

MARKET CONDUCT EXAMINATION REPORT

OF

OMNI INDEMNITY COMPANY

AS OF

AUGUST 31, 2013

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

**Property and Casualty Division
Market Conduct Section**

COMMONWEALTH OF VIRGINIA

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STATE CORPORATION COMMISSION BUREAU OF INSURANCE

I, Andrea Baytop, Senior Insurance Market Examiner of the Bureau of Insurance, do hereby certify that the annexed copy of the Market Conduct Examination Report of Omni Indemnity Company as of August 31, 2013, conducted at the company's office in Atlanta, Georgia is a true copy of the original Report on file with the Bureau and also includes a true copy of the company's response to the findings set forth therein, and a true copy of the Bureau's review letters and the State Corporation Commission's Order in Case Number INS-2014-00235 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 17th day of December, 2014.

A handwritten signature in cursive script, reading 'Andrea Baytop', enclosed in a rectangular box. A horizontal line is drawn across the bottom of the box.

Andrea Baytop
Examiner in Charge

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INTRODUCTION

Pursuant to the authority of § 38.2-1317 of the Code of Virginia, a market conduct examination has been made of the private passenger automobile line of business written by Omni Indemnity Company at its office in Atlanta, Georgia.

The examination commenced March 3, 2014, and concluded June 19, 2014. Brandon L. Ayers, Andrea D. Baytop, William T. Felvey, Karen S. Gerber, and Richard L. Howell, 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 November 22, 2013, and was assigned the examination number of VA097-M11. The examination was conducted in accordance with the procedures established by the National Association of Insurance Commissioners (NAIC).

COMPANY PROFILE *

Omni Indemnity Company was incorporated under the laws of Georgia on December 28, 1973, as Southeastern Fidelity Life Insurance Company and commenced business on August 1, 1974. On February 20, 1980, the company's title was changed to Sunbelt Life Insurance Company. On March 22, 1989, the company amended the charter to change the purpose of the company from that of a life insurance company to a property and casualty company and subsequently adopted the current title. The company re-domesticated from Georgia to Illinois on June 10, 1996.

* Source: Best's Insurance Reports, Property & Casualty, 2013 Edition.

The table below indicates when the company was licensed in Virginia and the lines of insurance that the company was licensed to write in Virginia during the examination period. All lines of insurance were authorized on April 19, 2000.

GROUP CODE:	OMNI
NAIC Company Number	34940
LICENSED IN VIRGINIA	4/19/2000

LINES OF INSURANCE

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

The table below shows the company's premium volume and approximate market share of business written in Virginia during 2013 for the line of insurance included in this examination.* This business was developed through independent agents.

OMNI IDEMNITY COMPANY	PREMIUM VOLUME	MARKET SHARE
Private Passenger Automobile Liability	\$2,260,613	.09%
Private Passenger Automobile Physical Damage	\$1,123,541	.06%

* Source: The 2013 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 September 1, 2012, and ending August 31, 2013. This review included rating, underwriting, policy terminations, claims handling, forms, policy issuance¹, statutory notices, agents licensing, complaint handling, and information security practices. The purpose of this examination was to determine compliance with Virginia insurance statutes and regulations and to determine that the company's operations were consistent with public interest. The Report is by test, and all tests applied during the examination are reported.

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

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

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

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

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

STATISTICAL SUMMARY

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

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

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

**Population
Sample Requested**

AREA	Omni	TOTAL	<u>FILES</u> <u>REVIEWED</u>	<u>FILES NOT</u> <u>FOUND</u>	<u>FILES WITH</u> <u>ERRORS</u>	<u>ERROR</u> <u>RATIO</u>
<u>Private Passenger Auto</u>						
New Business	<u>35</u> 2946	<u>35</u> 2946	35	0	30	86%
Renewal Business ¹	<u>35</u> 2492	<u>35</u> 2492	34	0	22	65%
Co-Initiated Cancellations	<u>12</u> 74	<u>12</u> 74	12	0	9	75%
All Other Cancellations ²	<u>34</u> 4638	<u>34</u> 4638	28	0	23	82%
Nonrenewals	<u>10</u> 145	<u>10</u> 145	10	0	5	50%
<u>Claims</u>						
Private Passenger Auto ³	<u>64</u> 617	<u>64</u> 617	62	0	52	84%

Footnote ¹ One file was not a renewal policy and was not reviewed.

Footnote ² Six files were expirations and were not reviewed.

Footnote ³ Two files were PIP claims and were not reviewed.

PART ONE – THE EXAMINERS’ OBSERVATIONS

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

RATING AND UNDERWRITING REVIEW

Automobile New Business Policies

The Bureau reviewed 35 new business policy files. The examiners reviewed all of these files. As a result of this review, the examiners found overcharges totaling \$199.14 and undercharges totaling \$726.90. The net amount that should be refunded to insureds is \$199.14 plus six percent (6%) simple interest.

- (1) The examiners found 11 violations of § 38.2-305 A of the Code of Virginia. The company failed to specify in the insurance policy accurate information required by the statute. The company listed the Additional Interest Coverage endorsement on the declarations page when it was not applicable to the policy.
- (2) The examiners found 14 violations of § 38.2-502 of the Code of Virginia. The company misrepresented the benefits, advantages, conditions, or terms of the insurance policy. The company misrepresented discounts applicable to the policy.
- (3) The examiners found one violation of § 38.2-1905 C of the Code of Virginia. The company applied surcharge points under its Safe Driver Insurance Plan (SDIP) to a vehicle other than the one customarily driven by the operator responsible for incurring the points.
- (4) The examiners found 33 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 29 instances, the company failed to use the correct discounts and/or surcharges.
- b. In one instance, the company failed to apply the correct surcharge points for accidents and/or convictions.
- c. In one instance, the company failed to use the correct symbol.
- d. In one instance, the company failed to use the correct tier eligibility criteria.
- e. In one instance, the company failed to use filed fees.

Automobile Renewal Business Policies

The Bureau reviewed 34 business policy files. As a result of this review, the examiners found overcharges totaling \$198.82 and undercharges totaling \$197.40. The net amount that should be refunded to insureds is \$198.82 plus six percent (6%) simple interest.

- (1) The examiners found seven violations of § 38.2-305 A of the Code of Virginia. The company failed to specify in the insurance policy accurate information required by this statute. The company listed the Additional Interest Coverage endorsement on the declarations page when it was not applicable to the policy.
- (2) The examiners found six violations of § 38.2-502 of the Code of Virginia. The company misrepresented the benefits, advantages, conditions, or terms of the insurance policy. The company misrepresented discounts applicable to the policy.
- (3) The examiners found six violations of § 38.2-1905 A of the Code of Virginia. The company failed to notify the insured in writing that the policy had been surcharged for an at-fault accident.

- (4) The examiners found 16 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 five instances, the company failed to use the correct discounts and/or surcharges.
 - b. In one instance, the company failed to apply the correct surcharge points for accidents and/or convictions.
 - c. In two instances, the company failed to use the correct symbols.
 - d. In five instances, the company failed to use the correct tier eligibility criteria.
 - e. In one instance, the company failed to use the correct driver classification factor.
 - f. In two instances, the company failed to use the correct base and/or final rates.

TERMINATION REVIEW

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

Company-Initiated Cancellations – Automobile Policies

NOTICE MAILED PRIOR TO THE 60TH DAY OF COVERAGE

The Bureau reviewed ten 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. As a result of this review, the examiners found overcharges totaling \$23.00 and no undercharges. The net amount that should be refunded to insureds is \$23.00 plus six percent (6%) simple interest.

- (1) The examiners found three violations of § 38.2-1906 D of the Code of Virginia. The company failed to use the rules and/or rates on file with the Bureau. The company failed to calculate the return premium correctly.
- (2) The examiners found four violations of § 38.2-2208 A of the Code of Virginia. The company failed to obtain valid proof of mailing the cancellation notice to the insured.
- (3) The examiners found three violations of § 38.2-2208 B of the Code of Virginia. The company failed to provide proper notice of cancellation to the lienholder.

