

MARKET CONDUCT EXAMINATION REPORT

OF

MENDOTA INSURANCE COMPANY

AS OF

March 31, 2011

**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

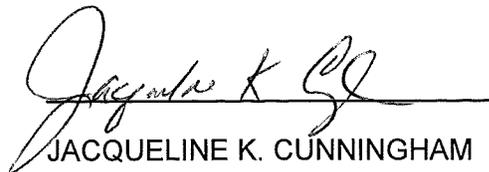


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STATE CORPORATION COMMISSION BUREAU OF INSURANCE

I, Jacqueline K. Cunningham, Commissioner of Insurance of the Commonwealth of Virginia, do hereby certify that the annexed copy of the Market Conduct Examination Report of **Mendota Insurance Company** as of **March 31, 2011**, which took place at the company's office in **Eagan, MN** is a true copy of the original Report on file with the Bureau and also includes a true copy of the company's final response to the findings set forth therein, and of the Bureau's letter and the Order of the State Corporation Commission finalizing the Report.

IN WITNESS WHEREOF, I have
hereunto set my hand and affixed
the official seal of this the Bureau
at the City of Richmond, Virginia,
this **11th** day of **October, 2012**.



JACQUELINE K. CUNNINGHAM

Commissioner of Insurance

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TABLE OF CONTENTS

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

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

INTRODUCTION

Pursuant to the authority of § 38.2-1317 of the Code of Virginia, a target examination has been made of the private passenger automobile line of business written by Mendota Insurance Company at its office in Eagan, Minnesota.

The examination commenced October 10, 2011 and concluded October, 19, 2011. Andrea D. Baytop, Karen S. Gerber, Ju'Coby Hendrick, Rick Howell, Susan Taylor, Gloria V. Warriner, examiners of the Bureau of Insurance, and Joyclyn M. Morton, Market Conduct Supervisor of the Bureau of Insurance, participated in the work of the examination. The examination was called in the Examination Tracking System on February 17, 2011 and was assigned the examination number of VA097-M1. The examination was conducted in accordance with the procedures established by the National Association of Insurance Commissioners (NAIC).

COMPANY PROFILE *

Mendota Insurance Company was incorporated under the laws of Minnesota on May 1, 1989 and commenced business on June 1, 1989. On April 1, 1997, the company purchased Mendakota Insurance Company. Mendota and its wholly owned subsidiary, Mendakota, were purchased by Kingsway America Inc., effective April 1, 2007. The company is based in Eagan, Minnesota.

* Source: Best's Insurance Reports, Property & Casualty, 2010 Edition.

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

GROUP CODE: 1326	MENDOTA
NAIC Company Number	33650
LICENSED IN VIRGINIA	4/2/1992
LINES OF INSURANCE	
Accident and Sickness	
Aircraft Liability	
Aircraft Physical Damage	
Animal	
Automobile Liability	X
Automobile Physical Damage	X
Boiler and Machinery	
Burglary and Theft	X
Commercial Multi-Peril	
Credit	
Farmowners Multi-Peril	
Fidelity	
Fire	X
General Liability	X
Glass	X
Homeowners Multi-Peril	X
Inland Marine	5/8/1997
Miscellaneous Property	X
Ocean Marine	
Surety	
Water Damage	X
Workers' Compensation	

The table below shows the company's premium volume and approximate market share of business written in Virginia during 2010 for those lines of insurance included in this examination.* This business was developed through independent agents.

COMPANY AND LINE	PREMIUM VOLUME	MARKET SHARE
Mendota Insurance Company		
Private Automobile Liability	\$2,771,049	.12%
Private Automobile Physical Damage	\$956,300	.06%

* Source: The 2010 Annual Statement on file with the Bureau of Insurance and the Virginia Bureau of Insurance Statistical Report.

SCOPE OF THE EXAMINATION

The examination included a detailed review of the company's private passenger automobile line of business written in Virginia for the period beginning April 1, 2010 and ending March 31, 2011. This review included rating, underwriting, policy terminations, claims handling, forms, policy issuance¹, statutory notices, agent licensing, complaint-handling, and information security practices. The purpose of this examination was to determine compliance with Virginia insurance statutes and regulations and to determine that the company's operations were consistent with public interest. The Report is by test, and all tests applied during the examination are reported.

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

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

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

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

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

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

STATISTICAL SUMMARY

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

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

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

AREA	<u>Population</u>				<u>ERROR</u> <u>RATIO</u>
	<u>Sample Requested</u> <u>TOTAL</u>	<u>FILES</u> <u>REVIEWED</u>	<u>FILES NOT</u> <u>FOUND</u>	<u>FILES WITH</u> <u>ERRORS</u>	
<u>Private Passenger Auto</u>					
New Business ¹	<u>2893</u> 30	23	0	23	100%
Renewal Business	<u>3795</u> 45	45	0	12	27%
Co-Initiated Cancellations	<u>56</u> 15	15	0	15	100%
All Other Cancellations	<u>2294</u> 35	35	0	26	74%
Nonrenewals	<u>45</u> 15	15	0	15	100%
<u>Claims</u>					
Auto ²	<u>1227</u> 65	64	0	46	72%

Footnote ¹ seven files were renewal business

Footnote ² - one duplicate file 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 Bureau requested 30 new business policy files for review. The examiners reviewed 23 of these files. Seven files were renewal business and were not reviewed. During this review, the examiners found overcharges totaling \$211.00 and undercharges totaling \$24.00. The net amount that should be refunded to insureds is \$211.00 plus six percent (6%) simple interest.

- (1) The examiners found nine violations of § 38.2-604 A of the Code of Virginia. The company failed to provide the applicant for insurance a notice of the company's insurance information practices.
- (2) 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 a copy of the new business application.
- (3) The examiners found one violation of § 38.2-1905 A of the Code of Virginia. The company applied surcharge points without first ascertaining that the insured was wholly or partially at fault.
- (4) 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.
 - a. In three instances, the company failed to apply the correct

surcharge points for accidents and/or convictions.

- b. In one instance, the company failed to use the correct driver classification factor.
- (5) The examiners found three violations of § 38.2-2204 of the Code of Virginia. The company issued a motor vehicle policy that did not provide coverage to the named insured or any other person using or responsible for the use of the motor vehicle as required by the statute.
- (6) The examiners found 25 violations of § 38.2-2234 A of the Code of Virginia.
- a. in 23 instances, the company failed to provide the Credit Score Disclosure notice at the time of application.
 - b. In one instance, the company failed to provide the insured with the basis for the adverse action.
 - c. In one instance, the company failed to provide the Credit Adverse Action notice.

Automobile Renewal Business Policies

The Bureau requested 45 renewal business policy files for review. The examiners reviewed all of these files. During this review, the examiners found overcharges totaling \$551.00 and no undercharges. The net amount that should be refunded to insureds is \$551.00 plus six percent (6%) simple interest.

- (1) The examiners found six violations of § 38.2-610 A of the Code of Virginia. The company failed to provide the insured with a written notice of an adverse underwriting decision (AUD).
- (2) The examiners found seven violations of § 38.2-1906 D of the Code of Virginia. The company failed to use the rules and/or rates on file with the Bureau.
 - a. In one instance, the company failed to apply the correct surcharge points for accidents and/or convictions.

- b. In three instances, the company failed to use the correct tier eligibility criteria.
 - c. In three instances, the company failed to use the correct driver classification factors.
- (3) The examiners found two violations of § 38.2-2204 of the Code of Virginia. The company issued a motor vehicle policy that did not provide coverage to the named insured or any other person using or responsible for the use of the motor vehicle as required by the statute.

TERMINATION REVIEW

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

Company-Initiated Cancellations - Automobile Policies

NOTICE MAILED PRIOR TO THE 60TH DAY OF COVERAGE

The Bureau requested 15 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. The examiners reviewed all of these files. As a result of this review, the examiners found overcharges totaling \$69.00 and no undercharges. The net amount that should be refunded to insureds is \$69.00 plus six (6%) simple interest.

- (1) The examiners found one violation of § 38.2-1906 D of the Code of Virginia. The company failed to use the rules and/or rates on file with the Bureau. The company failed to calculate the return premium correctly.
- (2) The examiners found 15 violations of § 38.2-2208 A of the Code of Virginia. The company failed to obtain valid proof of mailing the notice of cancellation to the

insured.

