Motorist Coverage that complies with § 38.2-2202 B of the Code of Virginia.

- (7) Amend the 60-day cancellation warning notice to comply with § 38.2-2210 A of the Code of Virginia.

#### **Licensing and Appointment Review**

West Virginia National Auto Insurance Company shall:

- (1) Provide convenient access to the files, documents, and records relating to the examination.
- (2) Appoint agents/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 the company take the following actions:

#### **Rating and Underwriting**

- The company should only send an AUD notice if the company found the insured's information inaccurate or misleading, re-rated the policy based on the correct information, and the policy premium increased as a result.
- The company should amend its application to clearly indicate if the garaging address is the same as the mailing address.

#### **Termination**

- The company should file an SR-26 within 15 days of cancelling the policy as required by the Virginia Motor Vehicle Code.

#### **Claims**

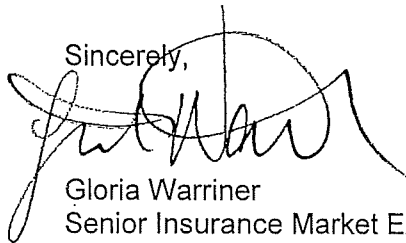
- The company should acknowledge correspondence that reasonably suggests a reply is expected from insureds and claimants within ten business days.
- The company should make all claim denials in writing and keep a copy in the claim file.
- The company should provide copies of vehicle repair estimates prepared by or on behalf of the company to insureds and claimants.
- The company should document all information relating to the application of betterment or depreciation in the claim.
- The company should notify the claimant within five business days that a settlement/payment was issued to the claimant's attorney/representative.

- The company should properly represent pertinent facts or insurance provisions relating to the coverages at issue.
- The company should make a prompt, fair, and equitable settlement of a claim in which liability is reasonably clear.
- The company should include a correct statement of the coverages under which payments are made with all claim payments to insureds.
- The company should provide a reasonable explanation of the basis in the insurance policy in relation to facts or applicable law for the denial of a claim or offer of a compromise settlement.
- The company should obtain a written authorization from an insured prior to making payments directly to the medical provider.
- The company should include the correct statement of coverage under which payments are made with all claim payments made to insureds.
- 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.
- The company should include the fraud statement on all claim forms required by the company as a condition of payment.

**ACKNOWLEDGEMENT**

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

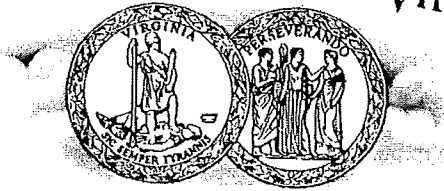
Sincerely,

A handwritten signature in black ink, appearing to read 'Gloria Warriner', written over a circular stamp or seal.

Gloria Warriner  
Senior Insurance Market Examiner

# COMMONWEALTH OF VIRGINIA

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



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

August 29, 2016

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

James W. Buchanan, Jr.  
President, CEO  
West Virginia National Auto Insurance Company  
330 Scott Avenue, Suite 2  
Morgantown, WV 26508-8804

RE: Market Conduct Examination  
West Virginia National Auto Company (NAIC #19011)

Dear Mr. Buchanan:

The Bureau of Insurance (Bureau) has conducted a market conduct examination of the above referenced company for the period of July 1, 2014, through June 30, 2015. The preliminary examination report (Report) has been drafted for the company's review.

Enclosed with this letter is a copy of the Report and copies of review sheets that have been added, withdrawn or revised since July 6, 2016. Also enclosed are several technical reports that will provide you with the specific file references for the violations listed in the Report.

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

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



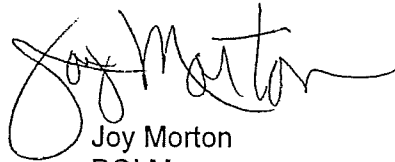
Thirdly, if the company has comments it wishes to make regarding Part Three of the Report, please use the same headings and numbering for the comments. In particular, if the examiners identified issues that were numerous but did not rise to the level of a business practice, the company should outline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

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

The company's response and the spreadsheet mentioned above must be returned to the Bureau by September 29, 2016.

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

Sincerely,

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

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

## Joy Morton

---

**From:** James Ronan <jronan@wvnational.com>  
**Sent:** Tuesday, September 20, 2016 8:42 AM  
**To:** Joy Morton  
**Subject:** RE: Virginia Market Conduct Examination - West Virginia National Auto Insurance Company

Thank you!

---

**From:** Joy Morton [<mailto:Joy.Morton@scc.virginia.gov>]  
**Sent:** Tuesday, September 20, 2016 8:27 AM  
**To:** 'James Ronan' <jronan@wvnational.com>  
**Subject:** RE: Virginia Market Conduct Examination - West Virginia National Auto Insurance Company

I am currently in the field. I have someone in the office checking a couple of the items for me and will give you a call before noon.

Joy Morton, AMCM  
Manager  
P & C Market Conduct Section  
Phone - (804)371-9540  
Fax - (804) 371-9396  
email - [joy.morton@scc.virginia.gov](mailto:joy.morton@scc.virginia.gov)

---

**From:** James Ronan [<mailto:jronan@wvnational.com>]  
**Sent:** Tuesday, September 20, 2016 7:40 AM  
**To:** Joy Morton  
**Cc:** 'David Remmells'; 'Jim Buchanan'  
**Subject:** RE: Virginia Market Conduct Examination - West Virginia National Auto Insurance Company

Good morning, Joy:

Please review the below email and call me today at your very earliest convenience.