NOTICE MAILED AFTER THE 59TH DAY OF COVERAGE

The Bureau reviewed two automobile cancellations that were initiated by the company where the company mailed the notices on or after the 60th day of coverage in the initial policy period or at any time during the term of a subsequent renewal policy. As a result of this review, the examiners found no overcharges and no undercharges.

- (1) The examiners found one violation of § 38.2-2208 A of the Code of Virginia. The company failed to obtain valid proof of mailing the cancellation notice to the insured.
- (2) The examiners found three violations of § 38.2-2212 D of the Code of Virginia.
 - a. In one instance, the company cancelled the insured's motor vehicle policy for a reason not permitted by the Code of Virginia.
 - b. In two instances, the company failed to obtain sufficient documentation from the insured verifying relocation to another state that would permit the company to cancel the policy.

All Other Cancellations – Automobile PoliciesNONPAYMENT OF PREMIUM

The Bureau reviewed 20 automobile cancellations that were initiated by the company for nonpayment of the policy premium. As a result of this review, the examiners found overcharges totaling \$119.06 and no undercharges. The net amount that should be refunded to insureds is \$119.06 plus six percent (6%) simple interest.

- (1) The examiners found seven violations of § 38.2-1906 D of the Code of Virginia. The company failed to use the rules and/or rates on file with the Bureau. The company failed to calculate the return premium correctly.
- (2) The examiners found 10 violations of § 38.2-2208 A of the Code of Virginia. The company failed to obtain valid proof of mailing the cancellation notice to the insured.
- (3) The examiners found 16 violations of § 38.2-2208 B of the Code of Virginia.
 - a. In one instance, the company failed to retain proof of mailing the cancellation notice to the insured.
 - b. In nine instances, the company failed to provide proper notice of cancellation to the lienholder.
 - c. In five instances, the company failed to obtain valid proof of mailing the cancellation notice to the lienholder.
 - d. In one instance, the company failed to retain proof of mailing the cancellation notice to the lienholder.
- (4) The examiners found 22 violations of § 38.2-2212 E of the Code of Virginia.
 - a. In one instance, the company failed to send the cancellation notice to the address listed on the policy.
 - b. In two instances, the company failed to advise the insured of his right to review by the Commissioner of Insurance.

- c. In two instances, the company failed to inform the insured of the availability of other insurance through his agent, another insurer, or the Virginia Automobile Insurance Plan (VAIP).
- d. In 17 instances, the company's notice advising the insured of the availability of other insurance is not in the precise language prescribed by the Code of Virginia.

Other Law Violations

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

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

REQUESTED BY THE INSURED

The Bureau reviewed eight automobile cancellations that were initiated by the insured where the cancellation was to be effective during the policy term. As a result of this review, the examiners found overcharges totaling \$23.00 and no undercharges. The net amount that should be refunded to insureds is \$ 23.00 plus six percent (6%) simple interest.

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.

Company-Initiated Nonrenewals – Automobile Policies

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

- (1) The examiners found three violations of § 38.2-2208 A of the Code of Virginia. The company failed to obtain valid proof of mailing the nonrenewal notice to the insured.
- (2) The examiners found three violations of § 38.2-2208 B of the Code of Virginia.
 - a. In two instances, the company failed to obtain valid proof of mailing the nonrenewal notice to the lienholder.
 - b. In one instance, the company failed to provide a notice of nonrenewal to the lienholder.
- (3) The examiners found one violation of § 38.2-2212 E of the Code of Virginia. The company failed to state a specific reason for nonrenewal of the policy.

CLAIMS REVIEW

Private Passenger Automobile Claims

The examiners reviewed 62 automobile claims for the period of September 1, 2012 through August 31, 2013. 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 \$487.13 and underpayments totaling \$12,957.58. The net amount that should be paid to claimants is \$12,957.58 plus six percent (6%) simple interest.

- (1) The examiners found 21 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 23 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 one instance, the company failed to inform an insured of the Collision or Other Than Collision (OTC) deductible when the file indicated the coverage was applicable to the loss.
- b. In one instance, the company failed to inform an insured of the Medical Expense Benefits coverage when the file indicated the coverage was applicable to the loss.
- c. In 12 instances, the company failed to accurately inform an insured of the Transportation Expense coverage when the file indicated the coverage was applicable to the loss.
- d. In nine instances, the company failed to inform an insured of the benefits or coverages, including rental benefits, available under the Uninsured Motorist Property Damage coverage (UMPD) and/or Underinsured Motorist coverage (UIM).

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

- (3) The examiners found one violation of 14 VAC 5-400-40 E. The company issued checks or drafts in partial settlement of a loss or claim under a specific coverage which contained language that purported to release the insurer or its insured from its total liability.
- (4) The examiners found six violations of 14 VAC 5-400-50 C. The company failed to make an appropriate reply within ten working days to pertinent communications from a claimant or a claimant's authorized representative that reasonably suggested a response was expected.

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

practice.

- (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 one violation of 14 VAC 5-400-70 B. The company failed to provide a reasonable explanation of the basis for the denial in its written denial of the claim.

- (7) The examiners found 16 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 insured's UMPD claim properly when both Collision and UMPD coverages applied to the claim.
- b. In one instance, the company failed to pay the insured's rental benefits, available under the UMPD coverage and/or UIM coverage.
- c. In 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 Medical Expense Benefits coverage.
- e. In five instances, the company failed to pay the claim in accordance with the policy provisions under the insured's Transportation Expenses Coverage.

- f. In three instances, the company failed to pay the claim in accordance with the policy provisions under the insured's Other than Collision or Collision coverage.

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

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

- a. In five instances, the company failed to provide a copy of the estimate to the insured.

- b. In two instances, the company failed to provide a copy of the estimate to the claimant.

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

- (9) The examiners found one violation of 14 VAC 5-400-80 E. The company failed to document all information relating to the application of betterment or depreciation in the claim file.

- (10) The examiners found one violation of § 38.2-236 B of the Code of Virginia. The company failed to provide a Notice of Settlement Payment to the claimant that complies with the language required by statute.

- (11) The examiners found 26 violations of § 38.2-510 A 1 of the Code of Virginia. The company misrepresented pertinent facts or insurance policy provisions relating to coverages at issue.

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

- (12) The examiners found six 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.
- (13) The examiners found one violation of § 38.2-510 A 4 of the Code of Virginia. The company refused arbitrarily and unreasonably to pay a claim.
- (14) The examiners found six violations of § 38.2-510 A 6 of the Code of Virginia. The company failed to attempt, in good faith, to make a prompt, fair, and equitable settlement of a claim in which liability was reasonably clear. These findings occurred with such frequency as to indicate a general business practice.
- (15) The examiners found one violation of § 38.2-510 A 14 of the Code of Virginia. The company failed to provide a reasonable explanation of the basis in the insurance policy in relation to the facts or applicable law for the denial of a claim or offer of a compromise settlement.
- (16) The examiners found five violations of § 38.2-517 A 6 of the Code of Virginia. The company set arbitrary or unreasonable limits on the reimbursement for paint and/or materials. These findings occurred with such frequency as to indicate a general business practice.
- (17) The examiners found one violation of § 38.2-2201 B of the Code of Virginia. The company failed to obtain a statement from an insured authorizing the company to make payments directly to the medical provider.

- (18) The examiners found four occurrences where the company failed to comply with the provisions of the insurance policy. The company paid an insured more than he/she was entitled to receive under the terms of his/her policy.

REVIEW OF FORMS

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

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

Automobile Policy Forms

POLICY FORMS USED DURING THE EXAMINATION PERIOD

The company provided copies of 21 forms that were used during the examination period to provide coverage on policies insuring risks located in Virginia.

The examiners found no violations in this area.

POLICY FORMS CURRENTLY USED

The examiners found no additional forms to review.

REVIEW OF THE POLICY ISSUANCE PROCESS

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

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

Automobile Policies

The company provided five new business policies mailed on the following dates: December 16 and 30, 2013; and January 2 and 6, 2014. In addition, the company provided five renewal business policies mailed on the following dates: November 5, 11, 12, and 13, 2013.