- (3) The examiners found one violation of § 38.2-2208 B of the Code of Virginia. The company failed to obtain valid proof of mailing the notice of cancellation to the lienholder.
- (4) The examiners found one occurrence where the company failed to comply with the policy provisions. The company failed to mail the cancellation notice to the name and address shown in the policy.

NOTICE MAILED AFTER THE 59TH DAY OF COVERAGE

The company did not have any cancellations in this category.

All Other Cancellations - Automobile Policies

NONPAYMENT OF PREMIUM

The Bureau requested 20 automobile cancellations that were initiated by the company for nonpayment of the policy premium. The examiners reviewed all of these files. As a result of this review, the examiners found overcharges totaling \$10.00 and no undercharges. The net amount that should be refunded to insureds is \$10.00 plus six (6%) simple interest.

- (1) The examiners found one violation of § 38.2-1906 D of the Code of Virginia. The company failed to use the rules and/or rates on file with the Bureau. The company failed to calculate the return premium correctly.
- (2) The examiners found one violation of § 38.2-2204 of the Code of Virginia. The company issued a motor vehicle policy that did not provide coverage to the named insured or any other person using or responsible for the use of the motor vehicle as required by the statute.
- (3) The examiners found 20 violations of § 38.2-2208 A of the Code of Virginia. The company failed to obtain valid proof of mailing the notice of cancellation to the

insured.

- (4) The examiners found six violations of § 38.2-2208 B of the Code of Virginia.
 - a. In one instance, the company failed to retain valid proof of mailing the cancellation notice to the insured.
 - b. In four instances, the company failed to obtain valid proof of mailing the notice of cancellation to the lienholder.
 - c. In one instance, the company failed to retain valid proof of mailing the notice of cancellation to the lienholder.
- (5) The examiners found one violation of § 38.2-2212 E of the Code of Virginia. The company failed to send the cancellation notice at least 15 days prior to the effective date of the cancellation.

REQUESTED BY THE INSURED

In addition, the Bureau requested 15 automobile cancellations that were initiated by the insured where the cancellation was to be effective during the policy term. The examiners reviewed all of these files. As a result of this review, the examiners found overcharges totaling \$30.00 and undercharges totaling \$5.00. The net amount that should be refunded to insureds is \$30.00 plus six (6%) simple interest.

- (1) The examiners found three violations of § 38.2-1906 D of the Code of Virginia. The company failed to use the rules and/or rates on file with the Bureau. The company failed to calculate the return premium correctly.
- (2) The examiners found one violation of § 38.2-2212 F of the Code of Virginia. The company failed to obtain the insured's written request to cancel his policy.
- (3) The examiners found four occurrences where the company failed to comply with the policy provisions. The company failed to obtain advance written request for cancellation from the insured.

Company-Initiated Nonrenewals - Automobile Policies

The Bureau requested 15 automobile nonrenewals that were initiated by the company. The examiners reviewed all of these files.

- (1) The examiners found 15 violations of § 38.2-2208 A of the Code of Virginia. The company failed to obtain valid proof of mailing the notice of non-renewal to the insured.
- (2) The examiners found six violations of § 38.2-2208 B of the Code of Virginia.
 - a.) In one instance, the company failed to retain valid proof of mailing the notice of non-renewal to the lienholder.
 - b.) In five instances, the company failed to obtain valid proof of mailing the notice of non-renewal to the lienholder.

CLAIMS REVIEW

Automobile Claims

The examiners reviewed 64 automobile claims for the period of April 1, 2010 through March 31, 2011. One file was a duplicate file and therefore not reviewed. The findings below appear to be contrary to the standards set forth by Virginia insurance statutes and regulations. As a result of this review, the examiners found overpayments totaling \$7,536.16 and underpayments totaling \$2,058.84. The net amount that should be paid to claimants is \$1,925.34 plus six percent (6%) simple interest.

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

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

- (2) The examiners found 24 violations of 14 VAC 5-400-40 A. The company

obscured or concealed from a first party claimant, directly or by omission, benefits, coverages, or other provisions of an insurance contract that were pertinent to the claim.

- a. In three instances, the company failed to accurately inform an insured of his physical damage deductible when the file indicated the deductible was applicable to the loss.
- b. In one instance, the company failed to accurately inform an insured of his Medical Expense Benefits coverage when the file indicated the coverage was applicable to the loss.
- c. In nine instances, the company failed to accurately inform an insured of his Transportation Expense coverage when the file indicated the coverage was applicable to the loss.
- d. In nine 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).
- e. In two instances, the company failed to accurately inform an insured of the applicable coverages when the file indicated the coverages were applicable to the loss.

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

- (3) The examiners found six violations of 14 VAC 5-400-50 C. The company failed to make an appropriate reply within 10 working days to pertinent communications from a claimant, or a claimant's authorized representative, that reasonably suggested a response was expected.

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

- (4) The examiners found one violation of 14 VAC 5-400-60 B. The company failed to notify the insured, in writing, every 45 days of the reason for the company's delay in completing the investigation of the claim.
- (5) The examiners found five violations of 14 VAC 5-400-70 A. The company failed to deny a claim or part of a claim, in writing, and/or failed to keep a copy of the written denial in the claim file.

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

- (6) The examiners found ten 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 four instances, the company failed to pay the claim in accordance with the policy provisions under the insured's Uninsured Motorist coverage.
 - b. In one instance, the company failed to reimburse the insured his portion of the collision deductible under the UMPD coverage.
 - c. In two instances, the company failed to pay the proper sales and use tax, title fee, and 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 Transportation Expense coverage.
 - d. In one instance, the company failed to pay the claim in accordance with the policy provisions under the insured's Other Than Collision (OTC) or

Collision coverage.

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

- (7) The examiners found five violations of 14 VAC 5-400-80 D. The company failed to provide the the insured a copy of the estimate for the cost of repairs prepared by or on behalf of the company.

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

- (8) 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. The company failed to provide accurate policy language when advising the insured of his duty to cooperate.
- (9) The examiners found 11 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.

- (10) The examiners found one violation of § 38.2-510 A 10 of the Code of Virginia. The company made a claim payment to the insured or beneficiary that was not accompanied by a statement setting forth the correct coverage(s) under which payment was made.
- (11) The examiners found one violation of § 38.2-2201 A of the Code of Virginia. The company failed to properly advise the insured of his right to receive payment under his Medical Expense Benefits coverage.

- (12) The examiners found three violations of § 38.2-2204 of the Code of Virginia. The company issued a motor vehicle policy that did not provide coverage to the named insured or any other person using or responsible for the use of the motor vehicle as required by the statute.
- (13) The examiners found eight occurrences where the company failed to comply with the provisions of the insurance contract.
- a. In seven instances, the company paid an insured or claimant more than he was entitled to receive under the terms of the policy.
 - b. In one instance, the company failed to properly pay an Uninsured Motorist claim.

Other Law Violations

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

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

REVIEW OF FORMS

The examiners reviewed the company's policy forms and endorsements used during the examination period and those that are currently used for 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 each line of business listed below, the Bureau requested copies from the company. In addition, the Bureau requested copies of new and renewal business policy mailings that the company was processing at the time of the

Examination Data Call. The details of these policies are set forth in the Review of the Policy Issuance Process section of the Report. The examiners then reviewed the forms used on these policies to verify the company's current practices.

Automobile Policy Forms

POLICY FORMS USED DURING THE EXAMINATION PERIOD

The company provided copies of 15 forms that were used during the examination period to provide coverage on policies insuring risks located in Virginia.

The examiners found no violations in this area.

POLICY FORMS CURRENTLY USED BY THE COMPANY

The examiners found no additional forms to review.

OTHER FORMS USED DURING THE EXAMINATION PERIOD

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

The company provided five new business policies mailed on the following dates: June 28 and 29, 2011 and July 5, 6, and 18, 2011. In addition, the company provided five renewal business policies mailed on the following dates: June 9, 17 and 20, 2011 and July 13 and 14, 2011.

NEW BUSINESS POLICIES

- (1) The examiners found five violations of § 38.2-305 A of the Code of Virginia. The company failed to provide the Important Information Regarding Your Insurance notice as required by the Code of Virginia.
- (2) 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 a copy of the new business application.
- (3) The examiners found five violations of § 38.2-2202 B of the Code of Virginia. The company failed to provide the insured the notice advising him of his right to reduce the limits of his uninsured motorist coverage.
- (4) The examiners found five violations of § 38.2-2234 A of the Code of Virginia. The company failed to provide the Credit Score Disclosure notice to an applicant or insured when using credit for rating, tier placement or underwriting a policy.