Regards,

Jim Ronan  
Claims Manager  
WV national Auto Insurance Company  
(304)296-0507

---

**From:** James Ronan [<mailto:jronan@wvnational.com>]  
**Sent:** Tuesday, September 13, 2016 10:59 AM  
**To:** 'Joy.Morton@scc.virginia.gov' <[Joy.Morton@scc.virginia.gov](mailto:Joy.Morton@scc.virginia.gov)>  
**Cc:** 'David Remmells' <[dremmells@wvnational.com](mailto:dremmells@wvnational.com)>; 'Jim Buchanan' <[jbuchanan@wvnational.com](mailto:jbuchanan@wvnational.com)>  
**Subject:** Virginia Market Conduct Examination - West Virginia National Auto Insurance Company

Good morning, Joy:

In reviewing the Claims Overpay/Underpay Report, I note several underpayments which require additional comment/discussion.

These are:

- Reference Number CPA075: **\$9,999** underpayment. This must be a typo as there was no underpayment of any kind listed on any review sheet relating to this claim. The audit findings on this claim were: 1) file contained rental bill relating to a different claim (WVN agreed) ; 2) title was sent to the wrong party (WVN agreed); 3) examiner was unable to determine whether WVN applied proper sales tax to the \$5850 total loss settlement. WVN disagreed-As per my original response to this audit finding, WVN paid the proper 4% sales tax in the amount of \$234.
- Reference Number CPA026: \$33 underpayment. As per my original response to this audit finding, the body shop waived a \$33 mark-up so there was no underpayment.
- Reference Number CPA028: \$1,057.80 underpayment. As per my original response to this audit finding, the insured verbally advised WVN to pay medical provider direct regardless of non-compliant AOB form.
- Reference Number CPA084: \$200 underpayment. As per my original response to this audit finding, it was ultimately determined that the insured's vehicle was not struck by a known party, rather insured vehicle was struck by an unknown party and WVN properly applied a \$200 deductible.

Please call me at your earliest convenience to discuss these four (4) alleged underpayments.

Respectfully,

James "Jim" Ronan  
Claims Manager  
WV National Auto Insurance Company  
(304)296-0507



# West Virginia National Auto Insurance Company, Inc.

330 Scott Avenue • Suite 2  
Morgantown, WV 26508-8804  
Phone: 304-296-0507 • Fax: 304-296-3425



September 21, 2016

Joy Morton, BOI Manager - Market Conduct Section  
Commonwealth of Virginia State Corporation Commission  
Bureau of Insurance  
PO Box 1157  
Richmond, VA 23218

Dear Ms. Morton:

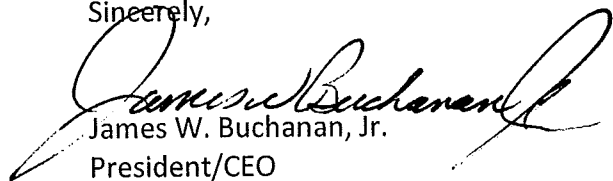
This letter and information is in response to your letter dated August 29, 2016, regarding your conclusions and facts regarding our market conduct exam for the period July 1, 2014, up to June 30, 2015.

Let me start out by thanking you and your team for all the hard work and patience it took to complete this audit. I know firsthand how long and hard my staff worked to respond to each and every request for information we received from your department. As you are aware, the processing of our business in Virginia was dumped in our laps overnight by Mr. Barry Dodson of Specialty Insurance. We had no idea at the time of how bad their system was for claims, underwriting and accounting. We spent each and every day not only trying to get your team all the information they were requesting, but also trying to work with the software vendor to get the system up to date so we could comply with the rules and regulations of doing business in your state.

West Virginia National has been in business for the past 19 years and we have been through many market conduct exams from our state. I am proud to say that if anyone wanted to check with them, that they would say we have fully cooperated as we have tried to do with your department but was very limited by the system that was dumped in our laps.

In closing, I want to thank you and your staff once again and also state that my staff and I have never been so frustrated than we have been trying to work with the system. We not only had to retrieve the information you've requested, but to try and straighten it out so we could have been successful doing business in the state of Virginia. I know when we called your insurance department to tell them we had less funds than the state required, we could have raised the necessary funds, but with the system and lack of cooperation from the system vendor, I felt the only thing to do at the time was to shut down and maybe someday come back in Virginia with a system that we could all work with.