NEW BUSINESS POLICIES

The examiners found five violations of § 38.2-2202 B of the Code of Virginia.

The company failed to provide the Rejection of Higher Uninsured Motorist Limits notice as required by the Code of Virginia.

RENEWAL BUSINESS POLICIES

The examiners found five violations of § 38.2-305 B of the Code of Virginia. The company failed to provide the insured with the Important Information to Policyholders notice as required by this statute.

REVIEW OF STATUTORY NOTICES

To obtain sample policies to review the content of the statutory notices that the company is required to provide to insureds and used by the company for the line 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 under the Review of the Policy Issuance Process section of the Report. The examiners verified that the notices used by the company on all applications, on all policies, and those special notices used for vehicle and property policies issued on risks located in Virginia complied with the Code of Virginia.

General Statutory Notices

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

Statutory Vehicle Notices

The examiners found no violations in this area.

Other Notices

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

The examiners found no violations in this area.

LICENSING AND APPOINTMENT REVIEW

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

policies was checked to verify that the entity held a valid Virginia license and was appointed by the company.

Agent

- (1) The examiners found one violation of § 38.2-1822 A of the Code of Virginia. The company permitted a person to act in the capacity of an agent who was not licensed in Virginia.
- (2) The examiners found one violation of § 38.2-1833 of the Code of Virginia. The company failed to appoint an agent within 30 days of the date of the application.

Agency

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

REVIEW OF THE COMPLAINT HANDLING PROCESS

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

The examiners found no violations in this area.

REVIEW OF PRIVACY AND INFORMATION SECURITY PROCEDURES

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

The examiners found no violations in this area.

PART TWO – CORRECTIVE ACTION PLAN

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

General

Omni Indemnity Company shall:

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

Rating and Underwriting Review

Omni Indemnity 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) Include accurate information in the policy by listing only those endorsements that are applicable to the policy on the declarations page.
- (5) Properly represent the discounts of the policy.
- (6) Notify the insured in writing when the policy has been surcharged for an at-fault accident.
- (7) Use the rules and rates on file with the Bureau. Particular attention should be focused on the use of filed discounts, surcharges, points for accidents and convictions, symbols, tier eligibility, and correct base and/or final rates.

Termination Review

Omni Indemnity Company shall:

- (1) Correct the errors that caused the overcharges and undercharges and send refunds to the insureds or credit the insureds' accounts the amount of the overcharge as the date the error first occurred.
- (2) Include six percent (6%) simple interest in the amount refunded and/or credited to the insureds' accounts.
- (3) Complete and submit to the Bureau the enclosed file titled "Termination Overcharges Cited During the Examination." By returning the completed file to the Bureau, the company acknowledges that it has refunded or credited the overcharges listed in the file.
- (4) Calculate return premium according to the filed rules and policy provisions.
- (5) Obtain valid proof of mailing the cancellation notice to the insured and lienholder.
- (6) Provide proper notice of cancellation to the lienholder.
- (7) Obtain sufficient documentation from the insured verifying relocation to another state that would permit the company to cancel private passenger automobile policies when the notice is mailed after the 59th day of coverage.
- (8) Retain proof of mailing the cancellation notice to the lienholder.

- (9) Advise the insured of his right to review by the Commissioner of Insurance.
- (10) Inform the insured of the availability of other insurance through another insurer, his agent or the Virginia Automobile Insurance Plan.
- (11) Obtain valid proof of mailing the non-renewal notice to the insured.

Claims Review

Omni Indemnity 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) Document the claim file so that all events and dates pertinent to the claim can be reconstructed.
- (5) Document the claim file that all applicable coverages have been discussed with the insured. Particular attention should be given to Transportation Expense coverage and rental benefits under UMPD coverage.
- (6) Acknowledge correspondence that reasonably suggests a reply is expected from insureds and claimants within ten business days.
- (7) Make all claim denials in writing and keep a copy in the claim file.
- (8) Offer the insured an amount that is fair and reasonable as shown by the investigation of the claim and pay the claim in accordance with the insured's policy provisions.

- (9) Properly represent pertinent facts or insurance provisions relating to the coverage at issue.
- (10) Adopt and implement standards for prompt investigation of claims.
- (11) Offer the insured an amount that is fair and reasonable as shown by the investigation of the claim and pay the claim in accordance with the insured's policy provisions.
- (12) Discontinue setting unreasonable and/or arbitrary limits on what it would allow for reimbursement of paint and materials to repair a vehicle.

Review of Policy Issuance Process

Omni Indemnity Company shall:

- (1) Provide the insured with the Important Information Regarding Your Insurance notice as required by the Code of Virginia.
- (2) Provide an Optional Uninsured Motorist Coverage notice as required by the Code of Virginia.

Review of Statutory Notices

Omni Indemnity Company shall:

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

Licensing and Appointment Review

Omni Indemnity Company shall:

- (1) Accept business only from agents that have a current license from the Commonwealth of Virginia.
- (2) Appoint agencies within 30 days of the application.

PART THREE – RECOMMENDATIONS

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

RECOMMENDATIONS

We recommend the company take the following actions:

Rating and Underwriting

- The company should change the term “Medical Payments” to “Medical Expense” on the declarations page to follow the coverage terms used in the Virginia PAP.
- The company should file 12-month base rates for Territory 85.
- The company should revise the Tier Exception rules to clearly state the maximum (best) tier a policy can obtain is T when the policy has more drivers than vehicles and N when the policy is Non-owners.
- The company should revise its Re-tiering Requirements table to indicate there is a limit to tier movement per the Tier Exceptions table.
- The company should verify that all insureds are placed in the appropriate tier based upon the criteria in their rating manual on file with the Bureau.

Termination

- The company should file a revision to its Fee & Payments rule to indicate the \$4 EFT Installment (eService) Fee is charged to the down payment (deposit) payment regardless of the method of payment when EFT has already been selected as the policy method of payment.
- The company should cease reporting expirations as nonpayment cancellations as coding the cancellations in this manner could have an adverse effect on the policyholder.
- The company should review its cancellation notices to be certain the information in the notice applies to the termination being addressed.
- File an SR-26 with DMV within 15 days of cancellation of a motor vehicle

policy.

Claims

- The company should provide a reasonable explanation of the basis for the denial in its written denial of the claim.

Forms

- The company should revise form OMNI 0945 so the bold print corresponds to the bold print of Standard Form PP 00 01 01 05.
- The company should revise form OMNI 0945 to include the words “Part E” in the “Duties After an Accident or Loss” section.
- The company should remove “The following provisions in Part F are replaced by the following” paragraph in Part IV F – General Provisions from form OMNI 0945.
- The company should remove the “Part B Only” words from Part E, Part F, Legal Action Against Us and Policy Period sections of form OMNI 0945.

Policy Issuance Process

- The company should refrain from listing notices on the declarations page since it is not a requirement of Virginia insurance law.
- The company should consistently include the Electronic Funds Transfer (EFT) authorization in all new business policy packages sent to insureds.

Statutory Notices

- The company should ensure it uses a stand-alone Adverse Underwriting Decision notice for circumstances other than policy termination that complies with § 38.2-610 of the Code of Virginia.
- The company should revise the Notice of Misquote Premium, VAMSQT (10/09), to omit the reference to “error” as it is not found in the Virginia Code Section 38.2-1906.
- The company should properly indicate all of its notices in the Data Call.
- The company should note that the availability of other insurance through the Virginia Automobile Insurance Plan language is not applicable on new business automobile policies when the notice of cancellation is mailed prior to the 60th day of coverage.

SUMMARY OF PREVIOUS EXAMINATION FINDINGS

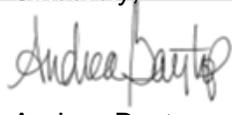
The Bureau conducted a prior market conduct examination of the private passenger automobile line of business of Omni Indemnity Company.