RENEWAL BUSINESS POLICIES

The examiners found one violation of § 38.2-2230 of the Code of Virginia. The company failed to offer in writing, to the insured, the option of purchasing rental reimbursement coverage at the time the company issued a motor vehicle policy that provided other than collision or collision coverage.

REVIEW OF STATUTORY NOTICES

To review the content of the statutory notices that the company is required to provide to insureds and used by the company for the lines examined, the examiners

used the same new business policy and renewal business policy mailings that were previously described. The details of these policies have been set forth previously in the report under the Forms Review Section. The examiners verified that the notices used by the company on all applications, on all policies issued on risks located in Virginia, and those special notices used for vehicle and property policies complied with the Code of Virginia.

General Statutory Notices

The examiners found one violation of § 38.2-604 C of the Code of Virginia. The company's short form Notice of Information Collection and Disclosure Practices did not contain all of the information required by this statute.

Statutory Vehicle Notices

- (1) The examiners found one violation of § 38.2-1905 B of the Code of Virginia. The Point Surcharge Notice did not advise the insured of the 60 day time limit to appeal an accident point surcharge.
- (2) The examiners found one violation of § 38.2-2202 B of the Code of Virginia. The offer of higher uninsured motorist limits notice was not in the precise language as required by the statute.
- (3) The examiners found one violation of 38.2-2210 A of the Code of Virginia. The application did not include the 60-day cancellation warning notice on or attached to the first page of the application.
- (4) The examiners found one violation of § 38.2-2230 of the Code of Virginia. The company failed to have available for use a written offer to purchase rental reimbursement coverage with a policy that provided other than collision or collision coverage.

- (5) The examiners found one violation of § 38.2-2234 A of the Code of Virginia. The company failed to include all of the information required by the statute in its Credit Score Disclosure notice.

Other Notices

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

The examiners found one violation of § 38.2-610 A of the Code of Virginia. The AUD notice in the company's termination notice did not include wording substantially similar to that of the prototype set forth in Administrative Letter 1981-16.

LICENSING AND APPOINTMENT REVIEW

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

Agency

The examiners found 18 violations of § 38.2-1812 of the Code of Virginia. The company paid commission to an agency that was not appointed by the company within 30 days of the insurance transaction.

Agent

- (1) The examiners found two violations of § 38.2-1822 A of the Code of Virginia. The company permitted an entity to act as an agent without first obtaining a license from the Commonwealth of Virginia.
- (2) The examiners found two violations of § 38.2-1833 of the Code of Virginia. The company paid commission to an agent that was not appointed by the company.

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. A review was made of this program to verify compliance with § 38.2-613.2 of the Code of Virginia.

The company provided its information security procedures.

PART TWO – CORRECTIVE ACTION PLAN

As stated in the Scope of the Examination, only those violations identified by the examiners as business practices of the company will be considered in the settlement offer. 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

Mendota Insurance Company shall:

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

Rating and Underwriting Review

Mendota 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) Provide the applicant for insurance a notice of the company's insurance information practices.
- (5) Provide the insured with a written notice of an adverse underwriting decision (AUD) when applicable.
- (6) Use the rules and rates on file with the Bureau. Particular attention should be focused on discounts and surcharges, accident and conviction surcharges, tier eligibility and driver classification.
- (7) Provide coverage to a named insured and any other permissive user who is responsible for the use of the motor vehicle.
- (8) Provide the Credit Score Disclosure notice as required by of the Code of Virginia.
- (9) Provide the insured with the Credit Adverse Action notice and/or the basis for the adverse action.

Termination Review

Mendota Insurance Company shall:

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

- (4) Calculate earned premium according to its filed rules and policy provisions.
- (5) Obtain valid proof of mailing the cancellation notice to the insured and lienholder.
- (6) Send the cancellation notice at least 15 days prior to the effective date of the cancellation for nonpayment of premium.

Claims Review

Mendota 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) Properly represent pertinent facts or insurance provisions relating to the coverage at issue.
- (6) Acknowledge correspondence that reasonably suggests a reply is expected from insureds and/or claimants within 10 business days.
- (7) Make all claim denials in writing and keep a copy in the claim file.
- (8) Negotiate prompt, fair and equitable settlements of claims in which liability is reasonably clear.

- (9) Provide copies of repair estimates prepared by or on behalf of the company to insureds.
- (10) Adopt and implement standards for prompt investigation of claims.

Review of Policy Issuance Process

Mendota Insurance Company shall:

- (1) Provide the Important Information Regarding Your Insurance notice as required by the Code of Virginia.
- (2) Provide the insured with the notice of his right to reduce the limits of his uninsured motorist coverage in compliance with the Code of Virginia.
- (3) Provide the Credit Score Disclosure notice to an applicant or insured when using credit for rating, tier placement or underwriting a policy.

Review of Statutory Notices

Mendota Insurance Company shall:

- (1) Amend the Notice of Information Collection and Disclosure Practices to comply with the Code of Virginia
- (2) Amend the Accident Point Surcharge notice to comply with the Code of Virginia.
- (3) Amend the Rejection of Uninsured Motorists notice to comply with the Code of Virginia.
- (4) Provide the 60-day cancellation warning notice on or attached to the first page of the application to comply with the Code of Virginia.
- (5) Develop a Rental Reimbursement notice that complies with the Code of Virginia.
- (6) Amend the Credit Score Disclosure notice to comply with the Code of Virginia.
- (7) Amend the AUD notice within the termination notice to be substantially similar to the prototype set forth in Administrative Letter 1981-16.

Licensing and Appointment Review

Mendota Insurance Company shall:

- (1) Accept business only from agents who are licensed in the Commonwealth of Virginia.
- (2) Appoint agents 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:

RECOMMENDATIONS

We recommend that the company take the following actions:

Rating and Underwriting

- The company should revise and re-file with the Bureau's Rules, Rates and Forms Section, Rule 5, Rule 7 C, 7 D and Rule 12.
- The company should delete Rule 6 and file the change with the Bureau's Rules, Rates and Forms Section.
- The company should accurately communicate with agents regarding coverage for permissive users.

Termination

- The company should correct its declarations pages to show SR-22 and SR-44 fees as fees and not taxes.
- The company should correct the company name on the proof of mailing records.
- The company should cease advising insureds of the right to a review by the Commissioner of Insurance on policies terminated within the first 60 days of coverage, as this is misleading to the insureds.

Policy Issuance Process

- The company should list only endorsements on the declaration page. Notices should not be listed.
- The company should amend the term "Medical Payments" to "Medical Expense Benefits" coverage on its "Your Personal Auto Policy Quick Reference" document.

Statutory Notices

- The company should add the Bureau's TDD number and correct the zip code on its Important Information Regarding Your Insurance notice.

SUMMARY OF PREVIOUS EXAMINATION FINDINGS

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

ACKNOWLEDGEMENT

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

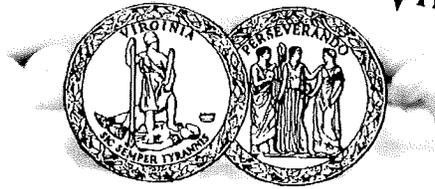
Sincerely,

A handwritten signature in black ink, appearing to read "Karen S. Gerber". The signature is written in a cursive style with a large, prominent "K" and "G".

Karen S. Gerber
Senior Insurance Market Examiner

COMMONWEALTH OF VIRGINIA

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



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www.scc.virginia.gov/boi

March 9, 2012

VIA UPS 2nd DAY DELIVERY

Mr. Michael Callahan
Mendota Insurance Company
2805 Dodd Road, Suite 300
Eagan, MN 55121

Re: Market Conduct Examination
Mendota Insurance Company (NAIC # 33650)
Examination Period: April 1, 2010 through March 31, 2011

Dear Mr. Callahan:

The Bureau of Insurance (Bureau) has conducted a market conduct examination of the above referenced company for the period of April 1, 2010, through March 31, 2011. The preliminary examination report (Report) has been drafted for the company's review.

Enclosed with this letter is a copy of the preliminary examination report and copies of review sheets that have been withdrawn or revised since January 18, 2012. Also enclosed are several reports that will provide you with the specific file references for the violations listed in the report.