Sincerely,

  
James W. Buchanan, Jr.  
President/CEO

## PART ONE – THE EXAMINERS’ OBSERVATIONS

### Automobile New Business Policies

- (1) We agree with these violations.
- (2)
  - a. We agree with this violation.
  - b. We agree with the fact that our underwriting manual was incorrect which showed Option 1 under Transportation Expense. We only offered and provided coverage under Option 2 which was a broader coverage.
- (3) We agree with this violation. However, our agency contract requires the agent to maintain copies of signed applications and we do periodic audits whereby we pull a sample of agency files to check for this.
- (4) We agree with this violation.
- (5) We disagree with this violation. The vehicles are assigned according to information given to the agent by the insured at the time of application. We do agree, however, that the application signed by insured does not reflect this assignment of specific vehicles to drivers. However, it is shown on the declarations page the insured receives.
- (6)
  - a. We agree that our underwriting manual does not state that proof is required for the homeowners discount, however our application that the insured reads and signs states that in order to get a homeowners discount, proof must be attached.
  - b. We agree with this violation.
  - c. We agree with this violation.
  - d. We agree with this violation.
  - e. We agree with this violation.
  - f. We agree with this violation.
  - g. We agree with this violation.
  - h. We agree with this violation.
  - i. We disagree that the driver assignment to the vehicle was done by the insured at time of application.
- (7) The company strongly disagrees with this violation as there was no attempt to exclude a driver from the policy. The underwriter was trying to verify that the person listed as being a “non-driver” was indeed a non-driver and did not need to be rated on the policy as no reason was provided by the agent as to why a person of driving age was listed as a non-driver. The company is allowed under the statutes to verify information provided on the application in the course of determining proper coverage and rating.

### Automobile Renewal Business Policies

- (1) We agree with these violations.
- (2) We agree with this violation.
- (3) We disagree with this violation. The vehicles are assigned according to information given to the agent by the insured at the time of application. We do agree, however, that the application signed by insured does not reflect this assignment of specific vehicles to drivers. However, it is shown on the declarations page the insured receives.
- (4)

- a. We agree with two of the four instances. We disagree with review sheet R&URBPPA-1361579070 because we properly applied four points to the driver since he only provided his international drivers license and this does not prove he had at least 24 months of US driving experience, as filed in our underwriting manual. We disagree with review sheet R&URBPPA-855288322 because it relates to the issue of assigning drivers to vehicles which is done by the insured at the time of application and point of sale.
- b. We agree with this violation.
- c. We agree with this violation.
- d. We agree with this violation.
- e. We agree with this violation.
- f. We agree with this violation.
- g. We agree with this violation.

### Termination Review

- (1) We disagree with all seven of the violations. Four of the violations were related to policies that were cancelled flat at the insured's request so a written notice of an Adverse Underwriting Decision (AUD) would not be required since it is not a company action. For the other three violations, AUDs were sent as part of the company's procedures to include them with cancellations. However, copies of the AUDs were not attached to the policy file.
- (2) We agree with this violation.
- (3)
  - a. We agree with six out of the nine violations. The other three policies were cancelled only internally due to system errors and re-issued at the same time. No cancellation notice was ever sent to insured as their coverage was not affected at all.
  - b. We disagree with two out of the three violations. Those policies were cancelled only internally due to system errors and re-issued at the same time. No cancellation notice was ever sent to insured as their coverage was not affected at all.
- (4) We disagree with this violation. Proper notice of insured's request to cancel was sent to insured the day insured requested it to be cancelled.

### Other Law Violations

We agree with this violation.

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

- (1) We agree that the AUD was sent to insured but did not include the specific action being taken.
- (2) We disagree with this violation. The policy was cancelled pro-rata properly.
- (3) We agree with these violations.
- (4)
  - a. We agree with this violation.
  - b. We disagree with this violation. In both cases, we sent insureds their policy and other mail which were returned with a forwarding address in a different state. We were unable to contact insured. Copies of returned mail envelope with forwarding address are attached to policy file.
- (5)

- a. We agree with this violation.
- b. We agree with this violation. A notice was sent with the box unchecked due to system error.

**Other Law Violations**

We agree with this violation.

**All Other Cancellations – Automobile Policies**

Nonpayment of the Premium

- (1) We agree with this violation.
- (2) We agree with these violations.
- (3)
  - a. We agree with this violation.
  - b. We agree with this violation. A notice was sent with the box unchecked due to system error.
- (4) We agree with this violation.

**Other Law Violations**

We agree with this violation.

Requested by the Insured

- (1) We agree with this violation.
- (2) We agree with this violation.

**Other Law Violations**

We agree with this violation.

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

- (1) We agree with this violation. A notice was sent with the box unchecked due to system error.
- (2) We agree with this violation.
- (3)
  - a. We agree with this violation.
  - b. We agree with this violation.

## **Claims Review**

### **Automobile Forms**

#### Policy forms used during the examination period

- a. We agree with this violation.
- b. We agree with this violation.

### **Automobile Policies**

#### New Business Policies

- (1)
  - a. We agree with this violation.
  - b. We agree with this violation.
- (2) We agree with this violation.

#### Renewal Business Policies

- (1) We agree with this violation.
- (2) We agree with this violation.
- (3) We agree with this violation.
- (4) We agree with this violation.

### **General Statutory Notices**

- (1) We agree with this violation.
- (2) We agree with this violation.
- (3) We agree with this violation.

### **Statutory Vehicle Notices**

- (1) We agree with this violation.
- (2) We agree with this violation.



- (3) We agree with this violation.
- (4) We agree with this violation.

### **Licensing and Appointment Review**

#### Agent Review

- (1) We agree with this violation. However, our agency contract requires the agent to maintain copies of signed applications and we do periodic audits whereby we pull a sample of agency files to check for this.
- (2) We agree with this violation.

#### Agency Review

- (1) We agree with this violation.
- (2) We agree with this violation.