During the private passenger auto examination of Omni Insurance Company and Omni Indemnity Company as of August 31, 2008, the company violated §§ 38.2-305 A, 38.2-502, 38.2-510 A, 38.2-604 B, 38.2-604.1, 38.2-610, 38.2-1318, 38.2-1812, 38.2-1822, 38.2-1833, 38.2-1905 A, 38.2-1906 D, 38.2-2202 A, 38.2-2202 B, 38.2-2212, 38.2-2214, 38.2-2220, and 38.2-2234 of the Code 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, and 14 VAC 5-400-80 D of the Virginia Administrative Code.

ACKNOWLEDGEMENT

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

Sincerely,

A handwritten signature in cursive script, appearing to read "Andrea Baytop", enclosed within a rectangular box.

Andrea Baytop

Senior Insurance Market Examiner

COMMONWEALTH OF VIRGINIA

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



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

July 31, 2014

VIA UPS 2nd DAY DELIVERY

James Dowdy
American Independent Insurance Group
2018 Powers Ferry Road
Atlanta, GA 30339

RE: Market Conduct Examination
Omni Indemnity Company (NAIC #34940)
Exam Period: September 1, 2012-August 31, 2013

Dear Mr. Dowdy:

The Bureau of Insurance (Bureau) has conducted a market conduct examination of Omni Indemnity Company for the period of September 1, 2012, through August 31, 2013. 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 August 12, 2014. Also enclosed are several reports that will provide you with the specific file references for the violations listed in the report.

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

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

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

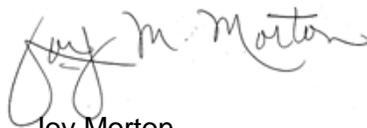
Finally, we have enclosed an Excel file that the company must complete and return to the Bureau with the company's response. This file lists the review items for which the examiners identified overcharges (rating and terminations) and underpayments (claims).

The company's response and the spreadsheet mentioned above must be returned to the Bureau by September 5, 2014.

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

We look forward to your reply by September 5, 2014.

Sincerely,

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

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



September 5, 2014

Joy Morton
Supervisor
Market and Conduct Section
Bureau of Insurance
PO Box 1157
Richmond, VA 23218

RE: Omni Indemnity Company (NAIC #34940)
Market Conduct Examination
Exam Period: September 1, 2012 – August 31, 2013

Dear Ms. Morton:

Omni Indemnity Company (the “Company”) is in receipt of your letter dated July 31, 2014 regarding the Bureau’s Market Conduct Examination (Exam) covering the period of September 1, 2012 through August 31, 2013. Kindly accept this letter as the Company’s response to the Exam.

As you know, the Company serves the unique segment of the market, namely, the non-standard automobile insurance market, in which most of its customers are interested in purchasing just the minimum level of statutory coverage. We value the opportunity to fill this significant market need and strive to maintain this coverage at affordable levels and in a very consumer friendly environment.

Our response which I’ve attached, addresses the Department’s recommendations throughout the report. We accept the Report constructively in an effort to improve procedures, and the Company is implementing the recommendations of the Department to further strengthen our compliance. To the extent the Department views certain matters to be a violation of Virginia law, given the circumstances, the Company respectfully submits that none of such actions be viewed as an intentional violation of the law or any general pattern or practice of noncompliance.

The Company appreciates the professional courtesy of your staff throughout the examination process. We look forward to working with you to reach a mutually agreeable resolution in the Report. If you have any questions in connection with this letter or you require any further information, please do not hesitate to call me.

Respectfully Submitted,

James Dowdy
Product Manager
Omni Indemnity Company
866-300-6433 ext. 2566

2018 Powers Ferry Road, Suite 400
Atlanta, GA 30339
Phone: 770-952-4500
Toll Free: 800-777-6664

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 reviewed 35 new business policy files. The examiners reviewed all of these files. As a result of this review, the examiners found overcharges totaling \$278.56 and undercharges totaling \$726.90. The net amount that should be refunded to insureds is \$278.56 plus six percent (6%) simple interest.

- (1) The examiners found 11 violations of § 38.2-305 A of the Code of Virginia. The company failed to specify in the insurance policy accurate information required by the statute. The company listed the Additional Interest Coverage endorsement on the declarations page when it was not applicable to the policy.*

The company has taken steps to rectify all of these concerns. We are currently programming the system to accurately represent the Additional Interest Coverage endorsement when a true leased vehicle situation occurs. Additionally, we are taking steps to remove mention of the Anti-Theft device installed from the discounts/surcharges section of the declarations page as it has been deemed misleading.

- (2) The examiners found 14 violations of § 38.2-502 of the Code of Virginia. The company misrepresented the benefits, advantages, conditions, or terms of the insurance policy. The company misrepresented discounts applicable to the policy.*

The company has taken steps to rectify this concern by taking steps to remove mention of the Anti-Theft device installed on the declarations page when the discount is not applicable. Additionally, we have recently filed to remove the advanced quote discount option as an available discount from the program.

- (3) *The examiners found one violation of § 38.2-1905 C of the Code of Virginia. The company applied surcharge points under its Safe Driver Insurance Plan (SDIP) to a vehicle other than the one customarily driven by the operator responsible for incurring the points.*
- (4) *The examiners found 33 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 29 instances, the company failed to use the correct discounts and/or surcharges.*
 - b. *In one instance, the company failed to apply the correct surcharge points for accidents and/or convictions.*
 - c. *In one instance, the company failed to use the correct symbol.*
 - d. *In one instance, the company failed to use the correct tier eligibility criteria.*
 - e. *In one instance, the company failed to use filed fees.*

Automobile Renewal Business Policies

The Bureau reviewed 34 business policy files. As a result of this review, the examiners found overcharges totaling \$198.82 and undercharges totaling \$197.40. The net amount that should be refunded to insureds is \$198.82 plus six percent (6%) simple interest.

- (1) *The examiners found seven violations of § 38.2-305 A of the Code of Virginia.*

The company failed to specify in the insurance policy accurate information required by this statute. The company listed the Additional Interest Coverage endorsement on the declarations page when it was not applicable to the policy.

The company has taken steps to rectify this concern. We are currently programming the system to accurately represent the Additional Interest Coverage endorsement when a true leased vehicle situation occurs.

- (2) *The examiners found six violations of § 38.2-502 of the Code of Virginia. The company misrepresented the benefits, advantages, conditions, or terms of the insurance policy. The company misrepresented discounts applicable to the policy.*

The company has taken steps to rectify this concern by no longer disclosing mention of the anti-theft device installed on the declarations page when the discount is not applicable. We have filed and completed programming to remove the advanced quote discount option as an available discount from the class plan, as our agent's weren't consistently selecting the discount option when applicable.

- (3) *The examiners found six violations of§ 38.2-1905 A of the Code of Virginia. The company failed to notify the insured in writing that the policy had been surcharged for an at-fault accident.*

The company resolved this issue in April of 2014 with regards to our points surcharge notice not properly displaying the date of the accident and listing the actual driver involved.

- (4) *The examiners found 16 violations of§ 38.2-1906 O of the Code of Virginia. The company failed to use the rules and/or rates on file with the Bureau.*

- a. In five instances, the company failed to use the correct discounts and/or surcharges.*

The company has taken steps to ensure that this doesn't occur again. We have removed mention of the anti-theft device installed from the declarations page. We recently filed and removed the advanced quoting discount from the program, and continue to coach our staff on how to properly follow up on discount information required for a policy.

- b. In one instance, the company failed to apply the correct surcharge points for accidents and/or convictions.*

The company acknowledges that it failed to correctly surcharge a policy and will address this concern with the staff on how to properly assign accidents to the vehicle a driver operates.

- c. In two instances, the company failed to use the correct symbols.*

- d. In five instances, the company failed to use the correct tier eligibility criteria.*

The company has made revisions to the maximum tier movement table in our program to further clarify the maximum tier placement for certain risks. This information will be included in our next rate filing.

- e. In one instance, the company failed to use the correct driver classification factor.*

- f. In two instances, the company failed to use the correct base and/or final rates.*

TERMINATION REVIEW

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

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

The Bureau reviewed ten 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. As a result of this review, the examiners found overcharges totaling \$23.00 and no undercharges. The net amount that should be refunded to insureds is \$23.00 plus six percent (6%) simple interest.