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

Secondly, the company should provide a corrective action plan that addresses all of the issues identified in the examination. In some cases, the issues that should be addressed in the plan may be broader than those that are in Part Two of the Report.

Thirdly, if the company has comments it wishes to make regarding Part Three of the Report, please use the same headings 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.

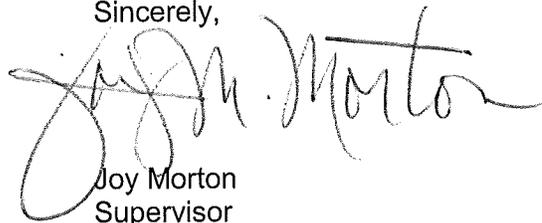
Finally, we have enclosed an Excel file that the company must complete and return to the Bureau with the company's response. This file lists the review items for which the examiners identified overcharges (rating and terminations) and underpayments (claims).

The companies' response and the spreadsheet mentioned above must be returned to the Bureau by April 16, 2012.

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

We look forward to your reply by April 16, 2012.

Sincerely,

A handwritten signature in cursive script, appearing to read "Joy Morton". The signature is written in black ink and is positioned above the typed name and title.

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



Michael J. Callahan

Product Manager
Mendota Specialty Auto

(860) 873-8770
(860) 343-3609 (Cell)
E-mail: mcallahan@mendota-insurance.com

April 16, 2012

Joy Morton
Supervisor
Market Conduct Section
Property and Casualty Division
Bureau of Insurance
Commonwealth of Virginia
P.O. Box 1157
Richmond, VA 23218

STATE CORP COMMISSION
BUREAU OF INSURANCE
12 APR 17 AM 10:59

Re:
Market Conduct Examination
Mendota Insurance Company (NAIC # 33650)
Examination Period: April 1, 2010 through March 31, 2011

Dear Ms.Morton:

This letter responds to your preliminary report dated March 9, 2012 as outlined in your letter. We are offering additional comments relative to the examiners' observations in Part One as well as responses to Parts Two and Three and a completed Excel file.

PART ONE- THE EXAMINERS' OBSERVATIONS

Automobile New Business Policies

The Bureau requested 30 new business policies for review. The examiners reviewed 23 of these files. Seven files were renewal business and were not reviewed. During this review, the examiners found overcharges totaling \$211.00 and undercharges totaling \$24.00. The net amount that should be refunded to insureds is \$211.00 plus six percent (6%) simple interest.

(1) The examiners found nine violations of § 38.2-604 A of the Code of Virginia. The company failed to provide the applicant for insurance a notice of the company's insurance information practices.

Response: Mendota disagrees with this violation. Mendota fully discloses our insurance information practices to all applicants. As the cited statute, §38.2-604 A-1, allows, we are providing our notice before the collection of personal information from the applicant or public records. Our Company website home page has a link to our Privacy Policy for all applicants to view without the need to log in as an agent. In addition, the agent must first confirm our Privacy Notification with the applicant, which clearly states we will be ordering reports that contain personal information and are based on credit history. The applicant must agree to this before they can proceed with a quote. Furthermore, when a policy is issued, we provide a copy of the Privacy Notice, PL-11306 Rev 5-2010. Please see Exhibit I for screenshots of

Mendota's website. As a result of this exam, we will be clarifying the language on our quote screen to comply with all statutory regulations.

(2) 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 a copy of the new business application.

Response: This was not a violation of our company. We require our agents to retain all applications, as communicated in our Underwriting Guidelines. Please see Exhibit II for the referenced rule, Documentation Retention and Audit Requirements, from page 3-4 of Virginia's Agent Guidelines in effect at the time of this application.

(4) 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.

a. In three instances, the company failed to apply the correct surcharge points for accidents and/or convictions.

b. In one instance, the company failed to use the correct driver classification.

Response:

a. We disagree on one instance. Review sheet # 152551008 for policy RPA019 cites a violation of §38.2-1906 D, which applies to using only rates that are in effect. We did use the rates on file with the BOI. When an agent adds an at-fault accident, that information is coming from the named insured. The agent reviews the application with the insured. The agent added a minor violation and an at fault accident. This is proof that the insured was advised of an at-fault accident. We then correctly applied 5 points on this policy. We will reiterate our document retention policy to our agents to ensure a similar situation of an agent keeping an incomplete copy of the application does not occur again.

b. In no instance did Mendota use the incorrect driver class. This violation was withdrawn 11/16/11 by Andrea Baytop. We do, however, need to correct our driver *assignment* rule to better represent how drivers are assigned to vehicles as this did cause a different result in the assignment of drivers to vehicles.

(5) The examiners found three violations of § 38.2-2204 of the Code of Virginia. The company issued a motor vehicle policy that did not provide coverage to the named insured or any other person using or responsible for the use of the motor vehicle as required by the statute.

Response: Mendota provides coverage for everyone listed on the declaration page and permissive users. The Excluded Driver column on the declaration page is an indication

of whether the driver is excluded from rating and is “list only.” In no circumstance would the listed driver be excluded from coverage, even by an I.A. Please see Exhibit III as reference. This shows our filed rule which states that named driver exclusion is unavailable but drivers can be excluded from the rating criteria in specific circumstances. An I.A. would have access to these rules. As recommended, we will be modifying our declaration page to strike the word excluded and replace with list only.

(6) The examiners found 27 violations of § 38.2 -2234 A of the Code of Virginia.

- a. In 23 instances, the company failed to apply the Credit Score Disclosure notice at the time of the application.
- b. In one instance, the company failed to provide the insured with the basis for the adverse action.
- c. In three instances, the company failed to provide the Credit Adverse Action notice.

Response:

- b. **Credit Adverse Action reason – Due to the limitations of our system, we cannot regenerate this form despite many efforts, but the form was sent to the insured at the time of renewal. Exhibit IV contains the screenshots from SIS of the policy information, which lists the Credit Adverse Action form (PL-11806D) as being attached to the policy, which coincides with the forms listed on the dec page. Given that the form is listed as being attached to the policy, which indicates the form was sent, we did not violate this statute. It is only a system issue that we cannot provide an actual copy.**
- c. **Credit Adverse Action notice.**
 - i. **The policy referenced in Review Sheet 2077593489, PA [REDACTED], was a rewrite of Policy PA20 [REDACTED]. Please see the attached Exhibit V, which includes the Dec page of the rewrite policy, the Dec page of the original policy, the forms in SIS associated with the original policy and the Credit Adverse Action notice provided with the original policy. The credit information does not change when a policy is rewritten so a new Credit Adverse Action notice does not need to be printed. Also note that the Credit Adverse Action form number, PL-11806E, is listed on the declaration page for the rewritten policy.**
 - ii. **The policy referenced in Review Sheet 1965241912, PA [REDACTED] came to our company as 1A. At renewal, they became a 1D, and PL11806A was added to the policy and provided to the insured. Due to the limitations of our system and the complexity of this policy, we cannot regenerate this form, but the form was sent to the insured at the time of renewal. Exhibit VI contains screen shots from SIS of the policy information, which lists this Credit Adverse Action form**

as being attached to the policy, which coincides with the forms listed on the dec page. Given that the form is listed as being attached to the policy, which indicates the form was sent, we did not violate the statute. It is only a system issue that we cannot provide an actual copy.

Automobile Renewal Business Policies

The Bureau requested 45 renewal business policy files for review. The examiners reviewed all of these files. During this review, the examiners found overcharges totaling \$645.00 and no undercharges. The net amount that should be refunded to insureds is \$645.00 plus six percent (6%) simple interest.

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

- a. In one instance, the company failed to use the correct discounts and/or surcharges.
- b. In two instances, the company failed to apply the correct surcharge points for accidents and/or convictions.
- c. In three instances, the company failed to use the correct tier eligibility criteria.
- d. In three instances, the company failed to use the correct driver classification factors.

Response:

Use of filed rates and rules.

- a. We had not received the review sheet cited in this violation for RPA066 (Policy [REDACTED]). Please see the attached Exhibit VII, which includes the response for this review sheet and the calculations in support. This policy was not qualified for rate capping because if all policy characteristics had remained the same at renewal, the premium would have been a \$1 increase, well under the rate capping threshold of 10%. The renewal offer, which includes this "equal" policy premium, demonstrates this. The policy characteristics, however, did change at renewal as the insured went from paid in full to a payment installment plan. This caused the paid in full discount to be removed, and consequently increased the premium over 10%.
- b. Previously we had not received Review Sheet 321072273 for policy RPA065 (Policy [REDACTED]). Exhibit VIII contains our response to this review sheet, which includes the MVR that shows the violation and associated conviction date.