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

### **Rating and Underwriting Review**

- (1) Errors that caused the overcharges and undercharges have been corrected. Refunds and credits to the insureds' accounts for the amount of the overcharge have been done. See attached spreadsheet named WVN Restitution.
- (2) Six percent simple interest was included in the amount refunded and/or credited to the insureds' account.
- (3) The completed file titled WVN Restitution is attached. The company acknowledges they have refunded and/or credited the overcharges listed in the file.
- (4) The company has corrected our system to specify accurate information in the policy by listing all forms applicable to the policy on the declarations page.
- (5) The system has been corrected to properly represent the benefits, coverages, advantages, and conditions of the policy by showing an accurate premium on the declaration page.
- (6) The system was corrected to check the appropriate box pertaining to the Adverse Underwriting Decision notice. If we begin writing in Virginia again, we will be sure to include the appropriate forms.
- (7) It is part of our contract with the agents that they maintain copies of the signed application. If and when we start writing again, we will emphasize with agents the need to maintain original copies of signed applications.
- (8) If and when we start writing in Virginia again, we will be sure to properly assign points under a Safe Driver Insurance Plan to the vehicle customarily driven by the operator incurring the points.
- (9) If and when we write in Virginia again, we will use the rules and rates on file with the Bureau. We will pay particular attention to the use of filed discounts, surcharges, points for accidents and convictions, symbols, territories, tier eligibility, driver classification factors, base and/or final rates, rounding rule and driver assignment.
- (10) We have always and will continue to provide coverage to all insureds and operators who have been given permission to operate the insured vehicle.

## **Termination Review**

- (1) Errors that caused the overcharges and undercharges have been corrected. Refunds and credits to the insureds' accounts for the amount of the overcharge have been done. See attached spreadsheet named WVN Restitution.
- (2) Six percent simple interest was included in the amount refunded and/or credited to the insureds' account.
- (3) The completed file titled WVN Restitution is attached. The company acknowledges they have refunded and/or credited the overcharges listed in the file.
- (4) The system was corrected to check the appropriate box pertaining to the Adverse Underwriting Decision notice. If we begin writing in Virginia again, we will be sure to include the appropriate forms.
- (5) The system has been corrected to calculate return premium according to the filed rules and policy provisions.
- (6) Management has emphasized the need to obtain and retain valid proof of mailing the cancellation notice to the insured and lienholder with the employee responsible for this task.
- (7) It has always been our practice to adhere to the cancellation guidelines. Management will continue to emphasize that we adhere to the cancellation guidelines according to the statutes.
- (8) The company has put procedures in place to provide proper notice of cancellation or refusal to renew to the insured and lienholder.
- (9) Our underwriters now require advance written notice when the insured requests cancellation of the policy.
- (10) Company has emphasized with underwriting to require a 45-day notice of cancellation for reasons other than non-payment after the 59<sup>th</sup> day of coverage.
- (11) System has been corrected to check the box that informs insured of their right to have the cancellation reviewed by the Commissioner of Insurance.
- (12) Procedures are now in place to send the cancellation notice at least 15 days before the effective date of cancellation when the notice of non-payment is mailed to the insured and lienholder.

## **Claims Review**

- (1) Underpayments have been sent to the insureds and claimants.
- (2) Six percent (6%) simple interest was included in the amount paid to the insureds and claimants.
- (3) The "Claims Underpayments Cited during the Examination" file has been completed/submitted to the Bureau.
- (4) An in-house "Claims Handling" refresher course will be conducted quarterly to remind claims personnel that all claim files must be properly documented to ensure that all events and dates pertinent to the file can be reconstructed. Quarterly file reviews will be conducted to monitor compliance.
- (5) An in-house "Claims Handling" refresher course will be conducted quarterly to remind claims personnel that all claim files must document that all applicable coverages have been discussed with the insured with special emphasis given to Medical Expense Benefits

- coverage, Transportation Expense coverage, and Uninsured Motorist coverage including rental benefits. Quarterly file reviews will be conducted to monitor compliance.
- (6) An in-house "Claims Handling" refresher course will be conducted quarterly to ensure that claims personnel 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. Quarterly file reviews will be conducted to monitor compliance.
  - (7) An in-house "Claims Handling" refresher course will be conducted quarterly to remind claims personnel that all claims investigations must be conducted promptly. Quarterly file reviews will be conducted to ensure compliance.

### **Form Review**

- (1) The system has been corrected to use the precise language of the standard automobile forms adopted by the Bureau.
- (2) If and when we start writing in Virginia again, we will include PP 01 99 04 15, Amendment of Policy Provisions, PP 02 01 01 05, Suspension of Insurance, PP 02 02 08 88, Reinstatement of Insurance, PP 13 53 01 05, Joint Ownership Coverage and the Rate Information Statement in the forms library.

### **Review of Policy Issuance Process**

- (1) The company has corrected our system to specify accurate information in the policy by listing all forms applicable to the policy on the declarations page.
- (2) If and when we start writing in Virginia again, we will ensure the system provides the Transportation Expense Coverage – Virginia PP 13 52 01 04 and the Towing and Labor Costs Coverage – Virginia PP 13 55 06 00 forms with all new and renewal policies when applicable.
- (3) If and when we start writing in Virginia, we will ensure the system provides the Notice of Information Collection and Disclosure Practices with new business policies as required.
- (4) If and when we start writing in Virginia, we will ensure the system provides the Notice of Financial Information Collection and Disclosure Practices with new business policies as required.
- (5) If and when we start writing in Virginia, we will ensure the system provides the Rating Information Statement to policyholders as required by the Code of Virginia.