(1) The examiners found three violations of § 38.2-1906 D of the Code of Virginia.

The company failed to use the rules and/or rates on file with the Bureau. The company failed to calculate the return premium correctly.

(2) The examiners found four violations of § 38.2-2208 A of the Code of Virginia.

The company failed to obtain valid proof of mailing the cancellation notice to the insured.

(3) The examiners found three violations of § 38.2-2208 B of the Code of Virginia.

The company failed to provide proper notice of cancellation to the lienholder.

NOTICE MAILED AFTER THE 59TH DAY OF COVERAGE

The Bureau reviewed two automobile cancellations that were initiated by the company where the company mailed the notices on or after the 60th day of coverage in the initial policy period or at any time during the term of a subsequent renewal policy. As a result of this review, the examiners found no overcharges and no undercharges.

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

(2) The examiners found three violations of § 38.2-2212 D of the Code of Virginia.

The company will provide additional training and take the necessary steps to educate the staff on the proper cancellation reasons and when it's appropriate to cancel a policy outside of the first 60 days.

- a. In one instance, the company cancelled the insured's motor vehicle policy for a reason not permitted by the Code of Virginia.*
- b. In two instances, the company failed to obtain sufficient documentation from the insured verifying relocation to another state that would permit the company to cancel the policy.*

All Other Cancellations - Automobile Policies**NONPAYMENT OF PREMIUM**

The Bureau reviewed 20 automobile cancellations that were initiated by the company for nonpayment of the policy premium. As a result of this review, the examiners found overcharges totaling \$119.06 and no undercharges. The net amount that should be refunded to insureds is \$119.06 plus six percent (6%) simple interest.

(1) The examiners found seven violations of§ 38.2-1906 D of the Code of Virginia.

The company failed to use the rules and/or rates on file with the Bureau. The company failed to calculate the return premium correctly.

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

(3) The examiners found 16violations of§ 38.2-2208 B of the Code of Virginia.

a. In one instance, the company failed to retain proof of mailing the cancellation notice to the insured.

b. In nine instances, the company failed to provide proper notice of cancellation to the lienholder.

c. In five instances, the company failed to obtain valid proof of mailing the cancellation notice to the lienholder.

d. In one instance, the company failed to retain proof of mailing the cancellation notice to the lienholder.

(4) The examiners found 22 violations of§ 38.2-2212 E of the Code of Virginia.

a. In one instance, the company failed to send the cancellation notice to the address listed on the policy.

b. In two instances, the company failed to advise the insured of his right to review by the Commissioner of Insurance.

- c. *In two instances, the company failed to inform the insured of the availability of other insurance through his agent, another insurer, or the Virginia Automobile Insurance Plan (VAIP).*
- d. *In 17 instances, the company's notice advising the insured of the availability of other insurance was not in the precise language prescribed by the Code of Virginia.*

The company has since corrected the wording in the notification of the availability of other insurance to include the precise language prescribed. It was corrected in July 2014.

REQUESTED BY THE INSURED

The Bureau reviewed eight automobile cancellations that were initiated by the insured where the cancellation was to be effective during the policy term. As a result of this review, the examiners found overcharges totaling \$23.00 and no undercharges. The net amount that should be refunded to insureds is \$ 23.00 plus six percent (6%) simple interest.

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.

Company-Initiated Nonrenewals- Automobile Policies

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

- (1) *The examiners found three violations of § 38.2-2208 A of the Code of Virginia. The company failed to obtain valid proof of mailing the nonrenewal notice to the insured.*
- (2) *The examiners found three violations of § 38.2-2208 B of the Code of Virginia.*
 - a. *In one instance, the company failed to provide a notice of nonrenewal to the lien-holder.*
 - b. *In two instances, the company failed to obtain valid proof of mailing the*

nonrenewal notice to the lien-holder.

The company currently utilizes Lexis-Nexis Solutions to provide lien holders notifications of policy changes and/or policy cancellations. Two United States Post Service forms are being utilized.

Form 3877—documents that do not meet the presort automation requirements are mailed utilizing this USPS form. Proof of mailing will reflect the individual postage amount for the item that was mailed to the lien holder.

Form 3607—document that qualify for presort automation are mailed utilizing this USPS form. Proof of mailing document reflects the count of envelopes taken into their care through the presort automation process. If requested, Lexis Nexis Solutions can provide an electronic record of the specific document that was mailed to the lien holder.

It is our understanding that the United States Postal Service discontinued the “round stamp” effective 06/14/2010 for presort automation mailings.

- (3) *The examiners found one violation of § 38.2-2212 E of the Code of Virginia. The company failed to state a specific reason for nonrenewal of the policy.*

Private Passenger Automobile Claims

The examiners reviewed 62 automobile claims for the period of September 1, 2012 through August 31, 2013. 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 \$487.13 and underpayments totaling \$12,847.06. The net amount that should be paid to claimants is \$12,835.26 plus six percent (6%) simple interest.

- (1) The examiners found 21 violations of 14 VAG 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 23 violations of 14 VAG 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 one instance, the company failed to inform an insured of the Collision or Other Than Collision (OTC) deductible when the file indicated the coverage was applicable to the loss.*
 - b. In one instance, the company failed to inform an insured of the Medical*

Expense Benefits coverage when the file indicated the coverage was applicable to the loss.

- c. In 12 instances, the company failed to accurately inform an insured of the Transportation Expenses coverage when the file indicated the coverage was applicable to the loss.*
- d. In nine instances, the company failed to inform an insured of the benefits or coverages, including rental benefits, available under the Uninsured Motorist Property Damage coverage (UMPD) and/or Underinsured Motorist coverage (UIM).*

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

- (3) The examiners found one violation of 14 VAC 5-400-40 E. The company issued checks or drafts in partial settlement of a loss or claim under a specific coverage which contained language that purported to release the insurer or its insured from its total liability.*
- (4) The examiners found six violations of 14 VAC 5-400-50 C. The company failed to make an appropriate reply within ten working days to pertinent communications from a claimant or a claimant's authorized representative that reasonably suggested a response was expected.*

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

- (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 one violation of 14 VAC 5-400-70 B. The company failed to provide a reasonable explanation of the basis for the denial in its written denial of the claim.*
- (7) *The examiners found 16 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 insured's UMPD claim properly when both Collision and UMPD coverages applied to the claim.*
 - b. *In one instance, the company failed to pay the insured's rental benefits, available under the UMPD coverage and/or UIM coverage.*
 - c. *In two instances, the company failed to pay the proper sales and use tax, title fee, and/or license fee on first-party total loss settlements.*
 - d. *In one instance, the company failed to pay the claim in accordance with the policy provisions under the insured's Medical Expense Benefits coverage.*
 - e. *In five instances, the company failed to pay the claim in accordance with the policy provisions under the insured's Transportation Expenses Coverage.*
 - f. *In three instances, the company failed to pay the claim in accordance with the policy provisions under the insured's Other than Collision or Collision coverage.*

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

(8) *The examiners found seven violations of 14 VAG 5-400-80 D. The company failed to provide the vehicle owner a copy of the estimate for the cost of repairs prepared by or on behalf of the company.*

a. *In five instances, the company failed to provide a copy of the estimate to the insured.*

b. *In two instances, the company failed to provide a copy of the estimate to the claimant.*

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

(9) *The examiners found two violations of 14 VAG 5-400-80 E. The company failed to document all information relating to the application of betterment or depreciation in the claim file.*

(10) *The examiners found one violation of § 38.2-236 B of the Code of Virginia. The company failed to provide a Notice of Settlement Payment to the claimant that complies with the language required by statute.*

(11) *The examiners found 26 violations of § 38.2-510 A 1 of the Code of Virginia. The company misrepresented pertinent facts or insurance policy provisions relating to coverages at issue.*

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

(12) *The examiners found six 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.