(3) The examiners found two violations of § 38.2-2204 of the Code of Virginia. The company issued a motor vehicle policy that did not provide coverage to any person using the insured vehicle with the permission of the insured.

Response:

Mendota provides coverage for everyone listed on the declaration page and permissive users. The Excluded Driver column on the declaration page is an indication of whether the driver is excluded from rating and is “list only. In no circumstance would the listed driver be excluded from coverage, even by an IA. Please see Exhibit III as reference. This shows our filed rule which states that named driver exclusion is unavailable but drivers can be excluded from the rating criteria in specific circumstances. As recommended, we will be modifying our declaration page to strike the word excluded and replace with list only.

Claims Review

Automobile Claims

The examiners reviewed 64 automobile claims for the period of April 1, 2010 through March 31, 2011. One file was a duplicate file and therefore not reviewed. The findings below appear to be contrary to the standards set forth by Virginia insurance statutes and regulations. As a result of this review, the examiners found overpayments and underpayments which are outlined on the attached spreadsheet.

Mendota’s claim organization has gone through significant change beginning with the second quarter in 2011 into early 2012. Mendota hired a consulting firm to review the claims organization and their processes. As a result of this review, there were a number of changes made within the claim organization. There was a change in senior leadership and a complete restructuring of the claim organization along with the implementation of several key initiatives to improve claims handling. We have experienced significant voluntary and involuntary turnover with 25% of the staff changing since March 2011. Mendota has also invested in a training and development culture which has contributed to an increase in claims handling quality. A new Quality Assurance Audit (QA) program was implemented in July designed to provide more focus on improving file quality. We have taken action on addressing the issues noted in the report. On November 1, 2011, we conducted a market conduct review and incorporated training with the leadership team to discuss the early findings of the exam and specifically how to take corrective action going forward. The attached summary provides the details regarding the meeting. We have scheduled a training session on April 18, 2012 with all employees handling Virginia claims to discuss the examiner’s findings and the execution of the corrective action plan.

We are committed to completing Virginia Regulations training annually and this includes providing all employees with a reference document to use when handling Virginia claims.

We have paid all underpayments totaling \$2040.86 including 6% interest and this documentation is on the attached spreadsheet.

1. The examiners found nine violations of 14 VAC 5-400-30. The company failed to document the claim file sufficiently to reconstruct events and/or dates that were pertinent to the claim. These findings occurred with such frequency as to indicate a general business practice.

Response: In July 2011, we conducted documentation training for all claims employees to set clear expectations for claim file documentation. We have also included an element of documentation in several other training sessions in 2011. A claim review template was implemented for the claim file notes and this requirement ensures we have outlined and documented all file issues and an appropriate action plan. All new hires that joined the organization in late 2011 and early 2012 attended a four week training program that included documentation training. A new quality assurance program was implemented in July 2011 that focused on managers reviewing files at seven days and thirty days after report and one of the primary elements in the manager's review is documentation.

2. The examiners found 24 violations of 14 VAC 5-400-40 A. The company obscured or concealed from a first party claimant, directly or by omission, benefits, coverages, or other provisions of an insurance contract that were pertinent to the claim.
 - a. In three instances, the company failed to accurately inform an insured of his physical damage deductible when the file indicated the deductible was applicable to the loss.
 - b. In one instance, the company failed to accurately inform an insured of his Medical Expense Benefits coverage when the file indicated the coverage was applicable to the loss.
 - c. In nine instances, the company failed to accurately inform an insured of his Transportation Expense coverage when the file indicated the coverage was applicable to the loss.
 - d. In nine 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).
 - e. In two instances, the company failed to accurately inform an insured of the applicable coverages when the file indicated the coverages were applicable to the loss.

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

Response: All claims employees attended a policy training session on February 16, 2012. The intent of the training was to provide information regarding coverages and the interpretation of the policy. The claim file template outlined in Response #1 has a coverage component for documenting coverages, claim issues, and customer discussions in the claim notes. Coverage was also discussed in our November 1, 2011 training session with managers. The quality assurance process implemented in July 2011 involves the manager reviewing a claim at seven days after report and thirty days after report to assess the claim reps documentation and review of coverages along with the disclosure of coverages with the insured.

3. The examiners found six violations of 14 VAC 5-400-50 C. The company failed to make an appropriate reply within 10 days to pertinent communications from a claimant, or a claimant's authorized representative, that reasonably suggested a response was expected. These findings occurred with such frequency as to indicate a general business practice.

Response: We have decreased claims inventories for all claim representatives to make workloads more manageable. This has minimized file handling delays including delayed contacts. We have also added processor support roles to every team to help provide more time for the reps to handle the files and make contacts with customers. The staffing changes previously noted have upgraded the experience and talent within the organization.

4. The examiners found one violation of 14 VAC 5-400-60 B. The company failed to notify the insured, in writing, every 45 days of the reason for the company's delay in completing the investigation of the claim.

Response: We have set expectations with the claim representatives that all claim files will be reviewed every thirty days and updates provided to customers for ongoing investigations.

5. The examiners found five violations of 14 VAC 5-400-70 A. The company failed to deny a claim or part of a claim, in writing, and/or failed to keep a copy of the written denial in the claim file. These findings occurred with such frequency as to indicate a general business practice.

Response: Any type of denial is reviewed by management and the claim representative documents the denial in the claim notes. Denial letters are reviewed by the Director and feedback provided to the claim representative as appropriate. Expectations have been set to have a copy of all denial letters in the file.

6. The examiners found ten 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 four instances, the company failed to pay the claim in accordance with the policy provisions under the insured's Uninsured Motorist coverage.
- b. In one instance, the company failed to reimburse the insured his portion of the collision deductible under the UMPD coverage.
- c. In two instances, the company failed to pay the proper sales and use tax, title fee, and license fee on first party total loss settlements.
- d. In one instance, the company failed to pay the claim in accordance with the policy provisions under the insured's Other Than Collision (OTC) or Collision coverage.

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

Response: These findings were discussed in the November 1, 2011 training session with the managers and we are revisiting this during the Virginia specific training session on April 18, 2012. All claims employees attended a policy training session on February 16, 2012. The intent of the training was to provide information regarding coverages and the interpretation of the policy.

7. The examiners found five violations of 14 VAC 5-400-80 D. The company failed to provide the insured a copy of the estimate for the cost of repairs prepared by or on behalf of the company. These findings occurred with such frequency as to indicate a general business practice.

Response: This issue was addressed in the November 1, 2011 training session.

8. 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 related to coverages at issue. The company failed to provide accurate policy language when advising the insured of his duty to cooperate.

Response: All claims employees attended the February 16, 2012 policy training session.

9. The examiners found 11 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.

Response: We have reduced workload, increased staffing, provided ongoing training, and provided support resources for the claims teams. The quality assurance program addresses this issue during the seven and thirty day assessments.

10. The examiners found one violation of 38.2-510 A 10 of the Code of Virginia. The company made a claim payment to the insured or beneficiary that was not accompanied by a statement setting forth the correct coverage(s) under which payment was made.

Response: This issue was addressed in the November 1, 2011 VA training session.

11. The examiners found one violation of 38.2-2201 A of the Code of Virginia. The company failed to properly advise the insured of his right to receive payment under his Medical Expense Benefits coverage.

Response: All claims employees attended a policy training session on February 16, 2012. The intent of the training was to provide information regarding coverages and the interpretation of the policy. The claim file template outlined in Response #1 has a coverage component for documenting coverages, claim issues, and customer discussions in the claim notes. Coverage was also discussed in our November 1, 2011 training session with managers. The quality assurance process implemented in July 2011 involves the manager reviewing a claim at seven days after report and thirty days after report to assess the claim reps documentation and review of coverages along with the disclosure of coverages with the insured.

12. The examiners found three violations of 38.2-2204 of the Code of Virginia. The company issued a motor vehicle policy that did not provide coverage to any person using the insured vehicle with the permission of the insured.

Response: This issue will be addressed in the April 18, 2012 training session.