### **Review of Statutory Notices**

- (1) If and when we start writing in Virginia, we will develop the long form Notice of Information Collection and Disclosure Practices to comply with statute 38.2-604 B of the Code of Virginia.
- (2) If and when we start writing in Virginia, we will develop the Notice of Financial Information Collection and Disclosure Practices to comply with statute 38.2-604.1 B of the Code of Virginia.
- (3) The company has amended the language within the AUD notice to be substantially similar to the prototype set forth in the Administrative Letter 2015-07.
- (4) The company will amend the Point Surcharge notice to comply with the statute 38.2-1905 A of the Code of Virginia.
- (5) If and when we start writing in Virginia again, we will amend the Notice of Optional Medical Expense Benefits Coverage that complies with the statute 38.2-2202 A of the Code of Virginia.

- (6) If and when we start writing in Virginia again, we will develop a Notice of Optional Uninsured Motorist Coverage that complies with the statute 38.2-2202 B of the Code of Virginia.
- (7) The company has always had this wording on the first page of the application. If and when we start writing in Virginia again, we will amend the 60-day cancellation warning notice to comply with statute 38.2-2210 A of the Code of Virginia by having this wording in boldface type.

### **Licensing and Appointment Review**

- (1) It is part of our contract with the agents that they maintain copies of the signed application. If and when we start writing again, we will emphasize with agents the need to maintain original copies of signed applications.
- (2) If and when we start writing in Virginia again, we will put system controls in place to ensure agents writing applications are already appointed.

## **PART THREE – RECOMMENDATIONS**

### **Rating and Underwriting**

If and when we start writing in Virginia again, we will only send an AUD notice if the company finds the insured's information inaccurate or misleading, re-rates the policy based on the correct information, and the policy premium increases as a result.

If and when we start writing in Virginia again, we will amend our application to clearly indicate if the garaging address is the same as the mailing address.

### **Termination**

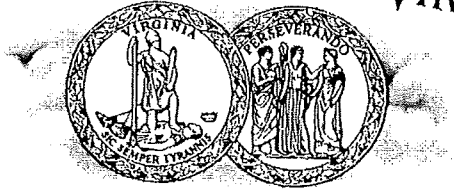
Procedures are now in place to ensure an SR-26 is filed within 15 days of cancelling the policy as required by the Virginia Motor Vehicle Code.

### **Claims**

West Virginia National Auto Insurance Company acknowledges the examiners' thirteen recommendations and will conduct a quarterly in-house "Claims Handling" refresher course with an emphasis on these areas of concern. Quarterly file reviews will be conducted to monitor compliance.

# 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/t>

October 24, 2016

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

James Buchanan, Jr.  
President/CEO  
West Virginia National Auto Insurance Company, Inc.  
330 Scott Avenue, Suite 2  
Morgantown, WV 26508-8804

RE: Market Conduct Examination  
West Virginia National Auto Insurance Company (NAIC# 10911)  
Examination Period: July 1, 2014 – June 30, 2015

Dear Mr. Buchanan:

The Bureau of Insurance (Bureau) has reviewed the September 21, 2016 response to the Preliminary Market Conduct Report of West Virginia National Auto 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

### Rating and Underwriting Review

#### Auto New Business Policies

- (6i) These violations remain in the Report. The Company failed to follow Rule 4d of the filed manual when assigning the drivers to the vehicles on the policy. The file information does not indicate that the driver assignment to the vehicle was done by the insured at the time of application as suggested by the Company's response.
- (7) This violation remains in the Report. The Company is allowed to verify information provided on the application in the course of determining proper coverage and rating. However, the company required the insured to confirm that she will "Never" permit the non-rated driver to operate the insured's

vehicle, the Company has done more than verify usage of the vehicle, but has attempted to restrict the insured's rights to provide Permissive use of the vehicle, which is a violation of § 38.2-2206 of the Code of Virginia.

### **Auto Renewal Business Policies**

- (3) These violations remain in the Report. The statute requires the insurers to verify which vehicle the insured customarily operated for the correct application of accident and/or conviction surcharge points. The Company did not have documentation indicating the insured told the Company/Agent at the point of sale which vehicle each driver customarily operated.
- (4a) The violation for RPA106 remains in the Report. The Company has evidence that the insured has been driving in the US for at least two years because the West Virginia (WV) policy has been in effect for two years. The insured is the only driver on the policy with only one insured vehicle. The Company should not continue to surcharge renewal policies for lack of US driving experience when the WV policy has been in effect longer than the time necessary to satisfy the required driving experience.

The violation for RPA116 remains in the Report. This violation does not relate to the issue of assigning drivers to vehicles but to the fact that the Company failed to apply the Points/Multi-Car/Transfer Relativity factors to the Transportation Expenses coverage.