- (13) *The examiners found one violation of§ 38.2-510 A 4 of the Code of Virginia. The company refused arbitrarily and unreasonably to pay a claim.*
- (14) *The examiners found six violations of§ 38.2-510 A 6 of the Code of Virginia. The company failed to attempt, in good faith, to make a prompt, fair, and equitable settlement of a claim in which liability was reasonably clear.*
- These findings occurred with such frequency as to indicate a general business practice.*
- (15) *The examiners found one violation of§ 38.2-510 A 14 of the Code of Virginia.*
- The company failed to provide a reasonable explanation of the basis in the insurance policy in relation to the facts or applicable law for the denial of a claim or offer of a compromise settlement.*
- (16) *The examiners found five violations of§ 38.2-517 A 6 of the Code of Virginia.*
- The company set arbitrary or unreasonable limits on the reimbursement for paint and/or materials.*
- These findings occurred with such frequency as to indicate a general business practice.*
- (17) *The examiners found one violation of§ 38.2-2201 B of the Code of Virginia. The company failed to obtain a statement from an insured authorizing the company to make payments directly to the medical provider.*
- (18) *The examiners found four occurrences where the company failed to comply with the provisions of the insurance policy. The company paid an insured more than he/she was entitled to receive under the terms of his/her policy.*

REVIEW OF FORMS

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

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

Automobile Policy Forms**POLICY FORMS USED DURING THE EXAMINATION PERIOD**

The company provided copies of 21 forms that were used during the examination period to provide coverage on policies insuring risks located in Virginia.

The examiners found no violations in this area.

POLICY FORMS CURRENTLY USED

The examiners found no additional forms to review.

REVIEW OF THE POLICY ISSUANCE PROCESS

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

For this review, the examiners verified that the company enclosed and listed all of the

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

Automobile Policies

The company provided five new business policies mailed on the following dates: December 16 and 30, 2013; and January 2 and 6, 2014. In addition, the company provided five renewal business policies mailed on the following dates: November 5, 11, 12, and 13, 2013.

NEW BUSINESS POLICIES

- (1) *The examiners found five violations of§ 38.2-305 A of the Code of Virginia. The company failed to specify in the insurance policy accurate information as required by this statute. The company failed to attach all applicable forms to the policy.*

The company misunderstood the instructions for the examination. When asked to provide five new business packets, we did so with knowledge that our policy jacket, which was provided at the onset of the examination, is given to each insured at the point of sale by the selling agent.

A copy of the applicable forms to the policy was therefore provided to the insured, but unfortunately, we failed to attach five copies of the policy jacket. On Page 5 of our Agent Underwriting Manual, it specifically states "The agent delivers the policy booklet to the insureds at the time the application is completed." It is our position that we would have easily provided the five samples, however, our agent delivered the policy booklet at the point of sale, so this step was overlooked.

- (2) *The examiners found five violations of§ 38.2-305 B of the Code of Virginia. The company failed to provide the insured with the Important Information to Policyholders notice as required by this statute.*

The company misunderstood the instructions for the examination. The important Information Notice is on the first page of our policy booklet which the company contends is delivered to the insured at the time the application is completed. Therefore each policyholder was in fact provided the Important Information Notice by way of our process.

(3) *The examiners found five violations of § 38.2-2202 A of the Code of Virginia.*

The company failed to provide the insured with the Medical Expense Benefits notice as required by the Code of Virginia.

The company misunderstood the instructions for the examination. The Medical Expense Benefits Notice is on page 61 of our policy booklet which the company contends is delivered to the insured at the time the application is completed. Therefore each policyholder was in fact provided the Medical Expense Benefits Notice by way of our process.

(4) *The examiners found five violations of § 38.2-2202 B of the Code of Virginia.*

The company failed to provide the Rejection of Higher Uninsured Motorist Limits

notice as required by the Code of Virginia.

The company misunderstood the code as our system was previously programmed to issue the UM notice when a customer purchased UM limits less than Bodily Injury/Property Damage limits. We have since corrected our system to not only send it on all new business but at renewal time as well.

RENEWAL BUSINESS POLICIES

The examiners found five violations of § 38.2-305 B of the Code of Virginia. The company failed to provide the insured with the Important Information to Policyholders notice as required by this statute.

The company misunderstood the code as the Important Information to Policyholders notice is included on the first page of our policy jacket which is distributed at the point of sale. As a result of this audit, we have since programmed the system to send the notice out at renewal as well.

REVIEW OF STATUTORY NOTICES

To obtain sample policies to review the content of the statutory notices that the company is required to provide to insureds and used by the company for the line 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 under the Review of the Policy Issuance Process section of the Report. The examiners verified that the notices used by the company on all applications, on all policies, and those special notices used for vehicle and property policies issued on risks located in Virginia complied with the Code of Virginia.

General Statutory Notices

The examiners found one violation of § 38.2-604 B of the Code of Virginia. The company's long form Notice of Information Collection and Disclosure Practices did not

Statutory Vehicle Notices

The examiners found no violations in this area.

Other Notices

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

The examiners found no violations in this area.

LICENSING AND APPOINTMENT REVIEW

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

Agent

- (1) The examiners found one violation of § 38.2-1822 A of the Code of Virginia. The company permitted a person to act in the capacity of an agent who was not licensed in Virginia.*
- (2) The examiners found one violation of § 38.2-1833 of the Code of Virginia. The company failed to appoint an agent within 30 days of the date of the application.*

Agency

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

REVIEW OF THE COMPLAINT HANDLING PROCESS

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

The examiners found no violations in this area.

REVIEW OF PRIVACY AND INFORMATION SECURITY PROCEDURES

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

The examiners found no violations in this area.

PART TWO- CORRECTIVE ACTION PLAN

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

General

Omni Indemnity Company shall:

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

Please see our course of action as described in each of the responses below.

Rating and Underwriting Review

Omni Indemnity 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.*

Appropriate credits have been applied to all policies included within the file.

- a. For customers with outstanding balances, the credit was used to reduce the amount owed to the company.
- b. For customers without a balance, the credit generated a refund, which was mailed with a letter of explanation.

Additionally, the company identified the root cause of each overcharge and undercharge. We are in the process of correcting the errors via our next rate filing or via a system correction. We are targeting a completion date of 1/1/2015 for all fixes which require programming changes. This will ensure that all future new business and renewal policies are in compliance with our filed rates and rules.

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

When calculating the credits referenced above, 6% simple interest was included.

- (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.*

The company has enclosed a CD with the Bureau's file titled "Rating Overcharges Cited During the Examination" confirming that all credits and resulting refunds have been processed for the listed policies.

- (4) *Include accurate information in the policy by listing only those endorsements that are applicable to the policy on the declarations page.*

The company will make the correction to only list those endorsements that are applicable to the policy on the declarations page

- (5) *Properly represent the discounts of the policy.*

The company has taken the steps to ensure that discounts applicable to the policy are properly represented.

- (6) *Notify the insured in writing when the policy has been surcharged for an at-fault accident.*

The company has revised its point surcharge notice (VAPTS) to properly outline the driver involved as well as date of loss for the accident that has been surcharged on the policy.

- (7) *Use the rules and rates on file with the Bureau. Particular attention should be focused on the use of filed discounts, surcharges, points for accidents and convictions, symbols, tier eligibility, and correct base and/or final rates.*

The company will pay closer attention to the application of discounts and surcharges while ensuring that the proper symbols are used for vehicle rating and tier eligibility is clear and concise in our rate/rule manual.

Termination Review

Omni Indemnity Company shall:

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

A credit has been applied to the policies included within the file.

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

When calculating the credits referenced above, 6% simple interest was included.

- (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.*

The company has enclosed a CD with the Bureau's file titled "Termination Overcharges Cited During the Examination" confirming that a credit and resulting refund has been processed for one of the listed policies.

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

When calculating return premium we will continue to apply our filed rules and policy provisions

- (5) *Obtain valid proof of mailing the cancellation notice to the insured and lienholder.*
- (6) *Provide proper notice of cancellation to the lienholder.*

The company currently utilizes Lexis-Nexis Solutions to provide lien holders notifications of policy changes and/or policy cancellations. Two United States Post Service forms are being utilized.