13. The examiners found eight occurrences where the company failed to comply with the provisions of the insurance contract.
- a. In seven instances, the company paid an insured or claimant more than he was entitled to receive under the terms of the policy.
 - b. In one instance, the company failed to properly pay an Uninsured Motorist claim.

Response: This issue will be addressed in the April 18, 2012 training session.

Other Law Violations

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

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

Response: This was discussed with claims leadership during our November 1, 2011 training session to ensure understanding of what forms and correspondence require the fraud language.

PART TWO – CORRECTIVE ACTION PLAN

General

Mendota Insurance Company shall:

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

Company Response

The company agrees to initiate the following corrective actions in response to the findings identified in this Report.

1. **Completed and returned overcharges/credits identified in the Mendota Reconciliation file as noted for Rating and Underwriting, Terminations and Claims per the attached.**
2. **Amend the manual rules, Declarations Page, Policy Index and statutory notices as requested or recommended.**
3. **Update internal Claims procedures and establish best practices surrounding claims handling activities.**
4. **Update internal Policy Processing and Termination procedures to ensure proper documentation and procedures are in place for proper notification, timing and documentation.**
5. **Update internal Licensing and Appointment procedures to ensure proper licensing and appointment of agents and agencies.**

Several of the recommendations or responses require modification to internal systems programs and policy output. Mendota has a monthly systems version process and we have initiated appropriate systems changes to affect changes to the Dec Pages, statutory notices, and proof of mailing, etc. We expect to complete all modifications requiring programming resources over the next 90-120 days by September 1, 2012. Many of the procedural, training, best practices and documentation actions are completed as noted in the various responses.

Rating and Underwriting Review

Mendota 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 returned or credited the overcharges listed in the file.
- (4) Provide the applicant for insurance a notice of the company's insurance information practices.
- (5) Provide the insured with a written notice of an adverse underwriting decision (AUD) when applicable.
- (6) Use the rules and rates on file with the Bureau. Particular attention should be focused on discounts and surcharges, accidents and conviction surcharges, tier eligibility and driver classification.
- (7) Provide coverage to a named insured and any other permissive user who is responsible for the use of the motor vehicle.
- (8) Provide the Credit Score Disclosure notice as required by the Code of Virginia.
- (9) Provide the insured with the Credit Adverse Action notice and/or the basis for the adverse action.

Company Response

1. **Mendota has refunded all overcharges and/or credited the insured's account for the amount overcharged where we do not dispute the charge.**
2. **Mendota has included a 6% simple interest in the amount refunded or credited to the insured's account.**
3. **The completed "Rating Overcharges Cited During the Examination" is attached.**
4. **Mendota will improve the quote screen to clearly specify our information practices. We will disclose all information gathered from the applicant, public records and third party reports to comply with all statutes. We will disclose all sources of this information and exactly how we use it.**
5. **Mendota will provide the insured with a written notice of an adverse underwriting decision at all appropriate times.**
6. **Manual Rules and Rates**
 - a. **Rule 5 will be revised to clarify the market /point, age/point and market/age factors use the driver class of the driver assigned according to rule 7C and the points of the customary driver as assigned during the application process.**
 - b. **Accident Handling**

- (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 returned or credited the overcharges listed in the file.
- (4) Calculate earned premium according to its filed rules and policy provisions.
- (5) Provide coverage to all eligible drivers in the household as well as permissive users.
- (6) Obtain valid proof of mailing the cancellation notice to the insured and lienholder.
- (7) Send the cancellation notice at least 15 days prior to the effective date of the cancellation for nonpayment of premium.

Company Response

- 1. Mendota has refunded all overcharges and/or credited the insured's account for the amount overcharged as noted.**
- 2. Mendota has included a 6% simple interest in the amount refunded or credited to the insured's account.**
- 3. The completed "Termination Overcharges Cited During the Examination" is attached.**
- 4. Earned premium has been calculated according to filed rules and policy revisions.**
- 5. Coverage is provided to eligible household drivers and permissive users.**
- 6. Valid proof of mailing is maintained as of October 1, 2011.**
- 7. All cancellation notices are mailed at least 15 days prior to the effective day of the cancellation for nonpayment of premium.**

Claims Review

Mendota Insurance Company shall:

- (1) Correct the errors that caused the overcharges and undercharges and send the amount of the underpayments to insureds and claimants.
- (2) Include six percent (6%) simple interest in the amount paid to 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 claims files so that all events and dates pertinent to the claim can be reconstructed.
- (5) Properly represent pertinent facts or insurance provisions relating to the coverage at issue.
- (6) Acknowledge correspondence that reasonably suggests a reply is expected from insureds and claimants within 10 business days.
- (7) Make all claim denials in writing and keep a copy in the claim file.
- (8) Negotiate prompt, fair and equitable settlements of claims in which liability is reasonably clear.
- (9) Provide copies of repair estimates prepared by or on behalf of the company to insureds.
- (10) Adopt and implement standards for prompt investigation of claims.

Company Response

- 1. Mendota has corrected the errors and refunded the amount of underpayments to the insureds and claimants.**
- 2. Mendota has included a 6% simple interest in the amount paid to the insureds and claimants.**
- 3. The completed "Claims Underpayments Cited During the Examination" is attached.**
- 4. – 10. Per earlier responses noted under Part One – Observations 1-6, proper training sessions have been held to follow best practices to ensure proper documentation, training, coverage handling and quality assurance.**

Review of Policy Issuance Process

Mendota Insurance Company shall:

- (1) Provide the Important Information Regarding Your Insurance notice as required by the Code of Virginia.
- (2) Provide the insured with the notice of his right to reduce the limits of his uninsured motorists coverage in compliance with the Code of Virginia.

- (3) Provide the Credit Score Disclosure notice to an applicant or insured when using credit for rating, tier placement or underwriting a policy

Company Response

1. **Mendota will provide the Important Information Regarding Your Insurance notice as required by the Virginia statutes.**
2. **Mendota has initiated a change to include the reduction of uninsured motorists notice with all premium notices.**
3. **The Credit Score Disclosure notice similar to the ACORD 38 VA form will be provided.**

Review of Statutory Notices

Mendota Insurance Company shall:

- (1) Amend the Notice of Information Collection and Disclosure Practices to comply with the Code of Virginia.
- (2) Amend the Adverse Underwriting Decisions (AUD) notice within the termination notice to be substantially similar to the prototype notice set forth in Administrative Letter 1981-16.
- (3) Amend the Accident Point Surcharge notice to comply with the Code of Virginia.
- (4) Amend the Rejection of Uninsured Motorists notice to comply with the Code of Virginia.
- (5) Provide the 60-day cancellation warning notice on or attached to the first page of the application to comply with the Code of Virginia.
- (6) Develop a Rental Reimbursement notice that complies with the Code of Virginia.
- (7) Amend the Credit Score Disclosure notice to comply with the Code of Virginia.

Company Response

1. **The short form of the Notice of Information Collection and Disclosure Practices is adjusted to comply with § 38.2-604 C.**

2. We have amended the Adverse Underwriting Decisions (AUD) notice within the termination notice to follow the prototype as set forth in Administrative Letter 1981 -16.
3. We have amended the Premium Increase notice to comply with § 38.1905A.
4. Mendota will add a notice for UM to the existing Important Notice for Medical Expense Benefits which is sent with all billing notices in Virginia to comply with §38.2-2202B.
5. The application was updated as of the 3rd Quarter 2011 to include language required by §38.2-2210A.
6. Mendota will amend our new business and renewal procedures to offer the named insured the option of purchasing rental reimbursement coverage to comply with §38.2-2230.
7. The Credit Score Disclosure notice is amended to include the ACORD 38 VA form disclosure wording to comply with the Code of Virginia.

Licensing and Appointment Review

Mendota Insurance Company shall:

- (1) Accept business only from agents who are licensed in the Commonwealth of Virginia.
- (2) Appoint agents within 30 days of the application.

Company Response

1. Mendota will accept business only from agents licensed in Virginia. Mendota has appointed all agents who were not properly appointed.
2. All agent appointments will be made within 30 days of application.

PART THREE – RECOMMENDATIONS

Rating and Underwriting

- The company should revise and re-file with the Bureau's Rules, Rates and Forms Section, Rule 5, Rule 7C, 7D and Rule 12.

- The company should delete Rule 6 and file the change with the Bureau's Rules, Rates and Forms Section.
- The company should accurately communicate with agents regarding coverage for permissive users.