### **Termination Review**

#### **Notice Mailed Prior to the 60<sup>th</sup> Day of Coverage Review**

- (1) These violations remain in the Report. The Company reported these cancellations as cancellations for cause in the first 60 days of coverage. The Company has responded that four of the seven violations were related to policies that were insured requested cancellation. Please provide evidence of the insureds request to cancel these policies flat. For the remaining three violations the Company failed to mark "X" under the Important Notices section of the Notice of Cancellation or Refusal to Renew which indicates the adverse underwriting language (AUD) is applicable.
- (3a) The violations for TPA015, TPA020 and TPA021 remain in the Report. The Company responded that these policies were cancelled only internally due to system errors but were re-issued at the same time and no cancellation notice was sent to the insured. Please provide evidence that these policies were cancelled and re-issued on the same day without a lapse in coverage.
- (3b) The violations for TPA020 and TPA021 remain in the Report. The Company responded that these policies were cancelled only internally due to system errors but were re-issued at the same time and no cancellation notice was

sent to the lienholder. Please provide evidence that these policies were cancelled and re-issued on the same day without a lapse in coverage.

- (4) These violations remain in the Report. The Company coded these terminations as Cancellations Prior to the 60<sup>th</sup> Day of Coverage. The Company's response was "Proper notice of insured's request to cancel was sent to insured the day insured requested it to be cancelled." These violations were not reported or reviewed as Insured Requested Cancellations. These violations are for the Company's failure to notify the insured of the cancellation effective date at least 10 days prior to the cancellation. The Company has not provided any additional information to consider.

#### **Notice Mailed After the 59th Day of Coverage Review**

- (2) This violation remains in the Report. The policy was effective from August 8, 2014 until December 8, 2014, 122 days. The pro-rata earned premium was \$332.24 ( $\$994/365=\$2.72*122$ ). The Company earned \$20.00 in fees for four EFT installments ( $\$5.00*4$ ). The insured's payments totaled \$506.52. The Company refunded the insured \$104.51. The Company owes the insured an additional \$49.77 ( $\$506.52-\$332.24-\$20-\$104.51$ ).
- (4b) These violations remain in the Report. There was no evidence in the files that the insureds notified the Company that they no longer lived in the state of Virginia.

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

##### **Rating**

- (3) The company should provide billing screens and termination notices to validate the Company's restitution and/or write-offs for the following: RPA002, RPA004, RPA010, RPA012, RPA014, RPA017, RPA022, RPA027, RPA031, RPA036, RPA042, RPA043, RPA046, RPA049, RPA052, RPA055, RPA059, RPA063, RPA066, RPA067, RPA074, RPA076, RPA086, RPA089, RPA096, RPA099, RPA107, RPA113, RPA115, RPA118, RPA121, RPA129, RPA125, and RPA146.

##### **Terminations Review**

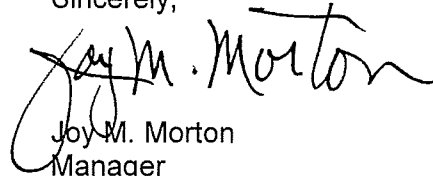
- (3) The company should provide billing screens and termination notices to validate the Company's restitution and/or write-offs for TPA054.

##### **Claims**

- (3) The restitution spreadsheet has been corrected. CPA075 has been removed.

We have made the changes noted above to the Report. Enclosed with this letter is a revised version of the Report, technical reports and the Restitution spreadsheet. The Company's response to this letter is due in the Bureau's office by November 17, 2016.

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)





# West Virginia National Auto Insurance Company, Inc.

330 Scott Avenue • Suite 2  
Morgantown, WV 26508-8804  
Phone 304/296-0507 • Fax 304/296-3425

STATE CORP COMMISSION  
BUREAU OF INSURANCE

16 NOV 17 AM 9:57

November 7, 2016

Joy Morton  
BOI Manager, Market Conduct Section  
Commonwealth of Virginia  
State Corporation Commission  
Bureau of Insurance  
PO Box 1157  
Richmond, VA 23218

Dear Ms. Morton:

This letter and information is in response to your letter dated October 24, 2016, regarding your conclusions and fact regarding our market conduct exam for the period July 1, 2014, up to June 30, 2015.

Sincerely,

A handwritten signature in black ink, appearing to read "J. Buchanan, Jr.", is written over a large, stylized flourish.

James W. Buchanan, Jr.  
President/CEO

## PART ONE – THE EXAMINERS’ OBSERVATIONS

### Rating and Underwriting Review

#### Automobile New Business Policies

- (6i) We disagree in that the driver assignment to the vehicle was done by the insured at time of application. In the future, if we start writing again in Virginia, we will have the driver assignment printed on the application that the insured signs.
- (7) The company strongly disagrees with this violation as there was no attempt to exclude a driver from the policy. The request for information did not state that the non-driver could “never” drive the vehicle. A copy of our Request For Information is attached.

#### Automobile Renewal Business Policies

- (3) We disagree with this violation. The vehicles are assigned according to information given to the agent by the insured at the time of application. We do agree, however, that the

application signed by insured does not reflect this assignment of specific vehicles to drivers. However, it is shown on the declarations page the insured receives. In the future, if we start writing again in Virginia, we will have the driver assignment printed on the application that the insured signs.

(4a) We agree.