Form 3877—documents that do not meet the presort automation requirements are mailed utilizing this USPS form. Proof of mailing will reflect the individual postage amount for the item that was mailed to the lien holder.

Form 3607—document that qualify for presort automation are mailed utilizing this USPS form. Proof of mailing document reflects the count of envelopes taken into their care through the presort automation process. If requested, Lexis Nexis Solutions can provide an electronic record of

It is our understanding that the United States Postal Service discontinued the "round stamp" effective 06/14/2010 for presort automation mailings.

- (7) Obtain sufficient documentation from the insured verifying relocation to another state that would permit the company to cancel private passenger automobile policies when the notice is mailed after the 59th day of coverage.*
- (8) Retain proof of mailing the cancellation notice to the lienholder.*

- (9) *Advise the insured of his right to review by the Commissioner of Insurance.*

The company will advise the insured of their right to review by the Commissioner of Insurance when appropriate

- (10) *Inform the insured of the availability of other insurance through another insurer, his agent or the Virginia Automobile Insurance Plan.*

The problem with our notification excluding mention of the agent has been corrected as of July 1, 2014.

- (11) *Obtain valid proof of mailing the non-renewal notice to the insured and lienholder.*

Claims Review

Omni Indemnity 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.*

The company has issued payment for all underpayments noted on the Bureau's spreadsheet including 6% interest.

- (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.*

The company encloses a CD with the Bureau's file titled "Claims Underpayments Cited During the Examination".

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

The company will provide additional training to all claims handlers by end of September 2014 and monitor performance to ensure claim files are properly documented so that all events and dates pertinent to the claim can be reconstructed.

- (5) *Document the claim file that all applicable coverages have been discussed with the*

insured. Particular attention should be given to Transportation Expenses coverage and rental benefits under UMPD coverage.

The company will provide additional training to all claims handlers by end of September 2014 and monitor performance to ensure claim handlers are properly addressing all Transportation Expense issues and rental benefits under the UMPD coverage

- (6) *Acknowledge correspondence that reasonably suggests a reply is expected from insureds and claimants within ten business days.*

The company will provide additional training to all claims handlers by end of September 2014 and monitor performance to ensure claims staff acknowledge within 10 business days correspondence that requires a reply.

- (7) *Make all claim denials in writing and keep a copy in the claim file.*

The company will provide additional training to all claims handlers by end of September 2014 and monitor performance to ensure claims staff issue claim denials in writing, retaining a copy of the correspondence in the claim file.

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

The company will provide additional training to all claims handlers by end of September 2014 and monitor performance to ensure claims staff has offered the insured a settlement amount that is fair and reasonable based on the investigation of the claim and in accordance with the policy's provisions.

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

The company will provide additional training to all claims handlers by end of September 2014 and remind staff that they must properly represent pertinent facts or insurance provisions relating to the coverages at issue.

- (10) *Adopt and implement standards for prompt investigation of claims.*

The company will provide additional training to all claims handlers by end of September 2014 and monitor performance to ensure claims staff will promptly investigate all claims.

- (11) *Negotiate prompt, fair and equitable settlements in which liability is reasonably clear.*

The company will provide additional training to all claims handlers by end of September 2014 and monitor performance to ensure claims staff will make prompt, fair, and equitable settlements of claims where liability is clear.

- (12) *Discontinue setting unreasonable and/or arbitrary limits on what it would allow for reimbursement of paint and materials to repair a vehicle.*

The company will provide additional training to all claims handlers and independent appraisers by end of September 2014 and monitor performance to ensure claims staff do not set unreasonable or arbitrary limits on paint and materials to repair a vehicle.

- (13) *Provide copies of vehicle repair estimates prepared on behalf of the company to insureds and claimants.*

The company will provide additional training to all claims handlers and independent appraisers by end of September 2014 reminding the staff to provide copies of vehicle estimates to all vehicle owners.

Review of Policy Issuance Process

Omni Indemnity Company shall:

- (1) *Provide the applicable forms and endorsements on all new business policies.*

It is the company's practice to provide all applicable forms and endorsements on new business. They are delivered by the agent at the point of sale by way of our policy jacket. This practice is outlined on page 5 of our Underwriting Manual to Agents, "the agent delivers the policy booklet to insured's at the time the application is completed".

- (2) *Provide the insured with the Important Information Regarding Your Insurance*

Notice as required by the Code of Virginia.

The company maintains that the Important Information Regarding Your Insurance notice is included on the very first page of our policy jacket and is distributed at the point of sale to all policyholders.

- (3) *Provide an Optional Medical Expense Benefits Coverage notice as required by the Code of Virginia.*

The company maintains that the Medical Expense Benefits Coverage notice is included on page 62 of our policy jacket and is distributed at the point of sale to all policyholders.

- (4) *Provide an Optional Uninsured Motorist Coverage notice as required by the Code of Virginia.*

The company updated the system to provide an Optional Uninsured Motorist Coverage notice on all new and renewal business in April of 2014.

Review of Statutory Notices

Omni Indemnity Company shall:

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

The companies have a revised long form Information Collection and Disclosure Practices notice to comply with § 38.2-604 B of the Code of Virginia. The company anticipates implementing the new form immediately.

Licensing and Appointment Review

Omni Indemnity Company shall:

- (1) *Accept business only from agents that have a current license from the Commonwealth of Virginia.*

The company only accepts business from agents that have a current license and will ensure that we take proper steps to ensure compliance.

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

The company will appoint agencies within 30 days of the application

PART THREE- RECOMMENDATIONS

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

RECOMMENDATIONS

We recommend the company take the following actions:

Rating and Underwriting

- *The company should change the term "Medical Payments" to "Medical Expense" on the declarations page to follow the coverage terms used in the Virginia PAP.*

The company made the correction to the verbiage as of March of 2014, and as a result, all declaration pages now use the term Medical Expense.

- *The company should file 12-month base rates for Territory 85.*

The company will file 12 month base rates for territory 85 with the next revision.

- *The company should revise the Tier Exception rules to clearly state the maximum (best) tier a policy can obtain is T when the policy has more drivers than vehicles and N when the policy is Non-owners.*

The company has since removed the tier exception for the policy with more drivers than vehicles and the tier exception rule for Non-owners is a maximum tier of L.

- *The company should revise its Re-tiering Requirements table to indicate there is a limit to tier movement per the Tier Exceptions table.*

The company has updated its re-tiering requirements table to indicate that there is a limit to tier movement for Non-owner business.

- *The company should verify that all insureds are placed in the appropriate tier based upon the criteria in their rating manual on file with the Bureau.*

Termination

- *The company should file a revision to its Fee & Payments rule to indicate the \$4 EFT Installment (eService) Fee is charged to the down payment (deposit) payment regardless of the method of payment when EFT has already been selected as the policy method of payment.*

The company intends to update its rule with the next rate/rule filing indicating that the EFT fee is applicable to the down payment and each installment.

- *The company should cease reporting expirations as nonpayment cancellations as coding the cancellations in this manner could have an adverse effect on the policyholder.*

The company agrees and will cease reporting expirations as such.

- *The company should review its cancellation notices to be certain the information in the notice applies to the termination being addressed.*

The company intends to provide refresher training to the staff that handles the processing of underwriting terminations.

- *The company should file an SR-26 with DMV within 15 days of cancellation of a motor vehicle policy.*

It is the company's practice to file all SR26/ FR46 to the VA DMV within 5 days of cancellation but we will monitor to ensure that we meet the 15 day standard.

Claims

- *The company should provide a reasonable explanation of the basis for the denial in its written denial of the claim.*

-

- The company will provide a reasonable explanation in writing for a claim denial.

-

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Forms

- *The company should revise form OMNI 0945 so the bold print corresponds to the bold print of Standard Form PP 00 01 01 05.*
- *The company should revise form OMNI 0945 to include the words "Part E" in the "Duties After an Accident or Loss" section.*
- *The company should remove "The following provisions in Part F are replaced by the following" paragraph in Part IV F - General Provisions from form OMNI 0945.*
- *The company should remove the "Part B Only" words from Part E, Part F, Legal Action Against Us and Policy Period sections of form OMNI 0945.*

The company will make all changes referenced above in the next reprint of the policy jacket.