Company Response

- 1. The suggested modifications to the rules will be filed within 30 days of receiving the final report.**
- 2. The company will modify the declarations page to eliminate "Excluded Driver" and communicate this to all agents.**

Termination

- The company should correct its declarations pages to show SR-22 and SR-44 fees as fees and not taxes.
- The company should correct the company name on the proof of mailing records.
- The company should cease advising insureds of the right to a review by the Commissioner of Insurance on policies terminated within the first 60 days of coverage, as this is misleading to the insureds.

Company Response

- 1. The SR22 charge does display as a fee on the declaration page of the insured's policy.**
- 2. Mendota is working with the print vendor to correct the company name on the proof of mailing records. The correction will be complete within 30 days.**
- 3. Mendota will delete the right to review language on policies terminated within the first sixty days of coverage.**

Policy Issuance Process

- The company should list only endorsements on the declarations page. Notices should not be listed.

- The company should amend the term "Medical Payments" to "Medical Expense Benefits" coverage on its "Your Personal Auto Policy Quick Reference" document.

Company Response

We will amend our Declarations Page for Virginia to list only endorsements. Notices will be listed separately elsewhere on the Dec Page.

The "Your Personal Auto Policy Quick Reference" document is revised to amend the term "Medical Payments" to "Medical Expense Benefits" coverage.

Statutory Notices

- The company should add the Bureau's TDD number and correct the zip code on its Important Information Regarding Your Insurance notice.

Company Response

We have added the Bureau's TDD phone number, corrected the Zip Code and corrected the out-of-state phone number on the Important Notice as recommended.

Thank you for the opportunity to respond to your concerns. We are committed to improving our operations and procedures in the Commonwealth of Virginia as it is an important market for our company.

Sincerely,



Michael Callahan

cc: Michael Livermore, VP Claims
Corinne Pawlenty, VP Operations
Jeffrey Shaw, VP Product
Sharon Mason, Underwriting Manager
Paula Mesa, Product Manager

COMMONWEALTH OF VIRGINIA

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



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www.scc.virginia.gov/boi

May 31, 2012

VIA UPS 2ND DAY DELIVERY

Mr. Michael Callahan
Mendota Insurance Company
2805 Dodd Road, Suite 300
Eagan, MN 55121

Re: Market Conduct Examination
Mendota Insurance Company (NAIC # 33650)
Examination Period: April 1, 2010 through March 31, 2011

Dear Mr. Callahan:

The Bureau of Insurance (Bureau) has reviewed the Mendota Insurance Company's (Company) April 16, 2012 response to the Revised Market Conduct Report (Report) of the above referenced Company. The Bureau has referenced only those items in which the Company has disagreed with the Bureau's findings, or items that have changed in the Report. This response follows the format of the Report

PART ONE – EXAMINERS' OBSERVATIONS

Automobile New Business Policies

- (1) This item remains in the Report. The notice in Exhibit I is the Credit Disclosure Notice, not the Insurance Information Collection and Disclosure Notice. The Insurance Information Collection and Disclosure Notice should advise the insured who the information is collected from and disclosed to.
- (2) This item remains in the Report. When the Agent is appointed by the Company the Agent becomes the representative of the Company; as such, the violation is a violation of the Company.
- (4a.) The violation for RPA 019 remains in the Report. The Company is not unable to provide documentation that this information was provided by the insured nor is there evidence of an at fault accident, as such, there is no justification for the surcharge.
- (4b.) There were originally two violations on the one review sheet for RPA002. The examiner withdrew one of the violations leaving one active violation. This violation remains in the Report.

- (6b.) Because the company is unable to provide the notice it is not possible to confirm the insured was informed of the basis for the adverse action. The violation for RPA004 remains in the Report.
- (6c.) After further review the violations for RPA001 and RPA010 have been withdrawn as the Adverse Action Notice form number is shown on the declarations pages of these policies. The violation for RPA009 remains in the Report as the form number was not shown on this declaration page and there is no evidence the Adverse Action Notice was sent to the insured at the time the new business policy was issued.

Automobile Renewal Business Policies

- (2a.) After further review the violation for RPA066 has been withdrawn from the Report.
- (2b.) After further review, the violation for RPA065 has been withdrawn from the Report.

PART TWO CORRECTIVE ACTION PLAN

Rating and Underwriting

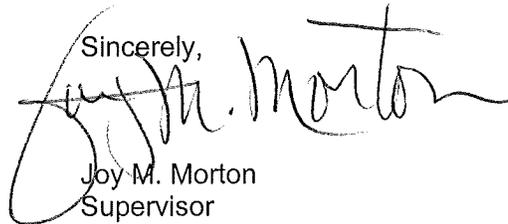
- (1) The Company should make restitution for RPA019.

Terminations – Company Initiated Cancellations

- (1) The violation for TPA003 remains in the Report. The Company billed the insured through May 21, 2010 but coverage ended on May 5, 2010 according to the cancellation notice. The difference between premium owed versus the amount billed is \$69.99. The company should correct its records to reflect the accurate balance due of \$111.36.

Enclosed with this letter is a revised version of the Report, technical reports, the Restitution spreadsheets, and any review sheets withdrawn, added or altered as a result of this review. The Company's response to this letter is due in the Bureau's office by June 18, 2012.

Sincerely,



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



Michael J. Callahan

Product Manager
Mendota Specialty Auto

(860) 873-8770
(860) 343-3609 (Cell)
E-mail: mcallahan@mendota-insurance.com

June 18, 2012

Joy Morton
Supervisor
Market Conduct Section
Property and Casualty Division
Bureau of Insurance
Commonwealth of Virginia
P.O. Box 1157
Richmond, VA 23218

Re:
Market Conduct Examination
Mendota Insurance Company (NAIC # 33650)
Examination Period: April 1, 2010 through March 31, 2011

Dear Ms.Morton:

This letter responds to your response dated May 31, 2012 as requested.

We are offering the following comments relative to your additional observations in Part One on Automobile New Business Policies and Automobile Renewal Policies as well as comments to Parts Two concerning Rating and Underwriting and Terminations – Company Initiated Cancellations.

Also enclosed is an updated Excel file.

PART ONE– THE EXAMINERS' OBSERVATIONS

Automobile New Business Policies

(1) This item remains in the Report. The notice in Exhibit I is the Credit Disclosure Notice, not the Insurance Information Collection and Disclosure Notice. The Insurance Information Collection and Disclosure Notice should advise the insured who the information is collected from and disclosed to.

(2) This item remains in the Report. When the Agent is appointed by the Company the Agent becomes the representative of the Company; as such, the violation is a violation of the company.

STATE CORP. COMMISSION
PROPERTY & CASUALTY
DIVISION
JUN 19 2012

(4a) The violation for RPA 019 remains in the Report. The Company is not unable to provide documentation that this information was provided by the insured nor is there evidence of an at fault accident, as such, there is no justification for the surcharge.

(4b) There were originally two violations on the one review sheet for RPA002. The examiner withdrew one of the violations leaving one active violation. This violation remains in the Report.

(6b.) Because the company is unable to provide the notice it is not possible to confirm the insured was informed on the basis for the adverse action. The violation for RPA004 remains in the Report.

(6c.) After further review the violations for RPA001 and RPA010 have been withdrawn as the Adverse Action Notice form number is shown on the declarations pages of these policies. The violation for RPA009 remains in the Report as the form number was not shown on this declarations page and there is no evidence the Adverse Action Notice was sent to the insured at the time the new business policy was issued.

Automobile Renewal Business Policies

(2a.) After further review the violation for RPA066 has been withdrawn from the Report.

(2b.) After further review the violation for RPA065 has been withdrawn from the Report.

Collective Response for Automobile New Business Policies and Automobile Renewal Business Policies

We accept all of the violations that were not withdrawn and have no further disagreements.

PART TWO – CORRECTIVE ACTION PLAN

Rating and Underwriting Review

(1.) The Company should make restitution for RPA019.

Response:

Restitution was made for RPA019 on 6/14/2012 under check # 0001705454.

Termination - Company Initiated Cancellations

(1.) The violation for TPA 003 remains in the Report. The Company billed the insured through May 21, 2010 but coverage ended on May 5, 2010 according to the cancellation notice. The difference between premium owed versus the amount billed is \$69.99. The company should correct its records to reflect the accurate balance due of \$111.36.