### **Termination Review**

#### **Notice Mailed Prior to the 60<sup>th</sup> Day of Coverage Review**

- (1) Two of the violations were related to policies that were cancelled flat at the insured's request so a written notice of an Adverse Underwriting Decision (AUD) would not be required since it is not a company action. We have provided evidence of the insureds' request to cancel flat.
- (3a) We have provided screenshots and declaration pages as evidence these policies were cancelled and re-issued the same day without a lapse in coverage. Per the software vendor, this was the only way to correct issues within the policy. (If necessary, further documentation from the software vendor can be provided to show this was the only way to fix certain issues)
- (3b) We have provided screenshots and declaration pages as evidence these policies were cancelled and re-issued the same day without a lapse in coverage. Per the software vendor, this was the only way to correct issues within the policy. (If necessary, further documentation from the software vendor can be provided to show this was the only way to fix certain issues)
- (4) We have provided evidence of the insureds' request to cancel. Same policies as noted in (1) above.

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

- (2) We agree.
- (4b) We disagree. We have provided evidence that mail was returned with a forwarding address in another state.

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

### **Rating**

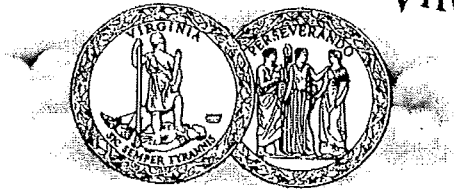
- (3) We have provided screenshots of billing screens and termination notices to validate the company's restitution and/or write-offs.

### **Terminations Review**

- (3) We have provided screenshots of billing screens and termination notices to validate the company's restitution and/or write-offs.

# COMMONWEALTH OF VIRGINIA

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



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

December 16, 2016

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

James Buchanan, Jr.  
President/CEO  
West Virginia National Auto Insurance Company, Inc.  
330 Scott Avenue, Suite 2  
Morgantown, WV 26508-8804

RE: Market Conduct Examination  
West Virginia National Auto Insurance Company (NAIC# 10911)  
Examination Period: July 1, 2014 – June 30, 2015

Dear Mr. Buchanan:

The Bureau of Insurance (Bureau) has concluded its review of the company's response of November 7, 2016 response. Based upon the Bureau's review of the company's letter, we are now in a position to conclude this examination. Enclosed is the final Market Conduct Examination Report of West Virginia National Auto Insurance Company.

## Rating and Underwriting Review

### Auto New Business Policies

(7) After further review, the violation for RPA020 has been withdrawn from the Report.

## Termination Review

### Notice Mailed Prior to the 60<sup>th</sup> Day of Coverage Review

- (1) After further review, the violations for TPA001 and TPA002 have been withdrawn from the Report. The Company provided evidence of the insureds' request to cancel flat.
- (3a) After further review, the violations for TPA001, TPA002, TPA015, TPA020 and TPA021 have been withdrawn from the Report. The Company provided evidence of the policy rewrites using the same policy numbers.
- (3b) After further review, the violations for TPA020 and TPA021 have been withdrawn from the Report. The Company provided evidence of the policy rewrites using the same policy numbers.

- (4) After further review, the violations for TPA001 and TPA002 have been withdrawn from the Report. The Company provided evidence of the insureds' request to cancel flat.

**Notice Mailed After the 59th Day of Coverage Review**

- (4b) These violations remain in the Report. There was no evidence in the files that the insureds notified the Company that they no longer lived in the state of Virginia. The Company provided a copy of the returned envelope for TPA031 which is not evidence the insured notified the company of a move out of state.

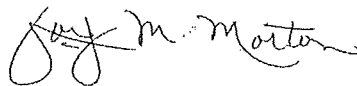
Based on the Bureau's review of the Report and the company's) responses, it appears that a number of Virginia insurance laws and regulations have been violated, specifically:

Sections 38.2-305 A, 38.2-502, 38.2-510 A3 38.2-610 A, 38.2-604 A, 38.2-604.1, 38.2-604.1 A, 38.2-604 B, 38.2-610 A, 38.2-1318, 38.2-1812, 38.2-1833, 38.2-1905 A, 38.2-1905 C, 38.2-1906 D, 38.2-2202 A, 38.2-2202 B, 38.2-2208 B, 38.2-2210 A, 38.2-2212 D, 38.2-2212 E, 38.2-2212 F, 38.2-2214 and 38.2-2220 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](mailto:joy.morton@scc.virginia.gov)



## West Virginia National Auto Insurance Company, Inc.

330 Scott Avenue • Suite 2  
Morgantown, WV 26508-8804  
Phone 304/296-0507 • Fax 304/296-3425

STATE CORP. COMMISSION

2017 JAN 30 AM 9:10

BUREAU OF INSURANCE

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

RE: Market Conduct Examination Settlement Offer  
Ecase/Docket Number: INS-2017-00004

Dear Ms. Nichols:

This will acknowledge receipt of the Bureau of Insurance's letter dated January 6, 2017, concerning the above referenced matter.