Policy Issuance Process

- *The company should refrain from listing notices on the declarations page since it is not a requirement of Virginia insurance law.*

The company will be renaming the section to Forms, Notices, and Endorsements.

- *The company should consistently include the Electronic Funds Transfer (EFT) authorization in all new business policy packages sent to insureds.*

The company would prefer not to send this authorization form to all insureds because a large percentage of our clients do not select the EFT pay plan option and the form is generated based on the applicant's selection of that payment option. Our agents complain that our application process is exceedingly long and any additional forms that do not require an insured's acknowledgment are currently not printed.

Statutory Notices

- *The company should revise the Notice of Misquote Premium, VAMSQT (10/09), to omit the reference to "error" as it is not found in the Virginia Code Section 38.2-1906.*

The company will make this correction in the notice which is in our policy jacket upon our next reprint.

- *The company should properly indicate all of its notices in the Data Call.*

The company will indicate all of its notices in the Data Call in the future.

- *The company should note that the availability of other insurance through the Virginia Automobile Insurance Plan language is not applicable on new business automobile policies when the notice of cancellation is mailed prior to the 60th day of coverage.*

The company will look into updating our system so it no longer prints the notice of the availability of other insurance through the VAIP when the cancellation notice is mailed prior to the 60th day of coverage.

COMMONWEALTH OF VIRGINIA

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



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

October 10, 2014

VIA UPS 2nd DAY DELIVERY

James Dowdy
American Independent Insurance Group
2018 Powers Ferry Road
Atlanta, GA 30339

Re: Market Conduct Examination
Omni Indemnity Company (NAIC #34940)
Examination Period: September 1, 2012 – August 31, 2013

Dear Mr. Dowdy:

The Bureau of Insurance (Bureau) has concluded its review of the company's response of September 5, 2014. 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 Omni Indemnity Company (Report).

Policy Issuance New Business

- (1) After further review of the Company's Underwriting Guidelines and the additional information provided by the Company, the violations in this section have been withdrawn from the Report. The Report has been renumbered.
- (2) After further review of the Company's Underwriting Guidelines and the additional information provided by the Company, the violations in this section have been withdrawn from the Report. The Report has been renumbered.
- (3) After further review of the Company's Underwriting Guidelines and the additional information provided by the Company, the violations in this section have been withdrawn from the Report. This Report has been renumbered.
- (4) The violations in this section remain in the Report. The Uninsured Motorist Rejection of Higher Limits Notice must be sent at new business any time the limits chosen by the insured is higher than the minimum limits required by the statute. There is no requirement

Statutory Notices Recommendation

The document provided for the Adverse Underwriting Decision notice during the examination was an excerpt from the company's Termination notice; however, the company is required to have a stand-alone AUD notice to provide as required by § 38.2-602 of the Code of Virginia. The company should make sure its stand-alone AUD notice complies with § 38.2-610 of the Code of Virginia and Administrative Letter 1981-16. This recommendation has been added to the 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, 38.2-305 B, 38.2-502, 38.2-510 A1, 38.2-510 A3, 38.2-510 A6, 38.2-517 A, 38.2-604 B, 38.2-1822, 38.2-1833, 38.2-1905 A, 38.2-1905 C, 38.2-1906 D, 38.2-2208 A, 38.2-2208 B, 38.2-2212 D, 38.2-2212 E 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 and 14 VAC 5-400-80 D of the Virginia Administrative Code.

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

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

Sincerely,



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

Enclosures



October 24, 2014

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



RE: Market Conduct Examination
Omni Indemnity Company (NAIC# 34940)
Exam Period: September 1, 2012 – August 31, 2013

Dear Ms. Bannister:

This will acknowledge receipt of the Bureau of Insurance's letter dated October 16, 2014, concerning the above referenced matter.

We wish to make a settlement offer on behalf of the insurance company listed below for the alleged violations of §§ 38.2-305 A, 38.2-305 B, 38.2-502, 38.2-510 A1, 38.2-510 A 3, 38.2-510 A6, 38.2-517 A, 38.2-1822, 38.2-1833, 38.2-1905 A, 38.2-1905 C, 38.2-1906 D, 38.2-2202 B, 38.2-2208 A, 38.2-2202 B, 38.2-2212 D, 38.2-2212 E, of the Code of Virginia; and 14 VAG 5-400-30, 14 VAC 5-400-40 A, 14 VAG 5-400-50 C, 14 VAG 5-400-70 A, 14 VAC 5-400-710 D AND 14 VAG 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 \$79,900.00.
2. We agree to comply with the corrective action plan set forth in the company's letter of September 5, 2014.
3. We confirm that restitution was made to 39 consumers for \$14,286.40 in accordance with the company's letter of September 5, 2014.
4. We further acknowledge the company's right to a hearing before the State Corporation Commission in this matter and waive that right if the State Corporation Commission accepts this offer of settlement.

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

Sincerely,

Dale Debner, CPCU
Vice President
Omni Indemnity Company

400107

Enclosure

COMMONWEALTH OF VIRGINIA

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



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

Omni Indemnity Company has tendered to the Bureau of Insurance the settlement amount of \$79,900 by its check numbered 10033901 and dated October 27, 2014, a copy of which is located in the Bureau's files.

COMMONWEALTH OF VIRGINIA
STATE CORPORATION COMMISSION
AT RICHMOND, DECEMBER 15, 2014

SCC-CLERK'S OFFICE
EFFICIENT CONTROL CENTER
2014 DEC 15 P 12:12

COMMONWEALTH OF VIRGINIA, *ex rel.*
STATE CORPORATION COMMISSION

v.

CASE NO. INS-2014-00235

OMNI INDEMNITY COMPANY,
Defendant

SETTLEMENT ORDER

Based on a market conduct examination performed by the Bureau of Insurance ("Bureau"), it is alleged that Omni Indemnity 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 in the statute; § 38.2-502 of the Code by misrepresenting the benefits, advantages, conditions or terms of insurance policies; § 38.2-1822 of the Code by permitting a person to act as an agent without first obtaining a license in the manner and form prescribed by the Commission; § 38.2-1833 of the Code by failing to appoint agents within 30 days of the application; §§ 38.2-305 B, 38.2-1905 A, and 38.2-2202 B of the Code by failing to provide the required notices to insureds; § 38.2-1905 C of the Code by failing to properly assign points under a safe driver insurance plan; § 38.2-1906 D of the Code by making or issuing insurance contracts or policies not in accordance with the rate and supplementary rate information filings in effect for the Defendant; §§ 38.2-2208 A, 38.2-2212 D, and 38.2-2212 E of the Code by failing to properly terminate insurance policies; §§ 38.2-510 A 1, 38.2-510 A 3, 38.2-510 A 6, and 38.2-517 A of the Code, 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, and 14 VAC

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5-400-80 D of the Commission's Rules Governing Unfair Claim Settlement Practices, 14 VAC 5-400-10 *et seq.*, by failing to properly handle claims with such frequency as to indicate a general business practice

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

The Defendant has been advised of its right to a hearing in this matter whereupon the Defendant, without admitting any violation of Virginia law, has made an offer of settlement to the Commission wherein the Defendant has tendered to the Commonwealth the sum of Seventy-nine Thousand Nine Hundred Dollars (\$79,900), waived its right to a hearing, agreed to comply with the corrective action plan set forth in its letter to the Bureau dated September 5, 2014, and confirmed that restitution was made to 39 consumers in the amount of Fourteen Thousand Two Hundred Eighty-six Dollars and Forty Cents (\$14,286.40).

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

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

Accordingly, IT IS ORDERED THAT:

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

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

AN ATTESTED COPY hereof shall be sent by the Clerk of the Commission to: James Dowdy, American Independent Insurance Group, 2018 Powers Ferry Road, Atlanta, Georgia 30339; 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.