Response:

Upon further review we realize the information we provided you was not complete. The cancellation notice in question was voided by a reinstatement notice and a subsequent cancellation notice for non-payment of premium was issued with the cancellation date of 5/21/10. The amount of premium due of \$111.36 is accurate with the 5/21/10 cancellation date. We apologize for the late correction and would like to correct the record if possible. In the interest of completing this portion of the examination, we understand if it is too late to do so and would be willing to apply the additional \$ 69.99 credit. Please advise.

Thank you for the opportunity to respond to your concerns. We are committed to improving our operations and procedures in the Commonwealth of Virginia as it is an important market for our company.

Sincerely,



Michael Callahan

cc: Michael Livermore, VP Claims
Corinne Pawlenty, VP Operations
Jeffrey Shaw, VP Product
Sharon Mason, Underwriting Manager
Paula Mesa, Product Manager

COMMONWEALTH OF VIRGINIA

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



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July 2, 2012

VIA UPS 2nd DAY DELIVERY

Mr. Michael Callahan
Mendota Insurance Company
2805 Dodd Road, Suite 300
Eagan, MN 55121

Re: Market Conduct Examination
Mendota Insurance Company (NAIC # 33650)
Examination Period: April 1, 2010 through March 31, 2011

Dear Mr. Callahan:

The Bureau of Insurance (Bureau) has concluded its review of the company's response of June 18, 2012. 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 Mendota Insurance Company (Report).

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

Sections 38.2-305 A, 38.2-510 A 3, 38.2-511, 38.2-604 A, 38.2-604 C, 38.2-610 A, 38.2-1318, 38.2-1812, § 38.2-1822 A, 38.2-1833, 38.2-1905 A, 38.2-1905 B, 38.2-1906 D, 38.2-2204, 38.2-2202 B, 38.2-2208 A, 38.2-2208 B, 38.2-2210 A, 38.2-2212 E, 38.2-2212 F, 38.2-2230, 38.2-2234 A, of the Code of Virginia and 14 VAC 5-400-30, 14 VAC 5-400-40 A, 14 VAC 5-400-50 C, 14 VAC 5-400-70 A, 14 VAC 5-400-70 D, 14 VAC 5-400-80 D of the Virginia Administrative Code.

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

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

Sincerely,

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

Mendota INSURANCE

150 Northwest Point Boulevard
Elk Grove Village, IL 60007

Richard A. Slater, Jr.
Vice President
Product & Business Development
Mendota Insurance Company
(847) 472-6841
(847) 228-2582 (fax)

Thursday, July 26, 2012

Mary Bannister
Deputy Commissioner
Property and Casualty
Bureau of Insurance
P.O. Box1157
Richmond, VA 23218

RE: Market Conduct Examination Settlement Offer
Mendota Insurance Company (NAIC#33650)

400076

Dear Ms. Bannister:

This will acknowledge receipt of the Bureau of Insurance's letter dated July 3, 2012, concerning the above referenced matter.

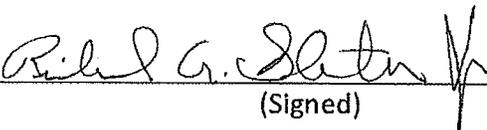
Mendota Insurance Company (the "Company") would like to make a settlement offer for the alleged violations of §§ 38.2-305 A, 38.2-511, 38.2-604 A, 38.2-604 C, 38.2-610 A, 38.2-1318, 38.2-1812, 38.2-1822 A, 38.2-1833, 38.2-1905 A, 38.2-1905 B, 38.2-1906 D, 38.2-2204, 38.2-2202 B, 38.2-2208 A, 38.2-2208 B, 38.2-2210 A, 38.2-2212 E, 38.2-2212 F, 38.2-2230, 38.2-2234 A, and 38.2-510 A 3 of the Code of Virginia, as well as 14 VAC 5-400-30, 14 VAC 5-400-40 A, 14 VAC 5-400-50 C, 14 VAC 5-400-70 A, 14 VAC 5-400-70 D, 14 VAC 5-400-80 D of the Virginia Administrative Code.

1. We enclose with this letter a check payable to the Treasurer of Virginia in the amount of \$33,300.
2. We agree to comply with the corrective action plan set forth in the Company's letters of April 16, 2012 and June 18, 2012.
3. We confirm that restitution was made to 23 consumers for \$2,047.22 in accordance with the company's letters of April 16, 2012.
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,

Mendota Insurance Company



(Signed)

Richard A. Slater, Jr.

(Type or Print Name)

Vice President

(Title)

July 26, 2012

(Date)

Enclosure

COMMONWEALTH OF VIRGINIA

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



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Mendota Insurance Company has tendered to the Bureau of Insurance the settlement amount of \$ 33,300.00 by its check numbered 0001705730 and dated July 27, 2012, a copy of which is located in the Bureau's files.

COMMONWEALTH OF VIRGINIA
STATE CORPORATION COMMISSION
AT RICHMOND, SEPTEMBER 5, 2012

REG-CLERK'S OFFICE
TOLBERT CONTROL CENTER
2012 SEP -5 A 11: 37

120910020

COMMONWEALTH OF VIRGINIA, *ex rel.*

STATE CORPORATION COMMISSION

v.

CASE NO. INS-2012-00165

MENDOTA INSURANCE COMPANY,

Defendant

SETTLEMENT ORDER

Based on a market conduct examination performed by the Bureau of Insurance ("Bureau"), it is alleged that Mendota Insurance Company ("Defendant"), duly licensed by the State Corporation Commission ("Commission") to transact the business of insurance in the Commonwealth of Virginia ("Commonwealth"), violated § 38.2-305 A of the Code of Virginia ("Code") by failing to provide the information required by the statute in its insurance policies; violated §§ 38.2-604 A, 38.2-604 C, 38.2-610 A, 38.2-1905 B, 38.2-2202 B, 38.2-2210 A, 38.2-2230, and 38.2-2234 A of the Code by failing to accurately provide the required notices to insureds; violated § 38.2-1318 of the Code by failing to provide convenient access to files, documents and records; violated §§ 38.2-1812 and 38.2-1833 of the Code by paying commissions to agents and/or agencies that were not properly licensed and/or appointed; violated § 38.2-1822 A of the Code by knowingly permitting persons to act as insurance agents without such person first obtaining a license in the manner and form prescribed by the Commission; violated § 38.2-1905 A of the Code by increasing its insureds' premiums or charging points under safe driver plans as a result of motor vehicle accidents that were not caused either wholly or partially by the named insureds, residents of the same household, or other customary operator; violated § 38.2-1906 D of the Code by making or issuing insurance contracts or policies not in

accordance with the rate and supplementary rate information filings in effect for the Defendant; violated § 38.2-2204 of the Code by failing to represent coverage for all permissive users; violated §§ 38.2-2208 A, 38.2-2208 B, 38.2-2212 E, and 38.2-2212 F of the Code by failing to properly terminate insurance policies; violated § 38.2-511 of the Code by failing to maintain a complete complaint register; and violated § 38.2-510 A 3 of the Code as well as the Commission's Rules Governing Unfair Claim Settlement Practices, 14 VAC 5-400-10 *et seq.*, specifically 14 VAC 5-400-30, 14 VAC 5-400-40 A, 14 VAC 5-400-50 C, 14 VAC 5-400-70 A, 14 VAC 5-400-70 D, and 14 VAC 5-400-80 D, 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 the Defendant's license upon a finding by the Commission, after notice and opportunity to be heard, that the Defendant has committed the aforesaid alleged violations.

The Defendant has been advised of its right to a hearing in this matter whereupon the Defendant, without admitting any violation of Virginia law, has made an offer of settlement to the Commission wherein the Defendant has tendered to the Commonwealth the sum of Thirty-three Thousand Three Hundred Dollars (\$33,300), waived its right to a hearing, agreed to comply with the Corrective Action Plan set forth in its letters to the Bureau dated April 16, 2012 and June 18, 2012, and the Defendant has confirmed that restitution was made to 23 consumers in the amount of Two Thousand Forty-seven Dollars and Twenty-two Cents (\$2,047.22).

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 Mendota Insurance Company in settlement of the matter set forth herein be, and it 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: Michael Callahan, Mendota Insurance Company, 2805 Dodd Road, Suite 300, Eagan, Minnesota 55121; and a copy shall be delivered to the Commission's Office of General Counsel and the Bureau of Insurance in care of Deputy Commissioner Mary M. Bannister.