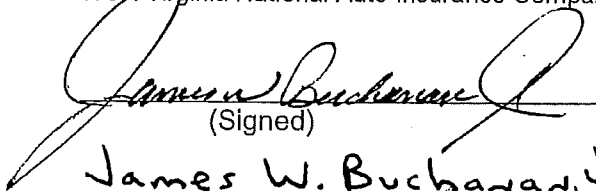
We wish to make a settlement offer on behalf of the insurance company[ies] listed below for the alleged violations of §§ 38.2-305 A, 38.2-502, 38.2-510 A3 38.2-610 A, 38.2-604 A, 38.2-604 B, 38.2-604.1, 38.2-604.1 A, 38.2-610 A, 38.2-1318, 38.2-1812, 38.2-1833, 38.2-1905 A, 38.2-1905 C, 38.2-1906 D, 38.2-2202 A, 38.2-2202 B, 38.2-2208 B, 38.2-2210 A, 38.2-2212 D, 38.2-2212 E, 38.2-2212 F, 38.2-2214 and 38.2-2220 of the Code of Virginia; and 14 VAC 5-400-30, 14 VAC 5-400-40 A, and 14 VAC 5-400-70 D of the Virginia Administrative Code.

1. We enclose with this letter a check payable to the Treasurer of Virginia in the amount of \$43,900.00.
2. We agree to comply with the corrective action plan set forth in the company's letters of September 21, 2016 and November 7, 2016.
3. We confirm that restitution of 14,851.06 was made to 116 consumers in accordance with the company's letters of September 21, 2016 and November 7, 2016.
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,

West Virginia National Auto Insurance Company

  
(Signed)

James W. Buchanan, Jr.  
(Type or Print Name)

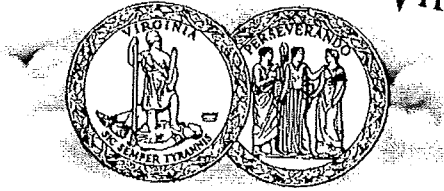
President/CEO  
(Title)

1/27/2017  
(Date)

Enclosure

# COMMONWEALTH OF VIRGINIA

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



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

West Virginia National Auto Insurance Company, Inc. has tendered to the Bureau of Insurance the settlement amount of \$43,900.00 by its check numbered 0062841 and dated January 27, 2017, a copy of which is located in the Bureau's files.

COMMONWEALTH OF VIRGINIA  
STATE CORPORATION COMMISSION

AT RICHMOND, FEBRUARY 16, 2017

SEC-CLERK'S OFFICE  
DOCUMENT CONTROL CENTER

2017 FEB 16 P 3:48

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COMMONWEALTH OF VIRGINIA, *ex rel.*

STATE CORPORATION COMMISSION

v.

CASE NO. INS-2017-00004

WEST VIRGINIA NATIONAL AUTO  
INSURANCE COMPANY, INC.,  
Defendant

SETTLEMENT ORDER

Based on a market conduct examination performed by the Bureau of Insurance ("Bureau"), it is alleged that West Virginia National Auto Insurance Company, Inc. ("Defendant"), duly licensed by the State Corporation Commission ("Commission") to transact the business of insurance in the Commonwealth of Virginia ("Virginia"), violated: § 38.2-305 A of the Code of Virginia ("Code") by failing to provide the information required by the statute in the insurance policy; § 38.2-502 of the Code by misrepresenting the benefits, advantages, conditions or terms of insurance policies; §§ 38.2-604 A, 38.2-604 B, 38.2-604.1, 38.2-604.1 A, 38.2-610 A, 38.2-2202 A, 38.2-2202 B, 38.2-2208 B, and 38.2-2210 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 files, documents, and records; §§ 38.2-1812 and 38.2-1833 of the Code by paying commissions to agencies/agents that are not appointed by the Defendant; § 38.2-1905 A of the Code by failing to notify insureds in writing when their policies were surcharged for at-fault accidents; § 38.2-1905 C of the Code by assigning points under a safe-driver insurance policy to a vehicle other than the vehicle customarily driven by the operator responsible for incurring points; § 38.2-1906 D of the Code by making or issuing insurance contracts or policies



not in accordance with the rate and supplementary rate information filings in effect for the Defendant; §§ 38.2-2212 D, 38.2-2212 E, and 38.2-2212 F of the Code by failing to properly terminate insurance policies; § 38.2-2214 of the Code by failing to provide insureds with rate classification statements; § 38.2-2220 of the Code by failing to use forms in the precise language of standard forms previously filed and adopted by the Commission; and § 38.2-510 A (3) of the Code, as well as 14 VAC 5-400-30, 14 VAC 5-400-40 A, and 14 VAC 5-400-70 D of the Commission's Rules Governing Unfair Claim Settlement Practices, 14 VAC 5-400-10 *et seq.*, by failing to properly handle claims with such frequency as to indicate a general business practice.

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

The Defendant has been advised of its right to a hearing in this matter whereupon the Defendant, without admitting any violation of Virginia law, has made an offer of settlement to the Commission wherein the Defendant has tendered to Virginia the sum of Forty-three Thousand Nine Hundred Dollars (\$43,900), waived its right to a hearing, agreed to comply with the corrective action plan set forth in its letters to the Bureau dated September 21, 2016, and November 7, 2016, and confirmed that restitution was made to 116 consumers in the amount of Fourteen Thousand Eight Hundred Fifty-one Dollars and Six Cents (\$14,851.06).

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: James Buchanan, Jr., President/CEO, West Virginia National Auto Insurance Company, Inc., 330 Scott Avenue, Suite 2, Morgantown, West Virginia 26508-8804; 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.